

BOARD OF APPEALS

Lawrence Country Club
101 Causeway
Lawrence, New York

January 11, 2022
7:31 p.m.

APPLICATION: Leifer
 Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. PHILIP KERSTEIN
Member

MR. AARON FELDER
Member

MR. ELLIOTT MOSKOWITZ
Member

MR. ANDREW PRESTON, ESQ.
Village Attorney

MR. GERALD CASTRO
Building Department

MR. JACOB PLAUT
Building Department

MR. DANIEL VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

Leifer - 1/11/2022

CHAIRMAN KEILSON: Good evening, ladies and gentlemen. Welcome to the Lawrence Board of Zoning Appeals. Please turn off your cellphones. If you need to converse, please step outside into the corridor.

Mr. Vacchio, proof of posting?

MR. VACCHIO: Mr. Chairman, I offer proof of posting and publication.

CHAIRMAN KEILSON: Thank you very much.

Okay. The initial matter tonight is a variance extension application by a family Leifer. The expiration of their variance was on August 21, 2021. Original date was August 21, 2019. Unfortunately, counsel explained to us that inasmuch as it already expired, it's not within our purview to extend it. So the record will reflect that.


MEMBER GOTTLIEB: Anybody here from the family?

CHAIRMAN KEILSON: Anybody here on behalf of Leifer? I guess not. Okay.

(Whereupon the hearing concluded at 7:32 p.m.)

Leifer - 1/11/2022

Certified that the foregoing is a true and accurate
transcript of the original stenographic minutes in
this case.



YAFFA KAPLAN
Court Reporter

Moerman - 1/11/2022

INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALS

Lawrence Country Club
101 Causeway
Lawrence, New York

January 11, 2022
7:32 p.m.

APPLICATION: Moerman
240 Juniper Circle East
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. PHILIP KERSTEIN
Member

MR. AARON FELDER
Member

MR. ELLIOTT MOSKOWITZ
Member

MR. ANDREW PRESTON, ESQ.
Village Attorney

MR. GERALD CASTRO
Building Department

MR. JACOB PLAUT
Building Department

MR. DANIEL VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

Moerman - 1/11/2022

CHAIRMAN KEILSON: The first matter will actually be Moerman at 240 Juniper Circle East. They requested a further adjournment of the matter to the next available date. Any objection.

MEMBER FELDER: No.

MEMBER GOTTLIEB: No.

CHAIRMAN KEILSON: Okay.

(Whereupon the hearing concluded at 7:32 p.m.)

Certified that the foregoing is a true and accurate transcript of the original stenographic minutes in this case.



YAFFA KAPLAN
Court Reporter

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Spring Central LLC - 1/11/2022

INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALS

Lawrence Country Club
101 Causeway
Lawrence, New York

January 11, 2022
7:32 p.m.

APPLICATION: Spring Central LLC
346 Central Avenue
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. PHILIP KERSTEIN
Member

MR. AARON FELDER
Member

MR. ELLIOTT MOSKOWITZ
Member

MR. ANDREW PRESTON, ESQ.
Village Attorney

MR. GERALD CASTRO
Building Department

MR. JACOB PLAUT
Building Department

MR. DANIEL VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

1 Spring Central LLC - 1/11/2022

2 CHAIRMAN KEILSON: Next matter is Spring
3 Central LLC, 346 Central Avenue, they or their
4 representative. Please step forward. Good
5 evening.

6 MR. HERSHKOWITZ: Good evening. How are
7 you?

8 CHAIRMAN KEILSON: Please go on the
9 record and introduce yourself.

10 MR. HERSHKOWITZ: Yaakov Hershkowitz,
11 owner of Spring Central LLC.

12 CHAIRMAN KEILSON: Okay. You are on.

13 MR. HERSHKOWITZ: I am applying for
14 basically eight tables in the store. It's a
15 grab-and-go concept, and we would like to
16 offer seating for people to sit down.

17 CHAIRMAN KEILSON: Tell us about the
18 store.

19 MR. HERSHKOWITZ: It's --

20 CHAIRMAN KEILSON: What are you selling?

21 MR. HERSHKOWITZ: Prepackaged
22 sandwiches, coffee, acai, and we would like to
23 offer seating for the community.

24 CHAIRMAN KEILSON: Okay. Is this your
25 first venture with this type of a store?

1 Spring Central LLC - 1/11/2022

2 MR. HERSHKOWITZ: First independently.

3 Not the first, no.

4 CHAIRMAN KEILSON: You are associated
5 with another site?

6 MR. HERSHKOWITZ: This is the fourth
7 location.

8 CHAIRMAN KEILSON: Really? Where are
9 they?

10 MR. HERSHKOWITZ: Boro Park, Flatbush,
11 and Lakewood.

12 CHAIRMAN KEILSON: Wow. Concentration
13 of the clientele. Very interesting. How many
14 square feet do you have over here?

15 MR. HERSHKOWITZ: Whole space is about
16 1,400.

17 MEMBER GOTTLIEB: When you first opened
18 the store, the intention was grab-and-go?

19 MR. HERSHKOWITZ: Yes.

20 MEMBER GOTTLIEB: And then how did it
21 come about requiring seating?

22 MR. HERSHKOWITZ: Getting a lot of
23 interest from people walking in to have
24 seating.

25 MEMBER GOTTLIEB: So initially you

1 Spring Central LLC - 1/11/2022

2 didn't plan on having seating?

3 MR. HERSHKOWITZ: We thought about the
4 potential of going through a variance, but it
5 wasn't intrinsic to the concept.

6 MEMBER GOTTLIEB: So you opened up
7 without the seating and now you would like to
8 have it?

9 MR. HERSHKOWITZ: Yes.

10 CHAIRMAN KEILSON: How long have you
11 been open?

12 MR. HERSHKOWITZ: November 18th so
13 almost two months.

14 MEMBER GOTTLIEB: How is business?

15 MR. HERSHKOWITZ: Thank God. Seating
16 would help. It's a little slower now because
17 a lot of neighbors are in Florida. We are
18 hoping for people to get back soon.

19 CHAIRMAN KEILSON: I see.

20 MEMBER GOTTLIEB: The business is
21 already there and I don't see how adding --
22 how many seats is it? Sixteen?

23 MR. HERSHKOWITZ: There should be 16 --
24 eight tables. About 20-inch-by-20-inch square
25 tables.

1 Spring Central LLC - 1/11/2022

2 MEMBER GOTTLIEB: I don't think that in
3 itself creates a hardship in terms of parking.
4 I think people are coming in anyway.

5 MR. HERSHKOWITZ: I agree.

6 CHAIRMAN KEILSON: That parking lot is
7 already pretty saturated during certain days
8 of the week, but I don't disagree with you.

9 MEMBER GOTTLIEB: It's not very crowded
10 on Saturdays.

11 CHAIRMAN KEILSON: Thank you for
12 checking it out on behalf of the Board.

13 MEMBER GOTTLIEB: I take walks.

14 CHAIRMAN KEILSON: I understand. Okay.
15 Any further questions from the Board?

16 MEMBER FELDER: No.

17 CHAIRMAN KEILSON: No one wants to see
18 the menu?

19 MR. HERSHKOWITZ: I can share it with
20 the BZA.

21 CHAIRMAN KEILSON: Okay. Definitely.
22 That's a requirement. We want to sample your
23 delicacies.

24 MR. HERSHKOWITZ: Sure.

25 CHAIRMAN KEILSON: Anyone from the

Spring Central LLC - 1/11/2022

audience want to speak to the matter? All right. Taking into consideration the benefit to the applicant as opposed to any detriment to the community, we are now going to take a vote on it. We will start with Mr. Moskowitz.

MEMBER MOSKOWITZ: For.

CHAIRMAN KEILSON: Mr. Gottlieb?

MEMBER GOTTLIEB: For.

CHAIRMAN KEILSON: Mr. Kerstein?

MEMBER KERSTEIN: For.

CHAIRMAN KEILSON: And Mr. Felder?

MEMBER FELDER: For.

CHAIRMAN KEILSON: And I vote for as well.

MR. HERSHKOWITZ: Thank you so much.

CHAIRMAN KEILSON: I was remiss in not welcoming Mr. Kerstein who is an alternate who is sitting in for our very able member Mr. Hiller. So we welcome Mr. Kerstein who always has erudite, insightful comments. Looking forward to it tonight.

MR. HERSHKOWITZ: Thank you so much.

MEMBER GOTTLIEB: We welcome you to our humble village.

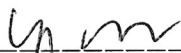
Spring Central LLC - 1/11/2022

MR. PLAUT: Just note you are good to go. You can put the tables in tomorrow.

MR. HERSHKOWITZ: Thank you very much.

(Whereupon the hearing concluded at 7:37 p.m.)

Certified that the foregoing is a true and accurate transcript of the original stenographic minutes in this case.



YAFFA KAPLAN

Court Reporter

Yaffa Kaplan
Court Reporter

1 Platt - 1/11/2022

2 CHAIRMAN KEILSON: Next matter is Platt,
3 638 Atlantic Avenue. Good evening, Mr.
4 Bienenfeld.

5 MR. BIENENFELD: Good evening, Mr.
6 Chairman and fellow members of the Zoning
7 Field Board. So to refresh your memory, we
8 were here at the last meeting and we requested
9 a variance to allow for the measurement of the
10 street wall height of the building to be
11 measured from the median grade rather than
12 from the crown in the road, and the reason why
13 we asked for that last time was because of the
14 nature of the property, which is a very large
15 piece of property which is -- much of it is
16 fairly level at a level of approximately datum
17 of 10 feet above flood plane. And the crown
18 of the road is roughly 5 and a half feet above
19 flood plane, so most of the property is about
20 4 and a half feet higher than the crown of the
21 road.

22 There is a practical difficulty in
23 measuring from the crown of the road because
24 most of the rise going from the crown to the
25 property itself is, you know, in the first 10

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1 or 20 feet of the -- after the property line.
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3 And the building is set back 50 feet from the
4 property line and it's in -- it's all by
5 itself kind of on that property and when you
6 see the property, when you view the property,
7 you really see it from the natural grade. You
8 don't really see it rising above -- above the
9 road. Because of the -- not only the lay of
10 the land but the height of the water table.
11 This building does not have a basement. It's
12 going to be built on a pile foundation with a
13 crawl space.

14 And just a little bit of history of why
15 the village chose to measure heights of
16 buildings from the crown of the road rather
17 than from the average grade which was the way
18 it used to be before the zoning was changed
19 several years ago. The reasoning was that
20 people were taking advantage by changing their
21 grade and making basements that were really
22 full first floors, try to appear as basements
23 by piling up a lot of dirt around them and
24 changing the grade. So you know, that's why
25 the zoning was changed, and actually I was

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part of that thought process.

CHAIRMAN KEILSON: Thank you.

MR. BIENENFELD: You are welcome. But what we realized then that there would be certain properties that might be, you know, raised above the crown of the road and those properties we said you know what? They will come back for a variance, but 90, 95 percent of the properties in a village which is basically flatlands, the natural grade and the crown of the road would be approximately the same elevation. That's not the case here. So this is one of those cases which we -- which I think rightfully anticipated might have to come before this Board because it's unusual in that it's one of the few properties in Lawrence where the crown of the road is here and most of the land is here.

So you know, the idea of hiding a basement is not the thing here. There is no basement, and of course, the natural grade is not only natural. The applicant purchased this land recently. They would not purchase the land until the seller who sold them the

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land demonstrated to them that this actually was the natural grade and they did that with a letter from the village itself. So the village certified that this is the natural grade.

MEMBER GOTTLIEB: No question but I have some questions for you.

MR. BIENENFELD: Sure.

MEMBER GOTTLIEB: I am one of those who believe that you should build as of right when you have a new house, but understanding that there are certain circumstances to that come into play. Here is my question. When I am looking at the front of the house and I think you have -- I don't know. I might not find the right words to ask this question. Looks like the maximum height is 43 feet 7 inches from the crown of the road.

MR. BIENENFELD: From the crown of the road.

MEMBER GOTTLIEB: It seems to be a small section of house.

MR. BIENENFELD: Right.

MEMBER GOTTLIEB: How wide is that

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section of house which seems what's in question? Am I right?

MR. BIENENFELD: Yes. It's not that much. It's about 20 feet.

MEMBER GOTTLIEB: And the entire house being about 100 feet wide?

MR. BIENENFELD: The entire house is yes, about 90 feet wide.

MEMBER GOTTLIEB: So just this 20-foot section?

MR. BIENENFELD: It's a center section.

MEMBER GOTTLIEB: Without that section, this house would be in compliance?

MR. BIENENFELD: Yes.

MEMBER GOTTLIEB: And what I have always also taken into account was looking at the house across the street, even though that house is on a -- it's not level, it has a different grade, but when you look at it from a side point of view from the distance, they are both going to be about the same height. So as much as I typically don't like to see new construction requiring a variance, it turns out that after a lot of analysis on my

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own, I, for one, don't have an objection to this 20-foot section not being 3 feet higher than what is approved.

CHAIRMAN KEILSON: You are getting so emotional.

MEMBER GOTTLIEB: I was trying to find the right words so it comes out right on the transcript.

CHAIRMAN KEILSON: Quite eloquent.

MEMBER GOTTLIEB: So therefore I don't have any questions.

CHAIRMAN KEILSON: Okay. Any questions from the Board members?

MEMBER MOSKOWITZ: No.

CHAIRMAN KEILSON: We appreciate as always the extremely articulate presentation. It's always very compelling to listen to you. It's very inspiring for people in the zoning business to listen to the man who is most responsible for some of the modernistic changes that we made to our zoning over the years. So we welcome you as always.

And is there anyone in the audience who would want to speak to the matter? All right.

Platt - 1/11/2022

So taking into account the benefit to the applicant as opposed to any detriment, and considering the extremely detailed explanation provided by Mr. Bienenfeld, we will take a vote at this point. And Mr. Felder?

MEMBER FELDER: For.

CHAIRMAN KEILSON: Mr. Kerstein?

MEMBER KERSTEIN: For.

CHAIRMAN KEILSON: Mr. Gottlieb?

MEMBER GOTTLIEB: For.

CHAIRMAN KEILSON: Mr. Moskowitz?

MEMBER MOSKOWITZ: For. And I also commend you on the excellent presentation.

MR. BIENENFELD: Thank you.

CHAIRMAN KEILSON: And I vote for as well. And how much time did we accord last time?

MR. VACCHIO: Two years.

CHAIRMAN KEILSON: You don't think you need more than two years?

MR. VACCHIO: Two and a half.

MR. BIENENFELD: Two and a half would be better.

MR. PLAUT: Two and a half from this

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date or from the prior meeting?

CHAIRMAN KEILSON: From this date.

MR. VACCHIO: Also Board of Buildings
Design.

MR. PLAUT: They already went.

MR. VACCHIO: Okay.

CHAIRMAN KEILSON: Thank you very much.

MR. BIENENFELD: Thank you, Mr.
Chairman. Thank you rest of the Board. Very
appreciated, and of course, the kind words are
very appreciated.

(Whereupon the hearing concluded at 7:45
p.m.)

Certified that the foregoing is a true and accurate
transcript of the original stenographic minutes in
this case.

YAFFA KAPLAN

Court Reporter

Salem - 1/11/2022

INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALS

Lawrence Country Club
101 Causeway
Lawrence, New York

January 11, 2022
7:45 p.m.

APPLICATION: Salem
7 Copperbeeche Lane
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. PHILIP KERSTEIN
Member

MR. AARON FELDER
Member

MR. ELLIOTT MOSKOWITZ
Member

MR. ANDREW PRESTON, ESQ.
Village Attorney

MR. GERALD CASTRO
Building Department

MR. JACOB PLAUT
Building Department

MR. DANIEL VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

1 Salem - 1/11/2022

2 CHAIRMAN KEILSON: Next matter is Salem
3 of 7 Copperbeech Lane, they or their
4 representative.

5 MR. BRAUM: Good evening my name is
6 Andrew Braum, B-R-A-U-M. 1924 Bellmore
7 Avenue, Bellmore, New York 11710. And I am
8 representing Mr. and Mrs. Salem. Manny Salem
9 is here with us tonight.

10 So good evening. As a matter of
11 refreshing, we were here before this Board
12 last month requesting a variance for front
13 yard surface coverage for a circular driveway
14 as well as a proposed swimming pool in the
15 rear yard which was too close to the rear
16 property line and the proposed pool equipment
17 in the other front yard which also resulted in
18 a surface coverage variance. After discussion
19 with the Board, we elected to adjourn last
20 month and went back to the homeowners.

21 I also had a chance to speak with the
22 rear neighbor who are also here in the
23 audience with us tonight, and the change that
24 you see before you is we changed the driveway
25 to the rectangular driveway with a little bit

Salem - 1/11/2022

of a walkway. That reduced the front yard surface coverage to an excess of 263 square feet which is vastly different. One other minor change to the driveway is we have one more revised plan which makes the driveway 20 feet wide instead of 18 and it reduced -- it removes the square walkway of 85 and 43 which actually makes the surface coverage an excess of 223 square feet. So we are --

CHAIRMAN KEILSON: So that's a further modification?

MR. BRAUM: Further modification.

MEMBER FELDER: Now you are proposing you are removing the walkway and just widening the driveway by 2 feet?

MR. BRAUM: Correct. So it's a net add of 88, if you see 44 times 2 and then removing the walkways which are 128. Therefore, the net is only an increase of 223. May I approach just to show you?

CHAIRMAN KEILSON: Please. Off the record.

(Discussion off the record.)

CHAIRMAN KEILSON: Just repeat what you

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have done.

MR. BRAUM: So in summary, we have modified the front driveway to be 20 feet wide where the previous drawing in front of the board was 18 feet wide, and we have removed the 85-foot square in the walkway and the 43-square foot in the walkway to make the new requested excess 223 where we previously advertised 263.

CHAIRMAN KEILSON: And the percentage?

MR. BRAUM: I believe it's 27 percent.

MR. VACCHIO: What was the number?

MR. BRAUM: 223 and 88.6 is permitted.

MEMBER FELDER: What was the measurement of the walkway that connected the two blocks?

MR. BRAUM: If you look on the front yard, surface coverage calculation. Walkway great than 4 feet.

MEMBER FELDER: That's a 4-foot walkway that's excluded?

MR. BRAUM: Yes.

MEMBER MOSKOWITZ: Does this also have the effect of reducing -- you are already under on surface coverage in general, but does

Salem - 1/11/2022

it also have the effect of making you further under on surface coverage?

MR. BRAUM: A little bit from the difference of 40 square feet, yes, it does reduce it. Did you calculate the percentage for the Board?

MR. VACCHIO: Twenty-seven percent.

MR. BRAUM: That's what I thought it was. And we already originally came in at 92 percent with the circular driveway and that's when you nodded to me to --

CHAIRMAN KEILSON: No, I was just tired.

MR. BRAUM: To reconsider. So does the Board have any questions on that portion of the variance at this point? Okay. I am going to move on to the pool now.

CHAIRMAN KEILSON: Please.

MEMBER FELDER: Any reason why you didn't just leave it at 18 feet?

MR. BRAUM: So when --

MEMBER FELDER: Then we wouldn't have any issue. Well, no.

MR. BRAUM: We are actually requesting less now than we were, and the reason for that

Salem - 1/11/2022

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2 was there was a time crunch on our end to get
3 this in for renoticing to be here today, and
4 once Manny and his family really measured
5 things out it was -- we really need to go to
6 20 feet and I said we can't go over because
7 the Board's counsel is going to say you have
8 to renotice and start over and so we took away
9 those square pieces to keep us underneath,
10 which I know is acceptable to the legal
11 aspects of this variance.

12 MEMBER FELDER: Okay.

13 MR. BRAUM: So moving on to the swimming
14 pool, we originally had requested a 10-foot
15 setback where 20 is required. I got the
16 impression from this Board that that's not
17 acceptable, and I know there were some issues
18 with the neighbors who did not have a chance
19 to even speak because we adjourned prior to
20 their opportunity. But in speaking with them
21 for a few moments after the meeting, we
22 actually -- we had a discussion with the Board
23 about relocating the door, leaving what was a
24 screened-in porch which we did. We went and
25 hired the architect to re -- redo the door so

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that the pool, you don't walk out right into the pool and we were able at that point to take the pool from a 10-foot request to only requesting a 5 foot. Where 20 is required we are looking for 15.

So on behalf of the client, in trying to be nice neighbors and make some concessions on a request, we are here now looking for this reduced variance request for a 14-foot-wide pool, which is not the widest pool to consider.

CHAIRMAN KEILSON: Okay. As you are aware, you are in the pool business to a great extent. So pools by definition are noisemakers.

MR. BRAUM: Yes.

CHAIRMAN KEILSON: So it's really a question of if there is a concession, we have to evaluate the impact and --

MR. BRAUM: Right.

CHAIRMAN KEILSON: -- there is no one who is more concerned or more impacted than the neighbor who is directly affected by that type of concession.

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2 MR. BRAUM: Understood.

3 CHAIRMAN KEILSON: It's rare, if ever,
4 that the Board will substitute its judgment
5 for a neighbor's concerns. So we have a
6 letter in the files already from the neighbor.
7 If you say the neighbor is here, maybe we will
8 allow the neighbor to speak to the matter and
9 then we will see where that takes us.

10 MR. BRAUM: I just want to make one
11 point clear to the Board, to the record. If
12 this pool is 20-feet setback, then we don't
13 have to be in front of this Board. They do
14 not need a variance for surface coverage and
15 as of right could put in a 9-foot-by-36-foot
16 pool.

17 MEMBER FELDER: That's correct.

18 MR. BRAUM: The difference of 5 feet in
19 noise, being the expert that I am in swimming
20 pools, there is no difference in noise -- let
21 the record know I am spreading my arms out 5
22 feet -- than having a pool here or having a
23 pool here when a fence is going to be 6 foot
24 high over here. So when this Board is
25 considering if there is a letter or there is

Salem - 1/11/2022

some testimony from a neighbor, in my professional opinion, I don't believe there is going to be a noise concern. Nor do I believe that this family is going to violate noise DBA requirements measured at a property line. I understand you are going to hear some testimony or read letters about some religious observances and things like that.

CHAIRMAN KEILSON: Why preempt? Let's allow the neighbor to speak to it. As far as your comment about your expertise, having lived with a pool since 1984, I can tell you every foot has impact. I have neighbors who I almost would accuse of disorderly conduct because they run their pools into all hours of the evening, and yes, I would like an additional 5 feet or as many feet as possible. So I don't think we can cavalierly just dismiss and say this is the -- at this juncture this is where it's no longer an issue. They are just noisemakers and they draw people and crowds and everything associated with a pool party and the like.

MR. BRAUM: Understood.

Salem - 1/11/2022

CHAIRMAN KEILSON: Let's hear from the neighbor.

MEMBER MOSKOWITZ: Also, if it were true in every situation that 5 feet doesn't really matter, then -- there is a reason the code is 20 feet as opposed to 15 feet. But we take it all into consideration.

MR. BRAUM: Understood. Thank you. I believe the neighbor is here. I guess you can ask.

CHAIRMAN KEILSON: I am going to ask is there a neighbor who would like to speak to the matter? Evidently yes.

MR. DUBIN: Good evening.

CHAIRMAN KEILSON: Introduce yourself for the record.

MR. DUBIN: Daniel and Adele Dubin, 6 Auerbach Lane.

CHAIRMAN KEILSON: Welcome.

MR. DUBIN: Thank you. So we submitted a letter stating our concerns --

MRS. DUBIN: Can we just start by saying we really don't want to make anyone not --

CHAIRMAN KEILSON: Please address us.

Salem - 1/11/2022

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2 MRS. DUBIN: Sorry. It's not our
3 intention and if it wasn't that we were so
4 close -- I am going to let my husband speak,
5 but I just don't want it to be we are so
6 against everyone having a good time. It's
7 just that our backyards are literally right on
8 top of each other and we have a very little
9 backyard there which is the only place we
10 sit.

11 MR. DUBIN: As I said in the letter and
12 can reaffirm, our backyard, as my wife said,
13 from the longest point from the house to the
14 row of bushes that are not dense at all is at
15 most 20 feet. So we do have a small backyard
16 and 10 feet is really -- I mean, nothing -- as
17 the chairman pointed out, pools are generally
18 noisemakers. Pools are teenagers and even we
19 have our own teenagers so we know they are
20 noisemakers. Even more so. We had -- during
21 COVID, you know, Salems had a fire pit that
22 was at the side further away from our house.
23 I think maybe 10 feet, I don't know exactly,
24 10, 15, 20 feet back, and we can hear plenty
25 going on into the hours. We had to go outside

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a few times and you know, ask them nicely to keep it down and they are teenagers so I understand the noise continued and it made it difficult for us to sleep at night.

So that was in a situation where you had -- you had a fire pit off to the side. This would be a pool directly, directly in the middle of our backyard and I think from looking at the diagram that doesn't even include the walkway around it which will extend the pool even further into our bush area. So I just feel like it's inevitable that as my wife said, we don't want to minimize anyone else's enjoyment of their property, but if it infringes on our own ability to have good quality enjoyment of our own backyard, we look forward to the weather turning, we want to be able to go out. We have been living there for 19-plus years, it's been pretty peaceful, and we just know inevitably the quality of our enjoyment of our backyard is going to be compromised from having a pool there, and there is splashing, there is music. I would be doing the same.

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It's just that the nature of the property as it is just kind of doesn't allow for enough space it seems to me for that kind of design.

CHAIRMAN KEILSON: You understand they moved it another 5 feet and they have also pointed out that they can move it further and build by right, if they want a very narrow pool, and they will be 20 feet away from the property line. That's their prerogative but again, that's no bearing on it necessarily.

MRS. DUBIN: That's not --

MR. DUBIN: I assume the code exists for a reason. Twenty feet is there for a reason. I am not going to sit here and say 20 feet isn't going to have an impact, but I guess there is nothing we can do about that.

MEMBER MOSKOWITZ: First of all, I appreciate your concerns and comments. As the chairman said, they have gone from 10 to 15 feet. I guess the question is is it 20 feet or bust from your perspective or do you -- is there flexibility in your preferences when it comes to this? Like if they put it at 18 feet, does that go a ways from addressing your

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2 concern, or from your perspective you would
3 like to adhere to the code fully?

4 MRS. DUBIN: I think that's been asked
5 and answered.

6 MR. DUBIN: You know, just as my wife
7 said, we have a small backyard to begin with.
8 If we had a full football field, I would
9 minimize my own enjoyment of the property,
10 move back and enjoy half, but here there is
11 not much I can do with what I am given in
12 terms of the amount of property that we have.
13 So it's inevitable we are going to be flying
14 in the face of noise even at 20 feet.

15 MRS. DUBIN: We have had noise for a
16 while with construction. Of course, that's
17 going to happen. I am not saying -- but you
18 know, when there is noise, it's hard to be
19 able to be in your backyard and feel like you
20 have privacy unfortunately when it's so small
21 and right against each other unfortunately in
22 this situation.

23 CHAIRMAN KEILSON: Any further questions
24 from the Board? Thank you very much.

25 MR. SALEM: May I make a statement?

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2 MEMBER FELDER: Is there a fence that
3 separates the properties now?

4 MR. SALEM: No.

5 MEMBER FELDER: Not at all?

6 MR. SALEM: Not at all. Just bushes.
7 Hi, how are you doing? Menachem Salem, the
8 owner of 7 Copperbeech Lane for the record.
9 So I definitely appreciate my neighbors coming
10 out here today. I have made numerous attempts
11 to have a candid conversation about this to
12 explain to the Board a little bit about the
13 background of this change. So right now we
14 are asking for a variance, and in asking so,
15 we are looking for a little bit of a bigger
16 pool. However, in doing so and offering the
17 neighbors as well -- and I don't really think
18 they understood completely, but we are
19 offering to make considerations right now
20 because of that additional size.

21 And those considerations are if you look
22 at the plans, beyond putting in a 6-foot
23 fence, we are also looking to put 8-foot cedar
24 Cypress trees that will encompass the complete
25 property which would also increase not only

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the privacy between both properties but also reduce additional noise. In doing so, we would be doing that on our side as well as we did offer considerations to the neighbors where we would look at their side of the property and offer them considerations in placing additional noise trees or whatever it may be in order to allow them to minimize the noise.

And therefore, although we are looking for a variance which would require us right now at a difference of about 5 feet, by us making all these changes and considerations, as part of these additions, we would be reducing the complete noise barrier between the properties which right now there is nothing.

So even these instances that were discussed with regards to an occasion during COVID where a group of children, teenagers who were after a lockdown and were able to congregate after not being able to do so for months on end did make noise, and although I was not notified, and although we have been

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living there for three years, this is probably the closest conversations we have had with our neighbors from the back at that time. Not to say it's not being neighborly. It's the fact that we haven't been -- we are very private people and have not required the conversations up until this point between us and our neighbors. Further, we have done construction, and from a matter of consideration in the time since July that we have done construction on this property, at considerable expense we made sure that no construction was done on any holiday, any Sabbath and made sure that the considerations of our neighbors were very important to us and offered our neighbors -- and I have offered them on numerous occasions the opportunity to become a partner in this as opposed to going at it on our own requirements without having them involved at all and doing a pool which would be smaller and may not be as insulated but will exist.

So I appeal not only to the Board but also to my neighbors to consider that and sit

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with us at a table where we can both work out our differences and be able to have both families accommodated in the spaces that we live.

CHAIRMAN KEILSON: You make reference to the construction. As I understood it you had a fire?

MR. SALEM: Yes.

CHAIRMAN KEILSON: Did you push the house out?

MR. SALEM: Yes, I did.

CHAIRMAN KEILSON: How many feet did you push it out?

MR. SALEM: Ten feet. Nine foot 7 inches.

CHAIRMAN KEILSON: Did you take into consideration that you might want a pool?

MR. SALEM: No, we didn't. At the time we were more concerned about getting my family back at the house. It took a lot of planning. Actually the fire happened January 17th.

CHAIRMAN KEILSON: Which year?

MR. SALEM: Of last year.

CHAIRMAN KEILSON: '21.

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MR. SALEM: '21, yes. So we spent about five months in the planning phases, you know, along with the Building Department and architects trying to accommodate the liveable space, and then after we got into the whole construction phase, and we saw -- you know, we saw the opening, and where we started doing the landscape plans, we were looking at hey, you know, this is an area where we may be able to put a pool and it may be something that we would want to have being that unfortunately in this day and age and what we are living through in this pandemic, we don't necessarily know if we are going to have to be at home for lengthy periods and having a location where the family can be together is something that if possible and if, you know, allowable would be something that we would -- you know, we would appreciate for our home, and that's the reason why we went through all this effort to try to get that accommodated.

CHAIRMAN KEILSON: It's just unfortunate you are talking about on the heels of you doing construction in which case you could

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have accommodated the pool without any --

MR. SALEM: Yes, absolutely and there were other ways we could have done it, but it was already done, and unfortunately, we were on a time constraint with our living arrangement, with the insurance, trying to get back into the house, so this unfortunately came out to be an occurrence of kind of rushing to make -- you know, to get us back home.

CHAIRMAN KEILSON: I think you should know generally when we do allow concessions on the backyard distances and the like, there is always a requirement that goes hand in hand in terms of screening because we understand that it's going to have an impact. It has an impact whether it's 20 feet, it has an impact certainly whether there is some sort of concession.

MR. SALEM: Sure. I was willing to go an extra step which is they have much more expensive screening, which is the use of more commercial use which they do soundproofing. It's like soundproof fences that would make

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1 the -- they use them on highways. They use
2 them in different areas. They are made out of
3 -- they are not -- essentially, they are not
4 hollow. They have filaments inside that would
5 protect against sound. It's much more
6 expensive but it's definitely something that
7 we would, you know, offer in order for us to
8 be able to do what we are looking to do in the
9 understanding that yes, we are asking for a
10 variance. We are asking for something that
11 technically according to the code we should
12 not be able to have. However, we are looking
13 for a little bit of the additional footage in
14 the space of the pool to make it a little bit
15 more comfortable, and we are willing to make
16 those accommodations and considerations to our
17 neighbor to be able to accomplish that.

18
19 CHAIRMAN KEILSON: Part of the problem
20 here is, of course, we are not working in a
21 vacuum. There is somewhat of a history --

22 MR. SALEM: Yes.

23 CHAIRMAN KEILSON: -- whether it's real
24 or perceived but they are the ones being most
25 directly affected.

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2 MR. SALEM: But I would like to address
3 them, sorry to address -- I would like for
4 them to hear that and understand it.

5 CHAIRMAN KEILSON: I think they have
6 heard it.

7 MR. SALEM: And you know --

8 CHAIRMAN KEILSON: I think in our
9 experience what we find is very often the
10 neighbors unknowingly go along with
11 concessions, and very often they come to us
12 afterwards and say why didn't you tell us that
13 that concession is going to affect our
14 lifestyle on a going forward basis because of
15 how noisy the neighbors' pools are. Nobody
16 can predict but that's the reality.

17 MR. SALEM: I am looking to make
18 permanent changes and these changes I am
19 looking to make that are permanent are going
20 to assist -- if I do go as a matter of law, I
21 may not go through that expense although I may
22 take into consideration my neighbor's
23 statements, but I would definitely look to
24 them to reconsider and throw their support in
25 because in doing so, they may solve their

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problem. In not doing so, their problem may persist, but I think solving the problem is the best way to go here and I would like to solve that if I can.

CHAIRMAN KEILSON: Okay. In the event that they decide to go by right, are you looking for the variance on the equipment?

MR. BRAUM: Yes. We would need the variance for the equipment still in that front yard.

MEMBER GOTTLIEB: Unless you move the equipment to another location in which case it wouldn't matter.

MEMBER FELDER: Where is the equipment right now? Right here?

MR. BRAUM: Mr. Chairman, in what format can I ask the neighbors if they would reconsider based on the fact that he is willing to do some screening and also do a sound absorbing fence if they would reconsider it, allow it to be 17 or 18 feet.

CHAIRMAN KEILSON: We prefer not to have a colloquy between the neighbors.

MR. SALEM: I understand.

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2 CHAIRMAN KEILSON: If the neighbor wants
3 to modify his position in any which way, he is
4 certainly more -- he is invited to do so, but
5 thus far I don't sense that there is any
6 change in position. Mr. Dubin; is that
7 correct?

8 MR. DUBIN: I would say I am highly
9 skeptical that there is any solution that
10 could minimize the noise to the extent that we
11 would be gratified. If there is some kind of
12 precedent or example that could be shown to me
13 in the Lawrence area where there is
14 soundproofing barriers of which Mr. Salem
15 speaks that exist and I would -- we would be
16 able to see them and be, you know, convinced
17 that that were the case that the noise
18 reduction was sufficient, we would be open to
19 it but otherwise, I am going to have to by
20 default assume -- I don't know if my wife
21 feels any differently, assume that the noise
22 cannot be minimized to the extent that it
23 makes a difference with any trees. And then
24 there is always the question of whatever you
25 put in, what it looks like and you know, how

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2 it affects, you know, the general.

3 CHAIRMAN KEILSON: Thank you for the
4 offer.

5 MEMBER MOSKOWITZ: I just have one other
6 question for Mr. Dubin and Mrs. Dubin. Just
7 in terms of the scope of your objection. You
8 are not objecting, are you, to the location of
9 the pool of the equipment, right, which is
10 about 43 feet away from your property line? I
11 just want to make sure that's true or not.

12 MRS. DUBIN: What's equipment?

13 MR. DUBIN: What's equipment include?

14 MEMBER FELDER: The pool filter, the
15 meter, all the pipes.

16 CHAIRMAN KEILSON: Mr. Dubin, why don't
17 you approach for a moment. Take a look at the
18 drawing.

19 MEMBER MOSKOWITZ: They need a variance
20 not because of the proximity. The house --

21 MR. BRAUM: The other option is we move
22 it.

23 CHAIRMAN KEILSON: Go back to the
24 question. The neighbors expressed the option
25 of your taking them to show them something

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that you think would be impactful in terms of minimizing, mitigating.

MR. SALEM: With all due respect, I think if they don't get it at this point, I don't think they will get it. So we will withdraw the pool and do it by law.

MR. BRAUM: So if you can tell me if this is legally acceptable.

CHAIRMAN KEILSON: We can bifurcate?

MR. PRESTON: I don't understand what the request is.

MR. BRAUM: We are going to remove the 15-foot request from the pool, and we are going to change that to 20 feet.

MEMBER KERSTEIN: That's as of right.

MEMBER MOSKOWITZ: I think the only variance that you would be requesting here tonight is two. Is locating the pool equipment in the front yard and is that it? And the square foot as described before.

MEMBER GOTTLIEB: If we want the equipment, can we see that that is screened in?

CHAIRMAN KEILSON: Certainly. Screened

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in so we don't see it from Copperbeech.

MR. SALEM: From Copperbeech Lane we have Cypress trees eight feet going along the complete property line that will have no view from Copperbeech at all, and it would be enclosing off the property from the front so you wouldn't be able to see anything from the side yard at all.

MR. BRAUM: Can we make it contingent upon Building Department confirmation then?

CHAIRMAN KEILSON: Absolutely. So let's just summarize what we are looking for tonight. We are looking for the placement of the pool equipment in the front yard as depicted. And we are talking about the excess surface coverage in the front yard of 223 square feet which equates to --

MR. BRAUM: Twenty-seven percent.

CHAIRMAN KEILSON: Twenty-seven percent. So taking that into consideration and the benefit at this point to the applicant as opposed to any detriment --

MR. PLAUT: Just to be clear about that last condition about the screening, it's going

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to be evergreen, it will be eight feet tall,
and it will be confirmed by the Building
Department after.

MR. BRAUM: Absolutely.

MR. PLAUT: So that would be one of the
requirements.

CHAIRMAN KEILSON: Thank you, Mr. Plaut.
Mr. Moskowitz?

MEMBER MOSKOWITZ: For.

CHAIRMAN KEILSON: Mr. Gottlieb?

MEMBER GOTTLIEB: For.

CHAIRMAN KEILSON: Mr. Kerstein?

MEMBER KERSTEIN: For.

CHAIRMAN KEILSON: Mr. Felder?

MEMBER FELDER: For.

CHAIRMAN KEILSON: I vote for as well.

MR. BRAUM: Thank you very much.

MR. SALEM: How long do we have for
that? Can I get two years?

CHAIRMAN KEILSON: Yes, you can.

MR. PLAUT: Keep in mind the permit
should be obtained within 30 days of today.
It will expire in two years from today.

(Whereupon the hearing concluded at 8:15

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p.m.)

Certified that the foregoing is a true and accurate
transcript of the original stenographic minutes in
this case.



YAFFA KAPLAN
Court Reporter

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INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALS

Lawrence Country Club
101 Causeway
Lawrence, New York

January 11, 2022
8:15 p.m.

APPLICATION: Fishman
191 Harborview North
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. PHILIP KERSTEIN
Member

MR. AARON FELDER
Member

MR. ELLIOTT MOSKOWITZ
Member

MR. ANDREW PRESTON, ESQ.
Village Attorney

MR. GERALD CASTRO
Building Department

MR. JACOB PLAUT
Building Department

MR. DANIEL VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

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CHAIRMAN KEILSON: Next matter is 191 Harborview North, Fishman, they and their team.

CHAIRMAN KEILSON: Good evening, Mr. Macleod. Good evening, Mr. Fischler.

MR. MACLEOD: Good evening, members of the Board. We are here this evening to represent the Fishmans in their recent purchase of 191 Harborview North.

CHAIRMAN KEILSON: I think the record should reflect that there has been extensive conversations with the applicant and their very able team to try to accommodate the applicant as we always try to do with residents of the village. Nonetheless, we have a full board tonight, and of course, they will express themselves and address whatever concerns they may have. So in a sense, they are a newborn baby here tonight and we are going to approach it that way, and of course, I am sure you will express and present it in your normal comprehensive fashion and then Mr. Fischler will augment and then we will hear from the applicant and whatever neighbors are

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here tonight.

MR. MACLEOD: Thank you. John Macleod,
595 Park Avenue, Huntington.

MR. FISCHLER: Yossi Fischler, 280
Morris Avenue, Inwood, New York.

MR. MACLEOD: Just to describe a little
bit about the property. It is in the flood
zone and most of the issues that we are
addressing as variance items are generated
because of the flood zone situation and we
will go through those individually, but just
for the record, just putting on the record
that the Fishmans have been residents of
Lawrence for nine years. They have seven
children, and this is their home that they
have been looking forward to developing, their
lifetime home.

And we are trying to get as much as we
can out of the property as we normally do, but
certain restrictions, which are again
generated by the flood zone, which is the
Flood Zone 10, force us to comply with FEMA
and we have complied with FEMA on all the
aspects of this design. After exploring

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various other designs, as Mr. Keilson said we have explored this in conversation as well as on the drawing board for over a year now, and first of all, we examined the possibilities of extending and developing the existing house which has had no improvements through its lifespan when it was originally built in the late '50s. And we tried to design a project based on that concept and it was -- there was really no advantage to it. By the time we designed enough changes to it to make it a useable house, there were no walls left in the house, so we moved on from there to designing a brand-new house for the property with initially with a front door facing Harborview North and we found a lot of disadvantages in doing this that it created a lot more variance items. So we eventually have settled on a plan which actually has the front door on Lawrence Avenue, and we still need variances, which is obviously why we are here, but the number of variances required have been reduced to our list of five today, some of which are relatively small and -- but we still need to

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discuss those with you and explain our reasoning behind them.

So if we could just go to the code relief chart which you have, and we will start at the top and work our way down. So the first item is the building coverage. This property is by code permitted to have 3,071 square foot building coverage. We are requesting 3,305, which has an overage of 234 square feet or 7.6 percent. And we have -- we need this extra space. My clients have seven children. We need space within the house for accommodating them as well as for guests and the rest of the family to enjoy the house. So we have -- we are requesting a relatively small increase of the permitted square footage of building coverage. Again, number 234 square feet. If this house had been in a non-flood zone, we would have been allowed to have a basement. The square footage, the living space for this house would have been increased by probably around 2,500 square feet. So we don't have that advantage. We have rather a disadvantage, so we are trying

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1
2 to get as much square foot out of this
3 property as possible and feel that 234 square
4 feet request makes -- hardly makes up for it
5 but makes up for a small portion of the
6 potential 2,500.

7 CHAIRMAN KEILSON: Can you explain that?
8 You just made a statement that had it not been
9 in the flood zone --

10 MR. MACLEOD: If this was a house
11 outside of the flood zone, we would have been
12 allowed to have a full basement, a first,
13 second, and partial third level. The fact
14 that we are in the flood zone means that there
15 is no basement and that footprint of 3,000
16 square feet would indicate to me that a
17 basement probably around 2,500 square feet is
18 no longer allowed because we are in a flood
19 zone. So right at the beginning --

20 CHAIRMAN KEILSON: That's your deficit,
21 right?

22 MR. MACLEOD: Yes.

23 MEMBER GOTTLIEB: That didn't happen
24 after you purchased the house?

25 MR. MACLEOD: It did not.

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MEMBER GOTTLIEB: It was preexisting?

MEMBER KERSTEIN: It was preexisting to
the purchase of the house?

MR. MACLEOD: That's correct, yes.

MEMBER GOTTLIEB: And maximum height
used to be 30 feet?

MR. MACLEOD: Yes. Now it's 36 feet and
we actually have a disadvantage generated by
those requirements also related to the height
setback ratios which we can discuss, but the
center of the road is an average of elevation
6 and we are in a Flood Zone 10 which means
the living space has to be 2 feet higher than
the 10 at 12 which puts our first floor at 6
feet above the center of the street.

Now, that raising of 6 feet, most houses
their first floor might be between 2 to 3
feet. Not in a flood zone they would be about
2 to 3 feet above the center of the street and
here so we have a distinct disadvantage of
about 4 feet in height. We have complied with
the height. We have complied with the height
for the total structure. We are up to 36
feet. We have -- we have a crawl space of

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about 5 feet and we are going to be using that crawl space for some degree of storage as you are allowed to use crawl spaces for that purpose and that brings me forward to a couple of steps forward to the garage. We do not have a one-car garage. That's one of the variance items we are looking for.

MEMBER GOTTLIEB: So that's number 2?

CHAIRMAN KEILSON: No; number 4.

MR. MACLEOD: I skipped past the two height setback ratios, but if you would like to address that in order --

CHAIRMAN KEILSON: Why don't you do it in order?

MR. MACLEOD: Let's go back to item number 2, which is the front yard height setback ratio. It's required to be 0.74. Due to what I just described about the height of the house needed to be 6 feet, the first floor to be 6 feet above the center of the street, the house is elevated by an additional 4 feet than average. And that pushes our -- some of our roof lines up above the height setback ratio for the front yard.

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At item number 3 I will speak to the same point. Item number 3 is the rear yard which is required to be 0.55, and both of these items, if you go to the right-hand column of the code relief chart, you will see that both the front and the rear yard are -- have an overage of 0.13.

MEMBER FELDER: Is there a differential between the height of the crown of the road on Lawrence Avenue versus Harborview North, or are they relatively the same? Are they having this problem more so because they turned the house and now the crown of the road is being judged by Lawrence Avenue?

MR. MACLEOD: No. We took the average of all the spot elevations on both streets. It's fairly flat. It's around 6. Elevation 6.

MEMBER FELDER: So it's not hurting them that they turned their house?

MR. MACLEOD: No. No advantage or disadvantage. So looking at these numbers where, for example, the first one, front yard height setback ratio .74, we are requesting a

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.87, the differential of .13 is a fairly de
minimis amount.

CHAIRMAN KEILSON: Okay.

MR. MACLEOD: The second one, which is
the rear yard, required at .55, proposed at
.68, is an equally 0.13 relatively de minimis
amount.

MEMBER GOTTLIEB: Mr. Macleod?

MR. MACLEOD: Yes.

MEMBER GOTTLIEB: Yes. Sorry. The
front of the house is Lawrence Avenue?

MR. MACLEOD: By zoning, the front of
the house is still Harborview North.

MEMBER GOTTLIEB: Okay. So by zoning
requirements, the front of the house is
Harborview North, so you are maintaining that
30-feet front yard?

MR. MACLEOD: Yes. We are actually
maintaining 31 feet and the rear yard at
40.45.

MEMBER GOTTLIEB: Forty square yard
meaning back here and your front yard is going
to be used as a side yard?

MR. MACLEOD: It's actually the side

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yard being used as a front yard.

MEMBER GOTTLIEB: Semantics. So what the front yard is 20 feet, as a practical proposition it's 20 feet?

MR. MACLEOD: Yes. That is -- well, it's 20 feet from the property line, but about 30 feet from the curb.

MEMBER GOTTLIEB: Okay. So apparently that doesn't trigger a variance, but that's something that is rather unusual.

MR. MACLEOD: And the height setback ratio on the left and right, you see we positioned it centrally on the property 20 feet front -- I'm sorry. Twenty foot on each side and that complies with the zoning as well as the height setback ratios.

MEMBER GOTTLIEB: And the rear yard which is the side yard is 20 feet to the neighbor?

MR. MACLEOD: Yes.

MEMBER GOTTLIEB: Is that what's triggering a side yard?

MR. MACLEOD: No, no. We don't have a side yard.

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CHAIRMAN KEILSON: No encroachments.

MEMBER GOTTLIEB: Got it.

MR. MACLEOD: So we complied with all of our setbacks, front, side, and rear height setback ratio on both sides. It's only the front and rear height setback ratio that we are --

MEMBER GOTTLIEB: And the exterior wall height.

MR. MACLEOD: And the exterior wall height, which is the same arguments as these two height setback ratios, which the house is elevated by FEMA to be an additional 4 feet higher than perhaps an average house. So we are 6 feet above the middle of the street for the first floor, and that has pushed us up and also the eaves height pushes up but we are only requesting 1.6 feet of the variance there. We are required to have 23, but we are requesting 24.6.

MEMBER GOTTLIEB: What are the ceiling heights? You mentioned 6 feet to the first floor from the crown.

MR. MACLEOD: Yes. So ceiling heights

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-- we have 10 feet on the first and 9 feet on the second and 8 feet on the third.

MEMBER GOTTLIEB: I'm sorry. Ten feet, 9 feet, 8 feet?

MR. MACLEOD: Ten, 9, 8.

MEMBER MOSKOWITZ: Looks very luxurious.

MR. MACLEOD: We made several adjustments to the roofscape of the house to comply with the 35 percent flat roof requirement. At one point it was higher than that, but we reduced it to avoid a variance. We also removed a deck from the backyard because that generated a variance. We now have a patio on grade.

MEMBER GOTTLIEB: So you are not over on surface coverage?

MR. MACLEOD: We are not over on surface coverage. We are compliant.

MEMBER GOTTLIEB: Do you have room for a detached garage?

MR. MACLEOD: We --

CHAIRMAN KEILSON: Gentlemen, a relevant question. The question on the table is do they have room for a detached garage.

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MEMBER KERSTEIN: Without the need for a variance.

MR. VACCHIO: He has got to maintain 8 feet, and I would say it's possible.

MEMBER GOTTLIEB: I guess I was referring to surface coverage.

MR. PLAUT: They are already over on building coverage so they have to --

MR. VACCHIO: It's going to increase the building coverage. Can it be put in the -- on the side here? Yes. It could be done without encroaching, but it's going to increase the building coverage.

MEMBER GOTTLIEB: My question was an attempt to reduce a variance, not increase another variance.

MEMBER MOSKOWITZ: Can you talk about the benefit of the garage variance because that's an unusual variance. I know that some of the legislative history here is in the discussions that preceded this hearing was that maybe put that variance on the table and then I think the original hope was that you would basically have a clean application or

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close to a clean application with that variance coming into the mix. I think the end result here is that you have that variance being requested, and then there is still a number of other variances. Although as you described some of them are of a small nature, but it's still an application with five variances. Tell me as best you can the benefit that you are getting in terms of a garage variance. How is that reducing other variances? What's the role of that in the project?

MR. MACLEOD: If we have a required one-car garage, which is the code for a V zone, a property of this size, that would probably be about 230 square feet for a one-bay garage, and if that space was incorporated into the footprint of the house, it takes away an important part of the first floor of this house. Even though you are allowed to have a garage in a flood zone at the regular grade level with no requirement to have to park your car above the flood zone, it would still be taking away the potential floor

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space on the first floor, which is detrimental to the overall design. The other advantage about having that 230 square feet as part of the house is that we can build on top of it. You can build -- if it's living space on the first floor instead of the garage, you can build on the second floor and partially on the third floor. So there is an advantage to having that footprint as part of the house, but in this instance there was not a good way to incorporate a one-car garage into the house without it being detrimental to the first floor plan. My clients would much more prefer to have living space versus storage space which we can accommodate in the crawl space. We will have a 5-foot-high crawl space and provide access doors on the side of the house for putting in garden furniture, Succahs, and anything else that --

MEMBER KERSTEIN: But just a question. If the garage is not there, which is 230 square feet, but you are still coming in with an overage of 234 which is 7 percent, 7.6. If you take the garage space, assuming you have

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2 to have the garage and you are still coming
3 in, you would be 15 percent over on your
4 coverage so in reality you are asking for the
5 garage not to be there but you are still
6 coming in with that same roughly 7 -- plus 7
7 in terms of the overage because if you had the
8 garage it would be over by 15.

9 MR. MACLEOD: I agree with your math on
10 that. Again, going back to what we were
11 discussing about the potential basement not
12 being there where we would lose --

13 MEMBER KERSTEIN: But you bought the
14 house knowing that you couldn't put in a
15 basement. You didn't buy it. The house was
16 bought with that understanding.

17 MR. FISCHLER: We could have kept the
18 basement that was still there which was
19 compliant but to -- using the house as is in
20 the end didn't work, which was after the
21 purchase based on doing all the architecture
22 around it, and therefore, it went to the next
23 step of okay, now what could we do now that we
24 went through that whole process and it didn't
25 work so therefore that's why.

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MEMBER KERSTEIN: But you are building from what I see a very large home.

MR. FISCHLER: It's because the basement --

MEMBER KERSTEIN: Forget the basement. It's a very large home by any definition of a home. This is a large living area. You are taking away the 230-some odd feet but you are still 230-some odd feet over in the coverage. Is there everything that you really have to have in the house as it's currently planned to get to this -- you know, to cover -- I thought the idea was that the garage would not be there and there wouldn't be any other variances. Instead you have the same variance as if the garage was there.

MR. FISCHLER: There is a gain by using the square footage on top of the garage.

MEMBER KERSTEIN: There is a gain for building up and that's not the question.

MR. FISCHLER: But that's the benefit between having a garage on top -- a garage alone which John was explaining was having a garage alone would be a one-story square

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footage option. As part of the garage -- as you take that square footage of the garage and add it to the house, the benefit is more to make up for the loss of square footage and the height pushing it up because of the attic, because of all the slopes and everything, you lose a lot of footage.

MEMBER KERSTEIN: Let's assume 230 for the moment. So that's 230, that's plus another 230 so that's 460 and let's assume half of that which is 150. So 585. So roughly 600 square feet of living area that you have gotten by not having the garage. But now you are saying that with that extra living area, you still have to go over the ground coverage. The first floor footprint of the house --

MR. FISCHLER: Right.

MEMBER KERSTEIN: -- is 230-some-odd feet larger than allowed, and you are coming back for another variance.

MR. FISCHLER: It's really what John said at the beginning. It's triggered all by the FEMA because the deficit is huge by

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switching to FEMA-regulated house versus a non-FEMA-regulated house. That's really it's triggering a significant square footage deficit.

MEMBER GOTTLIEB: Can I ask your question in a different way? So Kin Ayin Hora, you have seven children, which means you may have seven drivers.

MR. FISCHLER: Well, not me; them. I am not the homeowner. I only have three.

MEMBER GOTTLIEB: So that makes ten. Where do you park nine cars?

MR. FISCHLER: Who has nine cars?

MEMBER GOTTLIEB: Well, seven children.

MR. MACLEOD: We have provided the standard two-car parking space and we are under on our surface coverage. If we needed to, we could --

MEMBER GOTTLIEB: Put up a parking lot.

MR. MACLEOD: We have actually 300 square feet as additional surface coverage that we haven't used.

MR. FISCHLER: And there is only one other house on that whole street on that side.

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MEMBER GOTTLIEB: I couldn't understand where all the cars are going to be situated.

MR. MACLEOD: I mean, we have gone through extensive design options for this house and come back to this square footage. Let me ask you to answer your question, Mr. Kerstein, that we -- we have tried very hard on multiple designs to achieve the goals that the client has requested. With their large family and the numbers that we come up with, perhaps we have a little bit of leeway in them and we can talk about that, but not to the extent of removing that whole percentage.

MR. CASTRO: Do you know what the square footage would have been if you attempted to renovate the home, obviously stay under the 50 percent rule, and including the basement at that point, existing basement?

MR. MACLEOD: Well, the original house had a footprint of 2,053. The lower level which we would not be able to use because it's under the flood plane. We were at elevation 6, so basically we could build a one footprint extending it and going up to 3,071 and then

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the third level on top of that was only going -- would be the third level and it would have to have some sloping roof so it would not have been a --

MR. VACCHIO: If you comply with the 50-percent rule, then you are able to occupy the basement.

MR. FISCHLER: We did go down that path.

MR. MACLEOD: We could not comply with the 50 percent FEMA rule. The numbers just didn't work out to allow that to happen, but that's a good thought.

MEMBER KERSTEIN: What's the total square footage of the house living space assuming no basement right now the way you have it?

MR. MACLEOD: We have 3,305 on the first and second floor and the third level, which we are not required to declare on these papers here as square footage. We don't have a gross floor area requirement, but just to tell you to answer your question, it's about 1,500 square feet on the third level. About half.

MEMBER KERSTEIN: In excess give or

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take?

MR. MACLEOD: Yes, close to in excess of 8,000, give or take.

MEMBER MOSKOWITZ: Mr. Macleod, let me ask you a question. If some of us were very troubled by the absence of the garage, could there -- we had a colloquy before about that there is a possibility that you can put a garage as a stand-alone but then it would exacerbate the building coverage problem that was the discussion before. But what if that were addressed in the following manner: You put a garage in and then -- a stand-alone garage and then with respect to the building coverage issue, you say you had some kind of plan B. Is there some way to bring the building coverage down so that you don't have a material or much of a net increase in building coverage as a result of constructing a garage?

MR. MACLEOD: By putting in a garage?

MEMBER FELDER: You are suggesting they bring it down to -- meaning with the garage you want them to keep the overage only at 234?

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MEMBER MOSKOWITZ: Something like that
or thereabouts.

MEMBER FELDER: So basically shave off
234 square feet or thereabouts.

CHAIRMAN KEILSON: I think he is
pointing towards the garage concern more than
anything else, the nature of the precedent.

MR. MACLEOD: The overage and size of a
one-car garage just happens by coincidence to
be similar numbers.

MEMBER KERSTEIN: Pure coincidence.

CHAIRMAN KEILSON: Earlier today there
was a discussion it wasn't 230. What's the
actual minimum?

MR. CASTRO: Ten by 20.

MR. VACCHIO: That's interior
dimensions. Another foot and a half for the
walls.

MR. MACLEOD: 230 is the actual area.

CHAIRMAN KEILSON: So 230 is a fair
number?

MR. VACCHIO: Yes.

MR. MACLEOD: So to reduce the footprint
of the house as we have it designed now by 230

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square feet, we would not be able to achieve the goals that we had worked towards here.

MR. FISCHLER: You are talking about 200 overall square footage, not 200 in footprint.

MEMBER MOSKOWITZ: Building coverage.

MR. FISCHLER: Then it's tripled.

MEMBER KERSTEIN: Two and a half times.

MEMBER FELDER: It's tripled which means you would shave off a little straight up.

MR. FISCHLER: Two hundred whatever it is in total bulk square feet, not --

MEMBER MOSKOWITZ: 234 square feet with respect to the building coverage with respect to the building coverage overage. Right now there is a building coverage overage of 234 square feet. That would become worse if we were to construct a garage, and it would seem like it would become worse to the tune of around another 200 or what did we say before, 230? So then you would be talking about an average over not of 234 but rather of 464 or so and the question is are there any ideas to bring that back down -- if we are going to put in a garage to bring that back down to

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something that looks like the 234.

MR. MACLEOD: Well, if we were to accomplish that goal, we would be reducing the footprint of the house by 230 square feet, which is the whole 7 and a half percent that we are looking at here.

MEMBER MOSKOWITZ: Is that right?
Because I thought if it --

MEMBER GOTTLIEB: Cantilevers you mean?

MR. FISCHLER: You are asking for building footprint which I think you are going to square footage in the house as a total over all three floors versus just the footprint.

MEMBER MOSKOWITZ: Now I can see where -- I think you are talking -- I am talking about the building coverage variance that's being requested. You are saying though that the impact of that is if you shrink the house to address the 234, you are actually losing a multiple of that in living space because it's all three floors.

MR. FISCHLER: Yes.

MEMBER GOTTLIEB: There you have the benefits of an attached garage because you can

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build over it.

MEMBER MOSKOWITZ: Did you have some kind of idea? I think you had intimated before you had some idea to reduce building coverage.

MEMBER FELDER: Is that an option to do? From where we are standing from my colleagues, I think there is a concern about not having a garage, right?

MEMBER KERSTEIN: Yes.

MEMBER FELDER: Is it possible to put a garage attached to the house? You will lose that living space obviously in that particular area but at least from what I am hearing --

MEMBER GOTTLIEB: Mr. Macleod, for God's sake, you know us well enough. Three people or four have expressed an objection to having no garage. Let's not belabor this. It's an issue.

MR. MACLEOD: Well, I see that.

MEMBER FELDER: Is there an ability for them to have an attached garage they can drive up to if the driveway was let's say slanted slightly driving up that 6 feet on the incline

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and then they will make up that 230-something square feet.

MR. MACLEOD: That's actually not the issue. The issue is if you drive in even at grade level, the ceiling height of the garage needs to be at least 7 and a half feet and that would be projecting up into the first floor by 3 feet. So incorporating a one-car garage into the house.

MEMBER FELDER: There is no way to make that garage ceiling drivable from grade to match the ceiling height of the rest of the first floor?

MR. MACLEOD: If we could go down but I don't believe we are allowed to go down even with a garage.

MR. VACCHIO: No. You got to be even with the grade.

(Discussion off the record.)

MEMBER MOSKOWITZ: If we didn't care about building coverage -- obviously we do but if we didn't care about building coverage and we only cared about the garage, the thing that would do the least violence to these plans

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would be to have a stand-alone garage; is that correct, first of all?

MR. MACLEOD: That's correct, yes.

MEMBER MOSKOWITZ: Then we are -- now we do care about building coverage and so we have exacerbated a building coverage overage by the addition of the garage. We have solved the garage problem, but we have now exacerbated the building coverage problems. Do you have any ideas to shave building coverage?

MR. MACLEOD: So if we were to go down that road of proposing a one-car garage, detached garage --

CHAIRMAN KEILSON: Hold that thought. I have a question. The Stern residence on Harborview North where they have the stand-alone garage, did they -- it's a FEMA house, isn't it?

MR. MACLEOD: It is fully compliant.

CHAIRMAN KEILSON: That's your design?

MR. MACLEOD: Yes.

CHAIRMAN KEILSON: So there they went with the separate garage?

MR. MACLEOD: Yes.

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CHAIRMAN KEILSON: So basically we are looking at that as the model for this conversation?

MR. CASTRO: Yes.

CHAIRMAN KEILSON: So you know the house. What did they do that can't be done with the current one?

MEMBER FELDER: And they built that as of right.

MR. MACLEOD: They built that as of right. There was no variance on that project. We had a similar approach on the Klein residence across the street, which also has a one-car garage and so --

CHAIRMAN KEILSON: Well, let's stay on Stern because that's the most recent thing with the garage in the backyard. Is it a much smaller house?

MR. MACLEOD: Yes. The footprint is smaller, but it's all relative to the size of the lot. So to answer your question, Mr. Moskowitz, the -- if we did put a one-car garage in the backyard, we would be asking for another 230 square feet as you pointed out,

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and that would now put us at about 460 square feet over. The ways that we have looked at the plan and said what can we do to this plan --

MR. FISCHLER: Can I just interrupt for a second? The 230 square feet, right, the bulk square footage -- not talking in footprint coverage so in bulk. So the 230 square feet over three floors versus 230 square feet in flat over building is the difference. So if we swap the 230 square feet over three floors, which obviously the footprint square footage is going to be less, I don't know the calculation, but the reduction in the variance or the swap in the variance if we call it that of 230 square feet over three floors is let's say 75, whatever it is, you know.

MEMBER FELDER: I am unclear.

MEMBER KERSTEIN: I am not sure I follow.

MEMBER MOSKOWITZ: I think I understand the point that you are making. What you are saying is don't make us swap one for one, 230

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2 or so square feet for the garage by taking
3 away 230 square feet from the house because
4 the taking away 1 square foot from the house
5 is triply impactful, and so therefore maybe
6 just make us take away 75 square feet from the
7 house and reduce the building coverage by 75
8 feet or so, not the full 230 or so because
9 take into account that you are taking away
10 three times that in house.

11 MR. FISCHLER: That's exactly what I am
12 saying.

13 CHAIRMAN KEILSON: Mr. Castro, does the
14 Building Department have any --

15 MEMBER FELDER: That's why it would be
16 much more helpful to have the garage attached.

17 CHAIRMAN KEILSON: Does the Building
18 Department have any light bulbs going off in
19 your head at the moment? All right. Sorry to
20 disturb you.

21 MEMBER FELDER: No, that's why I was
22 trying to figure out a solution to them if it
23 would work attached. That way they wouldn't
24 lose the ability.

25 MR. MACLEOD: I think Mr. Moskowitz's

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2 explanation is actually very clear that by
3 adding a one-car garage now, an extra 230
4 square feet over as opposed to the tripling
5 effect on the house, so if we were to reduce
6 the house's useable space by that similar
7 amount to 230 square feet, it would be
8 relative -- your math is good -- is about 75
9 square feet sliced off of the existing house.
10 Which if that were something entertainable by
11 the Board, we could probably do that.

12 MR. FISCHLER: I do want to add also --
13 this is going to the Building Department. We
14 do have ten letters for the variances. Like
15 no objections from neighbors on and around all
16 the blocks in favor of the Fishmans and who
17 they are and their variances.

18 MEMBER KERSTEIN: One of the concerns we
19 have frankly is that it's very rare for homes
20 to be built in Lawrence without a garage, and
21 if you were to build something without a
22 garage, it would set a precedent that worries
23 us very frankly because other people would see
24 it and I am sure we would have other people
25 coming to us and saying they can do it, why

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can't we. That is a concern. At least,
that's one of my concerns.

MR. FISCHLER: I fully respect that.

MEMBER KERSTEIN: That is my concern.

MR. FISCHLER: I can fully respect that.
I am not discounting that.

MEMBER MOSKOWITZ: I think you hear the
consensus of the Board. There should be the
garage, so then what do we want to do about
building coverage? Do you want to make a
specific proposal?

MR. MACLEOD: Yes. I would like to
propose that we reduce the footprint of the
house by 75 square feet and add a one-car
garage in the backyard and my client agrees
with that. So is that something that the
Board would be amenable to?

CHAIRMAN KEILSON: What are we talking
about?

MR. MACLEOD: We would build a one-car
garage in the backyard as you suggest, and as
I appreciate what you are saying --

MEMBER FELDER: So the overage it would
start off being 464, and now you are proposing

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to take 75 off of that number?

MR. MACLEOD: Yes.

MEMBER FELDER: 464 minus 75.

MR. PRESTON: Chairman, whether the Board is amenable or not, you may end up with a notice problem because the overage request is increasing.

CHAIRMAN KEILSON: Significantly so.

MR. CASTRO: So just correct me if I am wrong, an increase of 230 but then a reduction of 75, it equates to 389 square feet over or 12.7 percent building coverage.

MEMBER KERSTEIN: And if it were 100 square feet -- I know you have to do some more math. I was trying to do round numbers in my head because it's actually two and a half times, not three times. So that's 250 because we went with the square foot average. It was first and second floor and then half the height of the third floor.

MR. CASTRO: With the reduction of 100 feet of the house, it's 11.8 percent over.

CHAIRMAN KEILSON: How about in terms of surface coverage issues he has? You have a

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2 free driveway. What do you have now? Where
3 are we putting the pool?

4 MR. MACLEOD: There is no pool on the
5 property.

6 MEMBER FELDER: And the garage would be
7 -- the detached garage would be in the
8 Harborview North corner.

9 MR. MACLEOD: That would be the front
10 yard, so it would have to be back here.

11 CHAIRMAN KEILSON: We have the drawing
12 here. Please tell us where the garage would
13 be.

14 MEMBER FELDER: And then the driveway
15 would extend there? How does that work?

16 MR. MACLEOD: We do have to put it
17 somewhere else.

18 MEMBER GOTTLIEB: Eight feet off the
19 property line.

20 MR. MACLEOD: And we have about -- this
21 driveway area is 720 square feet. We have
22 available surface coverage. Surface coverage
23 of -- what's the number?

24 MR. CASTRO: Approximately 300 below
25 what's permitted.

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2 MR. MACLEOD: So we have 300 square feet
3 right now.

4 MEMBER FELDER: That's without the
5 extension of the driveway.

6 MR. MACLEOD: So we need 230 of that.
7 Only leaves us with 70.

8 MEMBER KERSTEIN: But you are taking 100
9 off the house.

10 MR. CASTRO: Plus you have a reduction
11 in the section of the driveway that leaves
12 from the front of the garage to the house
13 also.

14 MR. MACLEOD: Can we apply that in the
15 rear yard?

16 MR. CASTRO: Yes.

17 MEMBER FELDER: Do they get that for
18 free that piece?

19 MR. VACCHIO: Ten foot wide.

20 MR. MACLEOD: Looking at the site plan,
21 would we get a 10-foot driveway without any
22 accumulation?

23 MR. CASTRO: Starting from the front
24 wall of the house on Lawrence up to the
25 garage.

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2 (Discussion off the record.)

3 MR. MACLEOD: Going back to the site
4 plan, discussing it with the Building
5 Department, we are talking about putting a
6 garage here.

7 CHAIRMAN KEILSON: Can you describe for
8 the record?

9 MR. MACLEOD: This will be in the
10 southeast corner of the property with the door
11 of the garage facing towards Lawrence Avenue
12 which is facing west and the driveway which
13 would access that would be an extension of the
14 parking area and we wouldn't have to count the
15 10-foot driveway as it comes towards the front
16 door of the garage because that's an allowance
17 under the code. As Gerry pointed out, we
18 don't have to count that as surface area.

19 CHAIRMAN KEILSON: How about the problem
20 of backing into Lawrence Avenue?

21 MR. MACLEOD: Well, you have that for
22 any vehicle that parks here.

23 CHAIRMAN KEILSON: That's vastly
24 different from Harborview North.

25 MEMBER FELDER: But a driveway the way

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it's set up right now it's set up for two cars.

MEMBER KERSTEIN: Is that large enough for a turnaround?

MEMBER FELDER: It's going to end up looking like an L.

MR. MACLEOD: Yes. We might have have take the driveway.

MEMBER KERSTEIN: That way --

MR. MACLEOD: Slide it down.

MEMBER KERSTEIN: That way they can do a turnaround.

CHAIRMAN KEILSON: Mr. Castro.

MR. CASTRO: I want to point out one thing that falls under the purview of the Board of Building Design. A curb cut. The Board of Building Design may not approve that. Just keep that in mind.

MR. FISCHLER: They don't allow.

MR. PLAUT: They often do but it's under their purview.

MEMBER FELDER: They may give you a curb cut for one lane, and the rest is a parking pad.

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MR. FISCHLER: If we have to modify, we will modify.

MR. CASTRO: It will function more as a turnaround as opposed to a drive-in parking space.

CHAIRMAN KEILSON: How far will that garage be from the neighbor?

MR. MACLEOD: Eight feet from this property line and eight feet from this property line. Can I just take a minute and explain to my client what we are doing?

CHAIRMAN KEILSON: Absolutely.

(Discussion off the record.)

MR. MACLEOD: I have explained this to my client so they know exactly what we are talking about up here and basically we need to stay eight feet off of the rear property line and eight feet off the side property line here. So the garage could actually be here which is in the southwest -- southeast corner or it could actually start here and be in this location and have less driveway but either one of those meet that setback code and would have an equal impact on surface coverage.

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2 MEMBER GOTTLIEB: Right.

3 MR. CASTRO: Well, not necessarily.

4 Numbers you would be equivalent but in actual
5 surface coverage it would be more if you
6 pushed it into the southeast corner.

7 MR. MACLEOD: That's correct.

8 MEMBER GOTTLIEB: You are not leaving
9 yourself much of a backyard.

10 MR. MACLEOD: Well, you actually get
11 more of a backyard if you push it towards
12 Lawrence Avenue and have more of an open area
13 at the southeast corner. So again, would the
14 Board be amenable to this approach? Get the
15 one-car garage in compliance with the code, we
16 cut off --

17 MEMBER GOTTLIEB: So Mr. Macleod, at the
18 end of what you are offering or what has been
19 suggested, I still see five variances on new
20 construction.

21 MEMBER MOSKOWITZ: Four because the
22 garage is going away.

23 MEMBER GOTTLIEB: Sorry. Four.

24 MR. MACLEOD: Three of the others are de
25 minimis.

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MEMBER GOTTLIEB: Well, you say they are de minimis. I will give you an example. The 24-foot -- sorry. Exterior wall height you are only a foot seven, which is something you can easily take away by you don't need 9-foot bedroom heights. Then you would have fewer steps going up to the third floor.

MR. MACLEOD: I think that the --

MEMBER GOTTLIEB: Of course, the homeowner wants 10 foot and 9 foot and 8 feet but you know, you want it all and it's not -- you know, I wasn't given this position to accommodate every whim or every request of every resident. I am trying to grant you the minimum variance required for your needs, and quite honestly, you know, it's a bunch of wants.

MEMBER MOSKOWITZ: Well, there are seven children here and flood zone issues so I -- at least speaking for myself, I appreciate the accommodations that have been made, and my sense is that what we are talking about would work for me.

CHAIRMAN KEILSON: They have extra

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bedrooms. You can move in.

MEMBER GOTTLIEB: I have nothing against an eight, nine-bedroom house. I have nothing against a 1,250-square-foot master bedroom. It's a little unusual, but you know, you are asking for things that I always say which is you are trying to get too much into this. You are very good architects. I know that you always like maximizing space, but to me it's just a little too much.

MR. MACLEOD: To accomplish some of the things that you are just describing, I believe that the detriment to the owner would be greater than the detriment to the community in that instance. To have to live with a room of 8-foot ceiling height instead of 9 whereas in today's design world and marketplace expectations are of these 10- and 9-foot ceilings --

MEMBER GOTTLIEB: Then we are going to have to change the code, which is not my purview, and by the way, I have yet -- I have been on the Board a number of years. I have yet to see an application that does not

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specifically state the advantage to the applicant is greater than any detriment to the community. I think it's standard boiler plate. I am only one member.

CHAIRMAN KEILSON: A valued member.

MEMBER GOTTLIEB: Thank you, sir. The feeling is quite mutual.

MEMBER KERSTEIN: Mr. Chairman, I am looking at the overall percentage. Sort of leaning towards it. The question to me is what would -- I am an alternate so I am not here.

CHAIRMAN KEILSON: You don't have to apologize.

MEMBER KERSTEIN: I am just trying to preface my question. What's a normal -- and I am asking this more of the Board than of you -- in terms of surface coverage, which we are comfortable in granting.

MEMBER FELDER: Building coverage?

MEMBER KERSTEIN: Building coverage. What is a reasonable number? I know it's going to vary.

CHAIRMAN KEILSON: On new construction

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single digits.

MEMBER KERSTEIN: So even with 100 we are still over about 11 some-odd percent. So I am just trying to weigh that in my own mind. That's my question.

MEMBER FELDER: How many square feet will take us to a single digit?

MR. KERSTEIN: I will leave it to them to calculate. About 125.

MEMBER FELDER: I am sure the applicant will be okay with that.

MEMBER KERSTEIN: If I am right, if we reduce it 125 -- I know I am playing with numbers, but I want to keep it under double digits.

CHAIRMAN KEILSON: The other issue here is that this is an in-your-face house. Not secreted down on Harborview North. We are going to be there not even at the corner of Harborview North facing Harborview North. We are front and center on Lawrence Avenue on a rather major artery coming into Harborview.

MR. FISCHLER: That's why we asked them to ask the neighbors. That's why they got

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1
2 letters for that reason to sort of poll -- I
3 don't want to say poll the audience, but poll
4 the neighborhood and see what they would say.
5 They didn't get two letters. They got ten.

6 CHAIRMAN KEILSON: They didn't get a
7 letter from the neighbor behind them.

8 MR. FISCHLER: I don't know who they
9 know or don't.

10 CHAIRMAN KEILSON: I know because I
11 spoke to the neighbor. Hirschenoff.

12 MEMBER GOTTLIEB: Do you have any
13 illustrations of the house?

14 MR. MACLEOD: We have elevations which
15 are on pages --

16 MEMBER GOTTLIEB: Well, I mean,
17 typically you come up with --

18 MEMBER KERSTEIN: -- an architect's
19 rendering.

20 MR. FISCHLER: We didn't go that far
21 yet.

22 MR. MACLEOD: The rendering will be more
23 for the Board of Building Design usually.

24 MEMBER GOTTLIEB: So you don't have
25 them.

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MR. MACLEOD: We don't have -- in this instance look at page A-6. You will see the front elevation.

MEMBER GOTTLIEB: At the top is the front.

MR. MACLEOD: Yes. The top line is called the right elevation, but I believe it's the front door. And there is several different materials or colors of materials that we are working with to establish some interesting.

MEMBER MOSKOWITZ: Where is the porch that's contributing the 58 square feet to the building coverage? Is that the entranceway?

MR. MACLEOD: Yes. It's directly above what looks like it's a window with one door to the side where horizontal markings are. Directly above you see the dimension line says 11 and a half. It's actually directly above that. The blinds are a little bit bolder and are projecting out basically over the top of the top stoop. Top step of the stoop.

CHAIRMAN KEILSON: Do we happen to know the height of the house facing them on

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Lawrence Avenue, the one that was renovated at the corner of Harborview North and Lawrence Avenue?

MEMBER FELDER: Perlstein. Basically right across the street from them.

MR. MACLEOD: On the west side? If you look at drawing A-12, you have the street scene there.

CHAIRMAN KEILSON: Yes, I do.

MR. MACLEOD: We have an estimated height of 30 feet on that house. Slightly more on the house to the left of the Fishman residence.

MEMBER GOTTLIEB: Those are on Harborview North?

MR. MACLEOD: Yes. This is Harborview North.

MEMBER FELDER: Is there a radius map in this package?

MR. MACLEOD: There should be.

MR. PLAUT: I have one.

(Discussion off the record.)

CHAIRMAN KEILSON: Mr. Castro, do you want to go on the record?

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MR. CASTRO: Chairman, I have been really looking at the plans here, and the way the driveway is situated on Lawrence Avenue in the proximity to Harborview North, it's bound to be a problem for traffic. Existing house I believe had the driveway on Harborview North. Different circumstances in owners but nonetheless it was never an issue on Lawrence Avenue, and this being such a short street and the Harborview area we -- the administration already gets a lot of phone calls. In fact, it's just not a good idea I don't think the way it's being presented.

MEMBER MOSKOWITZ: This is regardless of the garage issue. This is in the plans that were presented to us tonight in their current form with the driveway located where it is on these plans you are expressing that concern?

MR. CASTRO: Yes.

MR. MACLEOD: Mr. Castro, doesn't the house across the street which is recently renovated have a driveway onto Lawrence Avenue?

MR. CASTRO: Yes. I believe it always

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had a driveway onto Lawrence Avenue.

CHAIRMAN KEILSON: It happens to be an elderly couple that live there, just the two of them.

MR. FISCHLER: What's the concern? I am not understanding what the concern is.

MR. CASTRO: With the driveway situated on here, I mean, it's obvious that -- I mean, you have a very, very wide curb cut. There is a very shallow depth to it. Assuming it's -- you are making room for many cars sitting here, but there is such a short proximity here on Lawrence Avenue between the corner and we already have a lot of phone calls when construction vehicles park and do work and this is -- again, this is a construction vehicle which is temporary. This is going to be more of a lifetime issue. I just see this as being a problem.

MR. FISCHLER: If the driveway was on Harborview, it would be closer to the corner than it is on Lawrence. The distance from the driveway to the corner is greater on Lawrence.

MR. CASTRO: If you are putting the

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driveway closer to the corner, yes.

MR. FISCHLER: Even if you put it the width and length of the property?

MR. MACLEOD: If we would have put the driveway on the east side of the house entering from Harborview North, that would be 70 feet from -- 70 feet from Lawrence Avenue. That actually where we are showing it now. It is about 80 feet from Lawrence Avenue. Even more.

MR. FISCHLER: We are increasing it from the corner, which I think according to what you are saying would make it better.

MR. MACLEOD: We could even move it further to the rear, slightly to the rear, make it even 90 feet and reduce the curb cut to 20 feet or 18 feet, whatever the village requires. We are not the only house on Lawrence.

MR. CASTRO: The issue also is Lawrence Avenue when you are coming in, I don't believe there are any stop signs on Lawrence Avenue. It's all the Harborview South, Harborview North are the cross streets with the stop

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sign. I think that's why there is much less of a concern with the parking on those streets.

MR. MACLEOD: I would like to point out that there are probably 50 homes on Lawrence Avenue that have those driveways onto Lawrence Avenue.

MR. CASTRO: Out of the Harborviews?

MR. MACLEOD: Yes.

MR. CASTRO: It has to. Otherwise they won't get out.

MEMBER FELDER: I think it's just that particular area in Harborview. There are no sidewalks so it's different from the rest of Lawrence Avenue. Once you get into Harborview --

CHAIRMAN KEILSON: There is another unfortunate reality over there. People sit at the light of Rock Hall and Lawrence going south, and as soon as that light changes, they rush and the people behind them are rushing. I don't know how many times I have seen people go through a red light over there or about to be red light, and the other way emerging from

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Harborview going north, it's a race to get to the light, beat the light.

MR. CASTRO: I am not sure of the exact circumstances, but we just witnessed an accident, major accident on the corner of Rock Hall and the house just north of -- just north of Rock Hall Road where the car went right through the landscaping brick wall.

MR. MACLEOD: Obviously we are not trying to create a traffic hazard here, but at the same time accidents happen and if they are two blocks away, that's not really what we are here to discuss. We are interested in safety, of course.

CHAIRMAN KEILSON: I think we all are interested in safety. We all are interested in trying to accommodate the applicant. I think the fact we are sitting here for such a long period of time trying to be creative is reflective of that. I just don't think considering the surge of opinions that we are in a position to come to a conclusion as to how best to resolve this at this point in time. I think everybody wants them to have

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1
2 their house. At the same time it's obvious
3 that the sentiment is clearly that they need a
4 garage. The question is how do we accommodate
5 all of those needs. I don't think we are
6 going to do it on this table tonight. I just
7 don't think so. I think we are going to
8 reconnoiter again.

9 MR. FISCHLER: Is the issue having a
10 driveway or any of the car situation on
11 Lawrence Avenue? Is that --

12 CHAIRMAN KEILSON: I think it's clear we
13 haven't really thought through all the
14 ramifications. As the conversation unfolds,
15 we are beginning to see other items that are
16 concerning. Mr. Castro weighing in on behalf
17 of the village and against, it's not
18 dispositive of it but certainly warrants our
19 attention and not on an ad hoc basis but a
20 little bit more focused I think. Gentlemen on
21 the Board?

22 MEMBER KERSTEIN: Agree.

23 CHAIRMAN KEILSON: Mr. Moskowitz?

24 MEMBER MOSKOWITZ: Yes. We would
25 benefit from that so I guess my -- I don't

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want to leave the applicants in limbo. They are going to be left in limbo to an extent, but if there is more to say on the driveway issue because I guess my confusion is that they could build this driveway here as of right if they weren't requesting any variances. In other words, I am not seeing the nexus between the variance and the driveway request, so if we had any more guidance to give them --

CHAIRMAN KEILSON: I am a little saturated.

MR. PLAUT: Any new curb cut again, it's not a matter of BZA but it would go to BBD. There is no such thing as as of right for a new curb cut. That has to be heard before the Board.

CHAIRMAN KEILSON: We just introduced the garage and we are talking about the placement of the garage. This is all spontaneous as the events are unfolding, so I think everybody understands we need a garage. Everybody understands we want to not exacerbate the traffic issue. There is some

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1 lack of clarity as to what we are willing to
2 do in terms of the excess building coverage.
3 The last discussion was whether they could get
4 down to single digits. Seemed to be some
5 sentiments towards that. We didn't really
6 explore that further. I don't know where that
7 is on the table at this juncture. That's
8 another thing. Is there any sentiment -- I am
9 not asking for a vote of the Board. Is there
10 any single-digit excess building coverage, if
11 that's something you can live with?
12

13 MR. MACLEOD: The direction we were
14 headed when we were discussing the square
15 footage was taking into account that the loss
16 of the square foot on three floors equated to
17 approximately the size of the garage, but if
18 we only look at it exclusively as square
19 footage of building coverage, that does put us
20 at a much greater detriment to having to
21 reduce the footprint of the house by, you
22 know, 200 square feet, in that range. As
23 opposed to around 100 square feet if we take
24 into account the way that Mr. Moskowitz
25 described.

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2 MEMBER FELDER: For -- I think for
3 single digits I think you said it was only
4 125.

5 MR. CASTRO: Goes from 11.8 to 11.

6 MEMBER KERSTEIN: At the 125? So you
7 need more than that.

8 MR. CASTRO: I also want to note for the
9 record that the neighbor to the rear to the
10 south I believe it's their fence. It looks
11 like a 5-foot stockade fence that wraps around
12 the entire property that is adjacent to this
13 parking area and it comes probably to within
14 10 feet off their curb line. So again,
15 anybody pulling out of the driveway, unless
16 the neighbor takes that fence down and makes
17 some sort of change --

18 MEMBER GOTTLIEB: So 10 feet to the curb
19 line equates with the 10 feet you said between
20 the property. So probably goes right to the
21 property line.

22 MR. CASTRO: Yes, I think so.

23 MEMBER GOTTLIEB: Ten feet being the
24 right of way.

25 MEMBER FELDER: But they would still

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1
2 have the extra 10 feet between the property
3 line and the curb and the street. That's
4 their line of sight.

5 MR. MACLEOD: Well, I think that we
6 could develop that parking area and the
7 one-car garage concept. There is a lot of
8 different ways we can look at it on here, but
9 I think we can develop it and work with the
10 Building Department to get an agreeable safety
11 aspect to the driveway and work with the Board
12 of Building Design to get their approval and
13 input as well. So I think that we are almost
14 on the same track. We just need to work out
15 the details.

16 I don't know if the Board is willing to
17 accept a vote based on these types of
18 provisions with the condition we work within
19 the necessary other codes of the Board of
20 Building Design and any safety aspect that the
21 Building Department is concerned about that we
22 don't have to perhaps come back and do this
23 all again next month.

24 MR. PRESTON: If you are talking about
25 having a garage, the Board can't vote on it.

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2 MR. MACLEOD: Not as a condition?

3 MR. PRESTON: No because you are
4 increasing your scope of a request on a
5 variance.

6 MR. FISCHLER: The garage is not a
7 variance.

8 MR. PRESTON: You are requesting a
9 coverage variance, and the square footage of
10 your request is increasing by adding a
11 detached garage.

12 MEMBER FELDER: Means we would have to
13 renotice it.

14 MR. PRESTON: Therefore, the Board can't
15 vote on it.

16 MEMBER MOSKOWITZ: Hypothetically,
17 counsel, if they were to put in a garage but
18 the building coverage request would remain at
19 234 square feet or less, then there would be
20 no notice issue, correct?

21 MR. PRESTON: Agreed.

22 CHAIRMAN KEILSON: The truth of the
23 matter is I have been very uncomfortable
24 voting for a garage and placing a garage next
25 to the neighbor's property without them

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understanding that's going to happen. Even if there is no intrinsic objection other than the fact that all of a sudden he has got a garage right behind his fence.

MEMBER FELDER: But that's as of right.

CHAIRMAN KEILSON: Doesn't mean that we have to not give him some sort of notice. I don't know how friendly you are with him. Who is it? Klar.

(Discussion off the record.)

MEMBER FELDER: 160 reduction would put you in single digits as a point of reference.

MR. MACLEOD: We would like to take into account all of the things you stated this evening and contributed toward this. We appreciate your input and so we would like to adjourn.

MR. FISCHLER: I just want to ask one question. To get to the single digits, it's including the garage square footage?

MEMBER KERSTEIN: Including the garage square feet.

MR. FISCHLER: So it would be the 160 plus.

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MEMBER FELDER: You are going to build a garage at 230 square feet but figure out a way to remove 160 square feet. You will still require a variance obviously.

CHAIRMAN KEILSON: There was a motion to adjourn. Taking a motion to adjourn.

MEMBER GOTTLIEB: I will second that motion.

CHAIRMAN KEILSON: I want to applaud the members of the Board for being fully engaged, and I feel like just a spectator. It was a pleasure. Thank you. We are adjourned.

(Whereupon the hearing concluded at 9:30 p.m.)

Certified that the foregoing is a true and accurate transcript of the original stenographic minutes in this case.

YAFFA KAPLAN

Court Reporter