

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 March 27, 2017
7 7:34 p.m.

8 APPLICATIONS FOR ADJOURNMENT:

9 Kutner Goldwasser
10 41 Lawrence Avenue 156 Lakeside Drive South
11 Lawrence, New York Lawrence, New York

12 P R E S E N T:

13 MR. LLOYD KEILSON
14 Chairman15 MR. EDWARD GOTTLIEB
16 Member17 MR. DANIEL HILLER
18 Member19 MR. ELLIOT MOSKOWITZ
20 Member21 MR. AARON FELDER
22 Member23 MR. KENNETH A. GRAY, ESQ.
24 Village Attorney25 MR. GERALDO CASTRO
Building DepartmentMS. DANA GARRAPUTA
Building DepartmentMR. DANNY VACCHIO
Building DepartmentMary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Okay. Good evening,
2 ladies and gentlemen. Welcome to the Lawrence
3 Board of Zoning Appeals. I'd ask you to please
4 turn off your phones. Please, no conversations.
5 If necessary, please step into the hall for any
6 conversing.

7 Proof of posting?

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

10 CHAIRMAN KEILSON: Okay. You're not going to
11 show it to me?

12 MR. GRAY: Sorry, Mr. Chairman.

13 CHAIRMAN KEILSON: No problem. Mr. Gray,
14 would you offer your preamble.

15 MR. GRAY: Sure.

16 CHAIRMAN KEILSON: Mr. Gray is counsel to the
17 Board of Zoning Appeals.

18 MR. GRAY: Good evening, everyone.

19 If you've appeared before this Board, you
20 would know that they are very familiar with your
21 applications. They have reviewed them in detail.
22 They're familiar with the denial letters that are
23 before you. They're familiar with the issues that
24 your particular applications raise and what their
25 concerns will be. So they will be known as what's

1 known as a hot Bench. Although you might start
2 your presentation, they will go directly to the
3 points; they know your application. If you can
4 address the concerns that they may have and they
5 will give you a fair hearing.

6 CHAIRMAN KEILSON: Thank you, Mr. Gray.

7 MR. GRAY: Sure.

8 CHAIRMAN KEILSON: The matter of Kutner,
9 41 Lawrence Avenue. I believe they submitted a
10 request for an adjournment; is that correct?

11 MR. CASTRO: Yes.

12 CHAIRMAN KEILSON: Okay. Any questions or
13 objections from the Board? Mr. Gottlieb?

14 MEMBER GOTTLIEB: No.

15 CHAIRMAN KEILSON: Mr. Hiller?

16 MEMBER HILLER: No.

17 CHAIRMAN KEILSON: Mr. Moskowitz?

18 MEMBER MOSKOWITZ: No.

19 CHAIRMAN KEILSON: The matter of Goldwasser,
20 156 Lakeside Drive South, also a submission
21 requesting an adjournment to the next available
22 date.

23 MR. CASTRO: That is correct.

24 CHAIRMAN KEILSON: I want the record to
25 reflect that they've adjourned it to the next

1 date.

2 MR. CASTRO: April 26.

3 CHAIRMAN KEILSON: The Board is in accord on
4 that?

5 MEMBER MOSKOWITZ: Yes.

6 MEMBER HILLER: Yes.

7 (Whereupon, the hearing concluded at
8 7:36 p.m.)

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

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14 Mary Benci

15 MARY BENCI, RPR
16 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 March 27, 2017
7 7:36 p.m.8 APPLICATION: Salamon
9 37 Lismore Road
10 Lawrence, New York

11 P R E S E N T :

12 MR. LLOYD KEILSON
13 Chairman14 MR. EDWARD GOTTLIEB
15 Member16 MR. DANIEL HILLER
17 Member18 MR. ELLIOT MOSKOWITZ
19 Member20 MR. AARON FELDER
21 Member22 MR. KENNETH A. GRAY, ESQ.
23 Village Attorney24 MR. GERALDO CASTRO
25 Building DepartmentMS. DANA GARRAPUTA
Building DepartmentMR. DANNY VACCHIO
Building DepartmentMary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Salamon,
2 37 Lismore Road. Will they or their
3 representative please step forward. State your
4 name and address for the record.

5 MR. SALAMON: Jacob and Susan Salamon,
6 37 Lismore Road, Lawrence, New York.

7 MR. MICHALSKI: Thomas Michalski, architect.

8 CHAIRMAN KEILSON: Your address?

9 MR. MICHALSKI: Brooklyn, 590 -- 598 Leonard
10 Street, Brooklyn, New York.

11 CHAIRMAN KEILSON: Okay, Mr. Salamon,
12 proceed.

13 MR. SALAMON: Okay. We respectfully
14 requested a variance from the honorable Board.
15 Dimensional regulations governing maximum building
16 coverage and lot relates to building and ordinance
17 Section 212-12.1. The purpose of the addition of
18 the bedroom is for my father-in-law, Ernest
19 Breiner, who this Wednesday will be celebrating
20 his 92nd birthday, God willing, and he's a very,
21 very special father-in-law, Susan's father, and
22 he's a very wonderful person. And he's very
23 lonely; he's a widower, living in Bridgeport,
24 Connecticut. Most of his family is out of town.
25 Susan is the only daughter here. There are many

1 architect who is here right now, as well as the
2 contractor and will proceed the proper way.

3 MEMBER HILLER: Who were the previous
4 architects and builders?

5 MR. SALAMON: I don't know who the previous
6 architect was. It was a family member who was not
7 a professional who started doing it, and I was
8 just ill-advised, and when we got the notice to
9 stop, we stopped.

10 MEMBER HILLER: The family member was the
11 builder also?

12 MR. SALAMON: A family member was the
13 contractor, not an actual builder.

14 MEMBER GOTTLIEB: Gerry, is the work that was
15 done to code? In other words, is it substantially
16 safe and built to --

17 MR. SALAMON: The work -- if I may interject.
18 May I interject? The work is coming down, that's
19 coming down.

20 MEMBER GOTTLIEB: So it's --

21 MR. SALAMON: It's coming down. That's not
22 relevant. It's coming down. I mean, it's not a
23 threat. It's basically just cinderblock,
24 cinderblock, concrete and it's coming down.

25 MEMBER HILLER: How long has that been up?

1 MR. SALAMON: About a year.

2 MS. SALAMON: We panicked last year because
3 my father had no place to go. He was coming for
4 Passover, and we said, okay, we'll just get this
5 up, and it was a mistake and it's silly but we
6 just didn't know what else to do. He couldn't
7 sleep in my kitchen or in the dining room. It's a
8 nice big house, but it just has that many rooms
9 and it wasn't -- there was no place else to put
10 him.

11 CHAIRMAN KEILSON: We're not unsympathetic.
12 We've had many instances where people have asked
13 for variances to accommodate elderly parents and
14 essentially on the first floor because they can't
15 walk the stairs. I think the concern of the Board
16 is that we don't like setting a precedent where
17 people proceed and do work and then apologetically
18 after the fact come to us to validate that which
19 was done. In that case, of course, they're
20 tearing it down, so in effect there is nothing up
21 there.

22 Any further questions from the Board?

23 MEMBER MOSKOWITZ: No.

24 MEMBER HILLER: No.

25 CHAIRMAN KEILSON: Is there anyone from the

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1 audience who wants to speak to the matter?

2 (No response.)

3 CHAIRMAN KEILSON: So in evaluating the
4 benefit to the applicant against any detriment to
5 the community, we take into consideration all
6 matters such as the special circumstances here. I
7 think one of the things that we'd like to have
8 stipulated is that we prefer not to have a second
9 floor built on that at any later date, so that
10 should be part of it.

11 MR. SALAMON: Agreed.

12 MS. SALAMON: Not a problem.

13 MR. GRAY: That is fine. That is an
14 appropriate condition that the variance that's
15 being granted for the additional first-floor room
16 not be built upon on the second floor.

17 CHAIRMAN KEILSON: Right.

18 MR. SALAMON: Okay.

19 CHAIRMAN KEILSON: Okay. So we'll vote
20 beginning with Mr. Moskowitz.

21 MEMBER MOSKOWITZ: For.

22 CHAIRMAN KEILSON: Mr. Hiller.

23 MEMBER HILLER: For.

24 CHAIRMAN KEILSON: Mr. Gottlieb.

25 MEMBER GOTTLIEB: For.

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1 CHAIRMAN KEILSON: Mr. Felder.

2 MEMBER FELDER: I welcome the opportunity to
3 see more of your father. I'm for.

4 CHAIRMAN KEILSON: Okay, and I vote for as
5 well. We'll just say two years till completion.
6 I'm sure you're going to get it done long before,
7 considering his age.

8 MR. SALAMON: Thank you very much.

9 MR. CASTRO: No Board of Building Design.

10 (Whereupon, the hearing concluded at
11 7:42 p.m.)

12 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 27, 2017
7 7:42 p.m.

8 APPLICATION: Mandelbaum
9 94 Harborview West
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. DANIEL HILLER
17 Member

18 MR. ELLIOT MOSKOWITZ
19 Member

20 MR. AARON FELDER
21 Member

22 MR. KENNETH A. GRAY, ESQ.
23 Village Attorney

24 MR. GERALDO CASTRO
25 Building Department

MS. DANA GARRAPUTA
Building Department

MR. DANNY VACCHIO
Building Department

Mary Benci, RPR
Court Reporter

Mandelbaum - 3/27/17

1 CHAIRMAN KEILSON: The next matter this
2 evening will be that of Mandelbaum, 94 Harborview
3 West.

4 Good evening, Mr. Novello.

5 MR. NOVELLO: Good evening, Chairman, members
6 of the Board. John Novello, 217 Avery Place,
7 Cedarhurst, New York 11516.

8 I'm here on behalf of Mr. and Mrs. Elliott
9 Mandelbaum. They're standing right to my left.
10 We're seeking three variances this evening. The
11 Mandelbaums are proposing a one-story rear
12 addition to the back left-hand corner of their
13 house. They are proposing to enlarge their
14 existing kitchen and add a breakfast room.

15 If you look at the plot plan, you will notice
16 that we're actually decreasing the impervious
17 surface coverage. There exists a large wood deck
18 in the rear of the house; we'll be removing that.
19 Adding an 11-foot-two rear addition, one story, to
20 enlarge the kitchen and breakfast room, and then
21 recreate a wood deck where they could build their
22 succah for the holidays. And again, we'll be
23 decreasing the impervious surface coverage.

24 And the other, we're also seeking a variance
25 on building coverage. I'd like to point out that

1 the existing house is currently over the
2 requirements.

3 CHAIRMAN KEILSON: So in effect, you're
4 adding eight percent over and above the existing,
5 so it's not as egregious as the ten percent is.

6 MR. NOVELLO: Yeah. And the existing --
7 we're actually, you know, adding to -- enlarging
8 the kitchen where it is currently today. We can't
9 enlarge forward because there's a two-car garage.
10 We can't enlarge to the side because, you know,
11 that'll create even more of a problem with the
12 side-yard setback. We're keeping in line with the
13 existing house, that's why we are seeking the
14 side-yard setback. But, you know, it's just a
15 simple rear addition, just following the line of
16 the house. And unfortunately, because of the size
17 of the lot and the zoning requirements, we're
18 seeking relief from this Board.

19 CHAIRMAN KEILSON: Okay. So the 209 square
20 feet is really comprised of just the breakfast
21 area and expanded kitchen?

22 MR. NOVELLO: Yes, that's it.

23 MEMBER GOTTLIEB: And you're also reducing
24 the impervious surface coverage by 224 square
25 feet?

1 MR. NOVELLO: That's correct.

2 MEMBER GOTTLIEB: Which is nice.

3 CHAIRMAN KEILSON: That's a change.

4 MEMBER GOTTLIEB: Any restriction on building
5 over it?

6 CHAIRMAN KEILSON: Let's get some discussion.

7 MEMBER HILLER: Do you plan to build over
8 that first story in the future?

9 MR. MANDELBAUM: You mean the second floor?
10 No, this is it. We're done. We haven't expanded
11 the house since we moved in. It's just we really
12 didn't have any space.

13 CHAIRMAN KEILSON: How long have you been in
14 the house?

15 MS. MANDELBAUM: Since Sandy.

16 MR. MANDELBAUM: Yeah. We closed the day
17 before Sandy, so October 2012.

18 CHAIRMAN KEILSON: Wow. How many children do
19 you have?

20 MR. MANDELBAUM: Four, thank God, four little
21 kids. So when you read the variance or the denial
22 letters it sounds like we're over everywhere and
23 we're doing this whole major job, and part of it
24 is because a lot of this is how we bought the
25 house. And all we are doing is taking the kitchen

1 and just expanding it to cover half the deck.

2 CHAIRMAN KEILSON: We recognize that. I
3 mean, obviously, many matters come before us and
4 are much more substantial in scope. So we're very
5 sensitive to the fact that we're talking about a
6 limited 209 square feet over the existing, and the
7 fact that on the surface coverage we actually have
8 a reduction to the pre-existing nonconforming
9 rule, so we're sensitive to pre-existing
10 nonconforming, so that's not having any impact,
11 and we're just taking into consideration the need
12 for a family to be able to sit in the breakfast
13 area and be able to conduct normal family life.
14 So I don't think that we're controlled by that at
15 all.

16 Are there any questions from the Board?

17 MEMBER HILLER: No.

18 MEMBER MOSKOWITZ: No.

19 CHAIRMAN KEILSON: Anyone from the audience
20 want to comment on it?

21 (No response.)

22 CHAIRMAN KEILSON: So taking into
23 consideration the statutory criteria, primarily
24 the interest of the benefit to the applicant as
25 weighed against any detriment to the community,

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1 neighbors and the like, we're going to take a vote
2 at this point, starting with Mr. Felder.

3 MEMBER FELDER: I'm for.

4 CHAIRMAN KEILSON: Mr. Gottlieb.

5 MEMBER GOTTLIEB: I think this is a great
6 application. I am for.

7 MR. MANDELBAUM: Thank you.

8 CHAIRMAN KEILSON: Really?

9 MEMBER GOTTLIEB: I really like it. It's
10 200 feet and it's nice and modest, and you need
11 some space.

12 CHAIRMAN KEILSON: Mr. Hiller.

13 MEMBER HILLER: For.

14 CHAIRMAN KEILSON: Mr. Moskowitz.

15 MEMBER MOSKOWITZ: For.

16 CHAIRMAN KEILSON: And I'm for.

17 MR. MANDELBAUM: Thank you very much.

18 CHAIRMAN KEILSON: A similar ringing
19 endorsement.

20 MR. NOVELLO: Thank you.

21 MS. MANDELBAUM: Thank you.

22 MR. MANDELBAUM: Thank you.

23 CHAIRMAN KEILSON: Hold it. Two years, we'll
24 give you two years. I hope you'll finish long
25 before then.

Mandelbaum - 3/27/17

1 Do they need Board of Building Design?

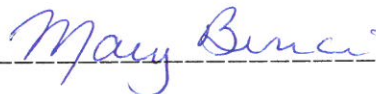
2 MR. CASTRO: No, it's the back of the house.

3 (Whereupon, the hearing concluded at

4 7:48 p.m.)

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

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11 MARY BENCI, RPR
12 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 27, 2017
7 7:48 p.m.

8 APPLICATION: Leventhal
9 280 Breezy Way
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. DANIEL HILLER
17 Member

18 MR. ELLIOT MOSKOWITZ
19 Member

20 MR. AARON FELDER
21 Member

22 MR. KENNETH A. GRAY, ESQ.
23 Village Attorney

24 MR. GERALDO CASTRO
25 Building Department

MS. DANA GARRAPUTA
Building Department

MR. DANNY VACCHIO
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is
2 Leventhal, 280 Breezy Way. We were expecting
3 Mr. Genack here tonight. Did he confirm?

4 MR. LEVENTHAL: He was requested to come but
5 I could represent myself. Do you want to wait
6 till he gets here for questions?

7 CHAIRMAN KEILSON: We would prefer if we
8 could. If you want to go out and reach him by
9 phone, we particularly would like him here
10 tonight.

11 MR. CASTRO: He's here.

12 CHAIRMAN KEILSON: Mr. Genack, we were just
13 about to call you.

14 MR. LEVENTHAL: So my name is Arnold
15 Leventhal, and my wife is Linda Leventhal. We're
16 here for the house at 280 Breezy Way. We already
17 finished two years of our construction. We're
18 here for a variance for the change of grade
19 between my house and 292 Breezy Way, which is
20 Angelo and Carmela Romanelli.

21 I would like to just present the case first
22 for the change in grade. This is a picture of my
23 house. You have all seen the house. And our
24 septic tanks are in the rear on the east side
25 between Mr. Romanelli and my house. When we dug

1 for the septic tanks we hit the water level, and
2 we had to stay above the water level. So we had
3 to drop the tanks in, and when we finished we
4 covered up the tanks. We didn't notice any change
5 in grade at that time.

6 Another problem was the bamboo. The bamboo,
7 which emanates from Zelda Levitt, of 14 Willow
8 Way, which I met and I've met all my neighbors and
9 sat down with them, she brought bamboo into the
10 neighborhood, which is now on the prohibited list
11 under New York State law. And the Department of
12 Environmental Conservation says: It shall be
13 unlawful to permit planting, growing or
14 maintaining bamboo. Nassau County must prohibit
15 all species that New York State prohibits. The
16 grandfather law is only if you have more
17 restrictive -- if you have more restrictive laws,
18 then you're grandfathered in. But if you have
19 less restrictive laws, you must follow New York
20 State laws. Because of that, I was obligated to
21 protect my house from the bamboo, and they talk
22 about going 30 inches at least below grade. So I
23 built a subterranean wall with some designs from
24 my architect, John Capobianco. And we also made
25 it waterproof and it's at grade along the house.

1 But when we got to Mr. Romanelli's house at that
2 point we realized we were going up above the
3 grade. It's only at that point we realized about
4 the problem with the grade, because there were
5 tall fences there and we didn't see anything.

6 So I met many times with my neighbor, and I
7 have a letter from him today which I'd like to
8 read.

9 I'll submit this to the Board. Dear Village
10 of Lawrence committee: My neighbors at 280 Breezy
11 Way are seeking a variance for a change of grade.
12 I have no issues with their petition. This states
13 I met with the Leventhals. They agreed to remove
14 the two mountains in the back. There's two
15 mountains of earth. Also, if they can put another
16 row of cinderblocks to prevent future runoff
17 water, also a row of bushes would help for
18 privacy.

19 So I'd like to submit this. That's my
20 neighbor.

21 CHAIRMAN KEILSON: Where does he live in
22 reference to the property?

23 MR. LEVENTHAL: He's 292 Breezy Way, which is
24 on the east side. That's where the change of
25 grade is of concern.

1 MEMBER HILLER: Have you agreed to do the
2 cinderblock and the bushes?

3 MR. LEVENTHAL: Yes, my wife and I have,
4 after speaking to him today. He works at
5 Associated Marble. We sat down many times and we
6 visited with him. We're very friendly with them.
7 And I understand his concern.

8 Now, during the last three months there was
9 no runoff of any water on his property, but I do
10 agree to putting another row of cinderblocks
11 there, which is on my side. He cannot see it
12 because I constructed new vinyl fence which he
13 requested to remove his fence. So he has a
14 beautiful vinyl fence there now, and on my side
15 you see the blocks, not his. You don't see any
16 cinderblocks from his side. So I do agree to put
17 another row there and waterproof membranes on my
18 side so there's no runoff, which there has not
19 been any runoff to date.

20 MEMBER HILLER: When did you discover that
21 you were above grade? You said after you put in
22 the septic tanks?

23 MR. LEVENTHAL: I think when we started doing
24 the retaining wall all around the back and we got
25 to his house last, and the fence is a very tall

1 fence, construction, it could have been eight feet
2 tall. I didn't notice anything at that point.
3 But we noticed at the end and Gerry Castro also we
4 talked to and he seemed to know.

5 MEMBER HILLER: Did you notify Mr. Castro at
6 that point?

7 MR. LEVENTHAL: I met with Mr. Castro many
8 times. I don't remember exactly when we discussed
9 it.

10 CHAIRMAN KEILSON: It's my understanding that
11 an inspection from the Village has unearthed -- is
12 that the correct terminology here -- unearthed the
13 fact there was a change of grade. So it wasn't
14 that you came and volunteered the information. It
15 was during the inspection of the Village, which is
16 of great concern to us when people do things, and
17 after the fact expect that the Village is going to
18 validate it. It's not good, as Mr. Genack, I'm
19 sure will tell you, from his long history in the
20 Village. And the fact that there's a likelihood
21 of success in getting the variance is really not
22 -- it should not be an expectation automatically.
23 There should be some discussion with the Village
24 pre, rather than post.

25 MR. LEVENTHAL: We did not intentionally

1 change the grade. It wasn't an intentional event
2 that we wanted to change the grade. It's just the
3 septic tanks were in and they were covered.

4 CHAIRMAN KEILSON: Was that the only area
5 that there was a change of grade?

6 MR. CASTRO: Well, near where the bamboo is
7 in the back, and the rest of the property I guess
8 because of that in order to maintain the natural
9 contour and the flow of water to the end of the
10 canal had to be modified. Which I'll add that the
11 current conditions do permit the water to
12 naturally flow with some very, very minor changes
13 to the proposed existing grade.

14 CHAIRMAN KEILSON: Mr. Gottlieb.

15 MEMBER GOTTLIEB: Dr. Leventhal, I realize
16 you're the homeowner, but I'd like to hear from
17 your builder. He would know that he can't change
18 the grade without permission and why was it left
19 up to Village inspectors. Can you just explain
20 that.

21 CHAIRMAN KEILSON: For the record, state your
22 name and address.

23 MR. GENACK: Evan Genack, 11 Boxwood Lane,
24 Lawrence, New York.

25 MEMBER GOTTLIEB: You've left it for

1 Dr. Leventhal to explain why this was done, and
2 perhaps it's not his understanding that he would
3 have had to come before us. As per Mr. Keilson's
4 explanation, you need to ask before, not ask for
5 forgiveness. So can you just explain why this was
6 done without coming to the Village and saying we
7 need to do this.

8 MR. GENACK: Well, first of all, I don't
9 think there was any intent of changing the grade.
10 I don't think there was a realization that grade
11 was changed. It was pointed out by the
12 inspectors. However, anything that was done
13 during the process of the construction was all
14 done together with meetings with the neighbors and
15 understanding how they wanted the fencing and
16 things like that. But it was not an intentional
17 change of grade.

18 MEMBER HILLER: Dr. Leventhal just said that
19 you were digging down to the regular depth to put
20 in the septic tanks when you realized that you hit
21 water, and therefore you raised the septic tanks.
22 Surely at that point you realized that you were
23 going above grade.

24 MR. GENACK: So I would disagree with
25 Dr. Leventhal, that it is true --

1 MEMBER HILLER: Get your story straight
2 before you come here.

3 MR. GENACK: We're not trying to pull the
4 hood over anybody's eyes here. What is true is
5 that the water table is high over there. What is
6 true is that the septic tanks are set higher.
7 What is true is that when we were just naturally
8 grading the property back there was no intention
9 of changing grade. It was just a natural flow of
10 how it went. It wasn't that we were intentionally
11 trying to change the grade. Truthfully, it wasn't
12 even in my mind when it was being backfilled. It
13 was just the natural progression of laying the
14 dirt back; it's a huge property. So, you know,
15 there was no intention of trying to cause an
16 intentional violation of change of grade in the
17 Village.

18 MEMBER HILLER: So the first time you
19 realized it was when Mr. Castro informed you?

20 MR. GENACK: Yes.

21 CHAIRMAN KEILSON: Okay. All right, so the
22 Board being a hot Board has already viewed the
23 property and discussed it. And in anticipation of
24 the meeting there was discussion with the Village
25 because we're certainly not equipped to opine as

Leventhal - 3/27/17

1 to what grade is appropriate or a concern as far
2 as neighbors and the like. And so Mr. Castro
3 and his team have already prepared a set of
4 recommendations which I think will be the best for
5 all parties concerned. And if I'm not mistaken,
6 he may have discussed it with Mr. Genack; is that
7 correct?

8 MR. GENACK: Yes.

9 CHAIRMAN KEILSON: So I think if you could
10 share with us some of your comments and thoughts
11 that we could incorporate it on the record as to
12 what the Village expectation would be.

13 MR. CASTRO: As I stated previously, the
14 proposed grade already permits the water to follow
15 a natural contour towards the end of -- or the
16 beginning of a canal that takes the water out into
17 the bay, with some very, very minor changes,
18 you're talking inches, and that could be done.
19 That will be a site visit of the area that just
20 needs to be changed slightly.

21 You did mention that you were going to put an
22 extra row of block on the right side. Is that the
23 intention for the entire retaining wall?

24 MR. GENACK: I think it just would probably
25 be better for any -- I have not, but Dr. Leventhal

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1 has been observing water runoff and has not really
2 seen any. But I think it would be safer for
3 neighbors in the event of any future potential
4 complaints that he build up Mr. Romanelli to his
5 right, as was asked for cinderblocks to be built
6 up. I think it would make sense just to bring it
7 to within inside his fence. It makes sense to
8 build it up. This way any future potential runoff
9 would stay on the Leventhal property.

10 MR. CASTRO: I think it would be a wise
11 decision to do that. Also, on the top of the
12 retaining wall, I'm not sure how you have it
13 finished or if you finished it. Are you going to
14 put some sort of coping above it so as not to
15 leave the exposed block?

16 MR. GENACK: Yeah.

17 MR. CASTRO: That's fine. And I believe you
18 mentioned shrubbery.

19 MR. LEVENTHAL: My intent is to put shrubbery
20 all along the border between myself and
21 Mr. Romanelli, as well as the back by the artist
22 where the tennis court is.

23 MR. CASTRO: What I'd suggest is and ask to
24 be done is that a berm, a sort of a natural berm
25 be created when the plantings go in so as to

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1 create additional water retention.

2 MR. GENACK: Good.

3 MR. CASTRO: Excellent.

4 CHAIRMAN KEILSON: Any further questions from
5 the Board?

6 (No response.)

7 CHAIRMAN KEILSON: Any comment from the
8 audience?

9 (No response.)

10 CHAIRMAN KEILSON: I think in order to
11 capture what Mr. Castro has set forth, I think the
12 Board will vote on putting the responsibility into
13 the hands of the Village to form a list of
14 stipulations as to what should be adhered to as
15 part of this variance.

16 Mr. Gray, are you comfortable with that?

17 MR. GRAY: Yeah, sure. Just leave it to the
18 Village Building Department to create those and to
19 enforce them.

20 CHAIRMAN KEILSON: Exactly. Okay, so having
21 that in mind and taking into consideration the
22 benefit to the applicant, and taking into account
23 the fact that we already admonished Mr. Genack so
24 he will never do this again, we're going to ask
25 for a vote, starting with Mr. Moskowitz.

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1 MEMBER MOSKOWITZ: I am for.

2 CHAIRMAN KEILSON: Mr. Hiller.

3 MEMBER HILLER: For.

4 CHAIRMAN KEILSON: Mr. Gottlieb.

5 MEMBER GOTTLIEB: For.

6 CHAIRMAN KEILSON: Mr. Felder.

7 MEMBER FELDER: For.

8 CHAIRMAN KEILSON: Okay. The time frame, I
9 guess a year.

10 MR. CASTRO: One year.

11 CHAIRMAN KEILSON: Is that fine?

12 MR. LEVENTHAL: Yes.

13 MEMBER GOTTLIEB: Will that one year give
14 them enough time with the existing permits to
15 finish, because you said you've been under
16 construction for two years.

17 MR. LEVENTHAL: Our permit was over March
18 1st, but I got a temporary CO. I'd like to get a
19 permanent CO, but we'll work on this immediately.

20 MR. CASTRO: The house is complete except for
21 the grade.

22 MEMBER GOTTLIEB: So there's enough time for
23 them to finish?

24 MR. CASTRO: Yes.

25 CHAIRMAN KEILSON: Okay.

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1 MR. GENACK: Thank you.

2 MR. LEVENTHAL: Thank you.

3 (Whereupon, the hearing concluded at
4 8:00 p.m.)

5 *****

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

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10 Mary Benci

11 MARY BENCI, RPR
12 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 March 27, 2017
7 8:00 p.m.8 APPLICATION: Kahati
9 92 Bannister Lane
10 Lawrence, New York

11 P R E S E N T :

12 MR. LLOYD KEILSON
13 Chairman14 MR. EDWARD GOTTLIEB
15 Member16 MR. DANIEL HILLER
17 Member18 MR. ELLIOT MOSKOWITZ
19 Member20 MR. AARON FELDER
21 Member22 MR. KENNETH A. GRAY, ESQ.
23 Village Attorney24 MR. GERALDO CASTRO
25 Building DepartmentMS. DANA GARRAPUTA
Building DepartmentMR. DANNY VACCHIO
Building DepartmentMary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Kahati,
2 92 Bannister Lane.

3 Good evening, Mr. Capobianco.

4 MR. CAPOBIANCO: John Capobianco, architect,
5 159 Doughty Boulevard, Inwood, New York, here this
6 evening for Mr. and Mrs. Kahati, the owners of the
7 house.

8 What we are here for this evening is to seek
9 a variance to construct a two-car garage which
10 would be called a front yard. The nature of this
11 property, it's one of those unique flag lots that
12 were built many years ago back in Lawrence. There
13 is a house on Bannister Lane and there's a house
14 in front of this property, and this is the
15 so-called flag lot, and the front yard or access
16 to the property is down at this end, which makes
17 it unique in the sense that, you know, it's really
18 difficult to call it a front yard even though it
19 is a front yard and it doesn't border a street.
20 However, you know, it was discussed with the
21 Building Department and Mr. Castro that we would
22 consider that front yard, the side yard and rear
23 yard.

24 The other unique thing about the property is
25 it's in an X zone in terms of the construction of

1 the house that was built. It was a one-story
2 ranch that we're renovating. But the AE zone, or
3 flood zone, is about ten feet off the rear of the
4 house in the back, and the house itself is in an
5 X zone. So that was the way it had a basement.
6 However, the property drops down severely as it
7 goes to the north towards the golf course about
8 six feet to the rear, and there was a garage in
9 the back, and that garage would flood all the time
10 because it's very slow on that end. So the
11 thought was to build the garage up on the high
12 ground, which would be 28 by 28, two-car garage,
13 and we're seeking because of that a front-yard
14 variance which instead of 50 feet is 22, and a
15 front-yard setback requirement, height/setback
16 ratio.

17 And the other issue was that when we took the
18 area or calculated this area in the front as front
19 yard, that impervious surfaces can only cover
20 about 10 percent of the land, and we're covering a
21 little more than that, it's about close to
22 20 percent, not much more. So you can see it was
23 this area here that we're putting in actually a
24 gravel, which is an open gravel, and then this is
25 paved already. So we're trying to kill the area

1 of the driveway here, not to go down into the low
2 end because of the flooding aspect of it. And
3 they had an issue when Sandy came that it would
4 saturate the low land area.

5 And this is the application that we're making
6 for this particular home. It's a one-story
7 garage, two-car wide.

8 CHAIRMAN KEILSON: So if we treat it as a
9 side yard we would not be here tonight?

10 MR. CAPOBIANCO: That's correct, that's
11 correct. And also, when you look at the
12 photograph of where the garage will go, just to
13 the south it's heavily, heavily buffered with
14 trees and evergreen. It literally wouldn't be
15 seen from the north side -- or the south of the
16 property, it would not be seen.

17 MEMBER HILLER: Have you spoken to the
18 neighbor, Mr. Abraham, who would be most affected
19 by --

20 MR. FORAN: We're the neighbor on 96.

21 CHAIRMAN KEILSON: Hold it, hold it.

22 MR. CAPOBIANCO: You're the neighbor to the
23 south.

24 CHAIRMAN KEILSON: If you could please step
25 forward, identify yourself for the record.

1 MR. FORAN: Bob Foran, F-O-R-A-N,
2 96 Bannister Lane.

3 MR. CAPOBIANCO: That's this house, right?

4 MR. FORAN: Yes.

5 CHAIRMAN KEILSON: Could you show us which
6 house.

7 MR. CAPOBIANCO: His house would be in the
8 front. It's not the one on the side. It's this
9 one here. There's another flag lot house back
10 here. But it's this house here (indicating).

11 MR. FORAN: So can I see?

12 MR. CAPOBIANCO: Here's when you get around
13 the back, this orange area would be the area where
14 the garage is, and here's their property line in
15 the rear which has that heavy vegetation. I don't
16 think you'll see it, but it's only one story high.

17 MR. FORAN: Okay.

18 MR. CAPOBIANCO: That's it. So the neighbor
19 just --

20 CHAIRMAN KEILSON: Hold it, hold it, hold it.
21 Continue.

22 MR. CAPOBIANCO: We just presented it to the
23 neighbor the application that we're seeking. He
24 understands now the physical size of it and the
25 location of it, and I believe he doesn't have an

1 issue with it.

2 MR. FORAN: No.

3 MEMBER HILLER: I wanted to ask about
4 Mr. Abraham. When he opens his front door and now
5 this garage is protruding almost to -- if not
6 almost to his front door, but it's certainly very
7 visible from his front door.

8 MR. CAPOBIANCO: Which house is that?

9 MEMBER HILLER: The house to the right.

10 MR. CAPOBIANCO: This one here, up here?

11 MEMBER HILLER: The one --

12 MR. CAPOBIANCO: As you drive down the
13 driveway there's a house there.

14 MEMBER HILLER: The one with the shared
15 driveway.

16 MR. CAPOBIANCO: This front door is facing
17 north. This is to the --

18 MEMBER HILLER: Yes, but his front door, when
19 he opens the door that the garage will be quite
20 visible to him.

21 MR. CAPOBIANCO: This garage?

22 MEMBER HILLER: Yeah.

23 MR. CAPOBIANCO: From this front door here?

24 MEMBER HILLER: Yeah.

25 MR. CAPOBIANCO: How is it quite visible?

1 You would have to turn and look westward to see
2 it.

3 MEMBER HILLER: Not everybody just walks
4 straight ahead. Sometimes people walk right and
5 left.

6 MR. CAPOBIANCO: The only time the garage is
7 visible is if you're driving into his driveway or
8 out.

9 MEMBER HILLER: The question is have you
10 spoken to Mr. Abraham.

11 MR. CAPOBIANCO: No, he didn't.

12 MR. KAHATI: No, I didn't.

13 MR. CAPOBIANCO: I don't know if he's here
14 this evening.

15 MEMBER HILLER: The other question I have is,
16 aren't most two-car garages 20 by 20?

17 MR. CAPOBIANCO: No, that's the minimum
18 two-car garage, but a lot of two-car garages are
19 two-car, plus storage and a walkway. But, you
20 know, 24 is the standard, 28 is a large one. It's
21 a two and a half car almost, but it's really for
22 storage and for, you know, bringing in longer
23 vehicles in the back with storage in the back.

24 MEMBER FELDER: What are you doing with the
25 existing two-car garage that's there in the

1 picture?

2 MR. CAPOBIANCO: We're closing that up. The
3 existing garage which you enter now from the back
4 is being closed up with a foundation wall,
5 waterproofed and turn into basement. It's going
6 to be part of the basement.

7 CHAIRMAN KEILSON: Any additional questions
8 from the Board? Any comments from the audience?

9 (No response.)

10 CHAIRMAN KEILSON: So taking into
11 consideration and considering the fact that this
12 really should be, you know, a side yard as opposed
13 to a front yard, the only reason you're here
14 tonight is because of definition of it being the
15 front, we'll vote accordingly. But the benefit to
16 the applicant I think certainly outweighs any
17 detriment to anyone in the vicinity, and concerns
18 that we might have anyway.

19 Mr. Moskowitz.

20 MEMBER MOSKOWITZ: I'm for.

21 CHAIRMAN KEILSON: Mr. Hiller.

22 MEMBER HILLER: For.

23 CHAIRMAN KEILSON: Mr. Gottlieb.

24 MEMBER GOTTLIEB: For.

25 CHAIRMAN KEILSON: Mr. Felder.

1 MEMBER FELDER: For.

2 CHAIRMAN KEILSON: Okay. So how much time?

3 MR. CAPOBIANCO: Two years.

4 CHAIRMAN KEILSON: Two years?

5 MR. CAPOBIANCO: Yeah, two years is fine.

6 CHAIRMAN KEILSON: You can have two years.

7 MR. GRAY: I'm sorry, Mr. Chairman, I did
8 have a question, if I may. I know the hearing is
9 over.

10 CHAIRMAN KEILSON: It's okay.

11 MR. GRAY: I fell asleep.

12 CHAIRMAN KEILSON: I'm sorry we're so dull.

13 MR. GRAY: The garage that you had mentioned
14 that floods, that was closer towards the --

15 MR. CAPOBIANCO: See, what happens is the
16 ground from the -- this is on the north side
17 facing the golf course. So what happens is the
18 grade drops down about six feet, and this is the
19 garage that was there, so we want to close these
20 up.

21 MR. GRAY: That was my question. They were
22 there and they're going to be gone?

23 MR. CAPOBIANCO: We're going to take them
24 away to replace it with the two-car garage on top.

25 MR. CASTRO: John, I'm going to ask that this

Kahati - 3/27/17

1 application go before the Board of Building
2 Design.

3 MR. CAPOBIANCO: We have to go before the
4 Board of Building Design. Right now we'll match
5 the siding that's on the house.

6 (Whereupon, the hearing concluded at
7 8:10 p.m.)

8 *****

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

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13 Mary Benci

14 MARY BENCI, RPR
15 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 March 27, 2017
7 8:12 p.m.

8 APPLICATION:

9 Sharaby
375 Kenridge Road
Lawrence, New York

10 P R E S E N T:

11 MR. LLOYD KEILSON
Chairman

12 MR. EDWARD GOTTLIEB
13 Member

14 MR. DANIEL HILLER
Member

15 MR. ELLIOT MOSKOWITZ
16 Member

17 MR. AARON FELDER
Member

18 MR. KENNETH A. GRAY, ESQ.
19 Village Attorney

20 MR. GERALDO CASTRO
Building Department

21 MS. DANA GARRAPUTA
22 Building Department

23 MR. DANNY VACCHIO
24 Building Department

25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Sharaby,
2 375 Kenridge Road.

3 MR. BISCONE: Craig G. Biscone, 1399 Franklin
4 Avenue, Garden City, New York, attorney for the
5 applicant, Robert Sharaby, 375 Kenridge Road,
6 Lawrence.

7 MR. SHARABY: Robert Sharaby, 375 Kenridge
8 Road, Lawrence.

9 MR. BISCONE: I'm going to be as concise as
10 possible. I now you had a long evening.

11 CHAIRMAN KEILSON: Actually, a very short
12 evening. We were looking forward to a very long
13 evening.

14 Mr. Gray.

15 MR. GRAY: I had an off-the-record
16 conversation with Mr. Biscone.

17 CHAIRMAN KEILSON: Why don't you go on the
18 record and share with him the information that's
19 come to our attention so we don't have to belabor
20 a presentation unnecessarily.

21 MR. GRAY: I brought to Mr. Biscone's
22 attention a couple of things. One, that his
23 client had -- not that it has any impact
24 necessarily on this Board's decision, but just
25 factually, historically, the neighbor had filed an

1 Article 78 proceeding a couple of years ago
2 against the Village. Mr. Sharaby had been seeking
3 the Village to deem or to abandon what's known as
4 this paper road which runs between his property
5 and the neighbor to the right, for lack of a
6 better word, the Parnes property. He had been
7 seeking that it be deemed abandoned and to
8 transfer the property, or half of the property
9 anyway, from the center line of this paper road to
10 himself, even by purchase or just by transferring
11 it over to him.

12 The Village at that time had taken the
13 position that they were not interested in
14 abandoning property or transferring property even
15 if it were surplus, and the Village had written
16 such a letter to Mr. Sharaby.

17 Mr. Sharaby had initiated an Article 78
18 proceeding in which the Court agreed with him that
19 the letter was what the Court called arbitrary and
20 capricious because it did not spell out and
21 identify the rationale behind the Village's
22 determination not to abandon and transfer the
23 property. So that Article 78 was not appealed,
24 and the Village followed up with another letter to
25 Mr. Sharaby giving greater detail. And I don't

1 have a copy of that letter in front of me, but
2 it took the position that although this is Village
3 property, the Village is not interested in
4 abandoning or selling the property because at this
5 point it's not surplus and the Village could have
6 a potential, current, or future use for it because
7 this paper road goes from Kenridge Road right
8 through the properties to the Village golf course.
9 So it could be used theoretically in the future
10 for ingress or egress to the golf course. So that
11 letter had been sent out and there was no further
12 action with respect to Mr. Sharaby and the
13 Village.

14 And Counsel, if I'm misstating any of the
15 history, please feel free to jump in.

16 The second thing I had shared with
17 Mr. Biscone is two letters that we had received
18 that I have only seen today for the first time
19 from a title company called Barristers Abstract
20 Corporation; one appears to be dated January 6th,
21 2005, and the second one dated September 10th,
22 2010. And it appears from these two limited
23 documents that I see the title company was
24 retained by the Parneses, which is the Sharaby
25 neighbor to the right, and that title company has

1 taken the position that in fact it's not a Village
2 owned paper road, but it's a private road. And
3 according to this document, it's their position
4 that the road is in fact owned down the center
5 line 50 percent by the Parneses, 50 percent by the
6 Sharabys, yet they each retain an easement over
7 the entire width of that private road; and
8 therefore, according to this document Mr. Sharaby
9 already owns half of that private road, what is
10 alleged to be a private road.

11 Again, I've seen these documents for the
12 first time today. I'm not agreeing with them.
13 I'm not necessarily disagreeing with them. I just
14 haven't investigated them.

15 Also, I informed Mr. Biscone, and I don't
16 know if Mr. Sharaby is aware of this, over the
17 last few months the Village has given a direction
18 to its staff to look at all Village properties to
19 find out and identify any properties which might
20 be deemed surplus properties and determine whether
21 or not the Village does not have a use for that
22 property and might want to transfer that property
23 to private citizens, whether it be somebody who
24 owns contiguous property or someone else. The
25 Village is pursuing this in such a way that they

1 actually went out and hired an appraiser to
2 appraise approximately 20 to 30 parcels of land.
3 Mr. Castro, if you remember the number.

4 MR. CASTRO: Correct.

5 MR. GRAY: It was about 20 to 30 parcels of
6 land to come up with an appraisal. My office has
7 been directed to prepare a protocol for the
8 offering of these surplus -- or parcels that will
9 be deemed surplus -- they have not been deemed
10 surplus yet -- offering them for sale, and the
11 whole protocol for people to acquire those
12 properties. We're in the process of doing it. We
13 haven't done it yet. And it's my understanding
14 that this, what we call a paper road and what the
15 Parneses' title company has called a private road,
16 is one of the parcels that's been identified.

17 So it's my understanding that if Mr. Sharaby
18 either currently owned half of this parcel or were
19 to purchase half of this parcel, it might
20 eliminate the need for any variances for this
21 three-car garage that he's seeking on the
22 property.

23 So with that said, that's just a little bit
24 of the background as I'm familiar with it. I'm
25 not in a position right now to give a legal

1 opinion as to whether I believe this is a private
2 road or a paper road. In the past we have taken
3 the position that it is a paper road that is owned
4 by the Village. But based on this new information
5 that's presented to me I'd like to do further
6 research. I wouldn't want to go down a road where
7 the Village is selling something that we in fact
8 don't own.

9 MR. BISCONE: No pun intended.

10 MEMBER MOSKOWITZ: Mr. Castro, is that right
11 though, that if in fact the road is partially
12 owned by both of the adjacent homeowners that that
13 would eliminate the need for a variance in
14 connection with the application?

15 MR. CASTRO: The paper mapped road would have
16 to be dissolved and incorporated into the
17 property. As long as there's a private or public
18 road either developed or undeveloped it's, just as
19 a technicality, considered a corner lot and
20 thereby needing a variance.

21 MEMBER MOSKOWITZ: So it would still need a
22 variance under those circumstances or not?

23 MR. CASTRO: If it were a private road, yes.
24 Again, it would have to be dissolved and that
25 25 feet of the paper mapped road would have to be

1 incorporated into each survey.

2 MR. GRAY: But, I'm sorry, sir. If that
3 50-foot-wide road, private or paper road, is
4 split, and actually given or sold to the two
5 neighbors and they are merged with their current
6 main lots, there will be no corner property. It
7 will just be two houses next to each other on
8 Kenridge Road. And that would probably eliminate
9 the need for a variance if that were to happen.

10 MEMBER HILLER: Would they have to eliminate
11 the easements also? Wouldn't they have to agree
12 that the easements cease?

13 MR. GRAY: I would -- I don't want to answer
14 that because I don't know if either of the
15 property owners would have an easement of
16 necessity to access any of their property. I'm
17 not familiar enough with the property to answer
18 that question.

19 MEMBER HILLER: Okay.

20 CHAIRMAN KEILSON: Mr. Biscone.

21 MR. BISCONE: I think it's important to
22 understand what the application is not about, as
23 much as it is what it is about. It's not about
24 asking this Board to make a determination of a
25 50-foot-wide roadway. It's a paper road. Counsel

1 will see the tax map. There is no tax lot number.
2 The Village owns it, it's clear. The title
3 company's letter refers to an easement of ingress
4 and egress. That's very different than an
5 easement over someone else's property.

6 And just stepping back, counsel will agree
7 with me that we wouldn't be here if it wasn't a
8 paper road owned by the Village. That's why the
9 Building Department called it a corner lot.
10 That's why we need front-yard relief.

11 CHAIRMAN KEILSON: Yeah, but I'm listening to
12 counsel for the Board of Zoning Appeals. He's not
13 in a position right now to suggest whether it is
14 owned or not owned by the Village.

15 MR. BISCONE: Correct. And we're not asking
16 you to make a determination. We're talking about
17 just this --

18 CHAIRMAN KEILSON: But if it's not owned by
19 the Village and it's owned by the respective
20 parties, then it renders moot or different,
21 meaning why would you want to discuss a variance
22 on something that may not require a variance or
23 may require a different variance?

24 MR. BISCONE: I'll tell you why. Because we
25 have standard language in any deed. Deeds, the

1 parcel, which is described, usually a rectangle,
2 in this case somewhat trapezoid shaped. Plus in
3 addition to that, the right of the grantor to the
4 center line of the road, right of the grantor, if
5 any. In this case we have a tax map that shows
6 the two respective parcels separated by 50 feet
7 with no tax lot number. The Village owns it. But
8 be that as it may, we're talking about --

9 CHAIRMAN KEILSON: Let's deal with that
10 conclusion you just said. Is it absolutely clear
11 that the Village owns it or is it subject now to a
12 question because of these new documents that have
13 just come to our attention?

14 MR. BISCONE: We have yet to examine the
15 documents then. The document says what?

16 MR. GRAY: Well, the document speaks for
17 itself. The question was the Village has taken
18 the position over the last couple of years and
19 during the litigation, and it's consistent with
20 Mr. Sharaby's position, that the Village owns this
21 50-foot road. We agree with that. But what I've
22 been presented with today, and for the first time
23 I'm seeing this title company's position that in
24 fact it's not owned by the Village, and that's
25 their opinion.

Sharaby - 3/27/17

1 CHAIRMAN KEILSON: But wouldn't we want to
2 have it clarified as to who owns what?

3 MR. GRAY: I certainly would like to have it
4 clarified.

5 MEMBER FELDER: Where did that title company
6 get this?

7 MR. SHARABY: With all due respect, I've been
8 going through this for twelve, thirteen years. It
9 took eight years for the Village to say that they
10 owned it. Now, I have no place to park. I have
11 six kids, three of which are still home. On
12 Shabbat there is nowhere to park. We park on the
13 grass. We park in neighbors' driveways. And all
14 I keep doing is getting stalled on getting a
15 variance and different excuses. It's not fair.
16 I've been there for thirty years.

17 CHAIRMAN KEILSON: I'm not understanding as
18 to what -- this is the first time it's before us.

19 MR. BISCONI: That's fine.

20 CHAIRMAN KEILSON: This is the first time
21 these documents have come to the fore, and it's a
22 question as to who owns what. And the fact that
23 he's waited all these years, why couldn't he wait
24 another month for it to be clarified so we'll know
25 exactly what we're making a decision about.

1 MEMBER MOSKOWITZ: I also have another
2 question with regard to the question of waiting,
3 and that is you say you've been at this for a long
4 time. I appreciate that, although the Chairman is
5 indicating that it's the first time that it's been
6 before us, but I understand you've been concerned
7 about this for a long time and have a prior
8 history here with respect to these issues.

9 When was the last time that you consulted
10 with your neighbor, Mr. Parnes, regarding the
11 paper road that would be implicated by this
12 application?

13 MR. SHARABY: He was not interested in
14 discussing it. His answer to me when I approached
15 him was: I know people on the Board. You're
16 never going to live long enough to get this
17 variance.

18 MEMBER MOSKOWITZ: When was the last time
19 that you consulted with him?

20 MR. SHARABY: Several years ago.

21 MEMBER MOSKOWITZ: So you've presented this
22 application to the Board now and have not
23 consulted with your neighbor about this?

24 MR. SHARABY: No.

25 MR. BISCONE: Correct.

Sharaby - 3/27/17

1 MR. SHARABY: There's nothing to consult with
2 him. The Village owns it.

3 MEMBER MOSKOWITZ: Let me ask you something.
4 The paper road, Oceanview Avenue, just so I want
5 to understand the application a little better, to
6 enter into your new proposed driveway and garage,
7 you would enter it -- there are two ways to enter
8 it; is that right? You could enter it via the
9 paper road and make a left into it, or as you
10 would enter it through the new asphalt driveway
11 that you have here; is that right? I just want to
12 make sure I understand it.

13 MR. BISCONE: There's an existing driveway
14 that's there on the paper road that services 373,
15 the adjacent property.

16 MEMBER MOSKOWITZ: What we are calling a
17 paper road, that is being utilized as a shared
18 driveway right now.

19 MR. BISCONE: No, it's not. It's exclusive
20 to the adjoining neighbor.

21 MEMBER MOSKOWITZ: He parks on there is my
22 understanding.

23 MR. SHARABY: I do park on there.

24 MR. BISCONE: You park there?

25 MR. SHARABY: Yeah.

1 MR. BISCONE: I stand corrected.

2 MEMBER MOSKOWITZ: Counsel, do you want to go
3 over with your client to get the correct
4 information?

5 MR. BISCONE: You know what, I don't think it
6 matters. I think what matters is that we're
7 asking for relief which is being required because
8 that is a corner lot when it's really not.

9 MEMBER MOSKOWITZ: I just want to understand
10 it though. Wouldn't you have to drive to get to
11 the new driveway to the garage?

12 MR. SHARABY: I have to go up Oceanview, yes.

13 MEMBER MOSKOWITZ: You would have to go up
14 Oceanview.

15 MR. SHARABY: Yes.

16 MEMBER MOSKOWITZ: So you would have like a
17 cut in Oceanview, correct, to get into there?

18 MR. SHARABY: Yes.

19 MEMBER MOSKOWITZ: And is there also a second
20 way to get there via what's being labeled as the
21 new asphalt driveway? Where does that lead out
22 to? Does that also lead into Oceanview itself as
23 well?

24 MR. SHARABY: Yes.

25 MEMBER MOSKOWITZ: Is it a second cut on

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1 Oceanview Avenue?

2 MR. SHARABY: No.

3 MR. BISCONE: There's only 18 and a half feet
4 between what's proposed and the property line,
5 which is the 50-foot-wide road. That's the
6 front-yard relief that's being sought.

7 MEMBER MOSKOWITZ: Where does the new asphalt
8 driveway lead to? What's being called the new
9 asphalt driveway, what does it lead to? It leads
10 into Oceanview Avenue?

11 MR. BISCONE: It leads to Kenridge via
12 Oceanview, correct.

13 MEMBER MOSKOWITZ: So when someone drives
14 down what I'll call the shared driveway, could you
15 make a left into the new asphalt driveway?

16 MR. SHARABY: Yes.

17 MEMBER MOSKOWITZ: And you could also make a
18 left subsequent further down into the new asphalt
19 drive; is that right?

20 MR. SHARABY: Yes.

21 MR. BISCONE: I don't know.

22 MR. SHARABY: It's the same curb cut.

23 MEMBER HILLER: Have you ever brought an
24 action before the Zoning Board before?

25 MR. SHARABY: No.

1 MEMBER HILLER: So what were you doing during
2 those twelve or thirty years that you've been
3 trying to --

4 MR. SHARABY: Oh, I did. I got denied.

5 MEMBER HILLER: You brought an action before
6 the Zoning Board previously, before the Zoning
7 Board previously?

8 MR. SHARABY: Well, I applied for a permit.

9 MEMBER HILLER: You applied for a permit for
10 what?

11 MR. BISCONE: Did you appear before the Board
12 is the question.

13 MR. SHARABY: No.

14 MEMBER HILLER: So though you were suffering,
15 you never really went to the Village. How did you
16 go to the Village if not coming to the Zoning
17 Board?

18 MR. BISCONE: The Building Department,
19 correct?

20 MR. SHARABY: Yes, through the Building
21 Department.

22 MEMBER HILLER: So if the Building Department
23 denied you, then you could have come to the Zoning
24 Board, let's say, twelve years ago, for instance.

25 MR. BISCONE: What did you go for the permit

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1 for is the question.

2 MR. SHARABY: To build the garage.

3 MEMBER HILLER: Twelve years ago?

4 MR. SHARABY: Yes. Well, that, and I tried
5 to buy the paper street.

6 MR. BISCONE: Which is not a Zoning Board
7 matter.

8 MR. SHARABY: Which they said they didn't
9 want to sell it.

10 MEMBER HILLER: Frankly, Mr. Sharaby, I
11 really -- Sharaby, are you related to
12 Yoel Sharaby?

13 MR. SHARABY: Yes.

14 MEMBER HILLER: He's one of my favorite
15 singers. Does anybody else know him?

16 CHAIRMAN KEILSON: Yes.

17 MEMBER HILLER: Okay. While I have
18 tremendous sympathy --

19 CHAIRMAN KEILSON: So now you have to recuse
20 yourself.

21 MEMBER HILLER: I have tremendous sympathy
22 for your position, and I admire your patience all
23 these years. I think the fact that we have new
24 material in front of us which really precludes us
25 from making a judgment today because it may be in

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1 your favor, you may not even need us. You've
2 waited for twelve years. I think you can wait
3 another few weeks till our attorney is able to
4 determine exactly what is the status of that paper
5 road. You very well might be as of right be able
6 to build your garage.

7 MR. BISCONE: Again, he can't build it as of
8 right unless he owned 25 feet of it.

9 MEMBER HILLER: He may own 25 feet.

10 MR. BISCONE: I guarantee you, sir, he does
11 not.

12 MEMBER GOTTLIEB: We still have to resolve
13 that because of the letter we received.

14 MR. BISCONE: But again, I'm respectfully
15 suggesting you don't have to resolve that.
16 Because whether or not he owns it, we're asking
17 for relief for a so-called corner lot that's not a
18 corner lot, and we're asking for aggregate
19 side-yard relief when the side-yard restriction is
20 to keep appropriate distances between houses.

21 MEMBER HILLER: Sir, a variance is only given
22 when there's no other way to satisfy a person's
23 dire need. We all agree that Mr. Sharaby has a
24 need, and we all sympathize with it. However,
25 there's a possibility that he can attain that need

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1 without a variance. If there's a possibility he
2 can attain it without a variance, you have to give
3 us time to look at the facts and see what we're
4 discussing.

5 CHAIRMAN KEILSON: If I might suggest to give
6 us a moment, pause, and let's see if we can ask
7 Mr. Parnes who is here this evening. We can ask
8 him to step forward and share with us where this
9 information has been that appears the night of the
10 hearing.

11 MEMBER MOSKOWITZ: And I would also ask him
12 to offer his thoughts on the application as well,
13 not limited just to the question that's been
14 posed.

15 CHAIRMAN KEILSON: For the record, your name
16 and address.

17 MR. PARNES: Aaron Parnes, 373 Kenridge Road.
18 I purchased this property some 17 years ago, and
19 it's the only driveway to the property, and at the
20 time it was conveyed to me as the easement for
21 this property and as the only means to enter into
22 my driveway or into my garage. At that time
23 Mr. Sharaby lived next-door, and for 40 years
24 prior to me buying it the Barons lived there and
25 they had only used this driveway and it was only

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1 used by this property. As a matter of fact, all
2 the snow removal and any maintenance on this
3 property was done solely for 40 years by the
4 Barons, and solely by me for the past 17 years
5 that I've been there.

6 Mr. Sharaby has a driveway on the other side
7 of his property and --

8 CHAIRMAN KEILSON: What prompted you -- or
9 what precipitated these letters?

10 MR. PARNES: When Mr. Sharaby had started to
11 do work without a permit or various things, I
12 called the Building Department to stop what he was
13 doing.

14 MEMBER MOSKOWITZ: What year, Mr. Parnes,
15 approximately?

16 MR. PARNES: This was maybe five years -- ten
17 years ago maybe, 2005 was the first time that they
18 got the letter. I had an attorney at the time by
19 the name of William Bonesso that represented me
20 here in front of the Building Department and in
21 front of the Village at the time, and they ruled
22 in fact that he was not allowed to make a curb cut
23 into the property, and the Village agreed with
24 that.

25 Then as recently as I guess -- I wasn't aware

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1 that he brought an action to the Village, but all
2 of a sudden from the Village I got a violation
3 that the pillars on the side of this driveway,
4 which says 373 on both sides, which was there for
5 40 years prior to me buying, I may have replaced
6 them, but they were there when I purchased the
7 property, that the pillars had to come down
8 because they weren't built with a permit. And I
9 had a basketball court at the end of the driveway
10 that was cemented in, and that had to come down.
11 We spoke the Village at that time and we agreed to
12 take down the basketball court, but as we were
13 able to prove that the pillars were actually
14 installed prior to there being a Building
15 Department in the Village of Lawrence, therefore
16 Judge Buckholder ruled in favor that not only that
17 they stay because they were there beforehand, he
18 actually liked them and didn't think they should
19 come down.

20 Mr. Sharaby takes things into his own hands,
21 and I have just small things, like when he raised
22 the grade on the other side of the property over
23 this past year and dumped a lot of dirt over
24 there, it didn't affect me. I didn't call the
25 Village. It didn't bother me. Live and let live.

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1 front of the Village at the time, in front of the
2 Building Department. We were here on hearings
3 numerous times. It was sent to the Building
4 Department, which he had the letters. He had
5 them. But, you know, I just wanted to maintain my
6 easement which I owned over the entire thing.

7 CHAIRMAN KEILSON: Did you hear recently
8 that the Village was considering selling it?

9 MR. PARNES: I only heard that here tonight.

10 MR. GRAY: You want to buy it?

11 MR. PARNES: I originally had approached
12 actually the Village prior to, and they said they
13 don't sell anything. I approached back when
14 Mayor Oliner was here. He said we don't sell any
15 Village property.

16 MEMBER HILLER: What did you do when you
17 discovered that you actually owned the 25 feet and
18 that Mr. Sharaby owned 25 feet?

19 MR. PARNES: I thought that it was that way,
20 that we both had an easement. I know that it was
21 transferred to me in my deed, and I have title
22 insurance that I have an easement. He has never
23 shown me or anyone that he has in his deed that he
24 actually has an easement that was conveyed to him
25 when he purchased the property. At some point in

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1 time they built a driveway on the other side of
2 his house so that he has no need to use the
3 driveway that I use, and it was sectioned off with
4 trees down the driveway all the way through, up
5 until this year when he hired a truck to take them
6 all down and I called the Village and supposedly
7 the Mayor said they were going to issue him a
8 summons, but I don't know if they did, and it
9 doesn't bother me if they didn't, but I'd just
10 like to get the trees back up.

11 CHAIRMAN KEILSON: The focus is that I wanted
12 to know the source of the letters and why it
13 didn't come up before and why Mr. Sharaby or his
14 attorney was not familiar with it.

15 MR. PARNES: He had a previous attorney,
16 Mr. Sharaby. I forgot the name of his attorney.
17 But he had sent a letter and they were negotiating
18 with my attorney, Mr. Bonesso, and we made offers,
19 various different offers to him, and each time he
20 refused to accept the offers, and we actually have
21 them in writing. If need be, I would bring
22 Mr. Bonesso. I'd be happy to have Mr. Bonesso
23 talk to his new attorney, like he talked to his
24 previous attorney to see what we can do.

25 I understand that he has a lot of cars, and I

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1 feel for him. I know that if there could be a way
2 where it wouldn't be -- you know, you know, harm
3 me. I need to get into the driveway that way.
4 That is the only way I can get into my driveway.
5 My son is a volunteer firefighter, and if the
6 driveway is blocked -- for the Village of
7 Lawrence/Cedarhurst -- there's no way he's coming
8 out and going to a fire. I need that driveway and
9 that's why there's an easement over both sides.

10 Now, if there's a way that I could agree with
11 him where he can have -- I don't mind if he has
12 one type of way to get in if it's -- you know, as
13 long as we separate the properties, let him live
14 on his side, let me live on my side, I don't mind.
15 But the attorneys have to come to an agreement and
16 it should be fair to both sides.

17 CHAIRMAN KEILSON: All right. Thank you
18 very, very much, appreciate it.

19 Independent of, you know, the warm words of
20 suggestion working with the neighbors, which is
21 something we always encourage, it's always
22 appropriate and certainly would be appropriate
23 here, I think for the Board the question of the
24 ownership I think is a prerequisite to us taking
25 into consideration any variances. And I think at

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1 this time and in terms of the position of the
2 other Board members, and certainly with legal
3 counsel already advising us on this, I think it
4 would be inappropriate for us to take it up
5 tonight to discuss variances. And we'll take a
6 vote on that and ask -- you know, we urge you to
7 consider the adjournment. But I think independent
8 of that you should have some meetings between the
9 parties and their counsel to see if an
10 accommodation can come about after there's a
11 resolution of who owns what.

12 MR. BISCONE: I respect what you're saying,
13 Mr. Chairman. I think it's inappropriate not to
14 hear the application, since he waited just like
15 everybody that presented here tonight. I wish
16 Mr. Bonesso was here. In fact, I'm going to call
17 him on my cell phone on the way home, because he
18 and I have resolved problems a lot bigger than
19 this.

20 But if he was here, I propose that he's going
21 to concur that the Village owns the property, that
22 the deed that we have and that Mr. Parnes has
23 deeded to the center line if the grantor owns it,
24 but they don't. And if in fact it was deeded to
25 the center line and everybody owns half, why are

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1 those pillars that were there, maybe I replaced
2 them, they're new pillars, new driveway, why is
3 that on the 25-foot portion adjacent to
4 Mr. Sharaby's property, not the next-door
5 neighbor's property? All things to consider.

6 But if -- and there is no easement. You're
7 going to find that out as well. The title search
8 will show a right of ingress and egress, that's
9 what it says. Not a recorded easement. Just
10 because you have an easement, you have the right
11 to traverse it. You don't have the right to build
12 on it. You don't have the right to construct.

13 In fact, this Board, if the neighbor came to
14 this Board and said I want a variance to put
15 these two pillars on this roadway, this private
16 roadway, you don't have the authority because he
17 doesn't own it, it's not on his deed, plain and
18 simple.

19 I'm not going to convince you otherwise. I
20 would have appreciated the chance to make the
21 presentation tonight, but if it has to wait a
22 month so be it. But anybody that comes in with an
23 allegation should not be bringing a photocopy of a
24 letter from a title company or an abstract company
25 that's twelve years old. It should be a copy of

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1 the recorded easement from the Nassau County
2 clerks office, or a copy of the Village map that's
3 clearly going to show the Village does own this
4 property.

5 MEMBER MOSKOWITZ: Can I ask you a question.
6 Is your client still going to seek to park -- if
7 the application were to be granted, is your client
8 still going to seek to have the right not only to
9 park, of course, in the ample new space on his
10 property that the driveway will now have, but also
11 continue to park on the paper street?

12 MR. BISCONE: I don't think anybody is
13 allowed to park on a paper street because that's
14 Village property.

15 MEMBER MOSKOWITZ: He parks all the time on
16 there. He told you that himself. So my question
17 is --

18 MR. BISCONE: I heard him say he has parked
19 there, yes. But I don't think anybody should be
20 parking on there. I think you should park on your
21 own property because that's what the law says.

22 MEMBER MOSKOWITZ: So your answer is yes,
23 your client would relinquish whatever right -- or
24 he may not even have the right but he would agree
25 to relinquish the parking right, if it exists, on

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1 Oceanview Avenue?

2 MR. BISCONE: Yes, and every resident should,
3 because that's the law. You're not allowed to
4 park on a street whether it's paper or otherwise.

5 MEMBER MOSKOWITZ: I would suggest you confer
6 with -- that the two neighbors confer with each
7 other because there could be some consensual
8 resolution at hand, and I think the record shows
9 that that consultation has not occurred yet which
10 is unfortunate.

11 MR. BISCONE: We still need this Board to get
12 permission to build the garage.

13 MEMBER MOSKOWITZ: Understood.

14 MR. BISCONE: Even if the paper street issue
15 was resolved, even if a reality check kicked in
16 big time, aggregate plot width is still an issue.
17 And it's a de minimis variance.

18 MEMBER MOSKOWITZ: I'd be inclined to deny
19 the application tonight because the consultation
20 hasn't occurred, if you were forcing us to go
21 forward. So I would suggest that consultation
22 occurred between the neighbors.

23 MR. BISCONE: I don't need to be kicked in
24 the head twice, it's okay.

25 Thank you, gentlemen.

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1 CHAIRMAN KEILSON: So we adjourn the matter,
2 happily or unhappily.

3 MR. BISCONE: The latter.

4 CHAIRMAN KEILSON: The good news is you're
5 walking out without a declination.

6 MR. BISCONE: Thank you.

7 (Whereupon, the hearing concluded at
8 8:42 p.m.)

9 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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