

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN :June 21, 2016
ZONING BOARD OF ADJUSTMENT : Tuesday, 7 p.m.
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Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Acting Chairman John Branciforte
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Owen McAnuff
- Commissioner Dan Weaver
- Commissioner Edward McBride

A L S O P R E S E N T:

- Eileen Banyra, Planning Consultant
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED COURT REPORTER
CERTIFIED REALTIME COURT REPORTER
Phone: (732) 735-4522

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A P P E A R A N C E S:

LAW OFFICE OF DENNIS M. GALVIN
730 Brewers Bridge Road
Jackson, New Jersey 08527
(732) 364-3011
BY: ANDREW LEIMBACH, ESQ.
Attorney for the Board.

ROBERT C. MATULE, ESQUIRE
Two Hudson Place (5th Floor)
Hoboken, New Jersey 07030
(201) 659-0403
Attorney for the Applicant.

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BOARD BUSINESS 1 & 61

RESOLUTION

522 Hudson Street 6

HEARING

207 Bloomfield Street 7

511 Washington 61

(Carried to 7-19-16)

1 ACTING CHAIR BRANCIFORTE: Okay,
2 everyone. We are on the record.

3 Phyllis, are you good?

4 THE REPORTER: Yes.

5 ACTING CHAIR BRANCIFORTE: Today is
6 June 21st at 7 p.m.

7 (Commissioner Dan Weaver present)

8 (Laughter)

9 MS. CARCONE: Start over.

10 ACTING CHAIR BRANCIFORTE: I would like
11 to advise all of those present that notice of the
12 meeting has been provided to the public in
13 accordance with the provisions of the Open Public
14 Meetings Act, and that notice was published in The
15 Jersey Journal and the city website. Copies were
16 provided in The Star-Ledger, The Record, and also
17 placed on the bulletin board in the lobby of City
18 Hall.

19 Can we all rise to salute the flag?

20 And I am going to ask after we're done
21 saluting the flag, for just a quick moment of
22 silence for those in Orlando.

23 (Pledge of Allegiance recited)

24 (Moment of silence observed)

25 ACTING CHAIR BRANCIFORTE: Thank you

1 very much.

2 Can we have the roll call, please?

3 MS. CARCONE: Sure.

4 Commissioner Aibel is absent.

5 Commissioner Branciforte?

6 ACTING CHAIR BRANCIFORTE: Here.

7 MS. CARCONE: Commissioner Cohen is

8 absent.

9 Commissioner Grana?

10 COMMISSIONER GRANA: Here.

11 MS. CARCONE: Commissioner Marsh?

12 COMMISSIONER MARSH: Here.

13 MS. CARCONE: Commissioner Murphy is

14 absent.

15 Commissioner McAnuff?

16 COMMISSIONER MC ANUFF: Here.

17 MS. CARCONE: Commissioner Weaver?

18 COMMISSIONER WEAVER: Yes.

19 MS. CARCONE: Commissioner McBride?

20 COMMISSIONER MC BRIDE: Here.

21 MS. CARCONE: Commissioner Johnson is

22 absent or maybe late, and Commissioner DeGrim is

23 absent.

24 ACTING CHAIR BRANCIFORTE: We have one

25 resolution.

1 MS. CARCONE: One resolution, a
2 resolution of approval for 522 Hudson Street.

3 Voting on this resolution would be
4 Commissioner Grana, Commissioner Marsh, and
5 Commissioner McBride.

6 ACTING CHAIR BRANCIFORTE: Are there
7 any questions on the resolution?

8 Can we call the vote?

9 MS. CARCONE: We need a motion.

10 COMMISSIONER GRANA: Motion to approve
11 522 Hudson Street.

12 COMMISSIONER MC ANUFF: Second.

13 MS. CARCONE: Okay. Commissioner
14 Grana?

15 COMMISSIONER GRANA: Yes.

16 MS. CARCONE: Commissioner Marsh?

17 COMMISSIONER MARSH: Yes.

18 MS. CARCONE: And Commissioner McBride?

19 COMMISSIONER MC BRIDE: Yes.

20 ACTING CHAIR BRANCIFORTE: Thank you.

21 (Continue on next page)

22

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HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-8

- - - - - X
RE: 207 Bloomfield Street :
Block: 201, Lot 4 : June 21, 2016
APPLICANTS: JASON & CHRISTINA TOFF : Tuesday 7:15 p.m.
Variance Review :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Acting Chairman John Branciforte
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Owen McAnuff
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WITNESS

PAGE

JENSEN VASIL

11

KENNETH OCHAB

30

E X H I B I T S

EXHIBIT NO.

DESCRIPTION

PAGE

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Photo Board

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A-2

Photo Board

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1 ACTING CHAIR BRANCIFORTE: So I suppose
2 we should start with 207.

3 MS. BANYRA: Definitely.

4 ACTING CHAIR BRANCIFORTE: Mr. Matule,
5 207?

6 MR. MATULE: Good evening, Board
7 members.

8 Robert Matule appearing on behalf of
9 the applicant.

10 This is an application with respect to
11 the property at 207 Bloomfield Street. It's an
12 application to put a rear addition on the third
13 floor of an existing one-family house to align with
14 the two floors below.

15 Mr. Ochab will go into the detail of
16 it, but we are basically requesting a variance for
17 the expansion of a nonconforming structure on a
18 nonconforming lot, and also we have an unusual site
19 condition in that there is an existing nonconforming
20 side yard on one side of the building, which we are
21 going to maintain just to keep everything in sync.

22 So I have already submitted my
23 jurisdictional proofs to the Board Secretary, and if
24 we can have Mr. Vasil sworn.

25 MR. LEIMBACH: Please raise your right

1 hand.

2 Do you swear to tell the truth, the
3 whole truth, and nothing but the truth, so help you
4 God?

5 MR. VASIL: I do.

6 J E N S E N V A S I L, having been duly sworn,
7 testified as follows:

8 MR. LEIMBACH: Please state your name
9 and spell your last name for the record.

10 THE WITNESS: Jensen Vasil, V, as in
11 Victor, a-s-i-l.

12 ACTING CHAIR BRANCIFORTE: Andrew,
13 could you introduce yourself for the record?

14 MR. LEIMBACH: I am Andrew Leimbach
15 from Dennis Galvin's firm, an associate.

16 MR. MATULE: The Board Attorney
17 tonight.

18 Mr. Chairman, Mr. Vasil has been
19 previously accepted by the Board as an expert
20 witness in architecture.

21 ACTING CHAIR BRANCIFORTE: We will
22 accept his qualifications.

23 Thank you.

24 MR. MATULE: Thank you.

25 Mr. Vasil, if you would describe for

1 the Board members the existing site conditions and
2 the proposed addition, and if we are going to refer
3 to anything that is not part of your drawings, let
4 us know, because we will have to mark it for
5 identification.

6 THE WITNESS: Sure.

7 Starting on Sheet Z-001, the site is
8 located four buildings in from the corner of Second
9 Street and Bloomfield Street.

10 It is an irregular shaped lot. The
11 front of the building is 18.16 feet, but then on the
12 south lot line it comes in a foot towards the rear
13 lot line. It is only 60 feet deep, so it is a
14 small, not a very deep lot.

15 The lot is 1,080 square feet, and the
16 existing lot coverage is 69.21 percent. It's a
17 three-story building with a cellar underneath.

18 As Mr. Matule pointed out, on the south
19 side lot there is a one foot two inch side yard that
20 was existing. Right now there is a retaining wall
21 that takes up that space between our property and
22 the neighbor's stairs.

23 That one foot two inch side yard would
24 remain, so we would be building directly over the
25 existing structure. We would be extending off of

1 the third floor just in the rear in order to have
2 the same lot coverage as the two floors below.

3 MR. MATULE: While you are on that
4 sheet, if I could, Jensen, the ordinance requires an
5 18 foot rear yard, and do we have a conforming rear
6 yard in terms of 30 percent?

7 THE WITNESS: No, we don't, so the rear
8 yard -- I'm sorry -- we do.

9 The rear yard, the existing rear yard
10 is 30.27 percent or 18 foot two inches. We would
11 maintain the same rear yard because we wouldn't be
12 increasing the building size in terms of that. We
13 would just be extending over the existing structure.

14 MR. MATULE: Thank you.

15 THE WITNESS: Looking towards Sheet
16 Z-004, you can see the existing buildings on both
17 sides extend further than our building on both
18 sides, on both the north and south, and at the third
19 floor they are set back, but at the lower floors
20 they are set in even further, so they occupy more
21 lot coverage.

22 Currently there is an existing roof
23 deck that's there, so we would take that roof deck
24 away and then extend the structure out over the
25 existing roof deck or replacing the roof deck with a

1 structure.

2 The present configuration: There are
3 two bedrooms on the third floor and a bathroom. The
4 new extension would allow for a larger master
5 bedroom and also a nursery/study in the same master
6 suite, so we would use the old bedroom for a walk-in
7 closet, and then the front bedroom for a
8 nursery/study.

9 The front of the building would not
10 change. No work would go on in the front of the
11 building.

12 At the rear of the building, the deck
13 would be removed. The rear wall would be removed,
14 and the third floor addition would extend out over
15 the existing structure with new windows to the new
16 bedroom. The entire rear facade, which is currently
17 cement stucco, would be replaced with the same
18 patched in at the third floor and recoated, so it is
19 all one color.

20 MR. MATULE: There is no plan to put
21 any roof deck on the upper roof?

22 THE WITNESS: No plan to make any
23 improvements to the upper roof.

24 MR. MATULE: Okay. Pretty
25 straightforward.

1 ACTING CHAIR BRANCIFORTE: That is all
2 of the testimony?

3 MR. MATULE: Yes.

4 ACTING CHAIR BRANCIFORTE: Any
5 questions from the Board members?

6 Where should we start?

7 COMMISSIONER MC ANUFF: I have a
8 question.

9 Looking at the plans and the
10 photographs, has any conversation been had with the
11 owners of 205 Bloomfield in regards to the fact of
12 their light on that window on the rear?

13 THE WITNESS: The owner owns the upper
14 unit. It is two units. The one down below is
15 rented, and the one upstairs is owner occupied.

16 Our owners have reached out to them and
17 explained our condition what we're going to do or
18 the proposal for the addition. They were willing to
19 write a statement, but not appear here, so we heard
20 that was not -- without appearance, that was -- we
21 are not allowed --

22 MR. MATULE: It's inadmissible.

23 MS. BANYRA: It's hearsay, no.

24 MR. MATULE: I advised them that they
25 could not provide a written statement. If they

1 wanted to come, that they would have to come in
2 person because they would have to be subject to
3 cross-examination.

4 COMMISSIONER MC ANUFF: Fair enough.

5 ACTING CHAIR BRANCIFORTE: So you were
6 talking about 205?

7 COMMISSIONER MC ANUFF: Yes. It's the
8 only -- the middle photograph on the bottom --

9 ACTING CHAIR BRANCIFORTE: Oh, okay.

10 COMMISSIONER MC ANUFF: -- with that
11 window at the top --

12 ACTING CHAIR BRANCIFORTE: Oh, got you.

13 COMMISSIONER MC ANUFF: -- they're
14 going to be blocked off a lot once the addition goes
15 on, and I wondered if a dialog had been had with
16 that owner of that building.

17 THE WITNESS: Correct. It would be the
18 same condition that they have on the lower floors.

19 COMMISSIONER MC ANUFF: Right.

20 ACTING CHAIR BRANCIFORTE: Antonio?

21 COMMISSIONER GRANA: I just have one or
22 two questions for clarification.

23 So it is a nonconforming lot. The rear
24 yard actually set back does conform with 30.27
25 percent. It is just the overall lot coverage that's

1 not conforming?

2 THE WITNESS: That's correct.

3 COMMISSIONER GRANA: Okay.

4 And then the picture on the -- yeah --
5 the picture on -- not the picture -- the drawing on
6 Z-007, the building indicated site, that is what the
7 structure will look like, if approved, or is that
8 the current -- we are not modifying the front, so --

9 THE WITNESS: Correct.

10 COMMISSIONER GRANA: -- so that is the
11 current height?

12 THE WITNESS: Yes.

13 COMMISSIONER GRANA: Perfect, and those
14 are my questions.

15 COMMISSIONER MC BRIDE: So one
16 question.

17 Just to be clear, the new addition in
18 the back has nothing on the roof, no HVAC, no
19 venting?

20 THE WITNESS: There is an existing roof
21 top unit and a condenser that will remain --

22 COMMISSIONER MC BRIDE: Where they are
23 now, but nothing on the proposed extension?

24 THE WITNESS: That is correct.

25 ACTING CHAIR BRANCIFORTE: Carol, any

1 questions?

2 COMMISSIONER MARSH: What is the -- is
3 that 205? I am sorry. What is the space that they
4 have?

5 THE WITNESS: There is five feet
6 between our wall and their existing wall.

7 COMMISSIONER MARSH: How much of that
8 is on this property, and how much of it is on their
9 property?

10 THE WITNESS: Hum, I would have to
11 scale it, but I believe it is five feet from their
12 property line.

13 COMMISSIONER MARSH: Wait. No. From
14 building to building, I thought you said it was five
15 feet.

16 THE WITNESS: Just give me one second.

17 ACTING CHAIR BRANCIFORTE: Sure. Take
18 your time.

19 MS. BANYRA: I have an engineer's
20 scale, Jen. Is that what you want?

21 THE WITNESS: Yes.

22 Thank you.

23 (Board members confer)

24 MR. MATULE: Here is the survey, if you
25 want to measure it off the survey.

1 THE WITNESS: Sure.
2 It is five feet from the property line
3 over, so we have to have --
4 COMMISSIONER MARSH: Okay.
5 THE WITNESS: -- so it is six foot two
6 inches from the wall.
7 COMMISSIONER MARSH: Okay. So six foot
8 two total, of which one foot is on the --
9 THE WITNESS: Correct.
10 COMMISSIONER MARSH: Okay.
11 COMMISSIONER WEAVER: Are you finished?
12 COMMISSIONER MARSH: I'm good.
13 COMMISSIONER WEAVER: What is in the
14 cellar?
15 THE WITNESS: Storage.
16 COMMISSIONER WEAVER: So there is no
17 habitable space in the cellar?
18 THE WITNESS: No.
19 COMMISSIONER WEAVER: No habitable
20 space in the cellar?
21 THE WITNESS: No, there is none.
22 It's more than 50 percent below grade,
23 so it is not permitted.
24 COMMISSIONER WEAVER: It's not
25 permitted and not used are two different things.

1 THE WITNESS: Well, the current use is
2 just it's tiled, and there is a bench footing on
3 either side, so it is six foot where the bench
4 footing is, and it's six foot four foot in the
5 middle, so it is pretty unusable space.

6 COMMISSIONER WEAVER: Okay.

7 ACTING CHAIR BRANCIFORTE: So
8 exactly -- remind me now, exactly what kind of a
9 variance do you need now?

10 THE WITNESS: C --

11 MR. MATULE: Pardon?

12 ACTING CHAIR BRANCIFORTE: You need a C
13 variance for lot coverage?

14 MR. MATULE: A C variance -- two C
15 variances, one for expansion of a nonconforming
16 structure on a nonconforming lot. I don't know if
17 you call that one or two.

18 And the other variance is because we
19 can have a zero side yard or a five foot side yard,
20 and we have the one --

21 THE WITNESS: Right, 16 --

22 MR. MATULE: -- 16 and a one foot two
23 inch side yard, so we just want to maintain that
24 existing condition on the new third floor addition,
25 so we are asking for a variance for that as well,

1 but these are all C variances.

2 ACTING CHAIR BRANCIFORTE: The second
3 variance, the side yard setback --

4 MR. MATULE: Yes.

5 ACTING CHAIR BRANCIFORTE: -- what
6 would this look like if you were building to code on
7 that?

8 Would you just move the walls in, the
9 north-south walls in?

10 THE WITNESS: Yes. We have to --

11 MR. MATULE: We could cantilever the
12 wall out --

13 ACTING CHAIR BRANCIFORTE: What's that?

14 THE WITNESS: Yes. I mean --

15 MR. MATULE: -- we could cantilever the
16 third floor wall out a foot and two inches, 14
17 inches, you know, to have a conforming zero side
18 yard --

19 ACTING CHAIR BRANCIFORTE: Okay.

20 COMMISSIONER MARSH: Or you could set
21 it back another --

22 MR. MATULE: -- it would not be, I
23 don't think, esthetically attractive, and it would
24 have more of an impact on the neighbor's light well
25 there, than if we just leave the --

1 ACTING CHAIR BRANCIFORTE: Well, I
2 mean, that is really for the experts to talk about
3 the light and air impact on it.

4 I just wanted to know how you would
5 squeeze the box or something to conform, at what
6 point, you know, how far you would have to go in to
7 conform, and I will leave it up to the planner to
8 prove that it is a criteria either way.

9 THE WITNESS: We would have to reduce
10 the width of the bedroom by three foot ten inches.
11 It definitely would, you know, structurally change
12 the -- at least you have a vertical load path to the
13 foundation, so we would have to change the way to
14 structure it, you know, but it is possible I guess.

15 MS. BANYRA: I have a question, Mr.
16 Chair.

17 ACTING CHAIR BRANCIFORTE: Sure.

18 MS. BANYRA: Jensen, you know, the
19 reason for the side yard setback at zero or five is
20 typically, as I understood it, was a fire code
21 issue.

22 Are you actually allowed to replicate
23 that one point --

24 THE WITNESS: Yes --

25 MS. BANYRA: -- yes, because why?

1 THE WITNESS: -- because it's a
2 two-hour rated fire wall, so like anywhere between
3 one, zero and five feet has to be two-hour rated.
4 Beyond that, you are allowed to have, you know,
5 penetrations and windows and stuff like that.

6 So I think it is -- you know, from a
7 building perspective, you know, you are allowed to
8 have it. It is a party wall, so you are allowed to
9 have it directly on the lot line.

10 MS. BANYRA: No. I know you're allowed
11 to have it directly on the lot line.

12 I guess my question is really: Having
13 it off a foot and a half, my understanding was it is
14 actually about introducing air, you know, and nobody
15 can get into that space, so that, you know, zero is
16 better than one, and you know, five gives somebody
17 access to that space as in, i.e., you know, a
18 fireman or somebody.

19 THE WITNESS: The separation code says
20 zero to five or greater than five, so it is like,
21 you know, it's anywhere between there for fire
22 rating --

23 MS. BANYRA: Okay.

24 COMMISSIONER WEAVER: And it's
25 noncombustible, too.

1 THE WITNESS: It's concrete block.

2 COMMISSIONER WEAVER: Yeah.

3 And let me just, because you were
4 talking about the load path, so the one foot two
5 that you are off -- if we go to Z-005, drawing
6 two --

7 THE WITNESS: Yes.

8 COMMISSIONER WEAVER: -- yeah. It's --
9 you are one foot two off the property line on the
10 south side, and you're showing that is where the
11 structural wall is, right?

12 THE WITNESS: The one foot two is a
13 retaining wall between the two properties, and then
14 our physical wall is one foot two further in from
15 the property line over --

16 COMMISSIONER WEAVER: One foot two --

17 THE WITNESS: -- there might be a
18 picture of it.

19 COMMISSIONER WEAVER: -- well, I'm
20 looking at Drawing 2, so on Drawing 2, you know,
21 what is that wall which is --

22 MR. MATULE: It's on sheet --

23 COMMISSIONER WEAVER: -- one foot two
24 off the property line on 11 feet to the east --

25 MR. MATULE: -- you are on Sheet Z-005,

1 correct, Mr. Weaver?

2 COMMISSIONER WEAVER: Yes, Mr. Matule.

3 MR. MATULE: Thank you.

4 THE WITNESS: So, yes, our building
5 wall is one foot two inches away from the side
6 property line --

7 COMMISSIONER WEAVER: Yes.

8 THE WITNESS: -- in that space is a
9 retaining wall that runs from the back of the
10 property to this, to the original extension, I mean,
11 the original building extended to here by 30 feet.

12 COMMISSIONER WEAVER: I see.

13 They didn't -- so when they built the
14 wall, the extension, they didn't build it on top of
15 the retaining wall --

16 THE WITNESS: Correct.

17 COMMISSIONER WEAVER: -- they built it
18 inboard of that?

19 THE WITNESS: That's correct.

20 COMMISSIONER WEAVER: So you just have
21 not rendered the retaining wall on this drawing?

22 THE WITNESS: Yes. Open wide -- it's
23 open wide space. We have it labeled on the site
24 plan.

25 COMMISSIONER WEAVER: Okay. So that's

1 a wall.

2 THE WITNESS: I don't know if they were
3 trying to make this equitable. Like if you look at
4 the site plan, the lot jogs on the north side, so I
5 don't know if they were trying to mirror that image
6 or what. You know, it is hard to tell at this
7 point.

8 But our neighbor actually built around
9 us, so our neighbor to the north took up that one
10 foot two space when their lot jogged, so they
11 actually gained -- after 30 feet, they hugged tight
12 toward the structure.

13 ACTING CHAIR BRANCIFORTE: And -- I'm
14 sorry, go ahead.

15 COMMISSIONER WEAVER: So you have a
16 retaining wall -- if you go to Z-002, the proposed
17 site plan, right? There is a low retaining wall,
18 which tracks the south side of the property, you
19 know, from the eastern lot line all the way back to
20 the existing face of the building.

21 THE WITNESS: Correct.

22 COMMISSIONER WEAVER: The original
23 building, right?

24 THE WITNESS: Correct.

25 COMMISSIONER WEAVER: And then that

1 wall actually goes up and becomes the wall that we
2 see on picture three on Z-004, right there on the
3 left-hand side -- yeah. What is that wall?

4 THE WITNESS: This is our parapet wall,
5 the top of our structure, which is set back one foot
6 two inches --

7 COMMISSIONER WEAVER: And that's what
8 you're going to build on top of?

9 THE WITNESS: Correct.

10 COMMISSIONER WEAVER: Okay. That
11 explains why there is that extra cream color, so
12 that's extra cream wall space, which is just to the
13 left of that --

14 THE WITNESS: That is correct.

15 COMMISSIONER WEAVER: -- so that wall
16 goes up --

17 THE WITNESS: There is a leap between
18 the two buildings.

19 COMMISSIONER WEAVER: -- so that is
20 still their property?

21 THE WITNESS: That's correct.

22 COMMISSIONER WEAVER: Okay. I'm sorry.
23 I am with you now.

24 ACTING CHAIR BRANCIFORTE: And you are
25 saying the south side is going to be built basically

1 on top of that retaining wall?

2 THE WITNESS: That is correct.

3 ACTING CHAIR BRANCIFORTE: Okay.

4 MS. BANYRA: Jensen, it is blocked all
5 the way down?

6 THE WITNESS: Yes.

7 ACTING CHAIR BRANCIFORTE: What you are
8 saying is structurally to push that wall in another
9 foot or two would be impossible?

10 THE WITNESS: Oh, nothing is
11 impossible.

12 COMMISSIONER WEAVER: Push what wall
13 down?

14 ACTING CHAIR BRANCIFORTE: The south
15 facing -- the retention wall, high wall that --

16 COMMISSIONER WEAVER: The load bearing
17 wall of the building --

18 ACTING CHAIR BRANCIFORTE: Right.

19 COMMISSIONER WEAVER: -- push that
20 further to the south, so it is on top of the
21 retaining wall?

22 COMMISSIONER MARSH: No. I think what
23 he is saying is push -- if you made this a five foot
24 setback here.

25 COMMISSIONER WEAVER: Oh, push that all

1 the way over?

2 COMMISSIONER MARSH: Yeah.

3 ACTING CHAIR BRANCIFORTE: He is saying
4 it wouldn't be impossible.

5 COMMISSIONER WEAVER: It wouldn't be
6 impossible, no, but it's just sort of like a --

7 COMMISSIONER MC ANUFF: The other
8 option is you come out, you cantilever over, and you
9 have a zero lot line. It is either zero or five.

10 ACTING CHAIR BRANCIFORTE: Oh, I see.
11 Okay.

12 COMMISSIONER MC ANUFF: It is not in
13 between.

14 ACTING CHAIR BRANCIFORTE: All right.
15 Any more questions for the architect?
16 Eileen?

17 MS. BANYRA: No.

18 ACTING CHAIR BRANCIFORTE: Everyone
19 good?

20 Do you have another witness?

21 MR. MATULE: I do.

22 ACTING CHAIR BRANCIFORTE: Oh, I'm
23 sorry. Can we open it up to the public, please?

24 Anyone from the public wishing to ask
25 questions of the architect?

1 COMMISSIONER MC ANUFF: Seeing none,
2 motion to close public portion.

3 COMMISSIONER GRANA: Second.

4 ACTING CHAIR BRANCIFORTE: All in
5 favor?

6 (All Board members answered in the
7 affirmative)

8 MR. MATULE: I will call Kenneth Ochab.

9 MR. LEIMBACH: Please raise your right
10 hand.

11 Do you swear to tell the truth, the
12 whole truth, and nothing but the truth, so help you
13 God?

14 MR. OCHAB: I do.

15 K E N N E T H O C H A B, having been duly sworn,
16 testified as follows:

17 MR. LEIMBACH: Please state your name
18 and spell your last name for the record.

19 THE WITNESS: Ken Ochab, O-c-h-a-b, as
20 in boy.

21 MR. MATULE: And, Mr. Chairman, I
22 would ask that you accept Mr. Ochab's --

23 ACTING CHAIR BRANCIFORTE: Yes. We
24 will accept Mr. Ochab's credentials.

25 MR. MATULE: I see you have a photo

1 exhibit, Mr. Ochab. Do you have one or two?

2 THE WITNESS: Two.

3 MR. MATULE: We will mark this A-1.

4 (Exhibit A-1 marked.)

5 Tell us what it is for the record.

6 THE WITNESS: So what I did here is I
7 wrote a report May 16th, filed it with the
8 application, and we were sort of concentrating on
9 the back of the building at this point, so what we
10 have is three photographs of the rear of the
11 building.

12 The center photograph is straight on,
13 but we have the existing two-story building, and
14 currently there is a little deck up on top, which is
15 where the addition will be placed.

16 MR. LEIMBACH: When were these photos
17 taken?

18 THE WITNESS: These photos were taken
19 just before the report, so about May 14th.

20 MR. LEIMBACH: So these accurately
21 represent what is currently existing today?

22 THE WITNESS: Yes, they do. They're
23 not touched. They're not cropped. They're not --
24 they were taken with a 35 millimeter camera with a
25 50 millimeter lens, so what you see is what you get.

1 MR. LEIMBACH: Thank you.

2 THE WITNESS: So that is the center
3 photograph.

4 The photograph to the right is to the
5 north, so the north building, you can see the
6 existing building in question here, and the building
7 to the north again is three stories. The fire
8 escape is in the back.

9 The photograph to the left is the
10 building to the south, and three stories. It shows
11 to a certain extent that little indentation, where
12 the window is for the back, and this building to the
13 south extends out beyond the property in question
14 here about five foot or so.

15 The building to the north is just about
16 equal in terms of the depth of the building, so that
17 is one set of photographs.

18 The second set --

19 MR. MATULE: I will mark that A-2.

20 (Exhibit A-2 marked)

21 THE WITNESS: -- the second set A-2 is
22 three photographs. This is looking out from the
23 rear of the building towards -- this is the 200
24 block on Washington Street, the back of the
25 building. It is not pretty, but it is, you know,

1 commercial, so it is what it is.

2 The photograph on the right is a
3 photograph standing -- I'm standing on the deck, on
4 the third floor deck, looking down at the building
5 to the north, so looking at a blank wall, this is
6 where the addition will be right here, and go to the
7 extent of the rear of this building here, and you
8 can see the fire escape just beyond it.

9 Then the building to the south,
10 obviously I am standing on the deck of the third
11 floor, this is the third floor addition, and there
12 is the window that Jensen went over, so I am not
13 going to belabor the point, so that is what we are
14 looking at.

15 So in terms of variances, we have a
16 nonconforming lot by way of lot size, lot width, and
17 lot depth.

18 We do meet the rear yard setback
19 requirement, which is 30 percent of the lot depth,
20 60 feet, so it is 18 feet, and we are at 18.1 feet
21 or 18 feet two inches.

22 We do actually not have a lot coverage
23 variance, because we are actually building the
24 addition over the second floor of the existing
25 building, so typically we measure lot coverage by

1 looking from the sky down and not expanding the
2 footprint of the building beyond that footprint from
3 the sky.

4 Although my report did have a lot
5 coverage variance in it, but subsequently thinking
6 about how we do it, that we -- for the statement I
7 just made.

8 We do have a side yard variance as was
9 discussed. Typically the side yard is zero --

10 THE REPORTER: I'm sorry. Can you just
11 talk louder because of the air-conditioner?

12 THE WITNESS: -- yes.

13 Jensen designed the building, so that,
14 you know, we are holding that south wall, so we have
15 a foot to the -- a foot plus two inches to the south
16 property line, and then the building adjacent to us
17 is an additional five feet beyond that. That's
18 pretty much what you are looking at here.

19 So in terms of variances, we have the
20 side yard setback requirement variance, which in my
21 view now would be a C-2 variance in that keeping the
22 building back another foot contributes towards
23 whatever light and air we can add to this section of
24 the building to the south as opposed to complying
25 with the ordinance and putting it on the property

1 line, which will then force us to cantilever the
2 building out over the existing building, and it will
3 further encroach upon that space between two
4 structures.

5 So that is it. It is pretty simple,
6 two C variances, and I thought a very
7 straightforward application, but I will be happy to
8 answer any questions.

9 MR. MATULE: Well, I have a question.

10 In your professional opinion, does this
11 rear third floor addition have any significant
12 negative impact on the neighboring properties?

13 THE WITNESS: No. As I understand it,
14 the neighbor to the south is okay with the addition.

15 In any case, we are not adding building
16 height. We are compliant with respect to height,
17 compliant with respect to lot coverage, compliant
18 with respect to rear yard setbacks, so the mass of
19 the building is basically by right entitled to be
20 where it is located. So the only variance here is
21 the side yard, which again, keeping the side yard a
22 little bit further in helps that and the separation
23 between the two buildings.

24 MR. MATULE: Okay. Thank you.

25 ACTING CHAIR BRANCIFORTE: Is that it,

1 Mr. Matule?

2 Mr. Ochab, I just -- Mr. Matule, if you
3 want to jump in on this -- you say that the neighbor
4 is okay with it, but the neighbor isn't here to
5 speak for themselves, so I don't know if we really
6 should consider that.

7 THE WITNESS: I am just repeating what
8 Jensen had said --

9 ACTING CHAIR BRANCIFORTE: We shouldn't
10 really be discussing it since they're not here. So
11 I would rather ask the Board members not to consider
12 that in their deliberations since the neighbor is
13 not here to speak for himself.

14 Is that all right?

15 MR. LEIMBACH: That is fine.

16 ACTING CHAIR BRANCIFORTE: Any
17 questions?

18 COMMISSIONER GRANA: I have a question.

19 Mr. Ochab, the structure is on a
20 nonconforming lot. If the structure were on a
21 conforming lot, would this addition be able to be
22 constructed by code?

23 Would it be allowed by code?

24 THE WITNESS: If it was on a conforming
25 lot?

1 COMMISSIONER GRANA: If it was on a
2 conforming lot, would this addition be able to be
3 constructed without a variance, if the structure
4 were on a conforming lot?

5 THE WITNESS: Yes.

6 COMMISSIONER GRANA: Thank you.

7 THE WITNESS: Because we would have the
8 appropriate depth, so it would --

9 COMMISSIONER GRANA: Thank you.

10 THE WITNESS: -- well, let me just say
11 that probably the side yard situation still exists,
12 even if we had a conforming lot.

13 The conforming lot would mean we would
14 have a 20 foot lot width instead of 18 and a half
15 feet, so again, depending on how the design would be
16 done. It is possible to design the building, if we
17 had a 20 foot lot width, so that the side of that
18 south wall was on the property line, and the answer
19 is yes, we could do it without a variance.

20 It is a little bit complicated.

21 COMMISSIONER GRANA: Thank you.

22 ACTING CHAIR BRANCIFORTE: Any other
23 questions?

24 MS. BANYRA: I have a question.

25 So, Ken, just going back to your lot

1 coverage, I mean, I think you have lot coverage. I
2 know you are exceeding it right now, and I think you
3 called it out in your report, and you see that I
4 didn't call it out in my report. But I think
5 technically because you are expanding a condition
6 that is in variance with the, you know, with the
7 report, I just wanted to correct that.

8 THE WITNESS: Yeah. You know, I was
9 correct --

10 MS. BANYRA: -- I think you were right
11 the first time --

12 THE WITNESS: -- yeah. I put it in,
13 and then when I saw your report, I said, oh, okay --

14 MS. BANYRA: -- yeah. No, and you were
15 correct --

16 THE WITNESS: -- we have gone back and
17 forth on this, so --

18 MS. BANYRA: -- well, you have a
19 nonconforming structure and a nonconforming lot,
20 so I think almost that --

21 COMMISSIONER GRANA: Yeah.

22 MS. BANYRA: -- and, you know, anything
23 goes.

24 The other thing I think you indicated
25 that your construction is going to be matching up

1 with the building to the north, and it does appear
2 that the building to the north is about two or three
3 feet beyond this, and I don't think you are actually
4 matching up then, correct, or the building to the
5 north is actually two or three feet -- I am looking
6 at the survey. It is a little shy, so you actually
7 don't match up. You are extending it a little bit
8 beyond the building to the --

9 THE WITNESS: I am looking at the
10 photograph, which I thought had pretty much matched
11 up, but you could be right.

12 MS. BANYRA: Here, so you can testify
13 to it.

14 Maybe three feet, if it's 1.6, then I
15 would say it is about a three foot --

16 THE WITNESS: I know the photograph is
17 a little bit more difficult to determine, because I
18 am at an angle, so --

19 MS. BANYRA: Right.

20 THE WITNESS: Okay. Thank you.

21 ACTING CHAIR BRANCIFORTE: Any other
22 questions?

23 But now I have to go back to what you
24 just asked for Jensen.

25 On Sheet Z-6, Diagram 4 --

1 MR. VASIL: Yes.

2 ACTING CHAIR BRANCIFORTE: -- so on 4,
3 you show the existing building to the north. Do
4 these lines -- you're saying that it goes out
5 another two or three feet, Eileen?

6 MS. BANYRA: It appears to on the
7 survey, and I think it's correctly marked.

8 MR. VASIL: Yeah. The -- I was going
9 to say to clarify that for Mr. Ochab, the one -- it
10 is a one-story extension that goes -- there is a big
11 fence there on that property line, so Mr. Ochab
12 probably didn't see it. I only know because I
13 jumped over the fence, but the survey is correct.
14 There is an extension that goes further out than the
15 first story, so it does project out much further --

16 ACTING CHAIR BRANCIFORTE: So then on
17 your proposed third floor plan --

18 MR. VASIL: Yes, that is correct. They
19 would match up.

20 ACTING CHAIR BRANCIFORTE: They would
21 match up at that point?

22 MR. VASIL: Correct.

23 ACTING CHAIR BRANCIFORTE: Okay.

24 MS. BANYRA: Okay.

25 ACTING CHAIR BRANCIFORTE: Thank you.

1 Any other questions for the planner or
2 for the architect?

3 COMMISSIONER WEAVER: On the proposed
4 third floor plan, they actually don't -- do they
5 match up?

6 COMMISSIONER MC ANUFF: It doesn't look
7 like it to me. It looks like the outer wall is
8 past --

9 COMMISSIONER WEAVER: Yeah. It is a
10 difficult condition. I don't know if it's better
11 one way or the other, because if you don't -- if you
12 pull this one back, so it matches the building to
13 the north, then you still have the face of the
14 building still exists, the existing building still
15 exists further to the east on the way down, and then
16 you have to deal with a flashing condition. It's
17 weird, and it's just --

18 MR. VASIL: I agree, yeah. It looks
19 like the thickness of the wall that it slightly
20 protrudes beyond that.

21 COMMISSIONER WEAVER: I mean, noted,
22 but I don't know that there's a better solution.

23 MS. BANYRA: Right.

24 It is shown on your proposed site plan
25 on Page Z-002. The existing four-story brick

1 building extends -- it is slightly shy of the end of
2 the new third level existing two-story block. Just
3 slightly, I would say maybe two feet, and then there
4 is a one-story frame. You can see the difference on
5 that page, so it is just really more clarification.

6 MR. MATULE: Jensen, just stay up
7 there for a second.

8 MR. VASIL: Sure.

9 MR. MATULE: I wanted to make sure I am
10 clear.

11 So, Mr. Weaver, you are suggesting that
12 whatever that slight difference is, they may be
13 equalized on the upper floors?

14 COMMISSIONER WEAVER: No. I'm
15 saying -- I am saying if you just take the footprint
16 that you have, like he has done. He takes the
17 footprint that he has, the eastern boundary on the
18 second floor --

19 MR. MATULE: Right.

20 COMMISSIONER WEAVER: -- and that just
21 goes straight up, as opposed to pulling it back
22 eight inches or whatever the dimension is to have it
23 align with the building to the north, because either
24 way it is an awkward condition.

25 MR. MATULE: Right.

1 COMMISSIONER WEAVER: I just wanted the
2 record to show that, yes, we recognize they don't
3 align, and everyone is aware -- so they don't
4 align -- they will not align on the third floor
5 according to the plans that are being proposed.

6 MR. MATULE: Okay. Thank you for that
7 clarification.

8 ACTING CHAIR BRANCIFORTE: Now, we are
9 talking about it extending two feet out from the
10 building next door. You are still within your lot
11 coverage variance allowance anyway, right?

12 So actually the building next door
13 doesn't extend out as far as it could, I suppose, on
14 the third floor.

15 MS. BANYRA: Can I just jump in on
16 that?

17 ACTING CHAIR BRANCIFORTE: Yes.

18 MS. BANYRA: So they meet the rear yard
19 setback. They are over in lot coverage by 69
20 percent, and they are matching it, so they're going
21 straight up.

22 The building to the north is over.
23 There is some overage there, you know, or -- excuse
24 me -- this is slightly beyond the building to the
25 north, a foot, two feet. I don't know. It's

1 slightly -- the building to the north is slightly
2 smaller. It was more just to correct the testimony
3 was, it is going to match up.

4 They don't exactly match up. There is
5 a little bit of an off there, you know, so, you
6 know...

7 ACTING CHAIR BRANCIFORTE: If that is
8 not a problem for anybody, we can move on.

9 COMMISSIONER WEAVER: All right. It's
10 not a problem for me.

11 ACTING CHAIR BRANCIFORTE: I am going
12 to open it up to questions, if we are done, for Mr.
13 Ochab.

14 Does anyone in the audience have a
15 question for the planner?

16 COMMISSIONER GRANA: Seeing none,
17 motion to close public portion.

18 COMMISSIONER MC ANUFF: Second.

19 ACTING CHAIR BRANCIFORTE: All in
20 favor?

21 (All Board members answered in the
22 affirmative)

23 MR. MATULE: I have no further
24 witnesses.

25 ACTING CHAIR BRANCIFORTE: Would you

1 like to wrap it up?

2 MR. MATULE: But the variances are
3 pretty straightforward, and it is an unusual site
4 condition.

5 I guess the question for the Board, we
6 would certainly advocate that what we are proposing
7 is a better alternative than if we cantilevered the
8 building over to have a zero side yard or pulled it
9 back to have a five foot side yard. We think
10 maintaining the existing site condition is probably
11 the best alternative, and that's really pretty much
12 it. I think it is very straightforward.

13 ACTING CHAIR BRANCIFORTE: Okay. Thank
14 you, Mr. Matule.

15 Should we have a discussion before we
16 have a motion?

17 Anybody?

18 Antonio?

19 COMMISSIONER GRANA: I think the proofs
20 have been made.

21 ACTING CHAIR BRANCIFORTE: All right.

22 (Laughter)

23 COMMISSIONER WEAVER: That's more of a
24 statement than a discussion.

25 (Laughter)

1 ACTING CHAIR BRANCIFORTE: Anyone else?

2 I would like to hear something besides
3 a one-sentence comment for the record.

4 COMMISSIONER GRANA: Than my summarized
5 version?

6 ACTING CHAIR BRANCIFORTE: We really
7 should have some more discussion for the record, I
8 think.

9 Anybody else have any problems with it
10 or --

11 COMMISSIONER MC BRIDE: I think I'd add
12 that good-bye to the roof deck.

13 ACTING CHAIR BRANCIFORTE: What's that?

14 COMMISSIONER MC BRIDE: Good-bye to the
15 roof deck.

16 ACTING CHAIR BRANCIFORTE: Okay. You
17 think it would be an improvement getting rid of the
18 roof deck?

19 COMMISSIONER MC BRIDE: I think so,
20 yes.

21 ACTING CHAIR BRANCIFORTE: Okay.

22 COMMISSIONER WEAVER: Well, it
23 actually -- and if you look at the photograph, it
24 provides more privacy to the property to the south
25 because right now you can stand on the roof deck and

1 look in the window.

2 So I mean, everything has its pluses
3 and minuses, right. Yeah. One advantage in that
4 you're getting rid of the roof deck is that they
5 have more privacy for the window and potentially
6 more security because nobody can actually gain
7 access to their apartment through the adjacent roof
8 deck.

9 COMMISSIONER MC BRIDE: So safety gets
10 eliminated, somebody falling off, you know, the --

11 ACTING CHAIR BRANCIFORTE: All right.
12 Go ahead.

13 COMMISSIONER WEAVER: I would like ---
14 we should think about it -- I mean, I don't know if
15 we want to ask for it at some point or not, but
16 going forward, we do it a lot in specific projects
17 in the city, but you have shadow studies, where you
18 could actually say, well, is there actually -- what
19 is the other green space, and what is the impact to
20 that green space, because really what -- although we
21 are not increasing the footprint, right, we are
22 increasing the height, and so there is some impact
23 to shadow, which admittedly there is no other
24 members of the public. There's no neighbors that
25 are here that are concerned about it.

1 But were they here, and were they given
2 the information, then there might be an impact. But
3 given that there is nobody here, nobody has any
4 concerns about it --

5 ACTING CHAIR BRANCIFORTE: Well, we
6 shouldn't say that because there is no one here,
7 that no one has a concern. I mean, we don't know
8 what the story with the neighbors are, that maybe
9 they couldn't get babysitters, maybe they're still
10 at work, maybe they don't understand what their
11 rights are, but just because there is nobody in the
12 audience, we shouldn't consider that when we make
13 our decision.

14 I just wanted to say that, Dan.

15 COMMISSIONER MC BRIDE: Weren't the
16 neighbors notified, though?

17 ACTING CHAIR BRANCIFORTE: Yes. But I
18 mean, just because the neighbor doesn't show up
19 doesn't mean that they are not against it. Perhaps
20 the neighbor had a very good reason for not showing
21 up tonight. Like I said, no babysitter, maybe he
22 doesn't want to --

23 COMMISSIONER MC ANUFF: Working late,
24 and there is no --

25 ACTING CHAIR BRANCIFORTE: -- working

1 late. I mean, there are many reasons why they don't
2 show up.

3 COMMISSIONER MC ANUFF: -- and you
4 can't take a written statement --

5 ACTING CHAIR BRANCIFORTE: And you
6 can't take a written statement, so we shouldn't
7 really count heads in the audience to try to figure
8 out how we should vote. We should just vote on the
9 proofs and the evidence.

10 I'm sorry, Dan.

11 COMMISSIONER WEAVER: That's okay.

12 COMMISSIONER MARSH: I am not saying I
13 am advocating for this position. I'm just pointing
14 out that if you made it comply by pulling it back
15 five feet, you would eliminate the roof deck, give
16 them the same privacy, and not cut out so much of
17 the light.

18 ACTING CHAIR BRANCIFORTE: To the
19 neighbor to the north?

20 COMMISSIONER MARSH: Yeah.

21 ACTING CHAIR BRANCIFORTE: Yeah. I
22 kind of agree with you. I mean, I don't see the big
23 deal about pulling it back a foot or two and saving
24 light to the neighbor to the rear of the building to
25 the north.

1 COMMISSIONER MC ANUFF: Well, you
2 would have to pull it back three foot ten, I guess,
3 right, which is fine. I would be on board with
4 that, because it actually gives you an opportunity
5 to have a little roof deck off of the master
6 bedroom.

7 ACTING CHAIR BRANCIFORTE: Right. I
8 mean, they have a very big walk-in closet there, so
9 it's not like we are really asking them give up a
10 lot.

11 COMMISSIONER MARSH: We are not talking
12 about the same thing.

13 ACTING CHAIR BRANCIFORTE: What's that?

14 COMMISSIONER MARSH: I am saying if you
15 pulled it to the side --

16 COMMISSIONER MC ANUFF: From the side
17 wall -- oh, from the rear or --

18 ACTING CHAIR BRANCIFORTE: On the
19 rear --

20 COMMISSIONER MARSH: From the side.

21 COMMISSIONER WEAVER: You're talking
22 about which side?

23 COMMISSIONER MARSH: Yeah. If you made
24 this --

25 COMMISSIONER WEAVER: Oh, if you

1 brought the south wall north?

2 COMMISSIONER MARSH: Yes.

3 ACTING CHAIR BRANCIFORTE: Oh, I see
4 what you're saying.

5 I was more talking about the rear wall
6 and the extra two feet there. I'm wondering what
7 kind of an impact it is going to have on the north
8 building.

9 COMMISSIONER MC ANUFF: No --

10 COMMISSIONER MARSH: Oh, so you are
11 saying it would be like a little five foot --

12 COMMISSIONER MC ANUFF: -- right. You
13 would have a space to access off, if they chose to.

14 I would rather see something -- I'd
15 rather it come back five feet, rather than
16 cantilever over a foot two inches, if we are going
17 to go that route, but I am actually fine with the
18 design as it is, too.

19 COMMISSIONER WEAVER: I think that is
20 what they are offering, right?

21 The other one is that it's --

22 COMMISSIONER MARSH: Wait. What is
23 what they are offering?

24 COMMISSIONER WEAVER: It's not what
25 they are offering is to bring it back five feet,

1 right?

2 COMMISSIONER MARSH: That's not what
3 they offered.

4 MR. MATULE: No. The application is
5 for the one foot two inch side yard variance.

6 COMMISSIONER WEAVER: Yeah.

7 Then actually -- and then there is --
8 because of the orientation of the building, if we
9 were going to take five feet off, and we are talking
10 about sunlight and access to daylight, then it would
11 actually be better to take the five feet off the
12 east side.

13 I thought that is where you were going.
14 I thought that was actually quite clever, and then
15 you could have like a little terrace there, you
16 know, and it would be off the -- but I mean, we are
17 not the architects here, so it's -- but I mean,
18 because we don't have any -- there is no testimony
19 on the impact of the shadows --

20 ACTING CHAIR BRANCIFORTE: Right.

21 COMMISSIONER WEAVER: -- it would just
22 be us guessing right now about what the impact and
23 whether five feet would actually be --

24 MS. BANYRA: Make a difference at all.

25 COMMISSIONER WEAVER: -- make a

1 difference, right?

2 MS. BANYRA: Right.

3 ACTING CHAIR BRANCIFORTE: I mean,
4 would it have to be --

5 COMMISSIONER MARSH: This window from
6 the ground -- you are talking about the difference
7 to the ground, right, by pulling it back five feet
8 from the end?

9 COMMISSIONER WEAVER: The sun is coming
10 from here, right?

11 The sun is coming -- the sun is up
12 here. It's coming around here, and it's coming
13 down, so there is no sun coming to this side, so it
14 is -- and as the sun comes around here and it's
15 casting shadows, you know, it is really -- yeah, we
16 don't know what the impact actually is of the sun
17 and the shadows on the donut, if you will, back
18 here.

19 COMMISSIONER MARSH: Right. I was just
20 talking about on the door.

21 COMMISSIONER GRANA: Go ahead.

22 ACTING CHAIR BRANCIFORTE: I'm just
23 giving them a second.

24 Anything, Mr. Matule?

25 MR. MATULE: No.

1 ACTING CHAIR BRANCIFORTE: You spoke to
2 your client?

3 MR. MATULE: No.

4 What were you going to say, Antonio?

5 COMMISSIONER GRANA: I suspect we're
6 not -- we're not -- I think it is very hard to
7 introduce this, because we don't have any testimony,
8 so we don't have any testimony on what the shadow is
9 or what the structure would look like if we went
10 five feet this way or that way.

11 So I think if as a Commissioner, if you
12 have a concern about that, then I think we have to
13 vote it down. But if you think that the design is
14 warranted, and that there is no significant negative
15 impact, and there is a hardship for the applicant,
16 then you have to vote yes. But I don't think we
17 have enough information to, you know, to trigger --

18 COMMISSIONER MC ANUFF: Agreed.

19 ACTING CHAIR BRANCIFORTE: Yeah. You
20 know, when I thought that the two -- that the rear
21 of the building here and the building to the north
22 were in perfect alignment, but now I understand they
23 may not be, that they may be a foot or two over --

24 MS. BANYRA: It is a foot or two.

25 ACTING CHAIR BRANCIFORTE: -- and I am

1 not sure, is it really worth risking the people to
2 the north --

3 COMMISSIONER MC ANUFF: Hold on.

4 To clarify that, I am not sure that it
5 is a foot or two, because to me it looks like the
6 thickness of this wall, whatever it is --

7 ACTING CHAIR BRANCIFORTE: I know --

8 COMMISSIONER MC ANUFF: -- so it is
9 more likely a foot than two feet.

10 MS. BANYRA: Yeah.

11 My point that I made by calling that
12 out was the testimony was that they were equal.

13 They don't look equal. That was really
14 the point of my testimony, number one.

15 Number two: I think the idea that they
16 have a two-story structure there now, so you were
17 talking about the impacts of whatever that height
18 is, nine feet, ten feet over that space --

19 MR. MATULE: May I suggest --

20 MS. BANYRA: -- and the last thing is
21 that -- you know, one second, Bob -- and then the
22 last thing is that the applicant has presented, you
23 know, I think the Board is maybe, as Antonio points
24 out, there is an application presented. We should
25 be evaluating the application presented because

1 saying you take off one foot and expecting a result
2 that may not be the result, or two feet, so I think
3 that you either make a decision on what is presented
4 unless they offer something else, or, you know,
5 either vote it up or vote it down based on what they
6 have given us and the information that's been
7 presented.

8 ACTING CHAIR BRANCIFORTE: Mr. Matule,
9 did you want to say something?

10 MR. MATULE: The only thing I wanted
11 to suggest is perhaps the Board members would want
12 to take another look at this A-1, because I think
13 this gives you a much better actual picture of the
14 facts that are there.

15 There is a stove pipe running up in
16 that little one-foot indentation, plus they have
17 fire escapes on the back of that building --

18 ACTING CHAIR BRANCIFORTE: Okay.

19 MR. MATULE: -- you know, it is pretty
20 insignificant, in my humble opinion.

21 ACTING CHAIR BRANCIFORTE: Is everyone
22 okay?

23 Does anybody need to look at that board
24 or are we done with the discussion and ready for a
25 motion?

1 ACTING CHAIR BRANCIFORTE: Oh, any
2 conditions on this, by the way?

3 There are no conditions?

4 MR. LEIMBACH: No.

5 MS. BANYRA: As long as the Board is
6 comfortable.

7 The only thing that I guess I was not
8 sure, and maybe the testimony from the architect was
9 that the fire code is okay with a block wall there.

10 I guess I haven't heard that before
11 personally, but I don't know. I always thought that
12 there was a fire code reason why we were either zero
13 feet or at a five foot setback.

14 If it is not the fire code, so that is
15 the only thing. As long as it passes the building
16 department, and I am sure the building department is
17 going to look at that, then I am okay with that.
18 But that is the only condition that I would make, if
19 there was one, but I am saying that the building
20 code will catch that.

21 Never mind. I had to talk through it.

22 (Laughter)

23 COMMISSIONER MARSH: May I?

24 ACTING CHAIR BRANCIFORTE: Yes. Go
25 ahead, Carol.

1 COMMISSONER MARSH: I actually thought
2 it had something to do with lot line windows, that
3 at five feet you could allow a window.

4 MS. BANYRA: You can, but okay.

5 COMMISSIONER MARSH: That's what --

6 MS. BANYRA: That's part of it, right,
7 but it is a fire thing, too, I think, but the
8 building code will catch that.

9 COMMISSIONER MARSH: Yeah.

10 ACTING CHAIR BRANCIFORTE: Are we ready
11 for a motion or is there any more discussion?

12 If there is no more discussion, I'm
13 going to ask for a motion.

14 COMMISSIONER GRANA: Motion to approve
15 207 Bloomfield Street.

16 COMMISSIONER MC BRIDE: Second.

17 ACTING CHAIR BRANCIFORTE: Pat --

18 MS. CARCONE: I'm sorry, I missed that.

19 ACTING CHAIR BRANCIFORTE: Oh, Antonio?

20 COMMISSIONER GRANA: My motion.

21 MS. CARCONE: To approve?

22 COMMISSIONER MC BRIDE: Yes.

23 MS. CARCONE: And you were second?

24 COMMISSIONER MC BRIDE: I did.

25 MS. CARCONE: Okay. Commissioner

1 Grana?

2 COMMISSIONER GRANA: Yes.

3 MS. CARCONE: Commissioner Marsh?

4 COMMISSIONER MARSH: Yes.

5 MS. CARCONE: Commissioner McAnuff?

6 COMMISSIONER MC ANUFF: Yes.

7 MS. CARCONE: Commissioner Weaver?

8 COMMISSIONER WEAVER: Yes.

9 MS. CARCONE: Commissioner McBride?

10 COMMISSIONER MC BRIDE: Yes.

11 MS. CARCONE: Commissioner Branciforte?

12 ACTING CHAIR BRANCIFORTE: Yes.

13 MS. CARCONE: Okay.

14 MR. MATULE: Okay. Thank you.

15 (The matter concluded)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -
PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2020.
Dated: 6/22/16
This transcript was prepared in accordance with
NJAC 13:43-5.9.

1 MR. MATULE: So on 511 Washington --

2 ACTING CHAIR BRANCIFORTE: Hold on.

3 Just one second, guys.

4 Yes. Mr. Matule, we have six people
5 here tonight, and it's your right, I suppose, on a D
6 variance to hear it with seven?

7 MR. MATULE: Yes. I am going to
8 request that the matter be carried to the August --
9 I'm sorry -- to the July meeting with no further
10 notice.

11 ACTING CHAIR BRANCIFORTE: We could
12 either carry it. We could start hearing it tonight
13 or --

14 MR. MATULE: No. I would just rather
15 carry it and start over.

16 I appreciate that, but I would prefer
17 to --

18 ACTING CHAIR BRANCIFORTE: Does anyone
19 have any objections to that?

20 COMMISSIONER GRANA: I have no
21 objection.

22 COMMISSIONER MC ANUFF: No objection
23 from me.

24 ACTING CHAIR BRANCIFORTE: Any?

25 COMMISSIONER MC BRIDE: None.

1 COMMISSIONER WEAVER: What is the
2 reason?

3 ACTING CHAIR BRANCIFORTE: What's that?

4 COMMISSIONER WEAVER: What's the
5 reason?

6 ACTING CHAIR BRANCIFORTE: Well, they
7 are allowed to be heard in front of seven members.

8 MR. MATULE: I need five votes. I need
9 a super majority, so I want to have my odds as best
10 as I can have them.

11 (Laughter)

12 ACTING CHAIR BRANCIFORTE: A man you
13 want to sit next to in Atlantic City right there.

14 (Laughter)

15 Is that okay, Pat?

16 What's the schedule like?

17 MS. CARCONE: So we are going to take
18 511 Washington and carry it to our July 19th
19 meeting.

20 MR. MATULE: Yes.

21 ACTING CHAIR BRANCIFORTE: What does
22 the schedule look like for July 19th?

23 MS. CARCONE: Right now the only other
24 project we have is 610 Hudson, so we have -- and
25 that is for a rebuilding, too, right --

1 MR. MATULE: Two carriage houses.

2 MS. CARCONE: -- two carriage houses.

3 ACTING CHAIR BRANCIFORTE: Okay. So
4 that is July what?

5 MR. MATULE: July 19th.

6 ACTING CHAIR BRANCIFORTE: Can we have
7 a motion to carry it to July 19th?

8 COMMISSIONER GRANA: Motion to carry
9 511 Washington to July 19th with no further notice.

10 COMMISSIONER MC ANUFF: Second.

11 MR. MATULE: Thank you.

12 ACTING CHAIR BRANCIFORTE: Roll call?

13 MS. CARCONE: I'm sorry. That's an all
14 in favor thing.

15 ACTING CHAIR BRANCIFORTE: Okay. Aye.

16 (Laughter)

17 MS. CARCONE: Do you waive the time in
18 which the Board has to act?

19 MR. MATULE: Yes. I agree to extend
20 the time in which the Board has to act to July 19th.

21 ACTING CHAIR BRANCIFORTE: Okay.

22 So we'll carry this to July 19th. All
23 in favor?

24 (All Board members answered in the
25 affirmative)

1 ACTING CHAIR BRANCIFORTE: Motion to

2 close?

3 COMMISSIONER GRANA: Motion.

4 COMMISSIONER MC ANUFF: Second

5 ACTING CHAIR BRANCIFORTE: Thank you.

6 (The meeting concluded at 7:50 p.m.)

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C E R T I F I C A T E

I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

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