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2
3 INCORPORATED VILLAGE OF LAWRENCE

4 BOARD OF APPEALS

5
6 Village Hall
7 196 Central Avenue
8 Lawrence, New York9
10 March 27, 2019
11 7:33 p.m.

12 APPLICATION:

13 Krasnow
14 10 Holly Lane
15 Lawrence, New York

16 P R E S E N T:

17 MR. LLOYD KEILSON
18 Chairman19 MR. EDWARD GOTTLIEB
20 Member21 MR. DANIEL HILLER
22 Member23 MR. ANDREW K. PRESTON, ESQ.
24 Village Attorney25 MR. GERALDO CASTRO
Building DepartmentMR. DANNY VACCHIO
Building DepartmentYaffa Kaplan
Court Reporter

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CHAIRMAN KEILSON: Okay. Good evening, Ladies and Gentlemen. Welcome to the Lawrence Board of Zoning Appeals. Please turn off your cellphones and please no conversation. If you have to converse, please step out into the hallway. Thank you very much.

Mr. Castro, proof of posting?

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

CHAIRMAN KEILSON: Okay, thank you very much. We apologize, two of our members cancelled just last week and we had no opportunity to have a substitute. The result is -- maybe, Mr. Preston, you will explain the rules of the board as a result of having three members here tonight.

MR. PRESTON: Three members are required for a quorum, therefore for any application to pass it requires a unanimous vote of three members at this meeting.

CHAIRMAN KEILSON: So if you feel lucky, you can proceed. If you feel unlucky, ask for an adjournment.

First matter before us tonight will be

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2 Krasnow. They have a representative? Will
3 they or their representative please step
4 forward. 10 Holly Lane. Please introduce
5 yourself to the stenographer.

6 MR. SCHEER: Andrew Scheer, S-C-H-E-E-R.

7 CHAIRMAN KEILSON: Address?

8 MR. SCHEER: 391 Garfield Avenue, West
9 Hempstead, New York 11552.

10 Good evening. Tonight I am here
11 representing Mr. and Mrs. Krasnow. We are
12 proposing an addition, a slight addition, to
13 their existing residence which a few variances
14 are required. We do have a rear-yard setback
15 variance that would be -- encroachment
16 permitted is 30 feet and we are proposing 30
17 -- 23 feet. The existing house is actually
18 also in the rear yard 23 feet and so we are
19 not going to be exceeding beyond that. It is
20 a second-story addition. It's not on the
21 first floor. It's a second-story addition
22 that will be over an existing first floor,
23 plus a cantilever. So including the
24 cantilever, we are not going beyond the 23
25 feet that we already have existing on the

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first floor rear-yard.

CHAIRMAN KEILSON: Perhaps just give us a little bit of background; how long have they been in the village, the purpose of the expansion.

MR. SCHEER: They are looking -- well, I will ask them.

How long have you been in the village?

MR. KRASNOW: 22 years.

MR. SCHEER: 22 years in the village.

CHAIRMAN KEILSON: Any previous variance request?

MR. SCHEER: There was. We had a variance request about ten years ago where we did receive the 20 foot rear-yard granted addition.

CHAIRMAN KEILSON: That's good to know.

MR. GOTTLIEB: So now you are building over that extension?

MR. SCHEER: Correct, we are building over the extension. They are looking to get extra bedrooms and bathrooms and more living space for their family that comes to visit quite often and, in addition to, additional

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living space for them as well which is in a different part of the house.

MR. GOTTLIEB: Do you have any letters of support specifically from the Mermelsteins or Kaufmans?

MR. SCHEER: Yes, we actually have letters of support from both side neighbors and both rear neighbors in the rear yard. We have -- all four of them signed this paper right here.

MR. GOTTLIEB: That saves paper when they all sign the same one.

CHAIRMAN KEILSON: I'm sorry, we interrupted you. You were going through the requested variances.

MR. SCHEER: Right. So the first one was the rear-yard setback for the 23 feet which was granted previously about 10 years ago and we are requesting the same variance for the second-floor addition.

There is also a setback, height setback ratio, for the rear yard which is also not going to change, although the permitted is .74. The requirement with permitted is .74,

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existing is .96, and so is the proposed at .96 for the setback ratio. The surface coverage, pervious surface coverage, there is no issues there. Impervious surface coverage is the permitted 3,073.40, the existing is 3,777 which was previously granted, and the request is 3,857 which is just a hundred or so square feet. All that square footage is actually on cantilevers; it's not on the ground. But that is all on cantilevers for the second floor.

So those are the -- those are the requested variances that we are proposing. And if you have any questions, I am happy to answer anything.

CHAIRMAN KEILSON: Yes. So how many bedrooms are you adding?

MR. SCHEER: We are adding one bedroom and a bathroom and we are ex -- we are kind of extending another bedroom on the second floor. It's not really a bedroom; it's going to be a study off the bedroom. And then we are increasing the master bedroom closet space. So we are adding one bedroom, we are adding a study off a bedroom, and an another walk-in

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1 closet. There is no work -- no work to the
2 first floor.

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4 MR. GOTTLIEB: So all the work you are
5 proposing is on the second floor?

6 MR. SCHEER: Correct, except for the
7 structural work that will need to support it.

8 CHAIRMAN KEILSON: Okay. Mr. Hiller,
9 anything?

10 MEMBER HILLER: No.

11 CHAIRMAN KEILSON: Okay. Anyone in the
12 audience want to speak to the matter? Okay.

13 If not, okay, to determine our position
14 on the variance, we weigh the benefit to the
15 applicant as opposed to any detriment in terms
16 of the community and the like, health, safety,
17 and welfare of the neighborhood. I think
18 overall the request are fairly de minimis and
19 certainly I would support, but we will start
20 with Mr. Gottlieb.

21 MEMBER GOTTLIEB: So I will make my two
22 comments. One is I think 23 feet is extremely
23 -- is an extremely short distance for a second
24 floor for a rear yard. However when I
25 consider that the residents have been here for

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22 years, that holds a lot of weight to me and being able to stay in a house after being here 22 years holds a lot of weight. And I will vote for this application.

CHAIRMAN KEILSON: Mr. Hiller?

MEMBER HILLER: For.

CHAIRMAN KEILSON: And I will vote for. How much time? Two years, say two years. Do they need a --

MR. CASTRO: I understand the majority of the additions are on the rear yard except for the one side. Are you matching --

MR. SCHEER: Everything is going to be matching, all the materials are matching.

MR. CASTRO: So no need to go to the Board of Buildings.

CHAIRMAN KEILSON: Okay.

MR. SCHEER: Great, thank you very much.

CHAIRMAN KEILSON: Have a good evening.

Thank you.

(Whereupon the hearing concluded at 7:41 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

Village Hall
196 Central Avenue
Lawrence, New York

March 27, 2019
7:41 p.m.

APPLICATION:

Karfunkel
235 Broadway
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. DANIEL HILLER
Member

MR. ANDREW K. PRESTON, ESQ.
Village Attorney

MR. GERALDO CASTRO
Building Department

MR. DANNY VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

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CHAIRMAN KEILSON: Next matter is that of Karfunkel at 235 Broadway.

MS. KATTO: Hi.

CHAIRMAN KEILSON: Hi, welcome back. Again, state your name and address for the record.

MS. KATTO: Robyn Katto, GRADE Architecture, 180 Varick Street in New York 10014. So I am here representing my client, Barry and Esther Karfunkel.

CHAIRMAN KEILSON: Can you speak up a drop?

MS. KATTO: Yes. Regarding their residence, we are back to talk about the garage. Last time we were here the board recommended that we reduce the two-car attached garage to a single-car garage, but there are still three variances that we will need for this. One regarding the rear-yard setback, which 50 feet is required. The current house, half of the current house is within the setback already.

And the second variance is the rear-yard height setback ratio, which .44 is required.

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2 And with the garage, we have 1.07 on the south
3 side.

4 MEMBER HILLER: You should point out the
5 existing is not that much different from that.

6 MS. KATTO: The existing is actually
7 closer but it's detached, right. And actually
8 the existing structure is not a garage. It's
9 been made into a living space and the opening
10 doesn't open into the driveway anymore.

11 And the third variance is each two-car
12 garage must have an interior dimension of 20
13 by 20 feet and the requested is one-story car
14 garage with a dimension of 12 by 21 feet.

15 CHAIRMAN KEILSON: I think when we
16 expressed concerns last time, that there was a
17 neighbor that was renovating the house next
18 door would be most directly affected. So we
19 charged you with a request to find out if the
20 neighbor had any objection.

21 MS. KATTO: So we do have --

22 CHAIRMAN KEILSON: -- a letter from the
23 neighbor? Have they moved in yet?

24 MS. KATTO: No, they are still under
25 construction.

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MEMBER GOTTLIEB: Have the Karfunkels moved into their home yet?

MS. KATTO: No, they just started construction on the interiors.

CHAIRMAN KEILSON: Anyone in the audience want to speak to the matter?

Okay, weighing the benefit to the applicant as opposed to --

MEMBER GOTTLIEB: I did have a question, Mr. Chairman, if you don't mind.

CHAIRMAN KEILSON: I don't mind at all.

MEMBER GOTTLIEB: The night is young. Are your clients here tonight?

MS. KARFUNKEL: I am here.

MEMBER GOTTLIEB: I want to know if there is any intention of dividing the property in the future.

MS. KARFUNKEL: I'm sorry, Esther Karfunkel. Dividing I don't think so, not as currently. Like to sell?

MEMBER GOTTLIEB: Exactly.

MS. KARFUNKEL: No, absolutely not.

MEMBER HILLER: You should just note if you do sell it, the house would be -- all the

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permits that we gave you right now would be over. You would have an overbuilt property.

MS. KARFUNKEL: We are not -- that's not in our anywhere near plans.

MEMBER GOTTLIEB: Thank you.

MEMBER HILLER: You look honest.

CHAIRMAN KEILSON: Okay. So weighing the benefit to the applicant as opposed to any detriment to health, safety, and welfare of the neighborhood, we will ask Mr. Hiller to vote first.

MEMBER HILLER: For.

CHAIRMAN KEILSON: Okay. Mr. Gottlieb?

MEMBER GOTTLIEB: I like the changes that were made by the architect and I think they reflect very well. I vote for.

CHAIRMAN KEILSON: And I will vote for as well. And I guess whatever the time frame is if --

MR. CASTRO: Two years and --

MR. VACCHIO: The original is two years.

MR. CASTRO: They went to the Board of Buildings already?

MR. VACCHIO: They might have, but they

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have to go.

MS. KATTO: We just submitted with the
Board of Buildings.

MR. CASTRO: So this will be included?

MR. VACCHIO: Yes.

CHAIRMAN KEILSON: Okay, thank you.

MS. KATTO: Thank you so much.

(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.

Yn

YAFFA KAPLAN

Court Reporter

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INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

March 27, 2019
7:45 p.m.

APPLICATION:

COHEN/ROTH
43 Stevens Place
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. DANIEL HILLER
Member

MR. ANDREW K. PRESTON, ESQ.
Village Attorney

MR. GERALDO CASTRO
Building Department

MR. DANNY VACCHIO
Building Department

Yaffa Kaplan
Court Reporter

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CHAIRMAN KEILSON: In the matter of
Cohen/Roth, 43 Stevens Place. Okay, proceed.

MR. FLAUM: Good evening, members of the
board. My name is Shmuel Flaum. I am the
applicant architect for the current owners of
the property 43 Stevens Place. We are here
seeking variances.

CHAIRMAN KEILSON: Have they closed on
the property?

MR. FLAUM: Yes, they are now the
current owners of the property.

CHAIRMAN KEILSON: Congratulations.

MR. FLAUM: We are seeking variances for
several items with regard to the proposed
alteration addition of the existing house.

CHAIRMAN KEILSON: Hold it. Alterations
addition or knockdown?

MR. FLAUM: Alteration addition. If it
was a knockdown, it would be fully demolished.
We are going to repurpose a majority of the
first floor.

CHAIRMAN KEILSON: The application is in
the name of Cohen, but the homeowner at this
point is Roth.

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MR. FLAUM: Initially when we filed, it was under a different owner. It has since switched ownership to the new current owner.

MR. VACCHIO: We spoke to this. This is -- actually, we consider this filing up as a new house.

MR. FLAUM: For which?

MR. VACCHIO: Which application?

CHAIRMAN KEILSON: It's not an alteration. It's a knockdown, new house.

MR. FLAUM: Okay, because 50 percent of the existing floor area --

CHAIRMAN KEILSON: No, 50 percent is not the criteria.

MR. VACCHIO: We consider it as a new house.

MEMBER HILLER: Did you not know that?

MR. FLAUM: Different jurisdictions have different distinguishing characteristics of what is a new house versus an alteration or addition, so it depends on the jurisdiction.

MEMBER HILLER: Which jurisdiction did you consult on this?

MR. FLAUM: Well, the Village of

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Lawrence is unique in many ways. New York City has a completely different definition. A new building is one that the entire foundation is demolished. Otherwise, it's an Alteration Type 1 which is really irrelevant to the fact that just different jurisdictions call different scopes of work different things. So if the village wants to call it a new construction, that's fine by me. The inherent point of the filing is that we are going to be keeping the majority of the foundation even if it is a new structure. The majority of the foundation is remaining intact with minor alterations and we are enlarging the foundation and enlarging the structure going up.

I think I usually go through the code relief sheet first and then we can go into the different talking points. Just before we go through the list of the code relief, we are seeking -- it should just be made aware to the board that we originally filed a different application with more variances that are being sought. We have since reduced that

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2 application, eliminated some of those
3 variances that we are seeking, reduced the
4 severity of others, and we still have some
5 that are being sought by virtue of the fact
6 that the existing building that was there was
7 encroaching in certain locations. And I will
8 get to them in detail when we go through them.

9 MEMBER GOTTLIEB: Just so I understand,
10 was that other application brought before this
11 board?

12 MR. FLAUM: That other application was
13 never brought before this board. It was told
14 to us we were probably asking too much and had
15 to reduce the work scope to make it plausible
16 to be accepted by the village for review and
17 approval.

18 MEMBER GOTTLIEB: So I am not looking at
19 your revised application. I am looking at
20 your application with fresh eyes.

21 MR. FLAUM: Correct. So with that, I am
22 going to go into the different items of relief
23 that we are seeking, as per the code relief
24 form that was submitted to the village. First
25 one is Section 212-12.1, maximum building

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coverage. The permitted amount in this district is 2,931.8 square feet. The existing was 2,224.5 square feet. The proposed is 3,242. It's an overage of approximately 10.5 percent from what would be permitted.

The second item seeking relief is Section 212-12.1 minimum side-yard setback. Permitted side yard is 15 feet. Existing is 12.8 feet. The proposed is 12.8 feet. Overage is 2.2 feet.

CHAIRMAN KEILSON: That's on the west side?

MR. FLAUM: That is on the west side.

MEMBER GOTTLIEB: Looking at your plan on Z-100 it's only an inch and a half, but it shows 12 feet, 9 inches. Just looking for accuracy.

MR. FLAUM: Well, 12.8 is actually closer to 12.9.

MEMBER GOTTLIEB: You are doing percent over inches?

MR. FLAUM: That's inches versus decimal. .83 is equal to 10 inches. .8 is approximately 9-1/2 inches.

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Section 212-12.1, side-yard aggregate. Permitted is 30 feet. Existing is 42 feet. Proposed is 28 feet. Overage or encroachment is 2 feet on the side-yard aggregate. That relates back to the previous one, which is the minimum side-yard setback.

Then the next section is 212 --

CHAIRMAN KEILSON: On the east side you meet the --

MR. FLAUM: On the east side we are compliant with required and actually 15 feet, 2 inches from the lot line to the proposed extension or proposed construction on that side.

Next section is Section 212-12.1, minimum rear-yard setback. The permitted is 30 feet. Existing is 23 feet, 9 inches. The proposed is 28. Overage of 2 feet.

The next section is.

MEMBER GOTTLIEB: You are breaking it down by 4 feet?

MR. FLAUM: We are increasing the rear yard by knocking down a piece of the existing building that was there, thereby reducing the

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nonconformity that was there previously for the rear yard required setback.

Section 212-12.1, maximum front-yard height setback. Permitted height is 0.88. Existing is 0.88. Proposed is .92. Overage is .0.04. Section 212-12.1, maximum side-height setback permitted 1.5 ratio. Existing on the west side is 1.2. Proposed is 2.16. Overage of 0.66. And last, but not least, Section 212-12.1, the maximum rear-yard height setback permitted allowance of 0.74. Existing of 0.72. Proposed of 0.86. Overage of 0.12.

So just went through the list of them. If the board has questions I will answer them, but I wanted to do a small presentation.

MR. VACCHIO: Can you just repeat the existing setback on the rear?

MR. FLAUM: Existing setback on the rear yard?

MR. VACCHIO: Yes.

MR. FLAUM: Existing setback is 23 feet, 9 inches.

MR. VACCHIO: Shown on the code relief,

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28 feet.

MR. FLAUM: That's -- it was crossed out because that was to the second story and the main body of the house, but there is one story that's on the survey. It's actually 23 feet, 9 inches.

MR. VACCHIO: I see that there. Okay, just wanted to clear that up.

CHAIRMAN KEILSON: So it is 23.9?

MR. FLAUM: 23 feet, 9 inches.

MR. VACCHIO: Existing.

CHAIRMAN KEILSON: Okay, so why don't you make your presentation.

MR. FLAUM: Okay. So the existing footprint of the house is delineated on your Z-100 sheet as a dash line called the footprint of the existing structure that's currently there. I can see that the extension that we are proposing in terms of footprint primarily is to the front and to the east side. To the east side, we are going to be compliant with the required side yard. To the front or to the north, we are going to be compliant with the required front yard as

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well. On the west side, we have an existing noncompliant footprint. We are not increasing the noncompliance there. We are maintaining the noncompliance there as under the current structure. And at the rear we are decreasing noncompliance, bringing it to only 2 feet over the required rear-yard setback.

It is a large construction in that it's a newer house. The owners are a young couple, growing family. They are I think currently six not including the parents, so a total of eight. Still a growing family. And they need more bedrooms than are currently available in the current structure. They are doing this alteration; it's their primary residence. They are currently living in a three-bedroom apartment, living in the local area for two or two-and-a-half years. This is the house that became available that suited their needs, but didn't suit their needs; meaning it was the only thing available in the area they wanted to live in, which is the Village of Lawrence, that they could do the work they wanted to do to it to make it suit their needs.

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With regard to the existing house, anybody who would have done any work on this house if they weren't, you know, knocking it down completely would have had several variances triggered by virtue of doing any work to it because it's a series of noncompliances. So those variance items even though we are not eliminating them, we are in some instances making them better so I want to go through them. And I know you made it very clear you are looking at it as a new construction, but be that as it may there were parts that we are not knocking down those items that we are not eliminating. I just want to talk about how we are making them better or alleviating the noncompliance and, you know, what we are trying to achieve.

First and foremost, this property is located at the end of a cul de sac, so it's an awkward-shaped lot. There is -- at least two of the four setbacks of the yards are not perpendicular to each other. So even though you have the front yard which is a parallel I guess to the street, you have a rear yard

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2 which is nonparallel. So it comes in --
3 that's actually the point where it becomes
4 noncompliant on the existing house, where you
5 have a noncompliant condition of 23.9. The
6 proposed construction that we are doing on the
7 addition to the east, that is fully compliant
8 with a 30 foot required rear yard. So we are
9 not trying to increase the noncompliance. We
10 are trying to make this house as fully
11 compliant with the pieces that need to be
12 complied with on our part, even though again
13 it's an existing building that's not compliant
14 and not being knocked down. It's a new
15 construction the work we are seeking to do in
16 terms of enlarging the building, trying to be
17 as compliant as possible.

18 So first and foremost, it's on a cul de
19 sac. There is one neighbor to the west.
20 There are no neighbors really that are visible
21 to the east because there is foliage, there is
22 growth, and there is no one there who would
23 actually see the construction. But that's
24 actually the compliant side of the proposed
25 construction on the side yard.

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I said before, the rear-yard setback is existing noncompliant. We are taking down the one-story bay, so decreasing the level of noncompliance remaining with a 28 foot rear yard. And then the side yard on the west side, it's an existing noncompliant side yard at 12.8 feet. As you actually go from the front to the rear of the property, at the rear yard it's actually compliant. But at the front, it's not. Because it's not a straight line that's going towards the front of the property, we are triggering some variances.

Some of these variances are being triggered by virtue of the noncomplying lot shape, primarily the rear-yard setback and the aggregate side yard. With the rear-yard setback, because it's 28 and not 30, it's -- we have that foreshortened plane that is being projected that's causing that the rear should be encroaching into the roof plane or the roof line of the house at the rear. With regard to the side yard, it's also noncompliant because we are at 12.8 at the closest versus the 15 feet that would be required.

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On the proposed construction, on the 15 foot complying side on the east we actually eliminated what was initially a noncompliant side-yard setback for the side setback ratio. And that's not shown there, but it was removed so it's actually on your zoning analysis. You can see variance removed because the initial application was triggering it, but now it's no longer triggering that. By virtue of the fact that we have the noncomplying side yard, the aggregate side yard is also not complying.

The --

CHAIRMAN KEILSON: Could this house be built in compliance? In other words, you keep referring to a noncompliant shape, so I am not familiar with that terminology.

MR. FLAUM: Okay. So basically you have lot sizes in many or lot shapes that don't necessarily work well with regulations that the village or town have manifested for that lot. So ordinarily if you have a rectangle or square lot and you have all these requirements for setbacks and ratios, on an ideal lot that house might fully comply. But when you start

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2 having angle lot lines or noncomplying
3 conditions or perhaps being on a cul de sac
4 where it's not coming to the front of the
5 street, you have noncompliances that are
6 created by virtue that the lot is just
7 awkwardly shaped.

8 MEMBER HILLER: Your problems are more
9 to the sides, not so much to the front and
10 rear?

11 MR. FLAUM: Well, it's to the side on
12 one side and to the rear -- it's one side is
13 completely fine, there is no issue with that
14 side yard whatsoever. And the front we --
15 again on the redesign we eliminated it, so
16 it's not the front and it's not the east side.
17 It's our west side and the rear.

18 MEMBER HILLER: I want to ask you a few
19 questions. What is the ceiling height in the
20 basement?

21 MR. FLAUM: 7 feet, 3 inches on the
22 existing ceiling.

23 MEMBER HILLER: And what is the ceiling
24 height in the attic?

25 MR. FLAUM: Ceiling height in the attic,

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well --

MEMBER HILLER: It's about 10, 12 feet.

MR. FLAUM: 12 feet from the ridge, but the ridge is probably going to be a foot to 14 inches, so I would say 10.

MEMBER HILLER: 10 to 12 feet. What are the plans for the attic?

MR. FLAUM: Right now there are no plans for the attic because they don't need the attic. But they are building it now anticipating that if the family grows, as their needs grow they will need the space. So they are going to make it fully compliant with building regulations.

MEMBER HILLER: I understand that and I can accept that. However, that goes against your argument because the whole purpose of giving the 36 foot height there that we now allow in new construction was to eliminate building to the sides and, instead, to use the attic as the space to develop rather than move out to the sides. So basically what you are asking us to do is give you the ridge-side height that you want at the top of the roof

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2 and yet allow you to build to the sides in
3 violation of several building standards and
4 codes. And someday you will also fill in the
5 attic, which is understandable, and then be
6 really in violation of the -- you will not
7 have necessitated the side-yard buildings. In
8 other words, build the attic now and cut out
9 the violations on the side.

10 CHAIRMAN KEILSON: There is a general
11 statement --

12 MEMBER HILLER: And it's a new
13 construction also.

14 CHAIRMAN KEILSON: -- generally our
15 mantra in new construction is stay within the
16 code because variances are really strictly a
17 result of need. So I think it would be
18 helpful to identify the need to why you are
19 putting it on the first floor rather than
20 utilizing the attic.

21 MR. FLAUM: So I didn't go into the
22 internals of the house layout, but I can
23 answer your question.

24 CHAIRMAN KEILSON: I think you should.

25 MR. FLAUM: So essentially the first

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1 floor is primarily living with the exception
2 of the extension where the guest bedroom is.
3 The guest bedroom is primarily for the owners'
4 parents when they come to visit. They are not
5 going to go up to a third story. They are
6 getting on in age and it's hard enough to walk
7 up two stories, never mind a third story. So
8 the whole intention of that is to provide a
9 guest suite on the first floor in addition to
10 the typical living spaces you have on the
11 first floor level.
12

13 The entire second floor is all bedrooms
14 for their children. They currently have six
15 children and the parents. And I don't know if
16 I can say that they are capped but, you know,
17 right now that is the requirement of what they
18 need for bedrooms for their growing family and
19 themselves.

20 MEMBER HILLER: Why aren't some of those
21 bedrooms in the attic?

22 MR. FLAUM: Because the children are all
23 under the age of I think 11 or 12. So all the
24 children are relatively young, between newborn
25 and 12 years old. I have children between

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2 ages of 14 and 5. I don't think I would want
3 my child in a whole another floor above me at
4 that age level just because it's
5 disconcerting. At most maybe as they get
6 older they might, but really right now their
7 needs are to have the children living on the
8 same level as them.

9 CHAIRMAN KEILSON: If you could,
10 identify what the use is in the area of the
11 encroachments, because those are the areas
12 that in theory could move up to the attic.
13 You are encroaching because you need the space
14 on the first floor.

15 MR. FLAUM: The only area that's
16 encroaching on the entire plan is the great
17 room that's being rebuilt on the portion of
18 the foundation that's to the east. That great
19 room is -- again, we are trying to repurpose
20 an existing foundation. I know you are saying
21 it's a new building, but when you do
22 construction of this nature you try not to
23 have gaps or holes created so that you don't
24 have water infiltration or leakage. And so to
25 knock it down and rebuild it just for

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2 shortening the expense is greater than the
3 benefit of what you would be achieving with
4 the noncompliance. Again you can actually
5 see on A 101, based on the required footprint,
6 out the back of that piece is actually in
7 compliance with the further rear part. It's
8 only in the front it's noncompliant.

9 MEMBER HILLER: Why don't they move the
10 master suite up to the attic?

11 MR. FLAUM: Again, matter of the
12 children being on the same floor as the
13 parents. It wouldn't matter if the children
14 were upstairs or the parent was upstairs. The
15 point is the they want the parents to be
16 typically on the --

17 CHAIRMAN KEILSON: How would that help
18 with the encroachment?

19 MEMBER HILLER: They move -- some of the
20 bedrooms that are on the side could be moved
21 in.

22 MEMBER GOTTLIEB: So, respectfully, we
23 are not here to renegotiate the plans. My
24 concern is this: You have a family moving
25 into the area, they have a house, they bought

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a house that doesn't quite meet their needs, but yet it's a virtual teardown or reconstruction. My feeling is when that happens, you can work within the code.

You are talking about expanding the house as it is another thousand feet, which is 45 percent larger than the current size of the house. If you take off your 300 feet, you probably end up in code for everything. You are 310 feet over, which means you are permitted to build 7 or 800 feet more than what's there now. And by taking off 300 feet, you wind up very close to being in code for everything. The fact is that if you are going to go up 36 feet, you are going to have enough room to make another five bedrooms or six bedrooms because it's right over the second floor where you have six bedrooms, give or take, because there is indentations and so forth. You have a nice-sized lot. You are on a good block. Obviously they like it, but my feeling is that when you are doing new construction there is enough here that you could work within the code.

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2 In terms of the property not conforming
3 to a square or rectangle, I would say that
4 probably every application that comes before
5 us is not a square or rectangle. Every
6 property is a little bit off. And, you know,
7 if you are talking about one or two feet or
8 here or there it's one thing, but personally I
9 think this can be built to code or very close
10 to code without the encroachments that we are
11 talking about which are seven. I call it
12 encroachments, but seven variances.

13 MR. FLAUM: You just said one, but
14 that's actually what it is. We are talking
15 about primarily 2 feet that's encroaching on
16 the west side.

17 MEMBER GOTTLIEB: So, for example, the
18 side yards should be at 30 feet and you are at
19 total side yard --

20 CHAIRMAN KEILSON: -- 28.

21 MEMBER GOTTLIEB: Okay.

22 MR. FLAUM: That's because the existing
23 west wall of that nonconforming side yard is
24 where it is.

25 MEMBER GOTTLIEB: The side yard on the

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1 west side, that's already preexisting. And,
2 anyway, you are going two stories higher
3 versus one story. That in itself -- you know,
4 each one in itself doesn't seem that great,
5 but the one on the -- for example, the maximum
6 side height setback on west side of 2.16 seems
7 extremely high and that's because you are only
8 15 feet off the side. And one of the things
9 we need to look at is it's not just the square
10 feet, and it's the impact of the building
11 versus the rest of the community. That's why
12 we have asked you to prepare the existing
13 streetscape. And all of a sudden the house
14 that blends in there innocuously, if you will,
15 suddenly got massive.

17 MR. FLAUM: But that streetscape is a
18 falsity, you know that, because it's a cul de
19 sac. No one would ever look at the
20 streetscape that way because the house around
21 the cul de sac is never seen in the same view
22 as the construction. So it's ideal, but it's
23 not realistic.

24 MEMBER GOTTLIEB: The house on the left
25 would fall into that situation, but not the

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house to the right. But these are my points:
I think that it can be done to code or very
close to code.

MR. FLAUM: If I may ask the board, what
would be the preferred number of variances
being sought to bring it --

MEMBER GOTTLIEB: Zero.

MR. FLAUM: Well, that wouldn't be a
variance, would it?

MEMBER GOTTLIEB: Exactly.

MEMBER HILLER: Especially with new
construction. And we are sympathetic to the
needs of the family, but you asked for 36
feet. If you ask for 36 feet, then you have
to put some of the construction to that 36
feet, not for the future, but now so that we
can find a reason to allow you the other
smaller variances.

MR. FLAUM: So you are saying reduction
in height would equal more leniency to the
other assignments? Because I am not sure that
they need to go 36 feet in height.

MEMBER HILLER: So then the attic would
be unusable?

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MR. FLAUM: Not unusable, just lowered.

MEMBER HILLER: I respect your need for that room up there, but you are a new construction and you have to conform to the laws of the -- to the rules of the zoning.

CHAIRMAN KEILSON: Or you have to show such a compelling need that the height is not bearing on it, as I keep on repeating. If the encroachment are necessary because of what you need in terms of layout that cannot be substituted by using the height, then you have a compelling argument. Whereas, I believe the cul de sac is a very important factor to take into consideration because it's not as obtrusive. And another aspect of it, but I would like to hear from you or the prospective homeowner or current homeowner, is as to why that suggests itself in terms of that the 36 feet or 32 feet has no bearing on the fact that I need these encroachments for the following reason.

MEMBER HILLER: Can I ask: Where is the access to the attic?

MR. FLAUM: It's a stair.

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MEMBER HILLER: You have it on the plans?

MR. FLAUM: Yes, second floor plan there is a staircase.

MEMBER HILLER: So well-prepared well-planned for the future, but now you have asked for that height. Use it.

MR. FLAUM: So I don't disagree with you in principle. But again as a parent, children that young do not belong on a floor by themselves. It's just impractical as a parent.

MEMBER HILLER: An 11-year old, 10-year old?

MR. FLAUM: Even 11-year old. I have children coming into my bed very often.

MEMBER HILLER: I am sorry to hear that.

CHAIRMAN KEILSON: We don't treat that tonight.

MR. FLAUM: But the point being, that children do not like being on a different floor than their parents even during the day when they are up. This is one of the biggest discussions I have as an architect when we are

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designing and planning. People do not like to put playrooms in basements because the children do not go to the basement; they like to be a near the parents. So often in my design, I have to figure out how to put a playroom or den room next --

CHAIRMAN KEILSON: What are you doing with the basement?

MR. ROTH: If I can answer that.

CHAIRMAN KEILSON: Please introduce yourselves.

MR. ROTH: My name is Shmuel Roth. I am the current homeowner of this house.

So the way I see it is that like we were discussing beforehand, so this extension we are making to the left which is technically an extension that's compliant in the side-yard setback was done basically for my in-laws who are basically having difficulty walking up the steps. So that was the main idea for this extension to the house.

As far as the basement is concerned, since we are -- regardless of I guess what we are calling this, since we are repurposing the

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1 foundation and keeping a lot of the walls what
2 that means when you go up there is a lot of
3 beams that have to go down to the basement to
4 resupport things. So I honestly don't know
5 how functional the basement is going to be
6 after construction. So part of the reason
7 having the attic is to have an existing
8 playroom for the children. Whether I need it
9 in the future or not, I am definitely going to
10 prepare it the way it's supposed to be
11 prepared. That's the idea, but it's still as
12 of right now very purposeful for our children
13 to have a place to play farther away than we
14 will be as far as the noise is concerned.

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16 MEMBER HILLER: Where do your parents
17 currently live?

18 MR. ROTH: They actually moved to Sutton
19 Place which is a block away.

20 MEMBER HILLER: Therefore they --

21 MR. ROTH: Not my parents, my in-laws.
22 They live in Boro Park right now. My parents
23 live on Stevens -- Sutton, I'm sorry, my
24 brother lives on New McNeil, so I am sort of
25 right in the middle of my family. I have a

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1 sister that lives on Oak a little further out.
2 But this was a perfect block for us also not
3 because we love the location, we love the
4 neighbors, we spoke to the neighbors, but also
5 because of proximity to family.
6

7 So it's true we do want to do a little
8 bit of extension. But the way I understood it
9 when we sat down, a lot of the walls -- even
10 though you were considering this a new
11 construction, a lot of the variances are
12 really being triggered by existing factors.
13 Meaning the wall that exists is a wall -- the
14 wall on the side, let's say the east side that
15 we are talking about is -- is it the east or
16 west? I am not -- it's in the right of the
17 house. I know the picture of the house.

18 CHAIRMAN KEILSON: It's the west.

19 MR. ROTH: It's an existing wall. I
20 mean, it only goes -- I mean, the wall does go
21 further back, but I think the variance is just
22 really like three feet in by two feet. I am
23 not exactly sure of the details, but I know
24 it's not the whole wall.

25 The neighbors, we are familiar with the

Proceedings

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2 neighbors. They are very happy; they have no
3 problems. We spoke to them. They are more
4 than happy to get up and talk as well.

5 CHAIRMAN KEILSON: We will allow that,
6 don't worry.

7 MR. ROTH: And so go up as well. Yes,
8 we are going up there, but they are also -- we
9 spoke to them before we were planning on
10 building on top of the structure. The
11 backyard exactly -- even though there is again
12 an existing variance for that, but we are
13 actually making it even better rather than
14 worse. And again we are going up so I guess
15 it has its impact, but I think we are talking
16 about one foot on it literally. If you look
17 at the line, it's literally like three feet of
18 the house. What is it, two feet of the house?

19 MR. FLAUM: Two feet back.

20 MR. ROTH: What I -- the way I see it is
21 is that it's true there are one or two
22 noncompliant areas, but it's on an entire
23 wall. It's literally we are just trying to
24 repurpose the existing structure, save on
25 costs for the family. The project itself is

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going to be quite expensive, but as --

MEMBER HILLER: That's not our problem. The main issue is you asked for the 36 foot height. You are entitled to it as long as you conform in the areas. But you are asking for the 36 foot height and to be nonconforming in other areas in a project which is new construction, that's the problem. So you could -- I understand your children are young, but Zeh Hakatan Gadol Yihiyeh; they will be bigger. And you have space for bedrooms upstairs, for a master suite upstairs.

MR. ROTH: Correct, but it still wouldn't help us downstairs for the bedroom suite that we are looking for my in-laws.

MEMBER HILLER: I am not talking about that.

MR. FLAUM: Just to go back to the items I think that both of you brought up: With regard to that great room that's triggering that required setback height ratio variance, I am pretty sure we discussed probably possibly lowering it and making it compliant so that it's not triggering that setback ratio.

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2 Because, again, you are not using 20 feet of
3 space, you are only using the space for the
4 immediate area. But it's nice to have the
5 height when you are a large family, you are
6 having family over it doesn't feel as
7 claustrophobic in a great room when you are
8 hosting people. So I am sure we can bring
9 that into compliance.

10 If you take a look at A 200, the
11 proposed height setback ratio, that should be
12 2.3. That's the side yard, that's the
13 noncompliant side yard that we have been
14 discussing. It's the west side. The one on
15 the left side which is the east side is
16 compliant. It's the one on the west side
17 which is the right side that we have proposed
18 noncompliance, but I am pretty sure we can
19 redesign that to lower the roof and not
20 trigger that side yard.

21 MEMBER GOTTLIEB: That's the one --

22 MEMBER HILLER: -- over the great room.

23 MR. FLAUM: The one that's 2.3. We can
24 comply with 1.5 because the roof can come
25 down, change the shape of the roof and bring

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it into compliance.

MEMBER HILLER: That's a good step.

MEMBER GOTTLIEB: That's the most egregious of the seven which would then make it six, which is a great start.

MR. ROTH: Like you said, as much as it is a new construction I would say a good three or four of these are -- as much as, yes, it's a new construction, we are just building on existing walls. That's really the direction we are taking. We are taking the walls that are existing as they are and literally going up. It's not like we are putting the walls there and saying we want to be noncompliant. We weren't coming in here to try to create problems; that wasn't our direction at all. It's just we were taking a house, trying to make it conform to our family, and by keeping the walls all of a sudden these existing structures create these variances.

CHAIRMAN KEILSON: Let's take a moment and see if neighbors want to speak to the matter. Mr. Becker, please.

MR. BECKER: My name is Jacob Becker. I

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live on 11 Lord Avenue in Lawrence.

One of the major problems that I can see is the water runoff on the east side of the new home is approximately three feet above my -- my backyard. There is a gully that runs completely along the east side of their proposed driveway. Now, if that's eliminated the level of the house that's being proposed would -- specifically from the driveway would be much higher with nothing draining off the water. Basically I am afraid of the -- not the structure, but of the result of the structure which will increase and will change completely the water flow as it goes down the slope. It is a gully that is three feet below and it runs the length of the house. My backyard is below that and all the neighbors will also get the same runoff because the gully directs the flow of water down the hill gently. If the driveway is moved or extended eastward to the border, existing border of the home, all the water will be directed outwards and directed east and then down.

CHAIRMAN KEILSON: Do we have a drywell

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being put in?

MR. FLAUM: Absolutely.

MR. BECKER: I just wanted to make sure.

MEMBER HILLER: On that side?

CHAIRMAN KEILSON: Stay with Mr. Castro.

MR. CASTRO: I don't see any on the plot line showing, although they are required to have them.

MR. FLAUM: It's not a final construction drawing.

CHAIRMAN KEILSON: We can't conduct business this way.

MEMBER GOTTLIEB: Mr. Castro, we are adding a thousand feet of impervious surface which is going to exacerbate any potential water runoff. How do we mitigate that situation?

MR. CASTRO: The dry wells to be installed, the requirements are going to be for the entire roof area. So it's going to encapsulate any existing roof which actually won't be there anymore, plus proposed additions.

MEMBER GOTTLIEB: So where there are no

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dry wells now, there will be sufficient dry wells to capture all that excess water?

MR. CASTRO: Correct.

MEMBER GOTTLIEB: Not just 1,000 feet, but the entire 3,200 feet?

MR. CASTRO: Yes.

MR. BECKER: Will the gully still exist? The gully has been pushed out because of the driveway so that basically where would the dry wells be, at the end of the property? You can't. You have to put them in the driveway itself. The problem is that the property is approximately three feet higher than the adjacent property and in between the adjacent property and the new construction -- the home the way it is now, there is a gully that directs the water down gently. How would a dry well, unless it would -- unless it was put in the gully, there would be a wall, how is it going to end? In other words, the driveway is going to be a wall and how does it go down?

MR. CASTRO: Typically all the roof areas, the runoff from the roof area is collected in the gutter down the leaders. And

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2 the leaders, they are directly connected into
3 the drywalls via underground piping. The
4 driveway itself, there is going to be a
5 collection point. There is a preference of
6 using a strip drain towards the end of the
7 driveway near the street, usually around the
8 property line. And from that collection
9 point, it then gets piped again into --

10 MR. BECKER: The driveway runs down like
11 this. It's a gradual descend. The driveway
12 runs down. The wall of the driveway will be
13 straight. The water is going to come down
14 from the ledge that is three feet higher than
15 the adjacent property.

16 MR. CASTRO: Well, the driveway would
17 have to be repitched.

18 MR. BECKER: That's different.

19 MR. CASTRO: I mean, the plans are
20 showing as a modified driveway, so it would be
21 repitched away from the property line.

22 MR. BECKER: But really pitched. It has
23 some type --

24 CHAIRMAN KEILSON: Mr. Becker, thank
25 you. We will take it into consideration

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before the evening is out.

Any other neighbors? Mr. Golombeck.

MR. GOLOMBECK: My name is Shalom Golombeck. I have been living in the neighborhood for 44 years.

I appreciate what Mr. Flaum said, although quite frankly I understood very little. I don't speak engineering; I speak very simply. My major concern is any change in the drainage profile which currently exists. I -- as of now, I am approximately in estimation of about four to five feet lower in topography than Stevens Place.

CHAIRMAN KEILSON: Your address is?

MR. GOLOMBECK: 1 Lord Avenue. The water currently comes from Stevens Place down between Dr. Becker, the Blumenthals, the Avners, and ends up in my rear yard up against my garage and my house. Currently on a typical rain, I get anywhere between one to two inches of water which collects and really does not dissipate at a rapid rate.

In the past handful of years, I have lost four trees. Upon calling Bartlett Tree

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2 company -- whatever they are called, but
3 Bartlett who is a professional -- to inquire
4 as far as why this is happening, they said
5 that the land that we are on is more of a
6 clay-type material as opposed to sand and
7 therefore water accumulates, can't seep down,
8 the trees roots can't go down, they spread out
9 and then in a wind the trees come down. Two
10 trees were borderline trees between myself and
11 the Blumenthals. As Mr. Avner will tell you,
12 borderline trees that we have -- a beautiful
13 magnolia was lost due to flooding. I do not
14 even have a sprinkler system, so it's not like
15 my sprinkler is on. I am getting sopping wet.

16 CHAIRMAN KEILSON: So currently you are
17 having that problem?

18 MR. GOLOMBECK: Currently I am having
19 that problem. I would like to show -- I am
20 not an engineer, but I did try my best to
21 estimate what the loss in grass area would be
22 due to the expansion of the house.

23 CHAIRMAN KEILSON: I think in summary
24 you are looking to express a concern about you
25 have an existing water problem, you feel it

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may be exacerbated by the construction?

MR. GOLOMBECK: That's correct.

CHAIRMAN KEILSON: So all this burden
and all this information is very helpful.

MR. GOLOMBECK: The yellow area is area
which I am approximating is going to be lost
grass area and will now become basically
roofed area. I have pictures to show you
where currently the owner obviously before --
before the Roths have already had a water
problem on their property past that. That's
one. This is a better -- this is a better
picture. That there was a little, for lack of
a better word, cobalt that was dug out there
in order to allow drainage coming from Stevens
Place.

An increase in non-pervious area is
going to make it a nightmare. It's already
bad, but that I can't help. But it will make
a nightmare. And anything that will change
the -- as I said the drainage profile, the
extension on the back of the house is going to
exacerbate the situation as it is because the
drain-off from there is going straight into

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2 the line of the flow of water down to my
3 property. And --

4 CHAIRMAN KEILSON: Okay, we appreciate
5 the fact that you shared that with us.

6 Any other neighbors? Mr. Avner. You
7 can stay where you are.

8 MR. AVNER: My name is Gershon Avner. I
9 am living here 39 years. I want to say in the
10 39 years, I have never had a water problem
11 except for Hurricane Sandy. That came to my
12 den and basement.

13 I just want to add to what Sholom said.
14 The house currently has a backyard slope. I
15 don't know if that's -- it's a very steep
16 slope and that's about three feet -- no, two
17 feet higher than my backyard. So when it
18 rains, the water just flows right down into my
19 backyard. So far so good. But with the new
20 extension in the back taking on how many feet,
21 does that runoff -- whatever it is, I don't
22 know -- 12 feet?

23 MR. VACCHIO: It's the same thing they
24 are not adding.

25 MR. AVNER: So the side piece where now

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2 they are going to be covering the grass, the
3 house, that's going to take away absorption.
4 And I think that's going to be an extension of
5 the basement under that too, right, which is
6 also going to add to the water problem.

7 Another problem which I don't know if
8 it's really a zoning question is the plants,
9 the trees, the flowers, et cetera are affected
10 by the size of the house. Is that a zoning
11 problem?

12 CHAIRMAN KEILSON: Everything is a
13 zoning problem. Everything is our problem.

14 MR. AVNER: I just read a whole thing
15 about the Brooklyn Botanical Gardens is having
16 a lawsuit because they want to build a
17 40-foot-story building.

18 CHAIRMAN KEILSON: That's not our
19 problem.

20 MR. AVNER: That's New York City's
21 problem.

22 So that's also a consideration, that the
23 size of the house is going to interfere with
24 the trees and the shrubs and the flowers.
25 They are not going to get enough light or sun

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2 or whatever. So, yes, I just -- generally I
3 don't think -- you know, I am not in favor of
4 the --

5 CHAIRMAN KEILSON: You are concerned. I
6 appreciate it, thank you.

7 Ms. Lerer, do you want to speak?

8 MS. LERER: My comments here tonight --

9 CHAIRMAN KEILSON: Please identify
10 yourself for the record.

11 MS. LERER: Blanche Lerer.

12 CHAIRMAN KEILSON: And with your
13 address.

14 MS. LERER: Two Winthrop Place.

15 My comments here tonight are not
16 directed directly to the new Mr. Cohen. I was
17 very friendly with the former Mr. Cohen, so I
18 hope that we are going to be friends too.

19 But my comment here tonight is basically
20 I am here living here 55 years and never did
21 we have a problem with water seeping into
22 homes and seeping into backyards. I have
23 children living on Briarwood Lane where they
24 built on Waverly and caused them a major
25 problem in their backyard. They on record --

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2 you have it on record that they came to
3 complain to the village for allowing that and
4 how to remedy it and the village's response
5 was, it's not -- we are not at fault. But in
6 truth when you allow all these variances and
7 overbuilding houses, it is -- it is the
8 village's problem and they should take
9 responsibility for it.

10 So in whatever happens in the future, I
11 think that consideration has to be given to
12 neighbors wherever it is that overbuild their
13 homes.

14 CHAIRMAN KEILSON: Thank you.

15 MEMBER GOTTLIEB: Thank you, Mrs. Lerer.
16 You be careful what you wish for; you might be
17 sitting here.

18 MS. LERER: You are doing a very good
19 job.

20 CHAIRMAN KEILSON: Mr. Fragin, did you
21 want to speak? Trustee Fragin.

22 MR. FRAGIN: Hi, my name is Michael
23 Fragin.

24 CHAIRMAN KEILSON: Your address?

25 MR. FRAGIN: 41 Stevens Place. I feel

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inadequate saying I have only lived here for 20 years, so it's hard to compete with this crowd in particular.

One thing I want to point out is I think Mr. Hiller is correct with regard to, you know, the 36 feet and the encroachment. I am the neighbor most affected by that. I will say I appreciate Mr. Roth came to me early on to discuss and see whether I would be offended by anything, so I appreciate his outreach. I can't speak for anybody else here to the extent that he spoke to them, but I encouraged him to do so. But in that regard, the Cohens were very good neighbors. I hope Mr. Roth is going to be a very good neighbor.

I can give you firsthand appreciation of the fact that this is an unusual lot because of the way the street comes in, starts off by my property line, and then goes in maybe 20 feet or more. Or I might be exaggerating that, never been good with the spatial stuff. But it is a -- with all the different contours it does create some issues, at least from my point of view. We did build a second story

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2 over our garage many years ago. The Cohens
3 were very accommodating for that, so I feel
4 it's only right that I could be accommodating
5 to the Cohen application right now. So I
6 think that that is -- from my perspective is
7 fine.

8 I certainly would come here and support
9 the fact that there would need to be a dry
10 well here. You know, we have seen, and I will
11 take responsibility for the fact, that the
12 village does have a flooding issue. We have a
13 flooding issue everywhere. It's not just on
14 Briarwood; it's not just on Stevens. I wasn't
15 aware of the extent that it existed on Lord
16 Avenue. It's hard to, you know, not to
17 belittle it, I don't know if I can -- it's
18 hard to envision a gully in our little area,
19 so I understand what you are calling it. I --

20 CHAIRMAN KEILSON: Mr. Fragin, you can
21 speak to Mr. Becker afterwards.

22 MR. FRAGIN: Well, anyway on behalf of
23 the village, I don't want to go ahead and
24 diminish the idea.

25 CHAIRMAN KEILSON: No, I want you to

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take the blame for the water problem.

MR. FRAGIN: I am fully taking that, but having a dry well there where that doesn't currently exist I think can mitigate that.

So as far as the height is concerned and my encroachments, I am comfortable with that. I understand that we generally want -- given the extra height in order to conform, but the way this existing footprint is it seems to make sense.

As far as the streetscape is concerned, just also keep in mind that the house to the other side of me is currently under construction. They also -- they got variances. It's -- you know, the streetscape on Stevens Place is going to change, that's how it is.

But I will say personally, makes me feel a little bit older. But it's good to have young family on the block with young children and I fully encourage that. And I think it's good for the village overall to be able to attract young families from Far Rockaway to move here and pay taxes here. So thank you

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very much.

CHAIRMAN KEILSON: Thank you.

Okay, I guess that's it for the
neighbors -- oh, no, sorry.

MS. BLAIVAS: Rochelle Blaivas, Stevens
Place, diagonally across from them. I for one
am very happy to see a young family on the
block, a nice house going up as long as it's
nothing crazy. Looks good to me. Looks
beautiful, actually. I have no issues with
it.

CHAIRMAN KEILSON: Thank you very much.
I appreciate it.

I think, Mr. Flaum, we have now heard a
great deal of the concerns from the neighbors.

MR. FLAUM: 100 percent.

CHAIRMAN KEILSON: And I think -- let's
see what we can do to ameliorate those
concerns.

MR. FLAUM: I would just like to address
the drainage issue.

CHAIRMAN KEILSON: You are going to have
to.

MR. FLAUM: It's a concern everywhere,

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but just to bring light to the situation:

When a lot of these original houses were built many, many, many years ago, site drainage wasn't actually a requirement. So there is an existing problem with many construction that they create a lot of runoff. It's not properly brought down below underground into storage dry wells and therefore allowed to percolate slowly back into the ground. So a lot of what they are experiencing is just natural runoff from properties that are not necessarily overbuilt, but there is nowhere in the ground that's capturing this runoff and being properly stored until it percolates down into the ground naturally, because water takes time to percolate through the soil depending on the soil composition.

That being said, I want to address two issues. One, they said there is a gully in the back of the property. I don't know the full regulations the village has, but when doing the construction I am pretty sure Mr. Roth will be amenable to leveling the property there and/or creating some sort of retaining

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2 wall that will mitigate or eliminate any of
3 this excessive runoff that's going down onto
4 these other properties. This happens very
5 often where when you do topography work or
6 site work, you can adjust these things and fix
7 them. So, again, I don't know the extent of
8 it because that's not typically reviewed by an
9 architect, but having dealt with it in other
10 properties you can mitigate it by regrading
11 the property and/or recreating a retaining
12 wall that channels water elsewhere. Primarily
13 to ground dry wells which is a requirement in
14 doing new construction, you have to adequately
15 provide for a percentage of rainfall per hour.
16 All that rainfall has to be captured either by
17 gutters and leaders, as the building
18 commissioner said. And also any impervious
19 surface has to capture that rainwater and all
20 has to be stored in dry wells of adequate size
21 for it to percolate down.

22 So pretty much any concerns about
23 drainage or capture of the drainage or the
24 rainfall will be addressed in a final set of
25 drawings once the final design is approved by

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the building department, which is -- you know.

CHAIRMAN KEILSON: I think the neighbors want to hear from you, from us, from the building department that these concerns of an existing intolerable situation such as the pictures presented by Mr. Golombeck are going to be cured as best we can. We are now at a threshold. We are about to do additional construction and there is an opportunity perhaps to really cure a lot of these issues that have been going on for decades evidently. So they have suffered in silence, one might say.

So perhaps -- and, again, maybe Commissioner Castro will weigh in on this --

MR. CASTRO: Absolutely.

CHAIRMAN KEILSON: -- a plan that will address, perhaps cure many of these ills that have been going on for these decades in conjunction with this new type of -- this construction project.

MR. CASTRO: Yes, absolutely.

I fully recommend a drainage plan showing contours of the entire property, so

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2 that the flow of the existing water can be
3 determined and any-- any changes maybe to even
4 eliminate existing flow of waters going onto
5 the neighboring properties.

6 CHAIRMAN KEILSON: I think in terms of
7 addressing the concerns of the neighbors in
8 the context of an approval of a variance, if
9 that will happen, we can mandate that an
10 irrigation plan be prepared and will be shared
11 with you in terms of how to cure some of these
12 problems that you have had for these many
13 decades.

14 Everything that has been addressed,
15 that's been raised tonight, is on the record
16 and you will have ample opportunity to meet
17 with the building department to discuss
18 exactly what this plan is going to show and
19 how it's going to address all of these
20 concerns. So it's really a threshold
21 opportunity to do something that should have
22 been done a long time ago, but I think your
23 coming down and exposing the problem, you
24 know, to the village in this fashion will give
25 you the opportunity to leverage and get things

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taken care of. That's --

MR. ROTH: Can I add one thing?

CHAIRMAN KEILSON: Please.

MR. ROTH: I mean, I am very happy to help and definitely eliminate any problems. I really think whatever we are going to do, if anything, is going to cause a better situation for everyone behind us. And I am happy to have plans to be created and file it.

And I want to point out also as much as we are talking about the building covering existing lots, the driveway right now is impervious. So the whole entire driveway there even though it sounds like we are building extra and creating more impervious area, we are actually not. We are actually taking the driveway out. We are building on top of an impervious structure anyway. The driveway we are presenting is an impervious driveway or I am willing to make that a pervious driveway.

MR. FLAUM: You are not over on either of them on pervious. You are within.

MR. ROTH: We are not even seeking on

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over impervious and pervious.

CHAIRMAN KEILSON: Again, we are --

MR. ROTH: A hundred percent.

CHAIRMAN KEILSON: If I were a neighbor and I was concerned, I would want to know that a plan would have to be submitted to the building department and the building department will have to sign off that that's going to address these existing --

MR. ROTH: Absolutely.

CHAIRMAN KEILSON: -- problems and avoid any further issues in the future, in the event that there is an approval of variance.

MR. FLAUM: Just one item. It should be noted that again I don't know to the extent of where the water is being generated from because there is a very large cul de sac, there is a lot of impervious surface there as well. But the information they have collated or collected over the years would probably be very helpful not just for us to figure out where the water is coming from his site, but also coming from other people's site. Because the amount of water he is describing wouldn't

Proceedings

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2 be generated from one property alone; it would
3 be an assemblage of property and other
4 adjoining properties. So I don't know if it's
5 all coming off of Mr. Roth, but he can do what
6 he can do on his property to alleviate the
7 situation. The rest is up to either adjoining
8 neighbors --

9 MR. ROTH: We will do what we can.
10 That's the point, create a plan.

11 CHAIRMAN KEILSON: Hopefully you will do
12 more than you can.

13 MR. ROTH: Exactly. And I hope to solve
14 everybody's problems with this. Absolutely,
15 world peace.

16 MR. CASTRO: I just want to take a step
17 back. Have you done an analysis on the
18 existing foundation, the structural integrity
19 of it? Do you know if there is going to be
20 any underpinning necessary in the existing
21 foundation yet?

22 MR. FLAUM: So right now if we don't
23 utilize the basement that's being added and
24 it's just there to support the superstructure,
25 we don't have to underpin anything because we

Proceedings

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2 are not planning to utilize it. Right now,
3 again, we haven't designed the full structure
4 because that would be counterproductive if we
5 have to modify the design. But like Mr. Roth
6 had said, in supplement to what he said, we
7 don't think the basement is going to be very
8 usable when the finished design is completed
9 simply because we have to put mechanical
10 equipment somewhere. The existing basement is
11 not very large to begin with, so that basement
12 probably will not be underpinned. If
13 anything, there is going to be a modification
14 just to put a stair down to the basement and
15 that's primarily it.

16 The concrete and the foundation are --
17 typically from back then is usually more than
18 adequate, but we have to do a study of it once
19 it was exposed. I don't think there was an
20 issue on an adjoining house. I did work down
21 the block, 39 Stevens Place. The foundation
22 there was adequate. We didn't have any issues
23 there when they did the alteration addition to
24 that one. But again every property is
25 different, every building is different, so I

Proceedings

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2 don't anticipate an issue.

3 CHAIRMAN KEILSON: Mr. Castro, what are
4 you driving at?

5 MR. CASTRO: Well, I mean, it seems as
6 though the existing foundation is trying to be
7 salvaged. And in some cases when excavation
8 is done, underpinning has to be performed due
9 to unforeseen circumstances which sometimes
10 then winds up costing the homeowner, you know,
11 extra money and is counterproductive.

12 CHAIRMAN KEILSON: But it will have to
13 be done.

14 MR. CASTRO: Yes.

15 CHAIRMAN KEILSON: They won't know until
16 they begin the project, assuming it gets
17 approved.

18 MR. FLAUM: In certain instances it's
19 visible, but in this one there is no visible
20 deficiency. But I have seen projects where
21 the brick is falling and you can see that.

22 There was one other item that was
23 addressed besides the drainage, so we
24 discussed that -- the adjusting the roof
25 height here. But I just wanted to bring up

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2 that this board, 30 years ago you did approve
3 -- I think it's important because just the
4 house across the street directly across from
5 the cul de sac had an existing noncomplying
6 side-yard issue, both minimum side yard and
7 aggregate. And there the client was seeking a
8 variance to increase the noncompliance and it
9 was approved. And that lot is larger than our
10 lot and that lot, they could have easily gone
11 back to the side versus to the side and they
12 didn't. They went to the side and it was
13 approved that way.

14 MEMBER HILLER: Are they 36 feet high?

15 MR. FLAUM: I don't know about height.

16 MEMBER HILLER: Probably not.

17 CHAIRMAN KEILSON: When this matter came
18 up, how long ago?

19 MR. FLAUM: 30 years ago.

20 CHAIRMAN KEILSON: Before I was born.

21 MR. FLAUM: I figure I have to throw out
22 the year since I am competing with the other
23 people here.

24 CHAIRMAN KEILSON: Post-Sandy things are
25 different.

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MR. FLAUM: It's just the opposite side of the cul de sac.

CHAIRMAN KEILSON: Interesting irrelevant piece of trivia, yes.

MEMBER GOTTLIEB: Well, the point we looked at, that means that this variance will be used against us by the house across the street in 30 years from now. If you are the new homeowner, does the house currently take on water in the basement?

MR. ROTH: No, nothing.

MEMBER GOTTLIEB: So you have a dry basement?

MR. ROTH: Nothing.

MEMBER GOTTLIEB: That's why your neighbors are wet.

MR. ROTH: Like I said, I am more than happy to build the wall to level the property. Any existing issue with this plan I think will not cause problems, but will mitigate problems.

CHAIRMAN KEILSON: We are going to assume that the building department is going to be right on top of this in the event that

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2 the variance gets approved and it will be
3 subject to the approval of -- the building
4 department need adequate notice so they can
5 review it themselves if they are so inclined.

6 But let's go back to the original
7 variances now because that's where the we are
8 concerned on the part of Mr. Hiller and Mr.
9 Gottlieb. So where were we?

10 MEMBER GOTTLIEB: We eliminated variance
11 number 6.

12 CHAIRMAN KEILSON: Does it have any
13 impact on anything else?

14 MEMBER GOTTLIEB: Only the height
15 setback ratio on the west side, which has
16 nothing to do with surface coverage or
17 building coverage.

18 CHAIRMAN KEILSON: Okay, Mr. Hiller, how
19 does that help in terms of your state of mind?

20 MEMBER HILLER: I must tell you that I
21 must say that the homeowner has charmed me
22 with his willingness to comply to the desires
23 of the neighbors, which is very important.
24 And I think the neighbors will find themselves
25 in a better situation than they were when

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2 everything is said and done, so I think the
3 they should be happy as well. I have my issue
4 with the nonuse of the attic space to cover
5 some of the floors in the -- some of the
6 violations. I am glad to see that you are
7 lowering the -- that atrium room or whatever
8 it is on the right side of the house.

9 CHAIRMAN KEILSON: The great room.

10 MEMBER HILLER: Great room.

11 MR. FLAUM: It's not as great.

12 MEMBER HILLER: That's my comment.

13 CHAIRMAN KEILSON: You are prepared to
14 vote?

15 MEMBER HILLER: I am.

16 MEMBER GOTTLIEB: I would like to make
17 my comments now, Mr. Chairman.

18 CHAIRMAN KEILSON: Okay. So before we
19 allow everybody to make their comments and
20 vote, I just wanted to indicate that as always
21 we have to weigh the benefit to the applicant,
22 the health, safety, and welfare of the
23 neighbors, and that's been really expressed
24 tonight by the neighbors. I appreciate the
25 neighbors coming out. It's very important for

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2 the board to hear this type of feedback. It's
3 very helpful for us in making a determination
4 so we protect the rights of all the neighbors
5 possible, okay. And I think it's a very
6 positive meeting in that regard because we
7 have been able to hopefully address a lot of
8 these things that have not been cured over
9 these past many decades.

10 So the board is about to vote taking
11 into consideration the modification.

12 MEMBER HILLER: He wanted to make
13 comments.

14 CHAIRMAN KEILSON: He is going to do it
15 as he votes.

16 MEMBER GOTTLIEB: I was going to do it
17 before I vote --

18 CHAIRMAN KEILSON: So make your comment.

19 MEMBER GOTTLIEB: -- because it's rather
20 relevant.

21 CHAIRMAN KEILSON: Please.

22 MEMBER GOTTLIEB: So I think listening
23 to what all the neighbors had to say and even
24 my own comments about building out over a
25 thousand feet over existing -- because it was

Proceedings

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2 not a variance that was listed, it didn't
3 appear to me to look at it. According to your
4 plan on Z-100, the impervious coverage
5 existing is 3,385 square feet and the proposed
6 impervious coverage is actually less. And I
7 guess it was Mr. Roth who mentioned that you
8 are paving over -- you are building over the
9 driveway. So looking at this, the negative
10 effect that I thought was going to happen
11 doesn't exist because you are not increasing
12 the impervious coverage.

13 MR. FLAUM: You are not balancing that
14 with the pervious surface that is being --

15 MR. ROTH: He is saying the positive.

16 MEMBER HILLER: Mr. Flaum, you can't
17 take a compliment.

18 MEMBER GOTTLIEB: I don't give
19 compliments well. It may not appear as such.

20 So what I am saying is I will vote in
21 favor of this application. What I did not
22 realize was that the flooding situation will
23 not be exacerbated by this application or
24 should not. I can't say will not, should not.

25 MR. PRESTON: Mr. Chairman, just to

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clarify, the vote being taken is on the request as modified to remove the side height setback request on the west side of the property.

CHAIRMAN KEILSON: Thank you for correcting it for the record.

MEMBER HILLER: And contingent upon the applicant conforming to the village requirements as far as the mitigation of the rain.

CHAIRMAN KEILSON: Irrigation plan.

MR. FLAUM: Site drainage plan.

CHAIRMAN KEILSON: Mr. Hiller, how will you vote?

MEMBER HILLER: I was charmed. I will vote yes.

CHAIRMAN KEILSON: Okay. And I was not charmed, but I will vote yes.

So we wish you well and how much time --

MR. ROTH: I would like to move in tomorrow personally.

MR. FLAUM: We have to do a Board of Buildings design first.

CHAIRMAN KEILSON: Two-and-a-half years?

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MR. ROTH: I hope within a year.

CHAIRMAN KEILSON: Based on the pace of
your father's house, you should ask for five.

MR. ROTH: No, I am not using him.

CHAIRMAN KEILSON: Take three years.

MR. FLAUM: I think it will be less.

CHAIRMAN KEILSON: No downside. You
don't have to come back.

MR. CASTRO: 36 months BDB approval and
full construction drawings, including
retention and drainage plan.

(Whereupon the hearing concluded at 8:53 p.m.)

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

Yaffa Kaplan
YAFFA KAPLAN
Court Reporter

Proceedings

INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALSVillage Hall
196 Central Avenue
Lawrence, New YorkMarch 27, 2019
8:53 p.m.APPLICATION: CAATS
332 Central Avenue
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
ChairmanMR. EDWARD GOTTLIEB
MemberMR. DANIEL HILLER
MemberMR. ANDREW K. PRESTON, ESQ.
Village AttorneyMR. GERALDO CASTRO
Building DepartmentMR. DANNY VACCHIO
Building DepartmentYaffa Kaplan
Court Reporter

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CHAIRMAN KEILSON: Okay, the matter of Caats. Gentlemen, your night is over. Ours is just beginning. Please.

MR. HYMAN: My name is Daniel Hyman, architect for John Capobianco, 159 Doughty Boulevard, Inwood, New York here on behalf of Caats which is a proposed dental orthopedic surgery office at 332 Central Avenue requesting relief from Section 212-23 requiring a five foot side-yard setback. The proposed construction requires or has a three foot setback as well.

Section 212.23 requiring one parking space for every 200 square feet of gross floor area and, therefore, the property requires twenty spaces and the building has two spaces onsite. Although the application is proposing -- the application we are proposing only requires ten spaces in and of itself, the other ten spaces are required by the existing structure.

CHAIRMAN KEILSON: "The existing structure" being?

MR. HYMAN: Being the building that's

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currently on the property.

CHAIRMAN KEILSON: The bar?

MR. HYMAN: Correct, and the residence above that's not currently occupied.

CHAIRMAN KEILSON: Okay, so I just need a clarification. It's now come to my attention that the bar is not in use. In all our conversations, it was not made clear at least to me that there is an empty building there.

MS. HERTZ: Faigy Hertz and my husband Marvin Hertz. So we specifically purchased the property on the contingency that it be vacant and we wanted -- we are losing a tremendous amount of money keeping it vacant until we have all our plans approved before moving forward. The current building, the structure is I think at least 103, 104 years old. It's going to need a lot of work on all of it, so we wanted to wait to have the full plan before we started doing anything.

CHAIRMAN KEILSON: But how could we evaluate the usage of the property if we don't know what's going to be occupying that?

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MS. HERTZ: We are not planning to change any previous use, meaning whatever --

CHAIRMAN KEILSON: You will have a bar?

MS. HERTZ: Not a bar, but similar like a restaurant, whatever commercial space.

CHAIRMAN KEILSON: Yes, but commercial space is going to impact significantly on the congestion again in terms of the parking, anything that --

MS. HERTZ: I hear what you are saying. From what I understand, the previous bar was considered public assembly, which has the highest level of -- I think that requires one per 100 square footage. So anything we do to change cannot demand higher parking; it would be equal or less than.

MEMBER HILLER: Ms. Hertz, when you purchased the property did you look into the possibilities of what can be done with the property; did you look at the zoning restrictions or --

MS. HERTZ: Yes, I met actually with the gentleman here before we moved forward. I met with the architect.

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MEMBER HILLER: And what determination did you make?

MS. HERTZ: Regarding?

MEMBER HILLER: Regarding your ability to build on the property at all.

MS. HERTZ: So obviously we weren't promised anything previously, but we were told that what we wanted to do seemed like it would be acceptable.

MEMBER HILLER: Do you verify that, Mr. Castro?

MR. CASTRO: As stated, there were no guarantees. I am not certain I stated myself or anybody said that it would -- it was palatable.

MS. HERTZ: We definitely wouldn't.

MEMBER HILLER: I just want -- I just want to state before we start that to my mind, because of the congestion in that lot, because you are not conforming to the amount of parking spaces, that is a very, very serious safety hazard. That lot is already overused and congested. I, frankly, I don't see a way that you can have your clinic without

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2 destroying that building and building your
3 clinic, solely the clinic on the building
4 because to add to the -- I understand that you
5 want to --

6 MS. HERTZ: No, yes.

7 MEMBER HILLER: But I really -- I am
8 telling you right now you need unanimous
9 acceptance tonight.

10 MS. HERTZ: I understand.

11 MEMBER HILLER: So I would be much more
12 comfortable if I knew that you were building
13 your clinic. And I think it's needed and I
14 think it's wonderful and I wish you Hatzlacha,
15 success, but I really can't see two buildings
16 on that site.

17 MS. HERTZ: If I can point out a few
18 things, okay. So, first of all, this lot --
19 there is a smaller lot that feeds into it that
20 comes from Rockaway Turnpike, right, which
21 backs -- I think it used to be the fruit and
22 vegetable store, then towards Seasons and it
23 feeds into the larger lot which goes all the
24 way down the block. Every single other
25 property commercial property is fully built

Proceedings

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2 out aside from this one. So this is the only
3 last remaining building or property on the
4 entire -- so there is nobody else that going
5 to put any further demand on anything there.
6 So that's number one.

7 Number two, we did go through the test
8 and doing a parking study, an extensive
9 parking study which we presented last time.
10 And it took into account as well the parking
11 lot right across the street, which is within
12 300 feet which I understand is not within the
13 100 feet to satisfy exactly that. But again
14 for our purpose, it's not like a grocery store
15 next door where you need to push a shopping
16 cart to your car. So in terms for our purpose
17 for somebody to cross the street or whatever
18 it is, parking is not an issue.

19 Also just want to point out a few more
20 things. So, first of all, we have changed
21 these plans at least three times to try to
22 make it work and, you know, the part that we
23 want to build out. So, first of all,
24 currently the way the property is, there is
25 the front building, there is some empty space

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in between. On the side of the front building is like this large, very old wooden shed as well and then there is like this broken-down garages storage which is terrible eyesore. That garage storage itself is at least 7, 800 square feet. We want to knock that down, knock down the other shed as well, so that's accounting for 7, 800 square feet. We are getting rid of or close to 1,000 with the other shed and storage space that we are getting rid of. I mean, alternatively we can say put the office there which is originally what we wanted to do. We can only extend it a drop. We are trying to make the whole thing look better for the neighborhood and make it useable again. This is a commercial strip where we are the only ones not built out fully.

So also just to go through numbers, I know it sounded like a lot like we are asking. Maybe my numbers are wrong, but I just want to review it because I don't think so. You made it sound like there are twenty spots. We are asking for ten. I think the new space we are

Proceedings

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2 looking to build is less than 1,400 square
3 feet.

4 MR. HYMAN: Which is -- it's about six
5 spaces for the doctor's office, the main floor
6 which is --

7 MS. HERTZ: We are going to provide two
8 spots. So that means we are asking for only
9 two spots of a variance, four car spots.

10 Again our views or what we are doing, I said
11 this last time but I will repeat it again --

12 CHAIRMAN KEILSON: I'm sorry, you went
13 from -- I don't understand.

14 MR. HYMAN: -- I don't think the math
15 was entirely correct. Twenty are for the new
16 part of the building.

17 MS. HERTZ: Is it ten?

18 MR. HYMAN: I believe it's ten.

19 MS. HERTZ: For the service itself from
20 what I understand it's less than 1,400 square
21 feet, right?

22 MR. HYMAN: So here in the calculation
23 it shows that it's 1,155 you get, which
24 requires 5.7 spaces and then the basement
25 requires 4.1 spaces.

Proceedings

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2 MS. HERTZ: So the basement which is
3 just storage really balances out what we are
4 knocking down, you understand? Meaning we are
5 getting rid of that big garage structure which
6 was 4.7 parking spots, so we are -- like
7 that's balancing out with the basement in
8 terms of storage, does that make sense?

9 CHAIRMAN KEILSON: No.

10 MS. HERTZ: Let me start again.

11 CHAIRMAN KEILSON: You are torturing the
12 figures in order to achieve a certain goal --
13 please don't interrupt me. The way I see it,
14 you are torturing the figures in order to
15 achieve a certain artificial goal in terms of
16 the number of spaces required. It requires
17 twenty spaces, that's the fact.

18 MS. HERTZ: It requires twenty spaces in
19 total or nineteen, actually. But that's with
20 everything; with the front building, with
21 everything.

22 MEMBER GOTTLIEB: We have to look at it
23 as a requirement of twenty. You can massage
24 it or torture it however you wish to call it,
25 but the fact is that as your board we have to

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look at it as twenty.

MS. HERTZ: This is the part I guess, if you could, maybe explain to me. I am asking for a variance of twenty because whatever is previously there is grandfathered in.

MEMBER HILLER: It's grandfathered in without having another commercial space on that plot. You are asking to have two commercial spaces on a small plot. Let me urge you again --

MS. HERTZ: It's an extension.

MEMBER HILLER: Let me urge you again to reconsider and build your clinic on the space, have additional parking, and it will be much more favorably looked at. The way -- what you are asking for now -- and I appreciate your logic, I understand what you are saying, but it's incorrect. It's incorrect.

MS. HERTZ: Is the concern with the building more, is that the concern?

MEMBER HILLER: The concern is the parking -- the concern is the safety of the people in the -- who are going in and out of that parking lot and also the structure that's

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2 put up there. To ask for two commercial
3 spaces where one now exists and to be able to
4 benefit from both of them is unfair. There is
5 one commercial space there now and the other
6 one is storage. Put up your commercial clinic
7 and we will have far less of a problem, add a
8 few spaces and you will have far less of a
9 problem.

10 MS. HERTZ: If we are discussing
11 fairness, can I just understand why it's fair
12 to be the only commercial -- the only property
13 that's not allowed to be built out?

14 MEMBER HILLER: So I will tell you what,
15 turn the present bar into your clinic.

16 MS. HERTZ: Again, that doesn't address
17 what I asked because you mentioned fairness.
18 How is it fair to be the only one that's not
19 allowed to be built out?

20 MEMBER HILLER: It happens to be you are
21 changing the character of your plot. I am
22 going to say this only one more time. Your
23 plot has one commercial space on it. Have one
24 commercial space the one you want.

25 MS. HERTZ: Okay, so you want it to be

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2 one commercial space. We put the office in
3 the front, okay. Can we take the square
4 footage from the back and still include it?
5 Can we still have this plan, but say it's all
6 medical space now?

7 MEMBER HILLER: Let's see. There has to
8 be some parking.

9 MS. HERTZ: The same parking.

10 MEMBER GOTTLIEB: Two spaces.

11 MS. HERTZ: For an additional 5.7 needed
12 what we are building.

13 MEMBER HILLER: That's less than what it
14 says.

15 MS. HERTZ: It does. So if you add the
16 spaces, what we are asking to build out only
17 requires an additional 5.7 spaces of which we
18 are giving two.

19 MR. HYMAN: Without the basement.

20 MS. HERTZ: But when even with the
21 basement, we are taking away the storage from
22 the garage which counteracts the basement.

23 MR. HYMAN: Not sure about that.

24 MS. HERTZ: I looked over the numbers.
25 If you look at it the current storage, garage

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2 is 4.7. The basement provides 4.6, so we are
3 actually get gaining .1. So the addition --
4 the only addition that we are asking for this
5 building out is 4.7 spots, of which we are
6 supplying 2 and for our use. Again, just so
7 you know, people are not allowed to drive.
8 Most of his patients are told explicitly you
9 need to take a car service or be dropped off.
10 He dedicates the majority of his patients --

11 MEMBER HILLER: I appreciate what you
12 are saying. In front of us, according to our
13 zoning according to what we have been told,
14 you need twenty spaces.

15 MS. HERTZ: We are not asking for a
16 variance for twenty spaces.

17 MEMBER HILLER: You are asking to turn a
18 one-commercial space into a two-commercial
19 space. I can't say it again. This is the
20 last time I am saying it.

21 MEMBER GOTTLIEB: You said that before.

22 MEMBER HILLER: I know I said it before.
23 I said before I wouldn't say it again.

24 MEMBER GOTTLIEB: But it's worth
25 repeating.

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MEMBER HILLER: I am asking you if you want to be viewed favorably to use, have your one commercial space.

MS. HERTZ: So I agreed with that. That's what I asked you. I said if we turn the whole thing into one commercial space which is medical, would the same footprint of this -- is this okay?

MEMBER HILLER: Same footprints of what figure?

MS. HERTZ: Of this plan.

MR. HYMAN: What I understand what she is expressing right now: There is a bar or restaurant upfront, but a rather small very compact doctor's office that we were trying to make work. And what she is asking is if she does the entire ground floor, including the bar and maybe not as much of an addition but an addition of -- or of the same size let's say with two parking spaces -- it hasn't obviously been designed to, but to really give them the adequate space that they need the current plan was really made as compact as we could to make it fit with the existing

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2 building on the lot. But she is asking can --
3 would it be acceptable if --

4 MS. HERTZ: I will also explain why the
5 way -- what we were looking to do. This is
6 not a full-time office. My husband has a
7 successful practice in Brooklyn. This is a
8 part-time office. To make this work, we need
9 some rental income. That was the purpose of
10 renting out the front. If the board does not
11 like the idea of it being a restaurant, a
12 store, a whatever it is, that we would rent it
13 out with having a small office in the back,
14 right, so let's take that whole space, make it
15 an office space. We will rent it to another
16 doctor or make it more of a medical space, you
17 understand, but we cannot support that whole
18 building on a part-time office.

19 MEMBER HILLER: I thought you said your
20 husband has a successful --

21 MS. HERTZ: Thank God he is, but he is
22 not living in Brooklyn. He just expanded in
23 Brooklyn.

24 MEMBER HILLER: I am not going to say
25 what I said again.

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MS. HERTZ: So I understand. That's what I am asking: It seems like you have an issue with two separate spaces.

MEMBER HILLER: With your current plan including the ground floor of the bar, how many square feet coverage do you have?

MS. HERTZ: The previous from what I remember is 1,400 something of the bar and the an additional is 11-something.

MEMBER HILLER: So you have 2,500 square feet of coverage.

MS. HERTZ: And we are knocking it down close to a thousand.

MEMBER HILLER: What are you asking now?

MS. HERTZ: What I am asking --

MEMBER HILLER: How many square feet?

MS. HERTZ: Exactly the same.

MEMBER HILLER: You want the same 2,500 square feet?

MS. HERTZ: It's the additional 1,100 and change, plus we are knocking down 900. We are really only asking for 200 additional square feet or something like that. I didn't do the math. It's the change of the use that

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we are doing.

MEMBER HILLER: You are not counting the fact that you are adding on an illegal -- right now if you would put that bar, that clinic in, it's not in conformance. It's not conforming to what can be put on that lot. You are asking for a variance for it. I am again --

MS. HERTZ: We are not asking for variances in terms of square footage. We are not going above what's allowed to be buildable. Anything that you are saying in terms of the building, again not my area. But from what I understand, there are separate variances when asked to go above what's allowed in square footage for that alone separate from what's tied into the parking. We are not over, we are under what's allowed to be built so we are not asking for additional in terms of that.

Yes, I understand that anything you build out further requires parking to be accommodated. I understand that, so we are addressing the parking. But in terms of being

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2 allowed to be built out, in that sense we are
3 the only one that's not being allowed and what
4 I am asking for is under the maximum that is
5 allowed. In terms of what we are doing there
6 itself, addressing the parking is about
7 two-and-a-half cars that we are not meeting
8 the needs of.

9 MEMBER GOTTLIEB: Mrs. Hertz, why is it
10 so important that you keep the bar?

11 MS. HERTZ: It's not. I said I am
12 willing to not keep the bar. What's important
13 is that we have enough space to make this
14 worthwhile. We need to have income, right?
15 It's a part-time office.

16 MEMBER GOTTLIEB: The bar is 1,400 feet.
17 You are looking for 1,400 feet?

18 MS. HERTZ: We are looking -- it was
19 1,100 feet, but we also need income from
20 someone else aside from him. He is part time.

21 MEMBER GOTTLIEB: Have you figured out
22 what your income is going to be for the bar?

23 MS. HERTZ: I think standard rentals are
24 at 3 to 4,000 a month at least, right?

25 MEMBER GOTTLIEB: There is no "at

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2 least." I happen to be in that business, but
3 I am going to not try -- what I am thinking of
4 is you are talking about -- and maybe this is
5 not excluding the apartments above because I
6 don't know what's going on there, but 1,400
7 feet would be reasonable, 3 to \$4,000. So you
8 are talking about 36,000 a year of income. I
9 don't see how that's going to make much of a
10 difference in weighing out the value of this
11 project.

12 MS. HERTZ: It's a huge difference over
13 time.

14 MEMBER GOTTLIEB: Because what I see
15 happening, and this is pure conjecture and
16 don't take it personally, you get your
17 building here and then convert the bar into
18 medical because medical is less than what --
19 has a lower requirement than your public
20 assembly. So now you have got a huge medical
21 space and, sure, the doctor is only there
22 twice a week --

23 MS. HERTZ: Are you talking about with
24 the addition?

25 MR. HYMAN: That's I think what her

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question is. Her question is of a similar size footprint on the ground level with only two spaces, because that's all we could fit on the site if it was only medical so that his practice could operate a few days a week. Then we can also get another doctor in there so that it would really be used. Would that be an acceptable proposal without -- no other commercial, no other --

MEMBER GOTTLIEB: That would be the fear that I have for the use.

MS. HERTZ: Meaning what?

MEMBER GOTTLIEB: You have right now that entire lot requires zero parking because it's vacant. So now you are filling it up and there is a demand for parking where there is zero demand right now.

MR. HYMAN: Well, that's just above because it's vacant. A tenant can legally --

MEMBER GOTTLIEB: When you consider the parking study, you have got at least a half a dozen vacant stores. You have got one store rented but unoccupied, unused. The store next door which was occupied, but currently vacant.

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Those all have the right to operate businesses and God willing businesses will come to Central Avenue in Lawrence and the parking will be even worse than it is now. And here we have half of this building is entitled to be used as it is and you want to create a demand for more parking. And I think that's all we are getting at.

CHAIRMAN KEILSON: Well said.

MR. HYMAN: Certainly these lots are restricted in that they are built most -- the character of the neighborhood, if you will, is kind of buildings right up against one another and there is this shared communal parking.

MEMBER GOTTLIEB: That's typical for a business.

MR. HYMAN: And I think and right now even though it's empty, this building has as of right parking spaces. And so I think that it's -- especially on such a narrow lot, it's certainly unreasonable to expect an application to have all the parking required for really most any use just because of the very restrictive nature of the narrow -- I

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mean, not very, very narrow but somewhat narrow long lot makes parking in commercial very difficult. And with the parking lot adjacent, now I understand we are very, very full. But based on the parking study, there is some vacancy and a little bit further away there is more.

MS. HERTZ: And no one has parking -- everyone is built fully out and no one is supplying even the two spots that we want to supply on this lot.

MEMBER HILLER: I think it's apparent to you that this is not -- this application is not being viewed favorably.

MR. HYMAN: I think we requested an adjournment.

MEMBER HILLER: I think so. And I hesitate to say, consider one -- one space for your clinic and additional parking. We are told you need twenty spots. You can argue four, five, whatever. We are told twenty spots. Do we expect twenty spots?

MS. HERTZ: Twenty spots, including existing --

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MEMBER HILLER: I am saying you need twenty spots. But consider one spot -- one construction for the clinic, some additional parking, and let's see it next time.

DR. HERTZ: Marvin B. Hertz, DDS, M.D. Been here for 11 years, hope to be here for many more years. And I just want to be open with my thoughts.

MS. HERTZ: Before you say that, if I can just say I guess we are not as charming. Just want to mention that I did --

MEMBER HILLER: That has nothing to do with charming.

DR. HERTZ: All I want to say is as follows: I don't think this variance board will ever pass. You know why? Because from day 1, I felt there was opposition for some reason. I don't know what it is. I feel like, you know, we get led on because every single time we went to the greatest architect in the neighborhood whose name is Capobianco and who knows what this town needs and what the variance board likes and what they appreciate and what the rules are. We went

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2 there so -- to get things straightened out so
3 everybody would be happy. If you want to be a
4 failure, try to make everyone happy. But as
5 much as you can that's why there are variance
6 boards, try to make things fit according to
7 the law and according to the variances.

8 But I feel I was led on. I will tell
9 you why. We made this plan, it wasn't good.
10 Maybe if you do this, it will be okay. No
11 problem. He said -- I know nobody promised, I
12 totally agree with that. Okay, you know what,
13 maybe we will do this, we need parking. We
14 will put stilts, do this, maybe that's going
15 to work. You know what, show us the drawings,
16 but it sounds like it's going to work, it's
17 not going to work. You can't have two floors,
18 let's get rid of two floors because square
19 foot and parking to one floor. Let's move it
20 over this way, let's move it over that way. I
21 think however we slice and dice it, for some
22 reason I feel led on each time.

23 I just have to tell you how I feel.
24 Even though it doesn't count and feelings
25 don't make a difference, my feeling is I am

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going to take my business elsewhere, I will be honest with you.

MS. HERTZ: Don't, but the truth of the matter is --

DR. HERTZ: I am very disappointed. I am very disappointed in this board. Maybe people can be wrong and feel disappointed even if they are wrong according to the rule, but I do want to tell you I am feeling very disappointed. I don't want to brag --

CHAIRMAN KEILSON: I am very upset about that.

DR. HERTZ: Very frustrated. I don't think there is a way to pass.

CHAIRMAN KEILSON: At no point did you ever mention the bar had closed. I had no awareness of it. There has always been a bar there.

DR. HERTZ: If I open a bar now --

CHAIRMAN KEILSON: Don't cut me off. We are also frustrated. We sit and listen to you; we don't have to. I have been more than courteous to you when it comes to meetings. I never led you on at the meeting. It was very

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clear you make your presentation. So I'm sorry you are frustrated, but at this point we are going to adjourn.

MS. HERTZ: I just want to say one more time --

CHAIRMAN KEILSON: We are off the record.

MEMBER GOTTLIEB: What's the status of the application?

CHAIRMAN KEILSON: Do you want to adjourn or did you want us to vote?

MR. HYMAN: I was going to recommend requesting an adjournment.

CHAIRMAN KEILSON: You have the option to make a decision.

MS. HERTZ: I understand, but I want to understand what the board is saying. The board is saying they are not going to allow any extension, any additional?

CHAIRMAN KEILSON: The board is not saying that at all. You want an adjournment?

MS. HERTZ: So to be clear --

CHAIRMAN KEILSON: Do you want an adjournment or do you want us to vote? The

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meeting is over. You have a choice.

MS. HERTZ: So we are not addressing the
need --

CHAIRMAN KEILSON: You need to adjourn
it or we vote. You have had more than
adequate time. It's now 9:20, we have been
listening for 40 minutes. Make a decision.

MR. HYMAN: Recommend adjournment.

CHAIRMAN KEILSON: Fine.

(Whereupon the hearing concluded at 9:22 p.m.)

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



YAFFA KAPLAN

Court Reporter