

HOBOKEN BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN : Tuesday
ZONING BOARD OF ADJUSTMENT : February 19, 2013
----- X 7:10 p.m.

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Joseph Crimmins
- Commissioner Nancy Pincus
- Commissioner Michael DeFusco
- Commissioner John Branciforte
- Commissioner Jay Boucher

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

- Eileen Banyra, Planning Consultant
- Elizabeth Vandor, Planning Consultant
- Jeffrey C. Marsden, PE, PP
Board Engineer
- Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: Good evening,
2 everyone.

3 I would like to advise all of those
4 present that notice of this meeting has been
5 provided to the public in accordance with the
6 provisions of the Open Public Meetings Act, and that
7 notice was published in The Jersey Journal and on
8 the city website. Copies were placed in The
9 Star-Ledger, The Record and also placed on the
10 bulletin board in the lobby of City Hall.

11 It is 7:10. We are at the Hoboken
12 Zoning Board of Adjustment meeting.

13 Let me ask everybody to please rise to
14 salute the flag.

15 (Pledge of Allegiance recited.)

16 CHAIRMAN AIBEL: First order is roll
17 call.

18 MS. CARCONE: Okay.

19 Commissioner Aibel?

20 CHAIRMAN AIBEL: Here.

21 MS. CARCONE: Commissioner Greene?

22 VICE CHAIR GREENE: Here.

23 MS. CARCONE: Commissioner Crimmins?

24 COMMISSIONER CRIMMINS: Here.

25 MS. CARCONE: Commissioner DeFusco?

1 COMMISSIONER DE FUSCO: Here.

2 MS. CARCONE: Commissioner Pincus?

3 COMMISSIONER PINCUS: Here.

4 MS. CARCONE: Commissioner Branciforte?

5 COMMISSIONER BRANCIFORTE: Here

6 MS. CARCONE: Commissioner Boucher?

7 COMMISSIONER BOUCHER: Here.

8 MS. CARCONE: You have a quorum.

9 CHAIRMAN AIBEL: Thank you, and thanks
10 to all of the Board members who are here because we
11 need every one of you. Thanks.

12 Let's start off with a couple of
13 resolutions.

14 MR. GALVIN: Do you have them?

15 MS. CARCONE: Yes.

16 MR. GALVIN: The first matter is 38
17 Jackson, also known as International Realty.

18 The resolution is 29 pages. Those
19 voting in favor of the denial were Mr. Aibel, Mr.
20 Crimmins, Mr. Greene, Mr. DeFusco and Mr.
21 Branciforte.

22 There was one modification that Mr.
23 Greene pointed out to me that in a cite to the City
24 of Fair Lawn, I have "Fair Law," and we will correct
25 that minor typo on the final version.

1 Can I have a motion?

2 VICE CHAIR GREEN: Move it.

3 MR. GALVIN: Can I have a second?

4 MR. CRIMMINS: Second.

5 MR. GALVIN: Thank you.

6 Mr. Aibel?

7 CHAIRMAN AIBEL: Yes.

8 MR. GALVIN: Mr. Crimmins?

9 COMMISSIONER CRIMMINS: Yes.

10 MR. GALVIN: Mr. Greene?

11 VICE CHAIR GREENE: Yes.

12 MR. GALVIN: Mr. Branciforte?

13 COMMISSIONER BRANCIFORTE: Yes.

14 MR. GALVIN: All right.

15 MS. CARCONE: And Mr. De Fusco.

16 MR. GALVIN: And Mr. DeFusco?

17 I'm sorry.

18 COMMISSIONER DE FUSCO: Yes.

19 MR. GALVIN: I don't know how I did

20 that.

21 COMMISSIONER DE FUSCO: No worries.

22 MR. GALVIN: The next one is the

23 application of 1404 Grand.

24 Those voting in favor were Mr.

25 Crimmins, Mr. Greene, Mr. DeFusco, Ms. Pincus, Mr.

1 Branciforte and Mr. Boucher.

2 Would somebody like to make a motion?

3 MR. CRIMMINS: I'll make a motion to
4 approve.

5 MR. GALVIN: Can I have a second?

6 COMMISSIONER PINCUS: Second.

7 MR. GALVIN: Thank you.

8 Mr. Crimmins?

9 COMMISSIONER CRIMMINS: Yes.

10 MR. GALVIN: Mr. Greene?

11 VICE CHAIR GREENE: Yes.

12 MR. GALVIN: Mr. DeFusco?

13 COMMISSIONER DE FUSCO: Yes.

14 MR. GALVIN: Ms. Pincus?

15 COMMISSIONER PINCUS: Yes.

16 MR. GALVIN: Mr. Branciforte?

17 COMMISSIONER BRANCIFORTE: Yes.

18 MR. GALVIN: Mr. Boucher?

19 MR. BOUCHER: Yes.

20 MR. GALVIN: There you go.

21 Pier 13, Mr. Chairman.

22 On Pier 13, we received a letter that

23 the matter will be withdrawn from the Zoning Board,

24 and there has been an agreement between the city and

25 the applicant that they would go to the Planning

1 Board for clarification on their rights to use the
2 bar as it relates to the marina. So from my
3 perspective, it is something that the Zoning Board
4 doesn't have to deal with, and that is a good thing,
5 and let's move on to the applications.

6 CHAIRMAN AIBEL: Let the record reflect
7 that you have to deal with it at the Planning Board.

8 MR. GALVIN: We will do that.

9 (Continue on the next page)

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HOBOKEN BOARD OF ADJUSTMENT
CITY OF HOBOKEN

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 RE: 108-110 JEFFERSON STREET : Tuesday
 Applicant: ERO Property Management :
 (Carried from November 27, 2012) : February 19, 2013
 Appeal from Zoning Officer's decision-: 7:20 p.m.
 variance in the alternative :
 ----- X

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Hoboken, New Jersey

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I N D E X

WITNESS	PAGE
JEFFREY MARSDEN	13
JAMES MC NEIGHT	22

E X H I B I T S

EXHIBIT NO.	PAGE
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B-1	15

1 CHAIRMAN AIBEL: Mr. Matule, I guess
2 that puts you up for 108-110 Jefferson Street.

3 MR. MATULE: Yes.

4 Good evening, Mr. Chairman, and Board
5 Members.

6 Robert Matule appearing on behalf of
7 the applicant.

8 We were here in January. This is an
9 application where we filed an appeal from the zoning
10 officer's decision and a request for a variance in
11 the alternative to use the property at 108-110
12 Jefferson for retail business or service, more
13 specifically, a delicatessen.

14 We presented all of our testimony at
15 the hearing last month, and a member of the public
16 raised a concern about apparently there was an
17 oil -- some spill of some nature from the Boys Club
18 that may have impacted various properties in the
19 neighborhood. The Board asked that the Board
20 Engineer go out and investigate the property,

21 We have also submitted a letter from
22 the contractor to the extent of the work that he did
23 and some photographs of the interior of the space.

24 I also received Mr. Marsden's report
25 with the results of their inspection. Obviously, I

1 will let him address that to the Board, but at this
2 point the oil issue seems to be a non-issue.

3 We don't have any more testimony to put
4 in, and we would just, assuming that the Board is
5 satisfied with Mr. Marsden's investigation, we would
6 like the Board to move the matter for a vote.

7 MR. GALVIN: Why don't we do this, Mr.
8 Chairman.

9 Do you have anything to add to your
10 letter?

11 MR. MARSDEN: No. We went out there.
12 I brought an environmental tech with me that worked
13 with that kind of material before. We used a PID,
14 which is a --

15 MR. GALVIN: Time out, one second.

16 Raise your right hand.

17 Do you swear to tell the truth, the
18 whole truth, and nothing but the truth so help you
19 God?

20 MR. MARSDEN: I do.

21 J E F F R E Y M A R S D E N, having been duly
22 sworn, testified as follows:

23 MR. GALVIN: Okay. Continue.

24 THE WITNESS: We went out with a photo
25 ionization detector, which measures volatile

1 organic, VO. And we checked the basement, and we
2 checked all around the brick walls, any place where
3 oil would absorb and stay there, and we got
4 absolutely nothing detectable in the basement, in
5 the crawl space on the first floor. And in front of
6 the building, we actually scraped the joints in the
7 sidewalk, and we checked that material, and we got
8 no detectable readings at all, so that is basically
9 what the report says.

10 MR. GALVIN: All right.

11 Now, in your letter you used the word
12 "cursory" to describe it in the report. It sounds
13 like you did a very thorough report. Why did you
14 use that word?

15 MR. MARSDEN: Because if you suspect
16 something like this, there are further measures to
17 take if you find things, so this is the initial
18 investigation, and typically I would go out with our
19 meter, but because of the situation, I decided to
20 bring a tech and the meter with me.

21 MR. GALVIN: Thank you.

22 (Board members confer.)

23 CHAIRMAN AIBEL: We are going to mark
24 the -- we are not going to mark your letter.

25 MR. MATULE: Okay. I have the letter

1 from the contractor and photos of --

2 MR. GALVIN: Yes. We want to mark
3 this. We will mark the letter of February 8th, 2013
4 with its attachment as Mr. Matule's next exhibit,
5 and we want to mark Jeff's letter of February 18th
6 as B-1.

7 MR. MATULE: A-1 is the only one that I
8 have in my note from last month.

9 MR. GALVIN: Then it should be A-2.

10 MR. MATULE: I just want to see what it
11 was. I would have to go back in the transcript.

12 MR. GALVIN: You know what? Then we
13 are going to make it A-11.

14 (Exhibits marked A-11 and B-1)

15 CHAIRMAN AIBEL: What was attached?

16 MS. CARCONE: Photos that were
17 submitted.

18 MR. GALVIN: Were they submitted
19 previously?

20 MR. GALVIN: So the photos are being
21 part of that exhibit as well.

22 Does the Board want to take a look?

23 MR. MATULE: If I can just, for the
24 record, A-1 was Mr. Ochab's photo board.

25 MR. GALVIN: Okay. But these pictures

1 you now supplied us, they go with that.

2 MR. MATULE: They go with that letter
3 and --

4 (Board members confer.)

5 CHAIRMAN AIBEL: Has everybody had a
6 chance to review the photos?

7 MR. GALVIN: Anybody need to see the
8 photos?

9 COMMISSIONER PINCUS: Yes.

10 CHAIRMAN AIBEL: Let me open --

11 MR. GALVIN: Can I have the photos when
12 you are done?

13 MR. MATULE: I have another set. It is
14 my file copy, but I will be happy to share them with
15 Ms. Pincus. It may move things along.

16 CHAIRMAN AIBEL: Let me open up the
17 application for any comments by the public with
18 respect to the 108-110 Jefferson application.

19 Seeing none, motion to close the public
20 portion.

21 MR. CRIMMINS: Motion to close the
22 public portion.

23 CHAIRMAN AIBEL: Second?

24 COMMISSIONER DE FUSCO: I will second
25 that.

1 CHAIRMAN AIBEL: Thank you.

2 Mr. Matule, I guess it goes to you for
3 summation.

4 MR. MATULE: This is -- just to recap,
5 this property has a history of being used as a
6 commercial space. It was a hardware store. It was
7 a sign shop. It was a law office. We have a
8 difference of opinion with the zoning officer about
9 whether that qualifies as retail business or
10 service. She is of the opinion it does not, but
11 that it is commercial space.

12 I am of the opinion that all retail
13 business and services are commercial, but not all
14 commercial uses are commercial businesses or
15 services, and consequently we should be able to get
16 our certificate of zoning compliance as of right.
17 But rather than litigate that issue, we said we
18 would come here and present our proofs to the Board.

19 The variance we are asking for is
20 the -- the deviation is we don't meet one of the
21 conditions of Section 19633, which is that there are
22 two other retail businesses or services on the
23 block, and that is the variance relief we are
24 requesting the Board for.

25 We had discussed last week that it was

1 going to be used -- last month that it would be a
2 delicatessen. There were a couple of conditions
3 some Board members proffered. One was that it
4 wouldn't be used for liquor, a liquor store, which
5 my client had agreed to, and the other one I believe
6 hours of operation were until I think ten p.m.

7 MR. GALVIN: I have six.

8 MR. MATULE: That was pretty much it.

9 I have nothing to add. I think it is a
10 pretty straightforward case. The building has
11 always been commercial. It really can't be
12 residential because of the way it is located, I
13 mean, this portion of the building being at grade.

14 So we would ask the Board to grant the
15 variance to allow the retail business or service
16 use.

17 CHAIRMAN AIBEL: Do you have any
18 conditions?

19 MR. GALVIN: The conditions I collected
20 at the last meeting were:

21 The applicant is to obtain a
22 jurisdictional determination as to whether a flood
23 permit is required due to the lapse of use.

24 2: The hours of operation shall be
25 limited to six a.m. to ten p.m.

1 3: There is to be no seating in the
2 store or outside on the sidewalk.

3 4: The property is not to sell
4 alcoholic beverages from this location.

5 5: The applicant must flood proof the
6 building.

7 6: The applicant must --

8 MR. MATULE: I don't know what that
9 means with all due respect.

10 MR. GALVIN: No?

11 We are going to take that out. I don't
12 know --

13 MR. MARSDEN: If they get an IP from
14 DEP, it will be equivalent to getting the approval,
15 that it is an acceptable method of preventing a
16 flood in the building.

17 MR. GALVIN: Okay.

18 It must have been said --

19 VICE CHAIR GREEN: We were talking
20 about a flood gate on the door.

21 MR. GALVIN: I took that out.

22 Do you want to leave the condition in?

23 VICE CHAIR GREENE: No. Jeff said it
24 is not necessary.

25 MR. GALVIN: I try to collect

1 everything, not everything should be there, and
2 anything that I think is --

3 COMMISSIONER CRIMMINS: We are getting
4 flood walls around the city. Don't worry about it.

5 (Laughter)

6 MR. GALVIN: Mr. Branciforte?

7 COMMISSIONER BRANCIFORTE: I have a
8 question about that, though.

9 Is there a door that runs from say the
10 sidewalk to the basement on the side wall?

11 Do you know that?

12 MR. GALVIN: I can't answer that.

13 COMMISSIONER BOUCHER: You mean around
14 the building like an alley?

15 COMMISSIONER BRANCIFORTE: You know
16 what? My question is, can we require them to put
17 some sort of flood proof door on the basement doors?
18 There are basement doors that are exposed to the
19 exterior --

20 VICE CHAIR GREENE: Like a Bilco door?

21 COMMISSIONER BRANCIFORTE: Something
22 that's going to -- sort of like a -- I don't know.

23 What did you call it?

24 VICE CHAIR GREENE: Bilco.

25 COMMISSIONER BRANCIFORTE: Bilco? I

1 don't know what that is.

2 VICE CHAIR GREENE: It is the door you
3 are thinking of.

4 COMMISSIONER BRANCIFORTE: Is it?

5 VICE CHAIR GREENE: It's a frame with
6 a --

7 COMMISSIONER BOUCHER: Is the basement
8 just a crawl space?

9 MR. GALVIN: Well, one of the things we
10 had is there is to be no storage in the crawl space.

11 COMMISSIONER BRANCIFORTE: In the
12 basement.

13 I mean, if we can somehow secure the
14 doors that lead to the basement from the exterior as
15 flood proof, I would be all for that.

16 MR. MATULE: Do you know?

17 Can we get Mr. McNeight sworn in?

18 He didn't testify the last time, but he
19 was the architect for the project.

20 MR. GALVIN: Mr. McNeight, raise your
21 right hand.

22 Do you swear to tell the truth, the
23 whole truth, and nothing but the truth so help you
24 God?

25 MR. MC NEIGHT: Yes.

1 J A M E S M C N E I G H T, having been duly
2 sworn, testified as follows:

3 MR. GALVIN: State your full name for
4 the record and spell your last name.

5 THE WITNESS: James McNeight, M-c
6 N-e-i-g-h-t.

7 MR. GALVIN: Mr. Chair, do we recognize
8 Mr. McNeight as an architect?

9 CHAIRMAN AIBEL: Yes, we do.

10 MR. GALVIN: You may proceed.

11 MR. MATULE: Mr. McNeight, you were the
12 architect of record for the renovation of the space
13 at 108 Jefferson Street?

14 THE WITNESS: Yes.

15 MR. MATULE: To process the building
16 permits with the Building Department of Hoboken?

17 THE WITNESS: Correct.

18 MR. MATULE: Are you familiar with the
19 space?

20 THE WITNESS: I am.

21 MR. MATULE: There has been some
22 questions by the Board that perhaps you can address.

23 Are you aware of any outdoor or
24 sidewalk doors leading into the basement of the
25 property?

1 THE WITNESS: No, there is none.

2 There is no basement in the property.

3 There is a crawl space about as high as this table
4 underneath most of the commercial space.

5 And then the second floor pops up a
6 little, so there is another crawl space underneath
7 the mezzanine of the place that is maybe four feet
8 high, but neither one of them are really usable for
9 anything. It's just the chases for the plumbing
10 pipes.

11 MR. MATULE: And access through that
12 space would be through the interior in the back?

13 THE WITNESS: Through the back, you
14 have to go down through the garage in the middle of
15 the structure, go into the taller of the crawl
16 spaces, and then get down on your hands and knees,
17 if you wanted to enter the other part of the dungeon
18 there.

19 COMMISSIONER BRANCIFORTE: So there is
20 no direct access to that from the exterior?

21 THE WITNESS: No, because there was no
22 use of the space underneath.

23 COMMISSIONER BRANCIFORTE: And there's
24 no rear door that leads directly to the crawl space?

25 THE WITNESS: No.

1 COMMISSIONER BRANCIFORTE: Thank you,
2 Mr. McNeight.

3 I am good. Thanks.

4 VICE CHAIR GREEN: I have a question of
5 Jeff in light of that testimony.

6 Was that the space that you
7 investigated?

8 MR. MARSDEN: Yes. There was two. As
9 Mr. McNeight indicated, there were two areas. One
10 was a very low crawl space near the front of the
11 building, and then it opens up to about four and a
12 half feet or so.

13 We went into the crawl space. We went
14 around the perimeter and then we did the same thing
15 with the higher one, and we walked around the
16 perimeter and did testing and found nothing.

17 VICE CHAIR GREENE: Thank you.

18 MR. GALVIN: You should see if there
19 are any questions of Mr. McNeight from the public.

20 CHAIRMAN AIBEL: Let me ask: Anybody
21 in the public wish to put questions to Mr. McNeight?

22 COMMISSIONER CRIMMINS: I'll make a
23 motion to close the public portion.

24 COMMISSIONER BRANCIFORTE: I will
25 second.

1 MR. GALVIN: I recommend you move into
2 deliberations.

3 CHAIRMAN AIBEL: Any there any other
4 conditions, Board members, that you would like to
5 discuss?

6 Anybody want to open it up for
7 consideration, deliberation?

8 COMMISSIONER BRANCIFORTE: You know,
9 the only problem I have with this application is I
10 see an important part of this store will be to
11 service the Boys & Girls Club, and the fact that it
12 is in the middle of the block, I really don't like
13 the idea of kids crossing in the middle of the block
14 to get to the store. That is a problem for me.

15 They made it clear that they are hoping
16 that the store will service the Boys & Girls Club.
17 For me kids, kids crossing in the middle of the
18 street, to run across to get a soda, I don't like
19 that at all.

20 COMMISSIONER CRIMMINS: You know in
21 general -- were you done?

22 COMMISSIONER BRANCIFORTE: Yes. Go
23 ahead.

24 COMMISSIONER CRIMMINS: You know, in
25 general, I think it is a good place for the store.

1 There is nothing on the block.

2 It is a very dark neighborhood at
3 night. I think it could draw activity there.

4 You know, during the day when school is
5 in, there are crossing guards on the corner.

6 We all grew up. Those of us who grew
7 up in Hoboken, you cross the street to go to any
8 store. I am not concerned about it. I think, you
9 know, it is a good idea, the project, and I think we
10 should allow it.

11 COMMISSIONER DE FUSCO: I will agree
12 with that.

13 I think it's a dead corner. I think it
14 is a block that needs this sort of service, although
15 there isn't another business within a thousand feet
16 of it, I don't think that means that it doesn't
17 belong in this particular neighborhood.

18 I think it is going to contribute to
19 the quality of the life of the residents, and I am
20 certainly happy to hear that the hurricane didn't
21 have adverse effects that some of the community may
22 have thought, so I think it is a great application,
23 and I would like to see it move forward.

24 COMMISSIONER BOUCHER: I agree.

25 I think it is a favorable position for

1 the store.

2 My children go to school in the
3 neighborhood, and I think it will be a fine addition
4 for parents when they are dropping off kids in the
5 neighborhood to be able to have a place where they
6 can get coffee in the morning.

7 (Laughter)

8 COMMISSIONER PINCUS: I actually agree
9 with everybody, except I do want to say I am not so
10 concerned about the Boys & Girls Club because I
11 believe the younger children are not allowed.

12 When they have scheduled programming, I
13 don't think the smaller children are allowed out
14 unsupervised, and the older kids who come there, I
15 hope they can cross the street safely.

16 I do think it is a great thing to have
17 in the neighborhood, a store where you can get a
18 newspaper, a coffee, a sandwich, so I see nothing
19 bad about the application.

20 CHAIRMAN AIBEL: Anybody else?

21 VICE CHAIR GREENE: I concur.

22 CHAIRMAN AIBEL: My only question slash
23 pet peeve or possible condition is my concern that
24 the neighborhood is not littered with trash, candy
25 bar wrappers and cups and the like. I wonder if

1 your client would agree he would maintain a trash
2 receptacle outside and --

3 MR. MATULE: Well, typically, and
4 again, just to be clear, the applicant is not going
5 to be the operator. The applicant is the owner of
6 the property. But typically in commercial leases
7 for operations of this nature, one of the
8 requirements of the tenant is that they maintain the
9 sidewalk in front of the premises clear of ice and
10 snow and trash and debris and the gutter in front of
11 the place, so any tenant who moves in there will
12 have a condition like that in their lease.

13 So that I guess what I am saying in a
14 round about way is that is how my client would meet
15 that requirement by having the tenant do it.

16 CHAIRMAN AIBEL: Would he be willing to
17 put in the lease that the owner/operator provides a
18 trash receptacle outside?

19 MR. MATULE: Sure, if there are no
20 objections from the city.

21 There is a fence line there. I
22 certainly don't see why we couldn't put one inside
23 of the fence line.

24 MR. GALVIN: The condition is there
25 would be a trash receptacle?

1 COMMISSIONER CRIMMINS: In the gate,
2 in the gate outside.

3 MR. GALVIN: There is to be a trash
4 can?

5 COMMISSIONER CRIMMINS: Either one.

6 MR. GALVIN: Trash can.

7 MR. MATULE: Liter basket.

8 COMMISSIONER BRANCIFORTE: We may even
9 want to add a recycling bin, too, for glass and
10 bottles.

11 MR. GALVIN: There is to be a trash can
12 and a recycling bin within the gated area for public
13 use -- or else it is going to sound like that is
14 where they are storing the trash to go out.

15 MR. MATULE: If you want to say for use
16 of the customers of the store.

17 MR. GALVIN: For customer use.

18 MS. BANYRA: I will take my garbage
19 there.

20 (Laughter)

21 MR. GALVIN: I get it.

22 CHAIRMAN AIBEL: All right.

23 Any more comments from the Board?

24 COMMISSIONER PINCUS: We have not
25 really discussed signage, and I am just wondering

1 how the Board feels about lit signage at night, if
2 it's a residential neighborhood at night, how you
3 feel about that.

4 COMMISSIONER BOUCHER: Is that the
5 purview of Zoning Board or the Planning Board?

6 MS. VANDOR: Do you have signage plans
7 yet?

8 MR. MATULE: No, it is not. But it
9 would be whatever the zoning officer permits, I
10 would assume.

11 MR. GALVIN: Just so you are educated,
12 in this instance, there is no sign variance
13 requested.

14 If you felt it was really important in
15 a given case, even though it is not in front of you,
16 you could restrict -- you could do that restrictive
17 sign.

18 COMMISSIONER PINCUS: I just have lit
19 signage outside of my window to the side, but it
20 doesn't bother me, but I know it annoys some of my
21 neighbors.

22 MR. GALVIN: Whatever they do has to be
23 compliant with the ordinance.

24 CHAIRMAN AIBEL: Okay.

25 I think we are ready for a roll call.

1 MS. CARCONE: Motion?

2 VICE CHAIR GREENE: Thank you.

3 CHAIRMAN AIBEL: Let's have a motion
4 then, if you insist.

5 (Laughter)

6 VICE CHAIR GREENE: I will move for
7 approval subject to the conditions.

8 CHAIRMAN AIBEL: Do you we have a
9 second?

10 COMMISSIONER CRIMMINS: I'll second.

11 MS. CARCONE: Commissioner Greene?

12 VICE CHAIR GREENE: Yes.

13 MS. CARCONE: Commissioner Crimmins?

14 COMMISSIONER CRIMMINS: Yes.

15 MS. CARCONE: Commissioner DeFusco?

16 COMMISSIONER DE FUSCO: Yes.

17 MS. CARCONE: Commissioner Pincus?

18 COMMISSIONER PINCUS: Yes.

19 MS. CARCONE: Commissioner Branciforte?

20 COMMISSIONER BRANCIFORTE: No.

21 MS. CARCONE: Commissioner Boucher?

22 COMMISSIONER BOUCHER: Yes.

23 MS. CARCONE: Commissioner Aibel?

24 CHAIRMAN AIBEL: Yes.

25 MR. MATULE: Thank you.

(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 testimony 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 11/5/2015.
This transcript was prepared in accordance with
NJAC 13:43-5.9.
Dated: March 1, 2013

HOBOKEN BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 626 GRAND STREET : Tuesday
 Applicant: T & C Manageent, LLC :
 Minor Site Plan Approval : February 19, 2013
 C&D Variances : 7:45 p.m.
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Vice Chair Elliot H. Greene
- Commissioner Joseph Crimmins
- Commissioner Nancy Pincus (Recused)
- Commissioner Michael DeFusco
- Commissioner John Branciforte
- Commissioner Jay Boucher

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

- Eileen Banyra, Planning Consultant
- Elizabeth Vandor, Planning Consultant
- Jeffrey C. Marsden, PE, PP
- Board Engineer
- Patricia Carcone, Board Secretary

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10 Attorney for the Applicant.

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I N D E X

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WITNESS

PAGE

JAMES MC NEIGHT

38

1 (Commissioner Pincus recused)

2 CHAIRMAN AIBEL: 626 Grand Street, Mr.
3 Matule.

4 MR. MATULE: This is another matter we
5 were at the Board for last month. This is an
6 application for the project at 626 Grand Street. It
7 is for a four-story four-residential-unit building.

8 I think for the record, Ms. Pincus is
9 recusing herself.

10 (Commissioner Pincus excused)

11 When we were here last month, during
12 the course of the presentation of the matter, there
13 was some discussion with Mr. Marsden. We were
14 asking for, I believe, a 41 foot above base flood
15 elevation or 40 feet above base flood elevation, but
16 now in light of the changing regulations, we have
17 amended that application to request 42 feet above
18 the base flood elevation.

19 I think there was some discussion about
20 43 feet, but it became an issue of the front steps
21 and how high and steep they would be.

22 The other discussion was the
23 application as presented asked for 65.8 percent lot
24 coverage. The building is 60 percent, and there was
25 a rear deck slash fire stair that was 5.8 percent.

1 After comments from the Board, we again
2 amended our application to reduce that down to seven
3 feet deep and 13 and a half feet wide, which reduced
4 the lot coverage variance to 63.8 percent or 3.8
5 percent more than the 60 percent permitted.

6 We submitted revised plans from Mr.
7 McNeight showing those changes, and I think that is
8 really -- I don't -- our planning testimony has
9 really not changed because we are reducing the lot
10 coverage variance and the height is the, you know,
11 based on the flood elevation, so it is really driven
12 by trying to comply with the new flood regulations,
13 a moving target.

14 But, in any event, I have Mr. McNeight
15 here, if there are any questions. I can certainly
16 have him testify about the changes, but I think they
17 are pretty self-evident.

18 CHAIRMAN AIBEL: Board members,
19 questions?

20 COMMISSIONER BRANCIFORTE: So, again,
21 from the last time to tonight, you raised it again
22 or above base flood elevation?

23 J A M E S M C N E I G H T, having been
24 previously sworn, testified as further as follows:

25 THE WITNESS: We are now two feet above

1 base flood elevation.

2 COMMISSIONER BRANCIFORTE: And it used
3 to be?

4 THE WITNESS: It was one foot before.

5 COMMISSIONER CRIMMINS: That was based
6 on the Board's discussion?

7 THE WITNESS: Correct.

8 CHAIRMAN AIBEL: Anybody else?
9 Mr. McNeight?

10 THE WITNESS: Yes.

11 CHAIRMAN AIBEL: Let me finish with Mr.
12 McNeight.

13 One of the changes I had urged was the
14 depth of the fire egress stairs.

15 What, Mr. McNeight, is the minimum
16 required by the fire code?

17 THE WITNESS: Basically if you look at
18 the latest set of drawings, I have, you know, I have
19 it to seven feet deep off the building, which is as
20 skinny as it can get, and it is 13-6 long, which is,
21 as you know, the horizontal dimension in this case
22 is as slight as it can get.

23 So it functions almost entirely as just
24 a means of egress, and we have tightened it up as
25 much as we can, so it is 8.6 off the south side, and

1 three feet off the north side.

2 CHAIRMAN AIBEL: I guess what I am
3 looking for, Mr. Matule, is a definitive answer as
4 to what the fire code requirements are.

5 MR. MATULE: Yes.

6 I think the Chairman is asking: What
7 is the width required of the stairways and the
8 walkways for a fire escape.

9 THE WITNESS: This is not a fire
10 escape. This is just an exterior stair, so it has
11 to be for the inside 36 inches wide. It can't be
12 more than a seven-inch riser. It can't be anything
13 less than an 11-inch tread, so it is just a function
14 of those numbers as to the size of this.

15 And then the other consideration, if
16 you are going to shrink it to its minimum width,
17 the reason it's 17 feet is there are stringers on
18 the side, and there's columns that have to hold it
19 up, you know, so the seven feet is as minimum as it
20 can get in that dimension.

21 When you drag that close to the
22 building, some of the steps will be up against the
23 building, so the trick is not to have the windows or
24 doors in this case blocked by steps, so that is why
25 it is dog-legged with fewer steps against the

1 building than on the outside just for that reason to
2 be able to light up the interior of the apartment
3 properly.

4 MR. MATULE: And there is a small space
5 here on your drawings.

6 Is that just an opening for the
7 railing?

8 THE WITNESS: Yes. That is just the
9 railing, and there are columns up the middle there.

10 COMMISSIONER BRANCIFORTE: So I will
11 ask the question again.

12 There is a building code, a fire code?

13 THE WITNESS: Yes, yes.

14 COMMISSIONER BRANCIFORTE: According to
15 the fire code, what is the minimum width --

16 THE WITNESS: 36 inches.

17 COMMISSIONER BRANCIFORTE: 35 inches?

18 THE WITNESS: Yes.

19 COMMISSIONER BRANCIFORTE: So three
20 feet is the minimum requirement for a fire escape?

21 THE WITNESS: For an exterior stairway.
22 It is not a fire escape.

23 COMMISSIONER BRANCIFORTE: I am not
24 asking about that. I am asking about the fire
25 escape.

1 THE WITNESS: This isn't a fire escape.

2 COMMISSIONER BRANCIFORTE: Oy-vey.

3 THE WITNESS: A fire escape is a
4 cantilevered structure off the back of the building.
5 This sits on columns and it goes all the way down to
6 the ground.

7 COMMISSIONER BRANCIFORTE: Have you
8 ever designed a fire escape before?

9 THE WITNESS: Sure.

10 COMMISSIONER BRANCIFORTE: What is the
11 minimum width for a fire escape?

12 THE WITNESS: A fire escape is 22
13 inches, but you can't put a fire escape on it.

14 COMMISSIONER BRANCIFORTE: I understand
15 that.

16 CHAIRMAN AIBEL: The testimony you
17 can't put anything less than a seven foot deep
18 extension on this?

19 THE WITNESS: In my opinion, that is as
20 tight as I could get the stair to work.

21 CHAIRMAN AIBEL: I think we will be
22 hearing other applications tonight, in which that
23 may be an issue as to whether or not that is the
24 minimum required, and I am very interested in having
25 that dimension.

1 THE WITNESS: About the width?

2 CHAIRMAN AIBEL: The depth or width.

3 THE WITNESS: On new construction you
4 can't have a fire escape.

5 CHAIRMAN AIBEL: What is the minimum
6 width of whatever stairwell you can construct on the
7 outside of a new building?

8 THE WITNESS: Three feet, three feet
9 zero clear.

10 CHAIRMAN AIBEL: Okay.

11 MR. MATULE: Maybe I can ask the
12 question a different way.

13 In your professional opinion, could you
14 design that so it was only six feet wide, or are
15 there construction constraints on doing it within
16 six foot?

17 THE WITNESS: You can't build it.
18 There are steel beams that hold the cage that hold
19 the stairs. The beams are six inches deep. There
20 are columns that hold the beams up in the air.

21 MR. MATULE: They would be in the
22 pathway -- in that 36-inch pathway, if you tried to
23 do it within six foot?

24 THE WITNESS: Yes. You need 36 inches
25 clear, so you are not going to bump into anything

1 while you are walking, so there are stringers
2 involved -- there are the stringers involved. There
3 are channels that hold the whole thing up and then
4 there's columns that hold the channels.

5 MR. MATULE: Then with the double width
6 stairway, that is what is adding the additional 12
7 inches to the depth of this?

8 THE WITNESS: You have opposing angles
9 of railing passing each other. So when you put your
10 hand on the railing, your fingers stick out, so you
11 can't have the railing where you put your fingers
12 between the two railings.

13 So in all practicality, seven feet is
14 what you need to build a comfortable stairway on the
15 back of the building.

16 CHAIRMAN AIBEL: Anybody else?

17 COMMISSIONER BOUCHER: Yes.

18 Would there be any way to cantilever it
19 out so you don't have to deal with the columns?

20 THE WITNESS: No.

21 COMMISSIONER BOUCHER: And that is
22 because of the construction of the building?

23 THE WITNESS: Too much weight, too much
24 of a distance, yes.

25 COMMISSIONER CRIMMINS: I would like to

1 ask the planner if she agrees with that.

2 MS. VANDOR: I'm sorry?

3 COMMISSIONER CRIMMINS: Eileen, or
4 Elizabeth, do you agree with the measurements you
5 just heard?

6 MS. VANDOR: I don't know those codes,
7 so I mean, I would not testify -- I would not give
8 testimony contrary to that.

9 I was just trying to work out
10 terminology in my mind, and just bear with me a
11 minute.

12 You are saying what you have shown here
13 is a second means of egress, right?

14 THE WITNESS: Correct.

15 MS. VANDOR: Which you have to do
16 because of the way that you laid out the building?
17 You have to have a second means of egress?

18 THE WITNESS: For a multiple dwelling
19 building, which this is, you need two means of
20 egress. In this case one is in the back of the
21 building, and one is within the building.

22 MS. VANDOR: Right.

23 And the second means of egress that you
24 are providing in the back, there is no -- a fire
25 escape is not a legal substitute for that, is that

1 what you are saying?

2 THE WITNESS: That is correct.

3 MS. VANDOR: If you have a fire escape,
4 it cannot be in the back of the building in any
5 event?

6 THE WITNESS: There is no such thing as
7 a fire escape on a new construction. It is not
8 allowed.

9 MS. VANDOR: Oh, it's simply removed?

10 THE WITNESS: Not allowed.

11 MS. VANDOR: I see.

12 So the Board wants to know is this the
13 minimum sized stairway that you can build regardless
14 of what the terminology is.

15 THE WITNESS: Yes, I believe it is.

16 MS. VANDOR: Then I am okay with it.

17 COMMISSIONER CRIMMINS: All right.

18 No more questions from me.

19 CHAIRMAN AIBEL: I will suggest a quick
20 five-minute break, and I would like counsel to have
21 a discussion.

22 MR. GALVIN: All right. I will be
23 right back.

24 (Discussion held off the record)

25 CHAIRMAN AIBEL: Let's go back on the

1 record.

2 Thank you, Counsel, for your work.

3 MR. MATULE: It was my pleasure. I
4 learn something new every month. That is what I
5 love about my job.

6 CHAIRMAN AIBEL: So before we move
7 under from this discussion, I will ask Mr. McNeight
8 to make one change to his plans. That is on the
9 very first page, he indicates that the exit stair we
10 have been discussing is a four-story deck. I want
11 to make it very clear that these are stairs, not a
12 deck.

13 THE WITNESS: Okay. I will get rid of
14 that word.

15 CHAIRMAN AIBEL: Thank you.

16 Board members, anybody else?

17 COMMISSIONER CRIMMINS: I am fine with
18 that change. I agree.

19 CHAIRMAN AIBEL: Mr. Marsden?

20 MR. MARSDEN: Yes.

21 Mr. McNeight, can you just clarify what
22 is the finished elevation on the first floor?

23 THE WITNESS: On Z-4, the center
24 drawing, the finished floor is set at 11 feet.

25 MR. MARSDEN: Then I just want to

1 clarify that you are aware that the current
2 regulations the DEP has adopted, the advisory flood
3 elevation be 12 for the hundred-year storm, and they
4 would require the first floor to be at 13 typically,
5 so you will need a flood hazard area permit for
6 this.

7 THE WITNESS: Okay.

8 VICE CHAIR GREENE: Are they likely to
9 issue that, Jeff, under the current circumstances?

10 MR. GALVIN: We are bringing it up to
11 42 feet in height.

12 MR. MATULE: That puts us two feet
13 above base flood elevation, which puts it at nine,
14 which puts us at a first floor elevation of 11.

15 We would have to go 43 feet to be at
16 the first floor level of 12, which is three feet
17 above the base flood elevation of nine, but it was
18 expressed that there may be an issue with the
19 stairs, correct?

20 THE WITNESS: Correct.

21 MR. MATULE: Getting that stair run --

22 THE WITNESS: Within the gate line.

23 MR. MATULE: -- within what the
24 ordinance permits in terms of gate line.

25 MR. GALVIN: So you will have to obtain

1 a jurisdictional --

2 MR. MARSDEN: No. An individual permit
3 for a flood hazard area.

4 MR. MATULE: Yes.

5 I am just asking Mr. McNeight, you
6 know, if we could turn the stairs sideways to make
7 that run longer, but then that becomes an issue of
8 getting rid of the bay on the side of the building.

9 MR. GALVIN: I just have a feeling we
10 are going to see you again.

11 MR. MATULE: Perhaps I was hoping you
12 would opt for 43, if you needed it, but the stair
13 issue is an issue I don't know.

14 I would rather ask for the 43 now and
15 try to figure out the stairs.

16 (Board members confer)

17 MR. GALVIN: I was concerned that FEMA
18 may not grant the permission for them to go less
19 than the BFE.

20 MS. VANDOR: I was having a
21 conversation. I'm sorry.

22 Why were you going to turn the front
23 stoop?

24 MR. MATULE: We are only allowed to
25 come out so many feet from the front of the

1 building.

2 MS. VANDOR: Under Chapter 168?

3 MR. MATULE: Street and sidewalk
4 ordinance.

5 We are raising the floor up to 12 feet
6 in order to have the proper tread and rise on the
7 stairs.

8 MS. VANDOR: Right.

9 So you think the city wouldn't permit
10 it?

11 THE WITNESS: There is a solution we
12 could leave it as far out as it is sticking and just
13 make it concave --

14 MR. MATULE: Push it back inside of the
15 building?

16 THE WITNESS: Some would be outside.

17 MS. VANDOR: I think the ones that are
18 parallel to the sidewalk are really ugly.

19 THE WITNESS: I don't like those.

20 MR. MATULE: I would prefer to propose
21 the alternative to the Board. It is still a C
22 variance whether we are asking for two or three feet
23 because we are less than 10 percent of what is
24 permitted, and rather than run the risk of having of
25 to come back here again, I would rather amend my

1 application to have the option of going 43 feet, if
2 we have to in order to comply with the flood
3 regulations.

4 VICE CHAIR GREENE: Is it 43 or 44?

5 MR. MARSDEN: It would be 44, but you
6 have to be --

7 MR. MATULE: We are allowed -- we are
8 allowed 40 feet above the base flood elevation, and
9 we have to be three feet above the base flood
10 elevation --

11 MR. MARSDEN: You have to be at
12 elevation 13.

13 MR. MATULE: At elevation 13 or three
14 feet above the base flood elevation?

15 MR. MARSDEN: Okay. The base --

16 MR. MATULE: The base flood elevation
17 is nine.

18 THE WITNESS: We are going up two feet.
19 We are at 11, and we have to go to 13.

20 MR. MARSDEN: The current base flood
21 elevation, as defined yesterday, was nine --

22 MR. MATULE: Right.

23 MR. MARSDEN: -- and my understanding
24 is that they said they are adopting the advisory
25 base flood elevation of elevation 12.

1 MR. MATULE: Okay.

2 MR. MARSDEN: That is the new base
3 flood of elevation you have control over, and your
4 first floor has to be one foot above that, so that
5 would put you at elevation 13, which is two feet
6 higher.

7 COMMISSIONER CRIMMINS: So forget about
8 the steps in front of the building and put up a
9 ladder.

10 (Laughter)

11 THE WITNESS: So it would 44 feet above
12 base flood elevation.

13 MR. MARSDEN: That's my understanding.

14 VICE CHAIR GREENE: So the end of the
15 stairways would be halfway down the corridor --

16 MR. MATULE: Or one foot above the new
17 BFE.

18 (Laughter,

19 (Board members confer)

20 MR. MATULE: 44 feet above base flood
21 elevation.

22 MR. MARSDEN: Because you have three
23 feet, above plus one foot to clear.

24 MR. MATULE: Off the base flood
25 elevation of nine. That puts me at 13.

1 MR. MARSDEN: If you are at 13, you are
2 good.

3 VICE CHAIR GREENE: So what is the
4 amendment?

5 MS. VANDOR: Didn't we --

6 MR. GALVIN: A little help, guys.
7 (Laughter)

8 MS. VANDOR: -- didn't we do -- I'm
9 sorry.

10 MR. GALVIN: What we have to figure out
11 is the request is for 42 feet. We are saying is
12 that sensible.

13 And then if we go to 43 feet, it's not
14 a problem because it is still a C variance.

15 At 44 feet, now we have a new issue
16 that it now becomes a D variance. All right?

17 (Board members confer)

18 MS. BANYRA: You didn't advertise for
19 that.

20 MR. GALVIN: You are right.

21 MS. VANDOR: Can you do three feet 11
22 inches?

23 MS. BANYRA: You are asking the
24 engineer, you know --

25 MR. GALVIN: You have to comply. If

1 you don't comply, I don't know of anything that says
2 you can go just a little bit below the flood level.

3 MS. VANDOR: Oh, I'm sorry.

4 MR. MARSDEN: You can request a permit
5 based on hardship.

6 MR. GALVIN: They could take a foot out
7 of the building somewhere, though, to comply.

8 (Board members confer)

9 VICE CHAIR GREENE: What is as high as
10 they could go?

11 MR. GALVIN: The most we can give them
12 tonight without a renotification is 43 feet.

13 VICE CHAIR GREENE: Not 43 plus six?

14 MR. GALVIN: You're probably right. We
15 can't give you relief from FEMA for that, yeah, but
16 we could go up to 43-11.

17 COMMISSIONER CRIMMINS: 43 and a half.

18 MR. MATULE: We will see what we can
19 work out in the floor to ceiling height.

20 THE WITNESS: That's true.

21 MR. MATULE: Although I don't think the
22 floor to ceiling height is going to make a
23 difference --

24 MR. GALVIN: What we're saying is we
25 can almost give you four feet. We can give you

1 three feet and 11 inches.

2 THE WITNESS: And 7/8ths.

3 (Laughter)

4 VICE CHAIR GREENE: Give the man an
5 inch, and he wants 7/8ths.

6 MR. MATULE: I appreciate the Board's
7 consideration. It is a difficult situation. It is
8 a moving target, and we will try to do it as
9 compactly as we can.

10 MR. GALVIN: I know the neighbors are
11 concerned about the height of the building, and the
12 Board is concerned about the height of the building,
13 but I mean you really have to comply with the
14 regulations.

15 If you are going to have four stories,
16 it seems that you have to have this height. No one
17 else has given me any advice to the contrary.

18 VICE CHAIR GREENE: Well, one of the
19 other things is you could do three stories --

20 MR. GALVIN: You could do three
21 stories.

22 VICE CHAIR GREENE: -- and then be
23 compliant.

24 MR. GALVIN: You could.

25 CHAIRMAN AIBEL: Ms. Banyra?

1 MS. BANYRA: Where would the garbage be
2 kept?

3 THE WITNESS: I think now that the
4 building keeps rising --

5 MS. BANYRA: It could go underneath?

6 THE WITNESS: -- in the concave, yes,
7 under the steps.

8 MS. BANYRA: Then can you increase your
9 landscaping bed and mix it up with perennials?

10 THE WITNESS: Sure, okay.

11 MS. BANYRA: Your fence in the rear, it
12 would be a vinyl fence or a wood fence, and it would
13 be either double sided, so the both sides -- the
14 good side is in and out, and if there is only one of
15 a good side, so to speak, it faces adjacent, it
16 faces out?

17 THE WITNESS: Correct.

18 MS. BANYRA: Okay.

19 COMMISSIONER CRIMMINS: So what did we
20 settle on? Did we get a number?

21 MR. GALVIN: 43-11.

22 COMMISSIONER CRIMMINS: We are really
23 going 43-11?

24 MR. GALVIN: I was just making --

25 COMMISSIONER CRIMMINS: No, I'm fine

1 with it. Personally, you know, I don't have a
2 problem with it. But when you see something like
3 that, to me it looks like you are skirting
4 something.

5 MR. GALVIN: The honest fact is if you
6 go to 44, you need a D variance.

7 COMMISSIONER CRIMMINS: That's right.

8 MR. GALVIN: We have not noticed for a
9 D variance, so we can't do that. But I think it is
10 reasonable for us to increase -- the public is on
11 notice that they needed a height variance. They
12 were already at 42. Giving them another foot and 11
13 inches I think is reasonable --

14 COMMISSIONER CRIMMINS: I have no
15 objection.

16 MR. GALVIN: -- you know, and also the
17 reason for trying to do it is because of recognition
18 of having them say to us, hey, I am going to go to
19 42, and thinking they are not going to get this
20 waiver -- I don't think the DEP will grant as many
21 waivers of the flood hazard elevations. So if you
22 don't want to go four stories, you can say three
23 stories, but otherwise they will be back is what I'm
24 saying, and I am trying to avoid the Board wasting
25 time with it.

1 COMMISSIONER CRIMMINS: I am fine with
2 it.

3 MR. GALVIN: Okay.

4 CHAIRMAN AIBEL: So, Mr. Marsden, you
5 had a letter dated originally October 23, 2012,
6 revised January 8th, 2013. Are all of the
7 conditions taken care of to your satisfaction?

8 MR. MARSDEN: There are some still open
9 conditions that we can put as a condition of
10 approval that they do that. There are a lot of
11 minor little things.

12 CHAIRMAN AIBEL: I'm just checking to
13 make sure --

14 MR. GALVIN: Is that okay with you, Mr.
15 Matule?

16 MR. MATULE: Yes, it is. The short
17 answer is yes, it is.

18 I am just trying to put my hands on the
19 letter.

20 MR. GALVIN: What is the date?

21 CHAIRMAN AIBEL: Revision, January 8th,
22 2013.

23 MR. MATULE: The new base flood
24 elevation, obviously the sealed survey, yes. There
25 is no basement. We addressed that in the testimony.

1 Two foot pavement detail, if that is
2 not on the plans, we can get it on there.

3 The trash, we just discussed.

4 I don't know if you put any bikes under
5 the stairs, but if we can, we will.

6 (Laughter)

7 THE WITNESS: That's a good idea.

8 MR. MATULE: So yes. I mean, we will
9 serve letters. We don't normally provide them.
10 That is just a post closing condition.

11 Retention by North Hudson, yes,
12 absolutely, it will be required, and we will do it,
13 so I think we can put some notes on the plans to
14 address them.

15 MR. MARSDEN: I am fine with that.

16 CHAIRMAN AIBEL: All right.

17 Let me open it up to the public for
18 comment.

19 Anyone wish to comment on this
20 application?

21 VICE CHAIR GREENE: Seeing none, I move
22 to close the public.

23 CHAIRMAN AIBEL: Is there a second?

24 COMMISSIONER CRIMMINS: I will second.

25 CHAIRMAN AIBEL: Thank you.

1 All in favor?

2 (All Board members answered in the
3 affirmative)

4 CHAIRMAN AIBEL: Mr. Matule?

5 MR. MATULE: I don't think there is
6 really anything else that I can add at this point
7 that we have not already discussed.

8 At last month's meeting, I know in
9 response to an objector who was here, most of the
10 Board members expressed the sentiment that this was
11 a pretty benign relatively speaking application.

12 The variances we are requesting were
13 relatively de minimis, and I think we have now -- I
14 would like to think we have now resolved the
15 difference between a rear fire rated second means of
16 egress stairs and a fire escape, and that the three
17 whatever -- 3.8 percent we are asking for is really
18 reasonable under the circumstances.

19 So thank you.

20 CHAIRMAN AIBEL: I know we had some
21 Board discussion last month. I will open it up for
22 any additional comments.

23 Do you want to read the conditions
24 first, Dennis?

25 MR. GALVIN: Yes.

1 One: The plan is to be revised to show
2 stairs to be no more than seven feet by 13 and a
3 half feet wide.

4 Does that sound right?

5 MR. MATULE: It was --

6 MR. GALVIN: Oh, it has already been
7 done?

8 MR. MATULE: Yes.

9 MR. GALVIN: All right. So we don't
10 need that.

11 MR. MATULE: Okay. But --

12 MR. GALVIN: Number one: The plan is
13 to be revised to indicate that the structure
14 attached to the rear of the building is to be noted
15 as stairs and not decking.

16 Two: The plan is to be revised
17 increasing the size of the landscaped bed in
18 consultation with the Board's planner.

19 Three: The fencing is to be either
20 board on board or the finished side out.

21 Four: The applicant agrees to comply
22 with the H2M letter of 2-10-13.

23 Five: The stairs to be internally
24 concave to accommodate the increases length of the
25 stairs.

1 Six: The plan is to be revised to show
2 the garbage cans below the stairs.

3 CHAIRMAN AIBEL: Any additional
4 comments, Board members?

5 COMMISSIONER DE FUSCO: Do we need to
6 write in that these stairs need to be concave, or
7 are they just going to make it work, so it doesn't
8 cross over the property line?

9 MR. GALVIN: The reason why I thought
10 about throwing that in there is because it gives
11 direction, unless you guys don't think that that is
12 what you want to happen.

13 COMMISSIONER DE FUSCO: I just, you
14 know, I just want to make sure that we are not
15 forcing them to alter the facade of the building
16 unless it is absolutely necessary.

17 VICE CHAIR GREENE: It is going to be
18 necessary.

19 COMMISSIONER DE FUSCO: Okay.

20 Other than that, I am fine with it.

21 MR. MATULE: Can we say "to the extent
22 necessary"?

23 MR. GALVIN: Yes, I can do that.

24 COMMISSIONER BRANCIFORTE: The only
25 thing I have to throw in additionally, and I know it

1 is probably part of the fire code, but given that
2 this weekend, it looks like we had a fire where a
3 propane tank may have exploded on somebody's rear
4 deck, you know, I just think we need to put it in
5 the resolution that no barbecues, no propane --

6 MR. GALVIN: That is the fire code.
7 They are not allowed to have that. Putting it in
8 there, you don't have to do that. They are just not
9 supposed to do it. The fire inspector is supposed
10 to catch them.

11 COMMISSIONER BRANCIFORTE: He's
12 supposed to, but I mean, I would feel better if we
13 put it in personally, to put all of the owners on
14 notice when they buy their property, that they are
15 not allowed to have it.

16 MR. MATULE: I have no objection. I
17 think it is surplusage, but I have no objection.

18 CHAIRMAN AIBEL: Not used for
19 recreational purposes, storage --

20 (Board members confer)

21 VICE CHAIR GREENE: Well, the second
22 means of ingress can't be blocked. That is the fire
23 code.

24 MR. MATULE: Where is Mr. Trimitiedi
25 when I need him?

1 (Laughter)

2 MR. GALVIN: How about this: The
3 stairs are not to be used for storage, grills or --
4 storage or grills, and they are not to have propane
5 tanks on them at any time?

6 MR. MATULE: Fine.

7 MR. GALVIN: I am good.

8 CHAIRMAN AIBEL: Ready for a
9 resolution?

10 Anybody wish to make a resolution?

11 COMMISSIONER BRANCIFORTE: Are we ready
12 for a motion?

13 CHAIRMAN AIBEL: Yes.

14 COMMISSIONER BRANCIFORTE: I'll make a
15 motion to accept the application with the
16 restrictions and requirements that have just been
17 read by Mr. Galvin.

18 CHAIRMAN AIBEL: Second?

19 COMMISSIONER BOUCHER: I will second
20 that.

21 CHAIRMAN AIBEL: Ready for a vote.

22 MS. CARCONE: Commissioner Greene?

23 VICE CHAIR GREENE: Yes.

24 MS. CARCONE: Commissioner Crimmings?

25 COMMISSIONER CRIMMINGS: Yes.

1 MS. CARCONE: Commissioner DeFusco?

2 COMMISSIONER DE FUSCO: Yes.

3 MS. CARCONE: Commissioner Branciforte?

4 COMMISSIONER BRANCIFORTE: Yes.

5 MS. CARCONE: Commissioner Boucher?

6 COMMISSIONER BOUCHER: Yes.

7 MS. CARCONE: Commissioner Aibel?

8 CHAIRMAN AIBEL: Yes.

9 MR. MATULE: Thank you very much.

10 (The matter concluded.)

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C E R T I F I C A T E

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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 testimony 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 11/5/2015.
This transcript was prepared in accordance with
NJAC 13:43-5.9.
Dated: March 1, 2013

HOBOKEN BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
 RE: 812 BLOOMFIELD STREET : Tuesday
 Applicant: 812 BLOOMFIELD, LLC : February 19, 2013
 (Carried from 1/15/13) :
 Expansion of nonconforming structure : 8:15 p.m.
 C&D Variances :
 ----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

Chairman James Aibel
Vice Chair Elliot H. Greene
Commissioner Joseph Crimmins
Commissioner Nancy Pincus (Recused)
Commissioner Michael DeFusco
Commissioner John Branciforte
Commissioner Jay Boucher

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

Eileen Banyra, Planning Consultant
Elizabeth Vandor, Planning Consultant

Jeffrey C. Marsden, PE, PP
Board Engineer

Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: 812 Bloomfield Street.

2 MR. MATULE: Robert Matule appearing on
3 behalf of the applicant.

4 This is an application with respect to
5 an existing property at 812 Bloomfield Street. The
6 application is to construct a four-story rear
7 addition to an existing eight-unit building.

8 Mr. Russell, Ron Russell from Lindemon
9 Winckelmann is here as the architect of the project,
10 and I also have Mr. Ochab as our planner.

11 Mr. Russell has testified before this
12 Board before, and I would ask that you accept his
13 qualifications.

14 MR. GALVIN: Mr. Russell, raise your
15 right hand.

16 Do you swear to tell the truth, the
17 whole truth, and nothing but the truth so help you
18 God?

19 MR. RUSSELL: Yes.

20 R O N A L D R U S S E L L, having been duly sworn,
21 testified as follows:

22 MR. GALVIN: State your full name for
23 the record and spell your last name.

24 THE WITNESS: Ronald Russell,
25 R-u-s-s-e-l-l, and the name of the company is LWDMR

1 the owner, and I can't tell you when it was prior to
2 the renovation.

3 This is a current photo of the front
4 facade.

5 The building has -- I'm sorry.

6 MR. MATULE: Did you take this picture?

7 THE WITNESS: Again, the owner took the
8 picture.

9 MR. MATULE: I have the owner here, if
10 you want me to verify it just for the record.

11 MR. GALVIN: No, no.

12 Jenny, I am talking to you for a
13 second.

14 We are laying a foundation before we
15 put these pictures into evidence. Okay? That is
16 why I am asking who took it and when they took it.
17 You should always ask that.

18 THE WITNESS: I'm sorry.

19 MR. MATULE: Carry on.

20 THE WITNESS: The building has permits
21 right now for the restoration of the front facade
22 and interior renovations. It is eight interior
23 units.

24 We are proposing to construct a rear
25 addition to, again, the back of the building. The

1 rear addition would be carried all the way up. It
2 would be approximately 45 feet wide.

3 Each floor would be have a bedroom and
4 an additional bathroom.

5 The sides of the building of the
6 addition is set in three foot six inches from each
7 property line. That would have less impact on the
8 neighboring property and also allow the window at
9 the rear of the existing structure, which would
10 allow light into the living room.

11 The addition is 18 feet six inches
12 deep, and we have what we call a fire escape at the
13 back of the building.

14 The fire escape is a -- it's five feet
15 deep. It is an existing building, which would allow
16 us to do a fire escape based on a certain portion of
17 the building code.

18 However, because it depends on the
19 interpretation of the local building official, we
20 would like to have an additional foot to six feet
21 just in case they are requiring us to extend it out
22 a little further.

23 What that does to the building
24 coverage, it increases the building coverage from 68
25 percent to 69 percent, so it is a minimum impact on

1 the building coverage.

2 The rear facade of the building -- I am
3 looking at drawing 8.5 -- which shows the existing
4 front of the building, how it has been restored, and
5 the rear of the new facade, which would be metal
6 panels, large windows, and detail number three shows
7 the fire escape stair.

8 The new building will be approximately
9 45 feet high, which is the average height, so we are
10 seeking a number of variances for this property,
11 including building coverage, building height,
12 stories, and side yard setback. Side yard setback
13 again, which is required to be zero feet, we are
14 actually making it three feet six inches, so it has
15 less impact on the neighboring properties.

16 If there are any questions --

17 MR. MATULE: Well, I have a question --
18 well, I will see if the Board has any questions
19 after that.

20 COMMISSIONER DE FUSCO: Mr. Chairman,
21 do you mind if I start?

22 CHAIRMAN AIBEL: Please.

23 COMMISSIONER DE FUSCO: You had
24 mentioned with the rear addition you had set the
25 sides inward and had some shrubbery along the sides

1 to minimize the impact to the neighbors?

2 THE WITNESS: Yes.

3 COMMISSIONER DE FUSCO: Roughly, how
4 many square feet is that, you know, that we are
5 carving out on the sides, proposing to carve out?

6 THE WITNESS: It is about three and a
7 half feet wide setback times three feet deep --

8 COMMISSIONER DE FUSCO: Both sides?

9 THE WITNESS: Both sides.

10 Seven times 18 --

11 MR. MATULE: Seven times 18 is 126.

12 THE WITNESS: Thank you.

13 COMMISSIONER DE FUSCO: Have you
14 considered the possibility for a green wall or some
15 sort of a climbing vine to allow that space to have
16 less impact to the neighbors while still kind of
17 preserving, you know, preserving something that
18 could set the building back a little more closer --

19 THE WITNESS: Well, the three and a
20 half foot setback does two things: It allows more
21 natural light to the neighboring side, and it
22 prevents having a sheer wall going straight up four
23 stories on a neighboring lot line, so again, by
24 setting it back three and a half feet off the
25 property line, that person in the backyard would

1 have three and a half feet of more light and air.

2 If we put a -- one side is on the north
3 side, it would get minimum sunlight to begin with.
4 So if we put any plantings over there, like ivy or
5 something, a climbing planting wall, it most likely
6 will not grow because it would be a hundred percent
7 in the shade.

8 COMMISSIONER DE FUSCO: So these plants
9 that you are proposing to plant there on the north
10 side will not get light --

11 THE WITNESS: I believe they are
12 arborvitae, which really require minimum light, so
13 we picked out plants that would require minimum
14 light.

15 COMMISSIONER DE FUSCO: In terms of the
16 your layout -- first of all, it is a beautiful
17 design, very nicely done. In terms of the layout,
18 is there any way that you could have set the
19 bathroom back more towards the main building and
20 thus minimized the impact to the backyard?

21 THE WITNESS: The new bathroom?

22 COMMISSIONER DE FUSCO: The new
23 bathroom, correct.

24 THE WITNESS: What we did was by
25 pushing that bathroom back, it really goes into the

1 living/dining area, which is an important part in a
2 two-bedroom house to have a certain type of
3 living/dining area, and we didn't want the bathroom
4 to open up into the living/dining area, so we had
5 that new bathroom serve the bedroom.

6 It is at the end of the existing
7 building, so there is no chance of a bathroom
8 sitting on an old floor structure and a new floor
9 structure, and the possibility of -- if I move the
10 bathroom, there is a possibility of a slight
11 depression of the floor, so -- a settlement. So by
12 putting it, whether it is on an all new or all old,
13 or the old part of the building, there would be a
14 less chance of a divisional settlement between the
15 old and the new and having an impact on the floor
16 tiles, which normally happens with some type of
17 ceramic tile, and you can get a crack.

18 COMMISSIONER DE FUSCO: One last
19 question, and you'll have to help me out on this.

20 The main egress corridor that goes down
21 the center of the building, is that necessary or
22 could you just put the egress as a sliding glass
23 door on the back of the unit?

24 THE WITNESS: No. We met with the
25 building department prior to working out the plans.

1 that corridor currently exists, so if there is a
2 fire, people who -- what is out there right now is a
3 fire escape --

4 COMMISSIONER DE FUSCO: Right.

5 THE WITNESS: -- and if there is a
6 fire, they would go through the building -- take the
7 fire escape and go through the building to the
8 front. Now, theoretically in a new building, you
9 cannot reenter a building once you leave it, but
10 since it is an existing structure, they want us to
11 not be landlocked in the backyard in case of a fire,
12 so people could go down the fire escape or stair,
13 down through the building and exit the building to
14 the street.

15 COMMISSIONER DE FUSCO: That makes
16 sense. Thank you.

17 THE WITNESS: So it exists like that,
18 and we met with the building department, and they
19 want us to retain that.

20 COMMISSIONER DE FUSCO: It makes sense.
21 Thank you again.

22 CHAIRMAN AIBEL: Any other Board
23 members?

24 COMMISSIONER CRIMMINS: Yes.
25 I am looking at A-1.

1 Help me understand. The proposed site
2 on A-1 in the center, that depth is not there now?

3 THE WITNESS: That's correct. The
4 building is 50 feet deep currently.

5 COMMISSIONER CRIMMINS: So it is 50
6 feet deep, and you are saying that even with you
7 looking to build this, they are telling you,
8 allowing you in the event of a fire to come back
9 into the building?

10 THE WITNESS: You mean for the fire
11 escape, yes. Yes. We met with the building
12 department, and they want us -- theoretically you
13 cannot in a new building have a second means of
14 egress that locks you into the backyard. You are
15 supposed to be taken out to a public thoroughfare in
16 a new building, so that is why in a new building you
17 have two fire escapes to bring you back out to the
18 street, not to the rear yard. When you have a fire
19 escape, there is no way to get out to the street.

20 Since this building has an existing
21 corridor that takes you from the rear yard to the
22 front, they want us to maintain that.

23 Now, that doesn't mean you have to go
24 through the building, if there is a fire. You could
25 stay in the backyard, but they want us to leave it

1 as is.

2 COMMISSIONER CRIMMINS: Right.

3 And if I am looking at this correctly,
4 the depth of your building is by far the deepest on
5 the block with maybe one lot 34, maybe the
6 equivalent way down the block?

7 THE WITNESS: Yes.

8 COMMISSIONER CRIMMINS: Do you know if
9 that has been an existing long-term building or an
10 addition?

11 THE WITNESS: I do not know or recall
12 the back of that building, so I can't answer that
13 question.

14 COMMISSIONER CRIMMINS: Then I have a
15 question for our secretary.

16 Are we sure we have all of the proofs
17 and everything for this application that have come
18 through, with no neighbors here --

19 MS. CARCONE: Yes.

20 COMMISSIONER CRIMMINS: -- I am just
21 kind of shocked by that to see no neighbors.

22 So everything is in order?

23 MS. CARCONE: Everything is in order
24 for service.

25 (Board members confer.)

1 COMMISSIONER CRIMMINS: Have you, and
2 again, I know you are the architect, has the
3 applicant met with the neighbors, do you know, on
4 this project?

5 THE WITNESS: I don't know. I can't
6 answer the question.

7 CHAIRMAN AIBEL: Mr. Matule, do you
8 know?

9 MR. MATULE: I'm sorry?

10 COMMISSIONER CRIMMINS: Has the
11 applicant met with the neighbors on this at all?

12 MR. MATULE: I don't know. I will ask
13 the applicant.

14 Mr. Martin?

15 MR. GALVIN: Raise your right hand.

16 Do you swear to tell the truth, the
17 whole truth, and nothing but the truth so help you
18 God?

19 MR. MARTIN: Yes.

20 S E T H M A R T I N, having been duly sworn,
21 testified as follows:

22 MR. GALVIN: State your full name for
23 the record and spell your last name.

24 THE WITNESS: Seth Martin, M-a-r-t-i-n.

25 MR. MATULE: Mr. Martin, you are the

1 principal of the applicant?

2 THE WITNESS: Yes.

3 MR. MATULE: I don't know if you heard
4 Mr. Crimmins' question.

5 The question was: Have you had any
6 conversations or meetings with your neighbors about
7 this proposed project?

8 THE WITNESS: I have met two owners
9 across the street, and I think their last name was
10 Vitali, and they were fully aware of the project
11 when I started it, and they were very happy.

12 I can just tell you my conversation --

13 COMMISSIONER CRIMMINS: None of the
14 neighbors to the north or south of the building on
15 the same side?

16 THE WITNESS: The neighbors next door
17 to the north, it is a mother and daughter couple. I
18 met them several times, and they have been very
19 pleased and happy with my construction during the
20 process, and they had no objections to anything that
21 we were doing, so that is all I can make reference
22 to are those two parties.

23 COMMISSIONER CRIMMINS: Thank you.

24 Thank you.

25 I have no other questions for now.

1 R O N A L D R U S S E L L, having been previously
2 sworn, testified further as follows:

3 COMMISSIONER BOUCHER: I had a question
4 about the length of the building.

5 The existing building right now is 50
6 feet long, is that correct?

7 THE WITNESS: That's correct.

8 COMMISSIONER BOUCHER: How long could
9 the building be and fit within the zoning? Because
10 right now I see there is the additional 18 and a
11 half feet.

12 THE WITNESS: There is a 30-foot rear
13 yard setback requirement.

14 COMMISSIONER BOUCHER: Okay.

15 THE WITNESS: For the building, we are
16 one foot six more than that, so we are 31 foot six
17 inches set back from the rear yard.

18 COMMISSIONER BOUCHER: Okay.

19 But the length of the building you are
20 saying is 69 percent of the zoning, is that right?

21 THE WITNESS: No, building coverage.
22 On the lot --

23 COMMISSIONER BOUCHER: Building
24 coverage.

25 THE WITNESS: -- with the stair being a

1 little larger, we will be at 69 percent.

2 COMMISSIONER BOUCHER: How much of an
3 extension would you have if it were to fit within
4 the zoning, meaning if your new addition were
5 smaller?

6 THE WITNESS: We looked at making it
7 smaller to comply --

8 COMMISSIONER BOUCHER: I am looking at
9 A-2 --

10 THE WITNESS: -- and if --

11 COMMISSIONER BOUCHER: -- and I'm
12 trying to figure out where you could be allowed to
13 build to.

14 THE WITNESS: Right.

15 If you look at A-2 as well as A.3, we
16 first looked -- we did look at bringing the back of
17 the building into conformance with 64 percent. I
18 don't recall what the dimension was, but what I did
19 was I made a bedroom. As you can see, the bedrooms
20 are 11 by 12 on the upper floors, and the ground
21 floor bedroom is approximately 10 by 10.

22 It would almost make a lot of those
23 bedrooms uninhabitable as a main bedroom in the
24 house, so that is why we went to the 64 percent for
25 the building. It is 69 percent with the stair. 64

1 COMMISSIONER BOUCHER: You would only
2 have to knock off a foot and a half?

3 THE WITNESS: Roughly. You know, I
4 would have to do the whole calculation here. I
5 don't have that number.

6 COMMISSIONER BOUCHER: So am I to
7 understand that the --

8 THE WITNESS: Excuse me --

9 MR. MATULE: If I might, I don't mean
10 to interrupt. You are just talking about the
11 building now, not the fire escape?

12 THE WITNESS: Correct.

13 MR. MATULE: I just wanted to make sure
14 we are talking about the same thing.

15 THE WITNESS: Yes. So what I did, the
16 new addition --

17 COMMISSIONER BOUCHER: From what I
18 understand on A-2, is that you have a new addition
19 of 18 feet, 18 and a half feet?

20 THE WITNESS: 18 feet six inches, not
21 counting the stairs.

22 COMMISSIONER BOUCHER: So you are
23 saying that in order to comply with zoning, it would
24 only be actually -- it could be 17 and a half feet
25 or 17 feet?

1 THE WITNESS: Plus or minus, which
2 would then give us a bedroom on the first floor of
3 approximately eight and a half feet.

4 COMMISSIONER BOUCHER: Okay. That is
5 all I have.

6 CHAIRMAN AIBEL: Mr. Greene?

7 VICE CHAIR GREENE: If that were the
8 case, and I understand why you want a hundred square
9 foot bedroom is probably the minimum size. But if
10 to comply with the length of the building, to shrink
11 the building by a foot and a half, could you then
12 widen it by the three feet, put the walls to the lot
13 line, which you would be allowed to do, even though
14 it may not be as neighbor friendly and make it a
15 larger bedroom than you proposed?

16 THE WITNESS: It wouldn't change our
17 lot coverage. It would still be at 64 percent
18 because whether we take the stair footage from the
19 back and put it to the side, it wouldn't change the
20 lot coverage, and it would decrease the setback on
21 the side and make it less friendly to the neighbors.

22 Again, the rear addition, we are
23 actually 31 feet six inches from the rear yard to
24 the face of the building, which would be a foot and
25 a half greater than what is permitted. The stair is

1 a separate issue.

2 I hope I explained that.

3 COMMISSIONER BOUCHER: You did. It is
4 the lot coverage, and since you are setting it back
5 from the sides --

6 THE WITNESS: No matter where we put
7 it, the number doesn't change.

8 This is more proportionate, though, a
9 more proportionate size for the bedroom, and again,
10 it has less impact on the neighbors and also allows
11 us to put a window into the living/dining area,
12 otherwise you would have a railroad apartment if we
13 put it to the property line.

14 VICE CHAIR GREENE: Got you.

15 CHAIRMAN AIBEL: Any other
16 Commissioners?

17 COMMISSIONER BRANCIFORTE: Where do the
18 neighbors put their garbage cans, out front?

19 There is no space for garbage cans out
20 front?

21 THE WITNESS: For us or the neighbors?

22 COMMISSIONER BRANCIFORTE: For you.

23 THE WITNESS: We are proposing in the
24 backyard on drawing A.2 on the north end, garbage
25 containers in the backyard. Since we have that

1 corridor from the rear yard to the front, we can
2 then bring maintenance -- the owner's maintenance
3 person can actually bring the garbage through the
4 corridor and bring it out to the front yard, so we
5 don't have to have to have barrels in the front
6 yard.

7 COMMISSIONER BRANCIFORTE: Why do I
8 just see so many problems with this?

9 Yeah, I just don't see that working.

10 THE WITNESS: We could put the barrels
11 out front, but I believe it is better to have it in
12 the backyard.

13 If it doesn't work in the backyard,
14 then maybe we will put it in the front, but why not
15 give the opportunity of putting the garbage in the
16 back where it cannot be seen?

17 COMMISSIONER BRANCIFORTE: I don't know
18 if I am alone on this one or not, but I don't see
19 that working.

20 MR. MATULE: If I might, Mr.
21 Branciforte, maybe to put it into context --

22 COMMISSIONER BRANCIFORTE: Yes.

23 MR. MATULE: -- the intention of this
24 building is to maintain it as a rental building with
25 a super. It is not -- there is no intention to make

1 it condos at this point in time, if that helps.

2 COMMISSIONER BRANCIFORTE: No. Either
3 way, it doesn't really make a lot of sense to me.

4 I mean, to be frank with you, renters
5 are probably going to be a hundred times worse than
6 owners would ever be in caring for where their
7 garbage goes.

8 You know what? I just don't see people
9 leaving for work with garbage in their hand and
10 walking out back to drop the garbage off where they
11 take an extra walk around the building just to throw
12 out a bag of garbage, to see their neighbors --
13 anyway, I would rather have it moved up front. I
14 don't know if the rest of the Board agrees.

15 I am guessing Mr. Aibel might want to
16 talk about the fire --

17 CHAIRMAN AIBEL: Well, before we get to
18 the fire stairs, I just wanted to follow up on Mr.
19 DeFusco's comments. It is a beautiful design. It's
20 a beautiful layout.

21 That having been said, I was one of
22 couple of Board members who did do an inspection of
23 the site, and I must say that my major concern is
24 the incredible mass that this four-story extension
25 is going to represent in the backyard, and which it

1 would work with almost every building, and Mr. Ochab
2 will come back, and we will have a discussion with
3 him. But as much as I like the design, I am having
4 a real difficult time understanding how it will
5 affect the neighbors and the backyard.

6 The building to the north looks like it
7 is -- it has a small one-story extension.

8 The building to the south has a
9 one-story extension, and on your A-1, it is just
10 very clear with the exception of Lot 34, and that
11 may or may not be a four-story high building, maybe
12 a one or two-story extension, there is nothing in
13 the backyard that would resemble the mass that this
14 addition is going to represent.

15 So I have -- I am really struggling
16 with, you know, the balance between what clearly is
17 a nice project, but something that I just question
18 whether it's properly placed in the backyard.

19 It's more of a comment than a question,
20 but maybe -- I am not sure Mr. Russell can address
21 the concern, but maybe Mr. Ochab will have to do
22 that.

23 Anybody else?

24 COMMISSIONER CRIMMINS: I actually have
25 a question for Elizabeth, if you are ready for it.

1 Elizabeth, a couple of years back,
2 didn't you have a project like 806 Bloomfield or
3 something like that, that was a huge monster in the
4 backyard, and they built it without approval, and
5 then we denied it?

6 MS. VANDOR: Bob & Son or something --

7 COMMISSIONER CRIMMINS: Do you remember
8 what happened with that?

9 I know when we saw the pictures, it
10 just stuck out. It was a very dark gray
11 extension --

12 MS. VANDOR: Yes.

13 COMMISSIONER CRIMMINS: -- I don't see
14 that in A-1 here, so did they have to knock it down
15 at the time? Do you have any idea?

16 MS. VANDOR: I remember the project,
17 but I don't remember what happened to it.

18 COMMISSIONER CRIMMINS: That is why I
19 asked questions about the neighbors, because I
20 remember the neighbors being in an uproar and being
21 here in this room because of the depth of the
22 building, which is really the concern that a lot of
23 us are expressing of how this just seems.
24 Regardless of what is allowed, it just seems so far
25 out there by itself, that it is a little scary.

1 So you don't remember the outcome?

2 MS. VANDOR: I don't remember the
3 outcome. I remember the project, but not the
4 outcome because I think it sling shot back and forth
5 a couple of times.

6 COMMISSIONER CRIMMINS: Yes. And then
7 I thought they built it, and then had to come to the
8 Board, and we denied it. I just don't see it here,
9 so that is what I was questioning.

10 MS. VANDOR: It would be the same side
11 of the street.

12 COMMISSIONER CRIMMINS: Yes, it was the
13 same side.

14 I have no other questions. Sorry to
15 deviate.

16 COMMISSIONER BOUCHER: I have one
17 question to address --

18 CHAIRMAN AIBEL: Hold on a second.
19 Mr. Matule?

20 COMMISSIONER BOUCHER: -- but I also
21 visited the site, and I have the same feeling that
22 Mr. Aibel has, that it would be a serious imposition
23 on the space.

24 However, I wasn't aware that it was
25 only at 50 percent lot coverage, so it is almost as

1 if, even if it were to follow the zoning, it would
2 still impose in what is existing now because what is
3 existing now is much smaller than this would allow
4 so --

5 CHAIRMAN AIBEL: Anybody else?

6 Open it up for questions of the public.
7 Anybody in the public wish to put questions to the
8 architect?

9 You got off easy.

10 COMMISSIONER CRIMMINS: I'll make a
11 motion to close the public.

12 CHAIRMAN AIBEL: Do we have a second?

13 COMMISSIONER DE FUSCO: I'll second it.

14 CHAIRMAN AIBEL: All in favor?

15 (All Board members answered in the
16 affirmative.)

17 Mr. Matule?

18 MR. MATULE: Mr. Chairman, I apologize.
19 I did have a couple more questions for the
20 architect. I don't know if that makes us have to
21 reopen it to the public again.

22 But did you get the H2M letter of
23 October 23rd? It was revised on January 10th.

24 THE WITNESS: Yes.

25 MR. MATULE: Just a couple of things in

1 here. You are not required, based on this addition,
2 to do any retention with North Hudson, are you?

3 THE WITNESS: No. My understanding is
4 we do not.

5 If we are, we will take care of it, but
6 it is not my understanding that we do.

7 MR. MATULE: Okay. I guess the other
8 question was here, it said a note should be added,
9 site plan should have existing proposed grade in the
10 front yard to determine the --

11 THE WITNESS: We will add them, if we
12 don't have them already. They are existing grades,
13 and we will add them.

14 We are on Bloomfield Street, and the
15 elevation is approximately over 13, so we are not in
16 a flood zone, even by the new NAVD 88 elevation.

17 MR. MATULE: But you could address Mr.
18 Marsden's comments?

19 THE WITNESS: Yes.

20 MR. MATULE: That is all I have.

21 Thank you.

22 I don't know if that requires you to
23 reopen it to the public, but I apologize if it does.

24 CHAIRMAN AIBEL: That's okay. I don't
25 see any public present here.

1 MR. MATULE: With that, I have no
2 further questions for Mr. Russell.

3 I will call up Mr. Ochab.

4 MR. GALVIN: Raise your right hand.
5 How are you doing?

6 Do you swear to tell the truth, the
7 whole truth, and nothing but the truth so help you
8 God?

9 MR. OCHAB: I do.

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

12 MR. GALVIN: State your full name for
13 the record and spell your last name.

14 THE WITNESS: It's Ken Ochab. That's
15 O-c-h-a-b.

16 MR. GALVIN: Mr. Chairman, do you
17 accept Mr. Ochab's credentials as a licensed
18 planner?

19 CHAIRMAN AIBEL: We do.

20 MR. GALVIN: You may proceed.

21 MR. MATULE: Mr. Ochab, you are
22 familiar with the zoning ordinance and the master
23 plan of the City of Hoboken?

24 THE WITNESS: Yes.

25 MR. MATULE: And you are familiar with

1 the project in the surrounding area?

2 THE WITNESS: I am.

3 MR. MATULE: You prepared the report
4 dated September 15th, 2012 in support of the
5 variances for this application?

6 THE WITNESS: I did.

7 MR. MATULE: And subsequent to that
8 report being prepared, the lot coverage was reduced
9 to 68 percent?

10 THE WITNESS: Yes.

11 MR. MATULE: Could you go through the
12 report for the Board, and if you refer to your
13 wonderful photos that you have taken, we need to
14 mark the photo board.

15 MR. GALVIN: Our secretary is right on
16 top of that, Mr. Matule.

17 (Laughter)

18 MR. MATULE: A-3.

19 (Exhibit A-3 marked.)

20 THE WITNESS: It's like a comedy
21 routine.

22 MR. GALVIN: Not a very good one.

23 THE WITNESS: I set you up.

24 (Laughter)

25 CHAIRMAN AIBEL: May I ask for an

1 accommodation? I don't know if it is easy for Mr.
2 Ochab, but when Mr. Ochab testifies about the
3 backyard configuration, can he relate the building
4 to the schematic on A-1, so we have a sense of what
5 lot --

6 MR. MATULE: I was going to try to do
7 that to address Mr. Crimmins' inquiry. I think we
8 might have a shot of the building in the backyard.

9 But you heard that, Mr. Ochab.

10 THE WITNESS: I did, yes.

11 So we are in the R-1 zone. We have a
12 lot size of 3,333 feet, and a lot width of 33.33, a
13 hundred foot depth, so our lot width is a little bit
14 unusual than the typical 25 foot or 20 foot lot,
15 which is pretty much consistent at a hundred feet.

16 We have an existing four-story building
17 located on the site. And what is a little bit
18 unusual about the four-story building is that it is
19 a little bit higher than the adjacent buildings, and
20 that is because the adjacent buildings are also
21 four-stories, but they have basement apartments, and
22 this one does not. I don't know the reason for
23 that, but it appears to be the only one on this
24 section of the block that exists that way.

25 So on my A-3, the upper left

1 photograph, it's a photograph of the subject
2 building. It is four stories, a little higher than
3 the adjacent buildings.

4 These adjacent buildings are at 42.1
5 feet in height, and we are proposing an existing 45
6 feet in height. And the addition that is proposed
7 in the back is also at 45 feet in height, so there
8 is a height variance involved here with respect to
9 those conditions, and the fact that we are again
10 providing or proposing an addition to the back of
11 the building, keeping each floor at whatever height
12 we are at, so we have a 45-foot building in the back
13 as well.

14 We have no setback, no front yard
15 setback. We are at zero, which every other building
16 on the block is at zero.

17 The existing building has no side yard
18 setbacks but, of course, the new addition as was
19 testified to earlier has a three and a half foot
20 side yard setback from each side yard.

21 The rear yard: The rear yard here is
22 at 31 and a half feet to the building. That would
23 be to the new addition, and 26 and a half feet to
24 the fire stairs, where 30 feet is required normally
25 to the building, so we actually have a sufficient

1 rear yard setback.

2 The distance from the street to the
3 rear of the addition is 68 and a half feet, where 70
4 feet is allowed, so we are okay there, no parking.

5 Roof coverage is okay.

6 The facade is okay.

7 So the issue here is with respect to
8 building height and more particularly to lot
9 coverage as well.

10 We also have expansion of a
11 nonconforming structure because the building is
12 existing at four stories, and we are expanding that
13 four stories as well.

14 If you look at the rest of the
15 photographs, again, we looked at the upper left.
16 The lower left photograph is a photograph of
17 unfortunately during construction, but it is a
18 photograph of the back of the building, and you can
19 see the center core of that building, there is an
20 existing fire stairway, fire escape there, and then
21 the existing, again, windows that are located.

22 And the addition will be again set back
23 three and a half feet from each side and straight
24 out to the back 18 and a half feet of rear addition.

25 With respect to the adjoining

1 properties, immediately adjoining properties, the
2 property to the north and then the property further
3 to the north has an existing four-story building,
4 with a two-story addition on the back. And if you
5 look at the site plan, which is A-2, it shows that.
6 The existing four-story building is approximately 50
7 feet from the street line, so even with respect to
8 how the existing buildings line up, the existing
9 building on the property is already deeper than the
10 existing building to the north.

11 And then there is a two-story addition
12 on to the building to the north, which again, even
13 with that, our existing building is still about
14 three feet deeper toward the rear than the existing
15 conditions, so that is the existing condition there.

16 The building further to the north has
17 actually a two-story addition that appears to have
18 been put on at some later date, and that you can see
19 on A-1. That would be Lot 40, which again extends
20 back into the rear yard and also appears on A-2.

21 And the back of that addition is about
22 four feet short of the proposed addition on the
23 site, so even though we are putting on an 18 and a
24 half foot addition, the property to -- the property
25 to the north have a similar addition, which is about

1 again maybe four feet short of where we are
2 proposing our rear wall.

3 The property to the south, the
4 immediate property to the south, which is in the
5 upper right photograph, shows again a four-story
6 building with a two-story wing added to the back,
7 and it looks like that wing was indented as well, so
8 it has a setback, approximately a four foot setback
9 from each side yard, and again, that shows on A-2
10 just to the bottom of the subject site and also on
11 A-1, and that would be Lot 43.

12 MR. MATULE: Lot 43?

13 THE WITNESS: Yes, 43. Okay.

14 So with respect to what is -- what the
15 project is, the project is a proposal to expand each
16 of the existing units and provide two-bedroom living
17 units that range in size from 780 square feet to the
18 mid 900s. Those are not large units by my
19 estimation, but they do provide additional living
20 space, two-bedroom living space, that is smaller in
21 nature.

22 You know, many times usually a lot of
23 times, I am here talking about family living space,
24 but in those cases we are talking about usually
25 living spaces that are 1100 square feet, 1200, 1500.

1 Here we have a more modest proposal for smaller
2 units at again 780 to 950 or so square feet in size,
3 which I think answers a certain question -- answers
4 for a certain market, which is perhaps not low
5 income, but a more moderate income market for the
6 two-bedroom units that we don't always see, again
7 just from a planning perspective.

8 The result of that is that we, of
9 course, exceed the lot coverage requirement. But,
10 again, we exceed it, but we do set back that
11 addition off both side yards as you can see here.

12 So between the addition on the property
13 and the property to the south, we will essentially
14 have seven and a half feet, maybe eight feet between
15 the buildings space. And to the north, again we
16 will have three and a half feet to the rear yard
17 area that will be landscaped and perhaps fenced in.

18 The fire stair adds another five
19 percent to that, so we are actually at 69 percent
20 total, so we have five percent for the fire stair as
21 well, and the architect went through that.

22 So here in my view is the issue,
23 finding additional space for units that are very
24 small in size, wanting to make them two-bedrooms of
25 modest means, and the result of that is a 4 percent

1 variance on the building coverage.

2 What does that mean in footage terms?

3 If we go back to 60 percent, we would
4 have to basically cut five feet off the building. I
5 know the architect didn't do that calculation, but I
6 did. So we are looking at a five-foot modification
7 in the rear bedroom, which essentially, in my view,
8 would make it unusable. I don't know how you would
9 do an adequate bedroom when you take five feet off
10 the building.

11 If we eliminated the side yard setback
12 on the addition and went out side yard to side yard,
13 achieving 60 percent would require a four foot
14 difference from the building. In other words, we
15 would move the building back four feet, but we would
16 eliminate the three and a half feet on each side,
17 and that would still give us 60 percent lot
18 coverage. So what we are talking about here is
19 basically 133 square feet of land coverage that is
20 the issue here. And I think that from what we are
21 trying to achieve, that is not a significant amount
22 in terms of what we have here.

23 The odd thing about the lot is that the
24 existing buildings in terms of the depth of the
25 buildings on this block are very shallow. You know,

1 typically usually when I am standing here, you have
2 an adjacent building that are 60 feet deep or 58
3 feet deep or maybe deeper, and here we have
4 buildings that are just 50 feet and less in some
5 instances, in terms of the building depth.

6 That is why when you look at this
7 visually, it looks a little bit overwhelming, but I
8 think the fact that we are having -- that we are
9 providing three and a half feet of side yard setback
10 helps to mitigate some of that impact.

11 Eventually, again, I don't know the
12 answer to why additions are only two stories instead
13 of four stories, but, you know, over time my feeling
14 is that these buildings will come in, and they will
15 be an expansion of living space similar to what we
16 are proposing here.

17 In addition to that, if you look at
18 A-1, you will see that almost all of the adjoining
19 lots, both north and south, have accessory
20 structures in the rear yard.

21 You can see that for the adjoining
22 properties on A-2, that adds, of course, to the
23 total building coverage on each of the lots, which
24 we don't have and won't have, so we don't have any
25 accessory building structures.

1 Again, I didn't do any calculations to
2 see what that total coverage would be on the
3 adjoining lots, but I think in terms of what we are
4 providing against the total coverage on the
5 adjoining lots, I don't think that we are that far
6 off, if you take all of the building space and add
7 all of that building space up in terms of both the
8 principal and accessory buildings.

9 So I think in this case we meet
10 certainly the D variance because of the existing
11 four stories, and also the C-2 variances because of
12 the basis that we are trying to provide a more
13 modest two-bedroom unit, and the impact is, in my
14 view, not that significant when you look at it in
15 terms of the total amount of square feet that were
16 in excess of the 60 percent, which is again 133
17 square feet, and the fact that we tried to mitigate
18 that effort by compressing the addition into the
19 center of the lot.

20 Also providing 10 feet of landscaping,
21 so we have 10 feet of landscaping in the front,
22 which adds to the enhancement of the visual
23 environment of the property and the surrounding
24 area.

25 So I will stop there and answer any

1 questions.

2 MR. MATULE: Thank you, Mr. Ochab.

3 CHAIRMAN AIBEL: Mr. Greene?

4 VICE CHAIR GREENE: Mr. Ochab, this
5 perhaps should be a question in conjunction with the
6 architect. If, in fact, we felt that the 133
7 additional square feet was something of significance
8 and the back wall had to be pulled back five feet,
9 couldn't you accomplish a usable sized bedroom by
10 removing the bathroom within that box and make it a
11 two-bedroom one bath apartment?

12 THE WITNESS: From a planning
13 perspective, yes, but I think the architect's answer
14 is more important with respect to that.

15 MR. RUSSELL: It would not get us to
16 the percentage -- it would not get us to be a
17 compliant building because the bathrooms are only --
18 I believe we kept them to a minimum size of four and
19 a half feet by seven feet. We would have to
20 eliminate that the bathroom closet and something
21 else.

22 VICE CHAIR GREENE: But if you
23 eliminated four and a half feet, you would be a lot
24 closer than not.

25 Are you saying the bathroom is only

1 four and a half feet wide?

2 MR. RUSSELL: It is only a shower. We
3 tried to really keep it to a minimum sized unit, and
4 in doing so, we kept the bathroom to a minimum sized
5 bathroom, so it is not a full bathroom with a tub.
6 It's just a small shower.

7 VICE CHAIR GREENE: But if you did
8 eliminate it, you could come close to accomplishing
9 what I am suggesting.

10 MR. RUSSELL: The only problem with
11 that is the location of the first bathroom, the
12 people do not want to have to go from one end of the
13 unit to the other end of the unit to get to the
14 bathroom.

15 If you look at the unit, you have to go
16 through the living room and dining room and through
17 the kitchen to get to the bathroom, so it is really
18 then not a family oriented situation with only
19 having one bathroom.

20 VICE CHAIR GREENE: So what you are
21 saying is if you eliminate the second bathroom,
22 there is really no need for the second bedroom.

23 MR. RUSSELL: You know, they really
24 work together --

25 VICE CHAIR GREENE: That's really what

1 I'm asking.

2 MR. RUSSELL: -- and it is a family
3 situation with a two-bedroom unit.

4 VICE CHAIR GREENE: So that is the
5 planner's time to respond.

6 MR. RUSSELL: I will step back.

7 THE WITNESS: I think the intent was to
8 provide a second bedroom, so the answer is not if
9 you eliminate the bathroom, you could eliminate the
10 bedroom.

11 VICE CHAIR GREENE: Thank you.

12 COMMISSIONER BRANCIFORTE: So, you
13 know, this kind of contradicts what you just said
14 before.

15 You said that people don't want to walk
16 the extra whatever it is, 40, 30 feet to go to a
17 bathroom. They would rather just have the second
18 bathroom close to them.

19 So you are saying people are not
20 willing to walk the extra 20 or 30 feet to go to the
21 bathroom, but they are going to -- they will be up
22 to walking an extra 40 or 50 feet to dump garbage in
23 the back yard.

24 MR. RUSSELL: No. I don't think that
25 is the same thing.

1 One thing we are trying to force them
2 to put the garbage in the back and not have garbage
3 cans in the front, and I think that is a good thing,
4 so I am not sure what the problem is with putting
5 garbage cans in the backyard, where they should be,
6 if you have access from the rear yard to the front
7 yard.

8 Why do you want to see garbage cans in
9 the front yard?

10 COMMISSIONER BRANCIFORTE: I don't --
11 well, there is a reason for it. The reason is
12 people are lazy, and they are not going to walk back
13 and add an extra two or three minutes to their
14 commute in the morning, if they could just walk
15 outside and dump the garbage in their neighbor's can
16 and walk down the street, or worse yet, just leave
17 it at the curb.

18 I think it is funny that you are saying
19 people don't want to walk the extra couple feet just
20 to go to the bathroom, but they are willing to walk
21 the extra couple of feet to throw garbage out.

22 MR. RUSSELL: I respectfully disagree.

23 COMMISSIONER BRANCIFORTE: Okay. Then
24 we disagree on it.

25 MR. RUSSELL: Only because, again,

1 requiring us to put garbage cans in front because
2 people are lazy, does that mean that we can have
3 people to throw garbage on the street? No. We are
4 trying to get them to be compliant in the house and
5 keep the garbage in the back.

6 If they are lazy, then that is a
7 requirement of the owner to say, hey, listen,
8 people, the garbage is in the back. That's where it
9 should be. We're trying to --

10 COMMISSIONER BRANCIFORTE: You said --
11 you got your point across.

12 MR. RUSSELL: In terms of the bathroom,
13 I live in a tiny little house in the Heights, and I
14 have one bathroom, and with one boy and a wife, and
15 it is very difficult to have a tiny little bathroom,
16 which it is. My bathroom is four and a half feet by
17 seven feet. It's a tiny little house in the
18 Heights. It is very difficult to live with a boy
19 and a wife in a one-bathroom.

20 I think what we are trying to do here
21 is to come to a contemporary setting where you do
22 have two bathrooms, because people want two
23 bathrooms today. Whether they share or they have
24 family there, two bathrooms is a necessity, and I
25 could state that because of the fact of my house --

1 COMMISSIONER BRANCIFORTE: I get your
2 point on that. That is fine.

3 MR. RUSSELL: -- and I respectfully
4 said that to you. I didn't mean any --

5 COMMISSIONER BRANCIFORTE: No problem.
6 Okay. I am open for it.

7 I will ask a question of the planner,
8 if you are done, Elliot, I'm sorry.

9 VICE CHAIR GREENE: I am.

10 Thank you.

11 Go right ahead.

12 COMMISSIONER BRANCIFORTE: You talked
13 about the buildings on the property next door. They
14 are small buildings in the back, and we should
15 consider them part of the lot coverage.

16 When we compare lot coverage to this
17 building and the buildings next door, we should
18 consider the fact that they have these adjacent
19 buildings in the backyard, right?

20 Those buildings, do they block sunlight
21 or air to their neighbors?

22 THE WITNESS: Not the adjacent
23 building, but on the lower right photograph, not the
24 adjacent building here, but the one further to the
25 north certainly does to its neighbor to the north.

1 THE WITNESS: Well, the first three
2 floors are within the code, so in terms of building
3 height, you can have a three-story building. We are
4 expanding the existing fourth floor, so we have a
5 height variance, and also an expansion of a
6 nonconforming structure, which is the extension of
7 that floor.

8 COMMISSIONER BRANCIFORTE: I am just
9 trying to figure out exactly what is nonconforming
10 here is my question.

11 THE WITNESS: Only the fourth floor
12 extension.

13 MS. VANDOR: And the lack of a front
14 yard.

15 THE WITNESS: Right.

16 MR. GALVIN: The lack of a front yard
17 not being expanded, right, the fourth floor is being
18 expanded.

19 MS. VANDOR: Right. But in terms of
20 what the nonconformities are, and the density is
21 nonconforming also.

22 MR. GALVIN: The preexisting density is
23 nonconforming also.

24 It is not being expanded. They are
25 making the rooms bigger, but they're not increasing

1 the number of units as Elizabeth pointed out in her
2 report.

3 MS. VANDOR: May I ask -- I'm sorry.
4 Is construction going on now in the rear?

5 MR. RUSSELL: No. I have not been back
6 there. The permit is for the interior and the front
7 facade.

8 I have not been back there in a while.
9 When I was there, it was not, but the owner would
10 have to testify to the fact that there is no
11 construction going on in the back. I have not seen
12 it.

13 MR. GALVIN: The pictures we are
14 looking at show building material.

15 MR. MARTIN: For the record, there is
16 no construction going on in the backyard.

17 MS. VANDOR: Thank you.

18 CHAIRMAN AIBEL: Mr. Crimmins?

19 COMMISSIONER CRIMMINS: Yes.

20 MS. BANYRA: I'm sorry, I have one
21 question.

22 Ken, I am not sure if this is for you
23 or for the architect.

24 The center corridor, the egress
25 corridor, was something said that that was required

1 by the fire department, and that relates to the
2 stair fire -- fire stairs or whatever we are calling
3 them?

4 MR. RUSSELL: Right now there is an
5 existing corridor on the ground floor that takes you
6 from the backyard.

7 Right now the building is 50 feet deep
8 with a fire escape on the rear.

9 MS. BANYRA: Right.

10 MR. RUSSELL: If there was a fire, they
11 would exit down the fire escape, and they could go
12 through the building and get to the public
13 right-of-way.

14 MS. BANYRA: Okay.

15 MR. RUSSELL: So we are expanding that
16 corridor because we met with the building
17 department, and we actually thought that based on
18 the current code, you should not reenter a building
19 if there was a fire, so we thought we could
20 eliminate that.

21 The building department did not want us
22 to eliminate that. They wanted the back to be able
23 to be an area of refuge, if there was a fire or have
24 the option to go through the building, if the fire
25 was at the top floor, but they required us to keep

1 so each apartment would have their own privacy to
2 the backyard.

3 MS. BANYRA: So the first floor
4 apartments, so I understand correctly, each have
5 their own backyard?

6 MR. MARTIN: Correct.

7 MS. BANYRA: While the egress corridor
8 is a public corridor?

9 MR. MARTIN: That is correct.

10 MS. BANYRA: But the backyard is an
11 amenity to the first floor --

12 MR. MARTIN: My answer is that each
13 apartment would have its own backyard indigenous to
14 each other.

15 MR. GALVIN: On the first floor?

16 MR. MARTIN: First floor.

17 MS. BANYRA: Thank you.

18 CHAIRMAN AIBEL: Mr. Crimmings?

19 COMMISSIONER CRIMMINGS: Yes.

20 Mr. Ochab, so we have a variance here
21 looking, you know, about expanding the nonconforming
22 use --

23 THE WITNESS: Yes.

24 COMMISSIONER CRIMMINGS: -- so how does
25 that -- I mean, I see this building --

1 MR. GALVIN: I think you meant
2 structure.

3 COMMISSIONER CRIMMINS: Thank you,
4 right.

5 I see this building going pretty far
6 out in the yard regardless of what is allowed or
7 not, so the way I look at it, it is not promoting a
8 positive environment to the neighbors. It is
9 clearly going to stick out. It is going to be in
10 the donut, and it is not neighborhood friendly, so
11 what is the benefit for the neighborhood?

12 THE WITNESS: Well, for the community
13 at large, the benefit is providing two-bedroom units
14 of the size --

15 COMMISSIONER CRIMMINS: You mean for
16 the residents who live in the apartment within the
17 building?

18 THE WITNESS: There is also a benefit
19 to the community at large in providing this type of
20 a unit at this size, you know, from a general
21 perspective that is clearly one of the things
22 that --

23 COMMISSIONER CRIMMINS: Do we know if
24 there are any other units on the block that are two
25 bedrooms existing as they are now?

1 THE WITNESS: I didn't do that kind of
2 analysis.

3 But one thing I wanted to respond to
4 you, though, is what we are talking about is a
5 building expansion. The difference in a building
6 expansion between conforming and nonconforming is
7 either four or five feet depending on how you look
8 at it --

9 COMMISSIONER CRIMMINS: I understand
10 that.

11 It's four or five feet --

12 THE WITNESS: -- and to me, that is not
13 significant.

14 COMMISSIONER CRIMMINS: -- right.
15 However, however, part of the expansion is we
16 typically have no approvals existing, and there is a
17 D variance needed for the building height in floors.
18 Whether they are existing or not, we are still --
19 you don't have them, if we don't give you approvals.

20 So we have allowed the building to be
21 expanded up. We said by right, we could go real far
22 back in the yard, but we are only going five feet
23 over. If we don't give you a D variance here, you
24 get nothing. And then I guess we are left with
25 decisions to make, do we cut the building size down

1 and eliminate units or, you know, I don't know the
2 outcome. But I don't see from a planning
3 perspective much of a benefit for the neighborhood.

4 I see it for whoever lives within those
5 units, and only those people that live within the
6 units, so I am just commenting here because although
7 I have heard questions about the building depth,
8 and, oh, it is only four feet over, and everybody is
9 kind of surprised by that. But we are giving you --
10 we are giving you a give-back in the building height
11 and the extra apartments, and I am not so sure that
12 by right, you know, the 18 foot depth addition to
13 the building is neighborly and enhances the
14 neighborhood at all, so they kind of work together,
15 and I am not convinced from a planning perspective
16 that we are meeting any benefit for the
17 neighborhood. Just my general questions or comments
18 on that one.

19 MR. MATULE: Well, Mr. Crimmins, I hear
20 what you are saying. I would ask if the Board wants
21 to take a five-minute break, and I will have a
22 conversation with my client.

23 I mean, I think we are wrestling
24 legitimately here with, you know, the positive
25 aspect of this application and what some of the

1 Board members are perceiving as negative aspects.
2 I don't know. I am not prepared to answer right
3 this second if we can just say we will take three
4 feet off or take a foot off. I would like the
5 opportunity to have that conversation.

6 MR. GALVIN: At this point I don't know
7 what you could propose that would be acceptable to
8 the Board or if what you are proposing is acceptable
9 to the Board, so it might not be a bad idea for you
10 to take brief recess and think about that.

11 MR. MATULE: I would greatly appreciate
12 that.

13 CHAIRMAN AIBEL: We will do a
14 five-minute recess.

15 (Recess taken)

16 CHAIRMAN AIBEL: We are back on the
17 record. Thank you.

18 Gentlemen, please.

19 MR. MATULE: Thank you.

20 Mr. Chairman, thank you for the
21 opportunity to take a break and discuss some of the
22 Board's concerns.

23 Mr. Russell has crunched some numbers,
24 and if we pull the back the proposed addition back
25 four feet, so I guess that would reduce it from 18-6

1 to 14-6, that would bring the building coverage, the
2 building coverage, not the fire stairs, the building
3 coverage itself down to approximately 61 percent
4 from what we are currently asking which is --

5 MR. RUSSELL: 64 percent.

6 MR. MATULE: -- which is 64 percent.

7 MR. RUSSELL: And that allows us with
8 the thickness of the outside wall, with the closet
9 depth, with the walls and everything else, a bedroom
10 that would be approximately 12 feet by 11 and a half
11 feet or 11 feet wide, so it is a nice sized bedroom
12 and a bath with that four foot shaved off.

13 MR. MATULE: So then we would be at 61
14 percent with the building with no stairs, and 65
15 percent with the stairs, and then that would
16 increase our rear yard from 31-6 to 35-6, and even
17 to the fire stair, we would then be at 31-6, because
18 we are at 26-6 --

19 MR. RUSSELL: 26-6. So we are actually
20 in conformance with the rear yard setback from the
21 building, much greater, because that's in
22 conformance with the rear yard setback, so the
23 building will be now 35 feet six from the property
24 line when we are required to have no less than 30
25 feet.

1 MR. MATULE: But we are still going to
2 keep the three and a half offset on either side.

3 MR. RUSSELL: So what we have is less
4 impact from the rear as well as the sides on the
5 neighboring lots.

6 COMMISSIONER BRANCIFORTE: So, again,
7 you are going to shave four feet off the back of the
8 building?

9 MR. RUSSELL: That's correct.

10 COMMISSIONER BRANCIFORTE: And you're
11 saying -- what will happen to the bedroom at that
12 point?

13 MR. RUSSELL: We will have to take a
14 look at it, whether if we can do a small bathroom or
15 a small closet combined, but with a linen closet
16 alone and not a bathroom, it gives us a bedroom of
17 about 12 feet wide by around 11 feet deep once you
18 deduct the closet depth, the interior walls and the
19 closet wall, and that is the approximate dimension,
20 so it is a habitable second bedroom or first
21 bedroom.

22 MR. MATULE: We just don't know if the
23 bathrooms are going to stay or not.

24 MR. RUSSELL: We have to work that out
25 or just eliminate it.

1 COMMISSIONER BRANCIFORTE: It kind of
2 cracks me up, because before you said, no, you
3 absolutely need two bathrooms. Now you're saying,
4 well, maybe we can do without that second bathroom
5 or not.

6 MR. MATULE: Well, the --

7 COMMISSIONER BRANCIFORTE: Well, which
8 is it?

9 Do you need the second bathroom or you
10 don't need the second bathroom?

11 MR. MATULE: I don't think it's a
12 question of need. I think it's a question of what
13 makes the most sense from a design and planning
14 point of view.

15 But if the alternative is nothing or a
16 smaller bedroom with no bathroom, we would obviously
17 have the smaller bedroom and no bathroom, so we can
18 at least have a two-bedroom apartment.

19 COMMISSIONER BRANCIFORTE: I don't
20 know. You made a pretty strong argument for the
21 second bathroom. Now I am convinced that you need
22 the second bathroom.

23 MR. RUSSELL: So we should withdraw our
24 compromise?

25 MR. MATULE: No.

1 Anyway, I am amending my application
2 to, as we discussed, to reduce the lot coverage for
3 the building to 61 percent, just basically pull
4 everything forward from the rear lot line an
5 additional five feet, so we would be at 61 percent
6 for the building and 65 percent for the building and
7 the fire stair total.

8 MS. VANDOR: Is there a drawing in your
9 set that you could just sort of draw a line on to
10 make it visible?

11 MR. MATULE: Yes.

12 Why don't you do it on the big one?

13 MR. RUSSELL: Yes.

14 CHAIRMAN AIBEL: While Mr. Russell is
15 doing that, Bob, what can you do to get this to 60
16 percent, because I will be candid.

17 I know it sounds like quibbling, but I
18 have been in that backyard. It is a backyard that
19 maybe 60 percent is too much. If you went back to
20 the old ordinance and had 50 percent and a 10
21 percent accessory structure, that might be the way
22 this backyard was developed, and I have difficulty
23 setting the precedent that now it is 61 percent in
24 an area where 60 percent in my view is probably too
25 much at least built as a four-story extension.

1 MR. MATULE: I certainly appreciate
2 that, Chairman Aibel, but again, the code now would
3 allow this whole building to be slid back to 70
4 feet --

5 MS. VANDOR: Not if it's starting at
6 zero.

7 MR. MATULE: Pardon -- not with a zero
8 front yard. But I am saying the ordinance
9 contemplates a rear wall at 70 feet, 40 feet high in
10 terms of the impact on the neighboring properties.

11 MS. VANDOR: Right. You are talking
12 about this site with an existing building with no
13 front yard.

14 MR. MATULE: I understand, and that's
15 why -- but we are compliant with the rear yard
16 setback at 61 percent lot coverage.

17 COMMISSIONER CRIMMINS: But you need
18 variances for the others, and I think the point was
19 made.

20 MR. MATULE: I can certainly -- I don't
21 know, you know, what could be done to generate an
22 additional one percent, but I will leave that to the
23 architect, if he can figure that out.

24 MS. VANDOR: Is the three and a half
25 foot dimension required in order to have a window?

1 MR. MATULE: It is to have the windows
2 in the living and dining room to not make them
3 railroad apartments.

4 MR. RUSSELL: Well, actually what
5 happens is because there is a masonry fire wall
6 between the two buildings, and that wall itself is
7 about a foot thick on our property, because it was
8 built in a different period, so by the time you
9 deduct a foot and you deduct other things, it's a
10 three and a half foot wide side yard, which allows a
11 narrow window over there, because you actually
12 deduct a foot of the wall, and then you get about a
13 two-foot window, so that is why the three and a half
14 foot really works and allows us to get a window
15 there because again of the thickness of the walls
16 and everything else, so we backed into that.

17 COMMISSIONER BRANCIFORTE: Another
18 question about this egress corridor.

19 If there is a fire, I mean, is this
20 door going to be unlocked all of the time?

21 How would people -- if there is a fire
22 and everyone rushes down to the backyard, they run
23 up to the back door, and it is locked?

24 MR. RUSSELL: We would have to put on
25 it an exit device, so people can get through and go

1 through the building. It will be up to the building
2 department to determine what type of exit device, if
3 it's a panic button device or a key, but it would be
4 up to the building department to tell us what they
5 are looking for.

6 I understand your question, and it
7 doesn't make much sense to me either, because if you
8 put a panic device on there, somebody else can get
9 through there. It's security.

10 It is not something I would like to do
11 here, and it doesn't meet code for a new building,
12 but it is something that the building department
13 told us we have to do for this building.

14 COMMISSIONER DE FUSCO: Can I ask one
15 more question?

16 So if the building to the -- I guess it
17 would be to the north built -- to the right, which
18 is 60 percent of their lot coverage, thus barreling
19 in your living room, dining area window, is that
20 still in the best interest of the design?

21 I mean, if everybody built to the
22 right, even that the three and a half foot setback
23 through a small window --

24 MR. RUSSELL: That would allow us to
25 get some natural light into that living/dining area.

1 COMMISSIONER DE FUSCO: Is it as ideal
2 as --

3 MR. RUSSELL: No, not as ideal, but it
4 is something.

5 If I understand your question
6 correctly, if somebody built to the north or south
7 all the way back to their permitted setback, we
8 would have a window in our living dining room that
9 was sandwiched between our addition and their
10 building.

11 COMMISSIONER DE FUSCO: Correct.

12 MR. RUSSELL: Again, it allows us to
13 get natural light and air into that living/dining
14 room, which is better than nothing, than having a
15 blank room or a railroad apartment, so it is a
16 benefit still.

17 COMMISSIONER DE FUSCO: All right.

18 Thank you.

19 CHAIRMAN AIBEL: Anybody else?

20 COMMISSIONER. BOUCHER: For the
21 architect, I had a question for him.

22 MR. MATULE: Ron?

23 COMMISSIONER BOUCHER: Does the rear
24 extension need to go all the way to four floors?

25 MR. RUSSELL: We have looked at that

1 also. The problem with that is if we cut it down a
2 floor, we have to have the fire stair or fire escape
3 go up to the fourth floor. That upper unit by code
4 today would not have a window. It would have to
5 have a door, so you would have to have a door that
6 goes out to the roof that goes out to the fire
7 escape or stair that is extended up. So we would
8 have a fire stair at the back that goes up past the
9 roof line because that top floor unit has to use it.

10 So they would have a door from their
11 unit that goes to the roof to the fire stair, so we
12 would have a fire stair in the back that is higher
13 than the roof line, and that also could create the
14 possibility of them, that tenant, using that roof as
15 a deck, which we don't want, because now you have to
16 have a door there, not a window, based on the new
17 code for fire escapes.

18 So we think it is better not to do that
19 and not take the chance of people using the roof as
20 a deck. And, again, that stair would still have to
21 go up.

22 COMMISSIONER BOUCHER: Okay.

23 COMMISSIONER DE FUSCO: Can we take a
24 look at your schematic that you were drawing on,
25 just to -- I mean, you can put it up there.

1 MR. RUSSELL: I hope you can see it.

2 COMMISSIONER DE FUSCO: So the
3 extension will now come back to meet the rear wall
4 of the current neighbor to the north?

5 MR. RUSSELL: That is approximately 14
6 feet six inches, plus or minus, so we are proposing
7 instead of 18 feet -- to the -- from the rear to the
8 new addition, it will be 14 feet 6 inches, so we are
9 cutting back the rear addition four feet, so that is
10 the approximate location.

11 The side yards will remain where they
12 are, and potentially eliminate the bathroom and just
13 have a closet, and then the fire escape slash stair
14 would get shifted back, and that would be 60 feet,
15 so these are approximate locations based on
16 sketching it, so there is much less impact by doing
17 this.

18 COMMISSIONER DE FUSCO: To the
19 Chairman's comments, is the fire escape the smallest
20 it can be? We can't size back the fire escape?

21 MR. RUSSELL: No. I know you had
22 questions of the prior applicant. That was for a
23 new building, and this is an existing building. New
24 buildings don't have fire escapes. They have to use
25 a fire stair. This is sort of a hybrid between a

1 new and an existing building.

2 The building code allows for existing
3 buildings to install fire escapes. However, they
4 cannot be fire escapes with a drop ladder. They
5 have to be fire escapes with stairs going down to
6 grade. There are also requirements that do not
7 match current fire escapes you see on the buildings.

8 So we designed on the initial plan, a
9 five foot fire escape that meets the Uniform
10 Construction Code.

11 However, the building department may
12 interpret this as not being compliant because it is
13 sort of a hybrid, so tonight I asked that we get
14 leeway for an additional foot, if the building
15 department requires us to increase the size of it.

16 So my initial plan showed five feet,
17 which is a four feet fire escape, and I am asking
18 for an additional foot just in case the building
19 department requires us to have a wider stair, and I
20 hope that explains it.

21 COMMISSIONER DE FUSCO: It does.

22 MR. RUSSELL: Thank you.

23 There are a lot of different codes that
24 come about whether it is a new building, an existing
25 building, or an addition to an existing building.

1 MR. MATULE: Just so we are clear then,
2 this plan, the way we are showing it, the fire stair
3 as proposed is four percent lot coverage. With the
4 additional foot, it would be five percent lot
5 coverage?

6 MR. RUSSELL: That's correct. One
7 percent more.

8 MR. MATULE: So then the total lot
9 coverage would be 66 percent, if you had to put that
10 additional foot on?

11 MR. RUSSELL: Yes.

12 MR. MATULE: 61 percent for the
13 building, and five percent for the fire stair versus
14 four percent?

15 MR. RUSSELL: Correct.

16 MR. MATULE: But if the building
17 department doesn't make you do that, then --

18 MR. RUSSELL: Then we will do it the
19 way it is.

20 We tried to make that fire escape as
21 narrow as possible, so it is not a deck.

22 So if you look at the fire stair, it is
23 a limited area. It's just enough to get around.
24 There is no landing for a patio set to be on it.
25 It's a small fire escape slash stair.

1 MR. MATULE: All right.

2 CHAIRMAN AIBEL: Open it up to the
3 public for questions of the architect and planner.

4 MR. GALVIN: Seeing none.

5 COMMISSIONER CRIMMINS: Motion to close
6 the public portion.

7 COMMISSIONER DE FUSCO: I will second
8 it.

9 CHAIRMAN AIBEL: Thank you.

10 All in favor?

11 (All Board members answered in the
12 affirmative.)

13 MR. MATULE: That is it. Those are my
14 witnesses.

15 I think we tried to address the
16 concerns of the Board.

17 Mr. Aibel, I wish we could make it
18 smaller, but then it really makes it not a viable
19 alternative. It is a one percent variance, if you
20 will. I certainly think it is de minimus weighed
21 against the benefit of having the two-bedroom
22 apartments there. It certainly meets one of the
23 purposes of zoning, which is to provide various
24 housing types.

25 I think the impact on the surrounding

1 neighbors will not really be significant. They did
2 pull it in from the sides. It serves two purposes.
3 It eliminates the railroad type flats, but it also
4 softens the impact of the extension on the adjoining
5 buildings, and I guess the only other thing I could
6 say is, you know, if Mr. Branciforte feels very
7 strongly about having the garbage cans in the front
8 yard, we can do that, but we tried to keep them in
9 the back because this is not a condo, but it is a
10 building that will have maintenance people, and
11 hopefully the residents will abide by that. But
12 obviously if they don't, we can always switch them
13 out into the front. Maybe the landscaping in the
14 front could be redesigned to have an area for
15 garbage cans.

16 COMMISSIONER CRIMMINS: Do we need to
17 open it up to the public for general comment?

18 I don't think anybody is here.

19 CHAIRMAN AIBEL: You are actually
20 right. Thanks.

21 Open to the public for public comments
22 about the application.

23 Seeing none?

24 COMMISSIONER CRIMMINS: I will make a
25 motion to close.

1 VICE CHAIR GREENE: I'll second.

2 CHAIRMAN AIBEL: All in favor?

3 (All Board members answered in the
4 affirmative.)

5 MR. GALVIN: If I could help you, you
6 know, you have options here.

7 One is you could vote on the
8 application that was originally submitted tonight.

9 Two is you could vote on the amended
10 plans suggested by Mr. Matule.

11 Three: You could ask Mr. Matule to go
12 back and draw up that plan and show you what it
13 would look like and how it would work.

14 Four: You could ask Mr. Matule to go
15 back and take one more look at this plan and come
16 back another night to see if he wants to modify the
17 plan, and we can then vote on it at that time. But
18 before you, you know --

19 VICE CHAIR GREENE: What are the
20 variances for D?

21 MR. GALVIN: The D variance is for
22 height. They have to show that the site can
23 accommodate the increase in height. I don't know if
24 you found that they can or they can't. A D variance
25 requires five affirmative votes. If you don't have

1 five votes, then the matter won't be successful.

2 I will say for the record that the
3 Board is struggling to try to work with you, not
4 more than they normally do, but --

5 MR. MATULE: I appreciate it.

6 MR. GALVIN: -- there is nobody here,
7 and you know --

8 MR. MATULE: I do recognize the fact
9 that I am sure the Board sees the benefit, if you
10 will in this, but if you have to weigh that against
11 that additional one percent --

12 CHAIRMAN AIBEL: Just to pick up on the
13 comment, though, I think the D variance is
14 significant in this context because in truth, it is
15 the very bulk of this extension that seems to be
16 inconsistent with the development pattern in the
17 rest of the donut, so I think that fourth story ends
18 up contributing to the impact on the backyard.

19 MR. GALVIN: I would say at this point
20 you have to decide if you want to go into
21 deliberations and finish this up, or if you want to
22 give the applicant the opportunity to come back
23 another night. All right?

24 (Board members confer)

25 MR. GALVIN: Mr. Matule, you are not

1 asking to be carried to another night, right?

2 MR. MATULE: I am not asking, but, you
3 know, if the Board would like us to try to do
4 that --

5 MR. GALVIN: The Board will have to
6 make a decision. If you want to go into
7 deliberations, you can.

8 COMMISSIONER DE FUSCO: If I may, I
9 mean, I think we could all understand that the
10 applicant has proposed what they are going to
11 propose. I don't know if pushing this back or not
12 deliberating on it is going to change.

13 MR. GALVIN: What I was going to say
14 is, I always get nervous if we make a bunch of
15 changes right at the last moment before we are going
16 to decide it.

17 I do think it would be sensible to
18 wait, even if it was only ten minutes at the next
19 meeting and say, lay this proposal out to me. You
20 know, the bathrooms are going to be this or they are
21 going to be that.

22 They are doing it on the fly. Let them
23 go back and make sure it is right. It doesn't
24 really hurt. 30 days is never -- I will tell you
25 that in every case, not just this one.

1 If it is something small, like you're
2 adding a fence or you're adding a deck, like
3 sometimes if you are going to cut that deck, like it
4 is obvious what you are doing, if you pull it back.
5 But they are changing things to the building that I
6 don't think they are sure.

7 Do you guys agree with me?

8 MS. BANYRA: I think if you are having
9 some discussion about this, I think it is useful to
10 the applicant relative to what the Chairman said
11 because if the same response will be at the next
12 meeting they go back and they have the same --
13 similar to what was stated by the Chairman, then
14 what was the point of carrying it and having them --

15 COMMISSIONER CRIMMINS: And that is
16 where I am struggling because --

17 MR. GALVIN: Then move into
18 deliberations.

19 COMMISSIONER CRIMMINS: -- I don't know
20 that I am going to make comments about how I feel
21 about the project and allow them to come back once
22 comments are made. I think it is a bad practice we
23 have done over the years --

24 MR. GALVIN: No, we shouldn't do that.

25 COMMISSIONER CRIMMINS: -- and, you

1 know, I --

2 MR. MATULE: May I make a suggestion
3 then?

4 I would ask that we submit the revised
5 plans, come back next month and have the Board --

6 MR. GALVIN: Understanding that there
7 seems to be some sentiment from the Board that they
8 want you to do more. I don't know if it three or
9 four --

10 MR. MATULE: I understand.

11 If Mr. Russell has the time to sit down
12 in his office and try to crunch the numbers around.

13 VICE CHAIR GREENE: He can do it while
14 he is waiting to get into his bathroom.

15 (Laughter)

16 MR. RUSSELL: It is a long wait
17 sometimes.

18 MR. GALVIN: Is the Board okay with
19 carrying this to the next meeting?

20 VICE CHAIR GREENE: We clearly have
21 some differences of opinion amongst us, so I don't
22 see the harm in seeing hopefully a more finished
23 product.

24 CHAIRMAN AIBEL: Well, I guess where I
25 am coming out, I am not sure for me the changes

1 around the edges are going to make a difference. I
2 am almost saying we ought to get an up or down vote
3 and see where we stand.

4 If it goes down, you can refile and
5 make a new application.

6 If it succeeds, then you get what you
7 have asked for.

8 COMMISSIONER BRANCIFORTE: I don't
9 disagree with you, Jim, because I don't know if
10 these changes are going to make a big difference to
11 the application after all.

12 COMMISSIONER CRIMMINS: These are the
13 kind of comments that I didn't want to have until --

14 COMMISSIONER BRANCIFORTE: I don't want
15 to give any more comments. I think Joe is right.

16 COMMISSIONER CRIMMINS: -- I don't
17 think we should. I think we were kind of clear on
18 the record where we are, so we are here and ready to
19 close.

20 They have the chance to pull back and
21 wait, but I don't think we should comment any more.
22 Either we go to the vote or he tells you right now
23 he is stopping and --

24 MR. MATULE: Well, that is why I asked
25 to carry the matter --

1 (Laughter)

2 -- if the Chair chooses not to do it,
3 that is the --

4 COMMISSIONER DE FUSCO: Poll the Board.

5 MR. GALVIN: No. I never poll the
6 Board.

7 All I am saying is: Is the Board okay
8 with the applicant adjourning?

9 I couldn't read where the Board is
10 going, so I am sorry. I don't like the way it is
11 being made at this point either.

12 I hate to see the applicant go through
13 the cost and expense, if it is not going to make any
14 difference. I don't know.

15 MR. MATULE: Well, I understand that.

16 MR. GALVIN: Well, let's put it this
17 way. Said better it would be this: I could
18 recommend to the Board that they grant you an
19 adjournment to show us the final -- if they are
20 going to vote for this, they should see what the
21 plans look like.

22 MR. MATULE: That is what I am
23 suggesting.

24 MR. GALVIN: What might happen, though,
25 and I am just putting you on the notice, even though

1 you go through the cost and expense of that, it
2 still may not result in a positive result.

3 MR. MATULE: I understand that.

4 MR. GALVIN: Is the Board okay with
5 that?

6 If not, that is my advice. Go into
7 deliberations and make your call.

8 COMMISSIONER DE FUSCO: Guys, I think
9 it certainly makes sense. I mean, everyone seems to
10 have a fairly firm idea of where this is going, so
11 if we don't think that adjourning this is going to
12 make a difference, then let's just vote on it.

13 If you guys are actually on the edge,
14 and you think that some of these changes are going
15 to change your vote, then let's adjourn.

16 I certainly have visualized the
17 conversation that we had, and I can make a call on
18 it. But it is up to all of the other members to see
19 if they can make the same.

20 CHAIRMAN AIBEL: I agree with Michael.
21 We heard the proofs --

22 MR. MATULE: The only thing I will say
23 is that the Chair had indicated, is there any way to
24 get it to 60 percent. I can't answer that question
25 right now.

1 The only way I could answer that
2 question is either ask for an adjournment and go
3 back and do it, or ask for another break for Mr.
4 Russell to go and try to do it again.

5 But if getting it to 60 percent is not
6 going to make any difference at the end of the day,
7 then, you know, I could certainly say we will amend
8 it to 60 percent and vote on that, and we will just
9 figure out how to make it work, but I can't do any
10 more than that.

11 MR. GALVIN: Thank you.

12 Okay. Guys, move into deliberations.

13 VICE CHAIR GREENE: I think we should
14 give them an opportunity to present the revised
15 drawings and vote on it at the next meeting.

16 CHAIRMAN AIBEL: Anybody have a
17 different view?

18 COMMISSIONER CRIMMINS: So we are in
19 deliberations, is that it?

20 MR. GALVIN: We are in
21 predeliberations.

22 We just moved into predeliberations.

23 COMMISSIONER CRIMMINS: Where we were
24 ten minutes ago.

25 MR. GALVIN: I am not trying to lead

1 you one way or the other way.

2 In most situations I want to see the
3 revised plan before we are going to approve this.
4 Sometimes we can visualize it, I agree, Mr. DeFusco,
5 on that. Sometimes you can.

6 But if you guys feel like the revised
7 plan won't make a difference, then you can
8 deliberate and finish it --

9 COMMISSIONER CRIMMINS: So I think
10 based on what I heard, I am ready to go forward.

11 If the Board majority really feels they
12 want to wait to do this at the next meeting, I will
13 go along with it, but I am ready to go forward.

14 MR. GALVIN: You can also approve it
15 subject to the submission of the plans to conform
16 with the plans that we discussed at the time of the
17 memorialization.

18 COMMISSIONER CRIMMINS: I am ready to
19 vote.

20 COMMISSIONER BRANCIFORTE: I am ready
21 to vote.

22 COMMISSIONER BOUCHER: I am ready to
23 vote.

24 COMMISSIONER DE FUSCO: Let's vote.

25 MR. GALVIN: So go into deliberations

1 now. No more comments from anybody except the Board
2 members.

3 Go ahead.

4 COMMISSIONER DE FUSCO: One of the most
5 important things to the community in my mind is the
6 donut, the green space. This application clearly,
7 you know, steps over what we view as a comfortable
8 place in the preservation of the donut. It does
9 seem to be a haphazard backyard as some of the
10 members may have seen on their site visits.

11 And, you know, my big concern with this
12 is setting a bad situation for the future, where
13 neighbors build out their houses to occupy a larger
14 portion of the donut. Thus, you know, impairing the
15 viability of that block.

16 I think the owner has done a fantastic
17 job with the plans. I think he has done a great job
18 restoring the facade of the building, both of which
19 are community benefits.

20 I think the floor plan is great. It is
21 just that I don't know, you know, if I could move
22 forward with this knowing how far it extends into
23 the donut. I don't think it is a fair extension for
24 the community.

25 COMMISSIONER CRIMMINS: I think he said

1 it perfectly, and I am not going to add to it.

2 CHAIRMAN AIBEL: Mr. Boucher?

3 COMMISSIONER BOUCHER: Yes.

4 I would say it is a sort of an
5 extension creep that detrimentally would definitely
6 set a precedent for this, maybe elsewhere in
7 Hoboken, but definitely this block, it will look
8 like it is an extension that is sort of out of
9 proportion with the rest of the block and the rest
10 of the donut, and I think what you will have then in
11 a couple of years, when it is approved, we will see
12 people saying, well, look at this extension, so I
13 can review the other extension, so I would say no.

14 CHAIRMAN AIBEL: Mr. Branciforte?

15 COMMISSIONER BRANCIFORTE: The comments
16 I heard so far pretty much round it up for me.

17 You know, I am going to leave it at
18 that. I have nothing to add to the comments.

19 Thank you, Mr. Chair.

20 CHAIRMAN AIBEL: Mr. Greene?

21 VICE CHAIR GREENE: I disrespect -- I
22 respectfully --

23 (Laughter)

24 -- I respectfully disagree with my
25 colleagues' comments. I actually find that the

1 donut is not infringed on because you have 30 foot.

2 The backyards in this neighborhood are
3 a hodgepodge. They're two stories, three stories,
4 some stick out. Many of them have auxiliary uses in
5 the back. Particularly with the revision where you
6 are only looking for 61 percent, frankly I would
7 have approved it.

8 COMMISSIONER CRIMMINS: Can I throw in
9 one comment? I'm sorry.

10 CHAIRMAN AIBEL: Absolutely.

11 COMMISSIONER CRIMMINS: I just think by
12 approving it, we encourage others to follow suit,
13 and we encourage others on the block to go further
14 out in the back, and that is where I disagree
15 with --

16 VICE CHAIR GREENE: I don't know how
17 you encourage people to go further back.

18 I think if you look at the other yards,
19 and if six neighbors wanted to do this exact same
20 thing and eliminate their sheds in the back, I don't
21 see that as a negative frankly, but that is my
22 perspective on it, and I certainly do respect your
23 perspective on it.

24 COMMISSIONER CRIMMINS: All right.

25 I have no other comments.

1 Thank you.

2 CHAIRMAN AIBEL: My two cents is that
3 this is a block that is particularly susceptible to
4 the question, is 60 percent too much.

5 I think the D variance in my mind is
6 significant in this type of context, and whether
7 again the, you know, original zoning contemplated 50
8 percent lot coverage with a ten percent accessory,
9 and we are now moving into what is in my view a
10 very, very large construction in the back of the
11 building and in the donut that is inconsistent with
12 the development pattern, I think that is a
13 significant negative impact for the community and
14 for the neighbors in particular.

15 I commend the architect, the owner and
16 Mr. Matule, who as usual has done a great job
17 presenting their case, but I have difficulty
18 supporting the application.

19 Do you want to go to a vote?

20 Motion to approve or --

21 MR. GALVIN: Motion to approve or deny.

22 VICE CHAIR GREENE: I move for approval
23 because that way you can --

24 MR. GALVIN: No.

25 CHAIRMAN AIBEL: You will not get a

1 second on the motion -- maybe you will --

2 VICE CHAIR GREENE: My point is, are
3 you going to establish conditions?

4 MR. GALVIN: No. You can't
5 establish -- well, we wouldn't have very many
6 anyway. You're right. There is a possibility --

7 VICE CHAIR GREENE: Well, you are on
8 the record.

9 MR. GALVIN: -- I am okay with it being
10 a motion for denial.

11 VICE CHAIR GREENE: Then I withdraw my
12 motion.

13 MR. GALVIN: Thank you.

14 CHAIRMAN AIBEL: Can I have a motion?

15 COMMISSIONER BRANCIFORTE: Motion to
16 deny.

17 CHAIRMAN AIBEL: Second?

18 COMMISSIONER CRIMMINS: I'll second.
19 Yes is for denial.

20 MS. CARCONE: Commissioner Greene?

21 VICE CHAIR GREENE: No.

22 MS. CARCONE: Commissioner Crimmings?

23 COMMISSIONER CRIMMINS: Yes.

24 MS. CARCONE: Commissioner DeFusco?

25 COMMISSIONER DE FUSCO: Yes.

1 MS. CARCONE: Commissioner Branciforte?

2 COMMISSIONER BRANCIFORTE: Yes.

3 MS. CARCONE: Commissioner Boucher?

4 COMMISSIONER BOUCHER: Yes.

5 MS. CARCONE: Commissioner Aibel?

6 CHAIRMAN AIBEL: Yes,

7 MS. CARCONE: It is denied.

8 MR. MATULE: Thank you.

9 (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 testimony 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 11/5/2015.
This transcript was prepared in accordance with
NJAC 13:43-5.9.
Dated: March 1, 2013

1 CHAIRMAN AIBEL: First of all, I hope
2 everybody has met Eileen Banyra.

3 Elizabeth, thank you for your
4 transition work. We very much appreciate it.

5 Eileen has teed up the matters that are
6 in the pipeline, and one in particular is a little
7 bit special.

8 So, Eileen, why don't you tell the
9 people what you think of 300 Washington?

10 MS. BANYRA: So 300 Washington is the
11 building that burned down last year.

12 300 Washington, we met with this
13 evening. Both myself and the engineer had
14 preliminary reports. I have not had a preliminary
15 report on everything, but that one I happened to.
16 It was one of the first ones to come in. We first
17 did our initial review and found it substantially
18 complete.

19 The applicant at the Arc meeting asked
20 if they could possibly have a special meeting for a
21 number of reasons. One, because their insurance --
22 the people -- it is owned by a condominium. I think
23 there are nine owners in the building, and they are
24 all living right now in hotels, and the insurance
25 money is running out, so they are thinking that they

1 are coming into the time frame, and they would like
2 to get started as soon as possible, number one.

3 Number two: They anticipate at least
4 what the engineer and architect, they indicate that
5 they are going to have a hundred people roughly out
6 in support of this application, so they actually
7 requested a special meeting because they feel that
8 it will just clog up the room. They want to get
9 going, so I told them what I would do is I would ask
10 the Board to see if we could possibly schedule it.

11 They seem like they will be complete
12 enough to be scheduled shortly, but I said I wanted
13 to talk to the Board about whether or not you wanted
14 to have a special meeting to hear it.

15 So there are a couple of maybe
16 extenuating circumstances, but, you know, it is
17 really up to the Board whether or not they want to
18 do that.

19 COMMISSIONER CRIMMINS: They do know,
20 if they build as a matter of right, they wouldn't
21 have to come at all.

22 COMMISSIONER BOUCHER: They are not --
23 (All Board members talking at once.)

24 MS. BANYRA: It is a five-story
25 building, and there are a lot of variances, so there

1 is building height. There's number of stories, so
2 there are two D variances and multiple C variances.

3 They are coming in with a hundred
4 percent lot coverage on the ground floor, where as
5 80 percent is permitted by code, and then on the
6 upper floors they are coming in with less than a
7 hundred percent.

8 But what they indicated at the meeting
9 is that the actual square footage of the apartments
10 now replicates what was there. Because of the fire
11 code, they have an elevator and two fire stairways,
12 which have eaten up space, and all of the owners are
13 still in the building, and you know, so they tried
14 to make it back to what it was basically.

15 MR. GALVIN: Okay. Nobody discuss it
16 or make any comments. All right?

17 CHAIRMAN AIBEL: So the question is
18 whether --

19 MS. BANYRA: Whether or not you want --

20 CHAIRMAN AIBEL: -- to have a special
21 meeting in March.

22 MS. BANYRA: March, or it could be --
23 you know, I told them I had no idea when. That the
24 March agenda was full is what I knew for the first
25 regular meeting in March, and obviously they

1 realized that they would be paying for a special
2 meeting. They recognize that.

3 COMMISSIONER CRIMMINS: Are we
4 backlogged with other cases?

5 MS. BANYRA: We have a lot of cases.
6 We have a lot of applications. I'm not sure that
7 "backlogged" is the right word.

8 The next agenda is full because of
9 January, this meeting got taken up by continuations
10 as opposed to getting new things done.

11 I think a lot of applications got
12 submitted in January, so we are not on any kind
13 of -- we are not on any kind of time constraint, but
14 a whole bunch was submitted in January. This one is
15 one of the front runners in the back. Let's put it
16 that way.

17 COMMISSIONER CRIMMINS: Eileen, do you
18 think it would take the entire night to hear?

19 MS. BANYRA: It is going to take a big
20 portion of the night, particularly whether people
21 are objecting or supporting it. You know, there are
22 a number of variances, and as I indicated, a number
23 of D variances, so whether people are in support
24 speaking out for it or people are against it, if
25 there is going to be 25 people that come out, that

1 is going to be a lot of people, so either way, I
2 would say that it would take a fair amount.

3 If we were able to possibly get
4 something else in, it would be small. I would
5 suggest something small, and whatever that means,
6 you know how some of the small ones take up more
7 time than anything.

8 MR. GALVIN: We could limit the time
9 they have.

10 MS. BANYRA: Right. If you have
11 special meeting --

12 (Mr. Marsden coughing)

13 COMMISSIONER BRANCIFORTE: Jeff, are
14 you okay?

15 MR. MARSDEN: Yes.

16 COMMISSIONER DE FUSCO: Did they give
17 any indication as to how long they had before their
18 insurance ran out, which would give us a time line
19 for --

20 MS. BANYRA: They just indicated that
21 it was coming close. I could get more details on
22 that.

23 You know, whether that is the case or
24 not, you know, I think that is one of -- I think
25 more to my thinking is the fact that if there is

1 going to be a lot people out on the application, we
2 won't get anything done. Just people walking in and
3 out and stopping a meeting for people seems to
4 belabor what is going on.

5 COMMISSIONER DE FUSCO: These are
6 people without a home. Obviously it is up to the
7 Chair, you know, to put it on the calendar, but I
8 think that we should get them on as soon as we
9 possibly can.

10 CHAIRMAN AIBEL: I think Michael said
11 it. If you are homeless in a sense, we should do
12 what we can.

13 MR. GALVIN: We can try to get another
14 small case on, just in case we can reach it.

15 VICE CHAIR GREENE: Is March 12th too
16 early?

17 (Board members confer.)

18 MS. BANYRA: They do have some changes.
19 We have a second meeting, you know, at least we have
20 it always slotted as the fourth Thursday in March,
21 so that we don't have to try to find whether or not
22 we have a room or anything because we do have that
23 reserved, and I would suggest that we use the normal
24 special meeting night without going through --
25 jumping through hoops. I think they would probably

1 be ecstatic to hear that.

2 VICE CHAIR GREENE: The fourth Tuesday.
3 You said the "fourth Thursday."

4 MS. BANYRA: I'm sorry. The fourth
5 Tuesday

6 MR. GALVIN: March 26th is Passover.

7 VICE CHAIR GREENE: That is the second
8 night of Passover.

9 MR. GALVIN: That is why you were
10 suggesting the 12th, so I think we could do the
11 12th.

12 MS. VANDOR: The problem is the --

13 COMMISSIONER CRIMMINS: I don't know if
14 there's enough time to notice --

15 MS. BANYRA: They are making changes to
16 the plans pursuant to tonight's meeting, and so I
17 think if the Board is agreeable to another second
18 meeting, we could look at the schedule and see what
19 is happening.

20 The last week, is it all out basically
21 in March?

22 CHAIRMAN AIBEL: Part of the problem is
23 the room.

24 MS. CARCONE: I could play around with
25 that.

1 MS. BANYRA: Poll the Board and see if
2 we can do it --

3 COMMISSIONER CRIMMINS: Or the first
4 week in April, if we had to pick another week. I
5 would rather not go the 12th and find out we missed
6 the date because of notice and everything and missed
7 it by a day or two.

8 MS. BANYRA: I think that is probably
9 prudent. I think the fact they are making changes,
10 they are coming back in, I think it is a little
11 tight maybe on the 12th, and I would then say, yes,
12 go into April then, so maybe we will have Pat check
13 the last week in March, the first week in April and
14 then poll the Board members, if that's acceptable.

15 MR. GALVIN: I am not available any
16 night the first week of April.

17 VICE CHAIR GREENE: How about April
18 9th?

19 MR. GALVIN: The 9th I am available.
20 I'm available on the second Tuesday.

21 VICE CHAIR GREENE: The meeting is
22 scheduled for the 16th.

23 CHAIRMAN AIBEL: Do you want to check
24 out April 9th?

25 MR. GALVIN: You said the 26th is bad.

1 How is the 27th?

2 VICE CHAIR GREENE: It's still
3 Passover. I am not available. I am away.

4 I mean, if I am only the one away,
5 obviously you should have the meeting.

6 COMMISSIONER CRIMMINS: Not if we don't
7 have any members.

8 (Board members confer)

9 VICE CHAIR GREENE: It is a D variance.
10 Does anybody have to recuse themselves?

11 Does anybody know anybody who lives
12 there?

13 (Board members confer)

14 MR. GALVIN: We wouldn't have Nancy
15 possibly.

16 COMMISSIONER CRIMMINS: Let's try to go
17 the second week of April, as long as you don't do
18 the 14th, because it is my anniversary.

19 VICE CHAIR GREENE: I think that's a
20 Sunday.

21 COMMISSIONER CRIMMINS: Oh, I didn't
22 know that.

23 MS. BANYRA: The third Tuesday is our
24 regular meeting, so if we are going to be a week
25 apart, I will ask them if that is --

1 MR. GALVIN: But we have other matters
2 that would go --

3 MS. BANYRA: Well, they will be kind of
4 the next one. I think, other than this next
5 meeting, that will be full, and assuming that they
6 get through the next meeting, then this would be one
7 of the first applications, one of two, probably the
8 first application because one got knocked out I
9 think by a flood issue, so it probably would be the
10 next application to be heard, so --

11 COMMISSIONER CRIMMINS: We will be here
12 a while with them. They are almost on the verge of
13 a special meeting.

14 We are have heard that a little bit,
15 and I am not shocked one was coming, so if we have
16 to do it, let's do it and get it over with.

17 If they want to wait, and after you
18 look at the schedule, you think we could get by
19 without having one, then let them wait for the
20 regular April meeting, if that works.

21 MS. BANYRA: I think Pat knows the
22 schedule. We will try to work out a date and poll
23 the Board members, and if we can make it work, we
24 will try to make it work for them. We will work
25 towards that.

1 CHAIRMAN AIBEL: Pat is very persuasive
2 in getting everybody here.

3 CHAIRMAN AIBEL: Motion to adjourn?

4 VICE CHAIR GREENE: Motion to adjourn.

5 COMMISSIONER DE FUSCO: Second.

6 (All Board members voted in the
7 affirmative.)

8 (The meeting concluded at ten 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 testimony 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 11/5/2015.
This transcript was prepared in accordance with
NJAC 13:43-5.9.
Dated: March 1, 2013