

1 CITY OF YONKERS

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4 Minutes of
5 The City of Yonkers Zoning Board
6 October 18, 2023 - 6:00 p.m.

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10 B E F O R E:

- 11
12 WILSON KIMBALL, Chairperson
13 HARRY SINGH, Member
14 HECTOR LOPEZ, Member (not present)
15 RALPH BATTISTA, Member
16 JEAN TICKELL, Member (not present)
17 ANTHONY GJELAJ, Member (not present)
18 ALFRED VASSO, Member

19
20 P R E S E N T:

- 21 SAM BORELLI, Building Department
22 JAMES GIBBONS, Building Department
23 RACHEL KRAVITZ, Associate Corporation Counsel
24
25

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1 THE CHAIRPERSON: Zoning Board of Appeals
2 October meeting is going to be starting a little
3 late at 6:16 for a quorum. 143-151 Woodworth is
4 not on the agenda. It is adjourned. The public
5 hearing was on Monday. Public comments are
6 still being received until the 30th. If you
7 want to make more public comments on that,
8 please send them to the ZBApublic website.

9 (Brief pause.)

10 THE CHAIRPERSON: Okay. This is the
11 Zoning Board of Appeals agenda October 18th and
12 it's 6:11. Sorry for the delay in the starting.
13 I'm Wilson Kimball. And we will introduce the
14 Board by name. Ralph.

15 MR. BATTISTA: Ralph Battista.

16 MR. VASSO: Al Vasso.

17 MR. SINGH: Harry Singh.

18 THE CHAIRPERSON: Thank you, all.

19 I'd like to take a moment before we start
20 our meeting to thank Anthony Gjelij for his
21 service as a Board Member. He was an active and
22 very helpful Member of the Board. He wrote many
23 great and useful opinions for us and we will
24 definitely miss him. So thank you, Anthony
25 Gjelaj, for your service.

1 Number 5790, 1999 Central Park Avenue is
2 adjourned until November of 2023. And 5826,
3 1270 Saw Mill River Road is also adjourned per
4 the applicant. So the next item on the agenda
5 is 110 Ravine Avenue, 5797. I believe the
6 attorney is here for that.

7 MS. GROSZ: Yes.

8 THE CHAIRPERSON: Please approach.

9 MS. GROSZ: Good evening.

10 THE CHAIRPERSON: Good evening.
11 Introduce yourself.

12 MS. GROSZ: I'm Karly Grosz from the Law
13 Office of Andrew Romano for 5797, 110 Ravine
14 Avenue.

15 THE CHAIRPERSON: Is there any new
16 information that you want to present this
17 evening?

18 MS. GROSZ: No, unfortunately, the
19 architect has been a no-show for a bit of awhile
20 and we've been having trouble with that. He was
21 supposed to be here at 6 p.m. He clearly is not
22 here. Oh, you're here. Oh, look. And he's in
23 a suit. I had he's supposed to be in a suit.

24 MR. BADALY: What would you like to
25 discuss?

1 THE CHAIRPERSON: Okay. Introduce
2 yourself.

3 MR. BADALY: Good evening. Shahin
4 Badaly, 2 Wilson Place, Mount Vernon, New York
5 10550 representing the applicant.

6 THE CHAIRPERSON: Okay. I'm not sure I
7 understood any of that, it seemed very fast.

8 MR. BADALY: Shahin Badaly. 2 Wilson
9 Place, Mount Vernon, New York 10550.

10 THE CHAIRPERSON: Okay. And do you have
11 anything to add to the application, Mr. Badaly?

12 MR. BADALY: We do not at this time. We
13 submitted a revision to the Building Department
14 to seek a new set of plan examiner objections
15 and we are currently awaiting that new review.

16 THE CHAIRPERSON: Okay. Great. Thank
17 you. Thank you both.

18 MR. BADALY: Thank you.

19 THE CHAIRPERSON: We'll move onto the
20 next case.

21 MS. GROSZ: Madam Chairwoman, I was
22 wondering, I have three cases on.

23 THE CHAIRPERSON: Yes. Please go forward
24 while you are there just indicating which case
25 number you're dealing with.

1 MS. GROSZ: Okay. Case number 5828 --
2 oh, no, that's on for decision. Never mind.

3 THE CHAIRPERSON: 5820?

4 MS. GROSZ: No, 5831.

5 THE CHAIRPERSON: 5831. Okay.

6 MS. GROSZ: On this one, I actually went
7 out and I did a site visit. This is 44 New
8 Avenue.

9 THE CHAIRPERSON: Yes.

10 MS. GROSZ: It's a two-family zone. It's
11 a house it's brand new. And we're looking --
12 there are small lots, but we're looking to
13 change it to have four parking spots. As it has
14 three on the side and we just wanted one in the
15 front.

16 THE CHAIRPERSON: Okay. Are there any
17 questions of the Board Members for this
18 applicant?

19 MR. BATTISTA: I do. I'm just looking at
20 the, you submitted two photos. I just want to
21 know what I'm looking at in those photos. It
22 looks like the first photo is of like a walkway.
23 Is that just pictures of your sign; is that what
24 you sent over or is it pictures of where the
25 parking is going to go?

1 MS. GROSZ: Let me just check my file.
2 One second. I'm sorry. I think it was actually
3 just pictures of the sign to be honest with you.

4 MR. BATTISTA: So there's no plans or
5 anything as part of the --

6 MS. GROSZ: No. But we do have an
7 architect that's working on it.

8 MR. BATTISTA: Okay. Let me just pull up
9 it on Google Maps to see what questions I have.

10 MS. GROSZ: Okay. Thank you.

11 MR. BATTISTA: Yeah, if I'm looking at
12 the front of the property, where is the proposed
13 parking?

14 MS. GROSZ: It's in the front. In the
15 front of the home.

16 MR. BATTISTA: So in front of the home
17 now is a fire hydrant. And then -- am I not
18 looking at the right house?

19 MR. PEPAJ: yes, yes, that's the one.

20 MR. BATTISTA: SO where is the -- where
21 are you proposing the parking?

22 MS. GROSZ: You said in the back?

23 MR. PEPAJ: In the back. It's supposed
24 to be all the way in the back.

25 THE CHAIRPERSON: Sir, could you just

1 state your name for the record and introduce
2 yourself.

3 MR. PEPAJ: Kastriot Pepaj.

4 (Court reporter requested spelling.)

5 MR. PEPAJ: K-a-s-t-r-i-o-t. Last name
6 P-e-p-a-j.

7 MS. GROSZ: So there are two parking
8 garages to the right of the property if your the
9 back is to it?

10 MR. PEPAJ: There's two garages in the
11 back.

12 (Ms. Grosz and client conferred.)

13 MR. BATTISTA: So there's two garages on
14 the side. Where do you enter those garages?

15 MR. PEPAJ: From the side.

16 MR. BATTISTA: So it's on the side
17 street?

18 MR. PEPAJ: Yes.

19 MS. GROSZ: So you're saying that the two
20 parking spaces are just a little bit -- the one
21 parking space is a little bit too tight to go in
22 and out of. But everything else has been
23 approved by the Building Department. So it's
24 that one parking space -- it's the fourth one?

25 MR. PEPAJ: Yes.

1 MS. GROSZ: It's the fourth one.

2 MR. BATTISTA: Wilson, it's okay that I
3 go up?

4 THE CHAIRPERSON: Yes, please DO.

5 MR. BATTISTA: Thank you.

6 (Conference at the podium.)

7 MS. GROSZ: Thank you.

8 MR. PEPAJ: Sorry about that.

9 MR. BATTISTA: Madam Chair, I think we
10 need to see plans and stuff before we could
11 really ask any questions.

12 THE CHAIRPERSON: Yes, I'm in agreement.
13 I think we need to see plans and also need to do
14 a site visit. So can you arrange with Shannon
15 to set up a time for the Board to do a site
16 visit?

17 MS. GROSZ: Yes. You weren't asking,
18 were you?

19 THE CHAIRPERSON: Thank you.

20 MS. GROSZ: Okay. Next one?

21 THE CHAIRPERSON: Yes. What is the case
22 number you want to address?

23 MS. GROSZ: 5835, please.

24 THE COURT: 5835, 39 Spruce Street?

25 MS. GROSZ: Yes.

1 THE CHAIRPERSON: Okay.

2 MS. GROSZ: This is a four-family house.
3 And there's no parking. We need two front yard
4 parking spaces. It's a corner lot. I actually
5 drove past there on Saturday. All of the other
6 homes have two-car parking on the side of their
7 home. There is plenty of room for two-car
8 parking. It does have to be a little bit
9 excavated. But there is plenty of room on the
10 -- if you're facing the house on the right-hand
11 side.

12 THE CHAIRPERSON: Okay. Do we have plans
13 for this one?

14 MS. GROSZ: No.

15 THE CHAIRPERSON: Okay, so.

16 MS. GROSZ: I have the plans were
17 submitted for this one.

18 MR. BATTISTA: They are not.

19 MR. VASSO: Not online.

20 MS. GROSZ: Not. Interesting.

21 THE CHAIRPERSON: Not in the file, that I
22 can see. From looking on my phone.

23 Okay. So we'll need a plan for that one.
24 And we can double check with Shannon in the ZBA
25 office in case we did not somehow upload it for

1 some reason, but we'll also need a site visit.

2 MS. GROSZ: Okay.

3 THE CHAIRPERSON: Is there anyone here on
4 this topic for public hearing. Do you want to
5 approach?

6 AUDIENCE MEMBER: I want the one --

7 THE CHAIRPERSON: Wait. Hold on. For
8 one second.

9 AUDIENCE MEMBER: Okay.

10 THE CHAIRPERSON: This is for 39 spruce
11 Street.

12 AUDIENCE MEMBER: Yeah, I'm here.

13 THE CHAIRPERSON: So whoever wants to
14 speak on 39 Spruce Street, Karly, can you give
15 way and let the -- we'll open up to the public
16 hearing so that these individuals can speak on
17 it.

18 MS. GROSZ: They're the owners.

19 THE CHAIRPERSON: Oh, you're the owners.
20 Okay. So, all right.

21 MS. GROSZ: Oh, you talk to her not me.
22 You're for 39 Spruce?

23 PUBLIC SPEAKER: Yes.

24 MS. GROSZ: Okay. So then you approach.

25 PUBLIC SPEAKER BELEN: Hi, good evening.

1 My name is Andres Belen.

2 (Court reporter requested clarification
3 and spelling.)

4 PUBLIC SPEAKER BELEN: Andres Belen.
5 B-e-l-e-n. I am here not for rejecting the
6 parking for my neighbor, but I'm trying to sell
7 my house, and as a mechanic at this point, I was
8 told the value of our property in the front have
9 been dig -- the project they have. And he can,
10 he -- he had to put like some retaining barrier
11 between us and finish the fence, which when the
12 fence was his project, even I contribute with
13 him for rebuilding the fence. So right now I've
14 been waiting for one year. It's nothing happen.
15 I spoken with him about building the retaining
16 wall between our property. The soil is falling.
17 It had became like a landfill. It's really
18 dirty. Really bad shape. And my house going to
19 lose value if this continue. It's not here, I
20 am not here for rejecting this property or
21 anything like that. I just want it from here
22 come out the decision he had to build the
23 containing wall between his property and my
24 property. Because otherwise give me opportunity
25 I sell my house and the value if I decide to do

1 it.

2 THE CHAIRPERSON: Okay. So, we need to
3 look into that.

4 PUBLIC SPEAKER BELEN: Okay.

5 THE CHAIRPERSON: Thank you for your
6 comments.

7 PUBLIC SPEAKER BELEN: Okay. Thanks.

8 MR. BATTISTA: I have a question for --

9 THE CHAIRPERSON: Oh, sir.

10 MR. BATTISTA: No, not for him.

11 THE CHAIRPERSON: Oh, for Karly. Okay.
12 Go ahead.

13 MR. BATTISTA: For Karly, yeah. Sorry.

14 So this, all I'm looking at, I know we
15 don't have the plans so in the front of this
16 house there is a retaining wall with fill. So
17 the idea is you're going to take that out and
18 then lose two parking spaces on the street so
19 that you can put two parking spaces in the
20 driveway?

21 MS. GROSZ: I have to say when I drove
22 past it, it didn't look like there were two
23 parking spaces in the street. When you would
24 drive past it. Because it almost looks -- it
25 does like as if it's a driveway if you look at

1 the other homes surrounding it. And there were
2 no cars parked in front of it at the time that I
3 went past it. And I went past down on a pretty
4 busy, Saturday, in the daytime. But if that is
5 the case then the answer is, yes.

6 MR. BATTISTA: Okay. Thank you.

7 MS. GROSZ: But I don't believe that
8 there were parking spaces on the street.

9 MR. BATTISTA: Okay.

10 THE CHAIRPERSON: Okay. I believe there
11 was another person who wanted to speak. Please
12 approach and introduce yourself. State your
13 name and address for the record, please.

14 PUBLIC SPEAKER MARTINEZ: Okay. My name
15 is Debra Martinez. I own the home at 36 New
16 Avenue which is two houses down from 44 --

17 MS. GROSZ: That's a different property.
18 That was the property before. This is 39
19 Spruce.

20 PUBLIC SPEAKER MARTINEZ: I want to speak
21 about 44.

22 THE CHAIRPERSON: This is 39 Spruce.

23 PUBLIC SPEAKER MARTINEZ: Okay. But I
24 asked to speak about 44.

25 THE CHAIRPERSON: Okay. So let's finish

1 this one and then we will go back --

2 PUBLIC SPEAKER MARTINEZ: Okay. That's
3 fine.

4 THE CHAIRPERSON: I will definitely let
5 you speak on that.

6 MS. GROSZ: Sorry. I didn't meant to
7 interrupt, I just didn't want confusion.

8 THE CHAIRPERSON: Yes. So that's fine.
9 So we are done with public comments currently on
10 39 Spruce Street? We need a site visit, we need
11 a plan, we need to look into this retaining wall
12 issue.

13 MS. GROSZ: Yes.

14 THE CHAIRPERSON: 39 Spruce. Okay. I am
15 sorry about the other property. Let's go back
16 to --

17 MR. BATTISTA: 5831.

18 THE CHAIRPERSON: 5831. I'm sorry. I'm
19 opening up to public comments. Please approach.
20 Just state your name and address for the record.

21 MS. GROSZ: My apologies. I didn't mean
22 to interrupt you.

23 PUBLIC SPEAKER MARTINEZ: That's okay.
24 Just as long as we know what's going on here.

25 Okay. So I'm speaking about 44 New

1 Avenue. I am Debra Martinez, 36 New Avenue.
2 Owner of that home. I've spoken to many of my
3 neighbors who have been there, I've been over 20
4 years living there. As far as I'm concerned,
5 one, I don't believe the notice, this little
6 itty bitty sign on the side of the fence was
7 sufficient, because it wasn't an official
8 Yonkers notification.

9 I also don't believe that the owner, the
10 purchaser of the property did not know that was
11 a one-family house in bad shape. So any
12 negative financial consideration he could have
13 made all those observations and decisions prior
14 to purchasing the house.

15 I do not believe there's enough parking
16 now. On several occasions I've had to call the
17 police to have them remove cars that are
18 blocking my driveway. As many of my neighbors
19 have.

20 And I do believe that the pitch of the
21 property it's so, so pitched that any
22 construction is going to really fall on the
23 properties on New Place. And I haven't seen a
24 plan to see how this parking situation how four
25 cars are going to work. I still believe that

1 they're going to depend on street parking which
 2 is already at its maximum. And I do believe
 3 that the construction is going to ruin the
 4 really beautiful scenery we have and the flowers
 5 and plants and trees. And I really do not
 6 believe that this should go forward.

7 THE CHAIRPERSON: Thank you.

8 PUBLIC SPEAKER MARTINEZ: You're welcome.

9 THE CHAIRPERSON: Thank you for your
 10 comments.

11 Is there anyone else to speak on 44 New
 12 Avenue?

13 PUBLIC SPEAKER ARMSTRONG: Philip
 14 Armstrong. 50 Landscape Avenue, Yonkers, New
 15 York. Whether this property should fit the
 16 neighborhood or not, I don't know. But I would
 17 like to commend anybody building a one or
 18 two-family house in Yonkers today rather than
 19 one of the mega buildings that we have. Parking
 20 issues and that I'm sure you'll work out. But
 21 we'd just like to say that if somebody is able
 22 and afford, can afford to build a one or
 23 two-family house in Yonkers, it just shows that
 24 some of these large developments we have that
 25 say they can't afford or the economics aren't

1 there, there's something wrong with their
2 argument. Thank you.

3 THE CHAIRPERSON: Thank you.

4 Okay. Karly, you want to approach on the
5 next one?

6 MS. GROSZ: My last one is Other
7 Business, it's 5752.

8 THE CHAIRPERSON: 5752. 50 Vineyard?

9 MS. GROSZ: Yes.

10 THE CHAIRPERSON: Okay.

11 MS. GROSZ: And I have my lovely
12 architect here. Mohammed.

13 MR. RAZZAK: Hi, my name is Qazi Razzak
14 I'm the engineer for the job.

15 (Court reporter requested
16 clarification.)

17 MR. RAZZAK: Qazi, Q-a-z-i. R-a-z-z-a-k.

18 THE CHAIRPERSON: Okay.

19 MR. RAZZAK: So while during the
20 construction, the contractor missed three inches
21 from the property line. Instead of 20 feet, he
22 built it at 19 foot 8 -- 9 inches. So we are
23 off by three inches on the foundation wall.

24 THE CHAIRPERSON: Okay. So what
25 variances are you trying to amend?

1 All right. Why don't we put this one
2 over, Karly? You want to send something in
3 writing about which exact variances you're
4 trying to amend and then we can take this up at
5 the next meeting.

6 MS. GROSZ: Thank you. Sorry that -- I'm
7 a real estate person.

8 THE CHAIRPERSON: No problem. Okay?

9 MS. GROSZ: I appreciate it. The next
10 meeting is what date?

11 THE CHAIRPERSON: Who has the schedule?
12 November?

13 MR. BATTISTA: November, the third week
14 Wednesday in November. The 15th.

15 MS. GROSZ: Eighth?

16 MR. BATTISTA: Fifteenth.

17 MS. GROSZ: Fifteenth, I'm sorry. Thank
18 you.

19 The CHAIRPERSON: Yeah, you can just send
20 it to, you know, to the ZBAPublic and we'll
21 review it and have a decision probably based on
22 that.

23 MS. GROSZ: Okay. So I'll send in
24 writing what variances we're looking to amend
25 and we'll adjourn to 11/15.

1 THE CHAIRPERSON: Right.

2 MS. GROSZ: Thank you. Thank you,
3 everybody.

4 THE CHAIRPERSON: Thank you.

5 MS. GROSZ: Have a great night.

6 THE CHAIRPERSON: Okay. We have a
7 decision. We have one decision for 5821.

8 This is for Case 5821, Block: 3116,
9 Lot: 39, 664 Saw Mill River Road. I make a
10 motion that the ZBA based upon its review of the
11 completed Environmental Assessment Form, the
12 EAF, and the supporting plans and materials
13 adopts a negative declaration for the proposed
14 unlisted action. May I have a motion?

15 MR. BATTISTA: Motion.

16 THE CHAIRPERSON: Ralph. May I have a
17 second?

18 MR. VASSO: Second.

19 THE CHAIRPERSON: Al, thank you. In
20 favor of the vote. Harry, myself, Ralph, Al.
21 Okay. The motion carries. Any opposed? No.

22 So now we have a decision for 5821.
23 Again 664 Saw Mill River Road.

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

1 One, all required plans, New York State
2 permits must be obtained by the applicant. Saw
3 Mill River Road is a state route New York State
4 Route 9A per the Westchester County letter dated
5 June 30, 2023.

6 Two, we encourage the applicant to
7 include as much green and sustainable building
8 technology as possible into the proposed
9 development. We note that installing solar
10 panels on the roofs of canopies is a growing
11 method for offsetting the electricity
12 requirements for gas stations.

13 Three, all fire, health, environmental,
14 safety, building and zoning code shall be
15 adhered to at all times.

16 Four, any taxes or fines, if owed, shall be
17 paid within 60 days from today's date.

18 Five, this approval shall be immediately
19 rescinded should the owner violate any of these
20 conditions.

21 And, six, all expenses associated with
22 these conditions shall be the responsibility of
23 the owner. Do I have a motion?

24 MR. BATTISTA: Motion.

25 THE CHAIRPERSON: Ralph. Do I have a

1 second? Al.

2 MR. SINGH: For the motion.

3 THE CHAIRPERSON: For the motion.

4 MR. BATTISTA: For the motion.

5 MR. VASSO: For the motion.

6 THE CHAIRPERSON: For the motion. The
7 motion passes 4, 3 absent. Okay.

8 MS. KRAVITZ: All set, sir.

9 MR. POST: That's it? Thank you.

10 THE CHAIRPERSON: Thank you.

11 MR. POST: Thank you.

12 MR. NULL: Excuse me, Madam Chair, I
13 don't know whether you're going in order? No?
14 Okay. Thank you.

15 THE CHAIRPERSON: We haven't been. But
16 do you want to go to 5818, Mr. Null?

17 MR. NULL: Yes, Madam Chair.

18 THE CHAIRPERSON: Yup.

19 MR. NULL: If you're ready for us.
20 Should we come to the table here?

21 THE CHAIRPERSON: Sure.

22 MR. NULL: Thank you very much.

23 Good evening, Madam Chair, Members of the
24 Board. For the record my name is William Null.

25 Partner with the firm of Cuddy and Feder. My

1 colleague Daniel Patrick to my left. And Rob
2 Aiello from JMC. And we have other members from
3 JMC here as well. And Chris Raffaelli. Thank
4 you very much for taking us tonight.

5 As you may know, the last, at the last
6 meeting just prior thereto we submitted a
7 modification to the application reducing the
8 size of the satellite restaurant from 2,200
9 square feet to 1,600 square feet. And that was
10 done to respond to concerns that this Board had
11 about the potential volume of traffic that might
12 be frequenting the proposed restaurant.

13 The reduction in the size of the
14 restaurant itself, enabled us to make some other
15 modifications to the site plan, that I'll ask
16 Mr. Aiello to be able to walk you through. But
17 we also were able to get additional traffic,
18 actually parking utilization rates for you in
19 the intervening time which was responsive to
20 questions that this Board had about occupancy of
21 parking spaces at different hours and on the
22 weekend itself. And while we were a little bit
23 frustrated by the rains Saturday, the past two
24 Saturdays, which I'm sure frustrated others for
25 other reasons, we were able to get the counts

1 and were able to submit them earlier this week
2 for your consideration.

3 And if I could just ask Mr. Aiello to
4 walk you through the changes to the plan. And
5 Juan Yepis is there also to help point out the
6 changes. And we have Marc Petrero here who's a
7 traffic engineer as well to address questions.
8 Thank you.

9 MR. AIELLO: Thank you, Bill. Good
10 evening, Madam Chair, Members of the Board. Rob
11 Aiello with the firm JMC. So the updated plan
12 in our last submission as Bill mentioned
13 includes a smaller building at 1,600 square
14 feet. This building has about 20 seats that
15 were shown on the floor plan that was prepared
16 by Studio Architecture. And also included in
17 our submission. So this is a smaller scale food
18 use. And the intention of limiting the size of
19 building, limiting the size of the seats, was
20 intended to limit the potential users of the
21 building to ones that would have a lower need
22 for parking and queuing in the proposed
23 drive-through.

24 So, the plan revisions that we made in
25 addition to the reduction of the building from

1 2,200 square feet to 1,600 square feet, were
2 also made based on comments we received from our
3 neighbor at the last hearing, Crestwood Lake
4 Apartments. So, the other plan changes that we
5 made included shifting the satellite restaurant
6 building to the north. What this allowed us to
7 do -- we moved it about, you know, several feet
8 -- and what it allowed us to do was, one, keep
9 two existing deciduous trees that were large so
10 they could remain for screening. But also, two,
11 to supplement the screening along that southern
12 property line to include additional Evergreen
13 plantings.

14 MR. NULL: And that southern line, just
15 for clarity, is the side closest to the
16 Crestwood Lake Apartments that had commented at
17 the last meeting. So moving it north gave us
18 more distance between the apartment building and
19 the satellite restaurant.

20 THE CHAIRPERSON: This is still in the
21 southern parking; is that right? It's not by
22 the bike shop?

23 MR. NULL: No, we've moved it only
24 several feet north. It's more of a fine
25 adjustment to make sure that we provide for

1 additional screening and also to keep the
2 existing deciduous trees. There are two that
3 are in good health so they can remain.

4 THE CHAIRPERSON: Right. But I mean
5 ultimately the questions that the Board had are
6 more about the queuing because it's a
7 drive-through. And I think than the size of the
8 restaurant. And it seems to me, although I
9 could be wrong and I'm interested in the traffic
10 on a smaller drive-through, that you still would
11 have drive-through traffic, which at the end of
12 the day was the issue for the queuing problem
13 which then blocked other parking spots.

14 MR. AIELLO: Okay. Well, we wanted to
15 take you through changes that we made to the
16 plans since you saw it last. So there were
17 several things. And we were also going to talk
18 about the updated parking analysis that we did
19 as well as, you know, the results of our traffic
20 study.

21 THE CHAIRPERSON: Okay. Great.

22 MR. AIELLO: Because there's two
23 different that we're talking about. One, is
24 parking and the parking need -- or three really.
25 One is parking. Two is traffic as it relates to

1 the adjacent intersections in terms of their
2 levels of service. And the third is the queuing
3 and the need for queuing.

4 So, the main change that we made based on
5 the conversations with the City's Traffic
6 Engineer is to reduce the size of the building
7 to one that would not be conducive to a user
8 like a McDonald's or a Burger King or things in
9 that magnitude. So that we would not expect to
10 have large queues at the drive-through.

11 THE CHAIRPERSON: So can you define large
12 queues? Because from the parking and queuing
13 study I looked at even seven cars lined up at a
14 queue are blocking parking spaces and are
15 typical for, like, a Dunkin Donuts, say for
16 instance.

17 MR. AIELLO: Well, no, the way the site
18 plan is laid out -- and, Marc, please correct me
19 if I'm wrong -- we have the ability to provide
20 is it 9, 9 cars in the queue without blocking
21 any intersections, any traffic study -- any
22 parking spaces. The parking spaces that are on
23 the perimeter of it, can still back up because
24 they're angled and go around the building. And
25 we can fit those nine parking spaces which

1 exceeds the eight that's required by the City
2 Code for drive-through restaurants.

3 So, there's a lane closest to the
4 building, where we have those nine cars which
5 doesn't impede any of the proposed parking
6 spaces or the intersection between the new
7 building and the existing building.

8 MR. NULL: And the reconfiguration of the
9 size --

10 MR. BATTISTA: I'm sorry.

11 THE CHAIRPERSON: Go ahead.

12 MR. BATTISTA: I just want to make sure I
13 have this right. So I'm going to come in here
14 off Central Avenue, I'm going to make a right.
15 And then here's the menu board, right here in
16 the front? That's where you're going to take my
17 order?

18 MR. AIELLO: No. The menu board is
19 actually shown on the bottom left corner of the
20 southwest corner.

21 MR. BATTISTA: Okay. So that's where
22 you're going to take my order?

23 MR. AIELLO: Correct.

24 MR. BATTISTA: At the menu board. How
25 many cars do you think are going to fit right

1 here in front here? Because anything more than
2 that, then blocks this. Right?

3 MR. AIELLO: Right. But on other
4 applications the way that we've applied the
5 required queuing that's in the code is by
6 applying it from the window back. The windows
7 in the back of the building.

8 MR. BATTISTA: And then, and then you're
9 not, you're don't plan on increasing the size of
10 this? Have you driven into this? Have you
11 driven in here on a busy Saturday like Dunkin
12 Donuts in the morning?

13 MR. AIELLO: We, we -- I have not
14 personally driven into --

15 (Simultaneous speaking.)

16 MR. BATTISTA: I live over there. I can
17 tell you it's tight.

18 MR. AIELLO: We have done a traffic study
19 where we witnessed the counts and measured the
20 volumes. And we've identified it and measured
21 it to make sure that it meets standards in terms
22 of the width for entry and exit properly.

23 THE CHAIRPERSON: Sorry. Continue with
24 the presentation.

25 MR. AIELLO: So as we made changes in the

1 building size, it also allowed for a better
2 traffic flow around the building by providing
3 larger radii around the building. So that is
4 another change that came from reducing the size
5 of the building and having more area to work
6 with.

7 Now, I would like to just go through some
8 on other site plan changes which were made based
9 on comments we got from our neighbors.

10 THE CHAIRPERSON: Sure.

11 MR. AIELLO: So in addition to the
12 additional screening that we've provided on the
13 southern property line, we've also modified the
14 eastern property line which is the common
15 property line between us and Crestwood Lake
16 Apartments. We've modified that to remove the
17 majority of the chain-link fence in that area.
18 And then replace it with a cedar privacy fence.
19 And in addition we've added arborvitae evergreen
20 screening along that eastern property line which
21 is the rear property line of the center.

22 There were questions from our neighbor
23 about the view of headlights as you're driving
24 around the building. So what we've done there
25 is we've modified the retaining wall around the

1 perimeter of the pad site to be at least 42
2 inches above the grade of the drive-through area
3 of the pavement. So that it would block the
4 view of headlights as you're going around the
5 building at the drive-through.

6 In addition, there was some questions
7 about stormwater management. And what this
8 project in and of itself is an actual reduction
9 of impervious areas. So there would be more
10 pervious area as a result of the proposed
11 improvements.

12 In addition to that, we also included
13 detention, stormwater detention behind the
14 building to provide additional run-off
15 attenuation. Even though the project in and of
16 itself has less impervious area so also results
17 in a reduction in impervious area.

18 THE CHAIRPERSON: So has that been
19 submitted to the State? But I believe because
20 it's a State arterial, they were actually
21 interested in the drainage plan.

22 MR. AIELLO: Well, this --

23 THE CHAIRPERSON: New York State DOT.
24 Sorry.

25 MR. AIELLO: The area that we're

1 developing drains to the east towards Crestwood
2 Lake. This portion that I'm talking about does
3 not drain towards the State right-of-way.

4 THE CHAIRPERSON: Right. But the City
5 Engineer believed that you needed to provide the
6 State with a plan. So, I guess my question is
7 has the State been provided with a plan per the
8 City Engineer?

9 MR. AIELLO: The State has been provided
10 with the traffic study. We have not provided
11 them with the drainage plans that have been
12 revised and submitted a few weeks ago for this
13 meeting.

14 THE CHAIRPERSON: Okay.

15 MR. AIELLO: So with that, I would like
16 to turn it over to Marc so he can talk a bit
17 about the additional parking analysis that we've
18 done. And to also just do a recap of the
19 traffic study that was done. And what our
20 findings were with regard to the traffic and
21 intersection operations also parking supply in
22 support of the variance that we're requesting
23 for parking.

24 MR. PETRORO: Good evening. My name is
25 Marc Petroro from JMC. As mentioned, briefly,

1 we did do some supplemental parking counts at
2 the site recently. These are just two
3 additional data points to the previous studies
4 that we already conducted. As we conducted in a
5 similar matter as the previous analysis whereas
6 we took a drone and flew over it at various
7 times. We actually did from six am. to
8 four p.m. every half hour on a weekday and on a
9 Saturday. They're represented in our two
10 analyses, one is our weekday on October 15th,
11 our letter, and the other one is on October
12 16th, as our letter. Those are the dates of our
13 two supplemental parking analyses.

14 So, again, what the supplemental parking
15 analysis shows that our previous counts are
16 consistent to what we currently are observing
17 out there with the recent supplemental counts as
18 well. So we, we've conducted a total of four
19 counts of at this site and they show the same
20 results where at the worst case that's a maximum
21 observed occupancy of the site of 60 percent.
22 And that's under build conditions with the
23 proposed development.

24 So, that, you know, gives you a surplus
25 minimum of 40 percent available. And that's

1 with the reduced parking supply. So there's
2 technically a number of 68 spaces available on a
3 minimum during the observed counts and are based
4 on our parking analysis. So, to give
5 understanding those analyses do take in account
6 the reduction from the existing 214 spaces to
7 the 174 spaces being proposed on the site.

8 And then also it does consistently show
9 during our all four counts that the area of the
10 proposed development is actually under utilized
11 under all four of those count periods. And just
12 as a, as a graphic, this is similar to what we
13 had on our previous analysis. But this chart,
14 A, is of our weekday analysis. And what you see
15 in the purple is the surplus parking that's
16 available under proposed conditions. So,
17 between the green, which is the proposed parking
18 demand with the full development being proposed
19 and then the purple line going across being the
20 parking capacity being 174 parking spaces, you
21 can see that there's ample surplus spaces
22 available for the parking for the site as well
23 as the proposed use and outbuild in there.

24 And then secondly we have the Saturday
25 parking analysis on chart 10, which is included

1 in our now supplemental submission. Which again
2 show similar results in our previous three other
3 analyses where we have surplus parking available
4 even under full build-out conditions.

5 MR. AIELLO: Just to add to that also,
6 the parking analyses that we've done, we've done
7 by flying a drone over the site throughout the
8 day at intervals. So in addition to the numbers
9 that we've compiled, you can also see in the
10 photographs that are included with these
11 studies, you can see where people are parking
12 and where they're not. And consistently
13 throughout out all of our different studies, the
14 southern parking lot is not used. It is used
15 very limitedly.

16 THE CHAIRPERSON: Okay. So, I have just
17 finally located in the file the City Engineer's
18 letter dated May 22nd of this year. In it says
19 that, you know, the proposal requires a flood
20 permit. I'm sure that's because it's New York
21 State DOT. Has that been filed?

22 MR. AIELLO: That is actually a City
23 flood permit because there's a flood plane that
24 abuts the property.

25 THE CHAIRPERSON: Okay. And has that

1 been filed?

2 MR. AIELLO: No, it is has not as of yet
3 as we've been going through various renditions
4 of the plan and different parking analyses --

5 MR. NULL: And that would typically be
6 done for site plan approval. We can't get to
7 the Planning Board as you know unless we have
8 the variances that we're asking for here.

9 THE CHAIRPERSON: Okay. I'm just reading
10 off what the City Engineer has told the Zoning
11 Board that they need. So that's the flood
12 permit.

13 And then it's all well and good that you
14 fly a drone over here over the property and
15 notice the parking as it currently is and as it
16 may be on a rainy day or a non-rainy day or
17 whatever. But, again, the City Engineer said,
18 it's our experience that drive-through
19 restaurants have seen a significant increase in
20 utilization of the past few years. This trend
21 seems to be continuing. With that said, it is
22 our opinion that the proposed satellite drive-
23 through restaurant will experience queues
24 greater than what it's designed for. Queues in
25 excess of nine queue spaces shown would cause

1 the following: Excessive queues will block the
2 ingress and egress to the rear parking lot.

3 So are you saying that the smaller
4 building put in a different locations is going
5 to address all of the concerns of the City
6 Engineer? Is that your contention today?

7 MR. AIELLO: We've been working with the
8 City Engineer to target the proposed building to
9 not be hospitable to the types of uses that
10 they've seen having issues in the City
11 elsewhere. So what that means is, that a 1,600
12 square foot building would not include the type
13 of restaurants that have seen that have had
14 issues elsewhere in the City. That has been the
15 ongoing conversation that we've had with the
16 City's Traffic Engineer and we've been trying to
17 find the right size of the building that would
18 not be able to accommodate the uses that have
19 had issues with the City that they're referring
20 to.

21 MR. NULL: We designed the building at
22 the reduced scale to accommodate a use such as
23 Dunkin, which is already there. And our client
24 has advised me today that they have a handshake
25 deal with Dunkin to move to this location. I

1 can't tell you that we've got a signed lease.
2 But the nature of the user at this facility is
3 such that you're not going to have a, a
4 restaurant that has people wanting to sit down
5 and eat there. There are only 20 seats. And
6 the volume is significantly less. So that the
7 queue should be significantly less. And that's
8 why we reduced it to that size. The City's
9 ordinance as, you know, requires a queue of
10 nine. And --

11 MR. AIELLO: Eight.

12 MR. NULL: Eight. And we're
13 accommodating with nine. So we have more than
14 would be needed for this building. And if we
15 need more than what the ordinance requires,
16 that's not something we've designed for. But we
17 did reduce the size of the building so that
18 we've reduced the likelihood of a volume beyond
19 what the City's ordinance anticipates plus the
20 one additional that we've designed for. So
21 instead of eight we've got nine and we think
22 that's more than adequate for that size
23 restaurant.

24 THE CHAIRPERSON: Okay. Any Board
25 Members, do you have questions?

1 MR. BATTISTA: I do. So if you're
2 planning on moving Dunkin Donuts there, are you
3 going to put another food service establishment
4 where Dunkin Donuts is hence creating still more
5 cars?

6 MR. NULL: We're hoping that we can
7 upgrade the center. It's under utilized and
8 meets retail and restaurant uses. There are
9 some restaurant uses there now. I don't know
10 what sort of use would be willing to occupy that
11 tenant space. I can't tell you that. The idea
12 in putting Dunkin there was that one of the
13 benefits of the drive-up sort of space, is that
14 you reduce demand on actual parking. You don't
15 have people pulling their cars in and then going
16 into the restaurant. So, you know, there's a
17 win/win on that.

18 MR. BATTISTA: Right.

19 MR. NULL: And that's why we based on
20 this Board's responses among other things, we
21 pursued trying to encourage Dunkin to take the
22 space.

23 MR. BATTISTA: Okay. My next question is
24 while I understand that it's an eight-car queue
25 from the window, from your menu board, there's a

1 four-car queue before you would then block the
2 entrance and exit to that back parking. Is
3 there a plan for that? So you go eight cars in
4 the queue and now all of a sudden you have 12
5 cars in line. You're blocking that entrance and
6 exit and now people can't back up their cars
7 that are in front of WingStop or if they can,
8 they then can't back in and out.

9 MR. PETRORO: The other aspect of Dunkin
10 going in there is while we are talking about
11 drive-through aspects of it and the queuing, a
12 lot of the operations at the shopping center are
13 not open during the peak times that queues would
14 occur for Dunkin type of use. So while you
15 might be talking about this from middle-of-the-
16 day aspect, but Dunkin will have more of an
17 earlier peak in the queuing when the center is
18 under utilized from a parking standpoint even
19 reflected in our parking analysis.

20 MR. NULL: We can, we can coordinate. We
21 don't think there's a likelihood of having a
22 long queue like that at any frequency. And if
23 we had that, we could certainly ask people to
24 leave the aisle open as you do at intersections.
25 This isn't something that would block all the

1 parking spaces along the line. Having nine
2 vehicles in a queue is a lot of activity as you
3 know.

4 MR. BATTISTA: Yeah. If you guys would
5 take a look, you go down Central Avenue, there's
6 a Starbucks in Hartsdale. Go there any day
7 during the week and the cars come out of that
8 nine-car queue and they come down Central Avenue
9 and then back up. So that's what I'm basing
10 this off of, right?

11 MR. NULL: Yes.

12 MR. BATTISTA: So that is a big concern
13 of blocking the parking aisle. People can't
14 back in and out if they're parked. That is a
15 concern.

16 MR. VASSO: That's my point too. That,
17 and that's just a Starbucks location whereas
18 this is a strip mall with a Dunkin Donuts. So,
19 we have to, we have to take into consideration
20 also.

21 MR. NULL: True. But the backup that
22 we'd have would not be out onto the road as it
23 is with Starbucks. We would accommodate it
24 within the center. And there's ample room
25 within the center for that, particularly at the

1 hours that we're talking about.

2 MR. VASSO: So what are the hours for the
3 drive-through?

4 MR. NULL: For Dunkin?

5 MR. VASSO: Yeah.

6 MR. NULL: I think we had the peak hours
7 were -- we were asked to --

8 MR. VASSO: No, when is the drive-through
9 open?

10 MR. NULL: I don't know that offhand. I
11 can get that information for you.

12 (Brief conference.)

13 MR. NULL: I was just told that it should
14 be 5 a.m. to 10 a.m., is what we've been told.

15 MR. BATTISTA: 5 a.m. to ten p.m.?

16 MR. NULL: 10 a.m. Sorry.

17 Okay. So, 5 a.m. to 10 p.m. are the
18 hours of the store. I thought I was being asked
19 what the hours, the peak hours of the
20 drive-through would be; isn't that right? So
21 that's what I want to get back to you on. I'm
22 sorry.

23 MR. VASSO: Correct. Okay.

24 THE CHAIRPERSON: Are there another
25 questions of the Board?

1 MR. BATTISTA: No.

2 THE CHAIRPERSON: Is there anything else
3 you'd like to share, Mr. Null?

4 MR. NULL: You know the drive-through
5 restaurant use is a use that most every shopping
6 center is looking to obtain these days. Retail
7 market is very thin for tenants. And our client
8 has commitment to upgrade and improve this
9 center overall. The benefit to having a
10 restaurant in this area is that it draws people
11 to see what other tenants there are in the
12 shopping center. And has the possibility of
13 enabling other tenants to improve the traffic
14 volume of the customers that they'd have. With
15 ample parking as we indicated, 40 percent
16 capacity additional for parking, we're hoping
17 that if we can put this satellite restaurant in,
18 we can make this a more successful shopping
19 center.

20 Conversely if we don't do this, we're no
21 different reason than many of the empty shopping
22 centers, or partially empty shopping centers in
23 the area. And given the commitment that was our
24 client has and Regency Center's just bought
25 Urstadt Biddle and merged Urstadt Biddle into

1 it. They have funds available to make this a
2 better center. We're hoping that the City will
3 support that ability with what we think is a
4 pretty modest restaurant. And we reduced it to
5 that size to be as modest as possible, but still
6 improve the activity at the center itself. I
7 think the traffic can be accommodated internal
8 to the site so it doesn't negatively affect any
9 off-street areas or any other properties. And
10 if we need to implement some sort of traffic
11 management, if there are aisles blocked that
12 block off parking we can do that. But we can
13 also arrange it so that the employees for the
14 center are those that park beyond where that
15 aisle is. We want them out of the way anyway.
16 And it's that, that other parking area that's
17 more remote from where the stores are and less
18 desirable, that would be where we would ask them
19 to park.

20 So, we'd respectfully ask your
21 consideration of those needs on a center that's
22 been here for a long time and needs help.

23 THE CHAIRPERSON: Thank you.

24 Is there anyone here to speak to make
25 public comments on this, 5818, 2248 aka 2270

1 Central Park Avenue? Please approach and
 2 introduce yourself. State your name for the
 3 record.

4 PUBLIC SPEAKER PENA: Hello. I'm Theresa
 5 Pena. I'm the general manager for Crestwood
 6 Lake Apartments, the neighbor. We submitted a
 7 letter today that I want to read into the
 8 record.

9 THE CHAIRPERSON: Okay.

10 PUBLIC SPEAKER PENA: We appreciate the
 11 efforts that Tanglewood has taken to address our
 12 concerns regarding the proposed improvements at
 13 the Tanglewood Shopping Center. The purpose of
 14 this letter is to express additional concerns
 15 related to the improvements after reviewing the
 16 letter from Cuddy and Feder dated October 5,
 17 2023. We have the following concerns:

18 We ask that the existing drain in the
 19 southeast corner of the Tanglewood property be
 20 fixed. The surrounding area currently floods as
 21 illustrated in photo one below.

22 We ask that the retaining wall height
 23 along the south side of the property line be
 24 increased to six feet to match the privacy fence
 25 height as opposed to three and-a-half feet. If

1 the retaining wall height cannot be increased to
2 six feet, please provide privacy fencing on top
3 of the retaining wall or an equivalent level of
4 screening to match the height of the privacy
5 fence on the remainder of the property.

6 We ask that a privacy fence replace the
7 existing chain-link fence on the full length of
8 eastern property boundary.

9 We are concerned about noise from the
10 trash pickup. Will trash pickups take place
11 during business hours?

12 We are concerned with lighting at the
13 proposed building because the building's
14 location is close to the residents at Crestwood
15 Lake. Please provide a lighting plan for
16 review.

17 Thank you for providing the opportunity
18 to comment on the proposed development. We look
19 forward to receiving your responses. Thank you.

20 THE CHAIRPERSON: Thank you.

21 Is there anyone else from the public to
22 speak on this item? Please introduce, state
23 your name and introduce yourself.

24 PUBLIC SPEAKER BERA: My name is Joey
25 Bera. I live at 63 Beaumont Circle in back of

1 this project. They're incorrect, they don't
2 have 214 spaces there. Right now they have 193
3 spaces. I took a survey on September 22, 2023,
4 at 9 -- date 9/20/23 between 12:30 p.m. and
5 3:30 p.m. I got pictures right here. We have
6 120, 120 cars between 12:30 and 3:34. So that
7 means 123 -- 193 spaces, we only have 4 -- 65
8 spots left.

9 Now, if you're going to approve this
10 project, we're going to lose 51 spots in the
11 back where they're saying they're going to put
12 1,600 restaurant in there. And they're moving
13 it to the front. Everything that, that whole
14 parking lot floods up when it rains. All the
15 sidewalks floods up there. The whole parking
16 lot floods up there. And we -- and now they're
17 going have 20 seats in there. Where are the
18 other parking going to be if we have 143
19 parking, 142 parking spaces. 123 was parked
20 there between 9/20/23 between 12:30 and 3:34, we
21 only have four parking spaces left for 104
22 parking spaces.

23 I called the City, the City says this
24 parking, this, this place, this Tanglewood
25 Shopping Center is required to have 150 spaces.

1 Now, they going to get in another store, then
2 they have to increase the parking.

3 Also, there's, also in the back of the
4 property, they're dumping. We have a crate back
5 there. If we get a stainless steel tank back
6 there, that they're storing oil back there, the
7 oil, then they're not taking that away. And got
8 rats, rat traps down there. A garbage can for
9 three years that they never dumped. And then
10 the trash in the back. They're supposed to be
11 going down there 7:00 in the morning to pick up
12 the garbage. They're coming down there between
13 2:45 in the morning, wake me up at nighttime.
14 And WingStop, that's all oil, all grease. All
15 in their front of their entranceway for over
16 three years. This is not qualified to put a
17 drive-through. This area don't requires that
18 that.

19 Plus we have a three-lane, then chicken
20 filet is going on the corner there. That's
21 going to jam up, jam up the thing there with
22 traffic jam now. And we have three lanes.
23 Everything is going to be in the right lane.
24 People are going to try to get into the middle
25 lane and there's going be a traffic jam.

1 This is not required. This is premature.
 2 They don't have no one to rent this out. This
 3 area don't require a drive-through. Please
 4 don't. Please, Members, don't approve this
 5 site.

6 And I want to give these pictures to you
 7 guys. And you can see all the garbage in the
 8 back. And the driveway is at a 90-degree angle
 9 to get into the spot where they want to go into
 10 that driveway. And that's a major entrance for
 11 that parking lot.

12 THE CHAIRPERSON: Thank you.

13 PUBLIC SPEAKER BERA: For the entrance.

14 THE CHAIRPERSON: Thank you for your
 15 comments.

16 Is there anyone else to speak on this
 17 topic? Okay. Mr. Null, we'll see you here in
 18 November --

19 PUBLIC SPEAKER CARPENTER: I got a
 20 comment.

21 THE CHAIRPERSON: Oh.

22 PUBLIC SPEAKER CARPENTER: Good evening
 23 my name is James Carpenter. For the purposes of
 24 this conversation I reside at 233 Woodworth
 25 Avenue. I have no comment about the project

1 that's being presented here. But I am, I have
2 made a couple of observations that I think, I
3 would hope, that since there's been a lot of
4 interaction with this particular Board with this
5 particular project, but there was no interaction
6 with previous projects. I don't know, maybe I'm
7 missing something. This gentleman over here
8 stated that he was concerned about the parking
9 because it's in, in your community or
10 neighborhood, correct? Oh, okay, now --

11 THE CHAIRPERSON: No comment. It's
12 public comment. Is it's not question and
13 answer.

14 PUBLIC SPEAKER CARPENTER: Okay. Well,
15 then my observation is simply this, is this
16 Board have -- well, okay, I guess I'm not going
17 to get an answer to that. But I think it's
18 interesting that this Board has members that
19 come and then don't show up. And then when
20 there's projects going on where there's people
21 who are genuinely concerned, there's no
22 interaction or there's a lack of attendance. I
23 know these people are concerned about their
24 neighborhoods and their communities. I think
25 the City of Yonkers and its residents are deeply

1 concerned about the construction that's going on
2 specifically speaking to the west side of
3 Yonkers. Thank you.

4 THE CHAIRPERSON: Thank you for your
5 comments.

6 Is there anyone else to speak on this
7 project?

8 Okay. Mr. Null, we will see you here in
9 November?

10 MR. NULL: Yes, Madam Chair. Is there an
11 interest in having a site visit before then or
12 not?

13 THE CHAIRPERSON: Sure. I don't think we
14 would be opposed to that. Please contact
15 Shannon in the Building Department.

16 MR. NULL: Okay. Thank you very much.

17 THE CHAIRPERSON: Sure. Of course.

18 Am I correct in thinking that 5840, 59
19 Sherwood Place is an adjournment? No? Yes?
20 Approach and introduce yourself.

21 MS. MURRAY: Good evening, Madam Chair
22 and Board Members. My name is Regina Parker
23 Murray and I am here to present for 59 Virginia
24 Place, item number 5840.

25 The property is a one-family with an

1 in-law setup. And the homeowner had her
2 daughter living in the in-law setup for quite
3 sometime; however, the daughter moved to have
4 her own family. The homeowner is a widow. Her
5 husband a World War II vet. And she wants to be
6 able to rent and have that as a legal apartment.

7 On that street, there are other homes
8 that were one-family and then they got converted
9 into two-family. Namely 71 Virginia and then
10 68. After 2001 68 became a two-family, a legal
11 two-family.

12 Having 59 Virginia Place as a legal
13 two-family, it would not alter the appearance or
14 the character of the structure. And as I said,
15 it has, it creates a hardship with it just being
16 an in-law versus a legal two-family. And I'm
17 asking on behalf of the homeowner, if this
18 property could be given the right to be a legal
19 two-family.

20 THE CHAIRPERSON: Okay. I think,
21 Ms. Murray, that we need to have a site visit.
22 The way I think you are new to this Board, so
23 the way it works is that you would need to call
24 Shannon in the Zoning office and set up a site
25 visit for the Board Members.

1 MS. MURRAY: Yes.

2 THE CHAIRPERSON: Okay. And then we
3 will, depending on what we find in the site
4 visit and what other documents we need, we will
5 make a decision, you know, in the next several
6 months on that.

7 MS. MURRAY: I thank you.

8 MR. BATTISTA: There's also no plans.

9 THE CHAIRPERSON: No plans.

10 MS. MURRAY: We turned in the plans
11 sometime ago.

12 THE CHAIRPERSON: I mean it currently has
13 an in-law apartment, right?

14 MS. MURRAY: I'm sorry?

15 THE CHAIRPERSON: It currently has an
16 in-law apartment?

17 MS. MURRAY: Yes. Yes. And it was built
18 as such and we turned in the plans.

19 MR. VASSO: There are plans online, but
20 said denied from August.

21 THE CHAIRPERSON: Yeah, because the
22 Building Department denied them, but they're the
23 right plans. And then usually with the variance
24 would we also need an economic impact so that is
25 something else that you would need to send in.

1 MS. MURRAY: And that goes to Shannon,
2 correct?

3 THE CHAIRPERSON: Yes, that also goes to
4 Shannon. Any there other questions of the
5 Board?

6 MR. BATTISTA: Sorry. The denial plans
7 that are on file are plans from 11/15/1991? So,
8 as an in-law suite, if they're going to change
9 it to a two-family, right, an in-law suite up
10 and down, right, doors stuff like that, we're
11 going to need to see that.

12 THE CHAIRPERSON: Do you have an
13 architect on board?

14 MS. MURRAY: Yes.

15 THE CHAIRPERSON: Okay.

16 MS. MURRAY: Yes, we do.

17 THE CHAIRPERSON: So we'll need that
18 transition from the in-law to the two-family.
19 It's like two separate entrances --

20 MS. MURRAY: Yes, it is.

21 THE CHAIRPERSON: -- that's required for
22 fire purposes, right?

23 MS. MURRAY: Yes.

24 THE CHAIRPERSON: So those we do not
25 currently have. So the updated plans will need

1 to go to Shannon as well.

2 MS. MURRAY: Okay. And it has two means
3 of egress and --

4 THE CHAIRPERSON: Exactly. Are other
5 questions of the Board? No. Okay.

6 Is there anyone from the public here to
7 talk about 59 Virginia Place? Okay.

8 Thank you, Ms. Murray. Contact Shannon
9 and we'll set up a site visit.

10 MS. MURRAY: I thank you. Thank you very
11 much.

12 THE CHAIRPERSON: Next Case is 5823, 1250
13 Nepperhan Avenue. Please introduce yourself for
14 the record.

15 MR. SINSABAUGH: Yes, good evening,
16 Chairman. This is -- my name is Brian
17 Sinsabaugh I'm an attorney with Zarin and
18 Steinmetz.

19 (Court reporter requested clarification
20 and spelling.)

21 MR. SINSABAUGH: Brian Sinsabaugh,
22 S-i-n-s-a-b-a-u-g-h. I'm an attorney with Zarin
23 and Steinmetz. 81 Main Street, White Plains,
24 New York on behalf of the applicant CPD Energy
25 Corp. Here with me today I have Marc Petrero of

1 JMC, our engineer, as well as Tom Kievit of CPD
2 Energy Corp.

3 We were previously before you with regard
4 to the variances that we are seeking. We have
5 three separate variances all with regard to
6 parking on-site. So, what's being proposed, I
7 don't know how detailed you want me to go
8 because I know we've already gone through this
9 before, but the site is an existing gas station.
10 We are proposing renovation of the building
11 that's on the site. Currently the building does
12 have two bays for automobile repair and service.
13 Those are being removed and what will be
14 remaining is the expansion, interior expansion,
15 of the convenience store.

16 The variances that we do have are with
17 regards to the Section 43-44(b)(5) of the Code.
18 Which is requires all semi public open parking
19 areas be setback a minimum of five feet from the
20 main property line. The second variance with
21 regard to the same section of Code is that all
22 open air parking areas shall be set back a
23 minimum of ten feet from any building on the
24 same lot. And lastly, 93 angled parking spaces
25 shall require 24 feet maneuvering aisle.

1 The majority -- all of these actually,
2 stem from the fact that this site does -- is on
3 the same ownership as the parcel next door.
4 They do share access points. And the vehicles
5 and pedestrians alike are able to cross over the
6 boundaries of the properties. They've operated
7 this way for a significant period of time.
8 We're not proposing any change to the gasoline
9 station or the fueling spots itself. Just the
10 building.

11 And then I know recently that we did have
12 an application with Walgreens. We've made some
13 modifications since we last appeared on our
14 applications, on our plans. Those modifications
15 pertain to an icebox that was previously on the
16 sidewalk. That is now being relocated off the
17 sidewalk in front of the building. It's to the
18 rear of the building in an area that is
19 accessible but is not going to have any adverse
20 impact on the trash enclosure that's in the
21 rear.

22 We have added two spots that were
23 approved as part of the Walgreens site. So
24 those are depicted on our plans now.

25 We also have shown that we have the

1 propane tanks located around the corner on the
2 sidewalk next to the building; however, those
3 propane tanks are not going to be in any way
4 impacting the pedestrian right-of-ways.

5 Pedestrians trying to move from the parking
6 spots to the store.

7 The only other item that I do believe we
8 had outstanding was with regard to mention about
9 having a permanent easement on site. Again,
10 Silver Bell Company, LP. owns both parcels in
11 terms of recording a permanent easement. My
12 understand is that a permanent easement cannot
13 be recorded against two properties owned by the
14 same ownership.

15 We did have a letter, actually I
16 apologize, Walgreens had a letter as part of
17 their application that showed that there was
18 cross access throughout the property. We'd be
19 willing to provide an updated letter pursuant to
20 that. Likewise, if that letter is not
21 necessary, which it may not be, I believe any
22 future modification of either the Walgreens site
23 or the property for this application would
24 require compliance either it had to comply with
25 existing plans or it would have to obtain any

1 kind of modification under site plan review.

2 THE CHAIRPERSON: Were you provided a
3 copy of the Planning Bureau's remarks?

4 MR. SINSABAUGH: So, yes, so we did
5 receive the Planning Bureau's remarks from
6 October 11th. Is that what you're referencing
7 to?

8 THE CHAIRPERSON: I actually have July
9 19th.

10 MR. SINSABAUGH: We did have -- we were
11 before the Planning Board.

12 THE CHAIRPERSON: The following remarks
13 are -- if you have a moment, I will read them to
14 you so that you know what we are looking for.

15 (Reading) There is an access easement
16 mapped on the survey but it is not clear if the
17 easement crosses all of the Walgreens parking
18 area to the south of the proposed service
19 station, convenience store. As the mapped it
20 appears to exist only for the first 50 feet from
21 the street and curb cut. Without cross
22 easements allowing CPD NY Energy Corp. to use
23 Walgreens' property, several of the proposed
24 parking spaces would be unusable, and the
25 garbage corral would be inaccessible. If such

1 an easement is available, it should be mapped on
2 the survey.

3 Has that been done?

4 MR. SINSABAUGH: I do not believe our
5 survey has been updated to reflect any change of
6 the easement. But, again, we do have the same
7 ownership, we'd be willing to make any changes
8 or provide any documentation if that would be a
9 condition of approval.

10 THE CHAIRPERSON: Okay. So that's great.
11 The next, the proposed air and vacuum machine at
12 the northwest corner of the site will take up a
13 needed parking space at the site. That is
14 seeking reduced parking. This amenity should be
15 considered by the board for relocation.

16 Is that being addressed at some point?

17 MR. PETRORO: There is currently an air
18 vacuum station in the same general location. And
19 the spaces that are regularly used in locations
20 where there's air vacuum maybe no person
21 actually uses it. So it's still in the same
22 location, but we don't see a real need to
23 relocate it and there's no viable location where
24 it really would be relocated to potentially.

25 THE CHAIRPERSON: Okay. The last comment

1 they had is a request for reduced distance from
2 the building for the parking spaces suggest that
3 no product sales should be allowed on the
4 sidewalk including the proposed, quote, ice
5 bunker.

6 MR. SINSABAUGH: Yes, so, yeah, the ice
7 bunker has been relocated on our most recent
8 plan that we submitted.

9 THE CHAIRPERSON: Okay.

10 MR. SINSABAUGH: They are no longer on
11 the sidewalk. We have reviewed with the client
12 the discussion as to whether or not items could
13 be located on the outside on the sidewalk and
14 they understand that comment and will comply.

15 THE CHAIRPERSON: Are there any questions
16 of the Board?

17 I think, have we had a site violation
18 here? I don't recall, I'm sorry. Have you
19 talked to Shannon about setting up a site visit
20 for the Board?

21 MR. KIEVIT: I can contact Shannon and
22 schedule that.

23 THE CHAIRPERSON: Yes, please do that. I
24 think it will be super helpful.

25 MR. BATTISTA: You can, I just want to --

1 so you have the three bays, so all three bays
 2 will be converted into retail space, right? And
 3 then -- I just, I'm having trouble seeing the
 4 plans -- how many parking spaces are you asking
 5 for in front of those, like, across the front?

6 MR. PETRORO: There's a total of 11
 7 parking spaces including one ADA space. But
 8 directly in front of the store by the front
 9 door, there's a total of six.

10 MR. BATTISTA: So six. And that goes
 11 across three bays?

12 MR. PETRORO: It goes across the whole
 13 front.

14 MR. BATTISTA: Six there.

15 MR. PETRORO: So it includes stuff
 16 outside of the bays.

17 MR. BATTISTA: Okay. Are the, are the
 18 closed storage bins going to stay?

19 MR. KIEVIT: I believe they're going to
 20 be removed.

21 MR. BATTISTA: Going to remove those.

22 And the restrooms are going to remain on
 23 the outside?

24 MR. KIEVIT: I believe we'd have to --
 25 I'd have to look at the floor plan again, but

1 we'll try to make access to the restrooms from
2 the interior instead of exterior just for safety
3 and cleanliness.

4 MR. BATTISTA: Thank you.

5 THE CHAIRPERSON: Is there anymore of the
6 presentation? Otherwise I'll open it up to
7 public comment.

8 Is there anyone here to comment on 1250
9 Nepperhan Avenue, Case 5823? If not we will
10 plan to do a site visit. Thank you.

11 MR. SINSABAUGH: Thank you.

12 MR. KIEVIT: Thank you.

13 THE CHAIRPERSON: Case 5828, 23 Lawrence
14 Street has been adjourned. Yes.

15 And I'm sorry, 5826, 1270 Saw Mill River
16 Road was adjourned by request of the applicant.

17 So that brings us up to 5829, 173 Linden
18 Street is also adjourned.

19 So that brings us up to 5830, 13 Randolph
20 Street. Introduce yourself and state your name
21 for the record.

22 MR. RIEPER: My name is Ted Rieper, the
23 architect for 13 Randolph Street.

24 THE CHAIRPERSON: Site plan there?

25 MR. RIEPER: Yes, this is the site plan

1 where we sent out invitations to all of the
2 people within a hundred -- I mean 200 square
3 feet. But what this demonstrating is Randolph
4 Street is very condensed. It's Western Avenue
5 and South Broadway. And there's several
6 single-family homes, no garage in the front
7 yards. And on rest of the avenue there are
8 apartment buildings. Parking is a major issue
9 on Randolph Street.

10 And what we were -- what we propose is to
11 the house that Chen family live in is 13 and
12 they had a contractor put in a concrete pad
13 that's 17 and-a-half wide by 15 foot 9 feet
14 which is slightly under the space size for a
15 regularly size parking lot. However for the
16 compact cars which their family has, it would be
17 okay to have two cars parked in front of the
18 house.

19 The reason we say that is this used to be
20 an A zone. It is currently a BR zone, which
21 takes away the, it takes away the initial
22 requirement to have a garage in your house in
23 order to park in your front yard.

24 The BR zone is a strange zone. It
25 excludes all residential properties in a BR zone

1 that's including apartment houses and one and
2 two-family buildings. What we would like to do
3 is propose that the Board approve this concrete
4 pad that's there already, the driveway cut and
5 the sidewalk repairs that were done. The site,
6 site -- the size of the lot itself, or the
7 parking area is three -- is less than 300 square
8 feet. A storm retention is required with the
9 area of a -- of a space is 500 square feet. So
10 we get around that.

11 That's essentially what we're trying to
12 do here is to have them park on their site in
13 the front of the building, which does two
14 things. It does actually one thing. Takes two
15 cars, takes two cars off the street, but leaves
16 one additional space where they would be parking
17 two cars on Randolph Street, now they'd only be
18 parking -- there would be a space for one other
19 car on Randolph Street, because you couldn't
20 include the driveway as obviously a parking
21 space.

22 There are, there is one house on Randolph
23 Street that had gotten permission to have a
24 parking space in front of the house, another
25 garage. And that was done back in 1985. That

1 was when it was an A zone. Now, we're in a BR
2 zone, which restricts all kind of residential
3 building so the whole neighborhood has now
4 become non-conforming.

5 So, that's essentially what we're here to
6 do. What also is the, you can see the parking
7 lot right here. The parking area is in the
8 front of the house. The driveway is here. This
9 is only 17 feet wide so there's no car -- one
10 car could park there, a small size. But the
11 fact that we're parking two cars on this
12 property allows one other vacant space on
13 Randolph for anybody else to park if they need
14 the space, because two cars are off the street.

15 The size of the space is eight and-a-half
16 by 15.9, which is a comparable for a compact
17 size car which both of the cars are. And also
18 in Yonkers, I've taken a bunch of photos showing
19 various locations throughout the entire city
20 showing that there are many, many, many, many
21 homes with parking in front of their house in
22 residential zones without garages in front of or
23 even driveways but the cars are parked there.

24 So, I mean, I'm not going to point
25 fingers at any one of these buildings, I don't

1 have addresses for them, but I do think that to
2 ease the parking problem on Randolph Street
3 would be helpful to have two cars off the street
4 and at least one additional space on Randolph
5 Street for people to park.

6 THE CHAIRPERSON: Any questions?

7 MR. BATTISTA: I do. How long has your
8 client owned that property?

9 MR. RIEPER: Since 2020.

10 MR. BATTISTA: Since 2020. So, they went
11 ahead and they did the curb cut and did the
12 concrete slab?

13 MR. RIEPER: Yes, they did.

14 MR. BATTISTA: So they built a parking
15 lot in the front of their house before asking
16 for permission, is what you're saying?

17 MR. RIEPER: That's what got me involved.

18 MR. BATTISTA: And they're currently
19 still parking in that, in the front, they
20 haven't stopped parking?

21 MR. RIEPER: Actually, no. They're no
22 longer parking on their property, because they'd
23 get violations.

24 MR. BATTISTA: Okay.

25 MR. RIEPER: So they stopped. We went to

1 court several times, they've been very nice with
2 the -- while penalizing my client, but they
3 cannot park there.

4 MR. BATTISTA: And you said compact car
5 but in the photos online, there's a, you know,
6 Mercedes ML truck in there which is not a -- a
7 compact car would be something like a Toyota
8 Corolla, that would be compact.

9 MR. RIEPER: Where did you see that car?

10 MR. BATTISTA: Right on Google Maps.

11 MR. RIEPER: Oh, but not in their parking
12 space though.

13 MR. BATTISTA: Well, on Google Maps from
14 January 2022, that's the car that's in the --

15 MR. RIEPER: In the driveway?

16 MR. BATTISTA: In the driveway.

17 MR. RIEPER: That I was unaware of. But
18 that may not be her car. I don't know why that
19 car would have been there.

20 MR. BATTISTA: Okay.

21 MR. RIEPER: They have two cars. They're
22 relatively -- they're under 15 feet long, so,
23 they're classified as compact.

24 MR. BATTISTA: Okay.

25 MR. RIEPER: And the fact that they would

1 be pulling down the street driving straight in,
2 backing straight out, they don't have the
3 requirement that most parking spaces require 24
4 feet between parking, between spaces so that you
5 can back in and make your turn out.

6 MR. VASSO: And they're currently parking
7 in front of their street.

8 MR. RIEPER: They're parking on the
9 street, they're not parking in the driveway, no.

10 But the issue with the fact that the
11 zoning was changed to BR, makes them, all the
12 houses on that street non-conforming, but in the
13 BR district you can park on your property. So
14 kind of stretched the law a little bit and say,
15 well, this is a house but in the BR district we
16 can park in front of the house.

17 MR. BATTISTA: And then I guess I just
18 have another question.

19 Sam, I have a question, how close can
20 they -- I'm sure there's some type of ruling on
21 how close the car can be to the front of the
22 house, which is not included in their variance.
23 I don't have that off the top of my head.

24 THE CHAIRPERSON: I think a car can't
25 park within five or ten feet of a building,

1 right?

2 MR. BORELLI: Right.

3 MR. RIEPER: No, we can park in front of
4 their house right up to your driveway door.
5 There's no restriction how close you can park in
6 a driveway to a private house. Most driveways
7 have to be at least 18 feet deep in order to
8 park a car legally. But in this case we're
9 looking to put compact, the compact vehicles.

10 THE CHAIRPERSON: So I think we need to
11 have a site inspection. So, Mr. Rieper, can you
12 call Shannon in the Building Department and set
13 up a site inspection for the Board, please?

14 MR. RIEPER: Sure.

15 THE CHAIRPERSON: Is there anyone from
16 the public to speak on 13 Randolph Street?

17 PUBLIC SPEAKER ARMSTRONG: Philip
18 Armstrong. 50 Landscape Avenue, Yonkers, New
19 York. I don't know if the gentleman knows, but
20 just down the street on Ravine Avenue, you guys
21 have granted, I believe, anyway, I may be
22 incorrect, senior housing project there that has
23 almost no parking. And when that project is
24 built with the parking that's going to be
25 required. This area already is starved for

1 parking and this is just going to -- these two
2 spaces will help a little bit to mitigate that.
3 But once they build that senior housing project,
4 everybody says seniors don't drive, but seniors
5 have aides, they have people that look after
6 them. They have people that do the shopping for
7 them. It's going to be a madhouse in the area
8 once that senior along with the other senior
9 projects in the area are being built.

10 MR. RIEPER: What's the address again?

11 PUBLIC SPEAKER ARMSTRONG: Ravine Avenue.
12 You know where the vacant lot is right across
13 where used to put in -- they store the trucks,
14 they used to be the, the -- what was the place
15 that sold the rags? Right on Ravine, you come
16 out of that project, go down Ravine, right on
17 the right there's a vacant lot there, there's
18 going to be a I think a 60-unit senior housing
19 project or something?

20 MR. RIEPER: On Ravine Avenue, is it?

21 PUBLIC SPEAKER ARMSTRONG: Yeah. Yeah.
22 Unless I have the right wrong name for the
23 avenue, but it's right down the street from
24 that.

25 MR. RIEPER: I know they put a parking

1 lot on right on -- what's the next street?

2 PUBLIC SPEAKER ARMSTRONG: Western?

3 MR. RIEPER: No, the street, south of
4 Randolph is Radford I think?

5 PUBLIC SPEAKER ARMSTRONG: Well, you got
6 Randolph, you got Radford, you got Randolph--

7 MR. RIEPER: Radford, they put a parking
8 lot for about ten cars on Randolph -- on
9 Radford.

10 PUBLIC SPEAKER ARMSTRONG: Between the
11 two, yeah.

12 MR. RIEPER: Yeah, between Western and --

13 PUBLIC SPEAKER ARMSTRONG: Yeah, but just
14 down further, the next street that runs down by
15 the car wash, next to car wash, those lots down
16 there are going to be it.

17 MR. RIEPER: Oh. Okay.

18 THE CHAIRPERSON: Thank you,
19 Mr. Armstrong.

20 PUBLIC SPEAKER ARMSTRONG: Thank you.

21 THE CHAIRPERSON: Is there anyone else
22 from the public to speak on this?

23 PUBLIC SPEAKER ARMSTRONG: Romain, that's
24 it.

25 MR. RIEPER: Romaine. Okay. Thank you.

1 I'm looking it up.

2 THE CHAIRPERSON: Thank you, Mr. Rieper.

3 MR. RIEPER: That's it. I'm done.

4 THE CHAIRPERSON: 5832, 20 aka 16
5 Wiltshire Place. Hi. Could you state your name
6 for the record. And then you can start at any
7 time.

8 MS. KAUFMAN: I have no voice, sorry.
9 It's Marisa Kaufman, M-a-r-i-s-a, K-a-u-f-m-a-n.

10 MR. KAUFMAN: And Chris Kaufman, we're
11 the homeowners.

12 MS. MARRONE: Maryann Marrone, architect.
13 (Court reporter requested clarification.)

14 MS. MARRONE: Maryann Marrone,
15 M-a-r-r-o-n-e, architect.

16 MS. KAUFMAN: So we are basically asking
17 to move our driveway from the intersection of --
18 on the corner of Perry Place between Cross
19 Street and Wiltshire Place. And we're trying to
20 move the driveway in and put it -- I'm sorry,
21 fill that driveway in which that permit's been
22 approved and move the driveway to the front of
23 the house on Wiltshire Place, which has better
24 drainage. We currently fill up with even minor
25 rain storms, the driveway fills up with rain

1 causing flooding into our basement. We've
2 replaced our hot water heater multiple times.
3 We've been there basically two and-a-half years
4 and I think we've replaced it three times.
5 Basically try to keep the water out.

6 So, essentially we're trying to move
7 everything to help alleviate the sand bags.
8 We've actually been working with the City's
9 Engineer on working on a larger scale project
10 for the whole neighborhood off Tuckahoe Road
11 which I know the State and County are involved
12 with that, a lot of elected officials are
13 involved with that. So this is the small issue
14 on our own property, but we're also working with
15 the City on a larger scale.

16 THE CHAIRPERSON: Okay. Are there
17 questions from the Board?

18 MR. BATTISTA: Give me one second.

19 THE CHAIRPERSON: Mr. Battista.

20 MR. BATTISTA: Sorry, Wilson. One
21 second.

22 MS. KAUFMAN: I apologize for my voice.

23 THE CHAIRPERSON: While he's waiting to
24 find what -- I'm sure he's going to ask about.
25 Could you contact the Building Department and

1 set up a site visit? I understand that the
2 Building Commissioner has been to your site as
3 part of the bigger --

4 MS. KAUFMAN: Yup.

5 THE CHAIRPERSON: -- flood mitigation
6 issue. But the rest of the Board needs to see
7 it as well.

8 MR. BATTISTA: Sorry. So are you going
9 to fill that, so you're going to fill in that
10 driveway that's currently there?

11 MS. KAUFMAN: Correct.

12 MR. BATTISTA: Fill that. And then
13 you'll have one space coming off the front?

14 MS. KAUFMAN: Correct.

15 MR. BATTISTA: And so then we would gain
16 one parking space back on the other side but
17 lose one on the front; is that --

18 MS. KAUFMAN: Sorry. You're saying lose
19 one on the side but --

20 MR. BATTISTA: You would gain one on the
21 side and then lose one on the front --

22 MS. KAUFMAN: Correct. Correct.

23 MR. BATTISTA: It would be one for one.

24 MS. KAUFMAN: Correct.

25 MR. BATTISTA: Okay.

1 MS. KAUFMAN: And then that becomes play
2 area.

3 MR. BATTISTA: Got it.

4 MS. KAUFMAN: More yard.

5 MR. BATTISTA: More yard. Okay.

6 MR. VASSO: So I see there's a hydrant in
7 the front --

8 MS. KAUFMAN: Yeah.

9 MR. VASSO: -- then there's a tree --

10 MS. KAUFMAN: Yup.

11 MR. VASSO: -- is that tree going to be
12 removed?

13 MS. KAUFMAN: No. No, that's the -- if
14 you look at the plan, if you look at the plan,
15 the driveway is proposed to the right. Not to
16 the left.

17 MR. VASSO: Is the plan --

18 MS. KAUFMAN: I don't want to remove
19 anything with deep roots off my yard.

20 MR. VASSO: I don't see the plan. Was
21 the plan submitted?

22 MS. KAUFMAN: Oh, yeah, 100 percent. It
23 was on there, it's on the whole package. She
24 has a big sign of it as well. It's not on the
25 package?

1 MR. KAUFMAN: So the tree and fire
2 hydrant are over here. And then the driveway is
3 on the right.

4 THE CHAIRPERSON: Al, you see that from--

5 MR. VASSO: Yeah, I am going to go.

6 THE CHAIRPERSON: You might want to bring
7 it over.

8 MS. KAUFMAN: I have them printed out too
9 as well.

10 MR. VASSO: That's fine.

11 THE CHAIRPERSON: That would be helpful,
12 yeah.

13 MS. KAUFMAN: Is there no survey in there
14 as well?

15 MR. BATTISTA: It's there.

16 THE CHAIRPERSON: No, it's in there.
17 It's under the combined package.

18 MS. KAUFMAN: It's a combined package,
19 right? I think it's on page --

20 MR. BATTISTA: 17.

21 MS. KAUFMAN: Yeah. It's a combined
22 package. You want these?

23 MR. VASSO: Yeah.

24 MS. KAUFMAN: Wait. There's more.

25 THE CHAIRPERSON: Okay. Harry, do you

1 have any questions?

2 MR. SINGH: No.

3 THE CHAIRPERSON: Al, do you have anymore
4 questions?

5 MR. VASSO: No, I'm good. Thank you.

6 THE CHAIRPERSON: Ralph. No? Okay.

7 MR. BATTISTA: All set.

8 THE CHAIRPERSON: All right. So we'll
9 just set up a site plan -- site --

10 MS. KAUFMAN: Just email, email Shannon?

11 THE CHAIRPERSON: Yes.

12 MS. KAUFMAN: On the email. Okay.

13 MR. KAUFMAN: May I ask a question about
14 process, just in terms of how, the site visit in
15 terms of timing? And the reason I ask this is
16 because every rain storm that comes, you know.

17 THE CHAIRPERSON: Well, we try to get the
18 site visit in before the next meeting so that if
19 we all agree it's a good idea or a bad idea, we
20 can get a decision to you as soon as possible.

21 MR. KAUFMAN: On the November meeting?

22 THE CHAIRPERSON: Yes.

23 MS. KAUFMAN: That comes in the next
24 meeting.

25 THE CHAIRPERSON: Preferably sooner

1 rather than later, right?

2 MR. KAUFMAN: Yes.

3 MS. KAUFMAN: Oh, yeah. We're trying to
4 get it done before the ground freezes, yes.

5 MR. KAUFMAN: Exactly.

6 THE CHAIRPERSON: And so are there any
7 members of the public here to speak on 20 aka 16
8 Wiltshire Place Number 5832?

9 Okay. Thank you, both.

10 MR. KAUFMAN: Thank you.

11 MS. MARRONE: Thank you.

12 THE CHAIRPERSON: Case 5833.

13 MR. MAHALEK: Good evening, Madam Chair,
14 Members of the Board, Staff. Maximillian
15 Mahalek with the Law Firm of Cuddy and Feder on
16 behalf of the applicant Dish Wireless. I'm
17 joined for this evening with our project team.
18 James Quicksell, Project Engineer, Pawan
19 Matahair(ph), Radio Frequency Engineer, and
20 Frederick Ricciardi, Site Acquisition
21 Specialist.

22 So let's do the brief review of the
23 application. As noted, this is an application
24 by Dish Wireless for three antennas and
25 accessory equipment at the roof of 330

1 Riverdale. These antennas will be on the north,
2 east, and south sides of the roof. This is a
3 12-story building, multifamily building. And
4 this is located in the BA district which is
5 subsidiary of the A district so that's high
6 density housing with general business permitted.
7 I just wanted to note that because in its
8 determination received from the Building
9 Department, it was listed as being in the A
10 district. But we did confirm that it's in the
11 BA district. That district is also listed on
12 the plans that were submitted with the Board.
13 Just wanted to note that for the record.

14 Now, these antennas, they're going to be
15 at two different heights. Two of them, namely
16 the north and east antennas, those will be at
17 142 feet. That's the top of the bulkhead. So
18 we're not going over the top of the bulkhead.
19 We're not going above the current height of the
20 building. The third antenna, the southern
21 antenna, that's slightly lower. That's going to
22 at 119 feet and 7 inches.

23 Now, one thing that we've heard
24 consistently from the City in this application
25 and previous applications, for example this

1 Board approved a very similar request at 26
2 Randolph and along McLean Avenue. One thing
3 that there's a been a push for is what's called
4 flush mounting. Where the antennas are flush
5 mounted against the exterior of the building and
6 the antennas are painted to match the building.
7 That minimizes and eliminates any potential
8 visual impacts so it blends in with the
9 building. So hearing that consistently from the
10 City, we've revised the plan to make sure that's
11 what was in incorporated and that mitigation was
12 there up front.

13 Now, why are we rolling this out? This
14 roll out is the new wireless service provided by
15 Dish that is a product of litigation that
16 involved the merger of T-mobile and Sprint. And
17 the Federal government said it is time for a new
18 competitor. And they selected Dish wireless to
19 have that roll out to provide that new
20 competitive service. There are
21 Federally-mandated deadlines for that roll out
22 and we are progressing in those. Now, this is
23 service for residents, business owners,
24 emergency responders as any other service
25 provider.

1 Now, when looking at variance requests
2 for utilities such as these, what is applied is
3 called a public necessity standard. So I will
4 be brief. I don't want to waste the Board's
5 time. We did articulate the application of that
6 standard in our submission of July 31st. But at
7 the end of the day what that test is, looking at
8 the benefit of the expansion of that public
9 utility versus any detriment to the public
10 health, life and safety.

11 So in terms of the benefit, we are
12 filling in a gap in service. We are ensuring
13 that neighboring cell sites will not be over
14 loaded. We are ensuring that there will be
15 continued safe and reliable service. And we are
16 expanding competition. And we're really excited
17 to be in this particular neighborhood because it
18 is a rather dense neighborhood population wise.
19 And there are several schools nearby. So
20 expanded services means expanded safety.

21 And then also what is unique about this
22 building. It is 12 stories tall. And it's the
23 tallest building in the area. And during our
24 site visit yesterday, you can see there's a
25 hill, pretty big hill, if we look east of the

1 building. And so by placing these antennas at
2 the roof, we can get over that hill and expand
3 our coverage. And we have a coverage map
4 included in Exhibit J of our submission.

5 So all of those benefits versus what
6 could be a potential detriment, we want to avoid
7 that visual mitigation -- or visual impact
8 upfront by flush mounting and painting to match
9 the building.

10 So with that, happy to answer any
11 questions. We did have our site visit
12 yesterday. I thank the Board for meeting us
13 there. And you'll see in our submission package
14 that this proposal complies with FCC exposure
15 requirements and as also a safety -- excuse me
16 -- a structural analysis was filed to show that
17 the roof can support this installation. And
18 that was also confirmed as part of a visual
19 inspection yesterday during the site visit.
20 Thank you.

21 THE CHAIRPERSON: Thank you. Are there
22 any questions from the Board?

23 MR. BATTISTA: I do have a question. So
24 Dish Wireless, right, I can't go get a Dish
25 Wireless account, so where would I get -- how do

1 I use this service, right? Who's the phone
2 provider?

3 MR. MAHALEK: So that part, Frederick,
4 you want to talk about just the day-to-day and
5 how people are tapping into the network service?

6 MR. RICCIARDI: Sure. Excuse me,
7 Frederick Ricciardi, I'm the project manager.

8 (Court reporter requested clarification
9 and spelling.)

10 MR. RICCIARDI: Ricciardi,
11 R-i-c-c-i-a-r-d-i. So, Dish Wireless is
12 currently operating through Boost Mobile. Part
13 of the acquisition when they had the merger
14 between T-Mobile and Sprint, Boost was
15 transferred over to Dish and so that anyone
16 currently operating with a Boost phone, would be
17 getting Dish's services as we continue the
18 rollover from the existing network to the Dish
19 new network.

20 MR. BATTISTA: Okay. Thank you.

21 THE CHAIRPERSON: Are there any other
22 questions of the Board?

23 Okay. We are going to open this up to
24 public comment. Is there anyone here to comment
25 on 5833, 330 Riverdale Avenue?

1 PUBLIC SPEAKER ARMSTRONG: Philip
2 Armstrong. 50 Landscape Avenue, Yonkers, New
3 York. I have a little difficulty understanding
4 this. They said they're going to a bolt these
5 to the side of the building? If I remember the
6 building on Randolph Street, they were put on
7 the roof. And they were also then brought back
8 from the line of sight of the roof. Is that
9 what we're saying we're going to do here? Or
10 are we going to put something out onto the side
11 of this new building that's going put up and
12 then sort of painted to look like it as long as
13 the paint holds up?

14 THE CHAIRPERSON: Yeah, you can answer.

15 MR. MAHALEK: Thank you, Madam Chair.

16 So in past applications before this
17 Board, for example at 26 Randolph, we did
18 explore the request of the City be flush
19 mounting and painting to match. In certain
20 situations that worked or didn't work based on
21 the structural capacities of the building. And
22 sometimes even where windows were on a building
23 and exposure limitations. In this scenario,
24 what is proposed here is the antennas will be
25 right flush up against the wall of the building

1 and then painted the same color of the building
2 so it blends in. And we did provide photo
3 simulations as part of that package to
4 illustrate that.

5 THE CHAIRPERSON: And weren't one of the
6 wires going to be on the protrusion on the roof
7 from the roof?

8 MR. MAHALEK: Yes, so the southern
9 antenna -- well, I'll take a step back. The
10 northern eastern antennas, those are going to be
11 on the tallest bulkhead. But the southern
12 exposure, that southern antenna is going to be
13 one step down lowering the height and further
14 reducing the visual impact.

15 THE CHAIRPERSON: So only the southern
16 antenna is going to be flush mounted to the side
17 of the building and painted to look like it.
18 The other one won't be visible by the street?

19 MR. MAHALEK: The northern and eastern
20 antennas will be flushed to the bulkhead.

21 THE CHAIRPERSON: Right. But that's not
22 visible from the street, right? Because it's on
23 the bulkhead. When we went, we walked it,
24 it's--

25 MR. MAHALEK: Correct. It is difficult

1 to see, it's in the middle of the building at
2 the very top.

3 THE CHAIRPERSON: Right.

4 MR. MAHALEK: Yup.

5 PUBLIC SPEAKER ARMSTRONG: You mean the
6 bulkhead of the tower for the elevators, is that
7 what you're saying? It's going to be bolted to
8 that?

9 MR. MAHALEK: The bulkhead of utility
10 elevator space, yes.

11 PUBLIC SPEAKER ARMSTRONG: Okay. But you
12 also said that there's an elevation behind it
13 where people, where you're trying to reach over
14 this elevation. So there are people who are
15 going to view this from the area around it that
16 can see the roof. I mean I live, you know, my
17 house, my living room is 190 feet. I'm near the
18 top of a hill. I can see all around my
19 neighborhood. So people that are living in the
20 area are going to see this. It's just going to
21 be if you're walking on the street, you're not
22 going to see it, but the neighbors are going to
23 see it.

24 MR. MAHALEK: Madam Chair, if I may.

25 THE CHAIRPERSON: Yup.

1 MR. MAHALEK: I can't promise that every
2 single perspective possible one might not see
3 this. But we do our best to minimize the visual
4 impact by flush mounting and by painting to
5 match. I will note that the Planning
6 memorandum, it said that the applicant did go to
7 the fullest extent possible to reduce the visual
8 impact so that these do not stand out. And we
9 do our best through what's available to us to
10 ensure that, that visual impact is minimized.

11 PUBLIC SPEAKER ARMSTRONG: If you go up
12 McLean Avenue over by, oh, what's the name of
13 the street, Intervale. On the side of the
14 building there, there's a whole array of
15 antennas on the building. And it's a real
16 eyesore in the area. So I just visually that's
17 what I see. When I hear bolting antennas to the
18 side of the building, again, I see -- you know,
19 if they were doing this on the east side of
20 Yonkers would they be permitted to do it? On
21 the west side I know it's a lower income area.
22 So we just have the same standards throughout
23 Yonkers that, that this is going to apply. You
24 know, that's all I ask for. Thank you.

25 THE CHAIRPERSON: Thank you. Is there

1 anyone else from the public to comment on this?

2 PUBLIC SPEAKER CARPENTER: Yes. James
3 carpenter. For the purposes of this discussion,
4 233 Woodworth Avenue. Is the Board or are any
5 of these gentlemen aware that 5G is not
6 compatible to human biology? Those are not my
7 statements. I don't have an electron microscope
8 in my basement, but Dr. Robert Malone did the
9 extensive studies on it.

10 MR. MAHALEK: (Indicated.)

11 PUBLIC SPEAKER CARPENTER: Can these
12 gentlemen answer that?

13 THE CHAIRPERSON: If you'd like too.

14 MR. MAHALEK: Madam Chair, I'd just like
15 to articulate for the record that we do comply
16 with all the requirements, the strict
17 requirements, created by the Federal government
18 for the roll out of 5G Network. In our
19 submission we did include what's called an RF
20 Exposure Report. Even if someone was standing
21 right in front of the antenna in a publicly
22 accessible area as noted in the submission,
23 we're at exposure of 3.74 percent of the 100
24 percent cap to your exposure limit. So we're
25 far below the Federal limitations for exposure.

1 Safety is at the top of our minds. Safety is
2 always at the top of our mind. And we
3 incorporate safety into the design here. And no
4 one will be standing right in front of these
5 antennas the way they're placed. One is located
6 midway up a wall and the other two are pointing
7 out towards the edge of the building. So it is
8 -- no one is going to come outside the bulkhead
9 and walk right in front of the antenna either.

10 THE CHAIRPERSON: Thank you.

11 PUBLIC SPEAKER CARPENTER: And just for
12 the record, I don't know if anyone in here can
13 answer this question, but is anyone aware of
14 where the 5G Network was originally launched?
15 I'll help you. The Wuhan Providence of China.
16 Coincidentally where apparently Corona Virus
17 emanated from. Just a comment. Thank you.

18 THE CHAIRPERSON: Thank you for your
19 comments.

20 Is there anyone else to speak on 330
21 Riverdale Avenue? Is see no one, We will close
22 the public hearing on that.

23 So, I'm going to make a motion to close
24 the public hearing. Ralph. Second. Harry.
25 Thank you. Public hearing on that is closed.

1 This is for Case 5833, Block: 157,
2 Lot: 10, 330 Riverdale. I make a motion that
3 the ZBA based upon its review of the completed
4 Environmental Assessment Form, the EAF, and the
5 supporting plans and materials adopts a negative
6 declaration for the proposed unlisted action.

7 May I have a motion on that?

8 MR. BATTISTA: Motion.

9 THE CHAIRPERSON: Thank you, Ralph. May
10 I have a second? Al. All in favor. Thank you,
11 Harry. Myself. Negative declaration passes. I
12 believe there's a decision on this, Harry.

13 MR. SINGH: Yes, ma'am.

14 The proposal by Dish to install three
15 antennas and accessory shown on the plans before
16 the Board satisfies the public necessity
17 standard applicable to the variances for public
18 utilities as it will provide safe, reliable and
19 adequate service to the residents, business
20 owners and first responders while minimizing any
21 impacts on the neighborhood by having the
22 antennas flush mounted to the upper portion of
23 the structure and painted to match the existing
24 structure, and involving no ground disturbance.
25 While the public necessity standard for

1 variances for utilities is a lesser burden than
 2 that applied under the traditional use variance
 3 analysis the following are noted:

4 Findings: At a meeting of the Zoning
 5 Board of Appeals on september 20, 2023, on the
 6 premises known as 330 Riverdale Avenue,
 7 Block: 157, Lot: 10, A zone. Based on facts,
 8 findings, information and testimony presented to
 9 this Board at a public hearing, site visits by
 10 Members of the Zoning Board of Appeal or
 11 otherwise obtained. In approving this variance
 12 the Zoning Board of Appeals has taken into
 13 consideration the benefit to the applicant
 14 against the detriment to the health, safety and
 15 welfare of the neighborhood and especially in
 16 making determination the Board has considered
 17 the following:

18 Number one, Whether the applicant cannot
 19 realize a reasonable return provided that the
 20 lack of return substantial as demonstrated by
 21 the competent financial evidence.

22 The applicant cannot realize a reasonable
 23 return without issuance of this variance, as
 24 there would be no other feasible alternative to
 25 providing an upgrade of the services to the

1 surrounding neighborhood other than through
2 seeking a use variance for this unique site. A
3 failure to complete this intended project would
4 result in the applicant not be able to remain
5 competitive through upgrading its services.

6 Number two, alleged hardship is unique
7 and does not apply to substantial portions of
8 the district or neighborhood.

9 The alleged hardship is unique and does
10 not apply to the substantial portion of the
11 neighborhood as the building's height and
12 location made the property unique and contribute
13 to the success of the applicant's intended
14 project. Given the height of the building, the
15 applicant would be able to install
16 telecommunication equipment that would upgrade
17 an existing network. Without the height of the
18 property, the applicant would need to seek other
19 means for a network upgrade.

20 Number three, if the requested variance
21 would alter the essential character of the
22 neighborhood.

23 The requested variance will not alter
24 essential character of the neighborhood as the
25 building size use and style will remain the

1 same. As per the evidence presented to the
2 Board at the opening hearing, the equipment to
3 be installed is minimally invasive to the
4 buildings skyline and does not excessively
5 protrude. In addition, the ZBA has put forth
6 conditions which require the applicant to paint
7 the communication equipment the same color as
8 the exterior of the building and that the
9 antennas be mounted flushed against the wall.

10 Number four, if alleged hardship is
11 self-created.

12 The location of this installation is
13 necessary in order to ensure reliable service
14 for residents of the City. If the Board were to
15 consider the hardship self-created, this is not
16 deciding factor when granting variances.

17 I make a motion to approve on the following
18 conditions:

19 Number one, the antennas has to be flush
20 mounted against the wall.

21 Number two, the top of the antennas will
22 not be higher than the top of the existing
23 bulkhead on the structure.

24 Number 3, the antennas and other respective
25 hardware associated with this case are to be

1 painted to match the color of the building's
2 exterior.

3 Number four, Repair the parapet cracks in
4 the vicinity of where the antennas are to be
5 installed.

6 Number five, wiring and/or cable trays
7 shall be reviewed by the Fire Department or
8 other relevant Department or Official as part of
9 the of review of the Building Permit to ensure
10 all point of the rooftop are accessible to
11 emergency responders. Step over trays or
12 similar will be provided as deemed necessary.

13 Number six, all health, safety, fire, and
14 environmental codes are to be adhered to at all
15 times.

16 Number seven, these conditions shall be
17 done at the expenses of the owner.

18 Number eight, this approval shall
19 immediately be rescinded shall the owner violate
20 any of the conditions. Thank you.

21 THE CHAIRPERSON: May I have a second.

22 MR. BATTISTA: Second.

23 THE CHAIRPERSON: Ralph. By name.

24 MR. BATTISTA: For the motion.

25 MR. VASSO: For the motion.

1 MR. SINGH: For the motion.

2 THE CHAIRPERSON: For the motion. The
3 motion passes 4, 3 absent. Thank you.

4 MR. MAHALEK: Madam Chair, Members of the
5 Board, Staff, thank you so much. Have a great
6 night.

7 THE CHAIRPERSON: The next item on the
8 agenda is item 5834, 444 Park Hill Avenue.

9 MR. DIBBINI: Good evening, Madam Chair
10 and Members of the Board. My name is James
11 Dibbini on behalf of the applicant Stephen
12 Johnson.

13 If I may proceed, the subject premises is
14 a two-family house located at 444 Park Hill
15 Avenue. It was built in 1924. Premises is
16 located where Park Hill intersects with McLean
17 Avenue and is located in a District T, which
18 permits two-family dwellings. The applicant
19 seeks to legalize a two-car driveway that was
20 built in front of the house. Under the current
21 code, no parking is permitted in front of the
22 house. Many of the houses to the immediate
23 north of the premises have installed parking
24 spaces in front of the house as well. The
25 benefits to the applicant as well as all the

1 neighbors is clear. It allows the property
2 owners to get their cars off the very busy road
3 and enhance the safety and security of the
4 residents' health and property. Additionally,
5 the applicant provides a much needed service to
6 the local community in that he operates a New
7 York State licensed group family, family day
8 care since 2021 caring for children while
9 parents are working during the day. We have
10 provided a copy of the New York State license
11 confirming this.

12 We have also provided 14 letters from
13 neighbors, the immediate neighbors in the area,
14 expressing their support for this application.

15 Point one, the benefit sought cannot be
16 achieved by any other means. The applicant has
17 literally no other means to accommodate
18 off-street parking for his family. The
19 applicant's vehicle has sustained damage
20 exceeding \$15,000 in 2022, from a hit-and-run
21 vehicle while parked on the street in front of
22 the premises. Additionally, the applicant is
23 trying to do his part in preserving the
24 environment and owns electric cars and the only
25 practical way to charge these cars is to use the

1 driveway in front of the house to plug the cars
2 in.

3 Point two, granting the variance will not
4 change the character of the neighborhood as the
5 changes are minor, minor, and fall right in line
6 with similar driveways as other houses on the
7 block.

8 Point three, the requested variance is
9 not substantial when viewed in the context of
10 the entire application as a whole. The
11 variances, if granted, will still leave
12 sufficient space for pedestrians to safely walk
13 on the sidewalk.

14 Point four, the variances will not
15 negatively impact the neighborhood as the
16 driveway's improvement is similar to neighboring
17 properties. Additionally, the application will
18 work with the City's Department of Public Works,
19 Traffic Engineering Department and other
20 departments as needed to relocate the fire
21 hydrant and a light post near the driveway and
22 will pay for those costs associated with the
23 relocation of these services.

24 Finally, point five, the applicant's
25 erroneous belief that since many of his

1 neighbors have similar front driveway
2 arrangements, that it was proper to do the same.
3 And it was not until after receiving a violation
4 from the City of Yonkers that the applicant
5 realized the issue and took immediate action and
6 retained an architect as well as our firm to
7 work to resolve the violation and be in
8 compliance with the City's regulations.

9 At this time, I'll be happy to answer any
10 questions the Board may have.

11 THE CHAIRPERSON: I think this is a
12 popular cause this evening, Mr. Dibbini.

13 MR. DIBBINI: I noticed.

14 THE CHAIRPERSON: And we've asked all the
15 questions that pertain to it.

16 Is there any public comment on 444 Park
17 Hill Avenue?

18 Mr. Dibbini, can you set up a site visit?
19 I think we're good here.

20 MR. DIBBINI: Of course. Thank you very
21 much. Have a good evening, all.

22 THE CHAIRPERSON: Thank you.

23 Case 5836, 47 High street aka 102 Park
24 Avenue.

25 MR. MASTROGIACOMO: Good evening, Michael

1 Mastrogiacomo, engineer of the project. We are
2 here tonight to request an area variance, six
3 area variances and one use variance. The
4 property currently has a use variance that was
5 granted in 1993 for the establishment of the
6 medical facility. We are proposing to expand it
7 because of the needs of the community that the
8 physicians take care of. And then we have a six
9 area variances, lot area and lot width, front
10 and side front, all of which were pre-existing
11 conditions. We are requesting a building height
12 variance of an additional 18 inches in order to
13 create the third story. And with regards to the
14 parking, we have an agreement with the
15 Portuguese American Club across the street where
16 we can obtain the required 14 parking spaces.

17 THE CHAIRPERSON: Did you provide
18 principal points?

19 MR. MASTROGIACOMO: Yes, that was
20 provided in the submission package.

21 THE CHAIRPERSON: Is there an economic
22 study for the use variance?

23 MR. MASTROGIACOMO: Again, the use
24 variance was granted. We're just -- we need to
25 increase it because of the demand of the

1 community. Especially during COVID, during
2 COVID the facility was able to take care of
3 pretty much everybody in the neighborhood with,
4 you know, vaccines and care. And the facility's
5 at a point where it needs more room in order to
6 take care of the needs.

7 THE CHAIRPERSON: So your contention is
8 you already have use a variance you're just
9 amending it?

10 MR. MASTROGIACOMO: Correct.

11 THE CHAIRPERSON: Are there questions
12 from the Board?

13 MR. VASSO: What's the proposed location
14 for when you do the construction for the
15 equipment, whatever construction equipment you
16 need?

17 MR. MASTROGIACOMO: So since the facility
18 is there, we're building right on top. A lot of
19 material will be brought in before or after
20 business hours. And they will be brought up,
21 you know, they'll be brought up right onto the
22 roof where the work is being done. So as far as
23 disturbance to the facility while they're doing
24 the work is very minimal.

25 MR. VASSO: Okay. Thank you.

1 THE CHAIRPERSON: Is there an elevator in
2 the building?

3 MR. MASTROGIACOMO: Yes, there is an
4 elevator in the building.

5 MR. BATTISTA: Will the elevator be going
6 to the third floor as well?

7 MR. MASTROGIACOMO: Yes, it will be
8 increased to go to the third floor as well.

9 THE CHAIRPERSON: Are there any questions
10 of the Board?

11 Are there any public comments on 47 High
12 Street aka 102 Park Avenue, Case 5836? Okay.

13 For 5836, for Case Number 5836,
14 Block: 2167, Lot: 1.3, Zone MG, 47 High Street
15 aka 102 Park Avenue.

16 I make a motion that the ZBA pursuant to
17 the New York State Environmental Quality Review
18 Act declares its intention to seek Lead Agency
19 status for purposes of environmental review of
20 this matter and directs the Planning Director on
21 behalf of this Board to initiate Lead Agency
22 notification and coordinated review with all
23 other involved agencies in this action. If no
24 other involved agency seeks to be Lead Agency
25 within 30 days of the effective date of notice,

1 the ZBA shall assume Lead Agency status for
2 purposes of review of this matter.

3 Do I have a second?

4 MR. BATTISTA: Second.

5 THE CHAIRPERSON: Thank you, Ralph. By
6 name.

7 MR. BATTISTA: For the motion.

8 MR. VASSO: For the motion.

9 MR. SINGH: For the motion.

10 THE CHAIRPERSON: For the motion, the
11 motion passes 4, 3 absent.

12 Okay. We would like to have a site
13 visit, can you please contact Shannon in the
14 Building Department and set that up for us.

15 MR. MASTROGIACOMO: Sure, we'll do that.

16 THE CHAIRPERSON: Thank you.

17 MR. MASTROGIACOMO: Thank you, very much
18 have a great night.

19 THE CHAIRPERSON: You too.

20 Next case is 5837, 1051 Yonkers Avenue.

21 MR. FERNANDEZ: Good evening, Madam
22 Chairperson, Members of the Board, and City
23 Staff. My name is Joe Fernandez. I'm the
24 architect for the project and we're before the
25 Board this evening for a use variance of 1051

1 Yonkers Avenue which is a Sunoco Gas Station and
2 convenience store. We're proposing installation
3 of four self-service washing car washing
4 machines and four vacuums for interior car
5 cleanups. This property is located in the B
6 zone at the corner of Kimball and Yonkers Avenue
7 and that prohibits auto washes in that zone.

8 The proposed area which is within the
9 site and in the corner of the lot of the area
10 will have a roofed over section to protect any
11 over spray from washing of vehicles. And will
12 be in full compliance with Yonkers Code Section
13 43-38(h) subchapter 2.

14 We've also redesigned the existing
15 parking area and increased the potential parking
16 by one car with some rearrangements. And the
17 parking area along the western end of the
18 property shall be utilized as parking and double
19 up as the self car wash area. And spaces are
20 going to be utilized on a first come, first
21 serve basis.

22 We're seeking a variance for the use of
23 this equipment to supplement the income for this
24 property. And we understand that the Board's
25 criteria for approval for a use variance where

1 the applicant can't realize a reasonable return,
2 provide the lack of a return is substantial and
3 demonstrate by competent financial evidence.
4 Well, this property has been operating below a
5 reasonable rate of return in today's market.
6 The property was purchased back in 2004 for
7 approximately 900,000. And which at the time
8 was a defunct non-operating gas station.

9 My client was denied approval for various
10 reasons for years and ultimately obtained
11 approval and commenced work and efforts in 2014.
12 And the site opened in 2016. So there's quite a
13 lapse there. And during that interim period of
14 2004 through 2016, my client spent approximately
15 \$30,000 a year on property taxes and insurance
16 and some upkeep costs. And to obtain the
17 approvals an additional 200,000 in soft costs
18 related to the plan approvals, an additional one
19 and-a-half million in hard construction costs
20 for nearly a three-million-dollar investment.

21 Given the time from the initial purchase,
22 capital expenditures and rising costs to operate
23 today's inflationary cost period, the total
24 annualized return for the property is well below
25 the current market rates and a negative real

1 economy return on this property.

2 This project will enable my client to
3 create a new profitable revenue stream that will
4 also generate indirect benefits for other
5 existing lines of his businesses; the gas and
6 the convenience store sales.

7 Point two, which is the alleged hardship
8 related to the property in question is unique.
9 It doesn't apply to the substantial portion of
10 the district or neighborhood. While these
11 factors were stated and they're unique to the
12 purchase and redevelopment of this property
13 which occurred over a 12-year span. Overall,
14 flat sales, rising operating cost and emerging
15 growth of electric vehicles, necessitated the
16 need to create this new business line that can
17 serve the community and existing patrons of the
18 area.

19 Point three, the requested use variance,
20 if granted, will not alter the essential
21 character of the neighborhood. In designing
22 these plans, we were careful to create as little
23 change as possible, both visually and
24 aesthetically. Our plans only require a slight
25 modification of the existing parking layout.

1 And the plans do not alter any views or any
2 obstruction for any of the surrounding
3 businesses or residents. In addition, the
4 modifications will increase 30 to 50 percent
5 increase in employment opportunities for that
6 said business.

7 The requested variance is natural
8 accessory use to this already operating gas
9 station in these changing times. As cars become
10 increasingly electric, it will be important to
11 find ways to service owners of such vehicles in
12 ways beyond gasoline.

13 There is no other self hand car wash
14 options in this part of Yonkers. And the
15 patrons' demands for this type of operation is
16 ever increasing.

17 Point four, the alleged hardship has not
18 been self-created. The hardship was not
19 self-created; however by the realities of
20 evolving current businesses, environment as
21 outlined previously, this use variance, if
22 granted, will be a meaningful to create a new
23 business opportunity, additional employment, and
24 meet the current patrons' demands. This being
25 done in a way that doesn't alter the essential

1 character of the neighborhood and that's evolved
2 over time and allows this business to serve the
3 local community with the service it requires.

4 At this time, I'd welcome any questions
5 the Board might have. And I also have, which I
6 guess I can bring to Shannon, some forms of
7 service that I need to submit.

8 THE CHAIRPERSON: You can just scan them
9 and send them to her.

10 MR. FERNANDEZ: Great.

11 MR. BATTISTA: I have some questions.

12 THE CHAIRPERSON: Yes, by all means.
13 Lead the charge.

14 MR. BATTISTA: So essentially you're
15 taking six parking spots that people use now to
16 currently go into the convenience store of the
17 gas station and those will be gone and used for
18 car washing. Which would leave you with one
19 handicap space and one regular parking space.

20 MR. FERNANDEZ: So the spots will not be
21 dedicated for either car wash or convenience, it
22 would be used for both. And the spots that are
23 there currently, those six spots are being
24 increased to eight spots with the rearrangement
25 of the dumpster layout.

1 MR. BATTISTA: So if I have eight people
2 are washing their cars, which would be a good
3 thing, would be good for the owner, and I come
4 in and I want to go into the convenience store,
5 I'm just going to wait, what, where am I going
6 to park?

7 MR. FERNANDEZ: Some people are at the
8 pumps and they leave their cars there. I mean,
9 it's, you know.

10 MR. BATTISTA: How long does someone
11 usually take to wash a car? Are they there 30
12 minutes?

13 MR. FERNANDEZ: No, so, these wash cycles
14 are five minutes. So, the machine essentially
15 you feed in a token and it gives you five
16 minutes. And it's a combination of water, soap,
17 you know, the whole cycle. So, essentially
18 someone could wash their car in five minutes, in
19 as little as five minutes, or, you know, they
20 might do another cycle.

21 THE CHAIRPERSON: What about queuing for
22 sort of on Mr. Battista's point, what about
23 people who are washing their car, people who are
24 going in, and then people who drive in and want
25 to wait for the next free space. Now, they're

1 queuing, and you're on the corner of Kimball and
 2 Yonkers Avenue.

3 MR. FERNANDEZ: Right. The spots that
 4 are there historically, I mean they meet the --
 5 they actually exceed the code requirements
 6 because they had one less spot prior to our
 7 application. So we've actually created a spot;
 8 however, you know, it's all based on the
 9 convenience store, essentially, the retail
 10 establishment. You know. One per 200, I
 11 believe, square feet.

12 MR. BATTISTA: What would be the times of
 13 operation, right? Because there's going to be
 14 vacuums there, this will generate noise. What
 15 would be the time of operation for it?

16 MR. FERNANDEZ: So it would be, you know,
 17 7 to 5, I think it is, or 7 to 6. Something
 18 like that. So normal.

19 MR. BATTISTA: I think we need a
 20 defined--

21 MR. FERNANDEZ: Okay.

22 MR. BATTISTA: -- hours of operation.

23 MR. FERNANDEZ: I know that the station
 24 is open later. But I think that they were going
 25 to limit when this could be used obviously, so.

1 MR. BATTISTA: Okay.

2 THE CHAIRPERSON: Are there any other
3 questions from the Board?

4 Okay. We are opening this up for public
5 comment. Is there anyone from the public to
6 comment on 5837? Okay. Approach one at a time
7 please and introduce yourself.

8 PUBLIC SPEAKER LONGARZO: Good evening,
9 my name is Jerry Longarzo. I speak for the
10 Hyatt Association of Southeast Yonkers regarding
11 this matter. We are opposed to the granting of
12 this variance. The intersection of Yonkers and
13 Kimball Avenues at present is highly trafficked.
14 Cars coming off the Bronx River Road, cars
15 coming down from Cross County, across there from
16 the Thruway, up Kimball Avenue itself. We
17 perceive that this, in fact, these stations
18 would as exacerbate congestion at that, at that
19 intersection. What does that translate? More
20 air pollution, more noise pollution, undermining
21 the quality of life for all those who live and
22 work in the area.

23 Number one, and there is another cogent
24 concern. Fire station 13 is mere yards away
25 from that intersection. If you have increased

1 congestion, the probability of a response time
2 from Fire Station 13 increases. So we're
3 talking here we should not displace the
4 priorities of community quality of life and
5 public safety for the -- in order to accommodate
6 the desire of a business owner to broaden their
7 bottom line.

8 In short, in conclusion we are opposed
9 not 100 percent, but 1,000 percent to the
10 granting of this variance. And in conclusion, I
11 just want to say thank you to all of you for the
12 time and effort that you dedicate in service to
13 our City. Thank you.

14 THE CHAIRPERSON: Okay. Thank you, sir.

15 PUBLIC SPEAKER TUBIOLO: My name is
16 Justin Tubiolo. I reside at 25 Churchill
17 Avenue. And thank you for your question. I
18 have some concerns. Number one, the noise of
19 the machines and the pounding of the water onto
20 the cars. Keep in mind there's residential
21 homes on Ridgewood and on Kimball Avenue. Who
22 will monitor that noise? Who will be
23 responsible for that? The convenience store is
24 there. And right now, ladies and gentlemen,
25 there's a flow of traffic, which is a good flow.

1 The right side you enter. The left side you
2 exit. If that, that machine or those machines
3 are to the left side of the building, then does
4 that go against traffic? People who want to
5 wash their cars then do not follow the flow.
6 And by the way, the flow is not as it sounds.
7 There are cars that are stopped, go to the
8 convenience store and there's a backup. Then
9 how do they get in to wash their cars? Through
10 the back. So therefore the exit becomes the
11 entrance and the exit -- the exit becomes the
12 entrance and entrance becomes the exit. It's
13 turned around.

14 There is a church that abuts the
15 property. And will the machines be silent on
16 Sunday when services are being done? There is
17 safety, as one of my colleagues said. With so
18 much traffic on Yonkers and Kimball Avenue,
19 there is a lot of concern with traffic.

20 Lastly, we understand that every
21 businessman has to make a living. We appreciate
22 that. Okay? And that's important. But not to
23 detriment of the people within the community and
24 the danger of traffic. I thank you very much
25 for your time.

1 THE CHAIRPERSON: Thank you for your
2 comments.

3 PUBLIC SPEAKER VOLINO: My name is Ronald
4 Volino. And I've lived a few doors down from
5 this business all my life. I'm also a member of
6 the Hyatt Association. I am objecting to this
7 application for the following reasons: First,
8 this equipment will leave the site without
9 enough parking. A variance was needed for there
10 to be a convenience store at this location. The
11 variance was approved based on the owner having
12 sufficient parking. This change would cause
13 fewer parking spaces to be available. I see,
14 and you can pass there and I pass by there many
15 times, because I live there. And there are
16 parking spaces mapped out there, six or seven
17 spaces. I think they're for the parking for the
18 employees. But where are these cars going to go
19 when you have this, when you have this
20 operation?

21 If there was -- if there is not enough
22 parking, customers that go into the store may be
23 forced to remain parked at the pumps causing a
24 line of cars that could spill out into the
25 street. I'm also concerned about noise level.

1 These machines are noisy and the site is
2 immediately adjacent to residential homes and on
3 a second story next door there is a church which
4 holds services on Sunday from 10 to 3 p.m. And
5 children and young adults hold various
6 activities during the week, during these
7 weekdays. For these reasons I object to this
8 application and ask that you deny it.

9 Thank you very much for hearing me.

10 THE CHAIRPERSON: Thank you.

11 Is there anyone else to speak on this?

12 Mr. Fernandez, you're going to set up a
13 site visit with the Board. Talk to Shannon.

14 MR. FERNANDEZ: Sure.

15 THE CHAIRPERSON: This is case 5837,
16 Block: 6328, Lot: 49.54, Zone B, 1051 Yonkers
17 Avenue. I make a motion that the ZBA pursuant
18 to the New York State Environmental Quality
19 Review Act declares its intention to seek Lead
20 Agency status for purposes of the environmental
21 review of this matter. And directs the Planning
22 Director on behalf of the Board to initiate Lead
23 Agency notification and coordinated review with
24 all other involved agencies in this action. If
25 no other involved agency seeks to be Lead Agency

1 within 30 days of effective date of notice, the
2 ZBA shall assume Lead Agency status for purposes
3 of review of this matter. May I have a second?

4 MR. BATTISTA: Second.

5 THE CHAIRPERSON: Thank you, Ralph. By
6 name.

7 MR. BATTISTA: For the motion.

8 MR. VASSO: Al Vasso for the motion.

9 MR. SINGH: For the motion.

10 THE CHAIRPERSON: For the motion. The
11 motion passes 4, 3 absent.

12 Thank you, Mr. Fernandez. We'll see you
13 at the site visit.

14 MR. FERNANDEZ: Thank you so you much.
15 Good evening.

16 THE CHAIRPERSON: Okay. The next one is
17 5838, 222 Lake Avenue.

18 MR. BADALY: Good evening, my name is
19 Shahin Badaly. 2 Wilson Place, Mount Vernon,
20 New York 10550, excuse me, representing the
21 applicant 222 Lake Partners.

22 So we have before you the application for
23 a use variance for a proposed eating and
24 drinking establishment on the second floor of
25 222 Lake Avenue. That's the corner building at

1 Lake Avenue and Nepperhan Avenue also part of
2 the Carpet Mills. It's located within the A and
3 I district which limits the use of certain
4 establishments such as an eating and drinking
5 establishment to the ground floor. We are here
6 seeking that variance because we are proposing
7 this establishment on the second floor.

8 We've provided several documents
9 including a statement of points as well as more
10 recently an additional statement just clarifying
11 some of the financial evidence. I did also
12 receive a copy of the Planning Bureau report.
13 And I do understand the request for additional
14 evidence and we will be immediately producing
15 that.

16 Just to give a brief rundown. That the
17 applicant has an, has an acquisition cost of
18 around 2.66 million dollars. Has invested
19 around ten million dollars in hard construction
20 cost with another, approximately, two to three
21 million dollars in soft cost and they're at
22 about a 16-million-dollar investment in the
23 building.

24 The building did also experience quite a
25 severe fire several years ago during the

1 ownership. And that did attribute somewhat to
2 the losses both in construction costs and the
3 time. Due to that substantial investment made,
4 in order to recoup and make the building
5 financially viable, the applicant is projecting
6 that they do need a yearly rent roll of
7 approximately 1.2 million dollars. Based off of
8 the square footage of the building, that gives
9 them a rent roll rate of about \$25 a square
10 foot. And the permitted industrial uses won't
11 get to that rate where they can make this
12 building viable. And that's the basis of our
13 argument and will be submitting additional
14 information to discuss that.

15 THE CHAIRPERSON: So, Mr. Badaly, do you
16 know if the applicant will be applying to the
17 IDA benefits that's going to impact Lead Agency.

18 MR. BADALY: Yes, the applicant currently
19 has a tax abatement from the IDA. They will not
20 be seeking any other benefits, not for this
21 application nor do they have the interest right
22 now to seek any other benefits.

23 I also want to mention that the building
24 is, excuse me, currently very significantly
25 rehabilitated. If the Board sees fit to do a

1 site visit, we would encourage it as the
2 building is in very good condition.

3 THE CHAIRPERSON: Yes, we'll need a site
4 visit. Please talk to Shannon about that.

5 MR. BADALY: Thank you.

6 THE CHAIRPERSON: Mr. Battista.

7 MR. BATTISTA: So if you're going to put
8 a restaurant on the second floor, right, how
9 many stories is the building?

10 MR. BADALY: It's four. Well, there's a
11 basement too so it's really five.

12 MR. BATTISTA: So as far as like, you
13 know, duct work for fans and things like that,
14 is that going to be run internally or on the
15 outside of the building?

16 MR. BADALY: That's a great question.
17 All the mechanical systems in the building are
18 currently installed today. So they can -- if
19 we're looking at -- I'm not sure how familiar
20 the Board is with the building, but there's a
21 big parking lot in the back that connects all of
22 the Carpet Mill buildings. From that parking
23 lot, not from the street, you can see on the
24 second floor there is a lower roof where an
25 enclosure was built. It is an screened

1 enclosure which contains the condenser units for
2 all of the building. So they do have some very
3 substantial condensers on the outside of the
4 building. They're not facing the street,
5 they're screened, and they're on the second
6 floor roof. And all of the duct work is
7 currently installed, all of the fresh air fans
8 are in, the ERV's are in. The entire fire alarm
9 system is in, the entire sprinkler system is in.
10 The building is really in almost completed
11 condition.

12 MR. VASSO: What's the capacity of the
13 restaurant?

14 MR. BADALY: I can get you the number
15 right now. We are limited based on the egress
16 capacity of the building. Based off the
17 staircase widths and the door widths, it is a
18 number that's a little bit lower than 300. I'm
19 going to give you the number right now.

20 I'm sorry, I misspoke. It's 339.

21 MR. VASSO: And parking for 339 guests?

22 MR. BATTISTA: Yeah.

23 MR. BADALY: Understood, yes.

24 MR. VASSO: Where is that going to be
25 located?

1 MR. BADALY: So there is the plan for the
2 ownership to have valet parking during any sort
3 of event or space. They are working as well
4 with securing parking from the building that's
5 across the street on Lake Avenue. I don't know
6 if an agreement is in place yet. But they have
7 worked with several buildings in the area to
8 secure parking lot spaces during after hours.

9 I do also want to mention that the large
10 majority of the businesses in the area, function
11 during regular business hours until about 5 p.m.
12 And whereas this business would only function
13 after those hours or on the weekend. And I know
14 that it's not very consequential in the
15 discussion but this zone actually does not
16 require parking. Again, I know it's not
17 consequential, but just a note to make.

18 MR. VASSO: So at 5 p.m. is when the
19 restaurant opens? Or is it --

20 MR. BADALY: So it wouldn't have a set
21 opening date every day. They don't plan on
22 opening every day. They would have certain
23 events and in those times, and most of the time,
24 it would be after five p.m.

25 MR. BATTISTA: So it more of a restaurant

1 or a catering space?

2 MR. BADALY: More of a catering space.

3 MR. BATTISTA: So I mean they're just --
4 while I understand there might not be a need for
5 parking, 339 people, there is, there is
6 definitely nowhere to park on that street. Your
7 neighbors are a bus depot and a, you know,
8 there's, your neighbors don't have much parking
9 either available after 5 p.m. So, parking is
10 definitely a concern for a restaurant. And
11 valet parking on a -- valet parking will be done
12 on Nepperhan or on Lake?

13 MR. BADALY: It would most likely be done
14 on the site. There is significant space on the
15 site with -- as well as areas that have
16 easements to access it. And I would, since we
17 do need to come back, can compile a list of the
18 areas that we would suggest for that overflow
19 parking.

20 MR. BATTISTA: So you're saying if I was
21 to come to the restaurant, I would enter the
22 parking lot on Lake Avenue and then come down
23 and inside?

24 MR. BADALY: I believe that's the plan.
25 I will draft a narrative as to how the parking

1 will be handled.

2 MR. BATTISTA: Okay. Thank you.

3 MR. BADALY: Thank you. And for
4 clarification, there's access to this site both
5 from Lake Avenue, but also from Saw Mill River
6 Road also has an easement driveway that leads
7 it.

8 MR. VASSO: And you said the restaurant
9 is handicapped accessible?

10 MR. BADALY: Correct. So actually one
11 item that's not finished is the elevator.
12 That's currently -- the cab is being built now.
13 So if you do go out to the site visit, you'll
14 see that. But the building will be fully
15 accessible, the space will be fully accessible,
16 the bathrooms that were built there are
17 accessible as well.

18 MR. VASSO: And there's currently a
19 brewery, what is it a microbrewery?

20 MR. BADALY: Correct. So on the first
21 floor is Simple Motive Brewery so that's the, if
22 we're looking at the front of the building on
23 the left half of the building is a microbrewery,
24 which does have a tasting room and then the main
25 space is really the brewing. The basement is

1 all storage. The right-hand side of that first
2 floor is also going to be eating and drinking
3 establishment. It's a restaurant that produces
4 pre-made meals which are cooked in high end
5 restaurants, delivered to the space, then heated
6 up in a speed oven and served to customers. So
7 it's not a traditional restaurant in the sense,
8 but it's definitely a eating and drinking
9 establishment. The fourth floor is a commercial
10 school. The third floor is currently vacant.

11 THE CHAIRPERSON: Thank you, Mr. Badaly.
12 Is there anyone from the public here to
13 address 5838, 222 Lake Avenue?

14 PUBLIC SPEAKER ARMSTRONG: Philip
15 Armstrong. 50 Landscape Avenue, Yonkers, New
16 York. Just looking up on the Yonkers online
17 Property Viewer, I see that this establishment
18 or this building pays approximately \$2,600 a
19 year in both County and City taxes. That's even
20 less than half the school tax I pay on my
21 property. If we do give them the ability to
22 increase their profits, somehow the City of
23 Yonkers should get some of that back. I know
24 the IDA has given it but it's a two-way street
25 and I'd rather not find with, that my property

1 tax or my school taxes keep going up every year.
2 And the only to do that is to somehow recoup
3 some of these benefits we've given to all those
4 businesses over the years now that we're no
5 longer in dire straits. Thank you.

6 THE CHAIRPERSON: Thank you for your
7 comments. Is there anyone else?

8 MR. BADALY: If I may have add a brief
9 comment?

10 THE CHAIRPERSON: Sure, Mr. Badaly.

11 MR. BADALY: It is the applicant's belief
12 that a significant amount of sales tax revenue
13 would be added to the City by allowing this use.
14 And so perhaps that could mitigate that loss
15 from the abatement.

16 THE CHAIRPERSON: Thank you.

17 There's no one else. This is Case 5838
18 Block: 2179 -- all right. That's good.

19 Mr. Badaly, thank you. Please set up a
20 site visit.

21 MR. BADALY: May I ask one point of the
22 clarification? Would the Board consider
23 declaring Lead Agency tonight?

24 THE CHAIRPERSON: So that's what we were
25 just discussing.

1 MR. BADALY: Got it.

2 MS. KRAVITZ: If you're not seeking
3 review of said IDA --

4 MR. BADALY: Right.

5 MS. KRAVITZ: -- and it's an internal
6 renovation, there's no -- it's our understanding
7 that there would be no need for coordinated
8 review requiring us to seek Lead Agency.

9 MR. BADALY: Fantastic. Thank you for
10 that clarification. Take care.

11 THE CHAIRPERSON: Thank you.

12 Next case is 5839, 743 Central Park
13 Avenue.

14 MS. MOTEL: Good evening, Members of the
15 Zoning Board of Appeals. Kristen Motel, I'm a
16 partner with the Law Firm of Cuddy and Feder on
17 behalf of the applicant ASkone, LLC. Here
18 tonight are Adam and Josh Raskin, the owners of
19 ASkone. Nick Girardi, a partner. DTS Provident
20 has Steve Tarabokija. They're the traffic and
21 parking engineers for the project. Ruben Lindo
22 from GridIron Management is the industry
23 consultant and my partner William Null is here
24 as well.

25 The property is classified in the BR

1 district along the one-way portion of southbound
2 Central Park Avenue. And these area variances
3 are requested for parking lot improvements that
4 are in further of the proposal to reoccupy the
5 existing vacant site and reuse the existing
6 one-story building that you see in this photo.

7 The proposed reuse is a retail cannabis
8 dispensary. The building was previously
9 occupied as a US Army recruiting office. So it
10 was an office used and it's been long since
11 vacant. There are no changes to the existing
12 building footprint; however, the existing
13 parking area is legally -- was legally
14 non-conforming with the office use. It has
15 virtually no rear yard and no side yard on one
16 side. It's irregularly shaped and substandard
17 due to takings for the expansion of Central Park
18 Avenue. It also doesn't comply with parking
19 setbacks and drive aisle requirements currently.

20 While there are no changes to the
21 existing building itself, and the proposed
22 retail use is going to be contained within the
23 building, new landscaping is proposed. This
24 rendering demonstrates some of that as well as
25 new lighting. And the improvements to the

1 parking area that the applicant is proposing are
2 significant. They are proposing to increase the
3 number of parking spaces on site. They're going
4 to provide 12 spaces which are 11 regular spaces
5 and one ADA space. Currently there are only
6 eight parking spaces on site none of which are
7 ADA accessible.

8 They're going to accomplish that, because
9 the owner has acquired half of the northern
10 portion of the undedicated, unused paver street
11 known as McMahon Avenue which borders the
12 southern property line.

13 The existing single two-way driveway is
14 going to actually be split into a separate
15 entrance and exit driveway. Designed in a way
16 to allow a meaningful retail use of that
17 property. And improve the traffic flow and
18 configuration on site.

19 Notably the requested area variances here
20 would be required for any retail reuse of the
21 site. Since it was formerly office and we did
22 provide some documentation that while unrelated
23 area variances were previously granted decades
24 ago for this property, at the time it was still
25 an office use so the Zoning Board noted that the

1 parking was existing non-conforming, but there
2 were no variances required to -- at that time
3 because no changes were proposed to the parking
4 area. Now, because of a change of use to
5 retail, the variances are required and as I
6 mentioned, there are significant improvements.
7 And that the retail business will also generate
8 significant rateables for the City as well as
9 the additional three percent that the State law
10 requires on cannabis sales.

11 There were numerous letters of support
12 that were submitted. They were provided earlier
13 this week to the Board. We also have copies
14 with us tonight.

15 And we can go into the operations of the
16 store a little bit further if there are
17 questions. The hours proposed are about 10 a.m.
18 to 8 p.m., seven days a week. And they're going
19 to have a delivery and pickup service to kind of
20 curb traffic flow.

21 And I think at this time Josh Raskin
22 would like to address the Board and then we can
23 walk through the plans that were submitted to
24 you all. Thank you.

25 MR. J. RASKIN: Good evening and thank

1 you for your time and the opportunity. My name
2 is Josh Raskin. And I'm just going to speak
3 very briefly on behalf of both my brother and
4 myself. Adam and I are the two managers of
5 ASkone, LLC. and the lessee on the subject
6 property. We, the two of us, are jointly
7 applying for a cannabis license in New York
8 State to be operated at that property.

9 So first I just want to give very brief
10 introductions to the two of us. I'm 52 years
11 old. I'm a practicing attorney with the Law
12 Firm of Greenberg Traurig. We have offices
13 throughout the United States including here in
14 Westchester County. I've been practicing law
15 for about 27 years specializing in intellectual
16 property law.

17 My brother sitting to my left is 45 years
18 old. He's the young one in the family. He's a
19 certified public accountant. He's been working
20 as an accountant for a long time throughout his
21 career. He's been at various companies
22 including Deloitte, AIG, and most recently
23 GoldenTree Asset Management. And while we both
24 have enjoyed successful careers in these chosen
25 fields, it's always been our dream to own our

1 own business and in particular to own our own
2 business together. So when the State of New
3 York legalized cannabis, the idea of opening a
4 retail dispensary in our home county here in
5 Westchester seemed like the perfect opportunity.
6 Therefore promptly after the legalization, we
7 set out to make that dream a reality.

8 And now we're over two years later after
9 having this brilliant idea and we're on the cusp
10 of finally submitting our application to the
11 State in the coming days. We've invested
12 hundreds of thousands of dollars into this
13 endeavor. And are proud to say that from the
14 beginning we've done everything the right way.
15 And a big part of that was putting together this
16 amazing team that you see before you today.
17 Many of whom you'll hear from. But probably the
18 largest piece to this complicated puzzle is the
19 location we were lucky enough to find that you
20 see here on this board here in Yonkers.

21 Adam and I grew up in Rockland County
22 which is right over the Tappan Zee Bridge, but
23 we both currently live here in Westchester
24 county. One of our team members Nick Girardi
25 grew up in Yonkers, went to high school here in

1 Yonkers. And for these reasons we feel we have
2 a very close connection the City and to the
3 community.

4 So we're fortunate enough to be both
5 awarded a license from the State to open a
6 dispensary and to obtain the approval from this
7 Board. We'll do everything in our power to
8 ensure that we have a positive impact on the
9 community. We are committed to making our store
10 safe, not only for our employees but for the
11 customers and the surrounding area. We're
12 committed to having a positive impact on the
13 community through charitable endeavors,
14 educational initiatives and job creation on the
15 job front. While we haven't started hiring
16 anyone yet, because we haven't gotten a license
17 yet, we're committed to attempting to hire as
18 many applicants from Yonkers as we possibly can.

19 On the charitable side we've partnered
20 with a foundation called the Center for
21 Community Alternatives, which is an organization
22 that supports and builds power with people
23 across New York State including here in
24 Westchester and Yonkers who have been affected
25 by mass incarceration, criminalization and

1 community investment.

2 We're more than happy to discuss the
3 specifics of any and all of these things with
4 you today and answer any questions that you
5 might have. But please rest assured that as we
6 continue down this path, we're going to always
7 do our best to do the right thing. Thank you
8 very much.

9 MS. MOTEL: Nick, can you walk through
10 the plans please.

11 MR. GIRARDI: Sure.

12 MS. MOTEL: Thank you.

13 MR. GIRARDI: Good evening. My name is
14 Nick Girardi. I'm 54 years old and I live in
15 Westchester County. I own NGI Development which
16 is Mount Vernon on MacQuesten Parkway. I grew
17 up in and was born and raised in Yonkers. I
18 went to PS 14, Mark Twain, Lincoln, and
19 eventually ended up in Manhattan College. So
20 when Josh and Adam approached me as being part
21 of this, I was so excited, especially when we
22 found a location. This is a rendering of what
23 the location is going to look like. It's gray
24 owl(ph), is the color of the paint. The windows
25 are all laminated. So you get a white film.

1 You won't be able see in, but you'll able to see
2 out. So, it'll let light into the place. We
3 were proposing two curb cuts. So you'd come in,
4 going southbound, and you'll exit southbound.
5 We plan on planting two trees dogwoods. We also
6 plan on all these boxwoods. Oh, I'm sorry. So
7 we plan on planting all these boxwoods, there
8 will be boxwoods against the building. And
9 there will be a tremendous amount of landscape.
10 And we'll also have a chain that will be up when
11 business isn't operating.

12 So this is the exterior site plan, which
13 shows the ADA parking. It also shows when
14 deliveries, where you would off-hour deliveries.
15 We would enter southbound, come across, and then
16 you would also exit southbound. So there's two
17 proposed curb cuts. There's an existing curb
18 cut right in the center, which will be removed
19 and two curb cuts will be added. And you can
20 see the area that was acquired by the landlord,
21 which gives us additional parking.

22 The entire space will be gutted. As of
23 right now it's just chopped up with a bunch of
24 little offices. And it will be, we will have an
25 entrance which will be a waiting area with a

1 reception area where people are ID'd and so
2 forth. There will be two ADA handicap
3 bathrooms. This will be the retail space, which
4 will have a counter where once the items are
5 purchased, they will be dispensed. The back
6 offices will only be accessed by the employees
7 and the owners, which also has a service
8 entrance. There will be polished concrete
9 floors. We still haven't determined if it's
10 going to be, like, how much woodwork. But we
11 plan on doing polished concrete floors, nice
12 wood stations. We might leave the exposed duct
13 work in the ceiling. So we get the height. And
14 this is the reflected ceiling plan.

15 As I mentioned earlier, this is the site
16 plan showing all the extensive landscaping we'll
17 be doing. We'll be landscaping the front of the
18 building, the entire area in front of the
19 parking lot except for where the exit and the
20 entrances are.

21 MS. MOTEL: Thanks, Nick.

22 And, Steve, do you want to just go
23 through the parking improvements that are
24 proposed in detail and where the variances are
25 required.

1 MR. TARABOKIJA: Sure. Good evening, my
2 name is Steve Tarabokija spelled
3 T-a-r-a-b-o-k-i-j-a. I'm an engineer with DTS
4 Provident Design Engineers located at One North
5 Broadway in White Plains. We're the traffic and
6 parking consultants on this project.

7 And I think Kristen and Nick probably
8 covered most of it, but as they mentioned the
9 site currently has a single point of access
10 right around the middle of the property, which
11 allows entering and exiting traffic into the
12 site. So we looked at that and we felt that,
13 that wasn't the most optimal layout for traffic
14 and parking circulation. So we did look at
15 splitting up the essential driveway into two
16 smaller curb cuts that are spaced as far apart
17 as we can get them based on this site. So that
18 it could provide a one-way flow into and out of
19 the site. You could enter into the site at a
20 faster speed because of the angle of the
21 driveway is not 90 degrees, like it is today.
22 Same as exiting out onto Central Park Avenue,
23 you can get out onto the roadway a little bit
24 quicker.

25 In terms of the parking as Kristen

1 mentioned it currently has eight parking spaces
2 which are not really striped, the striping is
3 mostly gone. It doesn't have the provision for
4 an ADA space. We are increasing the parking,
5 we'll be striping it to better delineate the
6 spaces as well as providing an ADA accessible
7 space at the front of the building.

8 MS. MOTEL: Right. Right. The location
9 of the parking spaces is, is what's requiring
10 the variances here which are, you know, still in
11 the same location today and they've been
12 historically in the same location.

13 MR. NULL: The entire area around the
14 building is paved right now. So, while, while
15 we're putting parking in the front yard
16 effectively parking is in the front yard in any
17 event. And the best location for the ADA space
18 is in the front yard, most proximate to the
19 entrance to the store. So, that's why we
20 decided to put it there out of the way of the
21 driveway itself. And as it's been said the
22 acquisition of the half width of the paver
23 street, gave us additional area to be able to
24 provide the required parking spaces.

25 THE CHAIRPERSON: Okay.

1 MR. NULL: But the parking in the side
2 yard, the only place to put parking is either in
3 the front yard or the side yard on the site.
4 There's no other option.

5 MR. TARABOKIJA: I just want to add to
6 that, we put together this, this exhibit here,
7 which actually lays out all of the zoning
8 regulations in terms of parking, so, front yard
9 setback, side yard setback, building setback.
10 And once we've thrown all those setbacks in
11 there, the only areas available for parking are
12 this, is this little green sliver here and this
13 one space here, so that is a reason we're coming
14 forward for these variances.

15 THE CHAIRPERSON: Are there any questions
16 from the Board?

17 MR. BATTISTA: I have a question.

18 THE CHAIRPERSON: Go ahead.

19 Mr. Battista, you're on a roll.

20 MR. BATTISTA: So where do you have
21 proposed garbage? There's no garbage on here.

22 MR. GIRARDI: We plan on storing the
23 garbage inside and cart it off site. So there
24 will be containers on-site.

25 MS. MOTEL: It'll all be internal to the

1 building.

2 MR. GIRARDI: Internal. Everything will
3 be internal.

4 MR. BATTISTA: So you're going to store
5 all your garbage inside and then you're going to
6 put it out on Tuesday --

7 MR. GIRARDI: No, we're not just going to
8 put it out, we'll cart it out at the end of the
9 day, so. Because whatever we produce, it's just
10 going to be cardboard and so forth.

11 MR. BATTISTA: Okay.

12 MR. GIRARDI: Yeah. And whatever
13 employee garbage gets produces during the day.
14 There is not much packaging that's required,
15 nothing like that.

16 MR. BATTISTA: Okay. And then I am
17 concerned, so you said, you know, you're
18 changing the entrance, right? So that you can
19 enter faster, right, with a speedier entrance?
20 You do that turn to get into that handicap spot,
21 is a pretty, pretty sharp turn. I don't feel
22 comfortable with a handicap spot there. I just
23 think it will be, you'll be coming in too fast,
24 and then you make that hard right and then if
25 someone is coming in fast and someone is backing

1 out of the handicap spot, I think it's.

2 MR. TARABOKIJA: Yeah, we would
3 anticipate someone pulling in and backing in for
4 the handicap sport.

5 MR. NULL: I think what was meant about
6 getting in quicker, is that you're not going to
7 have to going to slow down and almost to a stop
8 in a travel lane not that people will enter
9 fast.

10 MR. TARABOKIJA: That's exactly right.

11 MR. NULL: So that currently the
12 configuration of the driveway is virtually
13 perpendicular. And you have to slow down almost
14 to a stop in the travel lane. This enables you
15 to get off out of the travel lane as you slow
16 down to come into the parking lot.

17 MR. BATTISTA: Yup.

18 MR. TARABOKIJA: And the same with the
19 entrance back off to Central Park Avenue.

20 THE CHAIRPERSON: Any other questions? I
21 think we need a site visit, Ms. Motel.

22 MS. MOTEL: Yes. We'll call Shannon and
23 schedule that.

24 THE CHAIRPERSON: Thank you.

25 MR. BATTISTA: A lot of site visits.

1 THE CHAIRPERSON: Mr. Battista, any other
2 questions?

3 MR. BATTISTA: No, no, we have a lot of
4 site visits to do.

5 THE CHAIRPERSON: There are a lot of site
6 visits. Okay. This is case 5839, Block: 5081,
7 Lot: 21.32, 743 Central Park Avenue. I make a
8 motion that the ZBA pursuant to the New York
9 State Environmental Quality Review Act declares
10 its intention to seek Lead Agency status for
11 purposes of environmental review of this matter.
12 And directs the Planning Director on behalf the
13 Board to initiate Lead Agency notification and
14 coordinated review with all other involved
15 agencies in this action. If no other involved
16 agency seeks to be Lead Agency, within 30 days
17 of the effective date of notice, the ZBA shall
18 assume Lead Agency status for purposes of this
19 review of this matter. May I have a second?

20 MR. BATTISTA: Second.

21 THE CHAIRPERSON: Mr. Battista, thank you
22 so much.

23 MR. VASSO: Al Vasso for the motion.

24 MR. BATTISTA: For the motion.

25 MR. SINGH: For the motion.

1 THE CHAIRPERSON: For the motion. The
2 motion passes 4, 3 absent.

3 Is there any public comment on this?
4 This is 743 Central Park Avenue, Case 5839.

5 Okay. Thank you.

6 MR. NULL: Thank you very much for your
7 time and consideration.

8 THE CHAIRPERSON: Thank you very much.
9 This is the lightning round, people.

10 Case 5499, 10 Warwick Road, there was a
11 clarification on amend conditions statement,
12 right?

13 MR. BORELLI: Yes. For this case, the
14 original plans I guess this got written as
15 amended but they're not amended, they're going
16 back to the original plans that the Zoning Board
17 heard prior and was denied. So, there are no
18 amended condition to this, to this variance.

19 THE CHAIRPERSON: So you're attesting
20 that we should accept this as is?

21 MR. BORELLI: Yes.

22 THE CHAIRPERSON: Okay. May I have a
23 motion?

24 MR. BATTISTA: Motion.

25 THE CHAIRPERSON: Ralph, second. Al.

1 MR. SINGH: For the motion.

2 THE CHAIRPERSON: For the motion. Motion
3 passes 4, 3 absent 5499, 10 Warwick Road.

4 The next case is 165 North Broadway.
5 This was for correcting an approval. Does
6 anyone have the document? I'm not quite sure
7 what that pertains to. We are going to hold
8 over the North Broadway one. I'm not sure about
9 with the 5810 scoping session is because we just
10 did that.

11 Case 5765, 671 Yonkers Avenue is an
12 extension. Let's just extend it for one year
13 from today's date. May I have a motion?

14 MR. BATTISTA: Motion.

15 THE CHAIRPERSON: Thank you, Ralph.
16 Second. Harry. Al, in favor?

17 MR. VASSO: In favor.

18 THE CHAIRPERSON: For the motion.

19 MR. VASSO: For the motion.

20 THE CHAIRPERSON: Passes 4, 3 absent.

21 Next one 5775, 409 Warburton, also an
22 extension request for one year from today's
23 date. Motion.

24 MR. BATTISTA: Motion.

25 THE CHAIRPERSON: Thank you, Ralph.

1 Harry, second. For the motion.

2 MR. VASSO: For the motion.

3 THE CHAIRPERSON: Al, for the motion. 4,
4 3 absent.

5 The last one on this, 5527, 127 Ludlow,
6 extension request for one year from today's
7 date. May I have a motion?

8 MR. BATTISTA: Motion.

9 THE CHAIRPERSON: Thank you, Ralph.
10 Thank you, Harry, for second. Al.

11 MR. VASSO: For the motion.

12 THE CHAIRPERSON: Okay. I'm for the
13 motion. That's 4 and 3 absent.

14 The last one is not on here, but it's
15 5671, 425 Prescott Street. It was a request
16 that came in via email today for an amended to
17 the condition number two which required 24-hour
18 monitoring. So, I don't have any problem
19 amending the conditions of 24-hour monitoring.
20 They still need to be completely compliant with
21 all fire and whatever code. So do I have a
22 motion to approve that?

23 MR. BATTISTA: Motion to remove the
24 amendment.

25 THE CHAIRPERSON: Thank you, Ralph.

1 Second? Al, thank you. Harry.

2 MR. SINGH: For the motion.

3 THE CHAIRPERSON: I'm for the motion.

4 The motion passes 4, 3 absent, remove number
5 two.

6 Okay. May I have a motion to close the
7 meeting?

8 MR. BATTISTA: Motion to close.

9 THE CHAIRPERSON: Ralph.

10 MR. VASSO: Second.

11 THE CHAIRPERSON: Al, second.

12 MR. SINGH: For the motion.

13 THE CHAIRPERSON: Thank you, all.

14 (Time Noted: 9:09 p.m.)

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CERTIFICATION

STATE OF NEW YORK)
) ss.
COUNTY OF WESTCHESTER)

I, LYNNETTE MAZZA, 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 MAZZA,
COURT REPORTER

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