

1 CITY OF YONKERS

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3 Minutes of
4 The City of Yonkers Zoning Board of Appeals
5 Held at
6 Saunders High School
7 Yonkers, New York
8 November 16, 2021 - 6:00 p.m.

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10 B E F O R E:

11 JOSEPH CIANCIULLI, Chairman

12 HARRY SINGH, Member

13 JEFFREY LANDSMAN, Member

14 HECTOR LOPEZ, Member

15 WILSON KIMBALL, Member

16 VINCENT GIORGIO, Member

17 RALPH BATTISTA, Member

18 P R E S E N T:

19 MIKE REAPE, Building Department

20 ALAIN NATCHEV, Assistant Corporation

21 Counsel

22 MATTHEW GALLAGHER, Corporation Counsel

23 LEE ELLMAN, Planning Department

24 ZACHARY NERSINGER, Planning Director

25

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1 THE CHAIRMAN: Ladies and gentlemen,
2 the November 2021, the Zoning Board of
3 Appeals hearing is now in session. Will
4 the members introduce themselves starting
5 with Mr. Battista.

6 MR. BATTISTA: Ralph Battista.

7 MS. KIMBALL: Wilson Kimball.

8 MR. GIORGIO: Vincent Giorgio.

9 MR. LANDSMAN: Jeffrey Landsman.

10 MR. SINGH: Harry Singh.

11 THE CHAIRMAN: And I'm Joseph
12 Cianciulli. I'm Chairman of the Board.
13 Since I have the microphone, that's
14 Mr. Battista. Ms. Kimball. And
15 Mr. Giorgio. Mr. Landsman. And Mr. Singh.
16 Also tonight we're expecting another
17 member. He's on his way. We have with us
18 Corporation Counsel for the City Matthew
19 Gallagher. We have Corporation Counsel
20 from the City represents the Board
21 Mr. Alain Natchev. And we have Mr. Mike
22 Reape here tonight. He's representing the
23 Building Department. And also, also, we
24 have Deputy Commissioner Lee Ellman and
25 Zach Nersinger. He's the Planning

1 Director.

2 Okay. We're going have the Pledge
3 Of Allegiance. Everybody stand, please.

4 (Pledge of Allegiance.)

5 THE CHAIRMAN: Please remain
6 standing. We have a moment of silence for
7 Judge Doran. Judge Doran was a Yonkers guy
8 all his life. He passed away on the 12th.
9 He was a friend of mine. And I'm sure he
10 was a friend of a lot of people here
11 tonight. He was the Chief Judge in the
12 City for 20 years. Before that he was
13 Corporation Counsel. If I remember
14 correctly he might have been, I can't
15 remember now, City Manager. But he was a
16 gentleman. Believe me when I tell you he
17 was a gentleman. And those that knew him,
18 they'll agree with that. So we'll have a
19 moment of silence for Judge Doran.

20 (Moment of silence.)

21 THE CHAIRMAN: Thank you. Tonight
22 on tonight's agenda several cases are going
23 to have decisions on them. Case 5736,
24 that's Vineyard Avenue and Ridge Avenue,
25 we'll have a decision on that. 5743,

1 that's 44 Hudson Street, we'll have a
2 decision on that. 5750 Glenwood Avenue and
3 Park Avenue, we'll have a decision on that.
4 There will be no decision tonight on 5760.
5 There will be a decision tonight on 5761.
6 That's Buena Vista Avenue. There will be a
7 decision tonight on 5762 Vermont Terrace
8 and Healy Place. There will be a decision
9 tonight on 5765. That's 671 Yonkers
10 Avenue. And there's not going to be a
11 decision tonight on 5767.

12 Mr. Romano, would you step up,
13 please.

14 MR. ROMANO: Here? You want me to
15 go up here, Mr. Chairman or --

16 THE CHAIRMAN: That's good.

17 On this case, on Cornell Avenue,
18 last month you had to get something done.

19 MR. ROMANO: Right. My
20 understanding is that the architect has met
21 with the Building Department. And is still
22 trying to work out the parameters on how to
23 solve the problem. So still going to have
24 to -- if you put it over a month, I'm sure
25 we'll have it resolved the next month.

1 THE CHAIRMAN: All right. We're
2 going to put it over. But there's also a
3 letter here, from the neighbor, sent to the
4 Building Department should get that, she's
5 against it.

6 MR. ROMANO: No, I know her.

7 THE CHAIRMAN: I forgot to ask you
8 to identify yourself. Can you identify
9 yourself.

10 MR. ROMANO: Andrew Romano. 55 Main
11 Street, Yonkers, New York on behalf of the
12 applicant.

13 THE CHAIRMAN: Mr. Romano, by the
14 way, how's your wife feeling?

15 MR. ROMANO: She's great. She's
16 really good.

17 THE CHAIRMAN: Good. Excellent.

18 MR. ROMANO: Thank you for asking.

19 THE CHAIRMAN: You're welcome.

20 Continued hearing tonight will be
21 Mr. Accinelli, 45 Water Grant Street.
22 Continued hearing tonight will be 5759 245
23 McLean Avenue, Mr. Tartaglia. A new
24 hearing tonight with Mr. Romano on 51
25 Lawrence Street. And 5769 which is 527

1 also known as 531 Van Cortlandt Park
2 Avenue. We have a request to put that over
3 for tonight. So, I'm going to start with
4 that one.

5 527, 531 Van Cortlandt Park Avenue,
6 I'm going to make a motion to put that
7 over. They have to have the signs and the
8 letters again. So, somebody please tell
9 Mr. Badaly. Okay. And on case number,
10 Cornell, going to make a motion to put that
11 over.

12 You heard, Mr. Romano?

13 Case 5761, we're going to have a
14 decision on that. I'm sorry. 5763(sic)
15 165 North Broadway, going to make a motion
16 to put that one over also.

17 Okay. So do I have a second on
18 putting those cases over?

19 MR. LANDSMAN: Second.

20 THE CHAIRMAN: Okay. Everybody in
21 favor say aye.

22 (A chorus of ayes.)

23 THE CHAIRMAN: Okay. That's
24 carried. That's 6-1 absent at the moment.

25 By the way, I'm going to make a

1 motion to accept the minutes of the last
2 hearing in October. Do I have a second?

3 MR. GIORGIO: Second.

4 THE CHAIRMAN: Ms. Wilson. Okay.
5 Anybody against it? Okay. That's carried,
6 6-1 absent. Okay.

7 Mr. Accinelli.

8 MR. ACCINELLI: Good evening,
9 Mr. Chairman, members of the Board.

10 THE CHAIRMAN: Introduce yourself,
11 please.

12 MR. ACCINELLI: Steven Accinelli.
13 Veneruso, Curto, Schwartz and Curto.

14 THE CHAIRMAN: Mr. Accinelli, this
15 case has been going on for a long time.
16 It's on Water Grant Street. Do you have
17 anything else to say, to say about this
18 case?

19 MR. ACCINELLI: We don't have
20 anything further to add, Mr. Chairman. We
21 are proceeding with the Planning Board for
22 purposes of SEQRA. And that process is
23 ongoing. But as far as the Zoning Board
24 application, we have no further comments,
25 Mr. Chairman.

1 THE CHAIRMAN: Okay. Is there
2 anybody here tonight on this case? It's on
3 Point Street. It's JFK Marina Road goes
4 down and Water Grant Street, which comes
5 along the water. It's the old Power Plant
6 for the railroad. They intend to build a
7 garage on top of a piece of property owned
8 by the City. Is anybody here tonight on
9 this case?

10 Okay. I'm going to close this case.
11 But we still gotta go down there and meet,
12 you know. We said we're going to do that,
13 just didn't get the time to do it. So,
14 next week we should be able to do it next
15 week. Let's see, this is Tuesday. Maybe
16 sometime in the end of this week. You know
17 what I mean?

18 MR. ACCINELLI: Okay.

19 THE CHAIRMAN: You want to give me a
20 call, I'll go down there.

21 MR. ACCINELLI: Okay. I know
22 Thursday is a bad day. I'm going to meet
23 with the City Department, Thursday, but
24 Friday perhaps.

25 THE CHAIRMAN: Huh?

1 MR. ACCINELLI: Friday perhaps.

2 THE CHAIRMAN: I didn't hear you.

3 MR. ACCINELLI: I'll give you a
4 call, Mr. Chairman. I just know off the
5 top of my head the first day of this week
6 is not a good day. I have meetings with
7 the City Departments on that application so
8 perhaps Friday of this week.

9 THE CHAIRMAN: This Friday coming?

10 MR. ACCINELLI: Perhaps, yes.

11 THE CHAIRMAN: That might be good.
12 Give me a call. I don't know what I got
13 lined up, so. Okay. So, this case is
14 hereby --

15 Is there anybody here tonight on
16 this case? No. Okay.

17 This case is hereby closed. We're
18 going to meet Friday. You're going to call
19 me Thursday to line this thing up and what
20 have you. We'll go on from there.

21 MR. ACCINELLI: Understood.

22 THE CHAIRMAN: Okay. Thank you,
23 sir.

24 MR. ACCINELLI: Thank you.

25 THE CHAIRMAN: And by the way, how's

1 your father doing?

2 MR. ACCINELLI: He's doing well.

3 Thank you.

4 THE COURT: Huh?

5 MR. ACCINELLI: Well, we had lunch
6 today. He's doing well.

7 THE CHAIRMAN: He's okay?

8 MR. ACCINELLI: Thank you, yes.

9 THE CHAIRMAN: Good. Tell him I
10 said, hello.

11 MR. ACCINELLI: I will.

12 THE CHAIRMAN: Thank you.

13 All right. The next case is 5759,
14 an area variance. Mr. Tartaglia. On
15 behalf of Verus Development 345 McLean
16 Avenue. Is Mr. Tartaglia here?

17 MR. TARTAGLIA: I am, Mr. Chairman.
18 Good evening, Mr. Chairman, members of the
19 Board. I'm here this evening representing
20 Verus Development. My name is Daniel
21 Tartaglia, 800 Westchester Avenue, White
22 Plains, New York, New York. Can you hear
23 me okay? The microphone?

24 THE CHAIRMAN: One second, please.

25 MR. TARTAGLIA: Thank you,

1 Mr. Chairman. The last time that we
2 appeared before your Board, a series of
3 questions were raised in connection with
4 this application. And it has taken us some
5 time to address those issues. We've also
6 taken an opportunity to meet with some
7 residents who appeared at the meeting back
8 in the early part of summer. We had an
9 opportunity to prepare a shadow study that
10 the Board requested we prepare. And we
11 tried to further our discussions with an
12 adjoining property owner where the original
13 plan was designed in such a way so we would
14 gain access to a -- from a property to the
15 north of this parcel. It's the Lowerre
16 Veteran's Lodge. That's next door to us
17 just to the north.

18 Those negotiations, you know, did
19 not proceed as quickly as we had hoped. We
20 did not come to terms with them. So what
21 we did was work to try to redesign the
22 project so that it did not involve that
23 piece. So, what was done was the parking
24 that was originally designed to go to the
25 north on Lowerre east has now all been

1 redesigned so that it's been moved to the
2 rear of the property, which is really in
3 the, in New York State DOT right-of-way
4 with the Saw Mill River Parkway. So, we're
5 going to end up having one easement with
6 the New York State DOT for all of the
7 parking in one location rather than two
8 easements for the parking in two locations.

9 The redesign of the project did not
10 really increase the number of variances nor
11 decrease the number of variances. They
12 remain about the same. They really just
13 kind of reorient the project somewhat so
14 that the entrance was moved and the parking
15 was moved.

16 One of the other features in the
17 redesign, it involves the location of -- on
18 the site for refuse disposal. And that was
19 originally designed to be right on McLean.
20 Now that's designed so that it's off of
21 McLean. It's in the rear of the property
22 and it's accessible via the entrance and
23 exits that's been redesigned.

24 Here with me this evening is our
25 architect. If you have an interest in him

1 going through the redesigned plans, we have
2 some boards, or just have questions. It's
3 up to you.

4 THE CHAIRMAN: All right. So, did
5 you use lose some spaces or gain some
6 space?

7 MR. TARTAGLIA: Net zero. We didn't
8 gain any, we didn't lose any. We just
9 moved it.

10 THE CHAIRMAN: Same as it was.

11 MR. TARTAGLIA: Same as it was.

12 THE COURT: Same as it was.

13 MR. TARTAGLIA: Yes.

14 THE CHAIRMAN: Are you still parking
15 on the VFW property?

16 MR. TARTAGLIA: No, we're not doing
17 any activity whatsoever on the VFW
18 property.

19 THE CHAIRMAN: And these new sheets
20 that we got, that's the proof that, that's
21 shown in the parking or that's the shadow
22 study it looks like?

23 MR. TARTAGLIA: It's both. It's a
24 redesign. It shows that the entrance was
25 moved slightly south. Originally if you

1 recall, or you may recall, there was a,
2 there was an easement that runs east and
3 west across the property that we had to
4 avoid putting any structures on. That's
5 why the property, that's why the building
6 is oriented the way it is. For the purpose
7 of the steep slopes to the south and for
8 this easement. But we were able, the
9 architects and the engineer, was able to
10 redesign the entrance and exit across the
11 that easement area without putting any
12 improvements other than the roadway. So
13 there's no walls, there's no building,
14 there's nothing permanent there which was a
15 prohibition that we had to avoid. So, the
16 entrance that's been moved off the
17 veteran's property as well as the parking,
18 Mr. Chairman.

19 THE CHAIRMAN: All right. Listen,
20 we're going to come down there sometime
21 probably come down this week. I know Mr.
22 Saraceno, I'll give him a call. And he can
23 meet us there if you want to meet us there,
24 fine. We'll take a look so we can get a
25 better idea of what we're doing here.

1 Okay? So I'll let you know when. Okay.

2 MR. TARTAGLIA: Okay. Thank you.

3 THE CHAIRMAN: There is a -- from
 4 Commissioner Summerfield, the traffic
 5 engineer, there's some things here that we
 6 spoke about. I want you to show -- you
 7 don't have to write it down. I want you to
 8 hear this. I want you to show -- go over
 9 the permanent features of right of way, the
 10 guard rails, et cetera. We want you to
 11 identify the wall unit area adjacent to the
 12 driveway in the southwest corner of the
 13 property. Give you a chance to answer
 14 that. And there's something about the
 15 parking areas on McLean Avenue being
 16 proposed due to the sight distance. He
 17 wants you to answer those questions. So
 18 when you get a chance, if you want to come
 19 up here at the end and I'll give you this.
 20 And you can answer that. Okay? Not yet.
 21 You can answer that. Okay. All right.

22 Any questions of the Board?

23 Okay. Is there anybody here tonight
 24 to speak in favor of -- one second, please.
 25 Is there anybody here tonight to speak in

1 favor of this application? Is there
2 anybody here tonight to speak in
3 opposition? Step up, please.

4 Are you an attorney, sir?

5 PUBLIC SPEAKER REYES: Excuse me?

6 No.

7 THE CHAIRMAN: You're not.

8 PUBLIC SPEAKER REYES: I'm a
9 resident.

10 THE CHAIRMAN: Raise your -- what?

11 PUBLIC SPEAKER REYES: I'm a
12 resident of the neighborhood.

13 THE CHAIRMAN: That's okay. You're
14 not an attorney.

15 PUBLIC SPEAKER REYES: No.

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

20 PUBLIC SPEAKER REYES: I do.

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

23 PUBLIC SPEAKER REYES: My name is
24 Efrain Reyes. I'm the owner of 326 McLean
25 Avenue. I'm right next to the Windy Farm

1 Nursery.

2 THE CHAIRMAN: What's your address?

3 PUBLIC SPEAKER REYES: 326 McLean.

4 I'm across the street from the town homes.

5 THE CHAIRMAN: Okay.

6 PUBLIC SPEAKER REYES: The adjacent
7 property that you mentioned in your July
8 hearing.

9 THE CHAIRMAN: Okay.

10 PUBLIC SPEAKER REYES: I actually
11 prepared notes, I'll just read them off to
12 you.

13 THE CHAIRMAN: Sure.

14 PUBLIC SPEAKER REYES: Okay. I
15 already gave my name. I've lived there
16 almost 30 years. So I have long-standing
17 knowledge of the neighborhood, the changes
18 that have occurred over the last three
19 decades, and I speak from first-hand
20 experience in the area. I regret that I
21 was unable to attend the July 20th hearing
22 as I was traveling that very day on
23 business. But I did watch the hearing for
24 three and half hours before you guys
25 finally got around to our case. So I'm

1 very familiar with what went on in that
2 hearing. I was pleased to see that you had
3 knowledge of the neighborhood. Its
4 history. The homes and the businesses in
5 the area. And when Mr. Tartaglia the
6 attorney Verus sought to downplay the
7 nursery as a storage yard for trucks and a
8 landscaping business and not even mention
9 the town homes that were being affected
10 right next to this proposed project, you
11 promptly called him out on it. So I was
12 happy to see that.

13 What you may not know is that before
14 that hearing, I had the petition signed by
15 almost every single homeowner in the
16 town homes. And the owner of Windy Farm
17 Nursery is here tonight, Mr. Mark Souza.
18 And it's a petition protest for the
19 development. And I filed with Councilman
20 John Rubbo's office two days before that
21 hearing. I hand delivered it to them. So
22 I had hoped that, that petition would get
23 to you and the Board before that day's
24 hearing, but unfortunately that didn't
25 happen. But I have a copy of that petition

1 here today and I'd like to present you with
2 it, the signatures.

3 It's our understanding based on that
4 last hearing that the land sat undeveloped
5 and if it wasn't developed as parkland, it
6 would be, go up for sale to a private
7 developer or anybody, you know, who wanted
8 to buy the property. So it's my opinion
9 that was a failure by the City to this
10 neighborhood not to develop that land as
11 parkland. But we hope there won't be a
12 second failure by approving this project
13 because of the effects it's going to have
14 on the neighborhood.

15 The key issues, some of which you
16 mentioned when you were talking to
17 Mr. Tartaglia, increased traffic this is
18 going to bring to the area. This
19 neighborhood is already at times severely
20 congested because of access to the Saw Mill
21 Parkway. And just a general fact that
22 McLean Avenue is a major street in Yonkers
23 akin to Tuckahoe road, Yonkers Avenue. But
24 the big difference being this is only one
25 lane each way. So anymore traffic put on

1 the street severely hampers people's egress
2 and access coming in and out particularly
3 the residents of the neighborhood. The
4 early morning traffic sometimes locks up
5 the avenue to a crawl in both directions.
6 I know because I leave at 7:15 every
7 morning. And it takes me almost 15, 20
8 minutes to get to the top of Central Avenue
9 with school buses and so on and so forth.
10 We feel like extra cars is only going to
11 make the situation far worse for everybody
12 who lives here. And to pretend that
13 because it's a senior housing development,
14 that there's won't be unacceptably
15 increased traffic. We feel is unrealistic.
16 Which brings me to my next issue.

17 Inadequate parking. The builders
18 brought up -- we had a meeting that with
19 the builders to hear what they had to say
20 last week, last Thursday. And they keep
21 bringing up at the hearing last July, this
22 past July, that there's a close story
23 structure right down the block. As a point
24 of comparison to the proposed 12-story
25 structure. The differences are big

1 especially when it comes to parking and car
2 storage. Unlike the 12-story structure
3 down the hill, the builder is now proposing
4 an off-street driveway for drop offs and
5 pick-ups. Instead he proposed picking up
6 all the parking space in front of the
7 building and going on up to where they
8 proposed to put their driveway. This is
9 unacceptable to us even as being parking on
10 McLean Avenue is scarce. Many working
11 families in the area have more than one
12 vehicle and rely on that space this
13 precious space. Further it would take a
14 significant amount of parking away from
15 Windy Farm Nursery customers during
16 business hours particularly in the spring
17 and the summer where they can make their
18 most money thereby hurting their business.

19 We've been told that the parking lot
20 for senior housing is half a space per
21 unit. That may be the legal threshold, but
22 the fact that most seniors I know own --
23 the fact is most seniors I know own cars.
24 You might be considered a senior and I
25 imagine you drove yourself here. My father

1 is 82 years old. He drives his own car.
2 My barber is a similar age. He drives his
3 own car. So, the notion that seniors don't
4 drive or don't need the similar space
5 requirements for their vehicles, I think
6 it's antiquated and I don't think it's
7 realistic in this day. Seniors are a lot
8 older and a lot later. Fifty-three spaces
9 for a 105-unit structure for tenants is a
10 major parking problem for this neighborhood
11 and detrimental effect will be permanent.

12 My next issue, the excessive
13 variances that this builder is asking for.
14 During our meeting last week the builders
15 kept saying that everything was to code.
16 If that were the case, they would not be
17 asking for not one, not two, but seven
18 variances. I watched that hearing in July
19 keenly. The most variances I spotted
20 people asking for were two. And most
21 people were only asking for one. So --

22 THE CHAIRMAN: Who had seven
23 variances?

24 PUBLIC SPEAKER REYES: They're seven
25 variances on this application.

1 THE CHAIRMAN: Who?

2 PUBLIC SPEAKER REYES: Verus
3 Development.

4 THE CHAIRMAN: The applicant?

5 PUBLIC SPEAKER REYES: According to
6 the last hearing there were seven
7 variances.

8 THE CHAIRMAN: He's allowed to have
9 seven variances if he wants to go for seven
10 variances.

11 PUBLIC SPEAKER REYES: Oh, I know.
12 I know. I'm not saying they're not legally
13 allowed to ask for them. Just they're
14 asking for seven variances goes to the
15 outside nature of this project for the
16 space in this neighborhood.

17 THE CHAIRMAN: Okay.

18 PUBLIC SPEAKER REYES: So, the build
19 site that's currently proposed relies
20 heavily on getting a significant amount of
21 land on the backside of the property with
22 another easement agreement from the DOT as
23 you mentioned a few minutes ago. This is
24 mentioned in the variance. And it was also
25 July hearing variance. But to date the

1 builder has not produced a formally signed
2 -- I remember you asking to produce a copy
3 in writing of the variance he had applied
4 for with VFW. You said, I want it in
5 writing. It never happened. So they don't
6 have an agreement on paper with the DOT
7 either. And a lot of their projects is
8 relying on that back space.

9 So, you know, we're sensitive to the
10 needs for affordable housing for seniors in
11 New York. But the scale of the project is
12 clearly outsized for the property of the
13 neighborhood. And this is to say nothing
14 of the two-year construction site that
15 according to the builders that would be
16 traffic and noise pollution nightmare on an
17 already difficult to maneuver avenue.

18 Our quality of life will take a
19 major hit during and even after
20 construction. So for these reasons we
21 oppose this. I'd like to give you a copy
22 of the petition if you'd allow it.

23 THE CHAIRMAN: Are there any
24 questions of this gentleman?

25 Thank you.

1 Anybody else here to speak in
2 opposition?

3 PUBLIC SPEAKER REYES: Thank you.

4 (Handed documents.)

5 PUBLIC SPEAKER REYES: The
6 signatures are on the back.

7 THE CHAIRMAN: We're going to mark
8 that in as evidence. The members will get
9 a copy.

10 Is there anybody else here to speak
11 in opposition?

12 You can sit down, sir.

13 PUBLIC SPEAKER REYES: Thank you.

14 THE CHAIRMAN: Is there anybody else
15 here on this case on McLean Avenue? Okay.

16 Is there anybody else -- all right.
17 Mr. Tartaglia. All right. Do you want to
18 sum up, sir?

19 MR. TARTAGLIA: Yes, Mr. Chairman.
20 The gentleman that spoke just now said a
21 couple of things that I disagree with. And
22 I'd like to just point those out to the
23 Board.

24 First and foremost, I don't think
25 anything I said at the July meeting

1 disparaged this neighborhood. As you know
2 and as you require, we submit points of law
3 with regard to tests required for area
4 variances. And one of the points of law
5 has to do with the character of the
6 neighborhood. And the points that we made
7 was that this building is not out of
8 character with the neighborhood. We didn't
9 say anything negative about the
10 neighborhood. That wasn't the intention.
11 We believe that is in context with the
12 neighborhood.

13 Secondly, the statement that there's
14 six or seven variances here. I mean the
15 fact of the matter is there's a 15-foot
16 front yard variance. There's a 16-foot
17 side yard variance. Other than that, the
18 other variances have to do with the
19 location of the parking. They're not
20 parking variances. It's the location of
21 parking.

22 I did take some notes. We will
23 address the issues raised by the Traffic
24 Engineer and we will try to also address
25 the questions that were raised here this

1 evening by member of the neighborhood.

2 My client would just like to add a
3 couple of points, Mr. Chairman.

4 THE CHAIRMAN: What are you doing?
5 Are you an attorney, sir?

6 PUBLIC SPEAKER: No, I am not.

7 THE CHAIRMAN: Raise your right
8 hand, please. Do you solemnly swear to
9 tell, the whole truth, nothing but the
10 truth so help you God?

11 PUBLIC SPEAKER: I do.

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

14 MR. SARACENO: John Saraceno. 14
15 Hampshire Road, Yonkers, New York.

16 THE CHAIRMAN: Your position with
17 this project, Mr. Saraceno?

18 MR. SARACENO: Yes, Mr. Chairman,
19 I'm one of the principals.

20 THE CHAIRMAN: You're the developer?

21 MR. SARACENO: Yes.

22 THE CHAIRMAN: Okay.

23 MR. SARACENO: Yes, I am.

24 THE CHAIRMAN: What would you like
25 to say, sir?

1 MR. SARACENO: Well, I just wanted
2 to clarify a couple of points. The land
3 was, in fact, back in 1962 was given to
4 Yonkers from the Westchester County for the
5 idea of park. They had five years to
6 convert it and they never did. And
7 Westchester County now has activated their
8 ability as a reversal clause in that
9 agreement, is taking that property back and
10 is actively looking, based on what we had
11 proposed, to do affordable housing. What
12 people fail to realize is that our average
13 age does not signify. We had just a
14 particular property in Peekskill, New York.
15 A 52-unit apartment building with a total
16 of one quarter of the parking spaces. And
17 they were adequate. We have another
18 facility, a senior project in Peekskill
19 that provides non-medical services for the
20 seniors as if they're living in a hotel.
21 It's 120 apartments. Never had a problem
22 with parking. And they also have some
23 personnel that do house cleaning and like
24 set for meals, two meals a day. So, it
25 does work. And I'm sure that if it didn't

1 work, the code would then change. And
2 that's my only comment.

3 THE CHAIRMAN: Any questions of
4 Mr. Saraceno from the Board? Thank you.

5 Mr. Tartaglia.

6 MR. TARTAGLIA: Thank you,
7 Mr. Chairman.

8 THE CHAIRMAN: Is there anybody else
9 here to speak on this application?

10 This case is hereby closed. Reserve
11 the right to reopen it for any reason
12 whatsoever, any time whatsoever, and that
13 includes after the decision is made.

14 Thank you.

15 Mr. Tartaglia, call the Building
16 Department speak to Shannon. That's the
17 secretary to the Board. And she'll make
18 arrangements to go over, and we'll see,
19 maybe Friday also afternoon after I get
20 through with the other case.

21 MR. TARTAGLIA: Thank you,
22 Mr. Chairman.

23 THE CHAIRMAN: You're welcome.

24 Mr. Romano.

25 MR. ROMANO: Yes, sir.

1 THE CHAIRMAN: This is another
 2 hearing for tonight. Case 5768 an
 3 improvement of intensification of
 4 non-conforming use, Mr. Romano, on behalf
 5 of 51 Lawrence Street, LLC., that's Limited
 6 Liability Corporation. They're the owner
 7 to legalize the interior alterations to
 8 renovate an existing one-family and store,
 9 whereas;

10 - An improvement to the
 11 non-conforming use requires Zoning Board of
 12 Appeals approval, Reference Yonkers Zoning
 13 Ordinance 43-21.G.

14 - And non-conforming use shall not
 15 be enlarged, intensified, altered
 16 structurally or extended without Zoning
 17 Board of Appeals approval, Reference
 18 43-21.B.1 and 43-21.B.2;

19 On premises known as 51 Lawrence
 20 Street, Block: 116, Lot 11.14 in an "A"
 21 Zone.

22 Mr. Romano, has everybody within a
 23 200-foot radius been notified, sir?

24 MR. ROMANO: Yes, sir, Mr. Chairman.

25 THE CHAIRMAN: Is there anybody here

1 tonight on this case? This case is on
 2 Lawrence Street. Near Van Cortlandt Park
 3 Avenue. Anybody here tonight on this case?

4 Proceed, Mr. Romano.

5 MR. ROMANO: Mr. Chairman, I'm here
 6 on behalf of Kevin Polly (phonetic spelling)
 7 who purchased 51 Lawrence Street in 2020.
 8 My client purchased the property, which is
 9 an existing one-family dwelling with a
 10 store and with a garage and an apartment
 11 above. So it was apartment, store, garage
 12 in an "A" Zone. It's existed there for
 13 many years reflective of the CO.

14 When my client who purchased the
 15 property realized it was in that condition
 16 and my client filed the plans after he
 17 received the stop work order from the
 18 Building Department to renovate, attempt to
 19 renovate the interior only of the property.
 20 No exterior renovation.

21 So we had to come before the Board
 22 for an improvement of non-conforming use.
 23 I understand that the second aspect of the
 24 objection letter after review of the
 25 Building Department letter talks about the

1 non-conforming use may not enlarged,
2 intensified, altered structurally is
3 removed from the objection. So we
4 corrected that with the Building
5 Department. So the only thing left would
6 be approval. And essentially what we're
7 seeking to do is just go into the inside of
8 each -- the renovation would be limited.
9 The premises would remain in character of
10 the surrounding area. Many are small
11 apartment houses. Many of them have store
12 fronts on Lawrence Street. I know, we
13 visited Lawrence Street many times before,
14 similar and various sized lots were
15 mentioned reflected on area maps, photos,
16 and site visits.

17 The renovation would substantially
18 improve the property. It would make it
19 safer and bring it up to current code
20 requirements. And there would no adverse,
21 physical, environmental impact to the area.
22 It would remain what it is, a one-family
23 above with a store and a garage in an "A"
24 zone which is permitted use. It would
25 comply with building, housing, safety

1 environmental codes. And it would not --
 2 there would be no variance, no variances at
 3 all on this application. The interior
 4 alterations as I said will improve the
 5 premises by bringing everything up to code.
 6 There will be no increase in occupancy,
 7 traffic, noise, or smell as a result of the
 8 improvement or any reduction to air, light,
 9 greenery, since no alterations are being
 10 taken place.

11 We believe that this aspect of the
 12 Zoning Code for an improvement of
 13 non-conforming use should be granted by the
 14 Board. It's contemplated by the ordinance
 15 and we think that it should be given so
 16 that we can retain what's currently there.

17 Thank you, all.

18 THE CHAIRMAN: You say that some of
 19 these variances are not here anymore?

20 MR. ROMANO: The, in reviewing this
 21 with Michael Reape the Planning Examiner,
 22 Mr. Chairman, we had mentioned --

23 THE CHAIRMAN: One second, please.

24 (Brief conference.)

25 THE CHAIRMAN: Okay. Let me just

1 clarify something. So, we now the
2 improvement to a, I'm sorry, a
3 non-conforming use shall not be enlarged,
4 intensified, that's out?

5 MR. ROMANO: That's out.

6 THE CHAIRMAN: Okay. So you got
7 improvement, to improvement to a
8 non-conforming use requires Zoning Board of
9 Appeals, Reference Zoning Ordinance
10 43-21.G.

11 MR. ROMANO: Yes, sir. That's it.

12 THE CHAIRMAN: What are you going to
13 with this store?

14 MR. ROMANO: We have no one in the
15 story currently, Mr. Chairman. So, when my
16 client, God willing the Board approves this
17 application, then he'll have the ability to
18 re-rent it.

19 THE CHAIRMAN: So he's going to
20 advertise, your client, obviously.

21 MR. ROMANO: Yes, sir.

22 THE CHAIRMAN: He's not -- is he
23 going to use it for housing?

24 MR. ROMANO: No, no, it's a store.
25 Leaving everything the way it is.

1 THE CHAIRMAN: The house is
2 upstairs.

3 MR. ROMANO: The apartment is
4 upstairs.

5 THE CHAIRMAN: Okay. When you're
6 looking at it from the front.

7 MR. ROMANO: Yes, sir.

8 THE CHAIRMAN: On the, on the west
9 side there's a lot there. Does your client
10 own that lot?

11 MR. ROMANO: No, sir. We enter the
12 garage on the left side. We don't own the
13 lot on that side.

14 THE CHAIRMAN: Are there questions
15 of the Board?

16 MS. KIMBALL: Yes, Mr. Chairman.

17 THE CHAIRMAN: Ms. Kimball.

18 MS. KIMBALL: Mr. Romano, could you
19 tell me what state -- is the apartment
20 currently rented?

21 MR. ROMANO: I don't believe it's
22 rented. I can check it. But I can get
23 back to you on that.

24 MS. KIMBALL: And the store is not
25 occupied?

1 MR. ROMANO: Not occupied.

2 MS. KIMBALL: Okay. So, and you
3 don't think that when you occupy the
4 apartment and the store there will be no
5 change in traffic?

6 MR. ROMANO: No, it'll be the same
7 as it currently exists. So if you have the
8 apartment there that's legal, the store
9 that it's legal, you're not increasing
10 anything. It's just remaining the way it
11 is. Otherwise you come here -- I'd come
12 here with a parking variance. There's no
13 parking variance. It's just improvement.
14 Just really reconstructing what's already
15 there.

16 MS. KIMBALL: Thank you.

17 THE CHAIRMAN: Are there any other
18 questions of the Board?

19 MR. GIORGIO: I have a question.

20 THE CHAIRMAN: Yes, Mr. Giorgio.

21 MR. GIORGIO: There's like a garage.
22 And the second story above the garage on
23 the side of the building?

24 MR. ROMANO: On the left side. As
25 you're facing it, yeah.

1 MR. GIORGIO: Clearly looks like an
2 addition. It doesn't appear that there's a
3 garage on the C of O.

4 MR. ROMANO: No, but if you're
5 looking at the assessment part that we had
6 available, it indicates the garage was
7 built at the same time. I can provide that
8 to you, Mr. Giorgio.

9 MR. GIORGIO: I appreciate that.

10 MR. ROMANO: This is an oldie, but
11 goodie.

12 MR. GIORGIO: And I guess, what are
13 we waiting, you just want to do the
14 interior alterations you're saying?

15 MR. ROMANO: That's it. Nothing
16 exterior. There's no real room to do
17 exterior anyway so.

18 MR. GIORGIO: Is that required to be
19 on the plans that we're getting? Is that
20 on the plans that we got, what you're doing
21 inside?

22 MR. ROMANO: It should be on the
23 plan. I turned in all my plans so I don't
24 have it here. I only had 12 to give in.

25 MR. GIORGIO: Okay. All right.

1 Thank you.

2 MR. ROMANO: You're welcome.

3 THE CHAIRMAN: Are there any other
4 questions of the Board?

5 MR. LANDSMAN: Yes.

6 THE CHAIRMAN: Mr. Landsman.

7 MR. LANDSMAN: You have no idea what
8 he wants to put in that store right now?

9 MR. ROMANO: Well, I don't know.
10 First we have to make it legal. And then
11 -- but in speaking to my -- if you want to
12 get an idea, I'll ask him.

13 MR. LANDSMAN: I think it would
14 depend on what the use goes in there,
15 because I think you brought us a case two
16 doors away a few years ago.

17 MR. ROMANO: I remember.

18 MR. LANDSMAN: On the other side of
19 the art gallery that was turned down for a
20 bodega.

21 MR. ROMANO: Right.

22 MR. LANDSMAN: It's a hundred feet
23 away.

24 MR. ROMANO: That's true.

25 MR. LANDSMAN: Same exact story.

1 MR. ROMANO: Actually, no. That was
2 a variance this is an improvement.

3 MR. LANDSMAN: But they wanted to
4 stick something in, didn't belong there
5 either case.

6 MR. ROMANO: A what?

7 MR. LANDSMAN: They wanted to stick
8 something in that didn't belong in either
9 case.

10 MR. ROMANO: I agree, but this does
11 belong.

12 MR. LANDSMAN: Okay. But I think
13 they should know a ahead of time what they
14 want to fix it up for.

15 MR. ROMANO: I will ask him what he
16 has in mind and I can provide that.

17 MR. LANDSMAN: What was there
18 previously, do you know?

19 MR. ROMANO: No, sir. I couldn't
20 find anything in the records on this.

21 MR. LANDSMAN: Thank you.

22 MR. BATTISTA: I have a question.

23 THE CHAIRMAN: Mr. Battista.

24 MR. BATTISTA: So same thing, right?
25 So you're going to -- you're looking for a

1 variance that you --

2 MR. ROMANO: Not a variance. It's
3 not a variance.

4 MR. BATTISTA: You're looking for
5 approval to do work but you don't know what
6 work you need to do in that space for the
7 store?

8 MR. ROMANO: We don't know yet. At
9 all. Because we have to get approved by
10 the Zoning Board in order to actually use
11 the store. Whoever is going to go in the
12 store obviously would have to file plans
13 depending on what it is. And that may
14 cause a variance. But I don't know yet.

15 THE CHAIRMAN: Okay. Then.

16 MR. LANDSMAN: That's the answer.

17 MR. ROMANO: I don't know, maybe I
18 misunderstood you. And I understand him. I
19 don't know.

20 THE CHAIRMAN: What did you say?

21 MR. ROMANO: I said maybe I
22 misunderstood Mr. Landsman and I understood
23 Mr. Battista.

24 MR. LANDSMAN: Okay. But there had
25 to be a part two -- any store couldn't in

1 there then. Once you get this variance
2 whoever -- the attestation, every type of
3 store will have to get a C of O and see if
4 it's approved.

5 MR. ROMANO: Absolutely.

6 MR. LANDSMAN: Okay. That's it.
7 Thank you.

8 THE CHAIRMAN: Any other questions?

9 Is there anybody here tonight on
10 this case on Lawrence Street near Van
11 Cortlandt Park Avenue? Is there anybody
12 here tonight on this case?

13 All right. Would you like to sum
14 up, Mr. Romano?

15 MR. ROMANO: That's All right,
16 Mr. Chairman.

17 THE CHAIRMAN: This case is hereby
18 closed. Reserve the right to reopen it at
19 any time, for any reason whatsoever, and
20 that includes after decision is made.

21 Thank you.

22 MR. ROMANO: Everyone have a very
23 good evening and a very good Thanksgiving.

24 THE CHAIRMAN: Thank you.

25 We are going to take a five-minute

1 recess.

2 (Brief recess taken.)

3 THE CHAIRMAN: Okay. We're going to
4 start again. Thank you.

5 Ladies. Going to take up a request
6 for an extension on 23 Mulberry Street,
7 case 5654 for the law firm of DelBello,
8 Donnellan, Weingarten, Wise, Wiederkehr.
9 The ladies are here tonight representing
10 them.

11 Would you introduce yourselves,
12 please.

13 MS. KLINE: Good evening,
14 Mr. Chairman. My name is Anne Kline. I'm
15 an associate at DelBello, Donnellan,
16 Weingarten, Wise and Wiederkehr, One North
17 Lexington Avenue, White Plains.

18 THE CHAIRMAN: Okay. So you want an
19 extension on 35 -- I'm sorry, 23 Mulberry
20 Street, right?

21 MS. KLINE: Yes, please.

22 THE CHAIRMAN: Okay. Now, the
23 letter that Ms. Giris sent, we're not
24 changing nothing.

25 MS. KLINE: No.

1 THE CHAIRMAN: Only giving you the
2 extension. We're not changing anything in
3 there. No, no dimensions or what.
4 Otherwise would have to have another
5 hearing, you understand that?

6 MS. KLINE: Right. Yes.

7 THE CHAIRMAN: So it's all you're
8 asking for an extension?

9 MS. KLINE: Yes, exactly.

10 THE CHAIRMAN: We're going to give
11 you -- I make a motion to give you an
12 extension for one year to September 15th.
13 Well, I think -- what happened?

14 (Noise interruption. Brief pause in
15 proceedings.)

16 THE CHAIRMAN: Okay. So I'm going
17 to make -- you're asking for, I can't give
18 you that much time. But I'll tell you what
19 I'll do, I'll give you from, I'll give you
20 to tonight. Okay? That's to November 16,
21 2022. Okay. So you pay enough money, only
22 paid \$750. So you want 18 months, you
23 gotta pay more money.

24 MS. KLINE: Okay.

25 THE CHAIRMAN: We're going to go

1 with that.

2 MS. KLINE: Okay. Thank you so
3 much.

4 THE CHAIRMAN: So from September
5 15th, but we're going to move it up to
6 tonight give you that.

7 MS. KLINE: Okay. I appreciate
8 that. Thank you.

9 THE CHAIRMAN: Going to make a
10 motion. I gotta take a motion. Going to
11 make a motion that we give you until
12 November 16, 2022. Do I have a second?

13 MR. LANDSMAN: Second.

14 THE CHAIRMAN: Everybody in favor
15 say aye.

16 (A chorus of ayes.)

17 MS. KIMBALL: Mr. Chairman, I have
18 to recuse myself.

19 THE CHAIRMAN: Yes.

20 MS. KIMBALL: As MHACY's owns the
21 property.

22 (Court reporter requested
23 clarification.)

24 MS. KIMBALL: MHACY's owns 23
25 Mulberry Street.

1 THE CHAIRMAN: Ms. Kimball is going
2 to abstain.

3 Okay. Now, we got that one. Okay.
4 The next one is a new case. This is going
5 to be on next month's agenda. And they
6 want to get a little jump on it. We're
7 going to give that advantage. This is
8 St. Clair's residence, 38-36 and 32 Main
9 Street, SB L1 501, 18, 19, and 20 and 1-3
10 Riverdale Avenue, that's Lot L1, 501, 22,
11 and 23. All right. This is requesting a
12 resolution to confirm an -- okay.

13 Would you make your presentation,
14 please. State your name and address,
15 please.

16 MS. KOLEV: Sure. Good evening.
17 I'm Diane Kolev from DelBello, Donnellan,
18 Weingarten, Wise, and Wiederkehr. I'm here
19 tonight on behalf of the development for
20 the St. Claire's residence application that
21 you mentioned. We're proposing to
22 redevelop that property that's on the
23 corner of Main Street and Riverdale Avenue
24 with a new ten-story mixed-use multi-family
25 building with ground floor commercial space

1 and 76 affordable residential dwelling
2 units.

3 This project will require site plan
4 approval that's currently pending before
5 the Planning Board. It will require a rear
6 yard setback variance from your Board.
7 We've submitted that application on
8 November 8. So, as you mentioned we
9 anticipate making a full presentation to
10 your Board on the December 21st at your
11 next meeting. In the meantime on November
12 12th, the Planning Board circulated a
13 notice of intent to assume the role of Lead
14 Agency pursuant to SEQRA. And we're here
15 tonight to request that the Board
16 acknowledge receipt of the notice and
17 consent to the Planning Board's assumption
18 of Lead Agency status in conducting a SEQRA
19 review of this project.

20 So, because the timing is such that
21 the next Planning Board meeting will be
22 December 8th, which will be before your
23 next meeting in December on the 21st, then
24 it will be helpful that we were -- that we
25 had consenting input prior to the next

1 meeting.

2 THE CHAIRMAN: Okay. Are there any
3 questions of the Board? Okay. You can
4 take a seat now. Thank you.

5 I'm going to make a resolution to
6 confirm no objection for the Yonkers
7 Planning Board to assume Lead Agency under
8 SEQRA. The Yonkers Planning Board by
9 notice dated November 12, 2021, declare its
10 intention to assume Lead Agency for
11 environmental review of this proposed
12 matter, which matter will be on the Board's
13 agenda in December again for a hearing.
14 Following the applicant's brief description
15 of the project and the fact that the next
16 Planning Board meeting will be held prior
17 to the Board's December decision, the Board
18 has determined to indicate to position
19 relative to the recent Planning Board
20 action. Accordingly, this Board does not
21 object to the Yonkers Planning Board assume
22 the Lead Agency pursuant to SEQRA.

23 Do I have a second?

24 MR. BATTISTA: Second.

25 THE CHAIRMAN: On the motion.

1 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. Lopez.

8 MR. LOPEZ: For the motion.

9 THE CHAIRMAN: Mr. Singh.

10 MR. SINGH: For the motion, sir.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: The Chairman votes
14 for the motion. Motion is carried 7-0.

15 Thank you.

16 MS. KLINE: Thank you, Mr. Chairman.
17 Have a lovely evening.

18 THE CHAIRMAN: Thank you.

19 Is there anybody here from
20 McDonald's on Nepperhan Avenue? Okay.
21 We're going to take that up right now.
22 They're made a request to have an
23 extension. I thought we did it last month,
24 but we didn't. It's on Nepperhan Avenue.
25 It's case number 5649. They're requesting

1 an extension for -- all right. They paid
2 the money. I think they made a mistake.
3 They said want to start construction 2021.
4 Obviously they didn't. I don't think they
5 did. I go over there once in awhile. So
6 I'm going to make a motion, I'm going to
7 give them a year's extension from tonight.
8 From, from -- I'm sorry. They want it for
9 10/20/22. We'll give them the extension
10 until October 20, 2022. That's case 5649.
11 It's 1200 Nepperhan Avenue. Do I have a
12 second, please?

13 MR. BATTISTA: (Indicated.)

14 THE CHAIRMAN: On the motion say
15 aye.

16 (A chorus of ayes.)

17 THE CHAIRMAN: Anybody against?

18 Okay. That's carried 7-zip. Thank you.

19 There's an extension for 76 Locust
20 Hill Avenue. They want an extension for a
21 year. I don't have that in front of me.
22 But I remember it was on last month and we
23 forgot to do it. I don't want to forget to
24 do it tonight.

25 MS. KIMBALL: It's here.

1 THE CHAIRMAN: It's here? May I
2 have it, please.

3 MS. KIMBALL: Here's a copy.

4 THE CHAIRMAN: Thank you. Okay.
5 I'm going to make a motion to give them an
6 extension to October 20, 2022. It's on 76
7 Locust Hill Avenue, Block: 2027, Lot 101,
8 Case 5713. So going to make a motion, they
9 paid the \$750. I'm going to make a motion
10 to give them a year from October 20th. Do
11 I have a second?

12 MS. KIMBALL: Second.

13 THE CHAIRMAN: Second by
14 Ms. Kimball. Everybody in favor say aye.

15 (A chorus of ayes.)

16 THE CHAIRMAN: Anybody opposed?
17 That's carried 7-0. Okay.

18 Let me see. We're going to take a
19 couple of minutes break, please. Thank
20 you.

21 (Brief recess was taken.)

22 THE CHAIRMAN: Ladies and gentlemen,
23 we are going to have some decisions
24 tonight. Does anybody have a problem
25 hearing me? If you do, you want to move

1 up, we'll take a couple of minutes for you
2 to all move up here.

3 Okay. The first decision tonight
4 will be case 5736, an area variance,
5 Mr. Veneruso, on behalf of 26 West 5th
6 Street, LLC., Limited Liability
7 Corporation, contract vendee premises known
8 as 83-94 Vineyard and 150 Ridge Avenue,
9 Block -- I gotta get my glasses. Block
10 2170, lots 9, 78, 82, 84, 85, in an "M"
11 Zone.

12 Do I have a motion, please? I guess
13 I'm going to have to read it now.

14 Veneruso, Curto, Schwartz & Curto,
15 LLP., Limited Liability Partnership on
16 behalf of 23 West 5th St. LLC., seek the
17 proposed area variances as follows:

18 Violation of 4-2000 as amended:

19 1. Exceeding maximum permitted
20 floor area ratio, Section 43-27, Table
21 43-3, required is 1.25, proposed is 1.79;

22 2. Insufficient side yard, Section
23 43-27, Table 43-3, required is 15, proposed
24 is 5;

25 3. Insufficient front yard, Section

1 43-27, Table 43-3, required 15 feet,
2 proposed is 5;

3 4. Insufficient rear yard, Section
4 43-27, Table 43-3, required is 25, proposed
5 is 1.5;

6 5. Exceeding maximum permitted
7 building coverage, Section 43-27, Table
8 43-3, required is 40 percent, proposed
9 84.42 percent;

10 6. Parking within 10 foot of a
11 building on the same lot is not permitted,
12 Section 43-44.A.9.b, space 23 through 45
13 are zero feet from the wall.

14 Now, some changes have been made
15 here.

16 Mr. Accinelli, step up.

17 Some changes have been made here
18 over a period. Had this case for about
19 four months now; am I correct?

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

22 THE CHAIRMAN: Okay. You know what
23 was changed? I know we got 6 feet on the
24 south line, I know that.

25 MR. ACCINELLI: The only thing

1 changed was the addition of the setback
2 parking variance that was not called out on
3 the original denial from the Building
4 Department which was added to the
5 application. And it included as part of
6 the principal points. So we addressed that
7 additional variance.

8 THE CHAIRMAN: So those are the
9 results with the changes in it?

10 MR. ACCINELLI: Correct. With
11 respect to the variances, yes.

12 THE CHAIRMAN: So there's no changes
13 -- 16 feet on the south line. Changed
14 that? That's 6 feet now.

15 MR. ACCINELLI: Correct.

16 THE CHAIRMAN: And the two spaces?

17 MR. ACCINELLI: We provided three
18 parking spaces to the property at 152
19 Ridge. Is that what you're referring to,
20 Mr. Chairman?

21 THE CHAIRMAN: Who?

22 MR. ACCINELLI: You're referring to
23 the three parking spaces?

24 THE CHAIRMAN: Yes. Up on top.

25 MR. ACCINELLI: Right. We provided

1 the three parking spaces that the Board
2 asked for with respect to the property at
3 152 Ridge Avenue.

4 THE CHAIRMAN: That's the house up
5 on top?

6 MR. ACCINELLI: Correct.

7 THE CHAIRMAN: Got that covered.

8 Okay. Thank you.

9 The property is located on Vineyard
10 Avenue on the westerly side and consists of
11 a vacant, overgrown wooded lot. The
12 Property consists of 25,600 square feet.

13 The Applicant is seeking area
14 variances to develop the property with a
15 4-story, with a ground floor, residential
16 building containing 32 rental housing
17 units, 25 one-bedrooms and 7 two-bedroom,
18 on-site parking for 45 cars, down 2 spaces
19 from the original application. So that
20 would be for 3 cars. However, still
21 compliant with Code, will be provided on a
22 new parking deck located at the rear of the
23 building. Access to the Property will be
24 through 150 Ridge Avenue which is a
25 separate 25-foot lot which fronts on Ridge

1 Avenue. That's to the west of the
2 property. And which forms a part of the
3 application and is owned by the Applicant.

4 The ground floor of the building
5 will contain a mechanical space, a laundry
6 area and a grade-level entrance to the
7 building from Vineyard Avenue. The first
8 floor will have a compactor room and seven
9 one-bedroom apartments and one two-bedroom
10 apartment. The second floor and third
11 apartments floor apartments will have six
12 one-bedroom apartments and two
13 two-bedrooms. All required on-site parking
14 will be provided via a parking deck will be
15 in the rear of the property at the fourth-
16 floor. This parking deck will also provide
17 handicapped access to the building and the
18 handicapped required apartments. The
19 property will provide for trash removal by
20 way of containers at space located at the
21 south end of the property.

22 A motion, I make a motion hereby to
23 approve the requested area variances
24 subject to conditions based on facts,
25 findings, information and testimony

1 presented to this Board at the public
2 hearings, at site visits by the members of
3 the Zoning Board of Appeals, or otherwise
4 obtained.

5 In order to grant an Area Variance
6 the Board must be satisfied on five points
7 of law.

8 1. Whether an undesirable change
9 will be produced in character of the
10 neighborhood, or the granting of this
11 variance will create a detriment to nearby
12 properties.

13 The granting of this area variance
14 will not create any undesirable changes in
15 the character of the neighborhood and will
16 not be a detriment to nearby properties.

17 The development of this project and
18 the elimination of a vacant and overgrown
19 lot associated improvements at the property
20 will be a welcome and will also improve the
21 overall character and desirability of the
22 area.

23 All properties in the community are
24 largely built to the side and front
25 property lines. The insufficient side and

1 front setbacks as well as the proposed
2 parking locations for spaces 23 through 45
3 relative to the proposed building structure
4 from the perspective of use, physical
5 activity at the Property and visibility to
6 neighbors and the surrounding community
7 will not create an adverse change and are
8 compatible and consistent with existing
9 conditions on both Vineyard Avenue and
10 Ridge Avenue.

11 Therefore, the proposal will be no
12 detriment to nearby properties. The
13 project should enhance the character of the
14 neighborhood.

15 2. Whether the benefit sought by
16 the applicant can be achieved by some other
17 method feasible for the applicant to pursue
18 other than an area variance.

19 The benefit sought by the Applicant
20 cannot be achieved by any alternate, more
21 feasible, methods other than the area
22 variances. After analyzing all feasible
23 alternatives, the Applicant could not
24 configure or otherwise relocate or position
25 the proposed structure. Dictated largely

1 by the proposed structure, appreciable
2 elevations changes from the front to rear
3 of the property and property usage on all
4 sides, as well as the applicable building
5 code requirements, topography, site
6 conditions and character of the
7 neighborhood, the Applicant explored a
8 number of design and layout possibilities
9 in an attempt to achieve the desired result
10 while at the same time minimizing any
11 adverse impact with respect to these
12 considerations. The area variances sought
13 are necessary given these considerations.

14 3. Whether the requested variances
15 are substantial.

16 The requested area variances are
17 substantial. However, in light of the
18 nature of the project, the proposal as
19 approved will have no adverse impact to the
20 area. The variances are considered as
21 acceptable under the circumstances of this
22 application created by the unique
23 characteristics of the property involving
24 substantial elevation change, inability to
25 create or locate parking in a different

1 manner due to existing rock conditions and
2 the fact that the proposed development on
3 the property will be an improvement upon
4 the existing conditions of not only the
5 Property, but the entire neighborhood.
6 Therefore, there will be no detriment to
7 the immediate surrounding area and the
8 project will have a positive impact to the
9 general public and the adjacent properties
10 in the neighboring community.

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

17 As previously stated, the requested
18 variances will not have an adverse effect
19 or impact on the environmental conditions
20 of the neighborhood. The project will not
21 adversely affect any natural environmental
22 characteristics such as water use,
23 pollution, energy use, drainage, run-off
24 and flooding, nor create any noise, light
25 odor, visual or other nuisance conditions.

1 5. Whether the alleged difficulty
2 was self-created which consideration shall
3 be relevant to the decision to the ZBA, but
4 shall not necessarily preclude the granting
5 of the area variance. The alleged
6 difficulty was self-created. By virtue of
7 the applicant's constructive knowledge of
8 the zoning requirements, it is possible
9 that the applicant had actual or
10 constructive knowledge of the requirements
11 of the Zoning Ordinance as applied to the
12 proposed project. However, the self-
13 created hardship rule is merely one
14 consideration guiding its review and does
15 not necessarily bar the granting of the
16 variance.

17 In granting these variances, the
18 Board imposes the following conditions:

19 1. All health, safety, fire, building
20 and environmental codes shall be adhered to
21 at all times by the applicant.

22 2. Fire, Smoke and carbon monoxide
23 detectors and a fire sprinkler system shall
24 be installed in the entire facility hooked
25 to an outside monitoring system such ADT,

1 etc.

2 3. 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 and the City authorizes
7 the Department of Housing and Buildings to
8 take appropriate action.

9 4. Each tenant shall have a minimum
10 of one parking space offered free of
11 charge.

12 5. No businesses to be operated from
13 this premises.

14 6. The house on Ridge Avenue to the
15 north of the driveway leading into the
16 parking garage must obtain a certificate of
17 occupancy prior to occupancy of this
18 property.

19 7. And there's going to be an
20 elevator in the parking garage.

21 Okay. Do I have a second on the
22 motion, please?

23 MR. SINGH: Second.

24 THE CHAIRMAN: On the motion. I
25 have a second? On the motion,

1 Mr. Battista.

2 MR. BATTISTA: For the motion.

3 THE CHAIRMAN: Ms. Kimball.

4 MS. KIMBALL: Against.

5 THE CHAIRMAN: Okay. Mr. Giorgio.

6 MR. GIORGIO: For the motion.

7 THE CHAIRMAN: Mr. Lopez.

8 MR. LOPEZ: For the motion.

9 THE CHAIRMAN: Mr. Singh.

10 MR. SINGH: For the motion.

11 THE CHAIRMAN: Mr. Landsman.

12 MR. LANDSMAN: For the motion.

13 THE CHAIRMAN: Chairman votes for
14 the motion. Motion is carried 6-1.

15 Thank you.

16 The next case tonight is case 5743,
17 Mr. Steinmetz on behalf of Miroza Tower, 40
18 also known as 44 Hudson Street, Block 502,
19 Lot 1.10 in Zone DWD.

20 Also to go along with that is case
21 5761, use and area variance by David
22 Steinmetz again. At 60(56) Buena Vista
23 Avenue, Block 511, Lot 30 in D-MX Zone.

24 Do I have a motion, please?

25 MS. KIMBALL: Motion.

1 THE CHAIRMAN: Ms. Kimball.

2 MS. KIMBALL: We have to do SEQRA
3 first; is that correct?

4 THE CHAIRMAN: Yes.

5 MS. KIMBALL: The Zoning Board,
6 regarding Case 5743 40 aka 44 Hudson Street
7 the Zoning Board has carefully considered
8 the proposed action at 40 aka 44 Hudson
9 Street and has reviewed the submitted
10 Environmental Assessment Form and
11 supporting material. Pursuant to Part 617
12 of the State Environmental Quality Review
13 Act SEQRA, the Zoning Board acting as Lead
14 Agency hereby finds the proposed action
15 will not result in any large or important
16 impacts resulting in any significant impact
17 on the environment and therefore adopts a
18 Negative Declaration for the above-stated
19 action.

20 THE CHAIRMAN: I second the motion.

21 On the vote of the motion, please.

22 Mr. Battista.

23 MR. BATTISTA: For the motion.

24 THE CHAIRMAN: Ms. Kimball.

25 MS. KIMBALL: For the motion.

1 THE CHAIRMAN: Mr. Giorgio.

2 MR. GIORGIO: Against.

3 THE CHAIRMAN: I'm sorry. I didn't
4 -- I'm against it also. So would somebody
5 else second that motion, please.

6 You'll second the motion?

7 MR. LOPEZ: Second.

8 THE CHAIRMAN: All right. So put
9 down Mr. Lopez seconds the motion. The
10 Chairman is going to vote in a minute. On
11 the motion, sir. For the motion or
12 against.

13 MR. SINGH: For the motion.

14 THE CHAIRMAN: Mr. Lopez.

15 MR. LOPEZ: For the motion.

16 THE CHAIRMAN: Okay. Mr. Landsman.

17 MR. LANDSMAN: Against the motion.

18 THE CHAIRMAN: The Chairman votes
19 against the motion. The motion is carried
20 4 against -- 4 in favor and 3 against.

21 Now, on the motion, please,
22 Ms. Kimball.

23 MS. KIMBALL: Case 5743 --

24 AUDIENCE MEMBER: Can you speak up,
25 please? We can't hear you.

1 MS. KIMBALL: -- area variance 40
2 aka 44 Hudson Street.

3 THE CHAIRMAN: Hold on a second.

4 AUDIENCE MEMBER: We can't hear
5 anything.

6 AUDIENCE MEMBER: We can't hear you.
7 Wilson, we can't hear you.

8 THE CHAIRMAN: Okay. We're going to
9 send this over.

10 AUDIENCE MEMBER: We didn't hear the
11 last motion.

12 THE CHAIRMAN: What are you doing
13 down there?

14 AUDIENCE MEMBER: I'm trying to
15 hear.

16 THE CHAIRMAN: Huh?

17 AUDIENCE MEMBER: Trying to hear.

18 MS. KIMBALL: Case 5743, Area
19 Variance, 40 aka 44 Hudson. Subject
20 property is on the south side of Hudson
21 Street at the western corner of Hawthorne
22 Avenue. The property, formerly a church,
23 is vacant land bordering on two sides by
24 property of the Gateway Shopping Center,
25 ShopRite supermarket. By letter dated

1 November 4, 2021, the applicant advised the
2 Board that in light of community
3 involvement and concerns expressed by
4 members of the Board, the applicant has
5 concluded that it can reduce the size and
6 massing of the project by two stories
7 thereby reducing the height of the building
8 by 19 feet to 277 feet total and from 27
9 stories to 25 stories.

10 Therefore, I make a motion to
11 approve the request for the area variances,
12 as revised as per its November 4, 2021
13 letter subject to conditions based on
14 facts, findings, information and testimony
15 presented to this Board at the public
16 hearings, site visits by members of the
17 Zoning Board and otherwise obtained. In
18 making this determination, the Zoning Board
19 of Appeals shall take into consideration
20 the benefit to the applicant and/or owner
21 if the variance is granted as weighed
22 against the detriment to the health, safety
23 and welfare of the neighborhood or
24 community by such grant.

25 In making such determination, the

1 Board shall also consider the Following:

2 1. Whether any undesirable change
3 will be produced in the neighborhood or a
4 detriment to nearby properties will be
5 created by granting of the area variances.
6 The area variances sought will not have any
7 significant impact because the land is to
8 be developed in a manner that is no more
9 impactful than the previously approved, but
10 not built, 15-story residential building.

11 2. Whether the benefit sought by
12 the applicant or owner can be achieved by
13 some other method feasible for the
14 applicant or owner to pursue other than the
15 area variance. The benefit sought cannot
16 be achieved any other way as the HR&A Real
17 Estate Advisors study documented that the
18 requested variances are the least necessary
19 to be able to develop the property. The
20 HR&A study indicated that the site as zoned
21 at 150 feet could not yield a return that
22 would be buildable and that the project as
23 proposed at 250 units and 277 feet is only
24 at the edge of being able to be financed.

25 3. Whether the requested variances

1 are substantial. The variances requested
2 do seem to be substantial numerically but
3 because the uses are identical to the
4 previously proposed uses, that is
5 residential with some small amount of
6 storefront commercial, and because the
7 other impacts from the 15-story proposal
8 are not significantly different in this
9 iteration the board believes that the
10 impacts are not in fact substantial.

11 4. Whether the proposed variances
12 will have an adverse effect on the physical
13 or environmental conditions of the
14 neighborhood or district. There will be no
15 adverse effect on the physical or
16 environmental conditions of the
17 neighborhood or district by the granting of
18 these variances. The issues raised by the
19 neighborhood residents on Hudson Street are
20 issues that would have occurred under the
21 15-story development scheme. Shadow and
22 above grade parking as concerns voiced by
23 the neighbors would have been present in
24 the earlier conforming development. Those
25 impacts are not an effect of the requested

1 variances.

2 5. Whether the alleged difficulty
3 was Self-created. The difficulty is self-
4 created as the applicant had acquired the
5 property knowing of the potential of
6 needing the requested variances, but this
7 is only one factor the Board has considered
8 in rendering its decision.

9 The Board imposes the following
10 conditions:

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

15 2. Fire, smoke, carbon monoxide
16 detectors and a sprinkler system shall be
17 installed and hard wired throughout the
18 building and connected to an outside 24
19 hour monitoring system such as ADT.

20 3. If any sidewalk or curbs
21 adjacent to the property, need repair or
22 replacing as per the City Engineer, than
23 the applicant and or owner must make all
24 required repairs or replacements before a
25 certificate of completion will be issued.

1 4. Any mitigation required at area
2 traffic control devises or for pedestrian
3 improvements shall be funded by the
4 applicant through the Department of
5 Engineering, Traffic Engineering Division.

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

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

13 THE CHAIRMAN: Do I have a second on
14 the motion?

15 MR. BATTISTA: Second.

16 THE CHAIRMAN: On the motion,
17 Mr. Battista.

18 MR. BATTISTA: For the motion.

19 THE CHAIRMAN: Ms. Kimball.

20 MS. KIMBALL: For the motion.

21 THE CHAIRMAN: Mr. Giorgio.

22 MR. GIORGIO: Against.

23 THE CHAIRMAN: Mr. Lopez.

24 MR. LOPEZ: For the motion.

25 THE CHAIRMAN: Mr. Singh.

1 MR. SINGH: For the motion.

2 THE CHAIRMAN: Mr. Landsman.

3 MR. LANDSMAN: Against the motion.

4 THE CHAIRMAN: The Chairman votes
5 against the motion. The motion is carried
6 4 to 3.

7 Now, the next case is case number
8 5761, it's the parking lot now. All right.
9 The next motion here is on the parking lot.
10 Like I said at 60(56) Buena Vista Avenue.
11 Case 5761.

12 Ms. Kimball.

13 MS. KIMBALL: Do I have that motion?

14 This is a companion case to 5743, 40
15 aka 44 Hudson Street.

16 The subject property is a 9,688
17 Square foot vacant lot located
18 approximately 387 feet from the 44 Hudson
19 property. A parking lot accessory to use
20 by the residents of the 44 Hudson Street
21 property is proposed for the subject
22 property consisting of 90-degree parking
23 stall with dimensions of 8'6" and parallel
24 parking stalls with dimensions of 8'6" x
25 24". The entrance and exit to the parking

1 lot will be enclosed via a motorized gate,
2 which residents of 44 Hudson Street will be
3 able to operate with a key fob. 43-44
4 (A) (9) (a) required that private, open-air
5 parking areas be under common ownership
6 when located on separate lots. The
7 applicant has represented that the subject
8 property shall be placed under ownership of
9 Miroza Tower LLC. upon approval of the
10 variances.

11 I make a motion to approve the
12 request for the area variances subject to
13 conditions based on facts, findings,
14 information and testimony presented to this
15 Board at the public hearings, site visits
16 by members of the Zoning Board and
17 otherwise obtained. In making this
18 determination, the Zoning Board of Appeals
19 shall take into consideration the benefit
20 to the applicant and/or owner if the
21 variance is granted as weighed against the
22 detriment to the health, safety and welfare
23 of the neighborhood or community by such
24 grant.

25 In making such determination, the

1 Board shall also consider the following:

2 1. Whether any undesirable change
3 will be produced in the neighborhood or a
4 detriment to nearby properties will be
5 created by granting of the area variances.
6 The area variances sought will not have any
7 significant impact because the land is to
8 be developed pursuant to the development
9 patterns in the community in a manner which
10 will not adversely impact the character of
11 the neighborhood. Surface parking lots
12 such as proposed here, are common
13 throughout the downtown district. The
14 right of way and parking aisle variances
15 will not result in any real impacts as they
16 concern the internal design of the parking
17 lot and virtually invisible to the site's
18 neighbors. The property line variance will
19 also not create an undesirable change in
20 the neighborhood as other off street
21 parking areas in the area are setback
22 within five feet of property lines.

23 2. Whether the benefit sought by
24 the applicant or owner can be achieved by
25 some other method feasible for the

1 applicant or owner to pursue other than the
2 area variance. The distance variance is
3 required for the convenience of residents
4 while also relieving pressure on existing
5 on-street parking in the neighborhood by
6 provision of 25 parking spaces. The
7 subject property was specifically chosen as
8 it is one of the few unused sites within
9 reasonable walking distance of the 44
10 Hudson property large enough to accommodate
11 a functional open-air parking lot. The
12 variances will allow for a sufficient
13 amount of parking stalls to exist on site.

14 3. Whether the requested variances
15 are substantial. The variances requested
16 do seem to be substantial numerically but
17 their effect will be inconsequential when
18 viewed within the context of the existing
19 neighborhood.

20 4. Whether the proposed variances
21 will have an adverse effect on the physical
22 or environmental conditions of the
23 neighborhood or district. There will be no
24 adverse effect on the physical or
25 environmental conditions of the

1 neighborhood or district by the granting of
2 these variances. The variances will allow
3 for redeveloping an overgrown vacant lot
4 with a well maintained parking lot thereby
5 relieving pressure on local on street
6 parking while having minimal environmental
7 impacts to the neighboring residences.

8 5. Whether the alleged difficulty
9 was self-created. The difficulty is self-
10 created as the applicant had acquired the
11 property knowing of the potential of
12 needing the requested variances, but this
13 is only one factor the Board has considered
14 in rendering its decision.

15 The Board imposes the following
16 conditions:

17 1. If any sidewalk or curbs
18 adjacent to the property, need repair or
19 replacing as per the City Engineer, than
20 the applicant and or owner must make all
21 required repairs or replacements before a
22 certificate of completion will be issued.

23 2. Any mitigation required at area
24 traffic control devices or for pedestrian
25 improvements shall be funded by the

1 applicant through the Department of
2 Engineering, Traffic Engineering Division.

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

6 4. All expenses associated with
7 these conditions shall be the
8 responsibility of the applicant and/or
9 owner.

10 THE CHAIRMAN: Do I have a second on
11 the motion?

12 MR. BATTISTA: Second.

13 THE CHAIRMAN: On the motion,
14 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: Against.

20 THE CHAIRMAN: Mr. Lopez.

21 MR. LOPEZ: For the motion.

22 THE CHAIRMAN: Mr. Singh.

23 MR. SINGH: For the motion.

24 THE CHAIRMAN: Mr. Landsman.

25 MR. LANDSMAN: Against the motion.

1 THE CHAIRMAN: The Chairman votes
2 against the motion. The motion is carried
3 4-3. Thank you.

4 MR. STEINMETZ: Thank you,
5 Mr. Chairman, members of the Board.

6 THE CHAIRMAN: Come on. It's over.

7 MR. STEINMETZ: One point --

8 THE CHAIRMAN: No points, sir.

9 MR. STEINMETZ: Could not hear the
10 first motion.

11 THE CHAIRMAN: The case is over.

12 MR. STEINMETZ: I could not hear the
13 first motion. I'm assuming it was the
14 SEQRA determination but we could not hear.

15 MS. KIMBALL: Yes.

16 THE CHAIRMAN: Yes. Sir, I told
17 you, you can't talk.

18 MR. STEINMETZ: Thank you.

19 THE CHAIRMAN: The case is over.

20 MR. STEINMETZ: Thank you very much.

21 THE CHAIRMAN: Thank you, sir.

22 MR. STEINMETZ: Appreciate it.

23 THE CHAIRMAN: All right. The next
24 case tonight is 5750, area variance, 201
25 Glenwood Avenue, also known as 176 Park

1 Avenue. This is for the church. Jesus
2 Christ of Latter-Day Saints.

3 Is there anybody here tonight on
4 that case? You want to move up? Come on
5 up, so you can hear better.

6 Do I have a motion on that case?

7 MR. SINGH: Yes, Mr. Chairman.

8 THE CHAIRMAN: Here you go,
9 Mr. Singh.

10 MR. SINGH: Case 5750 area
11 variance--

12 MR. LANDSMAN: Hold on. Hold on.

13 THE CHAIRMAN: It's okay.

14 MR. SINGH: Thank you so much.

15 Mr. Chairman, Zoning Board of
16 Appeals, 5750, area variance. Robert D.
17 Gaudioso, Esq. on behalf of The Church of
18 Jesus Christ of Latter-Day Saints, owner,
19 for construction of a church, having:

20 Insufficient side yard, Section
21 43-27, Table 43-3 and 43-35.C, required 50
22 feet, proposed 25;

23 Insufficient side-front yard,
24 Section 43-27, Table 43-3 and 43-35.C,
25 required 50 feet, proposed 25;

1 Insufficient front yard, Section
 2 43-27, Table 43-3 and 43-35.C, required 50
 3 feet, proposed 25;

4 Parking within 5 feet of all
 5 property lines not permitted, Reference
 6 Yonkers Zoning Ordinance 43-44.A.9.b,
 7 proposed 4'4" on North side;

8 Parking within 10 feet of a building
 9 on the same lot is not permitted, Reference
 10 Yonkers Zoning Ordinance 43-44.A.9.b,
 11 Proposed 6;

12 Parking in the side-front yard not
 13 permitted, reference 43-138.A.(2), spaces
 14 1, 2, 3, 28, 29, 30, 27, 26, 25;

15 Parking within 10 feet of the right
 16 of way of a public street not permitted,
 17 reference 43-134.A.(4), proposed 3.5 feet
 18 on the South driveways;

19 Fences and walls including retaining
 20 walls must not exceed 4 feet in height in a
 21 required front yard setback or in any other
 22 required yard setback abutting a street and
 23 6 feet in height within any other required
 24 yard setback, Reference Yonkers Zoning
 25 Ordinance 43-41.D.3.a, proposed height

1 unknown;

2 Exceeding maximum permitted steeple
3 height, reference 43-35.C.(6), Required 48
4 feet max, proposed height unknown;

5 Project is intended for a meeting
6 house, chapel, offices, and classrooms for
7 The Church of Jesus Christ of Latter-Day
8 Saints. The meeting house is used
9 primarily on Sundays for worship service
10 and occasional use in the evenings, on
11 weeknights and occasional Saturday
12 activities. Meetings are held inside the
13 building. Parking meets the zoning
14 requirement for the use, see below. A few
15 parking lot lights will be installed on the
16 property.

17 Summary of Comments on File:

18 The applicant first appeared before
19 the Board in June. They received and
20 addressed comments from the public in the
21 last months, including a comment regarding
22 a dumpster close to the property line. A
23 full landscaping plan was submitted to show
24 a buffer on the north and east side of the
25 property as well as the front of the

1 property on the two front property lines.
2 The applicant has agreed to replace all
3 damaged sidewalks and curbing immediately
4 fronting the property. It should also be
5 noted the applicant has been able to reduce
6 required parking variances and has proposed
7 to establish a decorative wall on the
8 northern and eastern corner of property to
9 properly screen the property. The
10 applicant has submitted revised plans
11 confirming all revisions. Amongst the
12 documents submitted were support letters in
13 favor of the applicant from the public for
14 the property, along with a dozen different
15 photographs of steeples in the City of
16 Yonkers in their support of a similar style
17 of steeple for the church.

18 As such, Mr. Chairman, I make a
19 motion to approve the requested variances
20 to a Subject to conditions based on facts,
21 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.

1 To grant an Area Variance, the Board
2 is required to consider five points of law:

3 1. Whether an undesirable change
4 will be produced in the character of the
5 neighborhood or the granting of this
6 variance will create a detriment to nearby
7 properties.

8 The premises would remain in the
9 character with the surrounding area, which
10 consists of one, two, and multi-family
11 dwellings, as the neighborhood is a mixture
12 of older homes with quite different
13 existing setbacks. This variance to allow
14 for the reduction of the required building
15 setback will not have an undesirable effect
16 on the neighborhood. The aggregate average
17 for all properties along Park Avenue and
18 Glenwood Avenue for approximately 200 feet
19 in all four directions, is 28.66'. Allowing
20 for this "Place of Worship" to follow the
21 standard MG Zoning setback of 25 feet as
22 stated in the City Zoning Code, 43-3 and
23 43-35.C will not cause an undesirable
24 change in neighborhood character or a
25 detriment to nearby properties.

1 The proposed steeple height, as an
2 integral part of the architecture of the
3 proposed building will further not create
4 an undesirable change in neighborhood
5 character or to a detriment to nearby
6 properties.

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

11 The benefit cannot be achieved by
12 other means feasible to applicant other
13 than requesting the area variances. As
14 testified or documents otherwise submitted
15 to the Board, the existing parking is
16 insufficient for the worshippers' parking
17 requirements based on attendance of Sunday
18 services. Without the variances, the
19 surrounding neighborhood would otherwise be
20 impacted with worshippers on street
21 parking, ant these improvements will allow
22 the majority of worshippers to park
23 off-street. The variance to allow for the
24 steeple height is necessary to accommodate
25 the religious requirements of the church.

1 3. Whether the requested variance
2 is substantial.

3 The requested variance is not
4 substantial when viewed in context of the
5 entire application submitted by the
6 applicant. Proposed parking, as indicated
7 on the plans will not be an issue, as there
8 is also ample parking on the street. The
9 applicant's additional variance request to
10 encroach into the side setback along
11 Glenwood by approximately 13 inches is
12 minor.

13 By allowing the height of the
14 steeple to be proportional to the building,
15 the visual impact on those passing the
16 building is enhanced.

17 4. Whether the granting of the Area
18 Variances to allow for the proposed
19 improvements will have an adverse effect on
20 the condition of the physical or
21 environmental conditions in the
22 neighborhood or district.

23 The requested variances will not
24 negatively impact the neighborhood. In
25 granting the variance to park within the

1 side setback, there will be no adverse
2 effects on the physical or environment
3 conditions of the neighborhood.

4 5. Whether the alleged difficulty
5 to the applicant was self-created The
6 difficulty may be said to be self-created,
7 however, consideration shall be relevant to
8 the decision to the ZBA but shall not
9 necessarily preclude the granting of the
10 variances. The parking count as shown above
11 has two possible scenarios. In the first
12 example, 17 spaces are required; and in the
13 second example 27 spaces are required.
14 However, in reality about 35 spaces are
15 needed. This variance would allow for 32
16 parking spaces, which would reduce the
17 parking load on the adjacent streets. The
18 comments on file from the applicant state
19 that: "The Church of Jesus Christ of
20 Latter-Day Saints has a steeple on almost
21 every building, worldwide." And they would
22 like to have a steeple for this church.

23 In granting this request for
24 improvement to a nonconforming use, the
25 Board imposes the following 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 replacements 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 and a fire
24 suppression system on the premises hooked
25 up with an outside 24 hour monitoring

1 company such as ADT, etc. Monitoring
2 systems such-as-ADT before the occupancy.

3 6. The decorative screen wall
4 height shall be determined as measured
5 pursuant to the zoning ordinance but in no
6 event to exceed 8 feet.

7 7. The Church will not allow rental
8 of the "catering halls or cultural hall"
9 There will not be a bell, no outdoor
10 services, no soup kitchen, etc.

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

18 9. All expenses associated with
19 these conditions shall be the sole
20 responsibility of the Applicant and/or
21 property owner.

22 10. All refuse to be collected
23 between the hours of 8 a.m. to 4:30 p.m.
24 Monday through Friday only.

25 Thank you, Mr. Chairman.

1 THE CHAIRMAN: Can you read number
2 five to me again, please?

3 MR. SINGH: Number five?

4 THE CHAIRMAN: Yes.

5 MR. SINGH: Yes, sir. You want me
6 to read it?

7 THE CHAIRMAN: Would you read it to
8 me.

9 MR. SINGH: Sure. Number 5, there
10 will be fire/carbon monoxide and smoke
11 detectors and fire suppression system on
12 the premises hooked up with an outside
13 24-hour monitoring system as such as ADT
14 before occupancy.

15 THE CHAIRMAN: Do I have a second on
16 the motion?

17 MR. LANDSMAN: (Indicated.)

18 THE CHAIRMAN: Mr. Landsman, on the
19 motion. Mr. Battista.

20 MR. BATTISTA: For the motion.

21 THE CHAIRMAN: Ms. Kimball.

22 MS. KIMBALL: For the motion.

23 THE CHAIRMAN: Mr. Giorgio.

24 MR. GIORGIO: For the motion.

25 THE CHAIRMAN: Mr. Lopez.

1 MR. LOPEZ: For the motion.

2 THE CHAIRMAN: Mr. Singh.

3 MR. SINGH: For the motion.

4 THE CHAIRMAN: Mr. Landsman.

5 MR. LANDSMAN: For the motion.

6 THE CHAIRMAN: The Chairman votes
7 for the motion, the motion is carried 7-0.

8 Now, the next one is 5762
9 improvement to a non-conforming use, 34
10 Vermont Terrace also known as 4 Healy
11 Place. Do I have a motion, please?

12 MS. KIMBALL: Motion.

13 THE CHAIRMAN: Ms. Kimball.

14 MS. KIMBALL: 5762, improvement to a
15 non-conforming use. The subject property
16 is a two-family attached dwelling in a
17 "S-50" zone which the applicant has owned
18 since 2020. The applicant seeks to create
19 a new wood deck around the existing pool
20 and extend the existing deck outside the
21 kitchen. The subject property is on the
22 corner of Healy Place and Vermont Terrace.

23 Mr. Chairman, I make a motion to
24 approve the improvement of the
25 non-conforming use requested based on

1 facts, findings, information, and testimony
2 presented to this Board at the public
3 hearing, site visits by members of the
4 Zoning Board of Appeals, or otherwise
5 obtained. Specifically, the Board in
6 making its determination has considered the
7 following:

8 One, whether the improvement sought
9 by the applicant would bring the subject
10 property into greater conformity. The
11 Applicant owns the two-family home. The
12 Applicant is proposing creating an
13 improvement to the portion of the home
14 which the owner inhabits. An above ground
15 pool already exists on the site. The
16 proposed improvements would create a wooden
17 deck to surround the existing pool. There
18 is already a deck off the kitchen of the
19 applicant's unit. The applicant seeks only
20 to extend that deck. The improvements
21 would not bring the home from a two-family
22 to a one-family but it would improve the
23 owners unit.

24 Two, whether the improvement to the
25 non-conforming use would reduce the adverse

1 external effects of the nonconforming use.
2 The subject property is a two-family in a
3 single family zone. Currently, the
4 backyard is divided by a fence which
5 differentiates the owner unit from the
6 rental unit. There are no apparent adverse
7 effects of the nonconforming use. The
8 subject property would stay a residential
9 use with two separate backyards and an
10 above-ground pool. The improvements will
11 comply with housing, safety and
12 environmental codes and parking
13 requirements.

14 Three, the improvement of the
15 non-conforming use will present no negative
16 affects to physical or environmental
17 conditions in the neighborhood. The home
18 is a two-family residential. It will
19 remain a two-family residence. The
20 improvements are yard amenities meant to
21 mitigate the appearance of an above-ground
22 pool. And create more open space on a
23 preexisting deck off the kitchen.

24 Four, this type of improvement is
25 contemplated by the ordinance. To

1 summarize, the Applicant is improving their
2 own backyard with a wooden deck around an
3 existing above ground pool and extending a
4 deck off the kitchen.

5 In granting this improvement to a
6 non-conforming use the Board imposes the
7 following conditions:

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

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

14 3. All gates and access ways to the
15 above ground pool deck will be locked,
16 fenced or both for safety:

17 4. An 8-foot privacy fence must be
18 installed in an "L" shape that extends from
19 the corner of the deck closest to the lot
20 line with the Applicant's neighbors' home
21 to the corner of the deck that fronts onto
22 Vermont Terrace;

23 5. This approval shall be
24 immediately rescinded should the owner
25 violate any of these conditions; and.

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

4 THE CHAIRMAN: Thank you. Do I have
5 a second, please? Mr. Battista. On the
6 motion.

7 MR. BATTISTA: For the motion.

8 THE CHAIRMAN: Ms. Kimball.

9 MS. KIMBALL: For the motion.

10 THE CHAIRMAN: Mr. Giorgio.

11 MR. GIORGIO: For the motion.

12 THE CHAIRMAN: Mr. Lopez.

13 MR. LOPEZ: For the motion.

14 THE CHAIRMAN: Mr. Singh.

15 MR. SINGH: For the motion.

16 THE CHAIRMAN: Mr. Landsman.

17 MR. LANDSMAN: For the motion.

18 THE CHAIRMAN: Chairman votes for
19 the motion. Motion is carried 7-0.

20 The next case for tonight then we're
21 finished is 5765, area variance, Steven
22 Veneruso on behalf of AC and Sons 671
23 Yonkers Avenue. Do I have a motion,
24 please?

25 MR. LANDSMAN: Yes Mr. Chairman.

1 THE CHAIRMAN: Yes, Mr. Landsman.

2 MR. LANDSMAN: I make a motion to
3 approve the request for an area variance,
4 subject to conditions, based on facts,
5 findings, information, and testimony
6 presented to this Board at the public
7 hearing, site visits by members of the
8 Zoning Board and otherwise obtained. The
9 subject property in question is on the
10 southeast corner of Yonkers Ave and
11 Seminary.

12 In making this determination, the
13 Zoning Board of Appeals shall take into
14 consideration the benefit to the applicant
15 and/or owner if the variance is granted as
16 weighed against the detriment to the
17 health, safety and welfare of the
18 neighborhood or community by such grant.

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

21 Number One, whether undesirable
22 changes will be produced in the
23 neighborhood or a detriment to nearby
24 properties will be created by granting of
25 the area variance.

1 The Zoning Board has visited the
2 site multiple times and finds there will be
3 no undesirable change in the neighborhood.
4 The previous building, that stood on this
5 site was built in 1928. The applicant
6 wishes to rebuild the building in the same
7 footprint as was previously on the site.

8 Number two, whether the benefit
9 sought by the applicant or owner can be
10 achieved by some other method feasible for
11 the applicant or owner to pursue other than
12 the area variance.

13 The benefit sought cannot be
14 achieved by any other means. As stated by
15 Mr. Steven Veneruso, Esq. at the Sept 21st
16 2021 hearing, "The applicant is just
17 looking to rebuild the 6000 square foot
18 building that stood on the premises." No
19 other land can be acquired to alleviate the
20 required setbacks and shortfall of parking.

21 Number three, whether the requested
22 variance is substantial.

23 The variance is substantial, but for
24 the reasons previously stated, its effect
25 will be minor since the building has

1 existed at the site for many years and
2 other businesses have previously operated
3 there without any adverse consequences on
4 the area.

5 Number four, whether the proposed
6 variance will have an adverse effect on the
7 physical or environmental conditions of the
8 neighborhood or district. As previously
9 stated, there will be no adverse physical
10 or environmental impact on the
11 neighborhood. Previous retail
12 establishments have operated at the subject
13 premises for many years, without adverse
14 impacts in this long time mixed-use urban
15 shopping area. With the conditions imposed
16 by this board this variance will not
17 negatively alter the quality of life in the
18 neighborhood.

19 Number five, whether the alleged
20 difficulty is self-created.

21 The difficulty is not self-created,
22 as the applicants building suffered a total
23 loss due to a major fire destroying the
24 building.

25 The Board imposes the following

1 conditions:

2 Number one, all health, safety,
3 fire, building and environmental codes
4 shall be adhered to always by the applicant
5 and/or owner.

6 Number two, if any sidewalk or curbs
7 directly surrounding the property are in
8 need repair or replacing, as per the City
9 Engineer, then the applicant and or owner
10 must make repairs or replacements before
11 the certificate of completion is issued.

12 Number three, all taxes and fines,
13 if owed, must be paid in full 60 days from
14 today's date.

15 Number four, these conditions shall
16 be listed on the C of O and the applicant
17 and/or tenant shall permit inspections at
18 the discretion of the Department of Housing
19 and Buildings, City of Yonkers, at least
20 once per year to determine that conditions
21 are being met.

22 Number five, should the applicant
23 and/or tenant not comply with, breach or
24 violate any of these conditions at any
25 time, the variance is hereby rescinded, and

1 the Zoning Board authorizes the City of
 2 Yonkers Department of Housing and Buildings
 3 to take appropriate action.

4 Number six, all expenses associated
 5 with these conditions shall be the
 6 responsibility of the applicant.

7 Number Seven, fire, smoke and carbon
 8 monoxide detectors shall be installed and
 9 hard wired throughout the stores and
 10 connected to an outside 24-hour monitoring
 11 system such as ADT. A sprinkler system
 12 shall also be installed throughout the
 13 entire building.

14 Number Eight, Garbage shall be
 15 picked up only during the hours of
 16 8:00 a.m. to 4:30 p.m. Monday to Friday
 17 only. The location of the garbage
 18 receptacles shall be approved by the
 19 Planning Department.

20 Number Nine, The applicant may have
 21 anywhere from one store up to 10 stores on
 22 this property.

23 Thank you.

24 THE CHAIRMAN: Do I have a second on
 25 the motion?

1 MS. KIMBALL: (Indicated.)
2 THE CHAIRMAN: Ms. Kimball on the
3 motion. Mr. Battista.
4 MR. BATTISTA: For the motion.
5 THE CHAIRMAN: Ms. Kimball.
6 MS. KIMBALL: For the motion.
7 THE CHAIRMAN: Mr. Giorgio.
8 MR. GIORGIO: For the motion.
9 THE CHAIRMAN: Mr. Lopez.
10 MR. LOPEZ: For the motion.
11 THE CHAIRMAN: Mr. Singh.
12 MR. SINGH: For the motion.
13 THE CHAIRMAN: Mr. Landsman.
14 MR. LANDSMAN: For the motion.
15 THE CHAIRMAN: Chairman votes for
16 the motion. The Motion is carried 7-0.
17 Okay. I make a motion to adjourn.
18 Thank you.
19 MR. LANDSMAN: Motion.
20 (Time Noted: 8:07 p.m.)
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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

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