

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

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REGULAR MEETING OF THE HOBOKEN : October 18, 2016  
ZONING BOARD OF ADJUSTMENT : 7 PM  
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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:

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP  
Board Engineer
- Patricia Carcone, Board Secretary

PHYLLIS T. LEWIS  
CERTIFIED COURT REPORTER  
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6                   Attorney for the Board.

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PAGE

BOARD BUSINESS

1 & 96

HEARING

72 Madison Street

6

1                   CHAIRMAN AIBEL: Good evening,  
2 everyone.

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

11                   Please join me in saluting the flag.

12                   (Pledge of Allegiance recited)

13                   CHAIRMAN AIBEL: Good evening,  
14 everyone.

15                   I think we are here at a Regular  
16 Meeting of the Hoboken Zoning Board of Adjustment.

17                   MS. CARCONE: Yes.

18                   CHAIRMAN AIBEL: Want to do a roll  
19 call, Pat?

20                   MS. CARCONE: Sure.

21                   Commissioner Aibel?

22                   CHAIRMAN AIBEL: Here.

23                   MS. CARCONE: Commissioner Branciforte?

24                   VICE CHAIR BRANCIFORTE: Here.

25                   MS. CARCONE: Commissioner Cohen?

1 COMMISSIONER COHEN: Here.

2 MS. CARCONE: Commissioner Grana?

3 COMMISSIONER GRANA: Here.

4 MS. CARCONE: Commissioner Marsh?

5 COMMISSIONER MARSH: Here.

6 MS. CARCONE: Commissioner McAnuff is  
7 absent.

8 Commissioner Murphy?

9 COMMISSIONER MURPHY: Here.

10 MS. CARCONE: Commissioner Weaver is  
11 absent.

12 Commissioner McBride?

13 COMMISSIONER MC BRIDE: Here.

14 MS. CARCONE: Commissioner Johnson?

15 COMMISSIONER JOHNSON: Here.

16 MS. CARCONE: Commissioner DeGrim?

17 COMMISSIONER DE GRIM: Here.

18 MS. CARCONE: Okay. We have a quorum.

19 (Continue on next page)

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HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN  
HOZ-16-4

- - - - - X  
RE: 72 MADISON STREET :  
Block 16, Lot 33 :  
APPLICANT: Charles Annis : October 18, 2016  
Minor Site Plan Review with variances :Tuesday 7:10 p.m.  
for construction of a new five-story, :  
four-unit building :  
- - - - - X

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11                  Attorney for the Applicant.

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## I N D E X

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4 WITNESS

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6 Tsampicos Perides

12,38,71,91

7 Kenneth Ochab

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## E X H I B I T S

11

12 EXHIBIT NO.

DESCRIPTION

PAGE

13

14 A-1

Photo Board

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1                   CHAIRMAN AIBEL: Okay. We have a  
2 couple of administrative matters, but I think what  
3 we will do is we will hear them after we hear the  
4 applicant.

5                   MR. MARCIANO: Thank you so much.

6                   CHAIRMAN AIBEL: Counsel.

7                   MS. CARCONE: Jim, do you want to make  
8 sure that nobody is here for the other two projects?

9                   CHAIRMAN AIBEL: That's fine.

10                  Let me ask: Is anybody here for  
11 614-632 Clinton?

12                  MR. MARCIANO: That is just my wife  
13 waiting to have sushi with me later.

14                  (Laughter)

15                  CHAIRMAN AIBEL: 329 Garden Street?

16                  Good.

17                  You may proceed.

18                  MR. GALVIN: Do we have to carry those  
19 formally in some way?

20                  MS. CARCONE: We're talking about 720  
21 Clinton is a final, so we don't have to carry --

22                  MR. GALVIN: No notice?

23                  MS. CARCONE: -- no notice. We don't  
24 have to carry.

25                  I don't know what projects you just

1 read off.

2 CHAIRMAN AIBEL: 329 Garden.

3 MS. CARCONE: That's the resolutions.

4 CHAIRMAN AIBEL: Yes.

5 MS. CARCONE: I was talking about the  
6 projects, and on 703 Bloomfield.

7 CHAIRMAN AIBEL: My apologies.

8 MR. GALVIN: I'm with you. Good job.

9 MS. CARCONE: 703 Bloomfield, they have  
10 to renotece, so we don't have to carry them.

11 MR. GALVIN: All right.

12 CHAIRMAN AIBEL: So we are at 72  
13 Madison Street.

14 MR. MARCIANO: That is it.

15 All right. Hello, everyone. Good  
16 evening.

17 My name is Frank Marciano, the  
18 attorney. We are presenting 72 Madison Street,  
19 which you probably will see is a small variance that  
20 we need. It is a project on Madison Street that is  
21 now vacant, and we are building a building in  
22 conformity with recent buildings that have been  
23 built there.

24 Today we are going to be having  
25 Tsampicos Perides, the architect, who will be going

1 over the plans, and Ken Ochab is the planner.

2 I don't know if we need the  
3 qualifications of Mr. Perides put in here. If so, I  
4 will ask for that.

5 I don't know if he has been in front of  
6 the Board enough.

7 CHAIRMAN AIBEL: We have a practice.  
8 Counsel will explain it.

9 MR. GALVIN: Just when he comes up, and  
10 we put him under oath, we will ask him if he has  
11 appeared before a few Boards. If he has, we will  
12 accept him.

13 MR. MARCIANO: That's fine.

14 I have also the owner, Charles Annis,  
15 and the manager, who we have been working with since  
16 the beginning, Joshua Maldonado. If you need any  
17 questions from them, they will be available.

18 And let's start right in.

19 CHAIRMAN AIBEL: Great. Thank you.

20 MR. MARCIANO: All right.

21 Tom, just --

22 MR. GALVIN: Let me just jump over you,  
23 Frank. I apologize.

24 MR. MARCIANO: Sure.

25 MR. GALVIN: Raise your right 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                   MR. PERIDES:   Yes, sir.   I do.

5                   T S A M P I C O S   P E R I D E S, 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:   Tsampicos Perides.   Last  
10                  name is P, as in Peter, e-r-i-d-e-s.   Tom for the  
11                  ease of everybody else.

12                  MR. GALVIN:   Are you okay with that,  
13                  court reporter?

14                  THE REPORTER:   Yes.

15                  MR. GALVIN:   Okay.   All right.

16                  And you are a licensed architect in the  
17                  State of New Jersey?

18                  THE WITNESS:   Yes, sir.

19                  MR. GALVIN:   Give us three Boards that  
20                  you appeared before recently and don't include  
21                  Hoboken.

22                  THE WITNESS:   Don't include Hoboken.  
23                  Paramus, Union City, and Ridgewood.

24                  MR. GALVIN:   Thank you.

25                  Are you okay with that, Mr. Chairman?

1 CHAIRMAN AIBEL: Yes, we are.

2 MR. MARCIANO: Are we ready?

3 MR. GALVIN: Yes, we are now. We are  
4 all set.

5 MR. MARCIANO: Tom, would you just  
6 start by just placing this building in the zoning  
7 district and in the neighborhood, and then describe  
8 the building for us and the variances that we are  
9 requesting?

10 THE WITNESS: Okay.

11 We are at 72 Madison Street right now,  
12 an abandoned lot or an empty lot.

13 We are right parallel to Monroe and  
14 Observer Highway. We are in an R-3.

15 We have most of our bases covered in  
16 terms of variances, but we are requesting a height  
17 and a density variance.

18 I believe the density is 3.7, and we  
19 are requesting four units, and the height variance  
20 comes along because we are complying with the flood  
21 zone regulations to bring up the first unit above  
22 the flood plain.

23 MS. BANYRA: Pardon me.

24 Can you tell us the date of the plans  
25 that you are referring to?

1 THE WITNESS: 8/23.

2 MS. BANYRA: Thank you.

3 THE WITNESS: There should be 11-by-17  
4 copies, smaller versions. I know they are a little  
5 tough to read. I'm sorry, but --

6 MS. BANYRA: That is okay. I just  
7 wanted to make sure we are on the same plan page.

8 THE WITNESS: Yes. Because the letter  
9 by H2M was referencing a different set of plans, but  
10 I can go over that towards the end of the  
11 presentation, if you'd like.

12 MR. MARSDEN: I just realized I didn't  
13 have the new set.

14 THE WITNESS: Most of it is the same.  
15 It is close enough,

16 Other than the basics, it is a  
17 five-story building technically with four living  
18 units in it.

19 The first floor is ground level. Most  
20 of it is below the flood plain, which is at 13, so  
21 really the first floor, the ground level is pretty  
22 much for dry storage, empty space and for any future  
23 flood waters to pass through, if necessary.

24 We did the outside -- I don't know if  
25 you want me to go over the plans and elevations.

1                   The outside of the building, we tried  
2                   to keep it in check with some of the neighbors and  
3                   some of the newer construction in the area.

4                   On Page 4, I have the front elevation.  
5                   We are going with a band and brick facade from the  
6                   ground up. Every floor being delineated by nice --

7                   MR. GALVIN: Do you have a colorized  
8                   version of that?

9                   THE WITNESS: I do not have a colorized  
10                  version, no.

11                  MR. GALVIN: Okay.

12                  THE WITNESS: I called out some colors  
13                  on it, but I didn't produce a color rendering.

14                  MR. GALVIN: It would be a good idea in  
15                  the future to do that.

16                  THE WITNESS: Absolutely.

17                  Thank you.

18                  With the front entrance, because we are  
19                  so high up off the ground, we decided to partially  
20                  recess and partially expose the stairs, so we only  
21                  have about six or seven steps that encroach onto the  
22                  sidewalk, and the rest, the main entry way is set  
23                  back a little bit.

24                  It gives it a nice look. I believe  
25                  there's a house that has a similar feel to it, a

1 couple houses down in the 60s or so, wrapping brick  
2 around, adding some plantings to the front to break  
3 up the brickface, and oversized windows with a nice  
4 brick trim around them.

5 Changing this, having two different  
6 types of brick, and then a nice exterior sheathed  
7 cornice at the top of the building to trim it off.

8 We are not trying to reinvent the  
9 block. We just want to keep and respect what is  
10 there already, and try to keep it in keeping with  
11 the look of the neighborhood.

12 MR. GALVIN: Well, you might be  
13 starting something new in a good way.

14 (Laughter)

15 COMMISSIONER GRANA: In a very good  
16 way.

17 THE WITNESS: Okay.

18 The units are mostly -- the first unit  
19 is a two-bedroom unit, two bedrooms, pretty much an  
20 open floor plan, kitchen, living room, dining area,  
21 and one bath.

22 Units two, three, and four are  
23 three-bedroom units. The bedrooms are set to the  
24 extreme front and back of the building to allow for  
25 egress, and then you have an open wood deck in the

1 back that serves as our second means of egress down  
2 to the backyard.

3 Okay. You looked like you were trying  
4 to ask me a question.

5 MS. BANYRA: No, no, sorry.

6 THE WITNESS: We have an accessible  
7 rooftop. I would say on Page 4, which we are  
8 proposing a green roof system, we are leaving access  
9 and walkways for any mechanical units. But for the  
10 rest of it, we have nice, nothing fancy, nothing  
11 large scale, but just something to help break the  
12 thermal barrier and have -- bring in a little bit of  
13 modern efficiency to the heating and cooling of the  
14 building by having that green roof system there,  
15 something that's not very high, low cut, and  
16 something that's low maintenance, so that we don't  
17 have to worry too much about the tenants trying to  
18 upkeep it, and if they don't upkeep it, it doesn't  
19 work, but something that can also withstand this  
20 area in terms of what kind of vegetative plantings  
21 you put in there. Things that are usually six to 24  
22 inches in height.

23 CHAIRMAN AIBEL: So it is not intended  
24 for recreational use?

25 THE WITNESS: Excuse me?

1                   CHAIRMAN AIBEL: So it is not intended  
2                   for recreational use?

3                   THE WITNESS: Can you walk up there,  
4                   yes. But we haven't planned to have a patio,  
5                   barbecue or gathering area for any of the units, no.

6                   CHAIRMAN AIBEL: Thank you.

7                   MS. BANYRA: Okay. So I guess I'm  
8                   confused. A green roof typically you don't walk on.

9                   What you are saying is somebody can go  
10                  up there to water it, but that is about the limit of  
11                  that?

12                 THE WITNESS: To water it, yeah, to  
13                  maintain it and to access any mechanical units that  
14                  are on the roof, air conditioners and things like  
15                  that.

16                 MS. BANYRA: So it's not a usable roof.  
17                  It is accessible, but it's not usable?

18                 THE WITNESS: Correct.

19                 MS. BANYRA: Okay.

20                 THE WITNESS: Yeah. We didn't make it  
21                  accessible. We didn't propose any railing systems  
22                  or anything --

23                 MR. GALVIN: Eileen, at the Planning  
24                  Board, we got this thing where if it is a green  
25                  roof, it has to be at least 50 percent. Is that --

1 MS. BANYRA: Yeah, but they are doing  
2 the whole roof. They're doing more than that, so --

3 MR. GALVIN: So then the next step  
4 would be: What is the green roof going to be? Is  
5 it something seedum? How are you going to do that?

6 Do you have that plan?

7 THE WITNESS: I have it detailed by --  
8 I have the roof plan that I have here that we are  
9 proposing to do the green roof is basically leaving  
10 a walkway around the perimeter and by stairs in the  
11 mechanical area, and the rest of it --

12 MR. GALVIN: Here is what we are going  
13 to do. Here is what we have been doing.

14 THE WITNESS: Sure.

15 MR. GALVIN: The green roof is going to  
16 have to be maintained indefinitely for the life of  
17 the building --

18 THE WITNESS: Sure.

19 MR. GALVIN: -- and we are going to  
20 attach the green roof plan and the proposed, what do  
21 you call those, those green things, plants --

22 (Laughter)

23 THE WITNESS: Okay.

24 MR. GALVIN: -- and, you know, and what  
25 kinds of plants you're going to put there --

1 MS. BANYRA: Vegetation.

2 MR. GALVIN: -- vegetation you are  
3 going to put there, and we are going to put in a  
4 deed restriction against the property, okay?

5 THE WITNESS: Sure.

6 MR. GALVIN: So you are going to have  
7 to break that out in the future into something that  
8 is eight and a half by 11 or eight and a half by 14,  
9 so we can attach it with both the drawing and how it  
10 is going to be planted with a note.

11 THE WITNESS: Yeah, sure.

12 The biggest thing I need to do, and I  
13 know they have done it before, but I have to contact  
14 the rep and just get a specific on what kind of  
15 plants are used for this area. So obviously they  
16 use them up and down the coast, so I can get a  
17 breakdown and then provide an extra plan for you.

18 MR. GALVIN: Okay.

19 MS. BANYRA: Dennis, you said a deed  
20 restriction, correct?

21 MR. GALVIN: Yes.

22 MS. BANYRA: Okay. That would be  
23 revised, but that's okay.

24 Keep going.

25 THE WITNESS: Sure.

1                   And then the last thing is for the rear  
2 yard, we are proposing to pave the rear yard with a  
3 grass paver, something that is permeable.

4                   Have you seen the ones that look like  
5 the diamond shape that have the grass and soil to go  
6 through it to allow the water to run?

7                   It just makes it look a little nicer, a  
8 little more maintenance, but at the same time it  
9 also reduces the necessary retention for water and  
10 everything on site.

11                  I don't think you need me to get into  
12 what each apartment looks like besides three  
13 bedrooms. You have seen them before, but I think  
14 that is the basics of the proposal that we want to  
15 do here.

16                  CHAIRMAN AIBEL: Okay. Board members,  
17 open it up for questioning.

18                  COMMISSIONER DE GRIM: I have a few.

19                  THE WITNESS: Yes, sir.

20                  COMMISSIONER DE GRIM: Around the  
21 air-conditioning units on the rooftop, there is a  
22 mention of a 36 high vinyl screening.

23                  THE WITNESS: Yes.

24                  COMMISSIONER DE GRIM: It doesn't  
25 really point to anything as to where the screening

1 is.

2 Is it going all away the around all of  
3 the units?

4 THE WITNESS: It might be hard to read.  
5 There is a small -- there is a dashed X line that  
6 goes on three sides of the units around all five  
7 units, yes.

8 COMMISSIONER DE GRIM: So why not  
9 around the fourth side then?

10 THE WITNESS: That is our parapet side  
11 there. Nobody may be walking next to it, so since  
12 we have the parapet there --

13 COMMISSIONER DE GRIM: But you have a  
14 building next door, right?

15 THE WITNESS: But then we have a  
16 parapet wall there.

17 We could extend the fence to the  
18 parapet and completely circle it.

19 MS. BANYRA: Yeah. It's required to  
20 be -- any kind of units are required to be screened  
21 for some sound attenuation as per code.

22 THE WITNESS: No problem.

23 COMMISSIONER DE GRIM: Yeah. That was  
24 my second question -- my next question was: What  
25 kind of sound attenuation does the screening that

1       you proposed provide.

2                   THE WITNESS:  If we do a solid vinyl,  
3       it will provide it better as opposed to the open.  
4       But right now with the higher efficiency units, they  
5       are fairly quite.  But, yes, we can do solid vinyl,  
6       which helps buffer the noise a little bit better  
7       than the open type.

8                   COMMISSIONER DE GRIM:  And do you have  
9       any source of water going up to the rooftop to water  
10      the plants?

11                   THE WITNESS:  I would, yes.  I would  
12      have some sort of --

13                   COMMISSIONER DE GRIM:  Okay.

14                   THE WITNESS:  -- when I do my plumbing,  
15      I will definitely provide it.

16                   COMMISSIONER DE GRIM:  Okay.  And I am  
17      sorry, you said that the back pavers allow grass to  
18      grow through them?

19                   THE WITNESS:  Yes.  That is what we are  
20      proposing.  Actually the next page that you are on  
21      right now -- two more -- one more -- the bottom  
22      left-hand side.

23                   COMMISSIONER DE GRIM:  Okay.

24                   How does one trim grass that has grown  
25      through a paver?

1 THE WITNESS: When the whole thing is  
2 done, a lawnmower.

3 COMMISSIONER DE GRIM: Oh, you can do a  
4 lawnmower?

5 THE WITNESS: Yes.

6 COMMISSIONER DE GRIM: I have no  
7 further questions.

8 Thank you.

9 CHAIRMAN AIBEL: Board members?

10 Mr. Cohen?

11 COMMISSIONER COHEN: So just so I  
12 can -- looking at Z-1, is the height of your  
13 proposed building identical to the height of the  
14 building to the north?

15 THE WITNESS: Yes. 70 -- facing the  
16 building to the right, correct --

17 COMMISSIONER COHEN: Yes.

18 THE WITNESS: -- very close. I don't  
19 know where exactly to the inch, but we're very close  
20 to that height, yes.

21 COMMISSIONER COHEN: Do you know what  
22 the height is to the building to the north?

23 THE WITNESS: Hum, we looked at the --  
24 excuse me.

25 We did request from the owner -- we

1 didn't know the owner there, so we did request it.

2 Do we know the exact height of the  
3 building next door?

4 (Witness confers)

5 MR. GALVIN: You can't have whispering,  
6 guys. You got to like work it out. You're talking  
7 to us.

8 MS. BANYRA: Yeah.

9 THE WITNESS: Right now since I am  
10 unsure, I don't know the exact height. I know we're  
11 within about a foot or so of the building next door.

12 CHAIRMAN AIBEL: Can I just interject?

13 I happen to have the resolution for  
14 that approval next door, and again, this is a  
15 resolution, so I don't know how it relates to  
16 reality, but --

17 MR. GALVIN: Right, because they might  
18 build the building some other way.

19 (Laughter)

20 CHAIRMAN AIBEL: -- correct. But there  
21 is a variance for 41 feet ten inches.

22 MR. GALVIN: 41 feet ten inches is your  
23 next door neighbor.

24 THE WITNESS: Then we're ten feet over.  
25 Then my --

1                   CHAIRMAN AIBEL: Well, you are looking  
2                   for 43 feet --

3                   THE WITNESS: Oh, I thought you meant  
4                   the overall height was 41 feet. I'm sorry. The  
5                   variance was 41 feet.

6                   CHAIRMAN AIBEL: Right.

7                   THE WITNESS: So we are a two foot  
8                   difference.

9                   CHAIRMAN AIBEL: Okay.

10                  Go ahead.

11                  COMMISSIONER COHEN: Okay.

12                  So your building would be two feet  
13                  higher, at least according to that resolution --

14                  THE WITNESS: Yes.

15                  COMMISSIONER COHEN: -- it may not have  
16                  been built that way, but that's --

17                  MR. GALVIN: Well, I was kidding. I  
18                  expect them to build it that way.

19                  (Laughter)

20                  MR. GALVIN: I am sending Marsden out  
21                  there tomorrow to check on it.

22                  (Laughter)

23                  CHAIRMAN AIBEL: Who knows.

24                  COMMISSIONER COHEN: When was that  
25                  resolution?

1 CHAIRMAN AIBEL: September 2014.

2 COMMISSIONER COHEN: Okay.

3 (Board members all talking at once)

4 MR. GALVIN: I got a pain in my neck.

5 THE WITNESS: We wanted to match them  
6 as close as possible, if we can. I was a little on  
7 the cautious side when doing my structure, my  
8 building heights and things like that. So, you  
9 know, we want to match them, but I wanted to give  
10 myself a little bit of buffer room because I didn't  
11 do every single structural calculation, so I gave  
12 myself a little margin of error, which is like  
13 asking for a little bit higher depending on the  
14 parapet.

15 I would rather come in a few inches  
16 lower than have to ask for forgiveness later,  
17 because, you know, we used a 14-inch joist instead  
18 of a ten-inch joist.

19 COMMISSIONER COHEN: I think matching  
20 your neighbor is probably a good idea.

21 What is the square footage of each  
22 apartment? Is it 1350 square feet per unit?

23 THE WITNESS: It is 25 by -- that is  
24 correct, minus the common space for the stairwell.

25 COMMISSIONER COHEN: Okay.

1                   And do you know how much the common  
2 space takes up?

3                   THE WITNESS: About 80 square feet, 80  
4 or 90 square feet.

5                   COMMISSIONER COHEN: So it is about  
6 1270?

7                   THE WITNESS: 1250, 1270.

8                   COMMISSIONER COHEN: 1250, okay.

9                   THE WITNESS: All of the mechanicals  
10 for each apartment will be within the units, because  
11 you can't keep those stored below, you know --

12                   COMMISSIONER COHEN: On Z-4, you  
13 mentioned that even though there is no color scheme  
14 with respect to the bricks, and you identified the  
15 colors, I just wanted to see if I understand it  
16 correctly.

17                   THE WITNESS: Sure.

18                   COMMISSIONER COHEN: So is the primary  
19 brick that is going to be used here a red brick?

20                   THE WITNESS: Yes.

21                   COMMISSIONER COHEN: And then around  
22 the windows, you have references to -- it says a  
23 limestone ledge beneath the window.

24                   THE WITNESS: Yes.

25                   COMMISSIONER COHEN: Do you know what

1 color limestone you intend to use with that?

2 THE WITNESS: Limestone is typically  
3 that gray color.

4 COMMISSIONER COHEN: So a gray  
5 limestone?

6 THE WITNESS: Uh-huh.

7 COMMISSIONER COHEN: Okay.

8 Then there is a chocolate brick.

9 THE WITNESS: Yes, because we want to  
10 use a dark brown anodized window frame, so we want  
11 to match that with a dark brown chocolate type brick  
12 trim around the window.

13 COMMISSIONER COHEN: And can you just  
14 show on the diagram when you talk about the dark  
15 chocolate brown brick trim which -- so it is that  
16 row that is directly above the three windows?

17 THE WITNESS: Yes. It's the row with  
18 the three windows, and then bring it on the narrow  
19 side, on the three-inch side, down around on the two  
20 sides, too. So that row goes across as a soldier  
21 course, and then it comes down the left and right of  
22 each window.

23 COMMISSIONER COHEN: Okay.

24 So it would basically be a red building  
25 with sort of chocolate brown boxes around the

1 windows?

2 THE WITNESS: Actually similar, maybe a  
3 little bit darker than the mahogany wood there, but  
4 that type of scheme, the red with the darker brown.

5 COMMISSIONER COHEN: Okay.

6 And it appears to show a stoop that is  
7 going to be on the front, is that right?

8 THE WITNESS: Yes. We have the stairs  
9 half out, and then a landing, and then the doors  
10 recessed in.

11 COMMISSIONER COHEN: Sort of like a  
12 typical Hoboken stoop?

13 And there is no variance with respect  
14 to the front or the back of the building, right?

15 THE WITNESS: No.

16 COMMISSIONER COHEN: Okay. Thank you.

17 That is all I have.

18 VICE CHAIR BRANCIFORTE: On Z-1, your  
19 first page --

20 THE WITNESS: Yes.

21 VICE CHAIR BRANCIFORTE: -- you show  
22 there at the bottom, you show the site --

23 THE WITNESS: Yes.

24 VICE CHAIR BRANCIFORTE: -- the drawing  
25 of the site, and then next door you have the

1 building to the north that is also five stories?

2 THE WITNESS: Yes.

3 VICE CHAIR BRANCIFORTE: Do you think  
4 that is an accurate depiction of the building to the  
5 north?

6 THE WITNESS: Fairly accurate. It  
7 might not be exact.

8 VICE CHAIR BRANCIFORTE: Because now  
9 this is my understanding and maybe your planner has  
10 photos --

11 MR. MARCIANO: We do, yes.

12 VICE CHAIR BRANCIFORTE: -- but the  
13 building to the north, the top story is actually set  
14 back, so you can't see it from the street.

15 THE WITNESS: Okay.

16 VICE CHAIR BRANCIFORTE: So, you know,  
17 you are showing that you're lining up at the same  
18 height, but in reality what we see from the street  
19 is something completely different.

20 Now, is that true or not?

21 THE WITNESS: From what I -- when I  
22 took those, I will tell you the way I drew it was  
23 based off one of the plans of that building next  
24 door. We were able to procure a set of  
25 architectural plan, so I did it off there. I did

1 not do every single building for site measurements.

2 VICE CHAIR BRANCIFORTE: Yeah. I mean,  
3 maybe Mr. Ochab has photos that proves --

4 THE WITNESS: He does.

5 VICE CHAIR BRANCIFORTE: -- that the  
6 building next door is the same sort of flat facade  
7 design. When I saw it, it was set back.

8 MR. MARCIANO: If I can, let's mark  
9 this one second.

10 I'll mark this A-1 for identification.

11 (Photograph marked Exhibit A-1 for  
12 identification)

13 MR. GALVIN: Who took the pictures and  
14 when were they taken?

15 THE WITNESS: I can ask or you can wait  
16 for Mr. Ochab because I didn't take them.

17 MR. MARCIANO: Mr. Ochab took the  
18 pictures.

19 MR. GALVIN: Okay. We have seen plenty  
20 of Mr. Ochab's pictures, so we will wait.

21 (Laughter)

22 VICE CHAIR BRANCIFORTE: Can you pass  
23 it around or --

24 MS. BANYRA: No, we're waiting until --

25 MR. MARCIANO: No. We are waiting for

1 Mr. Ochab.

2 MR. GALVIN: No, no. He can pass it  
3 around. Go ahead.

4 VICE CHAIR BRANCIFORTE: You already  
5 submitted it as evidence.

6 MR. GALVIN: Technically, no. Just  
7 because it is marked doesn't mean it is in evidence.

8 VICE CHAIR BRANCIFORTE: Okay.

9 COMMISSIONER GRANA: Can I ask a  
10 question?

11 When you show what we're looking at in  
12 A-1, where is the proposed development in question?

13 Is it where this white brick wall is?

14 Is it where --

15 THE WITNESS: Yes. If you look at the  
16 picture below you, yes.

17 COMMISSIONER GRANA: That white brick  
18 wall is where the proposed development is, okay.

19 MR. MARCIANO: If I can, I think maybe  
20 for procedure, let me have Ken just identify it.

21 COMMISSIONER GRANA: Sure.

22 MR. MARCIANO: If I could bring up Ken  
23 for the limited purpose of identifying the pictures.

24 MR. GALVIN: Raise your right hand, Mr.  
25 Ochab.

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, even  
4                   about these pictures?

5                   (Laughter)

6                   MR. OCHAB: I do.

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

9                   MR. GALVIN: Can you state your full  
10                  name for the record and spell your last name?

11                  MR. OCHAB: Ken Ochab, O-c-h-a-b.

12                  MR. GALVIN: Mr. Chairman, do we accept  
13                  Mr. Ochab's credentials as a planner and as an  
14                  amateur photographer?

15                  (Laughter)

16                  CHAIRMAN AIBEL: We can wholeheartedly  
17                  endorse his photos, yes.

18                  MR. MARCIANO: Just identify A-1,  
19                  which is all four pictures, so that Tom can assess  
20                  them.

21                  THE WITNESS: Yes. So I took all of  
22                  the photographs.

23                  MR. MARCIANO: When did you take them?

24                  THE WITNESS: They were taken in the  
25                  early spring of this year, so somewhere around March

1 or April, and they depict the area of the site.

2 Do you want me to go through each  
3 photograph?

4 MR. MARCIANO: You might as well for  
5 them.

6 THE WITNESS: So the upper right  
7 photograph is a photograph of the site on the  
8 extreme right side, which is where the white fence  
9 is --

10 COMMISSIONER MARSH: That's the upper  
11 left photograph.

12 THE WITNESS: -- and then showing the  
13 adjacent property to the south, which is a  
14 three-story building set way back at the rear  
15 property line.

16 And then the second lot from the  
17 property shows a five-story building, more recently  
18 constructed. The bottom floor is the garage level  
19 for parking.

20 The upper right photograph shows the  
21 site in question on the left side of the photograph,  
22 and looking northward shows the adjacent building to  
23 the north, which was approved in I think 2014.

24 MR. MARCIANO: That is the building  
25 that we are discussing.

1                   While you are at that picture, can you  
2 describe that building with the setback or lack  
3 thereof?

4                   THE WITNESS: Well, it's a five-story  
5 building set on the front property line. Although  
6 there is some indentation in the front facade, John,  
7 the fifth story is not set back, so it is on the --  
8 right on the property line.

9                   The lower left photograph shows that  
10 building a little bit better, and again, you can see  
11 that, you know, each level has an indentation in the  
12 center of the building, but this is the fifth story  
13 or the top story, and it is at the same level as  
14 everything else.

15                   I was there today again to look at it,  
16 and they are all pretty much on the same facade.

17                   VICE CHAIR BRANCIFORTE: My question  
18 goes along these lines.

19                   The top right-hand corner -- the top  
20 right-hand photo, at the very top of the building  
21 there is a little thing that jogs up there. It  
22 looks like a penthouse almost.

23                   THE WITNESS: That is the elevator and  
24 the utilities.

25                   VICE CHAIR BRANCIFORTE: Was it?

1 THE WITNESS: Yeah.

2 VICE CHAIR BRANCIFORTE: Okay.

3 THE WITNESS: You know what you are  
4 thinking about, you are thinking about the next  
5 building to the north, where we had an application  
6 with a front deck --

7 VICE CHAIR BRANCIFORTE: No. I --

8 THE WITNESS: -- and then the setback,  
9 the building was actually set back beyond the deck.

10 VICE CHAIR BRANCIFORTE: No. I went  
11 today, and I was looking at it, and I was wondering  
12 what that was on top. To me, it didn't seem like a  
13 penthouse, so we don't measure height from the  
14 ground up to the top of the penthouse. We measure  
15 it from the ground to the top of the roof --

16 THE WITNESS: Right.

17 VICE CHAIR BRANCIFORTE: -- not the  
18 roof of the penthouse.

19 MR. OCHAB: It would be here.

20 VICE CHAIR BRANCIFORTE: Okay. That's  
21 fine.

22 MR. MARCIANO: All right.

23 Thank you.

24 THE WITNESS: The lower right  
25 photograph is the adjacent property to the south,

1 and the building is set back, and the parking is in  
2 the front just for context.

3 MR. MARCIANO: Thank you.

4 Tom, would you continue?

5 Thank you.

6 I would like to mark A-1 into evidence.

7 MR. GALVIN: Yes, that's no problem.

8 It has been identified, and the Board always takes  
9 it.

10 MR. MARCIANO: Thank you.

11 T S A M P I C O S P E R I D E S, having been  
12 previously sworn, testified further as follows:

13 MR. GALVIN: Any more questions for the  
14 architect?

15 CHAIRMAN AIBEL: Board members?

16 COMMISSIONER GRANA: I have a couple of  
17 questions.

18 I just want to be sure that both of you  
19 are in receipt of the letters from H2M from October  
20 10th and back on August 9th when the flood plain  
21 administrator both indicated -- well, the flood  
22 plain administrator indicated the need to properly  
23 identify the DFE at 13 feet, not at nine, and proper  
24 venting -- both identified the need for the proper  
25 venting for flood waters, so I just wanted to be

1       sure that those letters were read, understood, and  
2       that we had addressed them in this plan or plan to  
3       address them.

4                THE WITNESS:  Yes, especially those  
5       comments you just made.  The DFE and the flood vents  
6       were addressed on the plan that is currently there.

7                COMMISSIONER GRANA:  Okay.  We're  
8       looking at it now.

9                THE WITNESS:  That's correct.  That's  
10       marked as August 8th -- August 23rd, sorry.

11               You have, I believe, an older version  
12       right there.

13               COMMISSIONER GRANA:  And so there is a  
14       variance for height on the application?

15               THE WITNESS:  Yes.

16               COMMISSIONER GRANA:  So given that --  
17       given that we got -- let me ask you very simply.

18               What do you believe is driving the need  
19       for a height variance?

20               THE WITNESS:  Raising that ground floor  
21       above the DFE flood elevation.

22               COMMISSIONER GRANA:  Do you think a  
23       five-story building could be raised above the flood  
24       elevation and also be built within the ordinance?

25               THE WITNESS:  And the ordinance being a

1 40 foot height?

2 COMMISSIONER GRANA: Yes.

3 THE WITNESS: No.

4 VICE CHAIR BRANCIFORTE: Could you, on  
5 the other hand, though, could you build a four-story  
6 building with only four units versus five?

7 You are asking for five --

8 THE WITNESS: Four units.

9 VICE CHAIR BRANCIFORTE: You're asking  
10 for four, and you are allowed three.

11 So could you build a three-unit  
12 building in the same height --

13 MR. MARCIANO: Well, it is actually --

14 VICE CHAIR BRANCIFORTE: What's that?

15 MR. MARCIANO: -- 3.79 density.

16 VICE CHAIR BRANCIFORTE: Frank, you can  
17 show me how to build 3.79 --

18 MR. MARCIANO: That is like 2.4 people  
19 per family. You know what I mean?

20 VICE CHAIR BRANCIFORTE: It doesn't  
21 matter. It doesn't matter. If the court says knock  
22 it off, they don't say to raise it. They say to  
23 lower it --

24 CHAIRMAN AIBEL: Let's ask some  
25 questions, John.

1                   VICE CHAIR BRANCIFORTE:  -- so the  
2                   question is:  You say you can't build the five-story  
3                   unit within the height, but you could build a  
4                   three-unit building within the height, couldn't you?

5                   THE WITNESS:  Yes.  I believe you could  
6                   build a four-story, three unit building within 40  
7                   feet.

8                   VICE CHAIR BRANCIFORTE:  That is it.

9                   Thank you for answering that.

10                  COMMISSIONER GRANA:  Those are all my  
11                  questions.

12                  CHAIRMAN AIBEL:  Anybody else?

13                  I have a couple quick questions, and I  
14                  apologize for going in this direction, but on Z-1 --

15                  THE WITNESS:  Yes.

16                  CHAIRMAN AIBEL:  -- just looking at it,  
17                  and I know it is not the drawing that you have on  
18                  Z-2 or 3 --

19                  THE WITNESS:  Uh-huh.

20                  CHAIRMAN AIBEL:  -- but the stoop looks  
21                  very narrow.

22                  How wide is the stoop?

23                  THE WITNESS:  The stoop in the front of  
24                  the building?

25                  CHAIRMAN AIBEL:  Correct.

1                   THE WITNESS: About six feet wide. Are  
2 you talking purely the stair that extends or the  
3 stoop itself that is basically from the setback to  
4 the back?

5                   CHAIRMAN AIBEL: Well, let me make -- I  
6 will make the statement and then you can respond.

7                   I am looking at a stoop that appears  
8 narrow in this particular view with a lot of space  
9 to its left, a lot of open area both at grade and  
10 above. And, again, I understand that a slightly  
11 wider entry door with a slightly wider stoop may  
12 encroach a little bit on your footage on the first  
13 floor, but is there any reason that couldn't be made  
14 a little more generous and side lights on the door,  
15 something that looked a little bit more like a stoop  
16 that we would sit on as opposed to just go up and  
17 down?

18                   THE WITNESS: It definitely wasn't  
19 designed as a stoop that you could sit on. It is  
20 six feet wide, at least for a single door, is fairly  
21 generous.

22                   Can it be made wider?

23                   It could be made slightly wider, yes,  
24 without too much of an impact on the first floor  
25 because that is really all it affects is the first

1 floor.

2 We have a closet and a bedroom in that  
3 area, so I still don't think that would make it wide  
4 enough to sit on, which I think I could be  
5 comfortable with the nine to ten foot range. But to  
6 go from six to seven feet, you know, give the stairs  
7 a little more width, give that entry way a little  
8 more width, I think is not a big deal --

9 CHAIRMAN AIBEL: And I am not directing  
10 architectural decisions here, but if you gave that  
11 consideration, in your view, it ends up with a nicer  
12 design from the front, that would be wonderful.

13 THE WITNESS: Okay.

14 CHAIRMAN AIBEL: Anybody else?

15 MS. BANYRA: Can I ask some questions?

16 You just indicated that the stoop is  
17 six foot wide. However -- but at least the way the  
18 rendering is, it looks like the stoop is the size of  
19 the door.

20 You are not saying it was a six foot  
21 wide door?

22 THE WITNESS: No. The front piece is  
23 up, because it was so small, if we scaled it down,  
24 so it gets lost. The better version is on Z-4.

25 MS. BANYRA: Okay. Yeah.

1                   So then the second thing: Is your  
2 front door set back?

3                   I can't tell. Is it recessed or --

4                   THE WITNESS: Yes.

5                   MS. BANYRA: -- is it just -- no.

6                   THE WITNESS: It's recessed from the  
7 front plain, yes.

8                   MS. BANYRA: The front door is recessed  
9 from the front plain?

10                  THE WITNESS: Yes.

11                  MS. BANYRA: So how many steps do you  
12 actually go up before you hit the door?

13                  THE WITNESS: About ten or 11 steps by  
14 the time you meet the front --

15                  MS. BANYRA: Okay. So did you consider  
16 keeping the front door flush --

17                  THE WITNESS: Yes.

18                  MS. BANYRA: -- so that the -- so that  
19 the steps, what we have had happen a lot of times,  
20 so that the steps appear to be -- I am going to say  
21 in sync with the neighborhood?

22                  What we have often seen is that the  
23 front door actually comes down with the front face,  
24 and then you go landing, and then you go inside with  
25 the balance of the steps as opposed to having the

1 steps and having a longer run on the outside.

2 THE WITNESS: We did think about it.  
3 Actually one of our previous designs had it with  
4 regard to the zoning -- what was submitted for  
5 zoning.

6 If we had the steps come straight out  
7 in a straight line, which is a lot -- it would have  
8 really encroached on the sidewalk. It would have  
9 been like an obstacle for people to have to go  
10 around.

11 Our other design was actually to have  
12 the door flush and have the steps come down  
13 alongside of the building, which just really was not  
14 looked highly upon when we did some reviews with the  
15 planning and zoning, I think when this final design  
16 came up --

17 MS. BANYRA: So maybe we are not  
18 understanding each other.

19 So if the door was -- I am going to say  
20 if you cut the stairs in half, and if there is ten  
21 now, just say there was five, the door, go in,  
22 stairs. So that everything looks like -- you know,  
23 what happens behind the veil is almost less material  
24 than what the street scape is, you know, generally  
25 for the Board.

1                   THE WITNESS: The reason I didn't do  
2                   that was because I didn't want the door below the --  
3                   I didn't want the entry -- once you get into the  
4                   building, I want everything to be above the flood  
5                   plain --

6                   MS. BANYRA: Understood.

7                   THE WITNESS: -- so I didn't want to  
8                   have the door when you go into the door, having five  
9                   or six steps inside that were in, quote, unquote,  
10                  still lower than the flood plain, still in the  
11                  basement area almost.

12                  MS. BANYRA: Right.

13                  THE WITNESS: I wanted everything to be  
14                  above that point for the living space.

15                  So once you get into the front door, I  
16                  considered that the living space, so that is why we  
17                  sort of tried to break it up at least on the outside  
18                  by having the steps half out and then half in to at  
19                  least to give some sort of character to that front  
20                  entry way.

21                  COMMISSIONER MURPHY: So if you had  
22                  that front entry way, are you going to have any  
23                  other lighting inside of that little -- the couple  
24                  steps that are --

25                  THE WITNESS: That will be lit from

1 above, yes.

2 COMMISSIONER MURPHY: Above, okay.

3 CHAIRMAN AIBEL: The last question from  
4 me: How is the side of the building finished, the  
5 open side?

6 THE WITNESS: It is going to be a  
7 stucco concrete, similar to what is next door in the  
8 future event that somebody develops the property to  
9 the south of us.

10 CHAIRMAN AIBEL: Okay.

11 Anybody else, Board members?

12 VICE CHAIR BRANCIFORTE: In some of  
13 these three-bedroom units, you only show one  
14 shower -- one bath, one shower for a three-bedroom  
15 unit. Is that right?

16 THE WITNESS: Yes, yes. We have a bath  
17 and a half bath -- a full bath -- yes, one and a  
18 half bathrooms.

19 CHAIRMAN AIBEL: Are we okay?

20 COMMISSIONER MURPHY: So I guess when I  
21 think of a master bedroom, I think of a master  
22 bathroom that is accessible. I don't know. I mean,  
23 it is not really our place to worry about the  
24 inside, but, I don't know, for three bedrooms, one  
25 and a half bath is pretty -- you couldn't figure it

1 so you have -- you needed to have a full bath --

2 THE WITNESS: I get directions from  
3 above. You know, I get the directions on the  
4 requirements of the space myself, but also I have to  
5 consult with the owner who gives me what his master  
6 plan is also.

7 COMMISSIONER MURPHY: I got you.

8 CHAIRMAN AIBEL: Jeff?

9 MR. MARSDEN: Obviously you said you  
10 received my October 10th letter.

11 THE WITNESS: Yes.

12 MR. MARSDEN: So that was based on the  
13 previous plan?

14 THE WITNESS: Yes.

15 MR. MARSDEN: Does this current plan  
16 set address these issues?

17 THE WITNESS: Some of them.

18 MR. MARSDEN: Are you able to address  
19 all of the issues with minor changes to your plans?

20 THE WITNESS: Yes, we have.

21 MR. MARSDEN: And you will do that?

22 THE WITNESS: Yes, we will.

23 MR. MARSDEN: I am good.

24 VICE CHAIR BRANCIFORTE: Is there any  
25 law or any code that says, let's say, on Z-1 --

1 THE WITNESS: Okay.

2 VICE CHAIR BRANCIFORTE: -- you have  
3 the third floor plan --

4 THE WITNESS: Yes.

5 VICE CHAIR BRANCIFORTE: -- and you  
6 show the family room. Is it the family room and  
7 then the living room --

8 THE WITNESS: Family room and dining  
9 room.

10 VICE CHAIR BRANCIFORTE: -- family room  
11 and dining room.

12 Say you build this thing, and whoever  
13 is living there, whoever the owner of the unit is  
14 decides they're going to put up a wall and turn that  
15 into a fourth bedroom.

16 Is there any way -- do you have to come  
17 back to the Board for that?

18 Do you have to go to the city to put up  
19 the fourth wall?

20 THE WITNESS: Obviously, you have to go  
21 to the city. It's a multi-family unit, so they have  
22 to go to the city for a permit.

23 Now, is there a rule to say it can't be  
24 a four-bedroom?

25 Not that I am aware of, but definitely

1       you can't just put up a wall without any permission.

2                   VICE CHAIR BRANCIFORTE:   Okay. Got you.

3                   COMMISSIONER MARSH:   Are you sure?  Are  
4       you sure?

5                   THE WITNESS:   You should be able to?

6                   COMMISSIONER MARSH:   No.  I didn't say  
7       that.  Are you sure?  It is not a load bearing wall.

8                   THE WITNESS:   No, but if it was -- it  
9       is a commercial building.  It is multi-family, so  
10      any real construction in a multi-family is  
11      technically supposed to get a permit.

12                  VICE CHAIR BRANCIFORTE:   Technically  
13      supposed to get a permit?

14                  THE WITNESS:   Not everybody follows the  
15      rules.

16                  VICE CHAIR BRANCIFORTE:   That's what  
17      I'm getting at.  I am afraid that this is going to  
18      go from a, you know, a building with say I guess  
19      whatever, 12 bedrooms up to 16 bedrooms overnight.

20                  THE WITNESS:   It could, but also then  
21      four bedrooms in a space like that, then you kill  
22      any living space, so three bedrooms is fairly  
23      generous.

24                  VICE CHAIR BRANCIFORTE:   You are  
25      pushing it already with only one shower for three

1 bedrooms. You are already pushing the living -- the  
2 livability of the room.

3 THE WITNESS: Right.

4 VICE CHAIR BRANCIFORTE: All right.

5 CHAIRMAN AIBEL: Board members, are you  
6 finished?

7 I will open it up to the public.

8 Anybody in the public have questions  
9 for the architect?

10 Seeing none.

11 COMMISSIONER GRANA: Motion to close  
12 public portion for this witness.

13 COMMISSIONER COHEN: Second.

14 CHAIRMAN AIBEL: All in favor?

15 (All Board members answered in the  
16 affirmative)

17 CHAIRMAN AIBEL: Okay.

18 THE WITNESS: Thank you.

19 (Witness excused)

20 MR. MARCIANO: I would like to have  
21 Ken Ochab, who was previously sworn in.

22 MR. GALVIN: He is ready to go.

23 MR. MARCIANO: We already had his  
24 exhibit put into evidence.

25

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

3                         THE WITNESS:  So I went through the  
4           photographs.

5                         So we have two variances before us in  
6           the R-3 zone, and this building is designed, so that  
7           in terms of the lot coverage, we are at 60 percent  
8           lot coverage total, so not 63, not 65, not 62 and a  
9           half.  So we have a building that is actually less  
10          than 60 feet with a rear fire exit, patio, deck on  
11          the back of the building, 60 feet.

12                        The other thing that we have that is  
13          unusual here is we don't have a front encroachment,  
14          so we don't have bay windows or a set of bay windows  
15          that encroach out onto the right-of-way.  That is  
16          not usually a typical issue here, but at the  
17          Planning Board level they get really antsy about the  
18          continuation of building encroachment out over the  
19          right-of-way.  So we don't have any of that, so it  
20          is pretty clean from that perspective.

21                        We do have, again, the height variance,  
22          which, again, we had on and off continually.

23                        We have a flood elevation here at  
24          almost eight feet above the grade level, so the only  
25          thing you can do with that is put storage at that

1 level. We couldn't do parking. We don't have the  
2 lot width, and we wouldn't want to do it anyway.

3 So we have storage there, and that  
4 elevates the building another couple of feet, as the  
5 architect testified, in order to get access into  
6 that level, and then to get ten-foot ceiling heights  
7 for the other floors, so this is a typical C  
8 variance. It is a C1 variance in my view because of  
9 the restrictions of the flood plain imposes on the  
10 property in that context.

11 The density variance, of course, is a  
12 little different. Again, that is more or less  
13 guided by the Coventry criteria, which basically  
14 does a couple of things. It allows us to do a  
15 couple of things. Look at the adjacent properties  
16 to see what their densities are. See if we are  
17 consistent with that, and also to talk about whether  
18 the additional density would -- whether the site  
19 could accommodate any problems associated with the  
20 density.

21 So here is the basic set of  
22 circumstances surrounding the property here: Of  
23 course, we have the property to the north, which I  
24 pointed out before. Again, it is a five-story  
25 building. The density there, permitted density, is

1 3.78, just like we are here.

2 The number of units that were approved  
3 is four units, just as we are proposing, so we are  
4 basically matching in terms of the height,  
5 architecture, and not so much the mass because this  
6 building is actually 60 percent coverage with some  
7 decking or fire stairs at the rear, so we are  
8 actually less in terms of total coverage than the  
9 building to the north, but in other respects we are  
10 exactly that way including the density that we are  
11 asking for here.

12 But, again, it is 3.78. You can't  
13 round up. You round down to three, so we are about  
14 two-tenths of a unit away from complying with the  
15 ordinance.

16 The other side of the property, of  
17 course, has this building, which is in the lower  
18 right set way back definitely non conforming with  
19 respect to setback, with respect to its location.  
20 It's in what would typically be the open space area,  
21 so the hole in the donut, the hole in the donut  
22 effect, so whatever happens there will happen. We  
23 don't know at this point what that will be.

24 But the building just to the south of  
25 that is this building in the upper left photograph,

1 and that is a five-story building. You see the  
2 wall.

3 The first story here is the garage  
4 space, parking space, and then you have one, two,  
5 three, four units or four levels above that. And,  
6 again, you have the street scape analysis on the  
7 plan, which also shows you how it relates to that,  
8 so the long and short of it is we are basically  
9 being consistent with what is out there.

10 Currently what has been very recently  
11 approved here, and not so recently, but not in the  
12 too distant past to the south, and I think the site  
13 can accommodate any problems associated with that  
14 increase in the density.

15 Again, the density doesn't cause the  
16 building to be higher or cover more lot coverage or  
17 impact any of the open space in the rear.

18 We are still providing 40 feet of rear  
19 yard open space as shown on the plans, which is  
20 going to be consistent with what the other buildings  
21 have done in the surrounding area.

22 So from a negative perspective, again,  
23 the request of the variance in my view is on the  
24 minimal side. There is no impact to the surrounding  
25 properties as a result of the granting of the

1 variance for density or for height.

2 And with respect to the zone plan, it  
3 would be my view that it would not be a substantial  
4 impairment to the zone plan because basically we are  
5 only two-tenths of a unit away, and we are being  
6 consistent with the adjacent buildings on the north  
7 and the south of us that we can be, so --

8 COMMISSIONER MURPHY: I have a  
9 question.

10 CHAIRMAN AIBEL: Go ahead.

11 COMMISSIONER MURPHY: Can you describe  
12 at all across the street?

13 THE WITNESS: Across the street, the  
14 Board approved -- directly across the street, 75  
15 Madison, that building -- that property was 50 feet  
16 wide by a hundred feet in depth. The Board approved  
17 a five-story building at that location, but parking  
18 at the grade level because we have a 50 foot lot  
19 width.

20 COMMISSIONER MURPHY: How about the  
21 rest of the block?

22 THE WITNESS: The rest of it is mixed.

23 If you go further to the south, both  
24 sides, there is a collection of structures there.  
25 They look like three-story buildings with garages

1 along the bottom level.

2 It looks more like sort of a cape cod  
3 type townhouse effect than it does Hoboken, to be  
4 honest, and I don't know when those were built. But  
5 there's is a continuation of driveways. One  
6 continuous driveway on both sides of the street  
7 there, and you have a situation there where vehicles  
8 are actually parking up on the driveway, so there is  
9 no sidewalk per se.

10 I was there today, and there were like  
11 two or three cars that were -- so it is not a good  
12 situation, but it exists. It is not going to go  
13 away, and that is the context further south.

14 Further north is more like we have  
15 here, a mix of different buildings, some lower, some  
16 higher, but definitely leaning in the direction that  
17 I think we are proposing here.

18 COMMISSIONER MURPHY: Thank you.

19 COMMISSIONER COHEN: Mr. Ochab, just to  
20 be consistent with the architect, is it your  
21 understanding that you are planning to match the  
22 height of this building to the building to the north  
23 the same height?

24 THE WITNESS: I can tell you that the  
25 building to the north is two feet lower than the

1 building that we are proposing here. That is how it  
2 was approved. The Chairman was correct.

3 COMMISSIONER COHEN: So the building  
4 you are proposing is going to be two feet higher  
5 than that building?

6 THE WITNESS: Yes.

7 I am not the person to talk to about  
8 what can be done about that.

9 COMMISSIONER COHEN: Okay. No. I just  
10 wanted to know.

11 THE WITNESS: It may not be anything  
12 wrong with it in the sense that, you know, you have  
13 a little variation in heights from an esthetic  
14 perspective, but that would be my only comment.

15 CHAIRMAN AIBEL: You know, we like to  
16 get as close to the ordinance as we can.

17 COMMISSIONER COHEN: So, yeah, the  
18 question is it parapet to parapet, or roof line to  
19 roof line, talking about a two-foot comparison?

20 THE WITNESS: My perspective is roof  
21 line to roof line.

22 COMMISSIONER COHEN: Okay.

23 So how much higher is the parapet than  
24 the roof line on this building?

25 THE WITNESS: I knew you would ask me

1 that.

2 (Laughter)

3 MR. PERIDES: I think I have it marked.  
4 I think I have it marked from the parapet. My 51  
5 feet or 51 feet five inches from the ground, I have  
6 measured to the parapet, so I have --

7 THE WITNESS: Put it in the context  
8 from --

9 MR. PERIDES: From the flood elevation,  
10 43 feet nine inches from the flood elevation.

11 COMMISSIONER COHEN: The planner is  
12 saying three and a half feet.

13 MS. BANYRA: It looks like the --

14 THE WITNESS: Just the parapet --

15 MR. PERIDES: Okay. I'm sorry.  
16 About two feet.

17 MS. BANYRA: Two feet, so it says the  
18 fifth floor at 48 -- it's hard to read, 48-4?

19 MR. PERIDES: 49-4.

20 MS. BANYRA: And then -- 49 feet.

21 And then 51-8?

22 MR. PERIDES: 51-5.

23 MS. BANYRA: 51-5. Okay.

24 COMMISSIONER COHEN: Okay.

25 Thank you.

1 COMMISSIONER DE GRIM: Excuse me.

2 While you are still there, do you know  
3 what the parapet is of the neighboring building?

4 MR. PERIDES: From the side view, it  
5 doesn't look like there's any --

6 THE WITNESS: It doesn't look like  
7 there is any parapet there.

8 CHAIRMAN AIBEL: Mr. Perides, while you  
9 are still up there, let me ask you a couple of quick  
10 questions.

11 Is the building going to be LEED  
12 certified?

13 MR. PERIDES: Excuse me?

14 CHAIRMAN AIBEL: Will the building be  
15 LEED certified?

16 MR. PERIDES: Right now, we don't have  
17 plans for LEED certification, no.

18 CHAIRMAN AIBEL: Is that something you  
19 can consider?

20 MR. PERIDES: I am not LEED certified,  
21 so I can definitely talk to the owner to see if he  
22 wants to make it LEED certified, but that could be a  
23 discussion, sure.

24 CHAIRMAN AIBEL: Are you proposing new  
25 curbs, new sidewalks, and street trees?



1 parapet, you should be measuring it to the roof.

2 MR. PERIDES: I have both.

3 MS. BANYRA: You have them both, right,  
4 so -- so the height is --

5 MR. PERIDES: So I'm just talking about  
6 them visually lining up, because we have a parapet  
7 cornice, that detail there, visually we would be  
8 higher. But to the roofs, we are going to be -- we  
9 are at 49-4 or 49-5, I think I said, and what was  
10 the approval for the other building 40 --

11 CHAIRMAN AIBEL: 41-10.

12 MR. MARCIANO: What was that statement  
13 that you made about the joists being different  
14 sized?

15 Why can't we control that?

16 MR. PERIDES: I'm sure I just haven't  
17 done all of the calculations of the structure  
18 because I didn't want to go into that before we  
19 got -- it's sort of putting the cart before the  
20 horse.

21 MR. MARCIANO: What is the different  
22 sizes of the joists that you would have?

23 MR. PERIDES: Many different sizes  
24 depending on the structure. You can go from ten  
25 inches to 16 inches to do a structure depending on

1 the method you use for construction.

2 MR. MARCIANO: If you had a smaller  
3 parapet size, would that make up for the difference?

4 MR. PERIDES: The parapet height would  
5 not --

6 MR. MARCIANO: -- no -- does the  
7 drawing --

8 MR. PERIDES: -- it definitely makes a  
9 difference, but a smaller joist is usually a more  
10 expensive joist for a heavier material, so -- and  
11 it's a big variation in structure --

12 MR. GALVIN: I am trying to help you.

13 MR. PERIDES: Yeah.

14 MR. GALVIN: We are going off track,  
15 okay?

16 MR. PERIDES: Okay.

17 MR. GALVIN: What we want is we want  
18 this building to be no higher than the building we  
19 just approved at 74 Madison --

20 THE WITNESS: Okay.

21 MR. GALVIN: -- make it so, all right?  
22 Make it so, or it is not going to happen, okay?

23 MR. PERIDES: It will be done.

24 MR. MARCIANO: There you go.

25 MR. OCHAB: Why didn't you say that in

1 the first place?

2 (Laughter)

3 MR. GALVIN: Well, I was giving you a  
4 chance to explain it to me. Sometimes I don't  
5 understand something. Throw me a bone here I mean.

6 (Laughter)

7 I don't want to have a parapet and have  
8 it look off kilter or something like that.

9 MS. BANYRA: And we do -- the code also  
10 requires ten foot floor to ceiling --

11 MR. PERIDES: Yes.

12 MR. MARSDEN: Floor to floor.

13 MR. PERIDES: Floor to floor.

14 MS. BANYRA: -- floor to floor, excuse  
15 me, yeah.

16 MR. GALVIN: So do you suggest, do we  
17 need to grant a variance --

18 MS. BANYRA: No, no. I am just letting  
19 him know because he has to do the calculations. I  
20 just want him to put that in his brain, so he can  
21 say to us, you know what, there is no way I can do  
22 it, or it still sounds possible.

23 MR. PERIDES: Let me ask you a question  
24 now.

25 Next door, there is no parapet, and I

1 believe they don't have a green roof because --  
2 where we have a roof that is going to be at least  
3 marginally used to maintain it in terms of safety,  
4 should we have something there?

5 I cut down the parapet. I cut down two  
6 feet off my building, very easy. I get very close  
7 to what the next door neighbor is, but by doing a  
8 green roof, I do want to have some measure of safety  
9 for people who are going to be using the rooftop.

10 MS. BANYRA: So you're using your  
11 rooftop --

12 MR. PERIDES: Not using it, but at  
13 least maintain it.

14 MS. BANYRA: Yeah.

15 So the maintenance of that is going to  
16 require somebody to professionally maintain it,  
17 number one.

18 Number two: The interior of your green  
19 roof can't be reached, you know, right now, so it's  
20 going to be --

21 MR. GALVIN: Guys, I'm so sorry. Here  
22 is what I suggest. Time out. We are going to take  
23 a time out. All right?

24 You are the only game on tonight. Pat  
25 is going to go upstairs. We are going to get 74

1 Madison, and we are going to look at it. Okay?

2 CHAIRMAN AIBEL: Good.

3 Let's finish with Mr. Ochab. He is  
4 still testifying.

5 THE WITNESS: I was done with my  
6 testimony.

7 CHAIRMAN AIBEL: Can I ask a question,  
8 if nobody else wants to?

9 VICE CHAIR BRANCIFORTE: Well, go  
10 ahead, but I have question.

11 CHAIRMAN AIBEL: Go ahead, John.

12 VICE CHAIR BRANCIFORTE: You know, Mr.  
13 Ochab, I am looking at your planner's report, Pages  
14 3 and 4 of your report --

15 THE WITNESS: Okay.

16 VICE CHAIR BRANCIFORTE: -- and, you  
17 know, I see a lot of buildings here that, you know,  
18 164 percent over density deviations is 164 percent  
19 over, and 120 percent over. But there is also a lot  
20 of buildings on this block, where the density  
21 allowed is 3.7. The density calculated is 3.79, and  
22 they only built three units. Some built two units.

23 You know, why do you guys have to go  
24 up? Why can't you go down in the number of units?

25 Why can't you just build three?

1                   Why do you have to build four, because  
2                   you are talking about the character of the  
3                   neighborhood and how this fits in with the other  
4                   buildings in the neighborhood, but that plays both  
5                   ways.

6                   I mean, you can say the character of  
7                   the neighborhood, the density in the neighborhood is  
8                   very high and higher than three units, but the case  
9                   could probably be made that it is also in a lot of  
10                  places lower than the allowed density.

11                 THE WITNESS: Well, when I do the  
12                 tables, I give you all of the properties. I don't  
13                 restrict them to any particular data set or  
14                 whatever, so I give you everything. And some of the  
15                 buildings, some of the buildings that do meet the  
16                 density requirement are older structures. Some of  
17                 them are two stories or three stories in height, so  
18                 you know, I give you everything. But when I  
19                 testify, I like to sort of concentrate on the  
20                 immediate areas just around us, because typically  
21                 that is where the Board has always focused its  
22                 attention.

23                 So if you look at that, you know, if  
24                 you look at the whole neighborhood, clearly it is  
25                 mixed. It is mixed from meeting the requirements

1 to, let's see, 137 percent over the requirement.

2 Now, how that happens, you know, who  
3 knows. It is maybe a building from a different  
4 time.

5 But if you look at the adjacent  
6 properties, most of the adjacent properties, I think  
7 we are right on with respect to what we are  
8 requesting.

9 VICE CHAIR BRANCIFORTE: Yeah, but, you  
10 know, the problem -- look, I will ask you this  
11 question.

12 I think the problem would be that you  
13 are looking at the most adjacent properties that  
14 were, you know, we have to look at the entire block.  
15 You can't just cherry pick the buildings you want us  
16 to compare. I hope that's not what you're doing.

17 THE WITNESS: That is why I give you  
18 the whole block. I give you everything on the block  
19 that I can get information on.

20 VICE CHAIR BRANCIFORTE: But then like,  
21 for instance, on Z-1, you show the tax map, and Lot  
22 42.01 is a four-story building, but you don't show  
23 it on your -- I don't see it on your chart unless I  
24 am missing it. Like you show --

25 THE WITNESS: Say that again.

1                   VICE CHAIR BRANCIFORTE: On the corner  
2 there, on the tax map, it shows Block 16, Lot 42.01.  
3 That's on the corner.

4                   THE WITNESS: Okay. Oh, I see it.

5                   VICE CHAIR BRANCIFORTE: I am kind of  
6 curious what the density in that building is, but I  
7 don't know if it is in your chart, because that is a  
8 four-story -- is that a four-story building -- that  
9 is three over one, so --

10                  THE WITNESS: I don't know why it is  
11 not there.

12                  Sometimes I do the entire block, but  
13 sometimes I just do, you know, within several  
14 hundred feet of the property as a range, so I may  
15 have chosen to do it that way.

16                  VICE CHAIR BRANCIFORTE: Right.

17                  I mean, even Block 40 is not on there.  
18 You stop at Block 39.

19                  So I think to be fair, we need to  
20 include that corner all the way to the south, that  
21 big building there on the corner of Madison, and I  
22 guess Newark, I guess it is.

23                  THE WITNESS: If you do that, you are  
24 going to come up with the same results I am showing  
25 you on the table here, so I don't think that changes

1 the overall picture of the context of the  
2 neighborhood with respect to density.

3 VICE CHAIR BRANCIFORTE: The only  
4 reason I bring it up is because it is a four-story  
5 building, and you are asking for five stories, so I  
6 think we should really --

7 THE WITNESS: Well, it is not stories  
8 that count here. It is the density of the project.

9 VICE CHAIR BRANCIFORTE: Right, but we  
10 don't know what the density is because you didn't  
11 include it.

12 THE WITNESS: No. The buildings  
13 immediately to the south, these buildings here, are  
14 on a property size that is 18 -- 1,875 square feet,  
15 so they are actually on undersized lots, and yet  
16 they have the same density or a higher density than  
17 the project that we are proposing here because of  
18 that. That is not a fault of their own. But St.  
19 Joe's Church takes up an enormous part of the block  
20 here, so we have that to consider as well.

21 VICE CHAIR BRANCIFORTE: Okay.

22 CHAIRMAN AIBEL: Mr. Ochab, one quick  
23 question.

24 In your view, is the reduction in  
25 building coverage a benefit in a flood zone?

1 THE WITNESS: Yes, it is because it  
2 does allow more space, more open area.

3 CHAIRMAN AIBEL: Thank you.  
4 Anybody else?

5 CHAIRMAN AIBEL: Okay. Let me open it  
6 up to the public.

7 Anybody in the public have questions of  
8 Mr. Ochab?

9 Seeing none, can I have a motion?

10 COMMISSIONER GRANA: Motion to close  
11 public portion.

12 COMMISSIONER COHEN: Second.

13 CHAIRMAN AIBEL: All in favor?

14 (All Board members answered in the  
15 affirmative)

16 MS. BANYRA: Mr. Chair, can I ask the  
17 architect a question while we are waiting to do  
18 maybe a calculation?

19 CHAIRMAN AIBEL: Sure.

20 T S A M P I C O S P E R I D E S, having been  
21 previously sworn, testified further as follows:

22 MS. BANYRA: So your usable space on  
23 the roof, I am going to need you to calculate your  
24 green roof versus the usable space, number one.

25 Number two: Then you are going to be

1 required to have at least a three-foot railing I  
2 believe in the front and the maintenance, I don't  
3 know that, you know, what is going to meet code on  
4 either side, whether or not you need a fence, but  
5 you are going to have to have something, you know, I  
6 believe in the front of the building to keep people  
7 away, so I don't know that you will be able to walk  
8 all around that, number one.

9 So I think what area is going to be  
10 usable --

11 THE WITNESS: I can give you that --

12 MS. BANYRA: Okay. So I saw like 1100,  
13 but that is the walk-around space, because the whole  
14 roof is only 1500. If you calculate 25 by 60, it  
15 ends up being 1500 square feet, and what you are  
16 telling me is that the walking space is 1100?

17 THE WITNESS: No. The entire space  
18 is -- the entire space there is 1150 and 700 of that  
19 is the actual green portion.

20 MS. BANYRA: Okay.

21 You may need to redesign that based on  
22 the safety features that will be required in the  
23 front of the building. I believe you will need some  
24 kind of a rail or something.

25 Right, Jeff?

1                   Maybe in the rear, too, especially if  
2                   it goes right up to the rear, I don't think you can  
3                   do that --

4                   THE WITNESS:   That could be adjusted.

5                   MS. BANYRA:    Yeah.  It might be a fire  
6                   code, so you will have to speak to somebody about  
7                   that.

8                   THE WITNESS:    I will check it.

9                   COMMISSIONER DE GRIM:  Is there any  
10                  railing on the building next to it?

11                  THE WITNESS:   No, there is not, but I  
12                  don't know what is on the roof either -- so I  
13                  couldn't tell you if it is just access to the  
14                  mechanical use, which may be fenced in, so I --

15                  (Board members confer and review plans)

16                  MR. GALVIN:    You know, they just have  
17                  perforated lines, so we would ignore it.

18                  COMMISSIONER DE GRIM:  What was that,  
19                  Dennis?

20                  MR. GALVIN:    Here, I will show you.

21                  (Board members confer)

22                  THE REPORTER:  Dennis, I guess this is  
23                  off the record?

24                  MR. GALVIN:    We'll put it on the  
25                  record.

1                   If you look here on the left-hand side,  
2                   they identified how they reached the height.

3                   THE WITNESS:   Yes.

4                   MR. GALVIN:    So compare and contrast.  
5                   Ten foot per floor.  You have four floors.

6                   THE WITNESS:   Well, they have 12 -- one  
7                   big difference here is they have a 12 foot elevation  
8                   NAVD, and we are now at 13 feet, so it is a whole  
9                   foot difference.

10                  MR. MARCIANO:   That changed, right?

11                  MR. MARSDEN:   If I may, the 12 foot  
12                  never changed.  It is the DFE, which has to be one  
13                  foot clear --

14                  THE WITNESS:   Right, and so that's --

15                  MR. MARSDEN:   -- and with the floor  
16                  joist, you have to have the additional one foot.

17                  THE WITNESS:   Right, so that's --

18                  MR. GALVIN:    So one year's time, we  
19                  need to grant them a foot?

20                  MR. MARSDEN:   Yes, if that is what it  
21                  was, yeah, if that is what the intention is keeping  
22                  it at the DFE, the DFE changed.

23                  MR. GALVIN:    Yes.  We wanted to keep it  
24                  even with the building next door, so that is the  
25                  reason to grant a foot relief.

1 No, yes?

2 MR. MARSDEN: I would think.

3 MR. GALVIN: But instead of 41-10, then  
4 we would be looking at 42-10 --

5 THE WITNESS: Right.

6 MR. GALVIN: -- which is still a little  
7 bit less than what you are asking for.

8 THE WITNESS: Yes, because we are at  
9 43-9 with one foot --

10 MR. GALVIN: So you have to lose a foot  
11 and an inch or so.

12 THE WITNESS: They have floor to floor  
13 is ten foot, and I am ten foot one, and I allowed  
14 four inches -- yeah --

15 CHAIRMAN AIBEL: Are we okay, Counsel?

16 MR. GALVIN: We are requiring it  
17 whether you guys agree or not.

18 (Laughter)

19 THE WITNESS: If that is a requirement,  
20 I will make it work. I will find a way to make it  
21 work.

22 MR. GALVIN: 42 feet ten inches.

23 CHAIRMAN AIBEL: Okay.

24 COMMISSIONER DE GRIM: From the roof --

25 THE WITNESS: From the top to the roof,

1       yeah, the way they did it, it is to the roof.

2                   MR. GALVIN: Right. So they were  
3       trying to keep them as close as possible.

4                   What we are recognizing is the fact if  
5       they are starting one foot higher because of the  
6       flood regulations, that seems reasonable to let them  
7       be one foot higher.

8                   MS. BANYRA: But this one has a cornice  
9       also, so that's going to be different.

10                  COMMISSIONER COHEN: But that doesn't  
11       count.

12                  MS. BANYRA: No. It doesn't count in  
13       terms of measurement, but in terms of the look --

14                  COMMISSIONER COHEN: The roof line will  
15       match the --

16                  COMMISSIONER GRANA: No. The roof line  
17       will not match because you'll see the cornice, and  
18       it will appear higher.

19                  MS. BANYRA: The cornice -- yeah, the  
20       cornice is going to be two feet higher, so you  
21       know --

22                  MR. GALVIN: As long as it is okay with  
23       the Board.

24                  MS. BANYRA: Yeah, I'm just saying  
25       because the roof is measured --

1 COMMISSIONER GRANA: But from the  
2 height --

3 THE WITNESS: No. Our roof line we are  
4 going to a foot greater --

5 COMMISSIONER GRANA: -- I'm sorry --

6 THE WITNESS: -- because of the DFE.

7 And if you allow us to do the cornice,  
8 then we will be above that, but that is at the  
9 pleasure of the Board. If we don't include the  
10 cornice, then we'll work out how to do the green  
11 roof and safety --

12 MR. GALVIN: We want the cornice,  
13 right?

14 (Board members all talking at once.)

15 MR. GALVIN: You are fine. Just stop.  
16 Follow what I am telling you.

17 (Laughter)

18 CHAIRMAN AIBEL: Counsel, any more  
19 witnesses?

20 MR. MARCIANO: Well, if you would like  
21 to speak to the owner just for a second, if you have  
22 any questions of him.

23 CHAIRMAN AIBEL: Board members?

24 MR. GALVIN: It is nice to have the  
25 owner, but we are not used to it --

1 MR. MARCIANO: Oh, that's fine.

2 MR. GALVIN: -- not in Hoboken, but in  
3 my other towns --

4 MR. MARCIANO: No problem. That is it  
5 then.

6 Thank you.

7 CHAIRMAN AIBEL: It is up to you.

8 Let me open it up to the public.

9 THE WITNESS: What was the number, 42  
10 feet and --

11 MR. GALVIN: 42 feet ten inches.

12 THE WITNESS: Thank you.

13 CHAIRMAN AIBEL: Open it up for public  
14 comment.

15 COMMISSIONER GRANA: Seeing nobody from  
16 the public, motion to close public.

17 CHAIRMAN AIBEL: All in favor?

18 (All Board members answered in the  
19 affirmative)

20 MR. MARCIANO: Thank you.

21 That's it.

22 No other witnesses.

23 CHAIRMAN AIBEL: Do you care to make a  
24 statement?

25 MR. MARCIANO: Well, we are going to do

1       whatever the Board thinks is the best. I think we  
2       have an indication that we want the same height,  
3       which we will accomplish. We have been doing that  
4       from the beginning. This little snafu right now, we  
5       are taking care of.

6                   As you can see, as I stated from the  
7       beginning, it is very minor variances. It's similar  
8       to the adjacent buildings, and it fits in with the  
9       adjacent buildings, and we request permission to  
10      build it.

11                   CHAIRMAN AIBEL: Thank you, sir.

12                   Board members, let me open it up for  
13      deliberations.

14                   COMMISSIONER MC BRIDE: Are you going  
15      to put a railing there now where there's no railing  
16      proposed?

17                   Is the railing visible from the street,  
18      and how far back does it have to be to not be  
19      visible from the street, and what does that do to  
20      your green roof?

21                   That is three questions. I'm sorry.

22                   THE WITNESS: One sentence: A railing  
23      could be put. I think it would have to be about  
24      five feet, six feet off the facade to have -- from  
25      the same side of the street, it would have to be

1       about five or six feet back to go across the street,  
2       if you look up, you're going to be a lot further  
3       back.

4                       From the same side, though, I think you  
5       would have to be about five or six feet back from  
6       the railing, and I personally, if I were to do a  
7       green roof, I would keep that behind the railing and  
8       just let the rest be natural roofing, PVC roofing  
9       material, where it just flows down and puts it back  
10      into the gutter, if we did a railing.

11                      COMMISSIONER MC BRIDE:  Counsel, didn't  
12      we put a requirement for a railing in because we had  
13      this discussion --

14                      MR. GALVIN:  No.  I didn't pick up on  
15      that.

16                      MS. BANYRA:  Yes.

17                      So I think they will be required by  
18      code to put -- and I don't know the building code,  
19      but I am pretty sure they are going to be required  
20      to put a railing up because you can't just walk up  
21      to the front of a building.

22                      He has an accessible walkway all the  
23      way around right up to the ledge basically.  We  
24      don't allow a two foot cornice to act as the  
25      barrier.  I don't believe the fire does or anything.

1                   So I think the roof is going to have to  
2                   be redesigned to have a railing, I just personally  
3                   think, both front and back.

4                   And the walkway, the question I have  
5                   for the Board is: They call it a usable roof in  
6                   terms of there's a walkway around for maintenance.  
7                   Is it just for maintenance or is it usable?

8                   MR. GALVIN: Oh, you know, it's just  
9                   for maintenance.

10                  THE WITNESS: Just for maintenance.

11                  MS. BANYRA: So then you have some  
12                  other space up there that you can move things around  
13                  and green up, but I think you are going to end up  
14                  having a walkway through it to maintain it and to  
15                  plant it and stuff.

16                  THE WITNESS: Probably.

17                  MS. BANYRA: So I think the roof design  
18                  is going to have to change.

19                  THE WITNESS: We will definitely be  
20                  checking with the fire official to make sure we meet  
21                  all of the codes.

22                  MS. BANYRA: And then come back to us  
23                  with the revised plan and roof plan and appropriate  
24                  plant material.

25                  THE WITNESS: Yes. We will do a

1 combination of the fire official's code requirements  
2 and also the requirements for the percentages,  
3 absolutely.

4 MS. BANYRA: Great.

5 CHAIRMAN AIBEL: Do we have any  
6 comments, Board members?

7 COMMISSIONER MC BRIDE: Are these  
8 condominiums or rentals?

9 MR. GALVIN: It doesn't matter for our  
10 purposes. They can tell us they are going to rent  
11 it, and then turn around and condo it or vice versa.

12 MR. MARCIANO: It's going to be  
13 rentals. It's going to be rentals.

14 COMMISSIONER MC BRIDE: Okay. Going to  
15 John's question, somebody goes in with two by threes  
16 and builds another -- you wouldn't know -- we  
17 wouldn't know --

18 MR. MARCIANO: There was a fire on this  
19 site, and it was a three-bedroom unit. That is how  
20 the owner went to three-bedroom units.

21 CHAIRMAN AIBEL: Okay. Let's get the  
22 deliberations going.

23 Anybody want to kick it off?

24 VICE CHAIR BRANCIFORTE: You know, if  
25 you don't mind, the height, I can go either way

1 with. I think it is height creep. We still have a  
2 lot of buildings on that street.

3 You know, I can't tell really from this  
4 drawing about the average height and all of that  
5 other stuff. But the height I am not going to spend  
6 too much time on, but the density.

7 You know, we continue to allow  
8 developers to round up when the Court says, you  
9 know, you chop off those digits at the end, and you  
10 just lower it, so I don't know what to tell you.

11 I was out with somebody last night, who  
12 lives in the neighborhood. He has no idea I am on  
13 the Zoning Board, and all he did was complain all  
14 night about parking, and now we are going to allow  
15 an extra unit, a three-bedroom unit rental.

16 I've already said there is a very thin  
17 line between a fraternity house and family-friendly,  
18 and this is pushing a fraternity house, and giving  
19 that extra unit, I see no benefit to the  
20 neighborhood. I just see the down side with parking  
21 and all of the other problems that it brings, so I  
22 am against the density.

23 CHAIRMAN AIBEL: Anybody else wish to  
24 comment?

25 COMMISSIONER COHEN: I mean, just on

1 the density, I mean, 3,79 is permitted, if they had  
2 turned the top two units into a duplex, it would be  
3 three. I really don't see this as a problem in  
4 terms of density. I think the height issue, they  
5 have accepted what we have offered, They are  
6 creating a donut here.

7 There is no -- I mean, it basically  
8 matches what we approved two years ago. I mean, it  
9 lines up with it.

10 I probably would have appreciated, and  
11 I think our counsel made the point that we like to  
12 see color schematics, so we can see. I mean, but I  
13 think the way it has been described, it sounds like  
14 an attractive brick building that will match the  
15 neighborhood, the nicer parts of that neighborhood.

16 There is a lot of small wooden  
17 structures with driveways on half of this block.  
18 This actually has a wider more gracious stoop. It  
19 is going to have a Hoboken feel. I think it's an  
20 improvement on what is there, so I think it's fine.

21 COMMISSIONER GRANA: I am going to  
22 agree with Commissioner Cohen and just make a couple  
23 of comments.

24 It is tough with the density and the  
25 height. No offense to anybody that might live on

1       this block. But I go by this block a lot, and how  
2       do I put it, it is a mess.

3                       (Laughter)

4                       And what I would say is this is one of  
5       the first applications I have seen for something  
6       that would come onto this block that would be much  
7       more in character with what we tried to pursue with  
8       the master plan, with a structure that not only fits  
9       in the lot coverage, but also has the right facade  
10      elements, and we don't usually approve on esthetics.  
11      But, you know, is it a better solution for the site?

12                      Both the facade, the cornice and the  
13      stoop elements, I think are a good addition to a  
14      block that has a lot of problems.

15                      And with respect to the other arguments  
16      around density and height, I agree with Commissioner  
17      Cohen.

18                      CHAIRMAN AIBEL: Anyone else wish to  
19      comment?

20                      All right. A couple additional  
21      comments from my perspective:

22                      I want to commend the applicant for  
23      bringing a reasonably sensitive application to us.  
24      We rarely see something in which the outer limits of  
25      our ordinance are not pushed very hard.

1                   Here, we have reduction in building  
2 coverage, as I understand it, that I think will  
3 provide a benefit by letting -- by creating a more  
4 permeable area in the rear yard, and I think that is  
5 a benefit to the community.

6                   I would like to see if the applicant  
7 would consider a LEED certification. I am not sure  
8 how we can craft that.

9                   My other comment is I would like to see  
10 the stoop slightly enlarged because I think  
11 esthetically, it would make a nice building nicer,  
12 and I leave it to the architect to come up with the  
13 appropriate response to that.

14                   But on balance, I think the density we  
15 have rounded up, and that being the case, I don't  
16 think I see a major impact on the area. I think the  
17 lot is 25 foot wide, and I think it can accommodate  
18 it, so I would be in favor of the application.

19                   That having been said, I don't have to  
20 have the last word, so anybody else?

21                   Ready for a motion?

22                   COMMISSIONER GRANA: Are there any  
23 conditions?

24                   MR. GALVIN: Do you want to hear the  
25 conditions?

1                   CHAIRMAN AIBEL:  Yes.

2                   Thanks, Dennis.

3                   MR. GALVIN:  Okay.

4                   One:  The applicant is to record a deed  
5                   restriction to ensure that the green roof will be  
6                   maintained for the life of the building.

7                   The green roof plan is to be approved  
8                   by the Board's Planner and must be attached as an  
9                   exhibit to the deed restriction, which will identify  
10                  all vegetation to be used.

11                  The deed restriction will also mention  
12                  that the deck path on the roof is only to be used to  
13                  maintain the green roof.

14                  The deed restriction is to be reviewed  
15                  and approved by the Board's Attorney and must be  
16                  recorded prior to the issuance of the first  
17                  certificate of zoning.

18                  Two:  The Board determined that this  
19                  building should be constructed at the same height as  
20                  74 Madison.  As such, the plan is to be revised to  
21                  reduce -- I am going to say as close to the same  
22                  height as 74 Madison.

23                  As such, the plan is to be revised to  
24                  reduce the proposed building height to 42 feet ten  
25                  inches.  The Board recognizes that the building will

1 also have a cornice.

2 Three: The applicant agreed to install  
3 new curbs and new sidewalks.

4 Four: If the roof design is changed as  
5 required by fire officials, any required railing  
6 shall not be able to be seen at the street level.

7 Any revisions to the roof plan must be  
8 reviewed and approved by the Board's Planner.

9 Five: The plan is to be revised to  
10 show a wider stoop in consultation with the Board's  
11 Planer.

12 VICE CHAIR BRANCIFORTE: Are we asking  
13 them to do anything around the air-conditioning?

14 COMMISSIONER COHEN: Sound attenuation.

15 COMMISSIONER MURPHY: Sound  
16 attenuation --

17 MS. BANYRA: Yes. It is called Level  
18 II. I mean, sound attenuation around the air  
19 conditioning units.

20 COMMISSIONER MARSH: Should you specify  
21 it can't be seen from which side of the street?

22 MR. GALVIN: I just put from the street  
23 level.

24 You are not going to see it from  
25 looking up. You have to not see it from across the

1 other side of the street.

2 COMMISSIONER MARSH: Okay.

3 MR. GALVIN: Okay.

4 COMMISSIONER MARSH: And didn't we say  
5 something about plantings in front of the --

6 COMMISSIONER GRANA: We did not.

7 COMMISSIONER MURPHY: He mentioned it.

8 COMMISSIONER MARSH: Yeah. He  
9 mentioned the plantings in front.

10 COMMISSIONER MURPHY: Making something  
11 softer in the front I think and --

12 COMMISSIONER MARSH: And replacing the  
13 street trees he said, too.

14 COMMISSIONER COHEN: Street trees and  
15 curbs, replacement, as necessary.

16 COMMISSIONER MURPHY: There's two  
17 street trees on the plan.

18 MS. BANYRA: Well, the rendering shows  
19 two, but the plan didn't show --

20 MR. MARSDEN: There's two existing  
21 trees with a pretty good canopy in that area, so it  
22 might not fit another tree.

23 MS. BANYRA: Right.

24 COMMISSIONER MARSH: But there are  
25 existing. I didn't realize they were --

1 MR. MARSDEN: Yeah. There's existing  
2 trees.

3 MR. GALVIN: Yeah, I saw that on the  
4 Google Map. That's why I didn't put it.

5 COMMISSIONER MARSH: That's fine.  
6 I thought he said something about  
7 plantings --

8 MR. GALVIN: He did say trees, but you  
9 might need plantings next to the building, right --

10 COMMISSIONER MARSH: You know, where  
11 it's all --

12 MR. GALVIN: -- where the wide spot is,  
13 like even after we widen the stoop --

14 COMMISSIONER MARSH: Didn't you say  
15 something about that?

16 VICE CHAIR BRANCIFORTE: Can you  
17 show --

18 MR. PERIDES: Between the --

19 MR. GALVIN: Come on back up for a  
20 second.

21 T S A M P I C O S P E R I D E S, having been  
22 previously sworn, testified further as follows:

23 VICE CHAIR BRANCIFORTE: Can you please  
24 show me A-1 again, Exhibit A-1, the board pictures.

25 Pass it up so we can see it.

1                   COMMISSIONER MARSH: Behind where the  
2 street trees are in that picture.

3                   THE WITNESS: I would -- we were going  
4 to propose putting two trees right next to the  
5 building --

6                   COMMISSIONER MARSH: Oh, really?

7                   THE WITNESS: -- in addition to the  
8 street trees.

9                   MS. BANYRA: So you are going to show  
10 us a revised landscaping plan that shows whatever  
11 plantings you are going to have up against the  
12 building, and if the street tree is dead, it doesn't  
13 appear to be, but then you have the potential to  
14 replace that.

15                  THE WITNESS: Yes. If the street tree  
16 dies between redoing the sidewalk and the curb and  
17 everything, that will absolutely be replaced.

18                  MS. BANYRA: Okay.

19                  COMMISSIONER GRANA: Are we ready or do  
20 we need --

21                  COMMISSIONER MARSH: Do they have to  
22 get a shade tree --

23                  (Commissioners talking at once)

24                  CHAIRMAN AIBEL: Are we all right,  
25 Dennis?

1 MR. GALVIN: No. We are drifting here.

2 We got to get us back, okay?

3 COMMISSIONER GRANA: Okay.

4 CHAIRMAN AIBEL: Okay.

5 MR. GALVIN: The plan is to be revised

6 to show a wider stoop and some plantings at the

7 front facade in consultation with the Board's

8 Planner as opposed to a landscape --

9 MS. BANYRA: Yeah, I will look at it.

10 MR. GALVIN: Okay.

11 Two: The applicant is to utilize Type

12 II sound attenuation for the AC units.

13 MS. BANYRA: Yeah.

14 MR. GALVIN: Seven: The applicant

15 agreed to replace the street tree, if determined to

16 be necessary by the Shade Tree Commission.

17 I think they are going to lean to

18 trying to keep it, if you guys don't hurt it.

19 MS. BANYRA: Yeah.

20 COMMISSIONER GRANA: Is that it?

21 CHAIRMAN AIBEL: Okay. We need a

22 motion.

23 COMMISSIONER GRANA: Motion to approve

24 72 Madison with said resolutions --

25 CHAIRMAN AIBEL: Conditions.

1 COMMISSIONER GRANA: -- conditions.  
2 COMMISSIONER COHEN: Second.  
3 COMMISSIONER GRANA: Thank you, Mr.  
4 Chairman.  
5 CHAIRMAN AIBEL: Okay.  
6 MS. CARCONE: Are we ready for a vote?  
7 CHAIRMAN AIBEL: Yes.  
8 MS. CARCONE: Commissioner Branciforte?  
9 VICE CHAIR BRANCIFORTE: No.  
10 MS. CARCONE: Commissioner Cohen?  
11 COMMISSIONER COHEN: Yes.  
12 MS. CARCONE: Commissioner Grana?  
13 COMMISSIONER GRANA: Yes.  
14 MS. CARCONE: Commissioner Marsh?  
15 COMMISSIONER MARSH: Yes.  
16 MS. CARCONE: Commissioner Murphy?  
17 COMMISSIONER MURPHY: Yes.  
18 MS. CARCONE: Commissioner McBride?  
19 COMMISSIONER MC BRIDE: Yes.  
20 MS. CARCONE: Commissioner Aibel, is  
21 that --  
22 CHAIRMAN AIBEL: Yes.  
23 MS. CARCONE: -- is that seven?  
24 So it is approved.  
25 CHAIRMAN AIBEL: Thank you, gentlemen.

1 MR. MARCIANO: Thank you very much.

2 CHAIRMAN AIBEL: Board members, don't  
3 go anywhere.

4 MR. MARSDEN: Wait, though.

5 You are going to modify your plans and  
6 resubmit them?

7 MR. MARCIANO: Yes, we are.

8 MR. MARSDEN: Okay.

9 CHAIRMAN AIBEL: Thank you.

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

-----  
 PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300  
 Notary Public of the State of New Jersey  
 My commission expires 11/5/2020.  
 Dated: 10/20/16  
 This transcript was prepared in accordance with  
 NJAC 13:43-5.9.

HOBOKEN ZONING BOARD OF ADJUSTMENT  
CITY OF HOBOKEN

----- X  
REGULAR MEETING OF THE HOBOKEN : October 18, 2016  
ZONING BOARD OF ADJUSTMENT : Tuesday 8:30  
p.m. ----- X BOARD

BUSINESS

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:

- Eileen Banyra, Planning Consultant
- Jeffrey Marsden, PE, PP  
Board Engineer
- Patricia Carcone, Board Secretary

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1 CHAIRMAN AIBEL: Okay. Board members,  
2 ready?

3 We have some administrative matters to  
4 do here.

5 MR. GALVIN: All right. The first  
6 matter is 329 Garden Street, HOZ-16-11.

7 Mr. Branciforte, Mr. Cohen, Mr. Grana,  
8 Ms. Marsh, Ms. Murphy, Mr. McBride, and Chairman  
9 Aibel all voted in favor of this application.

10 Would someone like to make a motion?

11 COMMISSIONER MARSH: Motion to approve.

12 MR. GALVIN: Is there a second?

13 COMMISSIONER GRANA: Second.

14 COMMISSIONER COHEN: Second.

15 MR. GALVIN: Thank you.

16 Mr. Branciforte?

17 COMMISSIONER BRANCFORTE: Yes.

18 MR. GALVIN: Mr. Cohen?

19 COMMISSIONER COHEN: Yes.

20 MR. GALVIN: Mr. Grana?

21 COMMISSIONER GRANA: Yes.

22 MR. GALVIN: Ms. Marsh?

23 COMMISSIONER MARSH: Yes.

24 MR. GALVIN: Ms. Murphy?

25 COMMISSIONER MURPHY: Yes.

1 MR. GALVIN: Mr. McBride?

2 COMMISSIONER MC BRIDE: Yes.

3 MR. GALVIN: Chairman Aibel?

4 CHAIRMAN AIBEL: Yes.

5 MR. GALVIN: That matter is concluded.

6 CHAIRMAN AIBEL: Okay.

7 MS. CARCONE: Want to talk about 660

8 First?

9 I had sent everybody an agenda for that  
10 big deal for next Tuesday, and they have requested  
11 an adjournment of that hearing until next month, so  
12 we will not be having a meeting next week.

13 COMMISSIONER GRANA: So there is no  
14 meeting next week, or that is not on the agenda?

15 MS. CARCONE: There is no meeting.  
16 That was the only item that was on the agenda, and  
17 we are going to cancel that meeting, so --

18 MR. GALVIN: I told Mr. Sinisi we were  
19 meeting, and I am wrong.

20 MS. CARCONE: Oh, okay.

21 MR. GALVIN: Whoops.

22 MS. CARCONE: Do we have to meet?

23 MR. GALVIN: For that? I don't think  
24 we are going to drag everybody here for one thing.

25 MS. CARCONE: Okay. I wasn't in the

1 loop on that one, Dennis.

2 COMMISSIONER MURPHY: So are the two  
3 things going to be on the same date in November?

4 Are we meeting twice in November?

5 MS. CARCONE: Well, that's the next  
6 question.

7 11/15 is our Regular Meeting in  
8 November. That is the League of Municipalities. I  
9 wanted to make sure we had a quorum for that  
10 meeting. I think we have all of our professionals,  
11 except our attorney, right?

12 MR. GALVIN: What I did last year is I  
13 stayed, and I wound up staying until almost  
14 midnight, and then I didn't get to A.C. until two  
15 a.m., and I have multiple speaking engagements the  
16 next two days, so I don't think that that's what I  
17 should be doing --

18 CHAIRMAN AIBEL: So what do we have on  
19 that night, Pat?

20 MR. GALVIN: -- but I can send somebody  
21 else to cover for me.

22 MS. CARCONE: Right.

23 Now, we have the Sinisi resolution. We  
24 have --

25 MR. GALVIN: On the Acme case, some

1 issues came up. There is like a bunch of things you  
2 need to know about.

3 MS. CARCONE: Okay.

4 MR. GALVIN: On the Acme case, some  
5 questions came up after the fact. There were some  
6 public -- we don't have official complaints, but we  
7 have people who called the zoning officer with  
8 concerns about the Acme lighting, and she issued  
9 paperwork requiring them to come to the Board, and  
10 it needs to be -- we feel it needs to be addressed.

11 I don't really know the answer from the  
12 other side of the equation, so it is not fair to  
13 discuss it.

14 COMMISSIONER COHEN: Are these people  
15 that got notice of the hearing and just didn't come  
16 and --

17 MR. GALVIN: That is not the only  
18 answer.

19 If you have people appearing before you  
20 that they don't give you complete information,  
21 whether people show up or not doesn't make a  
22 difference.

23 The bottom line is --

24 COMMISSIONER COHEN: But I think we  
25 asked about complaints at the hearing.

1 COMMISSIONER DE GRIM: We did.

2 COMMISSIONER MURPHY: I thought we put  
3 in the resolution, too, that if there were  
4 complaints, that they had to turn the lights down.

5 CHAIRMAN AIBEL: That was in futuro.  
6 That was going forward.

7 COMMISSIONER MURPHY: But we did  
8 definitely --

9 COMMISSIONER DE GRIM: We retained  
10 jurisdiction for two years.

11 MR. GALVIN: Well, here is what I am  
12 doing. I am guarding the water bucket.

13 Basically what I said is: I want some  
14 sort of letter explaining this. I want to make sure  
15 that it was adequately addressed.

16 It sounds like some of you think it  
17 was, but not everyone thinks it was, so let's just  
18 get a letter from them outlining that.

19 I held their resolution from tonight.  
20 I can't create a meeting next week. I thought it  
21 was there, and I told them, don't worry about it,  
22 we'll do it next week. Unfortunately, we are not  
23 going to be able to do it until the 15th or the 22nd  
24 of November.

25 COMMISSIONER MARSH: My only question,

1 because we asked if there were complaints, and they  
2 said no.

3 So now we're saying -- but people did  
4 complain. So now we are saying, if there were  
5 complaints, then they can come back to the Board.  
6 But if what already happened didn't constitute a  
7 complaint, what does?

8 Like what is -- I mean --

9 MR. GALVIN: I don't know. I looked at  
10 the paperwork. It is not a lot of paper. It is not  
11 very substantial.

12 COMMISSIONER MARSH: But you see what I  
13 mean, right?

14 If people called and complained --

15 MR. GALVIN: I understand, but we have  
16 the right to control the amount of -- we don't even  
17 know what lighting brightness we want to have on it.

18 COMMISSIONER MARSH: But we said if  
19 there are complaints, we can reopen it.

20 COMMISSIONER MURPHY: Right --

21 COMMISSIONER DE GRIM: Right. We  
22 maintained jurisdiction for two years.

23 COMMISSIONER COHEN: That's what the  
24 resolution said.

25 MR. GALVIN: Yes, if we received

1 complaints, so --

2 COMMISSIONER MARSH: Yes. But what I  
3 am saying is what constitutes a complaint?

4 If somebody calls up and complains,  
5 that obviously didn't constitute a complaint.

6 MR. GALVIN: I think they are going to  
7 have to do more than that. In other words, they're  
8 going to have to -- what happens in Summit --

9 COMMISSIONER MARSH: Right. But you --  
10 I'm sorry --

11 MR. GALVIN: -- what happens in Summit,  
12 I retain jurisdiction on landscaping.

13 What happens in Summit is that the next  
14 door neighbor becomes a royal pain in the neck,  
15 because they know it was supposed to have a  
16 planting, and the planting died, and they want that  
17 planting, and they are in the zoning office like  
18 multiple times, and they are forced -- they're  
19 forced -- like they make them send a letter.

20 They would send a letter to the Board.  
21 The complainant would then send a letter to the  
22 Board, and then we would reopen the hearing. That's  
23 what we've done.

24 COMMISSIONER MARSH: Right. I get it.  
25 I just want to make sure that I have been heard,

1 right?

2 If what people did before doesn't  
3 constitute a complaint, then somebody needs to tell  
4 people what does.

5 MR. GALVIN: I understand.

6 Listen, the bottom line is: Mr. Sinisi  
7 was like he didn't know what he did wrong, and he is  
8 not somebody who is a typical player in Hoboken, and  
9 I think that he -- let's just leave it at he is  
10 going to send us a letter, and come back before the  
11 Board.

12 We held his resolution, so you will get  
13 an opportunity to make the point or to reverse the  
14 resolution.

15 COMMISSIONER MARSH: Okay. I am sort  
16 of asking you as an attorney, what constitutes a  
17 complaint.

18 MR. GALVIN: Well --

19 COMMISSIONER MARSH: Are you saying it  
20 has to be somebody that is in here 24 hours a day  
21 like complaining?

22 MR. GALVIN: No. I think somebody has  
23 to send a letter to us. Yeah, I think something in  
24 writing would be the appropriate thing --

25 CHAIRMAN AIBEL: I'm sorry. Go ahead.

1                   MR. GALVIN:  If you guys want to create  
2                   the standard of how we are going to complain, we  
3                   can.  But my whole point is that we are never going  
4                   to hear from this case again.

5                   You know, once the light goes on,  
6                   everybody is happy as a clam because we have  
7                   adjusted the lighting to the right range, but it  
8                   was --

9                   CHAIRMAN AIBEL:  But at the risk of  
10                  going too far, you can kick me in the shin --

11                  MR. GALVIN:  I'm trying not to.

12                  (Laughter)

13                  CHAIRMAN AIBEL:  -- we're not talking  
14                  about enforcement going forward.  We're talking  
15                  about information that we may not have heard at the  
16                  time of the hearing.

17                  MR. GALVIN:  I am everyone's friend.  
18                  You are my team.  Based on what I have seen so far,  
19                  it is not tipping the scale for Dennis.  But the  
20                  Board makes this call, not me, okay?

21                  So I think you need to get an answer  
22                  from them, and I have been trying for two weeks to  
23                  get them to put it into writing as to what they  
24                  knew, when did they know it.

25                  And the answer that I keep getting back

1 from the other side is that the group, that people  
2 we met with, are different than Acme internal, and  
3 they didn't have everything.

4 You guys are going to have to assess  
5 that for yourselves.

6 COMMISSIONER MARSH: I don't know what  
7 that answer even means.

8 MR. GALVIN: I don't know what your  
9 complaint --

10 COMMISSIONER DE GRIM: I'm sorry. Who  
11 is complaining, Acme, or --

12 MR. GALVIN: No, no, no, the neighbors.

13 COMMISSIONER GRANA: The neighbors.

14 (All Board members talking at once.)

15 MR. GALVIN: I am trying not to do the  
16 whole --

17 COMMISSIONER MURPHY: I got it -- we  
18 got to wait.

19 MR. GALVIN: There is a big issue.  
20 There is a big issue in front of both Boards, where  
21 people come in and tell me one thing and are lying  
22 to me and do stuff, okay?

23 We just got told at the Planning Board,  
24 and I can use this because it is not you guys, where  
25 somebody said, we got a wall.

1                   We said we want that wall taken down to  
2 six feet, and they conferenced.

3                   They go: Oh, yeah, we can do that.

4                   What they didn't tell us is they are  
5 going to take the whole wall down anyway, because  
6 they are going to put a carriage house in that  
7 location, so they weren't completely forthcoming to  
8 me, okay, which seems to be happening to me on a  
9 relatively regular basis.

10                  So when somebody says, I'm concerned,  
11 that they disclose everything that they knew about  
12 the complaints, because it might have affected what  
13 we did --

14                  COMMISSIONER DE GRIM: Right.

15                  MR. GALVIN: -- I think that is a valid  
16 concern, and I think we have to explore it.

17                  I talked to the other attorney. I got  
18 him into the position where I want him to give us a  
19 letter explaining himself.

20                  He is not getting it. He doesn't think  
21 he did -- he felt like he fairly disclosed  
22 everything. Let him give us the letter. Let's  
23 evaluate it.

24                  COMMISSIONER MARSH: He purported that  
25 he didn't understand.

1                   MR. GALVIN: Exactly. How the hell do  
2 I know, okay? I don't really know.

3                   But I don't see a lot of letters in the  
4 file. It wasn't like, you know, there were four,  
5 five, or six letters from neighbors complaining or  
6 complaints filed that I have.

7                   COMMISSIONER MARSH: Because nobody  
8 told him -- never mind. I know I'm not supposed to  
9 talk right now.

10                  MR. GALVIN: No. I mean --

11                  COMMISSIONER DE GRIM: But everybody  
12 was given notice.

13                  MR. GALVIN: No, no.

14                  I want you to understand that if you  
15 come before this Board, whether there's -- I don't  
16 want you to ever count people for or against an  
17 application.

18                  So when there is an absence of  
19 neighbors, maybe the people who were really hot and  
20 bothered were out of town. They didn't get the  
21 notice.

22                  It doesn't mean anything. It is okay  
23 to say, nobody is here complaining, so I am  
24 satisfied the negative impacts aren't that bad.

25                  I understand that statement, but what I

1 am saying is the mere fact of the absence of anyone  
2 complaining here doesn't mean -- it might mean that  
3 the people who were slightly outside of the 200 feet  
4 have still got that light in their window, like a  
5 block away, and they didn't like it, you know?

6 CHAIRMAN AIBEL: Now, you are not going  
7 to kick me in the knee, you're going to punch me  
8 out.

9 (Laughter)

10 MR. GALVIN: Well, no, it goes to the  
11 issue -- the bigger issue is: Are people telling us  
12 the truth. Did they disclose what they should have  
13 disclosed to us, and it also is: Couldn't we  
14 improve our process, so the zoning official should  
15 have told us some more information --

16 CHAIRMAN AIBEL: Now, you're sort of --  
17 that is a different issue --

18 (Everyone talking at once)

19 MR. GALVIN: Let's be positive.

20 We keep improving what we are doing in  
21 Hoboken, and I think we have great success. Let's  
22 be positive and keep making it better.

23 CHAIRMAN AIBEL: Maybe the zoning  
24 officer should be amended in this particular  
25 instance.

1                   MR. GALVIN: But I think we should -- I  
2 will wait for the letter. I was hoping it was going  
3 to be next week. It is going to be November 15th.  
4 I don't know if that messes them up, but, you know,  
5 they will wait till November 15th. They will wait  
6 until then to get the resolution and --

7                   MS. CARCONE: They got their light,  
8 so --

9                   MR. GALVIN: I don't know if it's on or  
10 not.

11                   CHAIRMAN AIBEL: I am sure it is.

12                   MR. GALVIN: Well, then if it is on, it  
13 doesn't matter at all. This is an effort in  
14 futility if they have it already.

15                   COMMISSIONER MURPHY: So, but you won't  
16 be here on the 15th then?

17                   CHAIRMAN AIBEL: So what else is on the  
18 15th, Pat?

19                   MS. CARCONE: Well, we have the two  
20 projects --

21                   MR. GALVIN: Well, you can hold it to  
22 the 22nd, but --

23                   MS. CARCONE: -- we have the two  
24 projects that we didn't get to tonight.

25                   We have 703 Bloomfield and 720, so we

1 have those two projects.

2 CHAIRMAN AIBEL: And what do we have on  
3 the 22nd of November?

4 MS. CARCONE: Well, we potentially  
5 could have the 660 First appeal, if that comes back.

6 MR. GALVIN: I am really hoping that  
7 660 -- I am not involved with 660 First. Cliff is  
8 going to do that, not me, because it's an appeal of  
9 the zoning officer.

10 But I am trying to divert anything that  
11 is an appeal of the zoning officer to try to turn it  
12 into an application before the Board. You know,  
13 it's like regardless, I think it is possible that  
14 they might come for a site plan as opposed to -- or  
15 variance relief as opposed to appealing the decision  
16 of the zoning officer.

17 COMMISSIONER GRANA: What do you mean  
18 by that, by converting it to an application?

19 You want them to come in front of the  
20 Board and ask for relief?

21 MR. GALVIN: Yes.

22 COMMISSIONER GRANA: Okay.

23 CHAIRMAN AIBEL: So getting back to  
24 scheduling, is there any reason why we can't move  
25 the business from the 15th to the 22nd, whether --

1 MS. CARCONE: That is Thanksgiving week  
2 also.

3 CHAIRMAN AIBEL: While we are all here,  
4 we can talk about that. That at least would  
5 accommodate Dennis' League of Municipalities.

6 Is anybody --

7 COMMISSIONER GRANA: I am here on the  
8 22nd.

9 COMMISSIONER COHEN: I am here.

10 COMMISSIONER GRANA: I can do it.

11 COMMISSIONER MC BRIDE: I will not be.

12 CHAIRMAN AIBEL: I'll be here.

13 COMMISSIONER MURPHY: I'm not sure yet.

14 CHAIRMAN AIBEL: We have three --

15 VICE CHAIR BRANCIFORTE: On the 22nd of  
16 November, yes.

17 COMMISSIONER GRANA: Four.

18 MS. CARCONE: So the only person that I  
19 heard that's not going to be here is Ed and Carol.

20 MR. GALVIN: Ed and Carol.

21 COMMISSIONER MURPHY: I am a question  
22 mark, but I probably will, but I am not usually.

23 I mean, we usually go away, but Joe is  
24 having surgery, so I have to wait and see.

25 MS. CARCONE: So we have 11 members and

1 we have three that can't make it,

2 VICE CHAIR BRANCIFORTE: We don't know  
3 about Dan.

4 MS. CARCONE: Oh, Dan.

5 MR. GALVIN: Can I give you a heads-up  
6 on 720 Clinton?

7 720 Clinton is a final. When we do  
8 finals, they are like an administrative -- it should  
9 be check the box, check the box, check the box, and  
10 then you approve it.

11 But in this case, there was a question  
12 about whether or not the building, if you recall, if  
13 the structural integrity was sufficient.

14 Jeff is evaluating it, and we still  
15 haven't come to a conclusion if it's got the  
16 okie-dokie yet, so that could be a wrinkle. That  
17 could be a final that goes to some sort of amended  
18 approval and all of the bets are off --

19 COMMISSIONER COHEN: That was an  
20 adaptive reuse. We were concerned if it could  
21 support the structure.

22 MR. GALVIN: Correct.

23 What else do we have?

24 Anything else that we need to talk to  
25 them about?

1                   What were the other cases?

2                   COMMISSIONER DE GRIM:   What about the  
3 chimney that was on --

4                   MR. GALVIN:   Oh, yes.   We have a bunch  
5 of these things.

6                   VICE CHAIR BRANCIFORTE:   Was that on  
7 Madison?

8                   COMMISSIONER DE GRIM:   Madison.   It is  
9 gone --

10                  COMMISSIONER MURPHY:   Did it fall?

11                  MR. GALVIN:   Yes, it's gone.   Here is  
12 why it is gone.   Here is why it is gone --

13                  (Everyone talking at once)

14                  MR. GALVIN:   -- wait a minute.   Here is  
15 why it's gone.   There is a reason why it's gone.

16                  They came here.   We turned them down.  
17 They went to the Planning Board, and they did a  
18 conforming structure, and the chimney is gone.

19                  COMMISSIONER GRANA:   That was always  
20 the risk and --

21                  COMMISSIONER DE GRIM:   That was the  
22 risk, but it was rejected.

23                  MR. GALVIN:   Right.

24                  The same thing with 901 Bloomfield.  
25 901 Bloomfield is the church case, right, so there

1 are things our team --

2 COMMISSIONER COHEN: We approved that  
3 one --

4 MR. GALVIN: What's that?

5 COMMISSIONER COHEN: -- we approved  
6 that.

7 MR. GALVIN: It has already been  
8 appealed to the governing body. There was an  
9 agreement it wouldn't be opened back up, but 901  
10 Bloomfield right now, they are trying to figure  
11 stuff out, cellar/basement, this, that and the other  
12 thing.

13 Our staff came to the conclusion that  
14 it is in fact the right thing that it needs to be,  
15 which is a basement.

16 The problem is the height, floor to  
17 floor, could be a problem. And my answer is if it  
18 turns out that the building is higher than we  
19 thought it was, they have to come back for a  
20 variance. So what they should do is make whatever  
21 changes in the plan they can to avoid having to come  
22 back for any more relief to us, if that's possible.  
23 That is what the professional staff is working on.

24 COMMISSIONER MURPHY: I didn't listen  
25 to that, but if they came back for relief, was there

1 any way -- would it be just for whatever --

2 MR. GALVIN: No. The whole case is  
3 open. You know it would be --

4 COMMISSISONER MURPHY: Not only that, it  
5 was contentious as it was --

6 MR. GALVIN: -- it would be an  
7 amendment for just that relief, but then basically  
8 the whole case is open, and then it would open it  
9 back up to a possible appeal. Okay?

10 So I don't think that that is a  
11 wonderful idea.

12 1420 Willow, okay?

13 COMMISSIONER COHEN: That's the Gravity  
14 Vault, right?

15 COMMISSIONER GRANA: Gravity Vault and  
16 West Elm.

17 MR. GALVIN: There were promises made  
18 and suggestions to things that would happen, and it  
19 didn't happen the way it was said it was going to  
20 happen.

21 Jeff has gone out and confirmed that  
22 the floor was removed in a way contrary to what we  
23 were told.

24 COMMISSIONER COHEN: The historic  
25 dressmaking floor.

1 (Laughter)

2 COMMISSIONER GRANA: And the historic  
3 two walls.

4 COMMISSIONER MURPHY: It's so perfect,  
5 we should be able to use it again --

6 MR. GALVIN: It's my opinion that, you  
7 know, most of the people who are coming in looking  
8 to preserve these older buildings are merely trying  
9 to keep the volume of the building and the  
10 footprint, because they ain't getting it if the  
11 whole building is gone or removed.

12 In this case, I don't know how you would  
13 feel about it, if they came in straight up and said,  
14 hey, it's a climbing gym, we need this much space, I  
15 don't know if you would have approved it with or  
16 without.

17 Under the circumstances, there are two  
18 possibilities. You know, probably what we should do  
19 is alert the builder that there has been more  
20 demolition than was testified to the Board, and we  
21 would like them to come explain themselves. And  
22 then you can decide what to do.

23 I think the people who vote for the  
24 application are in the position to amend the  
25 application, if they want.

1                   COMMISSIONER MURPHY: But I just can't  
2 remember, West Elm and the climbing wall were two  
3 separate --

4                   MR. GALVIN: This is 1420 Willow.

5                   COMMISSIONER MURPHY: Right, which is  
6 in the middle of the block next to Bataglia's and  
7 the restaurant, and it goes all the way through.

8                   COMMISSIONER COHEN: Yeah.

9                   COMMISSIONER MURPHY: But the climbing  
10 wall was on the corner.

11                  MS. BANYRA: On the corner of Clinton.

12                  COMMISSIONER GRANA: It's on the corner  
13 of Clinton.

14                  COMMISSIONER MURPHY: Right.

15                  MS. BANYRA: The restaurant on the  
16 corner of Willow --

17                  COMMISSIONER MURPHY: Right. So even  
18 if it backed up to the back of this building, but  
19 that was a separate --

20                  CHAIRMAN AIBEL: No --

21                  COMMISSISONER MURPHY: -- oh, it was all  
22 together? I couldn't remember.

23                  CHAIRMAN AIBEL: -- they got a hundred  
24 percent lot coverage --

25                  COMMISSIONER MURPHY: Right.

1 COMMISSIONER COHEN: It went through.

2 COMMISSIONER MURPHY: And around the  
3 corner --

4 COMMISSIONER GRANA: Yeah, I think it  
5 was almost like a "T" structure --

6 MS. BANYRA: It was like --

7 THE REPORTER: Everybody can't talk at  
8 the same time.

9 MR. GALVIN: Whoa, whoa, whoa.

10 Guys, guys, I am getting yelled at.  
11 You only can talk one at a time.

12 (Laughter)

13 COMMISSIONER MURPHY: Oh, I'm sorry,  
14 but I thought we did the climbing wall as a separate  
15 thing, and then the last time was another thing --

16 COMMISSIONER COHEN: No. It was a  
17 different floor that was the retail.

18 MR. GALVIN: Anybody else want to rebut  
19 or answer?

20 No.

21 COMMISSIONER MC BRIDE: So we don't  
22 know what happened?

23 MR. GALVIN: Well, look, my position is  
24 on some of these cases, where people were looking to  
25 preserve buildings, I would much rather they came in

1 and said we can't save the walls and the floor.  
2 This is what we like. This is what we want to do.  
3 This is why we need it. Please grant us the  
4 variance.

5 I am tired of playing the charade,  
6 where we say we are saving a building, and then when  
7 we get out in the field, we are doing something  
8 else. And to be fair, we can't send Jeff out there  
9 to parole every day to see if they are doing what  
10 they are supposed to do.

11 COMMISSIONER MC BRIDE: So your  
12 suggestion is get them back in here and say, "Why  
13 did you do that?"

14 MR. GALVIN: I am taking the same  
15 position on both this and Acme, which is I am not  
16 drawing any conclusion. I'm not saying it is good  
17 or bad. I just know that something doesn't feel  
18 right. I think we should alert both of these people  
19 that something doesn't feel right and let them come  
20 back in and explain themselves to you, to your  
21 satisfaction.

22 COMMISSIONER MC BRIDE: That's  
23 reasonable.

24 MR. GALVIN: Okay. There is always a  
25 possibility that we could revoke an approval for

1 fraud or mutual mistake. I think that is a very  
2 harsh remedy, and maybe somewhere along the line we  
3 should do that, but I think I want to be more  
4 prospective about this and try to look for ways to  
5 improve the system, so it stops happening.

6 If there is something that I can do,  
7 anything that I can do with the resolution, I will.

8 CHAIRMAN AIBEL: Let me put this spin  
9 on it. We had a resolution that had a specific  
10 condition that said this would be saved --

11 MR. GALVIN: So let them answer it.

12 CHAIRMAN AIBEL: -- and in return --

13 (Everyone talking at once)

14 CHAIRMAN AIBEL: -- to me, it is issue  
15 of principle. We had a resolution. It appears that  
16 it wasn't --

17 COMMISSIONER GRANA: To me -- to me,  
18 the debate here -- first of all, I just want to add,  
19 I do think we need some alignment with the ZO, and  
20 we need to have that conversation --

21 MR. GALVIN: We are going to have that  
22 conversation --

23 COMMISSIONER GRANA: -- that is one  
24 thing. But as the principal piece we just brought  
25 up the issue of the chimney and the chimney was

1 lost, as you mentioned, but it was the same  
2 principle.

3 We had testimony. We had resolutions.  
4 We didn't feel they were complied with.

5 That was brought back, and we decided  
6 that the conditions were not met, and relief could  
7 not be granted, and that to me is a similar issue  
8 that's going on here.

9 We agreed to it, based on that  
10 testimony. We need to figure out -- I still think  
11 that we don't -- we need to hear from the builder on  
12 like what really -- and we don't know all of the  
13 pieces, but I think that is the principle --

14 MR. GALVIN: Yes. Yes.

15 COMMISSIONER GRANA: -- that we are  
16 arguing.

17 MR. GALVIN: How are we going to learn  
18 how it got to that point if we don't get --

19 COMMISSIONER GRANA: Yeah.

20 MR. GALVIN: -- the other thing in  
21 other towns, when people run into a condition, where  
22 they can't comply with what we told them we wanted  
23 to do, they get stopped.

24 I don't know how it happens, but they  
25 get stopped in all of the other towns I work in, and

1       then they have to come back to the Board, and then  
2       they ask for permission to do what it is they need  
3       to do. For some reason around here, they just do  
4       it, you know --

5                   COMMISSIONER MARSH: They throw bricks  
6       away, and then they spend six months gathering  
7       around town trying to find more of them.

8                   MR. GALVIN: I bring my own water into  
9       town, I mentioned that --

10                   (Laughter)

11                   COMMISSIONER MURPHY: So you should --  
12       speaking of which --

13                   COMMISSIONER MARSH: So do I.

14                   MR. GALVIN: -- there's mercury  
15       everywhere.

16                   COMMISSIONER MURPHY: The Hostess  
17       building, I don't think they started work on that --  
18       or the Wonder Bread --

19                   COMMISSIONER GRANA: Wonder Bread.

20                   COMMISSIONER COHEN: That's what we  
21       were supposed to hear tonight, but it was put off.

22                   MR. GALVIN: 720 Clinton.

23                   COMMISSIONER MURPHY: Okay. I didn't  
24       look at it because it was put off.

25                   COMMISSIONER COHEN: That's what it

1 was.

2 MS. BANYRA: Don't tell me something  
3 came down.

4 COMMISSIONER MURPHY: No. I am  
5 concerned about that, because during that time, they  
6 kept saying that there were, you know, like  
7 structural things that might --

8 MR. GALVIN: Jeff has got the reports.  
9 He's looking at them.

10 MS. BANYRA: That is why it was held up  
11 from tonight, because we didn't feel that the  
12 structure was adequate, nor did they submit it in a  
13 timely fashion, so that is why it came off the  
14 agenda.

15 MR. GALVIN: That could go either way.  
16 It can go either way. Jeff could go back and say,  
17 yeah, it is okay, we're going to go.

18 But then even if it is okay, once they  
19 start building it, they could find out it is not.

20 MS. BANYRA: Then they come back.

21 MR. GALVIN: Then they should come back  
22 to the Board and seek further relief.

23 COMMISSIONER MARSH: Right, or it could  
24 be 901 Bloomfield, and we could let it deteriorate,  
25 and then say, oh, it is deteriorated, now we have to

1 turn it down.

2 MR. GALVIN: But then if it is turned  
3 down -- anything that we lose should be built in  
4 conformance with the ordinance.

5 COMMISSIONER MURPHY: Right. I mean,  
6 this is what we talked about like, you know,  
7 throughout the world, old buildings get restored.  
8 They take care in keeping the old up while we're  
9 doing it or putting it back, or whatever --

10 MR. GALVIN: I am going to exceed  
11 myself here. I really believe 901 Bloomfield  
12 intends to save the outside of the building. They  
13 think that is going to be cool and kitch, and they  
14 are probably going to be able to save that, and  
15 that's good. I hope that that is going to work.

16 But some of these other buildings, not  
17 every building that is the old Hoboken look is worth  
18 keeping, if we have to give them 80 percent coverage  
19 versus a 60 percent coverage.

20 COMMISSIONER GRANA: Chimneys.

21 MR. GALVIN: What was the other one?  
22 Do we have anything else?

23 MS. BANYRA: Yeah. The last one was  
24 Babbio Garage.

25 MR. GALVIN: Babbio Garage. Why don't

1       you go ahead and tell them?

2                   MS. BANYRA:  So they contacted -- the  
3       architect contacted both Jeff and I about plan  
4       changes, and the two plan changes that are left that  
5       we thought we would mention to the Board, and I  
6       brought copies of what they're looking to do, and I  
7       brought copies of it, and I will explain what that  
8       is.

9                   The stairway that walks from the top  
10      plaza all of the way down, we had a lot of  
11      conversation about that.

12                  What they said that they wanted to do,  
13      now they changed it.  They modified it.  They are  
14      doing their construction drawings and they want to  
15      modify it slightly to raise it -- rather than scour  
16      out the rock, they understand there was this  
17      Serpentine question, and instead of taking and  
18      removing the rock, they are going to bore into the  
19      rock with piles and footings instead of excavating,  
20      and because of that, it raises up the lower platform  
21      five or six feet.

22                  So my response to them was it sounded  
23      like a better idea to me, rather than cut the rock  
24      out, to just bore in, and to landscape the front of  
25      that five foot section, so if there is any kind of

1 gap, that it's filled in landscaping, and I said I  
2 would bring it to the Board. That's number one.

3 And the second thing is, and then we  
4 can ask questions, the second thing is on this plan  
5 you can see, when you look on the plan detail, the  
6 stairway is off to the left, and when you look at  
7 the side view, you can see there's a slight  
8 elevation of where it was and where it's going to  
9 be. I think it is five feet.

10 Again, this isn't a good -- I can sent  
11 it on a computer, if you are interested in seeing  
12 that. But it is basically excavation work rather  
13 than drilling, and the new proposal is to drill.

14 The second thing is this walkway from  
15 this deck, they realized they needed another way out  
16 of this area, so they put a walkway across, and then  
17 there is a stairway that goes out.

18 So you could see this long, it's kind  
19 of squared off, they added a walkway.

20 COMMISSIONER MURPHY: On the top?

21 MS. BANYRA: On the top, right.

22 They said they needed another way out,  
23 so they added that in. So they just wanted to alert  
24 us that they were doing that and do we have a  
25 problem with that.

1 Yes?

2 COMMISSIONER MURPHY: I just wanted to  
3 understand.

4 So the picture on the front, the way  
5 the steps are on the right-hand stairs that come  
6 down are not the same as what you're pointing out on  
7 the next page?

8 Yes, or am I not looking at it right --

9 MS. BANYRA: No. It is the same thing,  
10 but there is a jog in there, and it is just the  
11 point is that there used to be a landing, I'm going  
12 to say at zero feet, and it is now five feet higher.

13 COMMISSIONER MURPHY: I got you.

14 But it looks like that picture, and I  
15 could be wrong, it looks like the stairs come down  
16 towards where the entrance to the garage is, which  
17 is one of the things that we talked about like not  
18 walking right into where, you know, so I am not  
19 sure --

20 MS. BANYRA: Yeah. It didn't really  
21 change that, and we did at the time -- they have not  
22 finished that detail yet. But we asked for them to  
23 not have the stairs exit where the cars come out and  
24 to put a barrier there.

25 We haven't gotten that detail yet, but

1       it is not relative to that. It is really up a  
2       little bit further, and it's really relative -- it  
3       just literally moved the platform up five feet I'm  
4       going to say --

5                   COMMISSIONER MURPHY: Okay.

6                   MS. BANYRA: -- and I thought that was  
7       actually a better solution personally.

8                   And then this second one is this  
9       walkway along the top, so they just showed it as a  
10      walkway.

11                  MR. GALVIN: Okay.

12                  So they asked Eileen to approve these  
13      without bringing them to the Board because they felt  
14      that they were inconsequential.

15                  When Eileen ran it by me, I said, yeah,  
16      they might be inconsequential, but I think they  
17      should be still run by the Board. You guys don't  
18      want to be out there and start seeing changes to the  
19      plan without knowing what's happening.

20                  MS. BANYRA: Yeah. They pretty much --  
21      it was couched a little bit differently.

22                  They wanted to -- are these okay was  
23      really the question. And in talking to Dennis, we  
24      said, well, we will find out if it's okay and let's  
25      ask the Board, because I know Stevens is a hot

1 potato, so I wasn't going to want to make the  
2 decision on that, and Jeff, the same thing. Jeff  
3 was doing something else --

4 MR. GALVIN: My view is unless you have  
5 delegated to Eileen and Jeff that they're supposed  
6 to do what they're doing, I think whoever, either it  
7 has to come from the applicant or it can come from  
8 our professionals for you to look at and be advised  
9 as to what is being modified.

10 CHAIRMAN AIBEL: Well, I think what we  
11 are getting is a recommendation.

12 MS. BANYRA: I personally didn't think  
13 that either of these were a big deal.

14 I thought as long as they landscaped  
15 that, and there wasn't a gap, I didn't see that as  
16 an issue personally, nor the walkway.

17 CHAIRMAN AIBEL: Anybody else have a --

18 COMMISSIONER MARSH: My only problem is  
19 I am going to recuse myself, because there is no way  
20 I could be rational about it.

21 CHAIRMAN AIBEL: Stevens?

22 COMMISSIONER MARSH: Right.

23 MS. BANYRA: Carol, what did you say?

24 MR. GALVIN: She is recused on it.

25 MS. BANYRA: Okay, sorry.

1                   MR. GALVIN: So does somebody want to  
2                   make a motion to accept those changes or not?

3                   CHAIRMAN AIBEL: I'll make a motion to  
4                   accept the recommendations of our professionals.

5                   VICE CHAIR BRANCIFORTE: Second.

6                   MR. GALVIN: And we thank you.

7                   MS. CARCONE: Do you want a vote or do  
8                   you want an all in favor?

9                   MR. GALVIN: A vote, but do not call  
10                  Carol.

11                  MS. CARCONE: Commissioner Branciforte?

12                  VICE CHAIR BRANCIFORTE: Yes.

13                  MS. CARCONE: Commissioner Cohen?

14                  COMMISSIONER COHEN: Yes.

15                  MS. CARCONE: Commissioner Grana?

16                  COMMISSIONER GRANA: I wasn't present  
17                  for this vote, but should I still vote?

18                  MR. GALVIN: No. People who voted for  
19                  it should be voting.

20                  COMMISSIONER GRANA: Then I will stand  
21                  back.

22                  MS. CARCONE: Do you know who voted for  
23                  it? I don't have the resolution.

24                  MR. GALVIN: Just everybody else.  
25                  Go ahead.

1 MS. CARCONE: Commissioner Murphy?

2 COMMISSIONER MURPHY: Yes.

3 MS. CARCONE: Commissioner McBride?

4 COMMISSIONER MC BRIDE: Yes.

5 MS. CARCONE: Did you participate in  
6 it?

7 COMMISSIONER MC BRIDE: I did.

8 MS. CARCONE: Oh, you did, in Babbio?  
9 I'm sorry.  
10 Commissioner Johnson?

11 COMMISSIONER JOHNSON: I recused  
12 myself.

13 MS. CARCONE: You recused yourself.

14 All right.

15 MR. GALVIN: Thank you.

16 MS. CARCONE: Commissioner De Grim?

17 COMMISSIONER DE GRIM: I did not vote.

18 MS. CARCONE: I'm sorry. I didn't hear  
19 what you said.

20 COMMISSIONER DE GRIM: I did not vote  
21 on this.

22 MR. GALVIN: Yes. You were recused on  
23 that, too, or you just didn't participate?

24 COMMISSIONER DE GRIM: No, I didn't  
25 participate. I was outnumbered.

1 MR. GALVIN: He didn't participate.

2 MS. CARCONE: And Commissioner Aibel?

3 CHAIRMAN AIBEL: Yes.

4 MR. GALVIN: Okay. There was no one  
5 against it, so it's passed.

6 COMMISSIONER MURPHY: Then I have one  
7 more question that has to do with this garage.

8 So my recollection was that there was  
9 prior approval for this garage, and then what --  
10 this approval that we are discussing changes to what  
11 was like a temporary thing, so they could at least  
12 get this done and --

13 MR. GALVIN: It's a phased thing. Even  
14 after they finally get out there and do it, there  
15 will be one more component, and they will be back to  
16 us.

17 COMMISSIONER MURPHY: Okay.

18 So in the phasing process, they have  
19 the parking going in this way. But in the original  
20 approval, which was before I was even here, the  
21 parking comes in through the neighborhood this way.

22 So is there any way at some point that  
23 like we can probably pose to them, if the Board  
24 thought it was wrong to do that parking entrance  
25 there, to keep it here, even though that stays?

1 I mean, maybe they will decide to do  
2 that --

3 MR. GALVIN: No. Well --

4 COMMISSIONER MURPHY: -- but this makes  
5 all of the cars come down Hudson Street. We talked  
6 about all of this traffic. They all come down  
7 Hudson and turn on Fifth, and then do this to get  
8 into the garage. Everybody that goes into the  
9 garage --

10 MR. GALVIN: Listen, they have to come  
11 back for that last phase.

12 MS. BANYRA: There are some challenges  
13 with that exact entrance, and Jeff has actually  
14 questioned them as to whether they can do exactly  
15 what you are asking and make it work in the plan and  
16 elevation, so it may go away.

17 COMMISSIONER GRANA: That is the final  
18 phase?

19 MR. MARSDEN: That's the Phase II.

20 COMMISSIONER MURPHY: Right. So even  
21 if they got the approval before, it doesn't mean  
22 that they necessarily will be able to do that.

23 MR. GALVIN: No, because they are going  
24 to need other relief when they come back to finish  
25 this thing off. But at least you will have a

1 parking garage and parking spaces to use.

2 COMMISSIONER MURPHY: Right, right,  
3 okay.

4 MR. GALVIN: And we need it for other  
5 projects.

6 COMMISSIONER MURPHY: No. I get that.  
7 But, you know, the traffic thing is such a big part  
8 of all of it, but, okay.

9 CHAIRMAN AIBEL: So is there any other  
10 business?

11 MR. GALVIN: Was there anything else?  
12 We had like four matters. We covered  
13 all four matters.

14 MS. BANYRA: Yes.

15 MR. GALVIN: So the bottom -- who is  
16 going to reach out for 1420 Willow?

17 COMMISSIONER GRANA: Me.

18 MR. GALVIN: No.

19 (Laughter)

20 MS. BANYRA: Jeff should reach out  
21 then, and you should provide your memo.

22 MR. MARSDEN: Yeah. I also talked to  
23 the architect and explained the issues in my memo,  
24 and he said --

25 MS. BANYRA: This is 1420 Willow,

1 not --

2 MR. MARSDEN: Oh, I am sorry.

3 (Laughter)

4 MS. BANYRA: So do you mind sending  
5 them or calling them and telling them -- what would  
6 you like the nature --

7 MR. GALVIN: Send a letter with your  
8 letter that you brought this to the Board's  
9 attention, and they want to give them an opportunity  
10 to respond to your memo.

11 MR. MARSDEN: Okay. Not a problem.

12 MR. GALVIN: I have already taken care  
13 of the Acme, so we are getting a response, and  
14 hopefully we will get the attorney here.

15 MS. CARCONE: So we are cancelling next  
16 week, no meeting, and then it seems like we will  
17 cancel the meeting on the 15th of November, and we  
18 are going to go for the meeting on the 22nd of  
19 November.

20 COMMISSIONER MURPHY: You're cancelling  
21 the meeting on the 15th?

22 COMMISSIONER COHEN: I thought we were  
23 going to do the 15th and the 22nd.

24 MR. GALVIN: You still can. You still  
25 can. I will send somebody else, you know.

1                   CHAIRMAN AIBEL:  If we can avoid two  
2 meetings --

3                   COMMISSIONER MURPHY:  Because we're  
4 never going to get everything done on the 22nd.

5                   MS. CARCONE:  But we are not sure we  
6 are going to have that appeal.

7                   CHAIRMAN AIBEL:  I am assuming we will  
8 not have the appeal.  There is a final for Wonder  
9 Bread.

10                  MS. CARCONE:  And then there is 703  
11 Bloomfield, which is a fairly small project that we  
12 heard already.

13                  MR. GALVIN:  But the final for Wonder  
14 Bread could blow up very easily.

15                  MS. BANYRA:  If it is going to blow up,  
16 we should know that, Dennis, beforehand.

17                  MS. CARCONE:  We have a little time to  
18 sort out the agenda.

19                  MS. BANYRA:  I just said to Jeff, we  
20 want you there, if it is going to blow up --

21                  MS. CARCONE:  So next week's meeting is  
22 cancelled.  We'll leave it at that.

23                  Don't throw out your stuff for 703  
24 Bloomfield and 720 Clinton.

25                  (Everyone talking at once.)

1 MS. CARCONE: Oh, yeah, the stuff that  
2 you didn't get don't throw it out. Sorry about  
3 that. I don't know where it went.

4 COMMISSIONER GRANA: Motion to close.

5 COMMISSIONER MC BRIDE: Motion to  
6 adjourn.

7 COMMISSIONER GRANA: Second.

8 CHAIRMAN AIBEL: All in favor?

9 (All Board members voted in the  
10 affirmative.)

11 (The meeting concluded at nine p.m.)

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C E R T I F I C A T E

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

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

s/Phyllis T. Lewis, CCR, CRCR

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 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: 10/20/16  
 This transcript was prepared in accordance with  
 NJAC 13:43-5.9.