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CITY OF YONKERS

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Minutes of
The City of Yonkers Zoning Board
Held at
Saunders High School
Yonkers, New York
March 15, 2022 - 6:00 p.m.

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B E F O R E:

- JOSEPH CIANCIULLI, Chairman
- HARRY SINGH, Member
- HECTOR LOPEZ, Member
- WILSON KIMBALL, Member
- VINCENT GIORGIO, Member
- RALPH BATTISTA, Member
- JEAN TICKELL, Member

P R E S E N T:

- MIKE REAPE, Building Department
- MATTHEW GALLAGHER, Corporation Counsel
- RACHEL KRAVITZ, Associate Corporation
Counsel
- LEE ELLMAN, Planning Department
- ZACHARY NERSINGER, Planning Director

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1 THE CHAIRMAN: Good evening, ladies
2 and gentlemen. The Zoning Board of Appeals
3 public hearing for March 2022 is now in
4 session. Would the members introduce
5 themselves starting with Mr. Singh.

6 MR. SINGH: Harry Singh.

7 MS. TICKELL: Jean Tickell.

8 MR. GIORGIO: Vincent Giorgio.

9 MS. KIMBALL: Wilson Kimball.

10 MR. BATTISTA: Ralph Battista.

11 THE CHAIRMAN: One member is going
12 to be late, I guess, Hector Lopez. So,
13 when he gets here. My name is Joseph
14 Cianciulli. I'm Chairman of the Board. To
15 my left is the Corporation Counsel who
16 represents the Board, Matthew Gallagher.
17 To my far left over there is another person
18 who represents the Board, Ms. Rachel
19 Kravitz. To my right is Mr. Michael Reape,
20 who represents the Building Department.
21 Over here on my left is Deputy Commissioner
22 Lee Ellman, Planning Department. And Zach
23 Nersinger, who is the, also with the
24 Planning Department.

25 Can I have the pledge of allegiance.

1 (Pledge of Allegiance.)

2 THE CHAIRMAN: Please remain
3 standing.

4 Mr. Giorgio's father passed on this
5 past week. His name was Mario Giorgio.
6 Now, I can tell you because I knew the
7 gentleman, he was a gentleman. He was a
8 kind person. And you know this down the
9 street from my place of business is a
10 diner. On the corner of Saw Mill River
11 Road and Odell Avenue. And he would eat
12 there quite often and I'd be in there. And
13 whenever he walked in the place, it just
14 glowed. Believe me when I tell you.
15 Everybody knew him in the place. So we're
16 going to have a moment of silence for
17 Mr. Giorgio right now.

18 (Moment of silence.)

19 THE CHAIRMAN: And then there was
20 another person that passed on, Judge Gil
21 Rabin. I knew Judge Rabin. He was a
22 perfect gentleman. A good jurist. He
23 lived in Yonkers. So we'll have a moment
24 of silence for Judge Rabin.

25 (Moment of silence.)

1 THE CHAIRMAN: Please be seated.

2 Do I have a motion to accept the
3 minutes of the February hearing?

4 MS. KIMBALL: Motion.

5 THE CHAIRMAN: Ms. Kimball. Second?
6 Everybody in favor say aye.

7 (Chorus of ayes.)

8 THE CHAIRMAN: Okay. Mr. Lopez,
9 would you introduce yourself, please.

10 MR. LOPEZ: Hector Lopez, board
11 member.

12 THE CHAIRMAN: Okay. So the minutes
13 are accepted.

14 We have several cases tonight.
15 We're going have a decision tonight on 45
16 Water Grant Street, that's case 5758. We
17 will not have a decision tonight on 5760 at
18 165 North Broadway.

19 Is anybody here tonight representing
20 165 North Broadway?

21 Mr. Amir, are you here?

22 Okay. Once again, they haven't
23 answered one of the questions. And we need
24 an answer on that. Has something to do
25 with the traffic. So, it was brought to

1 our attention by the Traffic Engineer.

2 Going to make a motion to put that
3 case over. Do I have a second?

4 MS. KIMBALL: (Indicated.)

5 THE CHAIRMAN: Everybody in favor
6 say aye.

7 (Chorus of ayes.)

8 THE CHAIRMAN: Any opposed? Okay.

9 Then we have 453 Bronxville Road.

10 Mr. Romano.

11 MR. ROMANO: Yes, sir.

12 THE CHAIRMAN: Step up, please.

13 State your name and address, please.

14 MR. ROMANO: Andrew Romano, 55 Main
15 Street, Yonkers, New York for the
16 applicant.

17 THE CHAIRMAN: Mr. Romano, I think
18 the applicant said they were going to get
19 back to us. He was going to talk to some
20 of the neighbors. Now, we got a letter
21 from you. Four, four paragraphs. Is the,
22 is the owner of the property going to,
23 going to -- wait a minute. Is the owner of
24 the property going to do this or what's
25 going on here?

1 MR. ROMANO: I think he's, he's
2 going -- he's met with one neighbor. He's
3 going to meet with the other neighbor
4 across the street to try to work something
5 out. I know the last time we were here and
6 the time before it, he met with the other
7 neighbor. So, given the opportunity, the
8 Board requests, we'd like to try again.

9 THE CHAIRMAN: We'll be glad to give
10 him an opportunity.

11 MR. ROMANO: Okay. That's fine.

12 THE CHAIRMAN: All right. But we
13 want to do something about this at the next
14 hearing in April.

15 MR. ROMANO: Yes, sir.

16 THE CHAIRMAN: Okay?

17 MR. ROMANO: Yes, sir.

18 THE CHAIRMAN: Going to make a
19 motion to put this case over. Do I have a
20 second?

21 MS. KIMBALL: (Indicated.)

22 THE CHAIRMAN: Ms. Kimball. On the
23 motion. Everybody in favor say aye.

24 (Chorus of ayes.)

25 THE CHAIRMAN: Okay. Any nays?

1 Okay.

2 MR. ROMANO: Thank you, sir.

3 THE CHAIRMAN: You're welcome, sir.

4 Then we have a case on Van Cortlandt
5 Park Avenue.

6 Mr. Romano, can I just see you one
7 second, please, again.

8 MR. ROMANO: Yes, sir.

9 THE CHAIRMAN: Mr. Badaly said that
10 you might represent these people?

11 MR. ROMANO: No, I'm off this one,
12 Mr. Chairman.

13 THE CHAIRMAN: Okay. Fine.

14 Mr. Badaly here? Step up. All
15 right. I swore you in the last time.
16 You're still sworn in. You understand?

17 MR. BADALY: Yes, sir.

18 THE CHAIRMAN: What are we doing
19 about this case?

20 MR. BADALY: The owner has retained
21 another counsel. They are in preparation
22 right now to submit additional information
23 for the next meeting and I was here to
24 respectfully request an adjournment again.

25 THE CHAIRMAN: So you're going to

1 come back here with a whole new case at the
2 next hearing?

3 MR. BADALY: Absolutely.

4 THE CHAIRMAN: Okay. And the
5 notices gotta go out, the signs gotta go
6 up.

7 MR. BADALY: Yes, sir.

8 THE CHAIRMAN: The whole works. I'm
9 glad to see you in a suit and tie. You
10 look good.

11 MR. BADALY: Thank you.

12 THE CHAIRMAN: Okay. Going to make
13 a motion to put this case over for a new
14 hearing. Do I have a second?

15 MS. KIMBALL: (Indicated.)

16 THE CHAIRMAN: Ms. Kimball.
17 Everybody in favor say aye.

18 (Chorus of ayes.)

19 THE CHAIRMAN: Okay. All right.
20 Then we have, Mr. Badaly, you have another
21 case here, 409 Warburton Avenue. Now, I
22 understand that you sent some stuff in.
23 Some, some drawings in.

24 MR. BADALY: Yes, sir. So I had the
25 direct contact with both the Fire

1 Department and Engineering. So I reached
2 out to Chief DeSantis and I provided not
3 one, but two revisions. Spoke to him
4 multiple times. And I believe I resolved
5 his comments. He requested I resubmit to
6 the Building Department. We achieved that
7 by creating a new door in front of the
8 building as well as creating a striped
9 walkway --

10 THE CHAIRMAN: No, no, no. I think
11 you submitted a plan, but not, not the
12 actual paper plans; is that correct?

13 MR. BADALY: That is correct. We
14 did resubmit the paper plan to the Building
15 Department. That is correct.

16 THE CHAIRMAN: Well, we need them.
17 We need the paper plans.

18 MR. BADALY: Oh, I was under the
19 impression they were submitted to, to the
20 Zoning Board. I'm very sorry about that.

21 THE COURT: No, you don't have to be
22 sorry. If you submitted them and we don't
23 have them, then there's a mistake.

24 MR. BADALY: Exactly. Okay.

25 THE CHAIRMAN: Okay?

1 MR. BADALY: Yes.

2 THE CHAIRMAN: All right. We didn't
3 get them so we're going to put this case
4 over tonight. But you gotta make sure that
5 you get those in to us.

6 MR. BADALY: Okay.

7 THE CHAIRMAN: And if you had a
8 discussion with Chief DeSantis, if you have
9 that in writing, we'd want that also.

10 MR. BADALY: I have the emails. I
11 could, I could print out and forward the
12 emails. Would that be sufficient?

13 THE CHAIRMAN: That's fine.

14 MR. BADALY: I have the same thing
15 from Dominic Micka from Engineering. I
16 believe. For traffic. And so we were in
17 contact actually even earlier today. And
18 tentatively he has accepted all of our
19 comments as well.

20 THE CHAIRMAN: Who, Commissioner
21 Micka?

22 MR. BADALY: Correct.

23 THE CHAIRMAN: Okay. Well, I didn't
24 speak to him, so, I don't know what went
25 on.

1 But let me just say something: Does
2 anybody here on this Board have any
3 questions? No.

4 I'm going to open this case up a
5 second. Did I close this case? I forget.

6 (Brief pause.)

7 All right. I did not close this
8 case. So, we're going to have some
9 discussions in a minute.

10 Does anybody on the Board have any
11 questions about this case? It's at 409
12 Warburton Avenue.

13 MS. KIMBALL: Mr. Chairman.

14 THE CHAIRMAN: Ms. Kimball.

15 MS. KIMBALL: Mr. Badaly, did you
16 address the issue of the grade change and
17 the ADA compliance?

18 MR. BADALY: What was the -- I'm
19 sorry. I misheard you.

20 MS. KIMBALL: The questions that
21 Dominic Micka had with the plan was ADA
22 compliance and the grade change in the
23 parking lot. Were those addressed?

24 MR. BADALY: Yes, yes, those,
25 specifically, just to elaborate on how we

1 addressed them. We lowered the basement
2 elevation. In conversations with Dominic,
3 it was my understanding that the driveway
4 grade was permitted to be at a steeper
5 slope. So we increased that slope, but
6 it's still within conformance of the
7 driveway. We lowered the basement a little
8 bit. And somehow the pitch in the back is
9 a little bit easier. And it does meet
10 under -- it's at about 6 percent, which is
11 less than that threshold that he had
12 quoted. And I did have a direct
13 conversation with him both on the phone and
14 through email just to confirm those.

15 MS. KIMBALL: Thank you,
16 Mr. Chairman.

17 THE CHAIRMAN: All right. Fine.
18 Have a seat. By the way, we don't allow
19 first names. It's Commissioner Micka.

20 MR. BADALY: Oh, thank you. Sorry
21 about that.

22 THE CHAIRMAN: Have a seat. All
23 right.

24 Is there anybody here tonight on
25 this case?

1 PUBLIC SPEAKER DIRESTA: (Indicated.)

2 THE CHAIRMAN: One second, please.

3 This case is at 409 Warburton Avenue.

4 Okay. Step up. I see you. Don't
5 worry.

6 Are you an attorney?

7 PUBLIC SPEAKER DIRESTA: No, sir,
8 I'm an engineer.

9 THE CHAIRMAN: The question was, are
10 you an attorney?

11 PUBLIC SPEAKER DIRESTA: No, sir.

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

16 PUBLIC SPEAKER DIRESTA: I do.

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

19 PUBLIC SPEAKER DIRESTA: My name is
20 Gene DiResta. I live at 8 Hays Hill,
21 Pleasantville, New York. And I represent
22 DiLaRe Incorporated that owns the building
23 at 401 Warburton Avenue which is, abuts the
24 409 Warburton Avenue line.

25 THE CHAIRMAN: To the north, right?

1 PUBLIC SPEAKER DIRESTA: Yes, sir.

2 THE CHAIRMAN: Okay. Proceed,
3 please.

4 PUBLIC SPEAKER DIRESTA: I
5 submitted, I submitted to the Zoning Board
6 a couple of weeks ago a detailed document
7 that outlines my reason for rejecting a
8 portion of the variance. That deals with
9 the building of an ingress on the north
10 property line because it will immediately
11 abut with my building. There would be no
12 and-a-half-foot side yard plus the building
13 will be put at serious risk. To support
14 that, I had the insurance company look
15 first, submit a letter to the Board, which
16 they did. I have copies of the documents
17 with me.

18 There are, there was a six-page
19 reason for my recommendation to oppose the
20 variance that deals with the building of
21 the ingress. It's not needed, first of
22 all, but more importantly it puts a
23 22-family building at serious risk. The
24 property line is right on the south wall.
25 This is a 22-family building. It's aged

1 about approximately 100 years. And on that
2 wall is the power conduit from the City
3 that runs directly on that wall and on the
4 ground. Plans were submitted as part of
5 the document. As well as showing the
6 previous structure which was in compliance
7 with all of the side yards.

8 So, unless you want me to read this
9 extensive amount of documentation, which I
10 was led to understand that all the board
11 members are in possession of said, I would
12 entertain questions. But under no
13 circumstances will I allow that ingress.
14 Because it puts my building at serious risk
15 and that's supported by the insurance
16 company that is the underwriter for that
17 property. There's no -- I will not be
18 swayed in any way. I'm an engineer, PE as
19 well. And I'm prepared to extend the
20 calculations to prove my point.

21 THE CHAIRMAN: As I'm looking at the
22 building, I'm on Warburton Avenue, I'm
23 looking at, at your building to the left.
24 To -- yeah, sorry to the right. And that
25 building that they want to build is right

1 there. Okay? Now, I read your letter from
2 the insurance company. You're saying that
3 somebody that goes in that driveway, goes
4 west on that driveway down to the parking
5 garage, the parking lot back there, they're
6 going to hit something on your building?

7 PUBLIC SPEAKER DIRESTA: Yes, sir.
8 The power line.

9 THE CHAIRMAN: Where is the power
10 line?

11 PUBLIC SPEAKER DIRESTA: The power
12 line in the documents, which I submitted,
13 are photographs showing the conduit, the
14 four-inch conduit, right on that brick
15 wall.

16 THE CHAIRMAN: How wide is your
17 driveway there? How wide is your side yard
18 there?

19 PUBLIC SPEAKER DIRESTA: Zero.

20 THE CHAIRMAN: You're zero?

21 PUBLIC SPEAKER DIRESTA: That's
22 correct.

23 THE CHAIRMAN: I must be missing
24 something. I was down there.

25 PUBLIC SPEAKER DIRESTA: If you look

1 at the, if you look at the document that I
2 submitted, page five of six, you will see
3 the plan. But more importantly on page two
4 of six, you see the overhead drawing,
5 photograph taken from the City of Yonkers
6 on 51-B and then the Zoning map, 51-A shows
7 the problem. Page 2 figure 1-a, all of
8 these are taken right from the City of
9 Yonkers. So that south wall houses four
10 families and that building cannot in any
11 way tolerate a collision with a truck, or a
12 car. In no way can tolerate any kind of
13 collision because it's a brick structure.
14 And when that building was constructed,
15 vehicular traffic was not anticipated.
16 Especially considering the size of some of
17 the vehicles that exist today. In
18 particular trucks, Amazon.com trucks, et
19 cetera, making frequent, would be making
20 frequent deliveries. And when you look at
21 the figure, whether the photograph on page
22 four of six where my reasons for denial are
23 a motor vehicle collision with the AC power
24 conduit would result power outage and
25 possible fire affecting the entire

1 building. You see the conduit, the
2 four-inch conduit right on that wall.

3 THE CHAIRMAN: Well, I see the four-
4 inch conduit on the wall.

5 PUBLIC SPEAKER DIRESTA: And it goes
6 down and then enters into the building.
7 Directly behind that wall as shown in the
8 plans, figure 6, is where the power enters
9 into the building. That's where we have
10 the power distribution network. So cracks,
11 et cetera, could result in water -- will
12 result in water entering into that space,
13 which is currently privileged space by
14 virtue of the side yards, that will result
15 in a fire or outage.

16 THE CHAIRMAN: Let me ask you a
17 question. Okay?

18 PUBLIC SPEAKER DIRESTA: Yes, sir.

19 THE CHAIRMAN: On page six, of four
20 of six.

21 PUBLIC SPEAKER DIRESTA: Four of
22 six.

23 THE CHAIRMAN: Take figure four.
24 You see it?

25 PUBLIC SPEAKER DIRESTA: (Indicated.)

1 MR. GALLAGHER: Figure four on page
2 four of six.

3 PUBLIC SPEAKER DIRESTA: Yes.

4 THE CHAIRMAN: You see it? You see
5 what I'm talking about now?

6 PUBLIC SPEAKER DIRESTA: Yes, figure
7 four.

8 THE CHAIRMAN: All right. That's
9 the pipe right there on the right hand --

10 PUBLIC SPEAKER DIRESTA: No, sir. I
11 refer you to, to the figure 5-a and 5-b.
12 This is a separate problem. There's a
13 retaining wall. It's basically a wall for
14 the prevention of dirt from the 409 lot
15 onto the 411 lot. That's just cement
16 blocks that were built because there was
17 trespass of soil. Figure 5-a and 5-b show
18 the conduits. What you see in figure four
19 is the drain from the roof. That's a water
20 drain. It's unacceptable. There's no way
21 an egress can go there.

22 THE CHAIRMAN: Hold on a second.
23 Hold on a second. Okay? We gotta make a
24 decision here. Okay? What's unacceptable
25 to you, might not be to us. We gotta do

1 this. We're going to go down there and
2 take another look. Okay?

3 PUBLIC SPEAKER DIRESTA: Yes, sir.

4 THE CHAIRMAN: I'm going to do go
5 down myself with probably Ms. Kimball or
6 somebody else on this Board. And we're
7 going to take a look at this. And see what
8 it is. I looked at this before. I didn't
9 see a problem. I thought it was away from
10 you. That letter you got from the
11 insurance company, didn't make sense to me
12 to be honest with you. But we'll take a
13 look at it, as you said. Will be glad to
14 take a look at it. Do you have anything
15 else to say to us, sir?

16 PUBLIC SPEAKER DIRESTA: No,
17 everything is outlined in the document that
18 I submitted to the Board.

19 THE CHAIRMAN: Do you have any more
20 documents for us?

21 PUBLIC SPEAKER DIRESTA: Not
22 tonight. If you request more I would be
23 happy to provide them.

24 THE CHAIRMAN: No, I think we have
25 enough. I got your point. We're going to

1 go down and take another look at it.

2 PUBLIC SPEAKER DIRESTA: Would you
3 like me to be present with you, and show
4 you into the building so you can appreciate
5 how hazardous a --

6 THE CHAIRMAN: Listen. Listen. I
7 appreciate everything. I've been here 52
8 years. Okay? Don't worry about me
9 appreciating anything. Tell you what we're
10 going to do: You call the Building
11 Department and speak to Shannon. That's
12 the secretary to the Board. And she'll
13 tell you when we're coming down. I don't
14 know when we're going to come down. Might
15 be this week. Next week I'm away. Might
16 be the week after. More than happy to meet
17 you. Okay? Also, at that same time, we're
18 going to have Mr. Badaly there too. He's
19 the attorney for the group. He's going to
20 be there also, for the apartments excuse
21 me. He's going to be there also. Okay?
22 And you're willing to us in the building
23 including him?

24 PUBLIC SPEAKER DIRESTA: Of course,
25 I have nothing to hide. You know. I want

1 to say for the record, I was never informed
2 ever about the variance and the work that
3 they propose to do. I did not receive any
4 documents.

5 THE CHAIRMAN: Okay.

6 PUBLIC SPEAKER DIRESTA: From
7 Mr. Badaly. It was last, at the last
8 session of the Zoning Board meeting when I
9 was in communication via the, I think it
10 was a WebEx approach, that I got the
11 individual representing the owner of the
12 lot. I immediately communicated with him
13 the next day who put -- and then that
14 individual, Mr. Badaly put me -- contacted
15 his principal who then was in touch with
16 me. So, at that point in time I expressed
17 my, my chagrin and annoyance over the fact
18 that I was never contacted at any point.

19 THE CHAIRMAN: All right. Let me
20 tell you something, we're here. We're
21 listening to you. Believe me. Okay? Even
22 if I, even I had closed the case, I would
23 have reopened it tonight. Okay?

24 PUBLIC SPEAKER DIRESTA: Thank you,
25 sir.

1 THE CHAIRMAN: Okay. So don't look
2 at us here. We're very, very fair. I
3 pride myself on it.

4 PUBLIC SPEAKER DIRESTA: I
5 apologize.

6 THE CHAIRMAN: You don't have to
7 apologize for nothing. I'm just telling
8 you, you'll be treated fair.

9 PUBLIC SPEAKER DIRESTA: Thank you,
10 sir.

11 THE CHAIRMAN: You win or lose,
12 that's besides the point, but you will be
13 treated fair. You have anything else to
14 say to us?

15 PUBLIC SPEAKER DIRESTA: No, sir,
16 not right now.

17 THE CHAIRMAN: Is there anybody else
18 here tonight to speak? Thank you.

19 Is there anybody else here to speak
20 on this case? 409 Warburton Avenue?

21 Okay. This case is not closed.
22 Because we're going to have to meet down
23 there.

24 Mr. Badaly, Mr. DiResta is going to
25 call the Building Department tomorrow,

1 Shannon, and talk to her and will set up an
2 appointment. Okay?

3 PUBLIC SPEAKER DIRESTA: Thank you.

4 THE CHAIRMAN: So call Shannon.

5 Do you have the phone number for the
6 Building Department for Shannon's number?

7 PUBLIC SPEAKER DIRESTA: I have it.
8 I've been in touch with the lady.

9 THE CHAIRMAN: Shannon?

10 PUBLIC SPEAKER DIRESTA: Yes, sir.
11 Yes, sir.

12 THE CHAIRMAN: Okay. So I'll call
13 her in the morning and you can call her and
14 we'll set up an appointment. Like I said
15 it won't be this week. It won't be next
16 week, because I'm away all week.

17 PUBLIC SPEAKER DIRESTA: That's
18 fine, sir.

19 THE CHAIRMAN: It'll be the week
20 after.

21 PUBLIC SPEAKER DIRESTA: That's
22 fine. Whenever you're ready.

23 THE CHAIRMAN: You can bring whoever
24 you want with you, by the way, so it
25 doesn't matter. If you want to bring an

1 attorney or insurance guy, it's up to you.
2 Okay?

3 PUBLIC SPEAKER DIRESTA: When you're
4 present, you recommend that because --

5 THE CHAIRMAN: I don't recommend
6 anything. I don't make recommendations.

7 PUBLIC SPEAKER DIRESTA: All right.
8 I'll speak to counsel and find out --

9 THE CHAIRMAN: All I do is telling
10 you can bring anybody you want. You want
11 to bring the insurance guy, you can bring
12 anybody you want. I have no problem with
13 that.

14 PUBLIC SPEAKER DIRESTA: Okay.
15 Thank you, sir.

16 THE CHAIRMAN: Thank you.

17 Is there anybody else here tonight
18 to speak on this case?

19 Mr. Badaly, would you like to speak
20 for a second?

21 MR. BADALY: I'd just like to offer
22 just a brief comment in regards to, to, of
23 course, we're more than willing to provide
24 any sort of protections that are required
25 in order to safeguard the neighboring

1 buildings. And I'm more than willing to
2 work with the adjacent neighbor in order to
3 achieve that and hopefully upon the site
4 visit I can better understand what's going
5 on at the building. And the other point
6 I'd like to make is that I do understand
7 the concern. And that the alternate
8 proposal that we have for this project
9 without a variance does include a driveway
10 on that side. And I just want to provide
11 that information to the Board. Thank you.

12 THE CHAIRMAN: Fine. Okay. This
13 case is kept open. Leave the signs up.
14 And send regular letters out to the people
15 in a 200-foot radius. It's okay. You
16 spent enough money, so.

17 MR. BADALY: We should just update
18 the sign only?

19 THE CHAIRMAN: No, I said, I'm
20 sorry, maybe you didn't hear me. Gotta
21 send new notices out.

22 MR. BADALY: New notices. Okay.

23 THE CHAIRMAN: Send them out. Okay.

24 MR. BADALY: Thank you.

25 THE CHAIRMAN: You're welcome.

1 Thank you.

2 The next case here tonight is 5727A,
3 it's 70 Pier Street on behalf of Ginsburg
4 Development.

5 Anybody here tonight on that case?

6 I'm going to make a motion to put
7 that case over. Do I have a second?

8 MR. SINGH: Second.

9 THE CHAIRMAN: Everybody in favor
10 say aye. Anybody opposed? That case is
11 put over.

12 57 Locust Hill Avenue, we're going
13 to talk about that in a few minutes. Then
14 we have the other cases here tonight. All
15 right.

16 Mr. Accinelli, case 5774, an area
17 variance. Mr. Accinelli on behalf of NOAM
18 ONE, LLC. That's Limited Liability
19 Corporation. 57 Locust Hill Avenue, Block:
20 2020, Lot: 1 in an A Zone.

21 Introduce yourself, please.

22 MR. ACCINELLI: Good evening,
23 Mr. Chairman, members of the Board. Steven
24 Accinelli on behalf of the applicant from
25 Veneruso, Curto, Schwartz and Curto.

1 THE CHAIRMAN: Proceed.

2 MR. ACCINELLI: Thank you,
3 Mr. Chairman.

4 As the Board is aware from the last
5 meeting there were some open items
6 concerning Fire Department comments and
7 Water Department comments. And the project
8 representatives, Anthony Guccione, in
9 particular, was able to meet with
10 Superintendent Spait and Chief DeSantis
11 last week to review the domestic water
12 pressure as well as the fire water
13 pressure. And the Superintendent Spait did
14 issue an e-mail this morning, Mr. Chairman,
15 which I forwarded to the Planning Bureau as
16 well as Shannon for their review and
17 inclusion in the record. And Mr. Spait's
18 email concluded that the water pressure was
19 adequate and sufficient to satisfy domestic
20 and fire demands for the proposed project.

21 Other than that, Mr. Chairman, we
22 have nothing further to present. We have
23 presented previously. I do have Anthony
24 Guccione, and the project architect John
25 Saracco should the Board have any further

1 questions.

2 Also, Mr. Chairman, I wanted to just
3 reference the site visit with yourself and
4 members of the Zoning Board at the property
5 as well.

6 THE CHAIRMAN: Did Chief DeSantis,
7 what did he have to say?

8 MR. ACCINELLI: According -- I did
9 not receive a specific correspondence from
10 Chief DeSantis, but according to
11 Superintendent Spait's email, my
12 understanding is that Chief DeSantis was
13 satisfied with the water pressure at the
14 property coming off the existing water
15 main.

16 THE CHAIRMAN: Well, he'd also have
17 to say because he, you know, taken care of
18 the trucks in there and all that kind of
19 stuff, did he make a comment on that?

20 MR. ACCINELLI: I believe, I believe
21 those issues were resolved previously,
22 Mr. Chairman. I do have Anthony and John
23 who can talk more about that. But I
24 believe those concerns were already
25 addressed and included as part of the

1 record and presentment previously.

2 THE CHAIRMAN: Okay. We'll take a
3 look at that. I'll call Chief DeSantis if
4 I want to. I know him. He's a nice
5 fellow. Believe me. All right. Do you
6 have anything else to say?

7 MR. ACCINELLI: I do not,
8 Mr. Chairman.

9 THE CHAIRMAN: Okay. Deputy
10 Commissioner Ellman, do you have anything
11 to say on this?

12 MR. ELLMAN: No, just, well,
13 Mr. Chairman, you spoke to me earlier about
14 your site visit. And offered your opinions
15 as to the variance issues especially as to
16 rear yard. Obviously, we leave it to the
17 Zoning Board to make its decision.

18 THE CHAIRMAN: That's the easy way
19 of getting out of answering the question.

20 MR. ELLMAN: Well, I mean, that's my
21 -- I have a slightly different opinion than
22 the Zoning Board. But as staff, it is the
23 Zoning Board that makes its determination.
24 And I have no concern with that.

25 THE CHAIRMAN: Oh, boy, you're

1 taxing my brain tonight. I tell ya. I'm
2 going to leave you alone.

3 MR. ELLMAN: Okay.

4 THE CHAIRMAN: Believe me. I'm
5 going to give you a break. It's one of
6 those times where -- I'll let it go.

7 Okay. Now, as I'm looking at the
8 church, you own the two lots to the south;
9 am I correct?

10 MR. ACCINELLI: Correct.

11 THE CHAIRMAN: And that's where some
12 of the parking is going to go or something?
13 What's going to go in there?

14 MR. ACCINELLI: The parking is going
15 to go in the rear area, Mr. Chairman, on
16 the parking deck and then the balance is
17 going underneath the structure.

18 THE CHAIRMAN: What's going to go in
19 those two lots, where those two houses are
20 that you bought?

21 MR. ACCINELLI: It's going to be
22 part of the building structure,
23 Mr. Chairman.

24 THE CHAIRMAN: So it's going to be
25 -- that church is going to be, I mean,

1 excuse me, the building is going to be that
2 big.

3 MR. ACCINELLI: Correct.

4 THE CHAIRMAN: Very good.

5 Any questions of the Board?

6 Okay. Is there anybody here tonight
7 in favor of this application? It's up on
8 Locust Hill Avenue. Is there anybody here
9 tonight against this application?

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

15 MR. ACCINELLI: Thank you.

16 THE CHAIRMAN: How is your father
17 doing?

18 (Brief off-the-topic discussion.)

19 THE CHAIRMAN: The next case is, is
20 5776, an area variance, Jeffrey Gaspar, PE,
21 Professional Engineer, on behalf of Jose
22 David Cortez, owner, for a retaining wall
23 height in front yard, whereas:

24 - retaining wall heights and
25 guardrails in front yards exceeding 4 foot

1 required variance as per Section 43-41.D.3;

2 On premises known as 161 Bennett
3 Avenue, Block: 5032, Lot: 69.70 in a T
4 Zone.

5 Mr. Gaspar, are you here?

6 MR. GASPAR: I am.

7 THE CHAIRMAN: Would you -- are you
8 an attorney?

9 MR. GASPAR: No. Engineer.

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

14 MR. GASPAR: Yes.

15 THE CHAIRMAN: Now, you were here
16 the last time and we told you, you had to
17 come back. So what do you have to tell us?
18 I see you made a deal with the City.

19 MR. GASPAR: Yes, yes. So thank you
20 for your time, Mr. Chairman and the Board.
21 Back in September of 2020, we received a
22 zoning variance for a -- for several zoning
23 variances for an existing retaining wall
24 that was serving as parking area. So in
25 September we got, we got a variance for

1 exceeding the maximum vehicle in a lot,
2 parking within a front yard parking spaces
3 dimensions, and also proposed parking space
4 encroaching in the right-of-way. That was
5 after we received engineering approval for
6 this and City Council approval for this.

7 One thing that we left off that
8 variance request back in September was a
9 retaining wall height variance. So, we
10 have a retaining wall, again, this is
11 existing, the Zoning Board allows 4 foot in
12 the front yard. We're at 6 and-a-half feet
13 in the front yard. And we're requesting
14 that this variance be granted to allows us
15 to continue with the Building Department.

16 THE CHAIRMAN: But you made a deal
17 with the City of Yonkers to buy the
18 property that you were on?

19 MR. GASPAR: No, no. There's no
20 deal to purchase it.

21 THE CHAIRMAN: I'm sorry not, I
22 don't mean, I apologize to you. You got
23 permission to use it.

24 MR. GASPAR: That is correct.

25 THE CHAIRMAN: That's correct.

1 MR. GASPAR: That's correct.

2 THE CHAIRMAN: You got permission to
3 use it. Okay. So that covers you now.

4 MR. GASPAR: That's correct.

5 THE CHAIRMAN: So if you put the
6 wall up at least you know you got
7 permission to use it, you can do it.

8 MR. GASPAR: That's correct.

9 THE CHAIRMAN: How many families
10 live in this house?

11 MR. GASPAR: One.

12 THE CHAIRMAN: All right. Any
13 questions of the Board?

14 All right. You're going to have to
15 give me a letter stating the family that
16 lives there.

17 MR. GASPAR: So that was one of the,
18 that was one of the requirements for the
19 variance that was approved back in
20 September. And we do have that letter. It
21 was submitted to Shannon. You know. But I
22 think within a month of the approval. So
23 we can provide that again. I think --

24 Do you have a copy of it?

25 UNIDENTIFIED PERSON: I'm looking.

1 THE CHAIRMAN: No, you're going to
2 submit it to the Building Department.
3 They're going to stamp it in.

4 MR. GASPAR: Understood.

5 THE CHAIRMAN: Okay.

6 MR. GASPAR: Understood.

7 THE CHAIRMAN: Okay. Any questions
8 of the Board?

9 Okay. Good luck. This case is
10 closed.

11 MR. GASPAR: Thank you. Thank you
12 for your time.

13 THE CHAIRMAN: Okay. The next case
14 is 5777. I gotta get Ms. Kimball's glasses
15 here. 5777, improvement of a
16 non-conforming use, Anthony M. Monaco,
17 Professional Engineer, on behalf of Oak
18 Hill Condominium, owner, for the open air
19 refuse storage area, concrete slab,
20 whereas:

21 - per Section 43-40D(1), no accessory
22 structures shall be permitted in the front
23 yard;

24 - and, two, improvement of a
25 non-conforming use requires Zoning Board of

1 Appeals approval, that's reference Yonkers
2 Zoning Ordinance is 43-21.G, multiple
3 dwelling in a S-200 zone;

4 On premises known as 128 also known as
5 130 Colonial Parkway, Block: 4541, Lot:
6 40.45 in an S-200 Zone.

7 Are you Anthony Monaco?

8 MR. ROMANO: What?

9 THE CHAIRMAN: Are you Anthony
10 Monaco?

11 MR. ROMANO: No, but Anthony Monaco
12 can't be here, so he asked me to help out,
13 the applicant, Mr. Chairman.

14 THE CHAIRMAN: Do you know anything
15 about this case?

16 MR. ROMANO: Yes, sir, I do. I
17 photocopied the whole file from the Zoning
18 Board.

19 THE CHAIRMAN: All right. State
20 your name and address.

21 MR. ROMANO: Andrew Romano, 55 Main
22 Street, Yonkers, New York.

23 THE CHAIRMAN: Because I got a 101
24 questions for you, so.

25 MR. ROMANO: It's okay. It's okay.

1 I mean, it's a, it's a garbage case --

2 THE CHAIRMAN: Let's get going,
3 maybe I can get out of here early tonight.

4 (Brief off-the-topic discussion.)

5 THE CHAIRMAN: Go ahead, come on.

6 MR. ROMANO: Anyway, I'm here on
7 behalf of the applicant, the condominiums.
8 When I was growing up we used to call it
9 the snake hill, but it's Cherokee. So,
10 God, I remember those days. Anyway, all
11 the client is seeking to do is to build a
12 12 by 15 by 8 foot high shed to put the
13 garbage cans in. That's all they're
14 seeking to do.

15 The issue is an improvement to a
16 non-conforming use. It's an improvement.
17 The Board has the right to set its
18 standards for the conditions of the small
19 shed. It's aesthetically pleasing. It'll
20 be sanitary, it'll keep out the vermin.
21 And it's designed in terms of coloration to
22 be in compliance with the rest of the
23 condominium complex.

24 It's not anything that's major.
25 It's a very minor change. And it's

1 something that the condominium believes
2 would be beneficial not only for the
3 purpose of covering up the sheds, but also
4 for having the ability just to have the
5 garbage men come in.

6 Now, it's an accessory use. It's in
7 the front yard, yes. But I know the Board
8 has been there and they know that, that
9 hill is a tough hill. And they know that
10 when the garbage truck would come in and
11 take out the cans, they know that you don't
12 want to go too far into the facility and
13 it's right at the entrance where the cul de
14 sac is. So it makes sense to be there.
15 It's beneficial for everybody. Beneficial
16 for the neighbors. And that's all we're
17 asking to do, Mr. Chairman.

18 THE CHAIRMAN: Well, when I was over
19 there, I see where the garbage is now. Is
20 that where you're going to put the trash
21 thing?

22 MR. ROMANO: Yes, sir.

23 THE CHAIRMAN: Right there.

24 MR. ROMANO: Same exact location.

25 THE CHAIRMAN: Yeah. You mean to

1 tell me a garbage truck can't get in there?

2 MR. ROMANO: No, they can get in,
3 but why would I -- but see. The front
4 yard. Why would I have to bring the
5 garbage truck all the way down to say the
6 back of the place? It's much easier to put
7 it right here. You know those guys from
8 456, this is much easier for them.

9 THE CHAIRMAN: Don't pick on 456. I
10 had their men for years and years and years
11 and they're very good.

12 MR. ROMANO: Me too, Mr. Chairman.
13 A lot longer, trust me.

14 THE CHAIRMAN: Don't go into
15 something you shouldn't go into.

16 MR. ROMANO: Well, we're trying to
17 be helpful, Mr. Chairman. We don't want to
18 bring the truck in --

19 THE CHAIRMAN: Yeah, you don't want
20 to read this letter here, I got something
21 hear I'll read it.

22 MR. ROMANO: From who?

23 THE CHAIRMAN: Don't worry about
24 from who. But listen to me, who picks up
25 the garbage; the City or private?

1 MR. ROMANO: The City picks it up.

2 THE CHAIRMAN: City picks it up?

3 MR. ROMANO: Yes, sir.

4 THE CHAIRMAN: Okay. How far in do
5 you figure that is from Colonial Parkway?

6 MR. ROMANO: You mean off Cherokee
7 Road?

8 THE CHAIRMAN: Not off Cherokee
9 Road --

10 MR. ROMANO: I'll tell you --

11 (Simultaneous speaking.)

12 THE CHAIRMAN: No, no, no. Wait a
13 minute. Wait a minute. Make it easier --
14 no, no, don't worry about easier. From
15 Colonial Parkway, how far in is it? Looks
16 like to me about maybe 300 feet?

17 MR. ROMANO: I don't even think it's
18 that far. I'll take your word for it,
19 Mr. Chairman. But I do have someone here
20 who has a better precision on that. If
21 it's all right I have her say a few words,
22 Mr. Chairman? Very fast.

23 THE CHAIRMAN: I don't care. Fine.

24 UNIDENTIFIED SPEAKER: The garbage
25 is coming --

1 MR. ROMANO: Stop. He's gotta swear
2 you guys in. Those are the rules.

3 THE CHAIRMAN: Are both of you
4 ladies going to speak or one?

5 UNIDENTIFIED SPEAKER: Both.

6 THE CHAIRMAN: Okay. Are you
7 attorneys?

8 UNIDENTIFIED SPEAKER: No, we're
9 board members.

10 THE CHAIRMAN: Okay. Raise your
11 right hands, please. Do you solemnly swear
12 to tell the truth, the whole truth, nothing
13 but the truth so help you God?

14 UNIDENTIFIED SPEAKER: Yes.

15 UNIDENTIFIED SPEAKER: I do.

16 THE CHAIRMAN: Okay. State your
17 name and address.

18 PUBLIC SPEAKER WINTER: Sherry
19 Winter.

20 THE CHAIRMAN: And your address,
21 please.

22 PUBLIC SPEAKER WINTER: 130 Colonial
23 Parkway, Yonkers, New York.

24 THE CHAIRMAN: Madam, would you
25 state your name.

1 PUBLIC SPEAKER DENICOLA: Josephine
2 Denicola, 128 Colonial Parkway, Yonkers,
3 New York.

4 THE CHAIRMAN: Fine. Thank you.
5 Now, your attorney here, Mr. Romano, said
6 you have something to tell us?

7 PUBLIC SPEAKER WINTER: Well, it's
8 confusing, because you're talking about
9 Colonial Parkway, but the building at the
10 road is actually Cherokee Road.

11 THE CHAIRMAN: Yeah, I know where
12 Cherokee Road is.

13 PUBLIC SPEAKER WINTER: And we were
14 always able to put the trash cans on the
15 side and the guys would come in and pick it
16 up. For some reason years ago, they said
17 we have to bring it in on the property. So
18 all the trash cans over there are
19 overflowing. So there's a wall there. All
20 we want to do is go back into the wall on
21 the property and so to tuck the garbage
22 cans in there. That's basically it.

23 THE CHAIRMAN: Well, Cherokee Road
24 is a private street isn't it? Or part of
25 it?

1 PUBLIC SPEAKER WINTER: Well, I
2 don't know exactly. They say it is and it
3 isn't. I mean we're on Cherokee and her
4 entrance is on Colonial, my entrance is on
5 Cherokee. The trash is on Cherokee.

6 THE CHAIRMAN: All right. But
7 they're going to come in through Colonial
8 Parkway, the garbage truck; am I correct?

9 PUBLIC SPEAKER WINTER: No, they're
10 going to --

11 THE CHAIRMAN: Come in the other
12 way? Okay.

13 PUBLIC SPEAKER WINTER: They'd come
14 up Shawnee to Cherokee and then down
15 Cherokee to Parkview.

16 THE CHAIRMAN: All right. Either
17 way, I'm not worried about it. As long as
18 you're happy with how they get the garbage
19 out. That's all. Okay.

20 Any questions of the Board?

21 MS. KIMBALL: Mr. Chairman.

22 THE CHAIRMAN: Yes.

23 MS. KIMBALL: Has DPW weighed in on
24 this?

25 THE CHAIRMAN: Who?

1 MS. KIMBALL: DPW, the City's
2 Department, Public Works.

3 THE CHAIRMAN: I see Lee's letter,
4 yeah. You want to do that?

5 MS. KIMBALL: Sure.

6 THE CHAIRMAN: Ms. Kimball is
7 relating to some comments from Commissioner
8 Ellman, Deputy Commissioner. And what
9 we're going to do, we're going to ask the
10 Department of Public Works to take a look
11 at this and see how they feel about this,
12 so.

13 MR. ROMANO: That's fine,
14 Mr. Chairman.

15 THE CHAIRMAN: Okay. Any question
16 in particular?

17 MS. KIMBALL: Has the condo
18 association considered any other location
19 on their site that would not require a
20 variance? Because, you know, your site is,
21 like, large.

22 THE CHAIRMAN: It's a non-conforming
23 use.

24 MS. KIMBALL: They can put the
25 garbage on the 130 side or on the 128 side.

1 PUBLIC SPEAKER WINTER: 128.

2 THE CHAIRMAN: 128.

3 MS. KIMBALL: No, I know. Could
4 they put it -- right now it's on 128.
5 Could they put it closer to what you're
6 saying on Colonial Parkway on a pad?

7 PUBLIC SPEAKER WINTER: No, there's
8 no way to come in on Colonial Parkway.
9 They could come in but there's no way where
10 to put a garbage pail.

11 MS. KIMBALL: Okay. Have you spoken
12 to the DPW, the City Public Works, on
13 whether or not this is convenient for a
14 sanitation truck to come up a private road?
15 And is there any, Mr. Romano, other DPW
16 pickups from private roads?

17 MR. ROMANO: I'm not aware. I have
18 not spoken to Mr. Monaco. But I could ask
19 the Commissioner of DPW for any suggestions
20 he might have. So far it's worked out for
21 about 40 years, it is the same location.
22 So, I imagine it would not be an issue.
23 All we're doing is putting up a shed. Not
24 to get too dramatic about this. But I will
25 ask. I'm going to ask him. After

1 St. Patrick's Day.

2 MS. KIMBALL: What about a container
3 that DPW could pick up as opposed to
4 garbage cans in a bag?

5 PUBLIC SPEAKER WINTER: I'm not 100
6 percent sure. But the garbage cans are
7 going to just slide in. And I think
8 they're just going to be, like, a covered
9 thing with the garbage cans in there. Same
10 garbage cans. It's just that it's going to
11 be, you know, inside instead of on the
12 property where people will have cars coming
13 in and out, and it's just, it's a mess
14 basically. So it's just moving it in. You
15 know. Kind of --

16 MR. ROMANO: We have a full-time
17 super. He takes care of when the cans are
18 empty, he'll put them into the shed. So at
19 least it looks nice. Aesthetically, it's
20 nice. Sanitary it's a good idea. It's a
21 great idea.

22 THE CHAIRMAN: All right. We want
23 to, we want the condominium association to
24 write us a letter saying that they can't
25 find another place for this that's

1 advantageous. Okay?

2 MR. ROMANO: That's fine.

3 THE CHAIRMAN: They have to figure
4 it out.

5 MR. ROMANO: Yes, sir.

6 THE CHAIRMAN: We'll take a look at
7 it.

8 MR. ROMANO: Okay.

9 THE CHAIRMAN: Okay. Very good.

10 PUBLIC SPEAKER WINTER: Thank you.

11 (Court reporter requested
12 spellings.)

13 THE CHAIRMAN: Would you spell your
14 name, please.

15 PUBLIC SPEAKER WINTER: Sherry,
16 S-H-E-R-R-Y. Winter, W-i-n-t-e-r.

17 THE CHAIRMAN: Madam, could you
18 spell your name.

19 PUBLIC SPEAKER DENICOLA: Josephine,
20 J-o-s-e-p-h-i-n-e. Denicola,
21 D-e-n-i-c-o-l-a.

22 THE CHAIRMAN: Thank you. This case
23 is hereby closed. Reserve the right to
24 reopen it for any reason whatsoever, any
25 time whatsoever, and that's after the

1 decision is made. Thank you.

2 MR. ROMANO: Everyone have a good
3 evening and have a good St. Patrick's Day.

4 THE CHAIRMAN: Thank you. All
5 right. Before we get to the decision on --
6 is anybody here waiting on a decision on
7 Water Grant Street, raise your hand. You
8 are? Who's that? Mr. Accinelli? Oh, he
9 can wait. All right. I'm going to give it
10 to you, I don't know why. But I'm gonna.
11 Because of your father.

12 All right. The decision tonight is,
13 it's an area variance, Mr. Accinelli, on
14 behalf of the Plant Powerhouse, LLC.,
15 that's Limited Liability Corporation at 45
16 Water Grant Street, Block: 2635, Lot: 1 in
17 an IP Zone.

18 Do I have a decision, please?

19 MS. KIMBALL: Mr. Chairman, I have
20 the decision.

21 THE CHAIRMAN: Yes, Ms. Kimball.

22 MS. KIMBALL: Yes. This is
23 regarding the insufficient side yard,
24 insufficient front yard, insufficient rear
25 yard, insufficient parking and every lot

1 shall be required to front on a street
2 which is recorded on the Official City Map
3 on premises known as 45 Water Grant Street,
4 Block: 2635, Lot: 1, sorry, Zone IP.

5 If I maybe have my reading glasses.
6 Sorry. Thank you. Okay. Here we go.
7 We're in business.

8 The subject property is an improved
9 lot with three existing buildings that once
10 served as a coal burning power plant built
11 in 1907 to electrify Grand Central station.
12 The three buildings total 168,000 square
13 feet. The applicant seeks to restore and
14 renovate the buildings into a mixed-use
15 office and banquet and catering facility.
16 The footprints of the buildings will not
17 change. The subject property is currently
18 landlocked as it is bounded by the Metro-
19 North Hudson line train on the east side,
20 JFK Memorial Park on the North Side and the
21 Hudson River on the south and west sides.
22 The Hudson Line Glenwood station is
23 immediately adjacent to the subject
24 property.

25 Mr. Chairman, I make a motion to

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

14 1. Whether the variances will
15 create an undesirable change in the
16 character of the neighborhood.

17 The granting of the variances will
18 not create an undesirable change to the
19 character of the neighborhood. The
20 insufficient side yard, front yard and rear
21 yard issues will not change the character
22 of the neighborhood because the buildings
23 already exist, although non-compliant the
24 building envelope will not change.
25 Renovating the Power Plant site will have a

1 positive effect on the character of the
2 neighborhood in that it will: create jobs
3 through a targeted "local hiring" plan,
4 place hard to place workers through an
5 "open hiring" concept, restore a vacant,
6 unused and neglected piece of property
7 which has been an attractive nuisance for
8 decades, renovate three iconic structures
9 on the City's waterfront and provide for an
10 additional 55 public parking spaces
11 available for the community's use at the
12 proposed off-site municipal garage. The
13 location, size and design of the municipal
14 garage will not have any adverse impacts on
15 the character of the community and was
16 designed to replace the existing parking
17 lot with a structure that will double, 55
18 to 110 spaces, the available public parking
19 in the area in a manner that has limited
20 impacts on sight lines, traffic and
21 associated aesthetic and functional adverse
22 effects. The pedestrian pathway linking
23 the Power Plant and the proposed municipal
24 garage has a door-to-door distance of 854
25 feet, is not structurally offensive, will

1 provide a safe access mechanism and will
2 not create any nuisance or have any
3 associated undesirable effects to the
4 character of the neighborhood. Lastly, the
5 access road due to its nature and location
6 will have no adverse impact on the
7 character of the neighborhood.

8 The issue of parking and traffic is
9 a sensitive one in every neighborhood in
10 Yonkers. Based on an operational analysis
11 performed by the Power Plant operator, the
12 operational needs of the Power Plant and
13 the associated parking demand will net an
14 anticipated daily surplus of the 396
15 parking spaces for the Power Plant at the
16 municipal garage of anywhere from 232
17 spaces to 66 spaces depending on the day or
18 time of events. Attendees to events and
19 office workers, can also reach the plant by
20 taking the Metro North Hudson line to the
21 Glenwood stop which is immediately adjacent
22 to the site. Consequently, approving the
23 variances will not create an undesirable
24 change in the character of the
25 neighborhood.

1 2. Whether the benefit sought by
2 the Applicant cannot be achieved by some
3 other method, feasible for the Applicant to
4 pursue, other than an area variance.

5 The benefit sought by the Applicant
6 cannot be achieved by any alternate, more
7 feasible, methods, other than an area
8 variance. With respect to the variances for
9 parking and lack of frontage, the Applicant
10 has been deeply engaged with its design
11 professionals, City of Yonkers
12 representatives and community stakeholders,
13 to choose and design a method of access
14 that provides frontage to the Power Plant
15 parcel and the best possible parking
16 solution on an operational needs-basis.
17 Given the location of the Property, the
18 variance for frontage will be 100%
19 mitigated by the creation of an access road
20 that will become a city street and which
21 extends from the existing roadway by the
22 JFK Marina entrance heading southerly to
23 the subject property. With respect to the
24 required parking, given the existing
25 location, conditions and structures at the

1 Property and the immediately surrounding
2 area, the only parking solution is an
3 off-site facility which has been identified
4 and set forth in the plans and which will
5 provide for 100% mitigation of the required
6 parking needs for the Power Plant based on
7 an operations analysis; even though the
8 required number of spaces per the Zoning
9 Code cannot be fully satisfied. The
10 proposed location was chosen after careful
11 and thoughtful, consideration of all other
12 available options and detailed discussions
13 with the City and stakeholders.

14 3. Whether the requested area
15 variances are minimal.

16 The lack of frontage for the
17 Property will be 100% mitigated as already
18 outlined. With respect to the parking
19 variance, the requested variance under the
20 circumstances is minimal. The unique
21 circumstances of the Property relative to
22 its location and character have puzzled
23 would-be developers for decades. The
24 property, during this time of isolation has
25 come to rack and ruin despite its iconic

1 stature along the Hudson River. The
2 granting of the variances will enable an
3 improvement to the existing conditions of
4 the Property itself, as well as the
5 community, and allow the reactivation of a
6 vacant and non-functioning piece of
7 property that contains historical and
8 architecturally significant structures in
9 need of improvements and restoration in
10 order to render it both usable and
11 accessible. The result will be the
12 establishment of a desirable and productive
13 use destination unlike any other in the
14 Hudson Valley.

15 4. Whether the proposed variances
16 will have an adverse effect or impact on
17 environmental conditions in the
18 neighborhood.

19 The requested variances will not
20 have an adverse effect or impact on the
21 environmental conditions of the
22 neighborhood. The creation of the new
23 access roadway which will become a city
24 street and the construction of a new
25 municipal parking garage serving both the

1 public and the Applicant's needs will not
2 adversely affect natural environmental
3 characteristics such as water use,
4 pollution, energy use, drainage, run-off
5 and flooding, nor create any noise, light,
6 odor, visual or other nuisance conditions.
7 In fact, the largest threat to the
8 environmental conditions of the neighborhood
9 is if the site was not redeveloped. Left
10 unrenovated and un-repaired, the Power
11 Plant would at some point soon fall into
12 the Hudson River wreaking havoc on the
13 Metro North train tracks, the neighborhood
14 and the wildlife that calls the Hudson
15 River its home.

16 5. Whether the alleged difficulty
17 was self-created.

18 The hardship is self-created because
19 the area variance relief is a function of
20 the configuration of the landlocked lot and
21 the three buildings as it currently exists
22 and will remain on the lot.

23 Although the hardship is self-
24 created, the self-created hardship rule is
25 only one consideration and does not

1 preclude the Board from granting the
2 request.

3 In granting this variance the Board
4 imposes the following conditions:

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

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

10 3. The municipal lot, paid for by the
11 applicant, upon which this variance
12 depends, must be built under the terms of
13 City of Yonkers;

14 4. JFK Memorial Drive must be
15 extended at applicants' expense and then
16 turned over to the city, as contemplated in
17 this applicants' submission and as approved
18 by the City of Yonkers;

19 5. The 854 foot plus or minus walkway
20 must be paid for by the applicant in
21 conformity with all City rules and
22 regulations.

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

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

4 8. These variances are conditioned on
5 the alienation of the necessary parkland by
6 New York State.

7 THE CHAIRMAN: Do I have a second on
8 the motion, please.

9 MS. TICKELL: (Indicated.)

10 THE CHAIRMAN: Ms. Tickell. On the
11 motion. Mr. Battista.

12 MR. BATTISTA: For the motion.

13 THE CHAIRMAN: Ms. Kimball.

14 MS. KIMBALL: For the motion.

15 THE CHAIRMAN: Mr. Giorgio.

16 MR. GIORGIO: For the motion.

17 THE CHAIRMAN: Mr. Lopez?

18 MR. LOPEZ: For the motion.

19 THE CHAIRMAN: Mr. Singh.

20 MR. SINGH: For the motion.

21 THE CHAIRMAN: Ms. Tickell.

22 MS. TICKELL: For the motion.

23 THE CHAIRMAN: Chairman votes for
24 the motion, the motion is granted. There's
25 7 in favor. Thank you, 7-0.

1 Okay. We have a few things we have
2 to take care of here tonight. We have a
3 few things we have to do.

4 The first one we discussed last
5 week, case 5603 and 5604, 90 and 98
6 University Avenue. The client has asked
7 for, the applicant, has asked for an
8 extension. I've gone over the minutes and
9 had a talk today with the Building
10 Commissioner about the water line. The
11 water line has nothing to with us, but as
12 far as the requested extension, I make a
13 motion that we give this applicant one year
14 from today on both cases. And they have to
15 pay the, I think they paid it already. So
16 we'll give them one year from today.

17 Do I have a second on the motion?

18 MS. KIMBALL: (Indicated.)

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

21 (Chorus of ayes.)

22 THE CHAIRMAN: Any anybody opposed?
23 Okay. That's taken care of.

24 155 Warburton Avenue, 5751. I spoke
25 to Mr. Veneruso, Jr. And he says they're

1 looking into it so we're not going to do
2 anything there. This one at 251 Valentine
3 Lane, at 5242. I'm going to make a motion
4 that we give them a year from tonight. I
5 think they paid the \$250, whatever it is,
6 \$500. But this is going to be the last
7 time. Does everybody on this Board agree
8 with me? This is going on for, like, ten
9 years. This is what they do to avoid doing
10 the repairs, whatever they gotta do. Also,
11 I'm going to ask the Building Department to
12 take a look at this. And make sure that
13 they've done the things that they were
14 supposed, some of the things they're
15 supposed to do including the fire, anything
16 related to fire. Is that okay with
17 everybody? Fire and access, egress. You
18 know what I'm saying, Mike?

19 MR. REAPE: That's fine.

20 THE CHAIRMAN: Okay. Good. All
21 right. So this is going to be the last
22 time. The Building Department is going to
23 go there. Okay. Do I have a second?

24 MR. SINGH: Second.

25 THE CHAIRMAN: All right. Everybody

1 in favor say aye.

2 (Chorus of ayes.)

3 THE CHAIRMAN: Anybody opposed?

4 Okay.

5 Then we got 25 Torre Place. I'm
6 going to make a motion that we give them a
7 year from today on this case. This case is
8 5637. Do I have a second on the motion?

9 MS. KIMBALL: Second.

10 THE CHAIRMAN: Second. Okay.

11 Everybody in say aye.

12 (Chorus of ayes.)

13 THE COURT: Anybody opposed? Okay.

14 Make a motion to adjourn. Thank
15 you.

16 (Time Noted: 7:06 p.m.)

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1 CERTIFICATION

2

3 STATE OF NEW YORK)

4) ss.

5 COUNTY OF WESTCHESTER)

6

7 I, LYNNETTE MORATO, a Court Reporter
8 and Notary Public within and for the State
9 of New York, do hereby certify:

10 That I reported the proceedings that
11 are hereinbefore set forth, and that such
12 transcript is a true and accurate record of
13 said proceedings.

14 I further certify that I am not
15 related to any of the parties to this action
16 by blood or marriage, and that I am no way
17 interested in the outcome of this matter.

18 IN WITNESS WHEREOF, I have hereunto
19 set my hand.

20

21

22

23

LYNNETTE MORATO,
COURT REPORTER

24

25