

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN

----- X
REGULAR MEETING OF THE HOBOKEN: : September 20, 2016
ZONING BOARD OF ADJUSTMENT : Tuesday 7 p.m.
----- X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner Edward McBride
- Commissioner Cory Johnson
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Patricia Carcone, Board Secretary

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

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

PAGE

BOARD BUSINESS 1

RESOLUTION

128 Jefferson Street 5

HEARINGS

614-625 Clinton Street 11

329 Garden Street 94

1 CHAIRMAN AIBEL: Good evening.

2 We are just going to let the record
3 reflect that it is seven o'clock by the clock in the
4 room which, of course, is three minutes fast this
5 time.

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

14 Please join me in saluting the flag.

15 (Pledge of Allegiance recited)

16 CHAIRMAN AIBEL: Good evening,
17 everyone.

18 We are at a Special Meeting, Pat?

19 MS. CARCONE: This is a Regular
20 Meeting.

21 CHAIRMAN AIBEL: Regular Meeting, okay.

22 We are at a Regular Meeting of the
23 Zoning Board of Adjustment.

24 I guess we will take a roll call first.

25 MS. CARCONE: Commissioner Aibel?

1 CHAIRMAN AIBEL: Here.

2 MS. CARCONE: Commissioner Branciforte?

3 VICE CHAIR BRANCIFORTE: Here.

4 MS. CARCONE: Commissioner Cohen?

5 COMMISSIONER COHEN: Here.

6 MS. CARCONE: Commissioner Grana?

7 COMMISSIONER GRANA: Here.

8 MS. CARCONE: Commissioner Marsh?

9 COMMISSIONER MARSH: Here.

10 MS. CARCONE: Commissioner McAnuff is

11 absent.

12 Commissioner Murphy?

13 COMMISSIONER MURPHY: Yup.

14 MS. CARCONE: Commissioner Weaver is

15 absent.

16 Commissioner McBride?

17 COMMISSIONER MC BRIDE: Here.

18 MS. CARCONE: Commissioner Johnson?

19 COMMISSIONER JOHNSON: Here.

20 MS. CARCONE: Commissioner DeGrim?

21 COMMISSIONER DE GRIM: Here.

22 CHAIRMAN AIBEL: Great.

23 One matter of administrative

24 importance, a resolution of approval for 128

25 Jefferson Street.

1 MR. GALVIN: Yes.

2 And those eligible to vote are: Mr.

3 Cohen, Mr. McBride, Mr. Johnson, Mr. DeGrim, and our

4 Chairman.

5 Do we have a motion?

6 COMMISSIONER COHEN: Motion to approve.

7 MR. GALVIN: Do we have a second?

8 COMMISSIONER DE GRIM: Second.

9 MR. GALVIN: Thank you.

10 Mr. Cohen?

11 COMMISSIONER COHEN: Yes.

12 MR. GALVIN: Mr. McBride?

13 COMMISSIONER MC BRIDE: Yes.

14 MR. GALVIN: Mr. Johnson?

15 COMMISSIONER JOHNSON: Yes.

16 MR. GALVIN: Mr. DeGrim?

17 COMMISSIONER DE GRIM: Yes.

18 MR. GALVIN: Chairman Aibel?

19 CHAIRMAN AIBEL: Yes.

20 MR. GALVIN: There you go.

21 (The hearings of 614-632 Clinton Street
22 and 329 Garden Street took place and are contained
23 in separate booklets)

24 (The following took place at 9:25 p.m.)

25 CHAIRMAN AIBEL: Do we have any other

1 business, Dennis?

2 MR. GALVIN: Yes, we do. It is very
3 brief, though. It will take two seconds.

4 We have a pending appeal from Jeff
5 Kantowitz about a proposed pizzeria --

6 (Board members talking at once)

7 CHAIRMAN AIBEL: Guys, one second,
8 please.

9 MR. GALVIN: -- we have an appeal
10 pending about a proposed pizzeria, and whether or
11 not it is a permitted use, blah, blah, blah.

12 Some neighbor filed an appeal.

13 I think what happened is we were told
14 that it was going to work out, that either they were
15 coming to us for a variance application, or they
16 were going to just find another location.

17 Pat told the attorney at the time to
18 send us a letter waiving the time in which the Board
19 has to act.

20 The attorney never did that.

21 So here's where we are at. We need to
22 send them a letter telling them if they don't
23 prosecute this matter within the next 30 days, that
24 we are going to administratively dismiss that
25 action, unless they provide us a letter waiving the

1 time in which the Board has to act, okay?

2 COMMISSIONER MARSH: Yes.

3 COMMISSIONER MC BRIDE: How far back
4 did that go?

5 MR. GALVIN: About three or four
6 months.

7 COMMISSIONER MURPHY: And where is it?

8 MR. GALVIN: And I believe it is
9 resolved. But right now we are kind in limbo, and
10 administratively I don't want Pat to have to --

11 MS. CARCONE: We didn't get it.

12 (Board members talking at once.)

13 MR. GALVIN: Shush.

14 The lawyer who is involved is usually
15 very efficient and gets work done very, very
16 quickly, and I am surprised that we didn't get the
17 letter that we were supposed to get.

18 CHAIRMAN AIBEL: What is the address,
19 Pat, do you remember?

20 MS. CARCONE: 138 Park.

21 MR. GALVIN: You're on the record.

22 MS. CARCONE: 138 Park.

23 CHAIRMAN AIBEL: Marie's Bakery.

24 MS. CARCONE: Marie's Bakery.

25 MR. GALVIN: So can I have a motion and

1 a second directing Pat to send that letter?

2 VICE CHAIR BRANCIFORTE: Motion --

3 COMMISSIONER MARSH: I'll make a
4 motion.

5 COMMISSIONER MC BRIDE: Second.

6 MR. GALVIN: All in favor?

7 (All Board members voted in the
8 affirmative)

9 MR. GALVIN: Anyone opposed?

10 (No response)

11 CHAIRMAN AIBEL: Motion to adjourn.

12 COMMISSIONER COHEN: Motion.

13 COMMISSIONER GRANA: Second.

14 (The meeting concluded at 9:35 p.m.)

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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

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

s/Phyllis T. Lewis, CCR, CRCR

- - - - -

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2020.
Dated: 9/21/16
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-9

- - - - - X
RE: 614-625 CLINTON STREET :
BLOCK 79, LOT 9 :
APPLICANT: Bret Skirvin - Site : September 20, 2016
Enhancement Services :
Acme is seeking approval for internal : Tuesday 7:05 p.m.
Illumination for wall sign on the :
front facade & C Variances :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner Edward McBride
- Commissioner Cory Johnson
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Patricia Carcone, Board Secretary

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

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7 STEPHEN P. SINISI, ESQUIRE
8 Two Sears Drive (2nd Floor)
9 Paramus, New Jersey 07653
10 (201) 599-1600
11 Attorney for the Applicant.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

I N D E X

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

WITNESS

PAGE

Bret Skirvin

16

John McDonough

50

1 CHAIRMAN AIBEL: All right. We are
2 going to start with 614 Clinton.

3 Mr. Sinisi?

4 MR. GALVIN: This is going to be an
5 illuminating case.

6 (Laughter)

7 MR. SINISI: That is very good.

8 MR. GALVIN: I can go home now.

9 (Laughter)

10 MR. SINISI: I certainly hope so.

11 MR. GALVIN: All right.

12 MR. SINISI: Good evening, Mr.

13 Chairman, Members of the Board, and the Board's
14 staff.

15 My name is Steve Sinisi, practicing law
16 at Two Sears Drive in Paramus.

17 I would want to thank first, and I'd be
18 remiss if I didn't, your staff for having been so
19 accommodating and making everything available to us
20 so promptly, and I hope you will find our submission
21 to be worthy of their efforts.

22 Having said that, you hit the nail on
23 the head. This is a sign application, nothing
24 greater than that, and it involves relief on two
25 fronts, one for the purposes of the area of the sign

1 on the eastern facade and --

2 (People talking loudly in the hallway)

3 MR. GALVIN: Yeah, why don't we close
4 that door?

5 (Laughter)

6 MR. SINISI: -- and the illumination of
7 the sign, as you have already pointed out, so two
8 variances are needed.

9 I know I don't have to educate this
10 Board on the parlance of the land use law that
11 guides us as to what variance relief we need.
12 It is basically a C-2. This is not a principal use
13 or structure. It is accessory to the principal use.

14 So the variance requirements are set
15 forth in C-2 of our Municipal Land Use Law. You
16 have other items on the agenda, so you don't need me
17 to speak. You will hear the proofs.

18 I have got two witnesses, a sign
19 specialist and a professional planner.

20 At this time I would like to call Mr.
21 Bret Skirvin.

22 MR. GALVIN: Raise your right hand.

23 Do you swear or affirm the testimony
24 you are about to give in this matter is the truth,
25 the whole truth, and nothing but the truth?

1 MR. SKIRVIN: I do.

2 B R E T S K I R V I N, having been duly sworn,
3 testified as follows:

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

6 THE WITNESS: Bret Skirvin, S-k-i-r-v,
7 as in Victor, i-n.

8 MR. GALVIN: Bret, have you testified
9 before as a sign expert?

10 THE WITNESS: Not in this particular
11 municipality.

12 MR. GALVIN: Could you give us three
13 municipalities where you have?

14 THE WITNESS: Montclair, Freehold and
15 Franklin, New Jersey.

16 MR. GALVIN: Okay. Very good.

17 Do we accept his credentials as a sign
18 expert?

19 CHAIRMAN AIBEL: We do.

20 MR. SINISI: I was going to take you
21 through those, but that's fine.

22 And there was one more, I think, the
23 one we did most recently in South Jersey?

24 THE WITNESS: Yes. Somers Point,
25 Ramsey, and Bayville. I think it has been five or

1 six.

2 MR. GALVIN: It is my procedure to ask
3 for three. If you got three, you are going to pass.

4 MR. SINISI: Thank you, Mr. Chairman.
5 Okay. By whom are you employed, Mr.
6 Skirvin?

7 THE WITNESS: Site Enhancement
8 Services.

9 MR. SINISI: And what is Site
10 Enhancement Services?

11 THE WITNESS: We are a sign company and
12 a consultant.

13 MR. SINISI: And your present title?

14 THE WITNESS: I'm a zoning specialist.

15 MR. SINISI: And what are your duties
16 and responsibilities for this company as a zoning
17 specialist?

18 THE WITNESS: So I work with clients
19 mainly in instances where municipal approvals are
20 required for specific signage, which includes doing
21 due diligence, making sign recommendations, if we
22 feel appropriate.

23 When certain circumstances call for,
24 you know, maybe something that is larger in this
25 particular instance by code, I will work with them

1 in doing my best to get that sign approved.

2 MR. SINISI: Okay.

3 And would the duties that you perform
4 on behalf of the clients of your firm include
5 frequent site visits and inspections?

6 THE WITNESS: Yes. Both virtually and
7 physically, we use a lot of frugal street view.

8 MR. SINISI: So it would not only
9 include physical inspections then as you call --

10 THE WITNESS: Yes, yes --

11 MR. SINISI: -- inspections, but you
12 would also look at approvals of comparable or
13 comparable --

14 THE WITNESS: -- yes.

15 MR. SINISI: -- facilities and in part
16 of the street scape where your client's property
17 would be located. Is that fair to say?

18 THE WITNESS: Correct, particularly if
19 it's similar uses.

20 MR. SINISI: Okay. What's your
21 company's association with that?

22 THE WITNESS: When Acme acquired A&P,
23 they have been expanding and taking over existing
24 A&P locations. They actually sought us out to
25 perform due-diligence in all of the municipalities

1 and to pull sign permits, including this particular
2 location.

3 MR. GALVIN: I have a question, a
4 jurisdictional question.

5 Who is the owner of the property?

6 The applicant is the sign company.

7 MR. SINISI: Yes.

8 MR. GALVIN: And on the note we have,
9 it said "See authorization form," it says,
10 "Previously filed."

11 THE WITNESS: Right. We submitted --

12 MR. GALVIN: No. We're looking for --
13 so whoever owns the property, so if Acme owns the
14 property, we should have a signature from Acme
15 authorizing you to get the sign.

16 THE WITNESS: We --

17 MR. SINISI: I believe we -- I believe
18 it was Main Street at Manasquan, Inc., 457 Ocean
19 Avenue in Sea Girt. That is on the application.

20 MR. GALVIN: So we have something
21 signed by them?

22 THE WITNESS: Yes. That was submitted
23 with the application.

24 MR. SINISI: That was part of -- I
25 think it was back in August.

1 MR. GALVIN: No. But we have "See
2 authorization form."

3 Do you guys have a copy of the
4 authorization form?

5 MS. CARCONE: I probably have it
6 upstairs. It says "previously filed" on the paper.

7 MR. SINISI: Yes.

8 MR. GALVIN: Pat, if you have it
9 upstairs, why don't you go get it, and we will keep
10 going, okay?

11 MS. CARCONE: Okay.

12 MR. GALVIN: Because we need something
13 from Acme that says you guys -- everything is signed
14 by your witness.

15 MR. SINISI: Yes. I think it was just
16 inserted by you as previously submitted.

17 THE WITNESS: Right, yes. We submitted
18 the signatures.

19 MR. GALVIN: In other words, when you
20 are the applicant, you can sign as the applicant,
21 but we still need something from the owner.

22 MR. SINISI: Right.

23 Would you like us to continue or wait?

24 MR. GALVIN: Yes. Please continue.

25 I think, Pat, if you need to go

1 upstairs --

2 MS. CARCONE: I am just trying to
3 understand exactly what I'm --

4 MR. GALVIN: Is there anything else in
5 the file?

6 MS. CARCONE: I'm looking.
7 The statement of application from Main
8 Street at Manasquan.

9 COMMISSIONER COHEN: They said there is
10 an authorization form previously filed.

11 MS. CARCONE: Yes, I'm --

12 CHAIRMAN AIBEL: There's two
13 individuals that seem to have 50 percent
14 ownership --

15 MR. GALVIN: Right, but we still need a
16 signature.

17 MR. SINISI: We'll certainly check our
18 files before you are prepared to take action on
19 this.

20 MR. GALVIN: All right.

21 MR. SINISI: I have a rather voluminous
22 file, so I am sure it is in there, if it said that,
23 and I know my client wouldn't sign it, if it didn't
24 and wasn't previously filed.

25 In any event --

1 MS. CARCONE: Do you want me to go and
2 do a search for it?

3 MR. GALVIN: If you think you know
4 where it is, and that will help everybody, then I
5 think that is okay.

6 MR. SINISI: I think somebody --

7 COMMISSIONER DE GRIM: No, no. This
8 isn't signed. This is the --

9 MS. CARCONE: No. That is the entry
10 consent.

11 MR. GALVIN: When you have somebody
12 other than the property owner, and we get it kind of
13 often, we should have a signature from both the
14 owner and the applicant.

15 So I'm sorry to make you -- keep going.

16 MR. SINISI: Thank you.

17 So I asked -- I think the last question
18 was: In what business is Acme engaged?

19 THE WITNESS: They are a grocery store
20 and pharmacy at some locations.

21 MR. SINISI: So on behalf of places
22 like Acme, would it be fair to say, and I think we
23 have Advanced Auto Parts, I think we have done other
24 national brands at the time, like Sports Authority,
25 you would be engaged to either formulate or advocate

1 signage at a particular location owned by your
2 clients, is that correct --

3 THE WITNESS: Yes --

4 MR. SINISI: -- or operated by your
5 clients?

6 THE WITNESS: -- yes.

7 MR. SINISI: Now, having had your
8 qualifications accepted already, go right to the
9 heart of the matter. Tell the Board what is the
10 applicant seeking in this application.

11 THE WITNESS: So we are seeking
12 approval for our wall sign, which exceeds the
13 allowance for square footage.

14 It is also currently internally
15 illuminated. However, after being told by the
16 municipality, that has been shut off for the time
17 being, and we were advised that if we wanted to
18 continue that illumination, we needed to get
19 approval from you all first, so that is what
20 triggered this application.

21 Again, it is a 72-inch channel
22 lettering. The total square footage is 130 square
23 feet.

24 If you are just looking at the surface
25 area, the letters themselves were actually probably

1 in compliance with the square footage.

2 However, with the code the way that the
3 square footage is measured with the rectangle around
4 the words, that's a total of 130 square feet, which
5 exceeds the total allowance by approximately 30
6 square feet.

7 MR. SINISI: I am going to show you
8 colorized signage plans entitled "Acme," dated
9 August 10, 2016, consisting of nine pages and ask
10 you, sir, whether either you or individuals
11 operating under your supervision and direction
12 prepared these plans.

13 Do you recognize them?

14 THE WITNESS: Yes, sir.

15 MR. SINISI: Did you assist in their
16 preparation?

17 THE WITNESS: Yes. That was prepared
18 by our design team under my guidance.

19 MR. SINISI: Okay.

20 And tell us, please, if you would, what
21 is depicted on each sheet of these plans.

22 THE WITNESS: So we have here, we've
23 got the aerial view. We show the approximate
24 setback from the sign itself to the adjacent
25 residential units, which we've got, it's

1 approximately 120 feet give or take.

2 We've got context photos just to kind
3 of give you a feel for what is around us. We are
4 surrounded by predominantly residential.

5 Directly adjacent from us, there are
6 residential units. However, it is not as dense as
7 it is in other places within the city.

8 Moving on, we've got a few perspective
9 views of our sign both in daylight and in evening
10 hours to represent --

11 MR. GALVIN: Wait. I just want to stop
12 you for a second.

13 You're doing a good job, and I don't
14 want to interrupt you and slow you down, but I don't
15 want you to worry. I found the owner certification,
16 so it is okay.

17 The only thing I would say to our staff
18 is that in the future, we want it on our form, so it
19 should not be deemed complete without that form.

20 MR. SINISI: Thank you very much.

21 So we needn't worry about that as a
22 procedural --

23 MR. GALVIN: Right. Mr. Shibells, or
24 something like that, Shibels and Bits.

25 MR. SINISI: Shibels?

1 MR. GALVIN: Yup.

2 (Laughter)

3 MR. SINISI: So you are talking about
4 what represents to be pages five and six of your
5 composite plan, which is the perspective in the
6 daylight and the perspective in the evening. Is
7 that correct?

8 THE WITNESS: Yes, sir.

9 MR. SINISI: And that would be likewise
10 for Page 7 of your plan, is that right?

11 THE WITNESS: Yeah. We have --

12 MR. SINISI: Now, I would just -- is
13 that correct?

14 THE WITNESS: Yes.

15 MR. SINISI: Okay.

16 Now, look at the lower left-hand corner
17 of the perspective on Page 7. There is something
18 written in red.

19 Would you read into the record what's
20 written in red?

21 THE WITNESS: "Illumination brightness
22 can be adjusted."

23 MR. SINISI: How would illumination in
24 the signage you are proposing be adjusted?

25 THE WITNESS: The actual installers

1 have access to the internal -- the people that
2 install the sign, the sign company, the people that
3 manufacture, they do have capabilities of adjusting
4 lumen output, which I am not aware -- well, as it
5 being prohibited, illumination is not allowed.
6 However, we do have the capability to dim it down,
7 if that would please the adjacent residential units.

8 MR. SINISI: Should there be some
9 public outcry as to the level of the illumination --

10 THE WITNESS: Correct.

11 MR. SINISI: -- is an apparatus within
12 the system, within the casement to adjust the
13 illumination, is that your testimony?

14 THE WITNESS: Correct, and they also
15 have the capability to set it to a timer so that it
16 shuts off during non operational hours.

17 MR. SINISI: Okay.

18 Now, would you tell us what appears on
19 Page 8?

20 THE WITNESS: So this is the standard
21 spec of the sign. These are self-contained signs,
22 where as they are not installed on a Raceway. It
23 looks a little nicer on the facade themselves.

24 This gives you the actual measurements
25 of the sign and how we got that square footage

1 measurement, and then there is other technical
2 information on here.

3 MR. SINISI: Page 9, sir, what is
4 depicted on Page 9 of the nine-sheet plan that you
5 submitted?

6 THE WITNESS: This is the LED layout.
7 This is what the actual inside of the sign looks
8 like.

9 MR. SINISI: Mr. Chairman, can I ask
10 that this be marked at this time as A-1?

11 CHAIRMAN AIBEL: Sure.

12 MR. GALVIN: I have a couple of
13 questions.

14 MR. SINISI: I am just not quite
15 finished yet, unless you want to examine him now.

16 MR. GALVIN: He was talking about
17 illumination, and I wanted to know about what the --
18 I am trying to formulate conditions.

19 How bright is the sign going to be at
20 this point? Is it in nits or is it in wattage?
21 What is it?

22 THE WITNESS: I believe the average
23 output is 30 lumens. I am not a hundred percent
24 certain on that.

25 MR. GALVIN: Can I tell you, we need

1 some certainty because we want to know what we are
2 enforcing. You don't have to have it this second,
3 but through the course of the hearing.

4 THE WITNESS: Yeah, I could
5 certainly...

6 MR. SINISI: I was just going to ask,
7 is it okay if I mark a copy A-1?

8 MR. GALVIN: Yeah. You have labels
9 right here.

10 MS. CARCONE: The Board has this. The
11 Board has it.

12 MR. GALVIN: Oh, we have it. It is
13 already in evidence, yes.

14 MR. SINISI: Great. Thank you.

15 MR. GALVIN: Everything that has been
16 submitted.

17 Anything that's new or colorized, I
18 would mark.

19 MR. SINISI: Thank you.

20 Now, subject to the questions of the
21 members of the Board or its staff, Mr. Skirvin,
22 would you please tell the Board what existed
23 previously?

24 THE WITNESS: An A&P market, which is
25 what Acme has acquired.

1 MR. SINISI: Okay. And was there
2 additional lettering on this facade before Acme
3 acquired this location?

4 THE WITNESS: Yes. They had --

5 MR. SINISI: What do you recall being
6 on this facade before Acme took over this location?

7 THE WITNESS: -- they had both the A&P
8 wall sign with a tag, as well as a pharmacy sign,
9 which has since been removed.

10 MR. SINISI: Okay.

11 Now, as part of your due diligence,
12 would it be fair to say that you routinely examine
13 the immediate and surrounding neighborhood where
14 your clients are located seeking signage relief?

15 THE WITNESS: Yes.

16 MR. SINISI: Did you see anything
17 comparable or -- strike that.

18 Did you see other commercial signage in
19 this area?

20 THE WITNESS: Yes. In particular the
21 Shoprite, which is also the other grocery retailer
22 within the municipality, and there is a CVS as well,
23 both of which had their typical wall signs which
24 were internally illuminated as well as --

25 MR. GALVIN: Did you research whether

1 or not they got variances?

2 THE WITNESS: No, sir. I did not.

3 MR. GALVIN: Okay. And we take every
4 case on its own merits so, you know --

5 MR. SINISI: This is not to make a
6 comparison in terms of the dimensions. It is merely
7 to show -- and that is why I think his testimony
8 would be okay -- to show that in the immediate
9 neighborhood there is comparable commercial signage,
10 that whether it is larger by virtue of variance
11 relief or just larger and consistent with your
12 ordinance shows that there are structures and
13 facilities and operations which have facade signage
14 on more than one facade.

15 MR. GALVIN: All right.

16 CHAIRMAN AIBEL: Are any of them
17 internally illuminated?

18 MR. SINISI: I'm sorry?

19 CHAIRMAN AIBEL: Are any of them
20 internally illuminated?

21 MR. SINISI: Our planner will talk to
22 that issue shortly, but I believe so, yes.

23 CHAIRMAN AIBEL: Okay.

24 MR. SINISI: Do you have anything
25 further to add?

1 THE WITNESS: No, sir.

2 MR. SINISI: Okay. I subject the
3 witness to cross-examination.

4 CHAIRMAN AIBEL: Thank you

5 COMMISSIONER GRANA: Question.

6 Formerly the site was an A&P --

7 THE WITNESS: Yes.

8 COMMISSIONER GRANA: -- is what you
9 indicated?

10 And that location had signage on this
11 same facade that included both the branding of the
12 store and some additional letters, pharmacy, et
13 cetera?

14 THE WITNESS: Correct.

15 COMMISSIONER GRANA: Did any of the
16 other facades of the structure have signage on them
17 related to A&P, do you know?

18 THE WITNESS: No, sir.

19 COMMISSIONER GRANA: Okay.

20 And do you know if the A&P signage, the
21 principal signage, the brand of the store, was that
22 internally illuminated --

23 THE WITNESS: Yes.

24 COMMISSIONER GRANA: It was internally
25 illuminated.

1 Thank you.

2 CHAIRMAN AIBEL: Mr. Cohen?

3 COMMISSIONER COHEN: Just so I
4 understand your testimony, it was -- the lighting
5 that you want to get approval for from this Board
6 exists right now on the sign, is that correct?

7 THE WITNESS: Yes, sir.

8 COMMISSIONER COHEN: And you were using
9 it as it was designed to be used when the city
10 notified you that you couldn't use it in that
11 fashion without approval from the Zoning Board, is
12 that right?

13 THE WITNESS: Yes, sir.

14 COMMISSIONER COHEN: Do you know if
15 there were any complaints from neighbors other than
16 the city officer or whether there were complaints
17 from the neighbors that got the attention of the
18 building department that brought this to your
19 client's attention?

20 THE WITNESS: To my knowledge, we were
21 only notified by city staff that it was not allowed
22 by code. I am not aware of any complaints by the
23 neighbors, not to my knowledge.

24 COMMISSIONER COHEN: And were the
25 complaints both the illumination and the size, or

1 was it only the internal illumination that they were
2 complaining about?

3 THE WITNESS: It was the illumination.

4 COMMISSIONER COHEN: Okay.

5 On the plan, you mentioned that it is
6 possible to control the hours of the operation.

7 Do you know whether the applicant
8 intends to have this lit only during business hours,
9 or do they plan on having this lit 24/7?

10 THE WITNESS: The state of practice is
11 they will have it set for an hour or so after the
12 store actually closes, and that is just for employee
13 safety, and they can set the timer on it to shut off
14 at any time, so that is the standard.

15 Now, obviously right now, they don't
16 have it illuminated. I am not sure what their
17 practice was prior, but they can certainly set that
18 timer to shut off.

19 COMMISSIONER COHEN: Would they
20 typically have it start an hour before operations
21 open as well as an hour after it closes for the same
22 reason?

23 THE WITNESS: Yes.

24 COMMISSIONER COHEN: Okay.

25 And you mentioned, I think, the maximum

1 illuminating capacity is 30 lumens. Is that
2 correct?

3 MR. SINISI: Subject to verification by
4 our planner and landscape architect.

5 THE WITNESS: Yes.

6 I can't say that with a hundred percent
7 confidence, no, but that is what I was thinking
8 was --

9 COMMISSIONER COHEN: Do you know if the
10 city has regulations as to maximum lighting for
11 signs -- do you know -- I mean, I recognize the only
12 thing you have been asking for is internal
13 illumination, but do you know if there are any
14 regulations with respect to the brightness of the
15 signage?

16 THE WITNESS: To my knowledge, the only
17 regulation is they allow for gooseneck external
18 lighting. They don't allow for internal
19 illumination at all, at least within commercial
20 signage, so their regulation you can't have that.

21 COMMISSIONER COHEN: Thanks.

22 That is all I have.

23 COMMISSIONER DE GRIM: The brightness
24 can be adjusted. Is that either on or off?

25 You know, you have it at a certain

1 lumen, say 30, maybe it is decided that it should
2 only be 20. Is it either, you know, 20 on and off,
3 or can it be adjusted at all during the course of
4 the day?

5 THE WITNESS: So they have got auto
6 dimmers to where when they are turned on, if the
7 sunlight would make it more dim. I am not sure
8 technically how that works, but they have auto
9 dimmers. They can set it to where it will never
10 exceed a certain amount of lumen output. So it may
11 fluctuate as the sun is going down to kind of
12 accommodate for the exterior brightness, but they
13 can set it to an absolute maximum where it will
14 never exceed a certain brightness.

15 COMMISSIONER DE GRIM: Okay. Thank
16 you.

17 CHAIRMAN AIBEL: Diane?

18 COMMISSIONER MURPHY: Do you know if
19 the A&P signage exceeded the square footage of the
20 signage?

21 THE WITNESS: I know the code had
22 changed from when they originally got their signs
23 permitted.

24 I am not certain if that was within --
25 I am not certain if they received a variance for

1 that sign.

2 COMMISSIONER MURPHY: Thank you.

3 VICE CHAIR BRANCIFORTE: So all of the
4 letters run off the same switch or the same timer,
5 or they are individually set up?

6 Are there four timers for four letters?

7 THE WITNESS: Yes, and they would all
8 be aligned to --

9 VICE CHAIR BRANCIFORTE: So this dimmer
10 that you are taking about, automatic dimmer, that
11 can be used, you are saying it is standard practice
12 for them to use it, or they just can be installed,
13 if we want them installed?

14 THE WITNESS: They have the potential
15 to, and that's -- there are certain municipalities
16 that do have limits to how bright a sign can be. I
17 think they have standard illumination that they use
18 when illumination is allowed.

19 VICE CHAIR BRANCIFORTE: So you don't
20 think there would be any objection if we required
21 you to use these automatic dimmers --

22 THE WITNESS: Not at all.

23 VICE CHAIR BRANCIFORTE: -- and put a
24 maximum lumen on it, you would have no problem with
25 that?

1 THE WITNESS: No.

2 MR. SINISI: No. That is why we
3 flagged it on that perspective on Sheet, I think it
4 was A, to let you know that is something that could
5 be a feature that we can incorporate in any
6 resolution of approval, if you were so inclined to
7 approval the application.

8 VICE CHAIR BRANCIFORTE: And what are
9 the operating hours anyway of not the lights, but of
10 the market?

11 THE WITNESS: They close at midnight
12 Monday through Sunday, and then they open at either
13 6 or 7 a.m. I think the weekends they open at a
14 different time.

15 VICE CHAIR BRANCIFORTE: So you are
16 saying the light could stay on until one a.m.?

17 THE WITNESS: Yes.

18 MR. SINISI: That is more for the
19 issue, not for self-advertisement or marketing
20 purposes, it's really done for that one hour after
21 for the purposes of providing illumination for the
22 safety of their employees who have to stay after the
23 closing hour to close up.

24 VICE CHAIR BRANCIFORTE: Yeah. I mean,
25 I see your point, but given that the sign is so

1 close to Willow Avenue, it is not like it is in a
2 big parking lot in a suburb of Middlesex County,
3 where the nearest street is a hundred yards away or
4 200 yards away.

5 So I'm a little concerned that -- I
6 understand you want safety, but just the fact that
7 it illuminates the parking lot so much, that it
8 gives your employees safety means that it is going
9 to be lighting up the houses across the street until
10 one in the morning.

11 CHAIRMAN AIBEL: So let me ask you: If
12 we were to suggest that you create a conforming
13 sign, what is wrong with that?

14 THE WITNESS: I'm sorry. What was
15 that?

16 CHAIRMAN AIBEL: What would be wrong
17 with creating a conforming sign, putting aside the
18 square footage --

19 MR. SINISI: You're talking strictly
20 illumination.

21 CHAIRMAN AIBEL: -- inclined to -- even
22 on the illumination.

23 THE WITNESS: Well, we want to keep the
24 internal illumination, and I think our planning
25 expert may be able to address this better than I

1 would be able to, but it is consistent with, again,
2 some of the other commercial businesses within the
3 area. It is standard practice. It is what you
4 would typically expect to see with a commercial
5 business.

6 I do understand it is in a residential
7 area, which is kind of unique. However, Hoboken is
8 a unique city, and the fact that it is predominantly
9 very residential, and you do see certain cases of
10 illumination, but we feel that the illumination
11 itself is not overbearing on the neighbors. I mean,
12 we do have exterior lights lighting the parking lot
13 as well. The ambient light kind of counter-balances
14 it. We feel the positives more or less outweigh the
15 negatives.

16 CHAIRMAN AIBEL: I guess just
17 generally, I would like to know if the other
18 businesses that were referred to as being proximate
19 and having external lighted signs were internally
20 illuminated or externally illuminated, because if
21 everybody is externally illuminated as the code
22 provides, and the code also provides they shall be
23 externally illuminated so that such light
24 source is properly shielded from residences and
25 streets, so our code is telling us we have to be

1 respectful of the streets and the residences.

2 So if this is a nonconforming condition
3 that could be made conforming without totally
4 destroying the value of the signage to the
5 applicant, I think that is something that should be
6 discussed.

7 Carol?

8 COMMISSIONER MARSH: I have a question.

9 You said you are going to leave the
10 lights on -- the sign light on for like an hour
11 after the store closes.

12 MR. SINISI: I think that was the
13 testimony.

14 COMMISSIONER MARSH: What about the
15 internal lights of the store, do they --

16 THE WITNESS: That, I am not totally
17 sure of. I would imagine they would leave some of
18 them. I don't think they would totally shut the
19 building off, but I can't speak on that with a
20 hundred percent certainty.

21 COMMISSIONER MARSH: Did you test the
22 amount of lumens that come out of the store?

23 MR. SINISI: No, because that's not an
24 issue that is --

25 COMMISSIONER MARSH: Right. But the

1 reason I am asking is because in this picture
2 anyway, they actually look brighter than the sign.

3 MR. SINISI: You're talking about Page
4 7 or 8?

5 COMMISSIONER MARSH: 7.

6 MR. SINISI: 7.

7 Yes. I certainly see what you mean.

8 The question is whether or not that was
9 something when the shot was taken, that --

10 COMMISSIONER MARSH: Right. That is
11 why I asked if the internal lights are on.

12 MR. SINISI: Yeah.

13 COMMISSIONER MARSH: And is that your
14 light, this light?

15 THE WITNESS: Yes. That is in their
16 parking lot.

17 COMMISSIONER MARSH: So what's the
18 brightness of that compared to the sign?

19 THE WITNESS: I don't know the exact
20 numbers, but I mean, that was one of the points I
21 was trying to make.

22 I think a lot of the ambient light in
23 the vicinity I think almost negates the actual
24 illumination from the sign in respect to overbearing
25 on the neighboring residential units.

1 COMMISSIONER MARSH: Does that light
2 stay on all night?

3 THE WITNESS: I believe so. I believe
4 that stays on. I am not totally sure when they shut
5 that off.

6 MR. SINISI: You are talking about the
7 pole light?

8 COMMISSIONER COHEN: In the parking
9 lot.

10 COMMISSIONER MARSH: And what about the
11 street lights, are there --

12 MR. SINISI: Well, we have no control
13 over the street lights.

14 COMMISSIONER MARSH: -- I'm just asking
15 where your light is like compared to the street
16 lights. If the street lights make it daylight, then
17 it kind of doesn't matter what your sign does.

18 And if your street lights turn off at
19 one o'clock in the morning, which I know they don't,
20 then it does make a difference. I just wondered if
21 you noticed.

22 MR. SINISI: Do you know the question?

23 THE WITNESS: I do not.

24 MR. SINISI: I think he understands the
25 question, but I don't know that we have your answer.

1 THE WITNESS: I am not sure where the
2 nearest street light is to us. I know there are
3 street lights in the vicinity.

4 CHAIRMAN AIBEL: Kristin, can I ask you
5 if you have any guidance on why the code provides
6 that there shall be externally illuminated lights?

7 MS. RUSSELL: Well, the requirement for
8 a municipality to have externally illuminated
9 lighting isn't uncommon for a town such as Hoboken.
10 It is a more subdued light source that is not going
11 to impact the neighbors because it is generally
12 directed at the sign rather than out from the sign.
13 That is why the requirement is put into the place.

14 It is not throwing light into the
15 street, into the sidewalk, into the adjacent
16 buildings.

17 I think it would be actually
18 interesting to see some sort of a footcandle drawing
19 to see how all of the different light sources on the
20 site are affecting not only each other, but how far
21 across the street are they.

22 If the lights that we are talking about
23 aren't crossing the street, that is a different
24 story than if at, you know, at the houses 120 feet
25 away we still have like one footcandle versus point

1 five. I think that would be interesting to take
2 into account on this.

3 I didn't see anywhere in the zoning
4 code where it has a footcandle requirement, but
5 again, it does require external illumination, and I
6 think all of these extra considerations should be
7 made considering the fact that you are asking for a
8 variance.

9 CHAIRMAN AIBEL: Board members,
10 anything else?

11 COMMISSIONER GRANA: I have a question.

12 CHAIRMAN AIBEL: Sure.

13 COMMISSIONER GRANA: Given the comments
14 we just heard from our planner, do you know if Acme
15 has installed signs -- it is question of whether you
16 know or not -- if Acme has installed signs in other
17 municipalities that require external illumination?

18 THE WITNESS: I think we have done
19 maybe at least one. I'm now -- I know a vast, vast
20 majority are internally illuminated.

21 COMMISSIONER GRANA: Okay.

22 So that there may be an occurrence
23 where gooseneck or some other form of lighting may
24 have been installed?

25 THE WITNESS: Potentially.

1 COMMISSIONER GRANA: Thank you.

2 CHAIRMAN AIBEL: Mr. Cohen?

3 COMMISSIONER COHEN: I am looking at a
4 picture of the site previously where there was an
5 A&P Fresh Market that was there.

6 Do you know if the sign that was there
7 at the prior market was internally lit?

8 THE WITNESS: Yes.

9 COMMISSIONER COHEN: It was internally
10 lit?

11 THE WITNESS: Yes.

12 COMMISSIONER COHEN: Do you know
13 whether there was a variance obtained for that?

14 THE WITNESS: That, I am not sure of.

15 COMMISSIONER COHEN: Okay. Thanks.

16 CHAIRMAN AIBEL: Board members?

17 COMMISSIONER JOHNSON: Just more a
18 point of curiosity.

19 So when the bulbs actually go out on
20 this light, do you know what the procedure is, or
21 like the standard for actually replacing them, so
22 that, you know, it's not like, if, for instance, if
23 the "A" goes out, you're know, we're not just having
24 M-C-E. You know, it is more of -- it's a question
25 of sort of maintenance.

1 MR. SINISI: Right.

2 Other than from the perspective of the
3 operator and the marketing of the brand, it
4 certainly makes abundantly good sense to change it
5 immediately.

6 We would not be adverse to living with
7 or having a condition that would require the
8 operator to ensure that lighting, if it falters or
9 goes dim, that it be replaced promptly and in a fair
10 and reasonable amount of time, so that it is not
11 what you just I think painted the picture to show
12 that we have A-C-E and no M, and you think we're Ace
13 Hardware. I think we actually had that question
14 once, so --

15 THE WITNESS: They can do that within a
16 day.

17 MR. SINISI: -- that's a fair question.

18 THE WITNESS: Their sign installers,
19 they are an east coast company, and they can get out
20 to sites on a day's notice, so that can be done
21 promptly.

22 MR. SINISI: Promptly.

23 THE WITNESS: Yeah.

24 CHAIRMAN AIBEL: Anything else, Board
25 members?

1 Let me open it up to the public. Does
2 anybody in the public have questions for this
3 witness?

4 VICE CHAIR BRANCIFORTE: Motion to
5 close public portion.

6 CHAIRMAN AIBEL: All in favor?
7 (All Board members answered in the
8 affirmative)

9 CHAIRMAN AIBEL: Thank you.

10 Next witness.

11 MR. SINISI: Next witness, Mr.
12 McDonough.

13 MR. GALVIN: Oh, before we do that,
14 Kristin, could you just tell us what are the exact
15 variances?

16 MS. RUSSELL: Yes.

17 There are two variances, and before I
18 get into them as a note, on my September 13th memo,
19 we have an error --

20 MR. SINISI: The lot.

21 MS. RUSSELL: -- on the sign -- I'm
22 sorry?

23 MR. SINISI: We were also going to
24 point out, I think there is a discrepancy on the lot
25 in the district. There is R-2 in one, and R-3 in

1 another paragraph.

2 MS. RUSSELL: Okay. That's not what I
3 am not getting at.

4 We have a typographical error on the
5 sign area. Correctly it should be 130.5 square
6 feet, which is the existing sign, and the permitted
7 sign size is not to exceed 100 square feet --

8 MR. SINISI: Right.

9 MS. RUSSELL: -- so they have 30.5
10 square feet in excess signage beyond that which is
11 permitted.

12 MR. GALVIN: But is that what the --
13 the prior sign by Super Fresh, whatever it was
14 previously --

15 MS. RUSSELL: They have been unable to
16 testify to that.

17 MR. GALVIN: -- as to whether this is
18 the same or greater?

19 MS. RUSSELL: Yes.

20 MR. GALVIN: Okay.

21 MS. RUSSELL: Additionally, there is a
22 lighting regulation that requires all signs to be
23 lighted, including awning signs, shall be externally
24 illuminated, so that such light source is properly
25 shielded from residences and streets.

1 That is the one element of the lighting
2 regulations that they do not comply with. Again,
3 they are asking for an internally illuminated sign,
4 which by its nature reflects on to residences and
5 streets, so those are the two variances that are
6 before the Board tonight.

7 CHAIRMAN AIBEL: Thank you.

8 Sir?

9 MR. GALVIN: Do you swear or affirm the
10 testimony you are about to give in this matter is
11 the truth, the whole truth, and nothing but the
12 truth?

13 MR. MC DONOUGH: Yes, I do.

14 J O H N M C D O N O U G H, having been duly sworn,
15 testified as follows:

16 MR. GALVIN: State your full name for
17 the record and spell your last name.

18 THE WITNESS: Hello.

19 My name is John McDonough. That's
20 spelled M-c capital D-o-n-o-u-g-h.

21 MR. GALVIN: Mr. Chairman, Mr.
22 McDonough has appeared before me previously. I
23 don't know if he was here also.

24 THE WITNESS: Not the first rodeo. I
25 don't know if I have been here before --

1 MR. GALVIN: Do you want to hear --

2 THE WITNESS: -- I've been in every
3 town in --

4 MR. GALVIN: -- a couple of other
5 Boards --

6 THE WITNESS: -- in Hudson County.

7 MR. GALVIN: -- he's appeared before?

8 CHAIRMAN AIBEL: If you're
9 comfortable --

10 MR. GALVIN: List three Boards you
11 appeared before recently.

12 THE WITNESS: Just this month, Jersey
13 City, Bayonne, and North Bergen.

14 CHAIRMAN AIBEL: That qualifies you.

15 MR. GALVIN: You may proceed.

16 MR. SINISI: Mr. McDonough, please
17 indicate to the Board the nature of your assignment.

18 THE WITNESS: We were charged with
19 performing a planning analysis in connection with
20 this application.

21 MR. SINISI: Did you do so?

22 THE WITNESS: Yes, I did.

23 MR. SINISI: Did you physically inspect
24 this property and the surrounding area to undertake
25 and perform your engagement?

1 THE WITNESS: I personally have been to
2 the site, and I've personally examined the
3 surrounding area.

4 MR. SINISI: Where is the site located,
5 sir?

6 THE WITNESS: The site is located at
7 614-642 Clinton Street. It's up by the intersection
8 with 7th Avenue -- I'm sorry -- 7th Street, and the
9 block is 79, lot 9.

10 MR. SINISI: In what zoning district is
11 this subject located?

12 THE WITNESS: Well, I have it on the
13 zone map as R-2. I think something may have come
14 out in the planning analysis as R-3.

15 MS. RUSSELL: It's R-2.

16 THE WITNESS: It is R-2, so we have it
17 right.

18 MR. SINISI: Okay.

19 Did you review the application
20 materials as well as the plans filed with the Board
21 in preparation for your appearance this evening?

22 THE WITNESS: We did.

23 We looked at the nice zoned packet that
24 your applicant put together.

25 We looked at the review that came

1 through from the Board Planner. We agree with the
2 report, but for that one correction about the
3 conformance with the sign area. We do acknowledge
4 that we do need sign relief as to area.

5 And we did go back and look at a Google
6 street view. I think one of the Board members was
7 looking at it as well as to what was it back in 2015
8 or earlier when this was an A&P Fresh Market.

9 MR. SINISI: And why don't you just
10 indicate to the Board formally for the record the
11 nature of the variance relief that the applicant
12 seeks from the applicant's perspective?

13 THE WITNESS: Again, I agree with the
14 planner. In the R-2 zone, we are looking for two C
15 or bulk variances. The first is from Section
16 196-31(h)(1), which relates to the fact that the
17 illumination is internal as opposed to external.

18 Secondly, relief related to
19 196-31(d)(3) as to the overall sign area measured
20 out to out, again we're dealing with channel
21 letters. It's not a box around the sign per se, but
22 the measurement is related to the out dimensions of
23 the sign, and that is where we come up with 130.5
24 square feet, where as 100 square foot is the maximum
25 threshold.

1 There is a ten percent allowance in the
2 ordinance as well, which this application would in
3 all likelihood comply with, but it is the worst
4 case, and in this case the worst case is the hundred
5 square feet.

6 MR. SINISI: And the variance relief
7 the applicant is seeking for the proposed signage?

8 THE WITNESS: No. The applicant is not
9 seeking any other relief in connection with this
10 application. Again, this is an occupancy
11 application, simply taking that building as is,
12 replacing it with one use that is identical to the
13 prior use.

14 MR. SINISI: Did you have the occasion
15 to assist our mutual client in formulating and
16 presenting a statement in support of the
17 application, or what I will call the justification
18 statement for the variance relief the applicant is
19 seeking?

20 THE WITNESS: We did.

21 We put that two-page narrative together
22 that was annexed to the application.

23 MR. SINISI: I will show you a copy of
24 it after you identify it.

25 Is that the one that you assisted in

1 preparing -- in fact, you prepared it, didn't you?

2 THE WITNESS: Yes.

3 That looks exactly like the one that I
4 personally prepared. It identifies the relief, the
5 proposal and the justifications for the variances.

6 MR. SINISI: Thank you.

7 I would like to ask that this be marked
8 at this time as A-2.

9 CHAIRMAN AIBEL: It's already been
10 submitted.

11 MR. GALVIN: I think it's already been
12 submitted, right?

13 MS. CARCONE: It's already been
14 submitted.

15 MR. SINISI: Yes.

16 So anything submitted doesn't have to
17 be separately marked?

18 MR. GALVIN: Yes.

19 MR. SINISI: That's your copy.

20 MR. GALVIN: We are probably not going
21 to court. If we were, maybe I would do it, but --

22 MR. SINISI: Okay. Thank you.

23 MR. GALVIN: -- all right.

24 MR. SINISI: Please then in your own
25 words outside of the four corners of this document

1 tell the Board why you believe that the applicant
2 satisfies its burden of proof to demonstrate that
3 variance relief is justified.

4 THE WITNESS: Okay.

5 So we will walk this or run this
6 through the five parts of a C-2 analysis, which the
7 statute calls the flexible C analysis.

8 We know that this type of test is
9 somewhat unique to New Jersey. If we go out of New
10 Jersey, the C-2 balancing test does not really
11 apply. It is a relatively new standard in the
12 context of land use. About 1984 this kicked into
13 effect.

14 Prior to that, we had to show hardship.
15 We're not showing that here. Again, if we were out
16 of New Jersey, that is pretty much all we could
17 show.

18 So this, again, is another reason why
19 New Jersey is cutting edge I think in terms of our
20 land use law and regulations.

21 The fact that we can provide a
22 balancing and looking at the benefits of the
23 application as a whole and weighing them against the
24 detriments that are associated with the relief that
25 the applicant is seeking.

1 MR. SINISI: Any detriments or must
2 there be a certain kind of detriment?

3 THE WITNESS: Well, that is the
4 negative criteria, and the negative criteria deals
5 with adverse impacts of a substantial nature. We
6 know that the operative word is "substantial."

7 MR. SINISI: Right.

8 THE WITNESS: Any change is going to
9 have some form of an impact on a neighborhood.

10 MR. SINISI: Okay. Continue.

11 THE WITNESS: So simply going through
12 the five parts of the C-2 test, the first part of
13 the test importantly is that a variance needs to
14 relate to a specific piece of property. Otherwise,
15 the Board is acting in the capacity of the governing
16 body essentially doing something that would be
17 tantamount to a rezone, and if we approve internal
18 illumination here, well, then why not approve it all
19 the way throughout the R-2 zone as well.

20 The key evidence I think that came
21 before the Board is that this is a specific piece of
22 property with a longstanding history and association
23 identity as a grocery food store. It is the
24 identical use that is happening here now, and this
25 is sort of a roll-out of the rebranding from A&P to

1 the Acme. So we are looking at a simple replacement
2 in kind, I would call it, of the sign package that
3 was there before only at a less intense scale.

4 Internally illuminated before, less
5 square footage now, bearing in mind we're dealing
6 with four letters, A-C-M-E. Before we had the words
7 Acme Fresh -- I'm sorry -- "A&P Fresh Market."

8 And we also had a sign that didn't say
9 pharmacy. I think if you go on that Google street
10 view, it actually says "Wines and Spirits," so even
11 more letters than are associated with the word
12 "Pharmacy."

13 So certainly a more intense sign
14 package than what this replacement in kind is
15 entailing. So I think that is important for the
16 Board to consider in the first part of the test,
17 that we are dealing with a variance that this Board
18 can clearly find relates to a specific piece of
19 property.

20 Secondly, we look at so-called positive
21 criteria, which always goes back to our municipal
22 land use law and the purposes of zoning. An
23 application needs to meet one of those purposes of
24 zoning.

25 I actually find four here. I think we

1 put them in the narrative, including Purpose A, the
2 first purpose is promotion of the public good or
3 general welfare. This is a project that is going to
4 pull in jobs to what has historically been a
5 commercial piece of property, an important economic
6 development piece of property.

7 When A&P left, it is well documented
8 that a hundred jobs were lost. This is reactivating
9 that site, repurposing that site with a new brand
10 that pulls in a nice stable ratable, that also, of
11 course, pulls in a nice local food source.

12 When we were there on that property
13 today, we saw people walking in and out of that
14 building all day long with packages, so again, a
15 nice functional land use in the context of its
16 setting.

17 Additionally, we see the advancement of
18 Purpose G, which is the planning goal provided for a
19 variety uses in appropriate locations.

20 Again, given this fact that this is a
21 very simple change of tenancy from that which it
22 was, and again, a continuation of a like use, is
23 certainly an appropriate location for this use that
24 has existed without detriment for a longstanding
25 period of time.

1 Additionally, Purpose M, the planning
2 goal to efficiently use land, taking what's there,
3 working within the framework of the building, the
4 lettering panel that the applicant is proposing
5 certainly fits nicely within the backdrop of the
6 building and will not appear overly gaudy or overly
7 intense given that architectural frame work that we
8 are working with.

9 I think the pictures speak for
10 themselves, that this is going to be a very simple
11 understated sign package.

12 Looking back again at Page 5 of the
13 photograph that shows the daylight impact, and then,
14 of course, Page 6, which shows the nighttime impact,
15 we're dealing with very soft light here, something
16 again that is not going to be overly bright in the
17 context of the neighborhood. I'll talk about
18 brightness in a little bit.

19 Again, it is going to be a static sign.
20 This is not a digital sign. We don't have the
21 flashing. We don't have the rolling, the scrolling.
22 A static sign.

23 Lastly, Purpose I, the promotion of a
24 desirable visual environment. This is simply a sign
25 that is going to demarcate the identification of the

1 building and the entry to the building. I think it
2 creates a nice little hierarchy, again to join the
3 eye to a single point and help define navigation
4 into the building. That is the second part of the
5 C-2 test.

6 The third part flips over to the
7 negative aspects, and I think that is what the Board
8 has been considering this evening.

9 First, can the relief be granted
10 without substantial detriment to the public good.
11 Again, the operative word is "substantial."

12 We do know that we have residences in
13 the area. As I look at the facades of buildings
14 immediately across the street, I saw about eight
15 windows, only eight windows -- God bless you --

16 MR. GALVIN: Thanks, guys.

17 THE WITNESS: -- that would be looking
18 at the subject building, so the sign package is well
19 situated given the context of the surrounding area.
20 It is well situated on the site.

21 This is a building that is not right up
22 on the front of the road, but recessed or set back
23 from the roadway, which also mitigates its visual
24 impact. Again, it's not going to be an overly
25 bright or overly gaudy sign, very simple, very

1 tasteful within the context of its setting, so no
2 substantial detriment to the surrounding properties.

3 Then the fourth part of the test looks
4 at the intent and purpose of the zone plan and
5 ordinance. There is nothing about this application
6 that will substantially impair the intent and
7 purpose of your zone plan and ordinance.

8 This type of lighting is found in the
9 local landscape, which also happens to be within the
10 R-2 district.

11 I do work for CVS, and I saw my
12 orientation is off, but right in the downtown, you
13 have a CVS that does have the nice gooseneck
14 lighting, which is consistent with what I see as I
15 worked my way up and down the main street.

16 On Clinton Street, just a chip shot
17 away from this site, we have got CVS with the same
18 type of sign package that the applicant is
19 proposing.

20 I don't know what variances were
21 granted, but as I read the ordinance, they should
22 have been because, again, we're dealing with
23 internal illumination in the site that is in the
24 exact same zone as the subject property.

25 My only point there, I'm not trying to

1 point to precedent, I am just saying that this type
2 of signage is part of the local landscape as I see
3 it on Clinton Street.

4 You know, we also have a couple of
5 blocks away, and what I've also seen in the same
6 zone is that ShopRite, a similar, quote, competitor
7 type of land use that I noticed, five logo signs all
8 internally illuminated, and the text that is similar
9 in scale to what the applicant proposes here.

10 So, again, from a planning standpoint,
11 we simply look for compatibility with what we see in
12 the local landscape, and in that regard I see no
13 substantial detriment to the zone plan in this
14 context.

15 With respect to the brightness, I know
16 the Board was looking for some conditions that
17 something measurable that could be hooked to this
18 application, and what I have seen, where I turn, the
19 Illumination Engineering Society puts out
20 recommendations for digital signs. This is not a
21 digital sign. Those are brighter signs than we have
22 here, and there is a dimming mechanism.

23 The standard, if the Board wants to
24 hook this to the application is --

25 MR. GALVIN: Can I -- go ahead.

1 THE WITNESS: -- 0.3 footcandles above
2 the ambient lighting conditions within a certain
3 distance.

4 And as I look at the table provided by
5 the IES, it would be within 114 feet. That's based
6 on the dimensions of the sign.

7 So 0.3 footcandles above ambient light
8 levels within 114 feet, which I believe is right
9 across the street, which is where those residences
10 are.

11 So the way we do that, you can do this
12 with your engineer or with your planner, you go
13 there one night and we have the sign off. You take
14 a reading at residences across the street, get an
15 ambient condition. Turn the light on. So as long
16 as it is less than that 0.3 footcandle level limit,
17 we comply with the condition of the resolution.

18 So I offer that to the Board for
19 consideration, and again, in the context of
20 consideration of brightness --

21 MR. SINISI: And mitigation?

22 THE WITNESS: -- and mitigation.

23 MR. GALVIN: Can I jump in?

24 THE WITNESS: Yes.

25 MR. GALVIN: Okay.

1 This is what I have. These are the
2 things that I am playing with right now to help you
3 guys out.

4 The Board reserves jurisdiction over
5 brightness of the sign for two years. Because if we
6 find out that it's too bright, we want to bring it
7 down.

8 THE WITNESS: Even better.

9 MR. GALVIN: Right.

10 Two: The applicant is to provide the
11 current level of sign illumination in consultation
12 with the Board's Engineer prior to the
13 memorialization of the resolution.

14 THE WITNESS: Perfect.

15 MR. GALVIN: So in the next 30 days you
16 get out there and tell us what the exact numbers
17 are.

18 This level of illumination is not to be
19 exceeded, and that level will be inserted in this
20 resolution, and it's not to exceed blank. I don't
21 know if we're going to be lumens or nits or what you
22 guys, the experts, are going to tell me.

23 Three: The sign is to shut off when
24 the store is not operating.

25 I know you were looking for before and

1 after, and I don't know what the Board wants to do.
2 Maybe you guys want to give them an hour before or
3 after, but you are operating from midnight to six
4 a.m. or from six a.m. to midnight rather. That's a
5 long day.

6 I don't think the Board wants you to
7 illuminate the parking lot with the sign. You have
8 other lighting out there for that purpose.

9 THE WITNESS: We do and the photos
10 prove that.

11 MR. GALVIN: Okay.

12 And then I have: Individual letter
13 lighting shall be replaced within three business
14 days of failing.

15 I don't know if the Board thinks that's
16 adequate, too long, too short, but I'm just trying
17 to help everybody to bring this to kind of a
18 conclusion.

19 MR. SINISI: I think those are very
20 positive and very well thought out mitigating
21 factors.

22 MR. GALVIN: The last thing I'm going
23 to say to you is I understand your argument. The
24 Board understands it. In my view, Clinton Street is
25 changing. It will change. Some of the stores that

1 you are looking to are from an older time period,
2 and as it changes, maybe future signs might be more
3 appropriate to have the gooseneck signage there or
4 some kind of external lit sign.

5 The other thing that I think is a wild
6 card in the pile is there was an existing sign, and
7 generally you are allowed to replace an existing
8 sign with another sign, but there's a lot of changes
9 going on here. So the fact that they removed it,
10 they gave up the right to the old sign. I guess
11 if they had come in first, they might have changed
12 some of the equation here.

13 THE WITNESS: The only last part just
14 to complete the loop here is the fifth part, the
15 benefits, the balancing, the benefits to the
16 application as a whole to outweigh the detriments.
17 This sign package is part of a beneficial
18 application, a beneficial project, so taking
19 everything I said with the mitigating factors, I see
20 the C-2 test as being met.

21 MR. GALVIN: Good job.

22 CHAIRMAN AIBEL: Thank you.

23 Board members?

24 COMMISSIONER MC BRIDE: I have a
25 question.

1 In your testimony you outlined the
2 words, the exact words that were there for the A&P,
3 and you also outlined some of what appears on the
4 tower of Shoprite in town?

5 THE WITNESS: It's not only on the
6 tower, but it's along the front facade.

7 COMMISSIONER MC BRIDE: Okay. Point
8 taken.

9 Do you know the dimensions, if we are
10 dealing with a hundred square feet over that as a
11 variance, what are the dimensions -- do you know
12 what the dimensions are on the previous sign, which
13 said "Wines and Spirits," "A&P Wine and Spirits,"
14 and the currently existing ShopRite, I think
15 Commissioner Cohen had a picture of it a minute ago
16 there.

17 THE WITNESS: Well, I always run into
18 trouble when I show the laptop, and I can email this
19 to your Board Secretary.

20 But I can only tell the Board what I
21 see in the photograph. I don't have measurements of
22 this.

23 Again, if I need to email this to make
24 it evidence, I can certainly do that, but that is
25 what was there. I trust the Board can see it.

1 Certainly the letters, "A&P Fresh
2 Market" fill up a similar space to what we see in
3 the context of what you have before you in front of
4 the Acme.

5 And then we have those additional
6 letters over to the left that say "Wines and
7 Spirits," so --

8 COMMISSIONER MC BRIDE: So in your
9 opinion, does that exceed a hundred?

10 THE WITNESS: Yes. In my opinion, I
11 think it is self-evident that it exceeds the hundred
12 square feet --

13 COMMISSIONER MC BRIDE: It looks to be,
14 but I don't --

15 THE WITNESS: -- I don't have the
16 analytical --

17 COMMISSIONER MC BRIDE: And the same --
18 you would make the same comment on the ShopRite
19 signage?

20 THE WITNESS: Absolutely, yes, even
21 more so with the ShopRite.

22 COMMISSIONER MC BRIDE: Both current,
23 and that was illuminated internally and so is the
24 ShopRite sign?

25 THE WITNESS: Yes, absolutely.

1 COMMISSIONER MC BRIDE: Okay. Thank
2 you.

3 VICE CHAIR BRANCIFORTE: ShopRite was
4 in the redevelopment zone, right?

5 MR. GALVIN: Yeah. You know, I don't
6 think you decide this case on the basis -- no
7 offense --

8 MR. SINISI: Comparison --

9 MR. GALVIN: -- that's their proofs --
10 I don't think you decide this case on the basis that
11 there are a couple of stores in the area that are
12 internally lit.

13 You decide it more because of the Super
14 Fresh A&P was there before, I think that they have
15 some -- they might have entitlement to replace that
16 sign, and they're going with a smaller sign, which
17 is a benefit, and we want to bring it closer into
18 conformance, but, you know, I wouldn't get hung up
19 on those proofs.

20 CHAIRMAN AIBEL: Board members?

21 COMMISSIONER MURPHY: I have a
22 question.

23 So how difficult would it be for Acme
24 to put the sign within the square footage that would
25 be allowed and only be asking for one variance for

1 the illumination?

2 THE WITNESS: Well, I think the Board
3 could take deference to the fact that -- I know you
4 probably hear this all of the time when we're
5 dealing with channel letters, that we do have a lot
6 of negative space here. This is not a box sign that
7 has all the white space and then the letters in it.
8 So the intensity of the lighting I think goes -- in
9 terms of the square footage -- goes towards the
10 intent of the ordinance, that the actual physical
11 measurement of those letters is in range with that
12 hundred square foot.

13 So I think once we start to reduce the
14 size of the sign, not only does it reduce its
15 effectiveness, but I think we start to lose that
16 balance, and I know this is loose language here, but
17 we start to lose that proportionality. It starts to
18 get very small within the back of it. It fits
19 nicely within the frame as it is right now. I don't
20 think it looks overly large, again, in the context
21 of the architecture.

22 In the public eye, I don't think this
23 is going to be perceived as a nonconforming.

24 CHAIRMAN AIBEL: But it is really not
25 marketing. I think we all know --

1 THE WITNESS: I'm sorry?

2 CHAIRMAN AIBEL: -- this is not for
3 advertising purposes. It's not Route 22, where
4 you're trying to draw customers in --

5 MR. SINISI: Good point.

6 CHAIRMAN AIBEL: -- so I mean, we all
7 know what's there.

8 Anybody else?

9 THE WITNESS: This is a balancing.
10 That is all I can say.

11 CHAIRMAN AIBEL: Understood.

12 COMMISSIONER COHEN: Yeah. Just one
13 question.

14 I mean, looking at the sign that was
15 there previously and the ShopRite sign, the letters
16 on those signs that used to be there, like the Fresh
17 Market, they are more, I don't know, it is sort of a
18 design thing, but they're sort of softer font
19 letters. The "ShopRite" actually is almost like a
20 script, and the "A&P," although it has sort of a
21 bulky logo for A&P, just kind of a corporate feel,
22 the lettering feels a little softer. The "Acme"
23 letters seem somewhat industrial in their nature to
24 me.

25 And I guess my question is: Is this

1 the only logo that the company has?

2 You know, I don't -- I am just curious.
3 I mean, is this -- when you get Acme, this is what
4 you get?

5 THE WITNESS: This is tricky ground.
6 I'm sure there's probably some sort of trademark
7 issue here that the lawyers will jump all over --

8 MR. SINISI: Yeah.

9 THE WITNESS: -- again, we regulate --
10 we don't necessarily regulate by font and by copy
11 per se.

12 I know it is a variance application, so
13 I guess the Board has some legal way to consider
14 that. But, again, this is -- all I can say is this
15 is trademark logo. This is their brand. I am not
16 aware of any other lettering that Acme has that's --

17 COMMISSIONER COHEN: Okay.

18 THE WITNESS: -- customer familiarity
19 is important to the brand.

20 COMMISSIONER COHEN: I just wanted to
21 ask the question.

22 CHAIRMAN AIBEL: Board members?

23 COMMISSIONER DE GRIM: You had
24 mentioned a test within the ambient light of 114
25 feet from the sign, which was a point three -- was

1 it footcandles?

2 THE WITNESS: 0.3. You take a light
3 meter. You measure the existing condition basically
4 at the ground level with the light off -- with the
5 sign off, and then you turn the sign on, and that
6 would be over at the houses across the street.

7 COMMISSIONER DE GRIM: So your 01.3, is
8 it -- are the units footcandles?

9 THE WITNESS: Yes.

10 COMMISSIONER DE GRIM: Okay.

11 Now, if you were to do that, would you
12 be turning off the lamp in the parking lot, which if
13 you look at Page 7 of 9, is quite bright?

14 So would that test be done with that
15 light off or that light on?

16 THE WITNESS: Well, this is the
17 International -- I'm sorry -- the Illumination
18 Engineering Society. Get used to the word
19 "Ambient." The Board can condition that any way
20 they want.

21 COMMISSIONER DE GRIM: All right.

22 THE WITNESS: If you want to try
23 that -- and the reason why I throw out footcandle as
24 opposed to nits and watts and all of that other
25 stuff, this is the easiest way to do it. Again,

1 have no idea how bright 0.3 lumens is.

2 THE WITNESS: 0.3 footcandles.

3 COMMISSIONER MARSH: Footcandles -- I
4 don't --

5 THE WITNESS: Here is the case that I
6 usually use. A full moon on a full moon night is
7 0.5 footcandles, so that gives you a rule of thumb.

8 COMMISSIONER MARSH: Thank you.

9 CHAIRMAN AIBEL: Okay. Let me open it
10 up to the public.

11 Anybody have questions for this
12 witness?

13 Seeing none.

14 COMMISSIONER COHEN: Motion to close
15 public portion for this witness.

16 CHAIRMAN AIBEL: All in favor?

17 (All Board members answered in the
18 affirmative.)

19 CHAIRMAN AIBEL: Mr. Sinisi, it's to
20 you.

21 MR. SINISI: I am going to submit. You
22 have got an agenda that I am sure you would like to
23 get to. I think you heard the proofs. I'd just be
24 repeating them.

25 CHAIRMAN AIBEL: Thank you, sir.

1 Board members, let me open it up for
2 deliberation.

3 Mr. Grana?

4 COMMISSIONER GRANA: Before we
5 deliberate, Mr. Galvin, could you clarify a little
6 bit more your comments earlier about the
7 applicants's potential entitlement of a one for one,
8 and are we viewing this in this context, or are we
9 viewing this against the ordinance --

10 MR. GALVIN: Well, it's a little bit
11 more complicated, okay?

12 So let me put it a simple way. If we
13 had a sign -- a pole with a sign on it, and it said
14 "Tom's Liquors," and they wanted to change it to
15 "Bob's Liquors," and they don't change the size of
16 the sign, or whether it's internally or externally
17 illuminated, I think they have a right to do that
18 without coming to this Board.

19 MR. SINISI: I would agree.

20 MR. GALVIN: In this case -- thank you.
21 Let me do it.

22 (Laughter)

23 In this case it's a little bit more
24 complicated because something was out there. It got
25 taken down, and something else got put up, and here

1 we are.

2 So because when you take an existing
3 structure down, once it is taken down, it could be
4 considered to be demolished or totally lost. So if
5 we had to go to court over this, I don't know what a
6 court would call on it. But I think we should give
7 them some consideration for the fact that there was
8 existing signage, and the fact they are
9 substantially reducing that sign, as I think those
10 are things to be considered.

11 COMMISSIONER GRANA: Thank you.

12 CHAIRMAN AIBEL: Anybody wish to kick
13 it off?

14 COMMISSIONER COHEN: I would.

15 CHAIRMAN AIBEL: Go ahead, Mr. Cohen.

16 COMMISSIONER COHEN: Yeah.

17 I remember when the ShopRite first
18 opened on this location, and it was -- and I lived
19 in Hoboken for 30 years, and I remember when this
20 first came to town, this was a big deal because we
21 didn't have any markets in this part of the city.

22 I remember when the store closed, and
23 there were -- a hundred people lost their jobs, and
24 people were kind of sad that this market failed. I
25 think it is important to have a vibrant supermarket

1 red well to bring here tonight the certified
2 mailings of everyone entitled to notice within 200
3 feet, so --

4 COMMISSIONER COHEN: I am sure you
5 complied with all of your legal obligations.

6 So all in all, I would support this
7 application. I think it is an appropriate use given
8 the space and historic use.

9 CHAIRMAN AIBEL: Anybody else wish to
10 comment?

11 VICE CHAIR BRANCIFORTE: Well -- I'm
12 sorry --

13 CHAIRMAN AIBEL: Mr. Johnson?

14 COMMISSIONER JOHNSON: Well, I guess,
15 just having, you know, I know the area, having
16 walked by it many times at night.

17 You know, the lighting doesn't seem
18 that intense. It is set back. It is not like a
19 project at the sidewalk, and also as Commissioner
20 Cohen had mentioned, I was also waiting to see if
21 anybody from the public would say anything or
22 complain from the public. And given that there
23 aren't any, I don't know that this is a huge issue.
24 I don't know if this is something that disturbs the
25 neighbors, the illumination of this.

1 So personally, I think it is great to
2 have a supermarket in that area of town, and I would
3 definitely be in favor of it.

4 CHAIRMAN AIBEL: Anybody else?

5 COMMISSIONER MARSH: I just want to
6 say, first off, I want to say that I think all of
7 the -- I do remember when the sign ordinance passed,
8 and all of the signs that you point out were there
9 before, so I don't think any of them required a
10 variance.

11 Having said that, however, I got to
12 agree with Commissioner Cohen and disagree at the
13 same time.

14 I personally prefer this. It's less
15 cluttered. I think the red makes it softer. I
16 think the other ambient light keeps it from being
17 overly glaring and annoying, so I am okay with it.

18 CHAIRMAN AIBEL: Anybody else?

19 VICE CHAIR BRANCIFORTE: Well, I don't
20 want to tie our hands here and say that we can't dim
21 further than this engineering, you know --

22 MR. GALVIN: We are saving, and that is
23 something I never do in this town, we are saving
24 jurisdiction for two years. So if the neighbors all
25 of a sudden start going like this (indicating), they

1 can file a complaint here, and we have an
2 understanding if we have to lower it, we are going
3 to lower it, right, Counsel?

4 If we have to lower the lighting, we
5 are going to lower it.

6 MR. SINISI: Right.

7 VICE CHAIR BRANCIFORTE: We're talking
8 about this -- I'm sorry. Go ahead.

9 MR. SINISI: No, I've responded.

10 VICE CHAIR BRANCIFORTE: Okay.

11 MR. SINISI: I said yes, we would be
12 back here to be heard.

13 MR. GALVIN: I am sticking my neck out
14 here saying that I think it is going to be okay, and
15 then if we have a problem, but if they are and they
16 can come, they say they are agreeing to turn it
17 down, so we'll get to reopen the hearing, and then
18 we'll get a lower standard as to this.

19 VICE CHAIR BRANCIFORTE: Okay. We'll
20 get a lower standard than --

21 MR. GALVIN: Yes, because we need to
22 because we're talking about it then having --
23 because the whole premise there is that this
24 lighting is not going to have a negative impact on
25 the neighbors, because when it turns off, and

1 that's --

2 VICE CHAIR BRANCIFORTE: Yeah.

3 MR. GALVIN: -- .3 footcandles is a
4 very low lighting impact, if that really was what
5 was happening.

6 VICE CHAIR BRANCIFORTE: Just a couple
7 of things.

8 One is that the CVS that we discussed
9 on Clinton is across from the high school, so
10 there's no residences across the street. So, you
11 know, comparing it to the CVS is kind of out of the
12 question, because it is across from a high school
13 that's closed at night.

14 I am still not certain that the
15 illumination is going to bother the neighborhood.
16 I wish I had more evidence to show that it wouldn't,
17 but there isn't enough evidence.

18 The third thing is: Sitting on the
19 Zoning Board, and when people find out you're on the
20 Zoning Board, they tend to complain to me about
21 everything from dog poop to, you know, signage.

22 I've heard more than one complaint
23 about the ShopRite sign, "Can't you force them to
24 turn it down? Can't you force them to turn it
25 down?"

1 I hear that a lot.

2 I don't know what ever came of it, but
3 I just tell them the same thing, "Go talk to the
4 City Council. They're the ones that put it up."

5 I would rather see goosenecks there
6 because it's a residential neighborhood, and people
7 are investing in that neighborhood now. We have
8 seen a lot of applications for Willow Terrace here.

9 And to try to move the neighborhood
10 away from a highway sign kind of feel to something
11 that might be a little bit more soft and fit into
12 the neighborhood better, so I would rather see
13 goosenecks there and not this illuminated box sign.

14 The other thing, too, I discussed this
15 before about why people don't show up from the
16 neighborhood. And I hate to bring it up, even say
17 it, because once you ring the bell, you can't unring
18 it.

19 People don't show up to these meetings
20 for a lot of reasons. One is they think the meeting
21 is fixed, and the decision has already been made,
22 and they have no say anyway.

23 Another is they can't get babysitters.
24 They're still at work.

25 A C variance, do you even notify for a

1 C variance?

2 MR. SINISI: Absolutely.

3 VICE CHAIR BRANCIFORTE: You do?

4 COMMISSIONER COHEN: Yes. He just said
5 it.

6 VICE CHAIR BRANCIFORTE: I thought it
7 was only for Ds.

8 MR. GALVIN: No.

9 VICE CHAIR BRANCIFORTE: That's all I
10 have to say.

11 MR. GALVIN: It's the same notification
12 requirements for both variances.

13 VICE CHAIR BRANCIFORTE: Okay. I
14 didn't know that.

15 So I'm good. Thanks.

16 CHAIRMAN AIBEL: Just a couple quick --
17 is everybody okay?

18 COMMISSIONER GRANA: I will just add:
19 I understand and appreciate my Commissioner's view
20 on the benefits of the lighting, as well as the
21 comments about the one to one.

22 I guess I will be the low dissenter. I
23 have no challenge with the fact that the use needs
24 to be signed properly, and I heard all of the
25 proofs. But I do believe this is a use longstanding

1 in the community, that the ordinance was cast with
2 the intention of seeing the footprint and the
3 illumination. And while I appreciate the proofs, I
4 think the signage is all for the benefits.

5 I didn't see why the proper
6 identification of the use and the benefits couldn't
7 have been achieved with a sign that was in
8 compliance, so I will be the lone dissenting voice.

9 CHAIRMAN AIBEL: Well, not so quick.

10 (Laughter)

11 Just a couple of comments, and then we
12 will get to a vote.

13 I don't think anybody will say that we
14 don't consider things very fully on the Hoboken
15 Zoning Board of Adjustment.

16 But a couple of quick comments: I
17 wasn't persuaded by the proofs that the sign is
18 necessarily smaller than the A&P sign, but I will
19 accept that generally in context it seems
20 comparable, but I am not making that comment for a
21 specific reason.

22 The signage is 23 percent over what is
23 allowed. We have Trader Joe's coming into town. I
24 have not seen any proposal for their signage, but in
25 concept they might say they need an internally

1 illuminated sign at 23 percent in excess of what the
2 ordinance allows, so I tend to agree with
3 Commissioner Grana, that this could be a very
4 beautiful sign with appropriate lighting, probably
5 done in conformance with the current code, and
6 everybody would be very pleased to see the new
7 signage, and perhaps it would be a more interesting
8 way of telling your neighbors "Here we are. We are
9 open again." But I will leave that for a vote.

10 So does anybody wish to make a motion?

11 COMMISSIONER COHEN: Motion to approve
12 with the conditions as stated by counsel.

13 COMMISSIONER MC BRIDE: Second.

14 COMMISSIONER MURPHY: Can I ask one
15 more question before we vote?

16 Dennis, this two-year thing, is this
17 just to lower the lights?

18 MR. GALVIN: Yes.

19 COMMISSIONER MURPHY: Okay. So it
20 couldn't be to turn it off?

21 MR. GALVIN: No.

22 COMMISSIONER MURPHY: It would just be
23 to lower it?

24 MR. GALVIN: No. It would just be to
25 lower it.

1 I mean, I am being practical. I don't
2 know that a court would let us eliminate the
3 lighting all together.

4 I don't think the court would have a
5 problem with us reducing it, though, if it had an
6 adverse impact on the surrounding property owners --

7 VICE CHAIR BRANCIFORTE: Dennis --

8 MR. GALVIN: -- and let me just add
9 this: I really don't believe that we're going to
10 see this again. I don't think there is going to be
11 any complaint about this, because it's been there --

12 VICE CHAIR BRANCIFORTE: -- well --

13 MR. GALVIN: -- one of the things you
14 are supposed to consider in land use is if you had
15 an existing condition, and it has been there for a
16 long time, as long as the new lighting of the new
17 sign is not really different from the lighting that
18 was on the previous sign, it shows that that site
19 can manage the sign in that location. It is
20 something that offsets on the negative impact.

21 COMMISSIONER MURPHY: Right. But I
22 guess the question would be: If the ordinance is
23 relatively new, why was it created?

24 MR. GALVIN: No, no. I think the
25 ordinance is brilliant, and it's really good for the

1 city, and it is shown to have a lot of good results
2 on Washington, okay, but this is a different part of
3 the community --

4 COMMISSIONER MURPHY: Yes.

5 MR. GALVIN: -- where in the past, you
6 know, you're getting these -- the problem I have all
7 of the time for 20 years is when I get Mobil, Acme,
8 7-Eleven, Dunkin' Donuts, they have corporate
9 adver -- they didn't even make that argument here,
10 but that is probably one of the underlying things.
11 The sign probably meets Acme's requirements for
12 getting the store, you know.

13 But if this was a brand new
14 application, so, for instance, if somebody else was
15 going to come in with a new building, new property,
16 I wouldn't in any way suggest that you should let
17 them do this, okay?

18 COMMISSIONER MURPHY: Right.

19 VICE CHAIR BRANCIFORTE: Your
20 conditions, do they include the hours of operating
21 the actual light?

22 Because there is no way I can say yes
23 to something that's going to be going off at one
24 a.m. and going on at five --

25 MR. GALVIN: I put: The sign is to

1 shut off when the store is not operating.

2 I checked the website, and the store
3 does operate from six a.m. to midnight except for
4 Sunday when it operates from seven a.m. to midnight.

5 MR. SINISI: Correct.

6 MR. GALVIN: So I guess it could
7 change, and if it did change --

8 VICE CHAIR BRANCIFORTE: To 24 hours.

9 CHAIRMAN AIBEL: Do you want to read it
10 one last time?

11 MR. GALVIN: Sure.

12 The Board reserves jurisdiction over
13 the brightness of the sign for two years. I will
14 put from the issuance of the certificate of
15 occupancy.

16 Two: The applicant is to provide the
17 current level of sign illumination in consultation
18 with the Board Engineer prior to the memorialization
19 of the resolution.

20 This level of illumination is not to be
21 exceeded, and that level will be inserted in this
22 resolution, and it is not to exceed blank, and I
23 mean lumens, watts or nits, whatever we determine is
24 the right standard.

25 Three: The sign is to shut off when

1 the store is not operating.

2 Four: Individual letter lighting shall
3 be replaced within three business days of failing.
4 So if it goes out on a Friday, by Wednesday of the
5 next week, they should get it lit, so it's not like
6 Hotel Baltimore, "Hot L."

7 (Laughter)

8 CHAIRMAN AIBEL: So I think we have a
9 motion and a second.

10 MS. CARCONE: Ready for a vote?

11 CHAIRMAN AIBEL: Yes.

12 MS. CARCONE: Commissioner Branciforte?

13 VICE CHAIR BRANCIFORTE: No.

14 MS. CARCONE: Commissioner Cohen?

15 COMMISSIONER COHEN: Yes.

16 MS. CARCONE: Commissioner Grana?

17 COMMISSIONER GRANA: No.

18 MS. CARCONE: Commissioner Marsh?

19 COMMISSIONER MARSH: Yes.

20 MS. CARCONE: Commissioner Murphy?

21 COMMISSIONER MURPHY: Yes.

22 MS. CARCONE: Commissioner McBride?

23 COMMISSIONER MC BRIDE: Yes.

24 MS. CARCONE: Commissioner Aibel?

25 CHAIRMAN AIBEL: No.

1 Thank you very much.

2 MS. CARCONE: So it's approved, four
3 yes and three no.

4 MR. SINISI: That's a yes.

5 MR. GALVIN: That's a yes, yes. It's a
6 close yes.

7 (Laughter)

8 (The matter concluded at 8:30 p.m.)

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2020.
Dated: 9/21/16
This transcript was prepared in accordance with
NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT
CITY OF HOBOKEN
HOZ-16-11

- - - - - X
RE: 329 Garden Street :
Block 190, Lot 5 :
APPLICANTS: Jack & Linda Cantatore : September 20, 2016
Add a 6.5 foot deep rear addition & : Tuesday 8:30 p.m.
C Variances :
- - - - - X

Held At: 94 Washington Street
Hoboken, New Jersey

B E F O R E:

- Chairman James Aibel
- Commissioner John Branciforte
- Commissioner Philip Cohen
- Commissioner Antonio Grana
- Commissioner Carol Marsh
- Commissioner Diane Fitzmyer Murphy
- Commissioner Edward McBride
- Commissioner Cory Johnson
- Commissioner Frank DeGrim

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

- Kristin Russell, Planning Consultant
- Patricia Carcone, Board Secretary

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

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

2 DENNIS M. GALVIN, ESQUIRE
3 730 Brewers Bridge Road
4 Jackson, New Jersey 08527
5 (732) 364-3011
6 Attorney for the Board.

7 ROBERT C. MATULE, ESQUIRE
8 Two Hudson Place (5th Floor)
9 Hoboken, New Jersey 07030
10 (201) 659-0403
11 Attorney for the Applicant.

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

I N D E X

1

2

3

WITNESS

PAGE

4

5

LINDA CANTATORE

99

6

MARTHA C. RODRIGUEZ

103

7

8

9

E X H I B I T S

10

11

EXHIBIT NO.

DESCRIPTION

PAGE

12

13

A-1

Photograph

124

14

A-2

Photograph

124

15

A-3

Photograph

128

16

17

18

19

20

21

22

23

24

25

1 (After Recess)

2 CHAIRMAN AIBEL: Good evening.

3 We are back on the record.

4 We have 329 Garden Street, Mr. Matule?

5 MR. MATULE: Good evening, Mr.

6 Chairman.

7 Robert Matule, appearing on behalf of
8 the applicants.

9 This is an application of Jack and
10 Linda Cantatore, who reside at 329 Garden Street,
11 for variance relief to construct a six and a half
12 foot rear addition on their home to accommodate an
13 elevator and also to add a partial fourth floor
14 addition.

15 Our architect, Ms. Rodriguez, will take
16 you to the specifics.

17 MR. GALVIN: What kind of signage is
18 there in this case?

19 (Laughter)

20 MR. MATULE: We are asking, if you see
21 the plans in the application, for nine C variances,
22 but in fairness, the majority of them, I believe,
23 arise from the preexisting site conditions. It is
24 an undersized lot. It has an existing nonconforming
25 structure, and right now it has 100 percent

1 impervious coverage.

2 The specific variances, again, the
3 architect will go through them, but the ones that
4 are really driven by the new addition are the lot
5 coverage is increasing from 62 and a half percent to
6 71.3 percent, and the existing building is 33 feet
7 high, and we are proposing 43 feet six inches, and
8 on the new addition, the floor-to-floor height is
9 only nine feet rather than ten feet.

10 In addition, we already have a
11 deficiency in the glazing. The ordinance requires
12 25 percent, and we are currently at 17.7. The new
13 addition will bring that up to 19.1.

14 Also, currently there is zero masonry
15 on the front. I believe it is some kind of
16 synthetic stucco or something, and that is not
17 changing. It is going to continue to be zero.

18 So I am going to be presenting the
19 testimony of the applicant, Linda Cantatore, and
20 Martha Rodriguez, our architect.

21 I already submitted our jurisdictional
22 proofs to the Board, so with that being said, I
23 would like to call up Linda.

24 MR. GALVIN: Please raise your right
25 hand.

1 Do you swear or affirm the testimony
2 you are about to give in this matter is the truth,
3 the whole truth, and nothing but the truth?

4 MRS. CANTATORE: I do.

5 L I N D A C A N T A T O R E, having been duly
6 sworn, testified as follows:

7 MR. GALVIN: State your full name for
8 the record and spell your last name.

9 THE WITNESS: Linda Cantatore,
10 C-a-n-t-a-t-o-r-e.

11 MR. GALVIN: Thank you.

12 Your witness.

13 MR. MATULE: Thank you.

14 Mrs. Cantatore, you currently reside at
15 329 Garden Street?

16 THE WITNESS: I do.

17 MR. MATULE: And approximately how long
18 have you resided there?

19 THE WITNESS: Close to 18 years.

20 MR. MATULE: And could you just briefly
21 explain to the Board what necessitated the need for
22 you to construct this rear addition with the
23 elevator and your desire to have the partial fourth
24 floor?

25 THE WITNESS: The reason for the

1 elevator is we have three children, two of which
2 were diagnosed with Friedreich's Ataxia.

3 Right now my oldest is 25. He was
4 diagnosed when he was 14. He is full time in a
5 wheelchair since he was 21. With the aid of a chair
6 lift, he was able to get up and down, but he has no
7 use of his legs. It's very dangerous, and he falls
8 several times during the day, so getting him up to
9 different levels has been pretty difficult.

10 My daughter was diagnosed with the same
11 illness two years ago, so now she is progressing
12 faster than he is to be in a wheelchair because of
13 puberty, affecting girls different than boys.

14 So at this point the elevator would be
15 very helpful to us because they would be able to get
16 to their perspective bedrooms and up and down to
17 different levels and try to have a quality of life,
18 where we can kind of have a synergy of a family
19 being able to get to every level and trying to be
20 cohesive in the building.

21 MR. MATULE: And on the plans, the
22 plans currently show the house has four bedrooms,
23 and now you are requesting to add a fifth bedroom.

24 I know the inquiry was made in one of
25 the review reports, you know, about the need for

1 these bedrooms.

2 Can you just give us some explanation
3 of how they are going to be used or what the
4 intention is?

5 THE WITNESS: The fourth floor will be
6 now our master suite that we would go up to.

7 My daughter, who is now progressing,
8 will have the suite.

9 Where the elevator runs up, it will be
10 my son, my daughter and myself.

11 The other bedroom is occupied by our
12 middle child, who does not have the illness.

13 Then the other room, which is already
14 existing, will be a bedroom, and we will need a
15 caretaker because they just get progressively worse.

16 It is from what we are told terminal.
17 They are pretty textbook as far as the onset of the
18 illness.

19 They also are in the one percent range,
20 where they have the heart condition. They both have
21 that. My oldest son right now is currently on heart
22 medication. Two years ago, he was hospitalized
23 maybe eight times.

24 So with this, you know, life is not
25 going to get easier, it is going to get rougher, so

1 we are going to need the extra help.

2 As far as the bathrooms are concerned,
3 they spend a lot of time there because there are
4 issues with bowel movements, and as they are
5 progressing in the chairs, you know, when you're in
6 a wheelchair, when you don't utilize your limbs, you
7 know, you put a lot of pressure on the internal
8 organs, so therefore, you spend a lot of time in the
9 bathroom, so bathrooms are very important to us.

10 MR. MATULE: All right.

11 And then currently without this six and
12 a half foot addition to the depth of the building,
13 you currently have a hundred percent impervious
14 coverage on the site.

15 There is a brick paver patio in the
16 backyard?

17 THE WITNESS: There is.

18 MR. MATULE: And is that patio
19 currently tied into a floor drain that's tied into
20 the storm system?

21 THE WITNESS: Yes.

22 MR. MATULE: So even though it is
23 technically impervious, that water is all
24 captured --

25 THE WITNESS: That's all captured and

1 goes through.

2 MR. MATULE: Okay.

3 I don't have any other questions for
4 Mrs. Cantatore, unless the Board has any specific
5 questions.

6 CHAIRMAN AIBEL: Thank you.

7 We appreciate your testimony.

8 THE WITNESS: Thank you very much.

9 MR. MATULE: Ms. Rodriguez?

10 CHAIRMAN AIBEL: Let me just say for
11 the record, is there anybody from the public who
12 would like to ask question of the witness?

13 Seeing none.

14 VICE CHAIR BRANCIFORTE: Motion to
15 close public portion.

16 CHAIRMAN AIBEL: All in favor?

17 (All Board members answered in the
18 affirmative)

19 MR. GALVIN: Raise your right hand.

20 Do you swear or affirm the testimony
21 you are about to give in this matter is the truth,
22 the whole truth, and nothing but the truth?

23 MS. RODRIGUEZ: I do.

24 M A R T H A C. R O D R I G U E Z, having been
25 duly sworn, testified as follows:

1 MR. GALVIN: State your full name for
2 the record and spell your last name.

3 THE WITNESS: My name is Martha C.
4 Rodriguez.

5 I am an architect in the State of New
6 Jersey for more than 35 years.

7 MR. GALVIN: Give me three Boards you
8 have appeared before recently, not Hoboken.

9 THE WITNESS: Yes, many times.

10 MR. GALVIN: No, no. Give me three
11 other Boards.

12 MR. MATULE: Three other Boards other
13 than Hoboken?

14 THE WITNESS: Oh. Union City, North
15 Bergen, West New York.

16 MR. GALVIN: Done.

17 Do we accept her credentials?

18 CHAIRMAN AIBEL: We do.

19 MR. GALVIN: You may proceed.

20 MR. MATULE: And if I am not mistaken,
21 you have appeared in Hoboken as well?

22 THE WITNESS: I have been in Hoboken,
23 yes.

24 MR. GALVIN: I know, but I always ask
25 not to, because if I remembered you, I wouldn't be

1 asking you three Boards --

2 THE WITNESS: No, but --

3 MR. GALVIN: -- right. That is why I
4 like to ask other towns.

5 MR. MATULE: Okay.

6 Try to keep your voice up.

7 MR. GALVIN: Somebody gave me, last
8 night they gave me five. They gave me Parsippany
9 Troy Hills.

10 I said, I am asking for, you know, you
11 gave me four.

12 He goes, no, that is one town.

13 I'm like okay.

14 (Laughter)

15 MR. MATULE: Very good.

16 Could you please describe for the Board
17 members the existing site and the adjoining
18 structures to get some context of the neighborhood?

19 THE WITNESS: Okay.

20 Well, these are pictures of the
21 neighborhood.

22 I have the same pictures in here, if
23 you want to look at it closer later on, to pass it
24 because I don't know if you can see it way over
25 here.

1 MR. MATULE: All right. So these five
2 photographs are the same?

3 THE WITNESS: Yes.

4 Those are the whole block, and here is
5 to the rear.

6 Those are the variance that we need.

7 If you want, I can show the floor plans
8 to the Board.

9 MR. MATULE: Sure.

10 THE WITNESS: Those are the three
11 existing floors.

12 This is the fourth floor, and this is
13 an addition that we are proposing to have on each
14 floor. And at the fourth floor that addition will
15 be increased and cover half of the building. So the
16 fourth floor will only take half of the building,
17 and there is 32 feet from the property line of the
18 front.

19 Those are the elevations. This is the
20 front elevation. This is the rear elevation.

21 The elevation of the front that you see
22 from this street is only those three floors. This
23 is beyond, farther, 32 feet away from the front.

24 This is like a schematic site
25 elevation, so you can see that this is the rear

1 elevation, four floors, and this six feet -- six and
2 a half feet -- six feet and a half on the fourth
3 floor.

4 MR. MATULE: And did you also prepare a
5 street -- a sight line elevation for the street?

6 THE WITNESS: Yes. This is the sight
7 plan -- line.

8 Okay. This is 32 feet from the
9 front -- from the street. This is the -- this shows
10 the fourth floor addition, and this part is the six
11 feet and a half for the floor.

12 This is the rear yard, and this is the
13 view like a side view.

14 This line shows eight feet from the
15 closest street, a line, sight line. You won't see
16 the rear addition.

17 This line, I don't know if you can see
18 it from there --

19 MR. MATULE: And --

20 THE WITNESS: -- this is the front view
21 of all the front street elevation.

22 MR. MATULE: -- another question with
23 respect to the side elevation --

24 THE WITNESS: This one?

25 MR. MATULE: Yes.

1 On the new addition, the fourth floor,
2 the partial fourth floor addition, that roof is
3 actually sloped from the front to the rear?

4 THE WITNESS: Well, it is sloped
5 because, you know, you have to collect the water.

6 MR. MATULE: For the drainage?

7 THE WITNESS: Yes.

8 MR. MATULE: And the little bump-up on
9 the top in the rear, is that the top of the elevator
10 shaft in the back here?

11 THE WITNESS: Over here, yes. That is
12 elevator shaft. Including elevator shaft, it
13 doesn't go farther than 43 and six inches --

14 MR. MATULE: Right. So --

15 THE WITNESS: -- it won't go higher
16 than that. It won't go higher.

17 MR. MATULE: -- so the top of that
18 elevator shaft is even with the --

19 THE WITNESS: It's even with the --

20 MR. MATULE: -- front of the building?

21 THE WITNESS: Yes.

22 MR. MATULE: And this -- what about --

23 THE WITNESS: Those are view of the
24 rear. So this is the building on the right side,
25 and the addition will go up to the line of the

1 building on the right side. It won't go farther.

2 So you see over here, this is the
3 building. I don't know if you can see it. This is
4 the building on the right side. We won't go further
5 than the building.

6 MR. MATULE: So just to be clear, that
7 building is the building on the north side?

8 THE WITNESS: On the north side.

9 MR. MATULE: North side?

10 THE WITNESS: North side, and this is
11 the --

12 MR. MATULE: And the building on the
13 south side --

14 THE WITNESS: -- south side -- south
15 side is about the same, the one that we -- that we
16 have now.

17 MR. MATULE: Right.

18 So we will be sticking out
19 approximately six and a half feet beyond the
20 building to the south?

21 THE WITNESS: Exactly, yes.

22 MR. MATULE: Okay.

23 And that side wall will be finished in
24 stucco?

25 THE WITNESS: Yes.

1 You mean this?

2 MR. MATULE: Yes. The whole side wall
3 in effect, this is what the person to the south is
4 going to see?

5 THE WITNESS: It would be stucco, yes,
6 because, you know, we don't have masonry there.

7 MR. MATULE: Right.

8 THE WITNESS: Like the front -- most of
9 the variances are existing except for behind what is
10 further, about 32 feet away from the street, and the
11 coverage -- they made it at 60 percent, and we are
12 covering 71.3 percent. That is really -- the
13 variances are existing conditions.

14 CHAIRMAN AIBEL: So can I just ask for
15 a clarification?

16 Your fourth floor addition is going to
17 be taller than the building to the north, is that
18 correct?

19 THE WITNESS: Excuse me?

20 It will be at the line of the building
21 on the north side --

22 MR. MATULE: No, not the depth. He is
23 talking about the height.

24 CHAIRMAN AIBEL: The height.

25 THE WITNESS: Oh, the height.

1 MR. MATULE: Why don't you go to the
2 street elevation that you have there that shows the
3 proposed structure?

4 I think that is on your Sheet A-3.

5 THE WITNESS: Well, that is why I have
6 like a better view of the -- maybe you can pass it
7 around.

8 MR. MATULE: Well, let me do this.

9 I am going to mark this photograph A-1.

10 (Exhibit A-1 marked.)

11 MR. MATULE: And just for the record,
12 this is the same photograph you are showing on the
13 plan as a front view, the middle photograph, and
14 these photographs were taken by you?

15 THE WITNESS: Yes.

16 MR. MATULE: Okay.

17 So the Chairman's question is: Looking
18 at this photograph marked A-1, the existing building
19 to the north, which currently is taller than our
20 building --

21 THE WITNESS: Exactly, yes.

22 MR. MATULE: -- the partial fourth
23 floor addition will now exceed the height of that
24 building --

25 THE WITNESS: Will not exceed the

1 height of that building, no, because you see, they
2 have a parapet --

3 MR. MATULE: Okay.

4 THE WITNESS: -- we have a parapet on
5 this side, and the roof slope from the front to the
6 back, and we are putting the addition like at the
7 center of the building, but we are -- like the roof
8 is going this way, we put the building in here, and
9 then we have to like show the water -- let me see if
10 I can --

11 MR. MATULE: All right. Why don't you
12 just go --

13 THE WITNESS: -- over here.

14 MR. MATULE: -- to Sheet A-3?

15 THE WITNESS: This is pitching this
16 way, so we putting the addition in here, and the
17 pitch, so this is -- it have a parapet in here --

18 MR. MATULE: I understand.

19 THE WITNESS: -- that goes down, and
20 this we to put the roof, you know, like pitching it
21 this way to --

22 MR. MATULE: To catch the water?

23 THE WITNESS: Yes.

24 MR. MATULE: But I just want to, just
25 so we are all clear --

1 THE WITNESS: Uh-huh.

2 MR. MATULE: -- on your Sheet A-3,
3 where you are showing the schematic Garden Street
4 elevation, this new addition is higher than the
5 building next door, correct?

6 THE WITNESS: Yeah, because this is
7 three and a half. It is like halfway of the
8 floor -- like this building on the north side is
9 higher than the building that we have at the moment.

10 So when we put the addition, it will go
11 about half of the story --

12 CHAIRMAN AIBEL: So there is going to
13 be --

14 THE WITNESS: -- it's about, let's say,
15 maybe four feet higher than that, but remember, it's
16 further. It is 32 --

17 CHAIRMAN AIBEL: -- so it's four feet
18 higher, but maybe 20 feet back?

19 THE WITNESS: -- it will be -- it will
20 be like maybe four feet --

21 MR. MATULE: Yes. I believe --

22 THE WITNESS: -- because this is three
23 and a half. The building on the north is three and
24 a half story, and we have three-story, so we are
25 going like half of it.

1 MR. MATULE: Yes.

2 And I know it is on the plans, and you
3 previously testified, but the facade of that new
4 partial fourth floor addition starts back 33 feet
5 from the facade of the existing building?

6 THE WITNESS: Exactly, yes.

7 MR. MATULE: Okay.

8 THE WITNESS: So you won't be seeing
9 from the street in any place you could see.

10 MR. MATULE: Okay. This was submitted
11 to the Flood Plain Administrator for review, this
12 proposed project?

13 THE WITNESS: Yes.

14 MR. MATULE: And she indicated that
15 because of the fact that we are not hitting the 50
16 percent mark, it doesn't trigger compliance of the
17 flood plain ordinance, correct?

18 THE WITNESS: Well, about the flood
19 plain, about I guess --

20 MR. MATULE: All right.

21 Well, here. I believe you have -- this
22 in your -- I think the Board has this in their
23 record, but I am just going to confirm that, a
24 letter, dated August 9th, from Ann Holtzman.

25 COMMISSIONER DE GRIM: Yes.

1 THE WITNESS: Yes.

2 MR. MATULE: And she has indicated that
3 it doesn't trigger compliance, but she does require
4 that the footings and the foundation walls to the
5 rear extension should be reinforced concrete or CMU
6 block to at least one foot above the design flood
7 elevation of 14 foot.

8 THE WITNESS: I'm sorry. I didn't -- I
9 haven't seen that --

10 MR. MATULE: You are going to comply
11 with that, correct?

12 THE WITNESS: Oh, we'll comply. Of
13 course, yes.

14 MR. MATULE: And the elevator
15 insulation will meet the FEMA requirements?

16 THE WITNESS: And the whole walls
17 around the building will be masonry.

18 MR. MATULE: All right.

19 And the elevator is an electric
20 elevator?

21 THE WITNESS: It is.

22 MR. MATULE: It's not hydraulic?

23 THE WITNESS: I have the
24 specifications.

25 MR. MATULE: You have specs on your

1 plans, right?

2 THE WITNESS: I put the specifications.

3 MR. MATULE: Yes. You have the whole
4 cut sheet right there --

5 THE WITNESS: Yes.

6 MR. MATULE: -- on the table --

7 THE WITNESS: Yes.

8 MR. MATULE: Okay.

9 And I know you don't show anything on
10 the plan, but just in terms of the lighting, I
11 assume there is a regular typical light fixture
12 outside of the rear door now?

13 THE WITNESS: Yes.

14 MR. MATULE: And you will be replacing
15 that at the rear door of the new extension?

16 THE WITNESS: Yes.

17 MR. MATULE: And I think it is on your
18 drawings, but again, the finishes are going to be
19 stucco, front and back, and on the side?

20 THE WITNESS: Yes.

21 MR. MATULE: And the new addition,
22 again, I think you have it noted on your plans, but
23 all of the downspouts and everything will be tied
24 into the stormwater system?

25 THE WITNESS: Oh, yes, yes.

1 MR. MATULE: Okay.

2 I don't have any other questions for
3 Ms. Rodriguez unless the Board wants to ask her
4 questions.

5 CHAIRMAN AIBEL: Board members?

6 COMMISSIONER GRANA: I just have one
7 question.

8 You said that the -- it is a
9 nonconforming structure?

10 MR. MATULE: Correct.

11 COMMISSIONER GRANA: So currently we
12 are at 62 percent?

13 MR. MATULE: Correct.

14 COMMISSIONER GRANA: And we will be
15 going to 71?

16 MR. MATULE: 71.3.

17 COMMISSIONER GRANA: And the only thing
18 triggering that additional lot coverage is the
19 elevator itself?

20 MR. MATULE: Yes. The difference
21 between 62.5 and the 71.3 is the six and a half foot
22 rear addition.

23 THE WITNESS: It will be only the side
24 of the elevator. It won't be farther than the --

25 MR. MATULE: No. But what I am trying

1 to clarify is that this, A-3, this is the portion of
2 the -- the elevator has to be in that six and a half
3 foot deep piece.

4 The southerly portion of that six and a
5 half foot deep piece as shown on the floor plan is
6 actually going to be incorporated into the floor
7 plate of the new units --

8 THE WITNESS: Do you want to look --

9 MR. MATULE: -- this portion, you know,
10 this wall will be removed, and this will now become
11 part of the living space.

12 So I just want to, you know, be candid
13 that that whole 9 percent approximately of
14 additional lot coverage is not just the elevator
15 shaft. It is the elevator shaft and the
16 continuation of that six and a half foot extension
17 across the width of the whole building.

18 COMMISSIONER GRANA: To the rear yard.

19 Thank you.

20 COMMISSIONER DE GRIM: I have a couple
21 questions.

22 CHAIRMAN AIBEL: Frank?

23 COMMISSIONER DE GRIM: Are there going
24 to be any additional HVAC units installed?

25 THE WITNESS: Excuse me?

1 COMMISSIONER DE GRIM: Are there going
2 to be -- I see two HVAC units --

3 THE WITNESS: No. I don't think it
4 will be necessary.

5 COMMISSIONER DE GRIM: Okay.

6 And do you have -- the elevator shaft
7 is next to the adjacent building. Do you have any
8 kind of --

9 THE WITNESS: Masonry --

10 COMMISSIONER DE GRIM: -- sound
11 insulation --

12 THE WITNESS: -- the whole thing will
13 be masonry from the bottom to the top.

14 COMMISSIONER DE GRIM: Okay.

15 But any sound insulation, or you don't
16 need --

17 THE WITNESS: Well, it will be the
18 insulation on everything, but --

19 COMMISSIONER DE GRIM: Okay.

20 MR. GALVIN: Bob, for purposes of the
21 conditions, we thought we just heard there will be
22 nothing on the roof, so that means nothing on the
23 roofs --

24 MR. MATULE: Hum --

25 MR. GALVIN: -- no access, no air

1 conditioning units, no nothing?

2 THE WITNESS: Access to the -- you mean
3 to the deck, you know, like a roof deck or anything
4 like that, I don't think so. We haven't proposed
5 that.

6 CHAIRMAN AIBEL: And no HVAC on the --

7 MS. CARCONE: Well, they're already
8 existing.

9 MR. MATULE: Well, they're already
10 existing.

11 On the new addition there will be
12 nothing on the roof, the new addition.

13 The existing, if you will, third floor
14 roof has two HVAC units, and it looks like a hatch
15 to get up there for servicing, but that's not
16 going -- but nothing further is going to go up
17 there.

18 THE WITNESS: No.

19 MR. GALVIN: So there's to be nothing
20 located on the new addition's roof.

21 THE WITNESS: No.

22 COMMISSIONER DE GRIM: Correct.

23 MR. MATULE: And the equipment that is
24 currently on the existing roof is going to remain.

25 MR. GALVIN: As shown on the plan.

1 MR. MATULE: Okay.

2 COMMISSIONER COHEN: Okay.

3 Do you have any other questions?

4 COMMISSIONER DE GRIM: No.

5 COMMISSIONER COHEN: Just a question on
6 the FEMA elevator.

7 Does that mean that all of the
8 mechanicals for the elevator will be on the roof of
9 the elevator and not on the floor, do you know about
10 that?

11 That is what the letter from Ann
12 Holtzman --

13 MR. MATULE: Yes. My understanding,
14 and I'm certainly not an expert, I have a bigger set
15 of plans that I could read. But the elevator is an
16 electric --

17 THE WITNESS: It doesn't need the --

18 MR. MATULE: -- there is no -- well, it
19 is all self-contained.

20 It is an electric elevator. The power
21 supply is electric. And as I understand it, it is
22 all self-contained with the cab of the elevator.

23 COMMISSIONER COHEN: Okay.

24 I guess my question is: If the
25 mechanicals are on the bottom of the elevator, and

1 you said that you didn't have to meet the flood
2 plain requirements because you were doing less than
3 50 percent improvement to the building, my question
4 is: Is there a concern that your elevator is going
5 to get shorted out, if the electrical is in the
6 bottom of the elevator?

7 MR. MATULE: No.

8 Well, two things. Again, my
9 understanding is the electric motor rides with the
10 elevator up and down. But in Ms. Holtzman's review
11 letter, she said the proposed elevator installation
12 should meet the minimum requirement set forth in
13 FEMA Technical Bulletin 4 for elevator
14 installations --

15 COMMISSIONER COHEN: Right.

16 MR. MATULE: -- which is a shorthand
17 for saying we have to comply with whatever is
18 required for an elevator shaft.

19 COMMISSIONER COHEN: Whatever that is.
20 Okay.

21 I think you mentioned that with respect
22 to the backyard extension, that you were going to be
23 flush with the building on one side, and you were
24 going to extend it six feet --

25 MR. MATULE: Six and a half.

1 COMMISSIONER COHEN: -- six and a half
2 feet to the building on the other side -- I am just
3 trying to picture the impact on the building that
4 is -- which is going to be six and a half feet
5 beyond.

6 Maybe you could just describe the
7 impact of that.

8 CHAIRMAN AIBEL: Is it north or south
9 of the building?

10 THE WITNESS: I have a picture of the
11 building --

12 MR. MATULE: South.

13 CHAIRMAN AIBEL: South.

14 Thanks.

15 THE WITNESS: -- on the north side. It
16 will be the same effect. This building on the north
17 side stick out from our --

18 MR. MATULE: Let's mark that --

19 THE WITNESS: -- about six feet,
20 yeah --

21 MR. MATULE: Let's mark that --

22 THE WITNESS: -- this one and this one.
23 One on the north and --

24 MR. MATULE: -- so we are going mark as
25 A-1, the --

1 MS. CARCONE: You marked the other one
2 A-1.

3 MR. MATULE: But we didn't submit it --

4 MS. CARCONE: Oh, you didn't submit it?

5 MR. MATULE: -- because it is already

6 on the plans --

7 (Exhibit A-1 marked)

8 THE WITNESS: So it's in --

9 MR. MATULE: -- no, no, no. That is
10 already on the plans, so we don't have to put that
11 in.

12 So A-1, let's just describe what this
13 is. This is a photograph taken from the rear yard
14 towards the house.

15 The tan part is the existing structure,
16 correct?

17 THE WITNESS: Yes.

18 MR. MATULE: And this tan stucco wall
19 is the building to the north?

20 THE WITNESS: Yes.

21 MR. MATULE: So then we are going to
22 mark this other one A-2, and this --

23 (Exhibit A-2 marked)

24 COMMISSIONER COHEN: So that's the --

25 COMMISSIONER DE GRIM: No, this is --

1 THE WITNESS: And right here --

2 (Everyone talking at once)

3 THE REPORTER: Wait a second. Too many
4 people are talking.

5 MR. GALVIN: Whoa, whoa.

6 I'm sorry, but Phyllis can't hear or
7 take this down.

8 MR. MATULE: -- so A-2, this tan
9 building with the modern windows in it, this is the
10 building to the south of us that we will extend six
11 and a half feet beyond, correct?

12 THE WITNESS: Yes.

13 COMMISSIONER COHEN: So just for my
14 orientation, is the yellow property the subject
15 property?

16 MR. MATULE: No.

17 COMMISSIONER COHEN: The brown
18 building?

19 THE WITNESS: We are on this side, but
20 you don't see it in the photo.

21 COMMISSIONER COHEN: It's not in the
22 picture --

23 MR. MATULE: No --

24 COMMISSIONER COHEN: -- this is the
25 building that you are going to be six feet --

1 MR. MATULE: -- that building that you
2 are looking at there, Mr. Cohen, is this building
3 right here. That is the back of this building,
4 which is to the south of us.

5 That other picture shows the back of
6 our building and the building to the north of us,
7 which sticks out beyond our building now, but when
8 we put this addition on, it will align evenly with
9 that building.

10 COMMISSIONER COHEN: Do you know
11 whether there have been any communications with the
12 owners of the next door neighbor?

13 MR. MATULE: Not only do I know there
14 has been communication, he is here, and he is going
15 to speak to the Board.

16 COMMISSIONER COHEN: I look forward to
17 that testimony.

18 Okay. Thank you.

19 (Laughter)

20 MR. MATULE: But I would also just
21 point out, as I am sure you know, that because we
22 are to the north of that building and we will be
23 sticking out further, in the normal sun tracking it
24 should be less of an impact on the building to the
25 south than the building to the north.

1 COMMISSIONER COHEN: Okay.

2 That is all I have.

3 Thank you.

4 MR. MATULE: Thank you.

5 CHAIRMAN AIBEL: Can I ask a couple of
6 questions while my colleagues are getting put
7 together?

8 MR. MATULE: Sure.

9 CHAIRMAN AIBEL: Are you going to
10 resurface the front of the house, the front facade?

11 Is the front facade going to be redone?

12 THE WITNESS: No. We don't -- I mean,
13 we don't think to do it, because it is main --
14 depending if the owner want to do it, but I don't
15 think so --

16 MR. MATULE: No.

17 THE WITNESS: -- but I don't think so.

18 CHAIRMAN AIBEL: Okay.

19 So I am looking at A-2 and a proposed
20 elevation, so that's -- maybe I am missing the boat
21 here, Mr. Matule.

22 MR. MATULE: On Sheet A-2?

23 CHAIRMAN AIBEL: Sheet A-2.

24 MR. MATULE: Okay.

25 CHAIRMAN AIBEL: Are the proposed front

1 elevations and proposed rear elevations intended the
2 show what is going to be built?

3 THE WITNESS: That is the finish,
4 the --

5 MR. MATULE: Let me try to, if I could,
6 what I am going to do, even though there is a photo
7 on the plans, I am now going to mark that photo
8 because it is larger, A-3, which shows the, I guess
9 for lack of a better word, I will call it the faux
10 brownstone on the first two floors, and then this
11 cornice, and then I guess like a brownstone-ish
12 stucco up there up top, too. None of that is going
13 to change --

14 THE WITNESS: No.

15 MR. MATULE: -- other than the parapet
16 on the very top is going to change, right?

17 THE WITNESS: No. Well, the parapet
18 will remain. I mean actually my elevation, I didn't
19 show those --

20 (Exhibit A-3 marked)

21 MR. MATULE: Right, right, right.

22 THE WITNESS: -- really I didn't show
23 the canopy of the front, but I mean, it will remain
24 the same --

25 MR. MATULE: I think --

1 THE WITNESS: -- I will try to show the
2 rear --

3 MR. MATULE: -- correct me, Mr.
4 Chairman, if I misstate this, but I think what the
5 Chairman is getting at is: In your proposed front
6 elevation, your two dimensional diagram appears
7 different than what is shown here.

8 Was this just an attempt to recreate
9 the look of what is there?

10 THE WITNESS: I didn't really -- my
11 error -- I didn't show the parapet -- I mean any of
12 the canopy, anything of that facade --

13 CHAIRMAN AIBEL: Okay. So --

14 THE WITNESS: -- but I tried to show
15 the rear, and I didn't show exactly what was
16 happening.

17 MR. MATULE: You do have a note there
18 that says: Existing stucco finish, existing
19 structure to remain --

20 THE WITNESS: Yes.

21 MR. MATULE: -- so the intention is not
22 to change anything --

23 THE WITNESS: It will remain, yes. I
24 didn't put it in my plan --

25 CHAIRMAN AIBEL: Thank you.

1 So on the proposed rear elevation, that
2 is the way --

3 THE WITNESS: It's proposed because we
4 are showing the rear part --

5 MR. MATULE: But just let him finish
6 the question.

7 The photograph we submitted now shows
8 vinyl, apparently vinyl siding on the back on the
9 rear elevation, correct?

10 THE WITNESS: The rear.

11 MR. MATULE: And the proposal is to
12 remove all of that and put a new stucco finish on
13 the whole back of the house?

14 THE WITNESS: Yes.

15 MR. MATULE: So it will be a consistent
16 finish from top to bottom?

17 THE WITNESS: Yes.

18 CHAIRMAN AIBEL: Good.

19 So I am going to ask just one other set
20 of questions, and then what we haven't heard yet is
21 what the impact of the extension and the extra three
22 feet will be on the rear yard.

23 So is anybody going to be able to tell
24 us why we should allow the extra three feet?

25 MR. MATULE: The impact in the context

1 of light and air?

2 CHAIRMAN AIBEL: Light and air, rear
3 yard, the donut.

4 I will let you think about that. If
5 you don't think you need the testimony, that is
6 fine.

7 MR. MATULE: Well, I will only say
8 this: We have a fully conforming rear yard, even
9 with the addition. We are required to have 30 feet
10 or 30 percent, and the proposed is 32.5 feet.

11 THE WITNESS: Excuse me.

12 You are talking about the facade. The
13 way it will look, the facade -- actually what we
14 have now, it doesn't conform with what is on the two
15 sides. If you look at the house on the left side --
16 on the north and the south, they have stucco. Our
17 house doesn't have stucco, so after we finish, it
18 will look the same. That's correct.

19 CHAIRMAN AIBEL: So let me ask one
20 other set of questions, and again, I am visualizing
21 the rear of the house.

22 I guess I am a little concerned that
23 the esthetic of the six feet, I guess it is on the
24 north side of the building, where the elevator shaft
25 is going to be housed, looks very stark, and I am

1 not sure there is some way that we can soften it or
2 put windows in, but it looks like we sort of pushed
3 the windows all over to the left side of the
4 building and left a tower of stucco on the right
5 side looking at the rear from the backyards.

6 So I am trying to put myself in the
7 position of the neighbors.

8 THE WITNESS: Well, the elevator have
9 to be without window opening, you know.

10 CHAIRMAN AIBEL: I understand.

11 THE WITNESS: We have windows on the
12 other side.

13 The two buildings on each side will
14 have stucco, so it will be more similar. I guess it
15 will be more decorated with what we have on each
16 side, and we will have windows all the way down
17 except on the elevator.

18 CHAIRMAN AIBEL: I guess, Mr. Matule,
19 what I am driving at is to see whether there is any
20 way to soften the tower of stucco or make it appear
21 a little bit more integrated into the overall rear
22 design, but I leave that to -- maybe my colleagues
23 don't have trouble with that.

24 MR. MATULE: Unfortunately, I can't
25 address that.

1 Martha, is there any way to soften that
2 stucco look?

3 THE WITNESS: Well, my opinion is that
4 what we have now, it doesn't go with the two
5 buildings on each side because we have siding,
6 aluminum -- I mean, the siding doesn't go with both
7 buildings on the side. But with stucco, it will be
8 more -- more --

9 A VOICE: Uniform.

10 CHAIRMAN AIBEL: What I am trying to
11 say is: We want to make it as pleasing as possible
12 for the neighbors, so that it is a benefit to the
13 backyard, not a detriment so --

14 THE WITNESS: My opinion is it will
15 look better with the stucco all the way that will be
16 similar to both buildings on the side because what
17 we have now, it doesn't go with the two buildings.

18 CHAIRMAN AIBEL: Okay. That is good.

19 THE WITNESS: You know, my opinion --

20 CHAIRMAN AIBEL: Well, your opinion is
21 important.

22 Okay. Anybody else?

23 COMMISSIONER DE GRIM: Do you have a
24 color selected for the stucco that might be similar
25 to the building to the north?

1 THE WITNESS: So far we have not
2 selected any, but we can always start to blend it
3 with the --

4 MR. GALVIN: This is an applicant call.

5 MR. MATULE: I am just going to
6 interrupt you for a minute, Martha.

7 You are still under oath, but you have
8 been hearing the Chairman's questions.

9 Would you be in the position to
10 respond?

11 MRS. CANTATORE: I eat, sleep and
12 breathe these plans with Martha. She has been my
13 architect for many years, and she has grown through
14 us through this illness with our first renovation
15 and our second renovation, and hopefully our last
16 renovation.

17 I understand where you are coming from,
18 and yes, whether we design it where it is, you know,
19 an element of putting a little -- you can see the
20 front of my building. It was a lot of loving care
21 into the front of that building from the get-go when
22 we first started.

23 I could show you what it looked like.
24 It was 40-year-old vinyl siding and 40-year-old
25 brick, and we made it a brownstone, because I

1 want to say, so this is the building directly to the
2 south of you, right, so this is the brown stucco?

3 MRS. CANTATORE: Yes.

4 VICE CHAIR BRANCIFORTE: Okay.

5 MRS. CANTATORE: It will look good, I
6 promise.

7 COMMISSIONER MARSH: Can I?

8 CHAIRMAN AIBEL: Yes.

9 Go ahead, Ms. Marsh.

10 COMMISSIONER MARSH: I guess I'm
11 bordering on a comment here. Is that okay?

12 CHAIRMAN AIBEL: I think we are sort of
13 commenting, yes.

14 COMMISSIONER MARSH: Okay.

15 MR. GALVIN: Do you have other
16 witnesses?

17 These are your two witnesses?

18 MR. MATULE: These are my two
19 witnesses.

20 MR. GALVIN: Yes.

21 So you are in the gray area.

22 COMMISSIONER MARSH: Because just as
23 somebody that has a building sort of like this next
24 door, I personally would have welcomed a stucco
25 wall, because it is a measure of privacy.

1 You know, if the windows are all the
2 way across, then you sort of feel like you are
3 sitting in somebody's dining room. But if there is
4 a wall, then at least you are not sharing dinner
5 with them -- I mean, maybe -- your neighbors are
6 probably lovely people, and they're probably happy
7 to share dinner with you.

8 MR. GALVIN: They're here to testify, I
9 might point out.

10 COMMISSIONER MARSH: But I also want to
11 just say, ivy is easy. You put up a trellis. You
12 stick ivy, and it goes, and that's that.

13 I personally don't care either way.

14 CHAIRMAN AIBEL: Anybody else?

15 Board members?

16 CHAIRMAN AIBEL: Terrific.

17 Thank you.

18 CHAIRMAN AIBEL: Questions -- can we
19 open it up?

20 MR. MATULE: For the architect?

21 CHAIRMAN AIBEL: Yes.

22 Let me open it up. Questions for the
23 architect.

24 Anybody in the public wish to have
25 questions?

1 Seeing none.

2 COMMISSIONER GRANA: Motion to close.

3 COMMISSIONER COHEN: Second.

4 CHAIRMAN AIBEL: All in favor?

5 (All Board members answered in the
6 affirmative)

7 CHAIRMAN AIBEL: Thank you.

8 MR. MATULE: All right. If we want to
9 open it up for public comment, then I'll reserve my
10 closing remarks.

11 CHAIRMAN AIBEL: Now, if somebody
12 wishes to comment on the application, now is the
13 time.

14 Does anybody wish to comment?

15 MR. GALVIN: Raise your right hand.

16 Do you swear or affirm the testimony
17 you are about to give in this matter is the truth,
18 the whole truth, and nothing but the truth?

19 MR. GALORENZO: I do.

20 MR. GALVIN: Please state your full
21 name for the record and spell your last name.

22 MR. GALORENZO: My name is Mark
23 Galorenzo, G-a-l-o-r-e-n-z-o.

24 MR. GALVIN: Street address?

25 CHAIRMAN AIBEL: Do we have to qualify

1 or negative criteria, approving this application is
2 simply the right thing to do.

3 So as a next door neighbor, I am very
4 in favor of this application, and I hope the Board
5 feels the same way.

6 Thank you.

7 CHAIRMAN AIBEL: Thank you very much.

8 Anybody else wish to comment?

9 VICE CHAIR BRANCIFORTE: Motion to
10 close public --

11 COMMISSIONER COHEN: Hang on.

12 Mr. Evers.

13 CHAIRMAN AIBEL: Mr. Evers.

14 VICE CHAIR BRANCIFORTE: You have one
15 more.

16 CHAIRMAN AIBEL: There's somebody else?

17 MR. GALVIN: Raise your right hand.

18 Do you swear or affirm the testimony
19 you are about to give in this matter is the truth,
20 the whole truth, and nothing but the truth?

21 MR. EVERS: I do.

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

24 MR. EVERS: Michael Evers, E-v-e-r-s.
25 252 Second Street, Hoboken, New Jersey.

1 MR. GALVIN: Thank you.

2 MR. EVERS: I don't know the Cantatores
3 at all. I just wanted to hear myself talk -- no,
4 that is not true.

5 (Laughter)

6 Jack and Linda were --

7 CHAIRMAN AIBEL: You are under oath.

8 (Laughter)

9 MR. EVERS: -- both -- I understand --

10 MR. GALVIN: He was kidding, guys.

11 (Laughter)

12 MR. EVERS: -- were born in Hoboken.
13 Their parents are from Hoboken.

14 This is essentially a family seeking to
15 continue to live where they have always lived in
16 spite of tremendous adversity, personal. It's not
17 such an easy thing to have one child with special
18 needs, but to have two is a tremendous difficulty.

19 They are really not proposing anything
20 that would seem excessive, particularly considering
21 the challenges, nor are they proposing anything that
22 seems to not only bother any of the neighbors, who
23 have spoken in support, but doesn't really have a
24 tremendous detriment, a six and a half foot
25 extension on that house, which I have been in, is

1 not a great thing.

2 I would also mention that in terms of
3 the context of hardship, that building does have
4 special conditions, and having been in the building
5 and seen the whole place, I don't exactly see what
6 else they could do, if they were to remain in this
7 building with their children.

8 And there are great advantages to that
9 because in addition to Jack and Linda having grown
10 up in Hoboken, this is where their children are
11 from. This is their community, and it would seem to
12 me that it is a very neighborly good thing, given
13 the other things we accommodate, this kind of need
14 seems to be something that should absolutely be
15 approved because it is just an excellent proposal.

16 Thank you.

17 MR. GALVIN: Thank you, Mike.

18 CHAIRMAN AIBEL: Okay.

19 No further comments from the public?

20 VICE CHAIR BRANCIFORTE: Motion to
21 close public portion.

22 CHAIRMAN AIBEL: All in favor?

23 (All Board members answered in the
24 affirmative)

25 CHAIRMAN AIBEL: Okay, Mr. Matule.

1 MR. MATULE: I appreciate the comments
2 from my co-counsel, but I am viewing this --
3 facetious -- I'm viewing this as a C-2 variance,
4 because --

5 MR. GALVIN: You are not making a
6 hardship argument. You're making a special reasons
7 argument?

8 MR. MATULE: I am, yes.

9 Again, I think there is a line we could
10 try to pursue with the hardship being the existing
11 parameters of the house, but I think --

12 MR. GALVIN: Hardship always has to be
13 the zoning --

14 MR. MATULE: -- I think hardship has to
15 do more with the site conditions, and it is in my
16 clients' best interest to pursue it as the flexible
17 C-2 variance.

18 From my understanding of the law, a
19 personal hardship can be a basis for a C-2 variance,
20 where the purposes of zoning would be advanced, and
21 certainly I think the purposes of zoning are
22 advanced by promoting public health and safety and
23 handicapped accessibility to the premises.

24 We still have to satisfy the negative
25 criteria. I would hope the Board would agree that

1 this is a modest proposal. There is no substantial
2 detriment to the public good. It will not
3 substantially impair the intent or purpose of the
4 zoning ordinance or the zoning plan.

5 We have a minor height variance, if you
6 look at that block in context, not immediately next
7 door, but a couple doors down, there is a much
8 taller building to the north and a new building
9 going up that is also taller, and then to the south
10 we have the whole Rue School, and that new addition
11 is going on there.

12 So I mean just in the context of that
13 block, our proposal is pretty modest, and I would
14 think that the benefit of the deviation would
15 substantially outweigh any detriment.

16 I suppose the most impacted person is
17 Mr. Galorenzo, who you heard his testimony, and you
18 know, I think that the applicant has made a case for
19 the C-2 variances, and I would request that you
20 approve them.

21 CHAIRMAN AIBEL: Thank you.

22 MR. GALVIN: Can I just comment?

23 Normal personal hardship is not
24 something that we consider. It is one of the things
25 that throws people off, because hardship has to do

1 with zoning. It has to do with the unique shape and
2 size of the lot, unique topography or a unique
3 condition affecting the property.

4 So when Mr. Matule says, well, we have
5 hardship here, I would sometimes, and in most cases
6 kind of cringe, because I don't want you to learn
7 that. But there are a couple of places where
8 personal hardships do come into play.

9 I think of senior citizens. When we do
10 senior citizen type housing under special reasons,
11 senior citizen housing is something that when we
12 accommodate a mother-daughter or accommodate seniors
13 somehow, that is a special reason. And a
14 mother-daughter, you could say is a hardship because
15 they have to care for their elderly parents.

16 This is kind of the same thing, where
17 you are having to care for your children, and you
18 need the elevator, and so we are trying to
19 accommodate sadly people that are handicapped and
20 need this assistance, and I think that that would
21 fall under special reasons under Section A.

22 But I just wanted to underline that,
23 you know, I don't want the next builder to come
24 along and start talking about personal hardship, and
25 I don't want to give that any ground.

1 But I think this is the case, where the
2 one in a thousand shot where it is a personal
3 hardship that has a benefit to the community to
4 provide this type of housing for people that are in
5 need, so if that helps anybody.

6 Agree or disagree?

7 MR. MATULE: Agreed.

8 CHAIRMAN AIBEL: Okay.

9 MR. MATULE: That's sort of the subtle
10 distinction I was trying to make.

11 MR. GALVIN: Yes. But I didn't want
12 people to go off track next week and have Mr.
13 Mienrvini say, "It's a personal hardship here. We
14 have to have that green roof with the deck that is
15 two stories."

16 CHAIRMAN AIBEL: All right.

17 Board members?

18 Anybody want to -- anybody at this side
19 of the table?

20 Mr. Cohen, go ahead.

21 COMMISSIONER COHEN: First, I want to
22 say, you know, this is a very sad circumstance that
23 this family finds itself in, and everybody on the
24 Board feels the hurt that you're dealing with, and
25 you know, no matter what we think of this

1 application, it doesn't change any of that. We wish
2 you the best of luck with everything.

3 I think that this is a very unusual
4 circumstance, and I think that what our counsel said
5 is kind of dispositive frankly.

6 I mean, I think we have got a situation
7 here where the main extension of this that is going
8 to be noticeable is going to be noticeable to the
9 one neighbor that doesn't object to it is to
10 accommodate the wheelchair, but do it in a way that
11 architecturally makes sense, to close it off to the
12 back of the building, which extends at six and a
13 half feet into the yard.

14 I also think it is important to
15 recognize that the -- it is a hundred foot lot, and
16 there is still going to be more than 30 feet in the
17 backyard, so the donut is not being unduly impinged
18 by this.

19 I think that if we were talking about
20 people who were just looking to build extra bedrooms
21 and extend their backyard by six feet, I don't think
22 I would be in favor of that in the circumstances,
23 but I think here I think it is a special
24 circumstance, and I also do think that there is a
25 hardship with respect to the size of the lot.

1 I know that is not what this
2 application is for, but it is a uniquely small lot
3 with the width and depth of the property, so I would
4 support this, and that's how I see it.

5 CHAIRMAN AIBEL: Mr. Grana?

6 COMMISSIONER GRANA: I think in this
7 application I agree with counsel, the special
8 reasons of proof have been made, and I agree with
9 the applicant that the potential negative impacts
10 are de minimus.

11 CHAIRMAN AIBEL: Anybody else wish to
12 comment?

13 VICE CHAIR BRANCIFORTE: I have nothing
14 to add. I agree with Mr. Grana.

15 CHAIRMAN AIBEL: I will make an
16 editorial comment, but take it for what it is worth.

17 I am looking at again A-2 and the
18 proposed front elevation. One of the things that I
19 didn't ask the architect was why the front windows,
20 the front facade of the addition is arrayed as it
21 is.

22 I do have some concern about the fact
23 that we don't have a clear understanding of what is
24 going up in the front of the building, and the
25 question I think or maybe I will just make it again

1 as a comment, what I am hopeful is that the
2 applicant can look at the extension and the front
3 facade and be as neighborly as she will be in the
4 rear in creating something that is visually
5 agreeable to the people who live directly across the
6 street, because I think even though the sight line
7 from the street might not view the top floor, there
8 will be views from the other side of the street.

9 So, again, I leave it to you and your
10 architect to come up with a correct design for the
11 front facade because I am not sure the testimony is
12 that it is going to be as depicted on A-2, so that
13 is an editorial comment for what it's worth.

14 MR. GALVIN: I have two conditions.

15 I have: There is to be nothing located
16 on the roof of the new addition.

17 The second thing I had was to what the
18 Chairman just said: The plan is to be amended to
19 correct the plans to reflect the testimony. The
20 change must be provided to the Board's Planner for
21 her review and approval prior to memorialization of
22 the resolution.

23 There was kind of like there was a
24 mistake or an error, that's what I was hearing. So
25 can we get that done between now and then --

1 MR. MATULE: Sure.

2 MR. GALVIN: -- and maybe give some
3 consideration with what the Chairman is saying on
4 that front facade.

5 MR. MATULE: Yes.

6 I will have that conversation with the
7 applicant and the architect. I don't know whether
8 that's due to the fact there's a stairwell in front
9 there, whatever, but we will look at it.

10 CHAIRMAN AIBEL: Understood.

11 MR. GALVIN: We are giving you more
12 latitude than normal, but if you could do something
13 before we memorialize it -- I am not making this
14 contingent on memorialization, but I would like our
15 planner to sign off on it before I memorialize it.

16 MR. MATULE: Certainly.

17 CHAIRMAN AIBEL: Ready for a motion.

18 VICE CHAIR BRANCIFORTE: Motion to
19 approve.

20 COMMISSIONER MURPHY: Second.

21 COMMISSIONER MC BRIDE: Second.

22 MS. CARCONE: Who was the second?

23 COMMISSIONER MURPHY: Me. I will take
24 it.

25 MS. CARCONE: Okay.

1 Commissioner Branciforte?
2 VICE CHAIR BRANCIFORTE: Yes.
3 MS. CARCONE: Commissioner Cohen?
4 COMMISSIONER COHEN: Yes.
5 MS. CARCONE: Commissioner Grana?
6 COMMISSIONER GRANA: Yes.
7 MS. CARCONE: Commissioner Marsh?
8 COMMISSIONER MARSH: Yes.
9 MS. CARCONE: Commissioner Murphy?
10 COMMISSIONER MURPHY: Yes.
11 MS. CARCONE: Commissioner McBride?
12 COMMISSIONER MC BRIDE: Yes.
13 MS. CARCONE: And Commissioner Aibel?
14 CHAIRMAN AIBEL: Yes.
15 Thank you very much.
16 MR. MATULE: Thank you for your time.
17 (The matter concluded at 9:30 p.m.)
18
19
20
21
22
23
24
25

C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
 Notary Public of the State of New Jersey
 My commission expires 11/5/2020.
 Dated: 9/21/16
 This transcript was prepared in accordance with
 NJAC 13:43-5.9.