

## 1 INCORPORATED VILLAGE OF LAWRENCE

LAWRENCE VILLAGE

## 2 BOARD OF APPEALS

JUL18'18 AM11:01

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

6 June 6, 2018  
7 7:56 p.m.

8 APPLICATION: Lieber  
9 28 Auerbach Lane  
Lawrence, New York

## 10 P R E S E N T:

11 MR. LLOYD KEILSON  
12 Chairman

13 MR. EDWARD GOTTLIEB  
14 Member

15 MR. DANIEL HILLER  
16 Member

17 MR. ELLIOT MOSKOWITZ  
18 Member

19 MR. AARON FELDER  
20 Member

21 MR. STEPHEN L. MARTIR, ESQ.  
22 Village Attorney

23 MR. GERALDO CASTRO  
24 Building Department

25 MS. FLORENCE MAXWELL  
Building Department

Mary Benci, RPR  
Court Reporter

1 CHAIRMAN KEILSON: Okay. Good evening,  
2 ladies and gentlemen. Welcome to the Lawrence  
3 Board of Zoning Appeals. We apologize for the  
4 delay in starting off tonight, and hopefully --  
5 actually, we will not be able to make up the time.

6 So moving right ahead. Okay. Mr. Castro,  
7 proof of posting?

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

10 CHAIRMAN KEILSON: Thank you very much.

11 I remind you, please turn off your phones;  
12 and if you have a need for conversation, please  
13 take it outside. Thank you very much.

14 Okay. The first matter this evening is  
15 Lieber, 28 Auerbach Lane. Will they or their  
16 representative.

17 MR. MAYERFELD: Good evening.

18 MR. LIEBER: I am Jason Lieber, homeowner at  
19 28 Auerbach Lane. I'm also here on behalf of my  
20 wife who is at my daughter's school for an event,  
21 but otherwise she would have been here.

22 We have a -- 28 Auerbach Lane is a unique  
23 property in that it's narrow. It's a narrow  
24 property, but it goes very, very deep, and that  
25 probably is the reason we're here today and it

1 required us to ask for a variance.

2 And, you know, after the last hearing we did  
3 -- we did in coordination with the Building  
4 Department we did move the house and bring it  
5 further away from the side. And, you know, in our  
6 estimation and in our understanding we are  
7 compliant with the text of BB zoning, and we're  
8 here to answer any questions, if there are any.

9 CHAIRMAN KEILSON: Well, why don't you, for  
10 the record, state what variances are being  
11 requested.

12 MR. MAYERFELD: Stanley Mayerfeld, architect  
13 for 28 Auerbach. The variances are staying the  
14 same, but the degree of the variances have been  
15 diminished. We're still asking for a minimum  
16 side-yard variance, aggregate side-yard variance,  
17 and height/setback ratio on the sides.

18 Again, just to echo what Mr. Lieber just  
19 said, we're looking at the BB zone. We more than  
20 comply according to the BB text. So if you look  
21 at the chart that we sent in, you'll notice  
22 compliance with the BB zone. Those are all yeses,  
23 and they exceed the minimum or maximum required.

24 CHAIRMAN KEILSON: Let's just pinpoint what  
25 variances we're requesting.

1 MR. MAYERFELD: We're requesting a side-yard  
2 variance. Right now we're --

3 CHAIRMAN KEILSON: Nice numbers.

4 MR. MAYERFELD: -- 20 feet. 20 feet for the  
5 bulk of the table -- the bulk of the side. We  
6 have 20 and 20 on each side. There is a portion  
7 from the front of the building, the first 23 feet  
8 that's only a one-story portion at 18 feet. So  
9 taking it to the tightest point it's 18 on one  
10 side, on the south side, and 20 on the north side.

11 MEMBER GOTTLIEB: And permitted would have  
12 been 30 and 30; is that correct?

13 MR. MAYERFELD: 30 and 40, with a total of  
14 70.

15 MEMBER GOTTLIEB: Okay.

16 MR. LIEBER: But under BB zoning it would be  
17 15 and 20. We're in a BB zone.

18 MR. CASTRO: You're in a BB zone, but the  
19 schedule takes precedence in this situation  
20 because of the size of the lot.

21 MR. MAYERFELD: So that drives the --

22 MEMBER GOTTLIEB: We understand. I just  
23 wanted to know exactly what the numbers are. So  
24 it's 38-foot aggregate.

25 MR. MAYERFELD: Correct.



1 MR. LIEBER: But that's only for the small  
2 part by the garage.

3 MEMBER GOTTLIEB: I understand.

4 MR. LIEBER: Most of it is 20 and 20.

5 MEMBER GOTTLIEB: That's for one story.

6 MR. MAYERFELD: Right. So that covers the  
7 minimum side-yard aggregate. In terms of the  
8 height/setback ratio, we're proposing 1.47 on the  
9 side yards. The front yard and rear yard we are  
10 in compliance, but on the side yards we're asking  
11 for a 1.47 height/setback ratio.

12 MR. CASTRO: You're not reading from the  
13 code, the new code relief. You're reading from  
14 the chart on the plans?

15 MR. MAYERFELD: Yeah, yeah.

16 MEMBER HILLER: How much different are your  
17 height/setback ratios and your distance on the  
18 side yards from your original offering?

19 MR. MAYERFELD: The original, when we  
20 originally applied --

21 MEMBER HILLER: Yes.

22 MR. MAYERFELD: -- we were keeping like the  
23 existing setback. And in the most extreme case  
24 it's 15.4 and the bay it goes to 17.6. So the  
25 initial application is for 15.4 for a side yard;

1 amended it to 17.6. Now, we're taking it --  
2 because that 15.4 was only for a short portion of  
3 the bay. Now we're taking the bulk of the two  
4 sides for both 40. And our aggregate, our  
5 original aggregate when we made our initial  
6 application, was 35.4.

7 MEMBER HILLER: Now you're 40.

8 MR. MAYERFELD: Now we're 40. Again, there  
9 is that portion that's --

10 MEMBER HILLER: Yes, yes.

11 MEMBER GOTTLIEB: 35.4 versus currently 38.

12 MR. MAYERFELD: 38.

13 MEMBER GOTTLIEB: Okay.

14 MEMBER HILLER: What happened with the  
15 height? At one point there was discussion about  
16 reducing the height.

17 MR. MAYERFELD: Right. So we took down the  
18 height. We're beneath the 36; that's the maximum  
19 in the BB zone. It's a little difficult with the  
20 height to bring it down even more because the  
21 water table, we've got -- you know, since we got  
22 the boring tests and the water table is actually  
23 quite high; it's like six feet below grade, and  
24 our foundation has to be a foot above that.

25 MEMBER HILLER: You took it down four inches.

1 MR. MAYERFELD: Say again?

2 MEMBER HILLER: You took it down four inches.

3 MR. MAYERFELD: We just wanted to be down  
4 below the BB zone. Again, we looked at taking it  
5 lower, but again, it's just we're fighting the  
6 water table.

7 MR. LIEBER: I would just also add that if  
8 our neighbor decided to do construction and took  
9 down their house, they could build it up to  
10 36 feet.

11 CHAIRMAN KEILSON: Is he contemplating that?

12 MR. LIEBER: Not that I know of, either of  
13 our neighbors.

14 MR. MAYERFELD: Or anybody in the zone. Or  
15 anybody in the BB zone decides to do it, anybody  
16 that walks in that has a different sized lot can  
17 knock it down and build 36.

18 MEMBER HILLER: Do I remember correctly that  
19 your floor heights are about 14 feet or something  
20 like that?

21 MR. MAYERFELD: No, no.

22 MEMBER HILLER: What size height were they?

23 MR. MAYERFELD: Again, it all about depends  
24 how far we come out of the ground with the  
25 basement. So if we have -- if we're four feet out

1 of the ground or three feet out of the ground, so  
2 you have a four-foot plate, four feet, if we have  
3 ten-foot ceilings, which is --

4 MEMBER HILLER: On both levels?

5 MR. MAYERFELD: Even if you have nine-foot on  
6 the second level including with the pitch of the  
7 roof that takes us up to --

8 MEMBER HILLER: And what's the ceiling level  
9 in the attic?

10 MR. MAYERFELD: It's going to start really at  
11 close to nothing.

12 MEMBER HILLER: Of course. But what exists?  
13 Everything starts at nothing.

14 MR. LIEBER: Somewhere around seven.

15 MR. MAYERFELD: It will be about eight feet,  
16 eight feet, yeah.

17 MEMBER HILLER: Okay.

18 MR. MAYERFELD: Eight and a half.

19 CHAIRMAN KEILSON: Okay. Satisfied?

20 MEMBER GOTTLIEB: Is there a basement in this  
21 or there isn't?

22 MR. MAYERFELD: We propose to, we're going to  
23 put a basement.

24 MEMBER GOTTLIEB: Even with the six-foot  
25 water table?

1 MR. MAYERFELD: Yeah. That's why we have to  
2 come out of the ground, and maybe limit it because  
3 of the water table. We certainly don't want to be  
4 like towering above grade. But you know, we don't  
5 have any plans for it just yet, but I don't want  
6 to rule it out.

7 MR. LIEBER: It would be a low ceiling in the  
8 basement.

9 MEMBER GOTTLIEB: Okay, I'm just asking.

10 MR. CASTRO: I mean, I'd like to just for the  
11 record, since we don't have the new code relief  
12 we'll go off the new page A1 that was submitted,  
13 the line item for side yard and aggregate of two  
14 sides should actually be -- side yard should be  
15 split 20 feet on the north side, 18 feet on the  
16 south side, noting that it is only for a small  
17 portion.

18 MR. MAYERFELD: Yes.

19 MR. CASTRO: And the aggregate of the two  
20 sides should actually be 38 feet. So if the  
21 variance would be granted it would be granted for  
22 those numbers.

23 CHAIRMAN KEILSON: Okay. Any further  
24 questions from the Board?

25 (No response.)

1 CHAIRMAN KEILSON: Anyone from the audience  
2 want to speak to the matter?

3 (No response.)

4 CHAIRMAN KEILSON: Okay. If not, then taking  
5 into account the benefit to the applicant as  
6 opposed to any detriment to the health, safety and  
7 the like for the community, we're going to ask for  
8 a vote, and we'll start with Mr. Moskowitz.

9 MEMBER MOSKOWITZ: For.

10 CHAIRMAN KEILSON: Mr. Gottlieb.

11 MEMBER GOTTLIEB: For.

12 CHAIRMAN KEILSON: Mr. Hiller.

13 MEMBER HILLER: For.

14 CHAIRMAN KEILSON: Mr. Felder.

15 MEMBER FELDER: For.

16 CHAIRMAN KEILSON: I vote for as well. Board  
17 of Building Design.

18 MR. CASTRO: Yes. You'll have to go before  
19 the Board of Building Design for architectural  
20 approval.

21 CHAIRMAN KEILSON: How much time would you  
22 like?

23 MR. LIEBER: Two and a half years, I hope.

24 CHAIRMAN KEILSON: Very good. Good luck to  
25 you.

Lieber - 6/6/18

MR. MAYERFELD: Thank you.

(Whereupon, the hearing concluded at  
8:04 p.m.)

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

*Mary Benci*

MARY BENCI, RPR  
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 6, 2018  
7 9:39 p.m.

8 APPLICATION: CAATS 613 LLC  
9 332 Central Avenue  
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. STEPHEN L. MARTIR, ESQ.  
23 Village Attorney

24 MR. GERALDO CASTRO  
25 Building Department

MS. FLORENCE MAXWELL  
Building Department

Mary Benci, RPR  
Court Reporter



1 CHAIRMAN KEILSON: On to CAATS 613 LLC.

2 MR. BROWNE: Good evening again.

3 Christian Browne, 333 Earle Ovington  
4 Boulevard, suite 301, Uniondale, appearing for the  
5 applicant, CAATS 613 LLC.

6 This application concerns the property known  
7 as 332 Central Avenue in the Village's business K  
8 district. I know the Board has had a chance -- or  
9 I believe you've had a chance to look at what's  
10 proposed here. As you probably know, this  
11 property is presently improved with an old  
12 building that's been used as a bar that fronts on  
13 Central Avenue, and to the back of the building  
14 running back towards the municipal parking lot  
15 there's been an open area, as well as a large shed  
16 that's been used over the years for storage by the  
17 previous owner and by the neighbors.

18 MS. HERTZ: It's rented to Seasons.

19 CHAIRMAN KEILSON: You have to go on the  
20 record with your name if you're going to talk.

21 MR. BROWNE: It's been rented out to Seasons  
22 for storage. So under this proposal that large  
23 shed would be eliminated and we would construct a  
24 new building with this look that you see here  
25 running back towards the rear property line

1       towards the parking lot (indicating). It would be  
2       flush with the existing -- attached to the  
3       existing building. And the purpose of this would  
4       be for a medical office to be used by the owners,  
5       which is Dr. and Mrs. Hertz. Dr. Hertz is an oral  
6       surgeon. He has a practice in Brooklyn presently.  
7       He'd like to build this building to use it as a  
8       satellite office for himself.

9               I know when you hear medical use that usually  
10       triggers visions of a lot of traffic and parking  
11       needs, but this would be very limited, just for  
12       one doctor and one to two staff only. It would  
13       probably be used about two to three days per week  
14       as, again, as sort of a satellite office to his  
15       practice in Brooklyn. He does have a lot of local  
16       patients in Lawrence and in the Five Towns. This  
17       would allow him to service those patients in a  
18       more convenient location and to have more  
19       convenience for himself so that he could more  
20       easily travel to work.

21              So the staffing would be, as I said, one  
22       doctor, one to two staff, one of whom would be  
23       Mrs. Hertz, working there basically part-time,  
24       depending on patient demand, but probably no more  
25       than three days a week.

1           As I mentioned, this is an oral surgery  
2 practice. So with the exception of patient  
3 consultation, any procedure here is generally  
4 about at least 45 minutes. It can run up to about  
5 two hours. The vast majority of people who come  
6 in for procedures are picked up and dropped off  
7 because there's anesthesia involved and they  
8 generally can't drive to and from the office.

9           This is not a mass type of practice where one  
10 person is following another, following another,  
11 following another. As I said, this would be one  
12 doctor doing, you know, more complex, let's say,  
13 procedures on patients, not seeing a tremendously  
14 high volume. There might be one other person in a  
15 waiting room perhaps if the doctor was seeing a  
16 consult as opposed to an actual procedure, and  
17 then you would have an appointment waiting. But  
18 we don't envision more than one patient, perhaps  
19 one other in the waiting area. And as I  
20 mentioned, the vast majority of the patients are  
21 dropped off and then picked up at the conclusion  
22 of the procedure.

23           Typically, on a busy day they would see  
24 between eight to ten patients. That would be a  
25 busy day, and that would also include

1 consultations, people who would come in for about  
2 a half-hour consult before doing the procedure.  
3 It would be spread over the typical business hours  
4 of nine to five, and they would keep, you know,  
5 regular business hours every day but Saturday.

6 The second floor would be used exclusively by  
7 the doctor. There would be an office area, a  
8 little conference seating area, a small kitchen,  
9 and some storage room up there. But it would be  
10 only in connection with this practice. It  
11 wouldn't be rented out to any other user.

12 We do provide two parking spots on our  
13 property. Those would be used by the doctor and  
14 the staff person. As I said, typically Dr. and  
15 Mrs. Hertz would come together in one car, and  
16 then if there's a need for an additional staff  
17 person, that person would be able to park on-site.

18 We do have a traffic and parking study that  
19 we'll present to you for patient parking. We  
20 would rely on the immediately abutting municipal  
21 lot which we think would sufficiently handle the  
22 volume of traffic that would be generated by an  
23 application like this. And there's also, as you  
24 know, another lot across the street which someone  
25 could use in the event of, you know, an unusual

1 circumstance that would require parking in that  
2 lot. As I mentioned, because this is mostly a  
3 drop-off and pickup, you're really talking about  
4 only generating, you know, two to three cars at a  
5 time in terms of patients that would, you know,  
6 add to the parking demand in that parking lot.  
7 But I'll let Mr. Going speak to that in just a  
8 moment.

9 So the variances are two. There's a parking  
10 variance that's the crux of the application. We  
11 are required 25 spaces and we're providing the two  
12 I mentioned.

13 And there's also a side-yard setback  
14 variance. The code requires five feet in this  
15 zone. We are proposing a very small variance of I  
16 think it's less than -- it's 0.3 from the property  
17 line, but that, as you now, is an unusual  
18 property. It's narrow and the building would be  
19 built exactly in line with the existing structure  
20 that's up towards Central Avenue. The building  
21 line would stay even going straight back, and as I  
22 mentioned, would eliminate that shed that I'm sure  
23 you've seen. When I've been there it's been, you  
24 know, garbage and other types of unsightly things  
25 around there. So all of that obviously would be

1 cleaned up.

2 So that's the crux of the application. I  
3 think it is really driven by concerns over  
4 parking. But because of our limited practice here  
5 and the limited nature of it and because of the  
6 available municipal parking, we think it can work  
7 and will be a good, a nice improvement to the  
8 balance of that lot. So that's the overview.

9 Unless you have questions for me, I'd like  
10 Mr. Going to give you some testimony.

11 CHAIRMAN KEILSON: How are we assured of the  
12 limited continuing use?

13 MR. BROWNE: Well, we would accept conditions  
14 on the use from the Board.

15 MS. HERTZ: Can I say something?

16 MR. BROWNE: Yes.

17 MS. HERTZ: I'll introduce myself first. My  
18 name is Fagey Hertz. I manage my husband's  
19 office. And I want to let all of you know that,  
20 thank God, my husband has a very successful  
21 practice in Brooklyn. It's not something that you  
22 walk away from, nor do we want to. We are  
23 currently actually rebuilding a brand-new office  
24 adjacent to where he is. We're almost  
25 three-quarters of the way through construction of

1 a new office. So we're not looking to move away  
2 from that. What we're doing here is specifically  
3 for quality of life. It's my kids need to see  
4 him. We want -- you know, and also in terms of  
5 accommodating the needs of the community. You  
6 know, my husband, he does oral surgery, but it's  
7 actually it's oral and maxillofacial surgery and  
8 it's a wide broad field.

9 We have -- I don't even know. There's been  
10 many, many neighbors that on our shabbas table my  
11 husband has stitched up kids that have gotten  
12 hurt, people that are coming in the house or in  
13 the recliner, or whatever it is, or going to their  
14 house and doing things. So aside from the many,  
15 many people from our neighborhood that come to  
16 him --

17 CHAIRMAN KEILSON: Obviously, that can be  
18 accommodated through the rental of an office. You  
19 don't need this building to accommodate everything  
20 you said.

21 The question I asked was how are we assured  
22 of the continued limited use. If tomorrow you  
23 decide, for whatever the reason, that you don't  
24 want to maintain the office out here, that  
25 building is built to accommodate many more people,

1 all right. It could be an office.

2 MS. HERTZ: Meaning if we don't want to keep  
3 the office here?

4 CHAIRMAN KEILSON: For whatever reason you  
5 decide at some point that you want to change the  
6 use of it or you expand your practice. In other  
7 words, your philosophy of limiting your practice  
8 changes, okay, and meanwhile we've given variances  
9 and we're left with this situation which is an  
10 untenable situation.

11 MR. BROWNE: Can I just add, before you go,  
12 Doctor, just so I understand that and I  
13 anticipated, not bragging, just anticipated that  
14 might be your concern. So I've asked the Hertzes  
15 if they would consent to a condition to any grant  
16 that the practice be limited to the way we've  
17 described. One doctor, no more than say two staff  
18 at a time whether, it's Dr. Hertz or someone else,  
19 that the practice only be --

20 CHAIRMAN KEILSON: I'm not sure there's  
21 enforceability of such a restriction.

22 MR. MARTIR: The Board cannot limit the  
23 conditions of the corporation, nor, as you know,  
24 the variance runs with the property, not the  
25 owner. So what's the guarantee that the owner



1 won't at some point sell the property and the  
2 variance would stick with the property?

3 MR. BROWNE: I agree that the variance would  
4 run with the land. But I believe that certainly  
5 in the parking context and certainly with its own  
6 consent that the Board has the legal right to  
7 impose a restriction on the intensity of the  
8 practice. I fully agree that if we -- I can't  
9 believe that we're on opposite sides of that  
10 issue. But I do think you have the legal  
11 authority to say you're representing that it would  
12 be one doctor and two staff, and because parking  
13 -- we don't provide enough parking and because I  
14 understand parking is always an issue in this  
15 Village as in many other places in the vicinity,  
16 that you could limit the intensity of the use such  
17 that any other use would have to come back to this  
18 Board to seek modification if they wanted to do  
19 something other.

20 MEMBER GOTTLIEB: I don't think we want to  
21 put the Village in a position of policing a  
22 practice in a building.

23 MS. HERTZ: So if I can just address your  
24 concern, and I understand the concern, I  
25 understand. We live here ten years, you know, in

1       this community. This is our home. Our kids -- we  
2       have five kids; they go to schools here. We're  
3       not looking to go elsewhere. And like I said, you  
4       know, you can look into it, he's a respected,  
5       well-known, successful oral surgeon. I have no  
6       doubt that he will come here and he will do well.  
7       If he wanted to be here full-time he could. It's  
8       not what we're looking for. We want a better  
9       quality of life. If that means that, you know,  
10      we're asking for a variance but, you know, you  
11      have to, I guess, take our word in the sense that  
12      we're not -- we're being honest about what we want  
13      from it. Do you know what I'm saying?

14           CHAIRMAN KEILSON: And we're being honest.  
15      We don't take words.

16           MS. HERTZ: Okay.

17           MR. BROWNE: And I'm trying to persuade you  
18      that you don't have to, that there are legally  
19      enforceable conditions here.

20           CHAIRMAN KEILSON: Identify yourself for the  
21      record.

22           MR. HERTZ: I'm Marc B. Hertz, D.D.S, M.D. I  
23      have a dual degree, oral and maxillofacial  
24      surgeon. I practice in Brooklyn; I'm in my 24th  
25      year of practice. I am not absconding my

1 practice. I've been in the same practice for  
2 many, many years. I don't have a practice with a  
3 partner. I'm a solo practitioner. I answer to  
4 the patients. They don't have to call and look  
5 for other practitioners. There's many of these  
6 mills. I run not quantity, but a quality  
7 practice. It's something I want to bring to the  
8 Five Towns, quality for the people of Five Towns,  
9 quality for myself, for my children, for my wife.

10 There's something known as MO in a court of  
11 law. When a judge goes ahead and looks through an  
12 offender, they see what is his MO, what is his rap  
13 sheet, what has he done before, and they make  
14 decisions, how many years to put him away, how  
15 many years he doesn't need to put him away, what  
16 kind of service he has to do for the public and  
17 not get court time. And no one can promise  
18 anything. The same thing here. I can't give you  
19 a promise that, and you can't take a promise from  
20 me that I won't run away from that practice. But  
21 my MO is that this is the practice. I'm going to  
22 come and stay like I've always stayed with my  
23 practice. This is what I do, what I love to do.  
24 I don't want to make my shop into an OR because  
25 that's what happens all the time. And by the way,

1 I don't get paid for those patients because I  
2 don't charge them because insurance won't pay.  
3 But when it's your office --

4 MS. HERTZ: Another significant thing that --

5 CHAIRMAN KEILSON: Let me respond.

6 MR. HERTZ: I'm so sorry. I'm taking a big  
7 eyesore from this community. I took out one of  
8 the remaining bars and I want to make it into a  
9 beautiful place. And I'm not going to mess with  
10 the traffic. I'm not going to mess with the mill  
11 (sic). It's going to be a quality place.

12 MS. HERTZ: This is important to mention and  
13 it goes to what you're saying. An insurance  
14 policy to you of why would we not walk away in a  
15 year or two years or five years. The practice  
16 that we are going to build we're talking about a  
17 million dollar investment. This is serious  
18 thought and serious money. A CAT scan machine  
19 alone is \$250,000. This is a very, very serious  
20 investment that we're putting in to this office,  
21 which is why we want to put it there behind the  
22 building because we're not coming here full-time,  
23 you understand. He's maintaining --

24 MEMBER MOSKOWITZ: Why would you spend a  
25 million dollars just to have a practice that is so

1 modest of the kind that counsel describes? It  
2 doesn't seem to make sense to us.

3 MS. HERTZ: Modest in what sense?

4 MEMBER MOSKOWITZ: Modest in terms of not  
5 servicing very many patients.

6 MS. HERTZ: His practice in Brooklyn services  
7 the same. He's a solo practitioner. He does  
8 cases. I have, right here, he rebuilt my jaw,  
9 okay. Cases that take a long time. So meaning  
10 it's not the type of a practice where you're  
11 seeing a patient every 20 minutes. It's the type  
12 where he's doing multiple implants on a patient,  
13 bone grafting, dealing with tremendous infections  
14 and drains, you know, pulling teeth out of the  
15 jaw, you know.

16 MEMBER HILLER: Okay.

17 MR. HERTZ: By the way, I just want to let  
18 you know, I'm not a selfish person. You can take  
19 my word for that or not. But I'm being selfish  
20 also, because I want to have a nice office. I'm  
21 there most of the time. I want to have a nice  
22 office. I'm willing to make that investment.  
23 Thank God I have the financial backing to do that.  
24 I don't want to build a big house and a pool. I  
25 don't want to build any extensions or stuff. I

1 want to have something that I can continue to do  
2 what I love to take care of people, make a living  
3 and be close to my family. I don't know if you  
4 take the Belt Parkway every morning, but if you  
5 do, you'll see it's horrendous; it's an hour each  
6 way, if you're lucky. I've had enough of that.

7 I've stopped going to certain hospitals  
8 because I didn't see my kids for the first two  
9 years of theirs lives. I want quality of life and  
10 I want to give back to the community by giving  
11 them good quality oral and maxillofacial surgery.

12 MEMBER HILLER: I want to ask you about your  
13 Brooklyn practice. How many operation rooms?

14 MR. HERTZ: I have currently two and one is  
15 plumbed for the third one. The new office has  
16 three chairs. It's Boyd oral surgeon chairs, the  
17 most expensive chairs.

18 MEMBER HILLER: You're giving too much  
19 information.

20 MR. HERTZ: Yes, three, three chairs.

21 MEMBER HILLER: You mentioned before you're  
22 the only doctor there.

23 MR. HERTZ: Yes.

24 MEMBER HILLER: You have no assistants?

25 MR. HERTZ: I'm the only dentist/oral

1 surgeon. I have an assistant and I have a front  
2 desk person. That's all, just those three.

3 MEMBER HILLER: And you're envisioning doing  
4 the same thing here?

5 MR. HERTZ: Correct.

6 MEMBER HILLER: And you said you don't want  
7 to give up that practice in Brooklyn, so you'll be  
8 mostly working here and part-time in Brooklyn, or  
9 mostly Brooklyn?

10 MR. HERTZ: No. I will split my time.  
11 There's a lot of doctors that split their time.

12 MEMBER HILLER: I don't need a further  
13 answer. So you're going to be splitting your time  
14 actually between both of them.

15 MR. HERTZ: Yes.

16 MEMBER HILLER: Now, you mentioned before  
17 about -- you mentioned before about the bar.

18 MR. HERTZ: Yes.

19 MEMBER HILLER: What is your intention with  
20 that building in the front?

21 MS. HERTZ: We're going to rent it.

22 MEMBER HILLER: You're going to rent it?

23 MS. HERTZ: Rent it out. Meaning whatever  
24 the use that it's allowed to -- we want to get  
25 some sort of income. You know, obviously, this is

1 a big investment. When we moved here --

2 MEMBER HILLER: Okay, okay.

3 MR. BROWNE: The goal would be to rent it to  
4 a permitted use --

5 MS. HERTZ: Yes, correct.

6 MR. BROWNE: -- following in line with the  
7 retail bar use.

8 MS. HERTZ: I don't think it will be another  
9 bar, but whatever is allowed.

10 MEMBER HILLER: Let me just throw something  
11 out there. Since that building is a -- it's not  
12 in the best shape.

13 MS. HERTZ: No, it's not.

14 MEMBER HILLER: It's not in the best shape.  
15 It's in slightly better shape than the storage  
16 units.

17 MS. HERTZ: Yeah, that one has a tree growing  
18 out of it, yes, yes.

19 MEMBER HILLER: Would you entertain knocking  
20 down that building and building your building on  
21 Central Avenue going back and giving you five or  
22 six parking spaces?

23 MR. HERTZ: I'm going to let my wife answer  
24 that and I would love to be in the front. I would  
25 love to be in the front, love it.



1 MS. HERTZ: So my husband would love to be on  
2 Central Avenue storefront because, you know,  
3 that's a much better image, right? But again, we  
4 made a tremendous investment in this and it is  
5 still a part-time office. Because he can't walk  
6 away from Brooklyn. You can't, you just cannot  
7 walk away from that. But we want that quality of  
8 life. So as much as it would be amazing for my  
9 husband to be in the front, people don't really  
10 care if you have to walk to the back. You're  
11 going to the doctor. For the doctor, they don't  
12 care.

13 MEMBER HILLER: We're not talking about what  
14 people want. We're talking about the parking  
15 situation.

16 MS. HERTZ: So what we want is income and  
17 then we can't rent to a retail store or whoever it  
18 is that would want to rent it. They're not going  
19 behind the doctor's office in the back.

20 MEMBER HILLER: Is it currently occupied?

21 MS. HERTZ: No. We made sure to buy it  
22 vacant. The whole building is vacant. There's  
23 residential units upstairs.

24 MR. BROWNE: What they're trying to say is it  
25 would become an economic hardship if they don't

1 have the rental income.

2 MS. HERTZ: Tremendously.

3 CHAIRMAN KEILSON: What you're suggesting  
4 also is going to have more congestion attributable  
5 to whatever is in the front. The bar was really  
6 underutilized in the past number of years.

7 MR. BROWNE: Possibly, but that would be --

8 CHAIRMAN KEILSON: Not "possibly." Let's not  
9 parse words. That bar was underutilized.

10 MR. BROWNE: Oh, I'm sure the bar was  
11 underutilized.

12 CHAIRMAN KEILSON: So now you're putting in  
13 another retail establishment which will further  
14 exacerbate. We'll have the gentleman report on  
15 the use of the parking lot. But it will further  
16 exacerbate the situation that's already  
17 preexisting. If there was one place you would not  
18 want to put additional congestion it's that  
19 alleyway.

20 MR. BROWNE: And I don't disagree with you.  
21 And so what I am suggesting is that, yes, the  
22 retail or bar use, whatever goes in there, goes  
23 in. And this would be an addition, but is a  
24 de minimis intensity because of the nature of the  
25 practice. Putting aside a second the issue of

1 enforceability and so forth, if you just took the  
2 facts of Dr. Hertz's practice the way I've  
3 outlined it and what the traffic numbers and  
4 parking numbers will bear out, because it's such a  
5 small increase over the course of a day in the  
6 number of the cars I would submit it's a  
7 de minimis impact.

8 My concern I think, or anticipating your  
9 concern, is how do you make sure that it stays the  
10 way that this doctor practices.

11 CHAIRMAN KEILSON: The way you envision it,  
12 yeah.

13 MR. BROWNE: Yes. The only way to really do  
14 that, and I think it's perfectly legal to do it,  
15 is to impose conditions on any grant to, you know,  
16 memorialize that type of an operation.

17 MEMBER HILLER: I think you would have less  
18 impact on the community and more support probably  
19 from your neighbors if you -- and I realize it's  
20 not for me to judge other people's economic  
21 hardships, but I mean --

22 MS. HERTZ: As far as I know, we have the  
23 neighbors' support.

24 CHAIRMAN KEILSON: You have to learn to  
25 listen.

1 MS. HERTZ: I apologize. Go ahead.

2 MEMBER HILLER: That you consider very  
3 strongly moving the practice to the front of the  
4 lot and, you know, getting rid of that bar  
5 building.

6 MS. HERTZ: So if I may, so as far as I know  
7 we have the support of the neighbors. I  
8 personally went myself. I introduced myself to  
9 Bathtique. They were lovely. That's the neighbor  
10 to the right side, or whatever. And they said,  
11 you know, please, when you're rebuilding, come and  
12 use our facilities, do whatever.

13 I also personally introduced myself to Alex  
14 who is the manager over here.

15 CHAIRMAN KEILSON: They are represented here.

16 MS. HERTZ: Wonderful, wonderful. I do want  
17 to say I have never met you personally.

18 CHAIRMAN KEILSON: Let's not conduct a side  
19 conversation.

20 MS. HERTZ: No, what I want to say and I want  
21 to have it on the record, that when I spoke to  
22 Alex and I said please get the message to the  
23 owner and let him know to speak to me as well.

24 CHAIRMAN KEILSON: The owner is here tonight.  
25 You don't have speak on behalf of Seasons.

1 MS. HERTZ: I want it on the record to know  
2 that I said, okay, that if there's anything that  
3 we can do to accommodate him before we made any  
4 plan, before we did anything, and I explained also  
5 what we're doing is a small construction, okay,  
6 it's a small thing, it will not inconvenience  
7 Seasons much, okay. And also, there is a conflict  
8 of interest considering that they use it for their  
9 storage as well, which I want to make note of. If  
10 we had to --

11 MEMBER HILLER: You're not helping your  
12 cause. You are not helping.

13 MR. BROWNE: I think the Board has your  
14 point. So if you would, could we just put our  
15 traffic testimony in the record?

16 CHAIRMAN KEILSON: Please, yes.

17 MS. HERTZ: Can I say one more thing?

18 MEMBER HILLER: I would suggest not.

19 MR. GOING: Hi. My name is Paul Going,  
20 that's G-O-I-N-G, just like the word "going." I'm  
21 a traffic engineer with Atlantic Traffic Design  
22 Engineers, located at 2929 Expressway Drive North,  
23 Hauppauge.

24 We've prepared a letter report dated  
25 May 22nd, 2018 for the project. And what we did,

1 we focused on the parking, and let me talk about  
2 the existing parking situation and then talk about  
3 what the project is.

4 The existing parking situation is that we're  
5 adjacent to municipal field four. We're not far  
6 from municipal field three; that's on the other  
7 side of Central Avenue. Municipal field four has  
8 96 spots. Municipal field three has 177.

9 CHAIRMAN KEILSON: Is municipal three  
10 relevant in light of the statute of the Village  
11 that we don't look to parking lots at a distance  
12 of more than a hundred feet?

13 MR. GOING: I think it's relevant in a  
14 practical and inherent sense. The proposed use is  
15 a destination type use. It's a use that you go to  
16 by appointment. It's not a convenience use. It's  
17 not something where you stop by or walk in. You  
18 make an appointment to go there. So in terms of  
19 how far you would walk to go somewhere, I think  
20 that over a hundred feet is certainly reasonable.  
21 I think up to maybe an eighth of a mile would be  
22 reasonable.

23 CHAIRMAN KEILSON: But yet the statute reads  
24 otherwise.

25 MR. GOING: That's a legal matter. I'm

1 talking from an engineering perspective.

2 CHAIRMAN KEILSON: Well, legal reflecting on  
3 usage. I assume that the Village postulated based  
4 on expectation of usage.

5 MR. GOING: Well, let me talk about the  
6 existing conditions and then get to the usage.

7 CHAIRMAN KEILSON: Well, you brought up  
8 parking lot three; I didn't.

9 MR. GOING: Well, it's the basis of a lot of  
10 what I want to talk about.

11 CHAIRMAN KEILSON: That's what my concern  
12 was.

13 MR. GOING: I understand.

14 CHAIRMAN KEILSON: If parking lot three  
15 disappears, some of your conclusions may be  
16 erroneous.

17 MR. GOING: That may be the case. But I  
18 would like to present you with the information  
19 nonetheless.

20 So like I said, the use is a destination type  
21 use. Again addressing parking lot three, our site  
22 is located on the alleyway between Central Avenue  
23 and parking lot four. There is a mid-block  
24 crosswalk that is close to that alleyway and also  
25 close to the alleyway on the opposite side of

1 Central Avenue that serves parking lot three. So  
2 in terms of our location versus parking lot three,  
3 we are close to a marked crosswalk.

4 What we did was we counted all the parking in  
5 those two lots on a Thursday. We chose a Thursday  
6 because Seasons, as you probably know, generates a  
7 lot of parking demand particularly on Thursdays.

8 CHAIRMAN KEILSON: What time of the year was  
9 this?

10 MR. GOING: It was February 15 of this year,  
11 2018. We observed parking from 8 a.m. to 7 p.m.  
12 and counted all the cars parked in 20-minute  
13 intervals.

14 MEMBER GOTTLIEB: Can I ask you a few  
15 questions on that date?

16 MR. GOING: Sure.

17 MEMBER GOTTLIEB: Was there snow on the  
18 ground on February 15th?

19 MR. GOING: I don't believe there was snow on  
20 the ground. I can find out more specifically for  
21 you, but --

22 MEMBER GOTTLIEB: Specifically I asked  
23 because that week in particular is, from a retail  
24 perspective, one of the slowest weeks of the year.  
25 The entire month of February is a particularly



1 slow weekend in our community. Many of our  
2 residents are away at that time.

3 MEMBER HILLER: That week is the high school  
4 vacation week. That week the high schools in the  
5 area are off and people generally leave the  
6 community.

7 MR. GOING: I don't believe so. We always  
8 check the school schedules. So I can find out if  
9 that particular Thursday was, but we --

10 MEMBER GOTTLIEB: It's okay. I don't think  
11 it's going to make that much relevance on these  
12 two items.

13 MR. GOING: Sure. All right. So what we  
14 found was a minimum of 38 stalls open. That means  
15 235 stalls were occupied, and that occurred twice  
16 over the period, and that's including the both  
17 lots.

18 MEMBER HILLER: Do you have a division of  
19 about how many were in lot three and how many were  
20 in lot four?

21 MR. GOING: Yes. You're reading my mind.  
22 There were only three available in lot four, which  
23 is the lot that's adjacent to the site. There  
24 were 30 -- at that time there were 35 available in  
25 the other lot. So we did see a minimal amount of

1 available parking in lot four. We did see more  
2 parking available in lot three, notwithstanding  
3 the hundred feet in the statute.

4 But when you consider the nature of what's  
5 being proposed and, you know, maybe it has to be  
6 written into the deed or something like that, but  
7 we have one doctor, two to three -- I mean, one or  
8 two staff, one of which would be the doctor's wife  
9 and presumably ride in the same car.

10 The property is located along the alley.  
11 It's proposed to lay out the building right behind  
12 the existing building, the existing bar building,  
13 former bar building, and then the two spaces at  
14 the north end of the property. So those two  
15 spaces would satisfy the needs of the staff.  
16 Patients, as you heard earlier, many of them are  
17 being anesthetized --

18 CHAIRMAN KEILSON: Sedated.

19 MR. GOING: Sedated. Sedated for a  
20 procedure, and therefore they have to be picked  
21 up. They actually won't be driving themselves to  
22 and from the site. But going back to what was  
23 said earlier, you could have one or two patients  
24 in the building at once, one patient being seen,  
25 one patient waiting.

1           So in my opinion, the available parking we  
2       saw a minimum of three stalls, which is not a lot,  
3       but that only occurred at one point in time. In  
4       my report there's a tabulation of the numbers of  
5       stalls occupied. There were 93 occupied at  
6       1:20 p.m. And then as you go earlier in the day,  
7       later in the day, there were more stalls  
8       available.

9           So the variance that's being requested is a  
10      23-stall variance. We don't need anywhere near 23  
11      stalls. But we did see an availability of 38  
12      stalls.

13           CHAIRMAN KEILSON: That's between four --  
14      between parking lot four and parking lot three.  
15      And again, parking lot I guess three is 300 feet  
16      from the building.

17           MR. GOING: It's probably about 300 feet from  
18      the building. I don't know if it is 300 feet from  
19      the front property line.

20           CHAIRMAN KEILSON: No, 200 and -- Mr. Castro,  
21      do you have those numbers?

22           MR. CASTRO: Approximately 270 from the front  
23      of the existing use, and it's about 340 to the  
24      proposed addition.

25           CHAIRMAN KEILSON: But they're sedated so

1 they won't even notice.

2 MR. GOING: Well, like I said, it's -- the  
3 requirement is based on one per 200 square feet.  
4 That's the commercial requirement.

5 CHAIRMAN KEILSON: We understand. That's a  
6 different density too, a doctor's office. At the  
7 same time you're not taking into consideration the  
8 further enhanced use of that strip of stores.  
9 There is a hibachi restaurant opening -- how long  
10 now?

11 MR. CASTRO: I'd say maybe within a year.

12 CHAIRMAN KEILSON: Okay. So the intensity of  
13 that is going to contribute further to exacerbate  
14 the situation over there. There's a fruit store  
15 at the end which failed. The corner of Rockaway  
16 Turnpike and Central Avenue is going to have a new  
17 use and no doubt something more palatable, pardon  
18 the pun, for the community. So we're going to  
19 have further intensification of that lot.

20 MEMBER GOTTLIEB: Not to mention there are  
21 several other vacant stores and developments that  
22 can and will happen on Central Avenue.

23 CHAIRMAN KEILSON: Including the bar  
24 replacement.

25 MEMBER GOTTLIEB: Yes. But right across the

1 street is a vacant lot which can be built as of  
2 right; something can be built there. The former  
3 gas station, the old Carmans building is vacant.  
4 There are a number of vacant stores, not uncommon,  
5 but can be rented.

6 MR. GOING: Understood. Let me just add, the  
7 proposed project would add a sidewalk along the  
8 easterly side of the alley. Right now the alley  
9 only has a sidewalk on the westerly side.

10 CHAIRMAN KEILSON: How does that help?

11 MR. GOING: That will enhance pedestrian  
12 circulation.

13 MEMBER GOTTLIEB: Well, actually, when you're  
14 walking from parking lot three you can only walk  
15 on the west side of the sidewalk.

16 MR. GOING: Well, I'm talking about a benefit  
17 of a sidewalk that would just benefit the general  
18 public, not specifically people coming from  
19 parking lot three to the proposed office.

20 MEMBER GOTTLIEB: Okay, thank you.

21 MR. GOING: Any other questions?

22 MEMBER GOTTLIEB: I just have a question for  
23 the architect. Is he still here? John, I might  
24 have missed it, but is there an elevator here?

25 MR. CAPOBIANCO: No, it's not required.

1 MEMBER GOTTLIEB: You're not required to have  
2 an elevator in a two-story building?

3 MR. CAPOBIANCO: No, not when you have the  
4 same uses up and down and it's under 2,000 square  
5 feet, 2,500 square feet. You're not required.

6 MEMBER GOTTLIEB: I'm not doubting you. I've  
7 never seen a situation where --

8 MR. CAPOBIANCO: That sidewalk he was  
9 referring to is here in the new building.

10 MEMBER GOTTLIEB: So you don't need ADA  
11 compliance for your --

12 MR. CAPOBIANCO: ADA compliance is fine.

13 MEMBER GOTTLIEB: -- for your employees? For  
14 example, do you have ADA-compliance toilets?

15 MR. CAPOBIANCO: That they worked out. They  
16 have one downstairs; they worked on the first  
17 level. See, if they were different uses upstairs  
18 then you would have to comply with ADA on the  
19 second floor as well. But when you have uses that  
20 are similar, let's say there's two surgical labs,  
21 two offices, two X-ray rooms, you know, just as  
22 long as you have access on the first floor.

23 MEMBER GOTTLIEB: I don't see an operating  
24 room. Oh, this is the second floor. I had them  
25 backwards. Okay. I see the doctor's office,

1 dental lab, okay, that's all on the second floor.

2 MR. BROWNE: So I would --

3 CHAIRMAN KEILSON: While John is up, how is  
4 all this construction going to be done in a most  
5 intense area of our community?

6 MR. CAPOBIANCO: Difficult. I mean, it's not  
7 an easy project to build. It's going to be metal  
8 stud, load-bearing metal stud, not swinging any  
9 big beams. So the excavation is a difficult part  
10 because -- that's why we didn't do a full basement  
11 under the whole building. We did a partial  
12 basement so we wouldn't have to bring out too much  
13 dirt. And when the dirt is excavated it has to  
14 come out. And then there's a construction fence  
15 that has to be put up. It's difficult; it's  
16 tight. It's tight. That's why pulling the  
17 building closer to the front building left you  
18 with about 22 feet in the rear, I think, and that  
19 gives you a little staging area to work, but not  
20 much. It's tight.

21 MEMBER HILLER: So it would be much better if  
22 you brought the building up to Central Avenue.

23 MR. CAPOBIANCO: Well, there is a building on  
24 Central Avenue.

25 MEMBER HILLER: I'm talking about if there

1       wasn't.

2               MR. CAPOBIANCO:  If there wasn't, yeah, then  
3       they'd lose their apartments and lose rental  
4       space.

5               MR. BROWNE:  The only other point I wanted to  
6       add is, obviously, that second floor being  
7       designed the way it is, it's a thousand or so  
8       square feet, but it wouldn't generate any  
9       additional traffic, and we would again consent  
10      that it not be rented out and only be used for  
11      what's shown on the plans in conjunction with the  
12      practice as an office, storage, a small lab area.  
13      No patients would be seen up there.  No additional  
14      doctor would work up there.  It's really just the  
15      first floor that's generating the patient traffic.  
16      That's really our case.

17              CHAIRMAN KEILSON:  So let's hear from anyone,  
18      from the neighbors.  Please state your name for  
19      the record and identify who you are.

20              MR. GOLD:  Mayer Gold, I'm CEO of Seasons.  I  
21      just want to get out there, as was mentioned, we  
22      do rent the back space from them.  We do rent the  
23      back building storage.  So clearly, anything that  
24      -- the construction will take away our rental.  
25      That's not why I'm here.  We'll find other space



1 for our stuff and we appreciate the rental.

2 I do have a couple of concerns, some of which  
3 were already addressed by Mr. Keilson and some  
4 were addressed by other people. I wasn't keeping  
5 track exactly of who was saying what. So I have  
6 two just quick questions.

7 One about how the construction would be, you  
8 know, done considering the fact that it's a very  
9 crowded parking lot any day of the week. I mean,  
10 we have trucks coming in. Every store has trucks  
11 coming in and out throughout the day. Cars,  
12 whether or not they're taking up parking spots,  
13 are going through the neighborhood. If you're  
14 coming down Rockaway Turnpike and want to get to  
15 Washington Avenue, many cars don't go down  
16 Central Avenue; they just cut through the parking  
17 lot to Mulry and then go out there to whatever the  
18 street is there. It's used for many purposes.  
19 It's a thoroughfare. There's a lot going on  
20 there. So clearly, any construction going on I'm  
21 just curious to know how that would work. I'm  
22 trying to think of my tractor-trailers coming in  
23 the morning making deliveries and if they need to  
24 get out of the parking lot onto Mulry and they  
25 can't get out there because -- or actually, I

1 think it's Williams, then Mulry, then Washington,  
2 and they can't get out there because there's  
3 tractor-trailers and dumpsters, what have you.  
4 Again, I'm sure they will do whatever they can to  
5 minimize that, but that's certainly a concern that  
6 we would have, off the top of my head.

7 Another concern I had was, again, I don't  
8 claim to know any of the rules of the Village and  
9 any of the ordinances. I'm just merely looking at  
10 what I saw on the traffic report. One thing was  
11 mentioned about what happens once the earth is  
12 opened up. And I'm sure they'll have a wonderful  
13 practice. I'm sure they're wonderful doctors.  
14 What stops anything else from coming in there  
15 tomorrow or a year from now or whatever. You  
16 could have five doctors working there and it could  
17 become a mill, you know, surgery center, or  
18 whatever it is. Maybe not. Maybe it will never  
19 be like that. Maybe it will just be one guy.  
20 This is just a concern I realistically have to  
21 have as a possibility of a neighbor. Although it  
22 beats having a bar next door, it's just a concern  
23 I definitely have.

24 There was a concern about mentioning in the  
25 report about the vicinity of the parking lot

1 across the street. I believe that was addressed  
2 multiple times. I'm not going to bore you with  
3 that concern. But certainly, a concern that I  
4 don't think people are going to walk across the  
5 street, yes, in my opinion.

6 Again, I've never been there. I'm not a  
7 doctor. I've never had the type of surgery the  
8 doctor described. I imagine, if I was having  
9 surgery, either my wife would drop me off; or if I  
10 was ten years old, she would probably stay with me  
11 during the entire surgery. So certainly, I'm sure  
12 certain of the patients are dropped off and picked  
13 up, and certain of the patients have someone  
14 sitting there waiting for them. You know, if it  
15 was an older patient of mine, I would probably  
16 drop them off, stay with them for three hours  
17 until they come out of sedation and then take them  
18 home. So then I would have a car parked there, I  
19 imagine; I can't say for sure. But it's  
20 definitely a concern of mine.

21 I guess, again, the main thing was even  
22 within oral surgery, again, I don't claim to know  
23 the oral surgery profession, I don't know that at  
24 all, but I'd imagine usually you expand  
25 automatically to other services. For example, if

1 my kids go to an orthodontist in Woodmere and it's  
2 a mill. You know, it's busy like crazy, the  
3 patients are lined up one after the other. If the  
4 Hertzels are not doing that, then that concern is  
5 taken off of my plate.

6 That's basically, you know, that's what I  
7 got. Most of the stuff was already addressed by  
8 Mr. Keilson and the other members. You know, like  
9 I said, how the construction would work  
10 practically speaking. How you're getting the  
11 vehicles in there, how you're doing construction.  
12 And how we avoid the parking issue, because there  
13 certainly is a parking issue.

14 As to your question, Mr. Gottlieb, I looked  
15 it up. I believe there was no snow on the ground  
16 on that day. I did look it up. But there was  
17 definitely -- you know, you're welcome to come out  
18 tomorrow, Thursday. It gets hairy in there.  
19 Thursday, Friday are busy days. Before holidays  
20 it does get kind of crazy in there.

21 Again, perhaps the Hertzels will not be  
22 generating that much traffic, but there definitely  
23 is concern of all the other stores coming on the  
24 block, the unknown stores coming on the block, and  
25 what their requirements will be and what traffic

1 they're going to generate and parking requirements  
2 and how that's going to affect everyone, including  
3 the Hertz. So that's certainly a concern that I  
4 have.

5 CHAIRMAN KEILSON: Thank you very much.

6 MS. HERTZ: Is it all right if I address some  
7 of Mayer's concerns?

8 CHAIRMAN KEILSON: Sure.

9 MS. HERTZ: Thank you. And I appreciate  
10 them, and I hope I'm going to remember them all  
11 and try to address them all. So first of all --

12 MEMBER GOTTLIEB: Speak to us.

13 MS. HERTZ: So the first concern was in terms  
14 of construction, and I actually discussed this  
15 with the manager Alex. Our current construction  
16 that we're doing in Brooklyn, the GC, the person,  
17 his name is Eran Sarfati (phonetic). He's the  
18 contractor, licensed, insured; he's local to here.  
19 I found him through recommendations. He's done a  
20 lot of work just for the -- the beautiful office  
21 -- I'm sorry -- beautiful home, whatever. He's  
22 local to here. He's most likely -- we're happy.  
23 He's most likely going to do the new construction.  
24 I already spoke to him about this. And all his  
25 guys are from Far Rockaway and Inwood, and they're

1 local.

2 I said to him, listen, I shop at Seasons; I'm  
3 there all the time. That's why I said  
4 specifically that I wanted the traffic study done  
5 on a Thursday. I want it done at peak, you know,  
6 done like that. I said to him, what can we do to  
7 help our neighbors during construction. And aside  
8 from the fact that we changed our plans from  
9 putting it in the back and bringing it forward,  
10 aside from the plan that it was going to be a full  
11 basement and then coming to half, I said to him,  
12 is it possible any time that you need a large  
13 truck, any time that you need that sort of stuff  
14 can you work at night? He said absolutely; he  
15 said it's not an issue with his guys. And I can  
16 make the accommodation, and the contractor that  
17 we're most likely going to use is okay to make the  
18 accommodation. And if you want to write that in,  
19 whatever -- I'm just saying that it's a --

20 CHAIRMAN KEILSON: You're not qualified to  
21 speak to the issue. I'm not qualified to speak to  
22 the issue. The Village would have to govern  
23 exactly how it can be done.

24 MS. HERTZ: Understood.

25 MEMBER GOTTLIEB: I don't think they're

1 allowed to do construction after a certain time.

2 CHAIRMAN KEILSON: You have to let me speak.

3 MS. HERTZ: Yes.

4 CHAIRMAN KEILSON: You cannot do construction  
5 at night. And there's going to be -- the nature  
6 of this excavation work that's going to be done is  
7 going to have impact on the neighbors. It's  
8 inevitable. So that will have to be done  
9 through the Village, you know, through their  
10 governance.

11 MS. HERTZ: A hundred percent. But what I'm  
12 saying is that he said he would -- the contractor  
13 that we would most likely use, we would work with  
14 that. We're willing to do whatever that is.

15 CHAIRMAN KEILSON: It's not a matter of your  
16 willing or not willing.

17 MS. HERTZ: I understand.

18 CHAIRMAN KEILSON: It's a question of whether  
19 it can be done without disrupting the --

20 MS. HERTZ: Understood.

21 CHAIRMAN KEILSON: You're interrupting me  
22 again.

23 MS. HERTZ: Go ahead.

24 CHAIRMAN KEILSON: Whether it can be done  
25 without interfering with existing ongoing business

1 in an unbelievably congested location.

2 MS. HERTZ: Just for argument, I'm just  
3 curious, okay, the building, the structure that's  
4 currently there, it's 102 years old. It actually  
5 would have been much easier and recommended to  
6 knock it down and start from scratch. The reason  
7 that we're maintaining it is because, obviously,  
8 there are things that are grandfathered in and  
9 potential income and things like that. But if we  
10 were to -- if this weren't to work out, so to  
11 speak, we would have to knock the entire building  
12 down, and then without -- I'm assuming without a  
13 variance we'd be entitled to wherever -- you know,  
14 a full basement, and that work would be so much  
15 more significant.

16 CHAIRMAN KEILSON: Once again, within the  
17 purview of the Building Department to work it out.  
18 It's not for this evening.

19 MS. HERTZ: Absolutely. I understand. But  
20 the alternative within -- without -- from what I  
21 understand, and I don't know, the architect can  
22 also address it, I guess, but I'm saying the  
23 alternative without needing a variance in terms of  
24 building would be way more of a hardship to  
25 Seasons as well as all the neighbors. And if



1 we're talking about a whole building, you know,  
2 again, John will have more experience, but this is  
3 not a large construction job. We're talking about  
4 1,300 square feet for the two floors. It's not  
5 very large, and it's not an extended job.

6 Whereas, if we had to start from scratch, it's  
7 making much more of an impact during the  
8 construction phase.

9 Your other concerns. Yes, the orthodontist  
10 is the complete opposite of what we said. I think  
11 we explained how his office works. So, yes.

12 CHAIRMAN KEILSON: Asked and answered. Go  
13 ahead, next.

14 MS. HERTZ: What was the other -- oh, and I  
15 also just wanted to mention the parking study did  
16 not include street parking, and that's also  
17 additional spots.

18 CHAIRMAN KEILSON: Yeah, but all of us know,  
19 we who live here for 50 years know that that  
20 street is an impossibly congested street. So to  
21 suggest that you can get on-street parking when  
22 you come out of Williams and trying to get onto  
23 Central Avenue, you can't even access Rockaway  
24 Turnpike because of the line-up of traffic.

25 MS. HERTZ: Our Brooklyn office is located on

1 Ocean Avenue off of Kings Highway. I don't know  
2 how familiar everyone is with that. The parking  
3 there, if you think this is difficult, you can't  
4 even imagine. So any --

5 CHAIRMAN KEILSON: You're reinforcing our  
6 position.

7 MS. HERTZ: No, my point -- my point is --

8 CHAIRMAN KEILSON: You're reinforcing our  
9 position --

10 MS. HERTZ: No.

11 CHAIRMAN KEILSON: -- that that is a  
12 congested area and it will be further exacerbated.

13 MS. HERTZ: What I'm saying is --

14 CHAIRMAN KEILSON: The fact that you have an  
15 office on Ocean Parkway is irrelevant.

16 MS. HERTZ: What I'm saying is that patients  
17 that have to park will walk to him from far. The  
18 300 feet is not something that should be looked at  
19 as somebody -- I understand somebody wouldn't want  
20 to park at a grocery store across the street.

21 CHAIRMAN KEILSON: They're not going to park  
22 and walk. They're going to be picked up. The  
23 traffic study reads that they're going to be  
24 sedated.

25 MR. HERTZ: Again, if you were in front of my

1 office, and you could see it on Google and all  
2 that, you'll see it's Ocean Avenue. There is --  
3 it's apartment buildings mostly, and my patients  
4 when they come they come with a car service, they  
5 get dropped off. There's not a -- there is no  
6 parking there, and there is never an issue. And I  
7 have patients on time coming for their  
8 appointments and seeing them.

9 Here we have a study that shows there are  
10 parking spots. I remember it was not snowing, by  
11 the way, and I don't think it was snowing.

12 CHAIRMAN KEILSON: All this stuff we've gone  
13 over.

14 MR. HERTZ: You were speaking hypothetically  
15 about how we would know. By the way, you know  
16 this town. I only live here ten years. You know  
17 much more than me. I would come here, I would  
18 stay. There's a lot of turnover in those spaces.  
19 I'm a sure thing to be here.

20 MR. BROWNE: I think you have the case. I  
21 think there's no question that downtown Lawrence  
22 and these parking lots are congested. I would  
23 submit to you that this can work only because of  
24 the limited nature of this practice. It's not an  
25 orthodontist, et cetera, et cetera. That's why it

1 would work here. Another medical use, I agree,  
2 would not. But a one-doctor practice doing this  
3 type of work, because of the limited nature of the  
4 cars and so forth, that's why we would submit to  
5 you it is an appropriate use, and it should be  
6 conditioned and limited to the use we've  
7 described.

8 CHAIRMAN KEILSON: We'll get into that whole  
9 question. Counsel has already indicated that we  
10 have a limited amount of ability to do that and  
11 then, of course, Mr. Gottlieb correctly stated  
12 that it's not the job of the Village to be  
13 checking how many doctors are operating in a  
14 specific location. We're building something in an  
15 area that's really inappropriate for it. We're  
16 trying to shoehorn in, no different than the pool  
17 on the previous application. We're trying to do  
18 something in an area that is really very --

19 MR. HERTZ: May I say something?

20 CHAIRMAN KEILSON: No.

21 MR. HERTZ: Okay, thank you.

22 MR. BROWNE: Well, that's our application.  
23 And I don't think there's any -- you know, if you  
24 wanted further legal discussion about your power  
25 to impose conditions, I'd be happy to have it.

1 Whether or not you want to put the Village in that  
2 kind of an enforcement position is for the Board  
3 and the Village to decide. But I think that  
4 that's a -- I would submit that that's a  
5 reasonable -- you know, a reasonable set of  
6 restrictions to control the use is the best way to  
7 handle this type of application.

8 MEMBER HILLER: I'm only speaking for myself  
9 and I don't represent what the other people on the  
10 Board say. I have tremendous, first of all,  
11 respect and regard for what you want to do, and I  
12 appreciate it, and I understand all the familial  
13 obligations that this will help you with and  
14 everything.

15 For myself -- and nobody can look into  
16 anybody else's pocket. But for myself, I would be  
17 much more comfortable if you could find a way to  
18 get rid of the bar building, which is an eyesore  
19 anyway, move your office up front to Central  
20 Avenue, and have five or six parking spaces made  
21 available in the back. It would address a lot of  
22 my concerns.

23 Also, the ability to move the trucks on  
24 Central Avenue versus a parking lot, as  
25 uncomfortable as that may be on Central Avenue,

1 it's far more preferable in my judgment.

2 MS. HERTZ: I understand, but --

3 MEMBER HILLER: You don't have to answer to  
4 this.

5 MS. HERTZ: No, no, I know, but I just want  
6 to tell you we can't do financial again.

7 MEMBER HILLER: Don't answer. I'm saying to  
8 you that, for me, it would be far more palatable  
9 if you could see your way to do that.

10 MS. HERTZ: I understand, but we can't.

11 MR. BROWNE: Why don't we -- if we could  
12 follow the suit of the other case, maybe we should  
13 just adjourn and consider our options before we  
14 ask the Board to make a final determination, if  
15 that's --

16 CHAIRMAN KEILSON: By all means.

17 MR. HERTZ: They're never going to say yes if  
18 we keep adjourning and adjourning.

19 MS. HERTZ: We're losing a lot of money each  
20 month.

21 CHAIRMAN KEILSON: I think you should discuss  
22 with your counsel. That's why he's here, to  
23 advise you.

24 MR. HERTZ: I want to tell you, I've spoken  
25 to builders. My brother knows a lot about

1 building, he does buildings. And I spoke to them,  
2 and they said, if you think Seasons has a problem  
3 with that -- and they came to see it. I paid them  
4 to see this. He said, boy, will the town and  
5 Seasons have big trouble if you go to the front.  
6 We didn't do it on purpose, not because of the  
7 income. It's going to block the whole road. You  
8 know what traffic is going to be. If you do what  
9 you're doing, you're actually doing good. If you  
10 do the front, it will be worse. I'm just telling  
11 you, it will be terrible.

12 MS. HERTZ: I want to say at this point,  
13 like, if this doesn't work out, you know, I don't  
14 know that we would sell the building. We can't --  
15 we can't financially put the office in the front.  
16 That would be just too much of a hit for us to  
17 take. We would have to rent it out to whoever  
18 would be the highest bidder.

19 CHAIRMAN KEILSON: I suggest you listen to  
20 counsel who just well advised you to take an  
21 adjournment for the moment and to consult, because  
22 further conversation is not improving your  
23 situation. That's why you have counsel there.

24 MR. BROWNE: I would advise you to adjourn  
25 it. You're not prejudiced by a short adjournment

1 to consider the final option and ask the Board to  
2 make the decision or withdraw the application or  
3 modify it.

4 MEMBER HILLER: Do you want an adjournment  
5 right now?

6 MR. BROWNE: Yes.

7 MR. GOLD: Everyone else had a final word.  
8 Seasons would want nothing more than having a  
9 great neighbor next-door. The bar was not  
10 necessarily a good neighbor to us, not necessarily  
11 a good fit for the people on the block. So we are  
12 interested in having a good neighbor next-door.  
13 That would be good for everyone concerned. We  
14 just want to make sure the concerns are addressed.

15 MS. HERTZ: I wish you would have spoken to  
16 me before we met tonight.

17 MR. BROWNE: We would request an adjournment,  
18 and I'll speak to Mr. Castro about what our final  
19 position is.

20 MR. CASTRO: Following suit, can I have a  
21 final word also?

22 MEMBER GOTTLIEB: If you're going to say  
23 something, I have hardly spoken tonight.

24 MR. CASTRO: I heard the applicant mention  
25 that the construction is not large scale in



1 nature. I just want to note that --

2 MS. HERTZ: Meaning compared to knocking the  
3 whole thing down.

4 MR. CASTRO: I just want to note that as per  
5 the architect's plans the addition is only  
6 22 square feet smaller than the existing building.  
7 It's just about the same size.

8 MS. HERTZ: Right, because it's much smaller  
9 than they allowed --

10 CHAIRMAN KEILSON: We'll adjourn.

11 MR. BROWNE: We'll take everything under  
12 advisement. Thank you very much.

13 (Whereupon, the hearing concluded at  
14 10:35 p.m.)

15 \*\*\*\*\*

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

19

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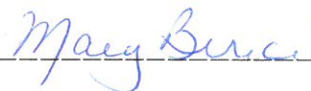
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MARY BENCI, RPR  
Court Reporter

## 1 INCORPORATED VILLAGE OF LAWRENCE

## 2 BOARD OF APPEALS

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

6 June 6, 2018  
7 8:04 p.m.

8 APPLICATION: Lowy  
9 120 Lakeside Drive East  
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. STEPHEN L. MARTIR, ESQ.  
23 Village Attorney

24 MR. GERALDO CASTRO  
25 Building Department

MS. FLORENCE MAXWELL  
Building Department

Mary Benci, RPR  
Court Reporter

1 CHAIRMAN KEILSON: The next matter is Lowy.  
2 Please introduce yourself to Mary.

3 MR. LOWY: My name is Edward Lowy. I live at  
4 120 Lakeside Drive East. I'm not an alcoholic.

5 I'm here, I guess, for Section 212-12.1 for  
6 exceeding the maximum impervious surface coverage.  
7 I'm basically trying to put in a circular driveway  
8 that I already had. I just redid the house  
9 because of a fire, and I just want to put the  
10 driveway. I'm actually proposing a smaller  
11 driveway than existed previously, and that's it.

12 CHAIRMAN KEILSON: Okay. So we're talking  
13 about again?

14 MR. LOWY: It exceeds -- I have the numbers  
15 here.

16 CHAIRMAN KEILSON: Yeah, let's have the  
17 numbers on the record, please.

18 MR. LOWY: So I think it exceeds the maximum  
19 surface coverage of the lot size by 981.7 square  
20 feet, and the maximum impervious coverage for the  
21 front yard by I think that's 942 square feet.

22 One thing to note, that the lot, there's a  
23 bit of a curve in the street coming into my house.  
24 There's like one stop sign going one way, but the  
25 other way there's not a stop sign, and it's a bit

1 of a tight driveway to back out of. I think that  
2 would be a little dangerous. So I'm guessing  
3 that's why the circular driveway was so necessary  
4 back whenever it was built, and I think it's still  
5 pretty necessary.

6 CHAIRMAN KEILSON: Okay, good. Any questions  
7 from the Board?

8 MEMBER MOSKOWITZ: No.

9 CHAIRMAN KEILSON: Anyone from the audience  
10 have any questions on the matter?

11 (No response.)

12 CHAIRMAN KEILSON: Okay. Who is the mime  
13 next to you?

14 MR. LOWY: This is my contractor, Aaron  
15 Blumenkranz. He's a great contractor. If you  
16 guys were going to ask me any technical questions  
17 I was going to defer.

18 CHAIRMAN KEILSON: So fortunately, we don't  
19 have to test him tonight.

20 So taking into account the benefit to the  
21 applicant as to any detriment to the health,  
22 safety and welfare of the community, and start  
23 with Mr. Felder.

24 MEMBER FELDER: I am for.

25 CHAIRMAN KEILSON: Mr. Hiller.

Lowy - 6/6/18

1 MEMBER HILLER: For.

2 CHAIRMAN KEILSON: Mr. Gottlieb.

3 MEMBER GOTTLIEB: For.

4 CHAIRMAN KEILSON: Mr. Moskowitz.

5 MEMBER MOSKOWITZ: For.

6 CHAIRMAN KEILSON: And I vote for, and good  
7 luck with it.

8 MR. LOWY: Thank you very much.

9 (Whereupon, the hearing concluded at  
10 8:06 p.m.)

11 \*\*\*\*\*

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

15

16

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 York6 June 6, 2018  
7 8:06 p.m.8 APPLICATION: Newman  
9 180 Lakeside Drive South  
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. STEHPEN L. MARTIR, ESQ.  
23 Village Attorney24 MR. GERALDO CASTRO  
25 Building DepartmentMS. FLORENCE MAXWELL  
Building DepartmentMary Benci, RPR  
Court Reporter

1 CHAIRMAN KEILSON: The next matter is Newman,  
2 180 Lakeside Drive South.

3 MS. NEWMAN: Hi, I'm Gitta Newman. I live at  
4 180 -- I used to live at 180 Lakeside Drive South.  
5 This is my architect, Matt Barkus, so he's going  
6 to address all of the questions.

7 MR. BARKUS: I work with JM2 Architecture,  
8 2410 North Ocean Avenue in Farmingville.

9 My client's house was affected by Hurricane  
10 Sandy. It was very damaged, so we're in the  
11 process of trying to gain approval to lift the  
12 house. So the variances that we're seeking today  
13 are for height and side-yard ratio. The allowable  
14 is 1.5 and we're looking for 2.16.

15 CHAIRMAN KEILSON: You're raising the house,  
16 correct?

17 MR. BARKUS: Yes, we are raising the house.

18 CHAIRMAN KEILSON: And what we'll be  
19 discussing tonight is a byproduct or raising the  
20 house?

21 MR. BARKUS: Yes.

22 CHAIRMAN KEILSON: Are you changing anything  
23 on the house per se other than raising it?

24 MR. BARKUS: We're just raising it as of  
25 right now.

1 CHAIRMAN KEILSON: Okay.

2 MR. BARKUS: We're also looking for a  
3 variance for both of the side yards. The side  
4 yards are now 10 foot 1, and 15 foot 4. They're  
5 going to remain the same, even though the house is  
6 being lifted. We are requesting a variance for  
7 those approvals.

8 And we're also requesting a variance for the  
9 side-yard aggregate. What's allowable is 30 feet,  
10 and we are asking for 25 foot 5.

11 CHAIRMAN KEILSON: Those are all pre-existing  
12 nonconforming, right?

13 MR. BARKUS: Yes. But the height ratio is  
14 subject to the height of the lifting of the house.

15 MEMBER GOTTLIEB: What will the height of the  
16 house be at the height of the ridge? I see two  
17 different numbers shown on the plans.

18 MR. BARKUS: The height -- the height once  
19 it's lifted will be 34 foot 9.

20 MEMBER GOTTLIEB: On A14 when you look at the  
21 streetscape it references 27 feet zero.

22 MR. BARKUS: So that is the current height of  
23 the house. That shouldn't be on that sheet. But  
24 the proposed height is going to be 34 foot 9 once  
25 it is lifted.



1 MEMBER GOTTLIEB: Actually, it shows 24 foot  
2 would be the current. On the top, 24 foot would  
3 be current and 27 is proposed.

4 MR. BARKUS: What sheet is this, A14?

5 MEMBER GOTTLIEB: A14, yes. So I guess the  
6 question is are you raising the house three feet  
7 or 11 feet?

8 MR. BARKUS: The house is only going to be  
9 raised three feet.

10 MEMBER GOTTLIEB: Then I would, not knowing  
11 the facts, I'd venture to say you'll be at 27, not  
12 at 35.

13 MR. BARKUS: Okay. If you refer to sheet A9,  
14 the existing elevation to the top of the ridge is  
15 34.8.

16 MEMBER GOTTLIEB: A9 is proposed north?

17 MR. BARKUS: Yes, but --

18 MEMBER GOTTLIEB: Existing is on bottom,  
19 okay.

20 CHAIRMAN KEILSON: Mr. Castro, can you shed  
21 any light on this?

22 MR. BARKUS: I see. Refer to sheet A8; that  
23 is the existing elevation. The top of the ridge  
24 is 31.8 feet, and our proposed it is 34.8. So we  
25 are looking at three feet.

1 MEMBER GOTTLIEB: So you're saying existing  
2 is 31.8?

3 MR. BARKUS: Yes. And we are lifting three  
4 feet from that.

5 MR. CASTRO: So if I could just point out  
6 that on all the elevation sheets it seems as  
7 though the numbers referenced are used for their  
8 elevations in reference to sea level, because I  
9 see that the grade is proposed at zero, and then  
10 the first floor is noted at 9.3, which certainly  
11 wouldn't make sense of a nine-foot difference. So  
12 I think the --

13 MR. BARKUS: That's what the grade should  
14 have been on, the elevation certificate, which I  
15 have actually, and I can give the correct grade  
16 that is the basis for where the first floor is.  
17 So the lowest adjacent grade is 7.1. So that's in  
18 reference to the nine foot that is from that  
19 grade. So the first floor is really only two  
20 feet, not the nine as it would show on the plan.

21 MR. CASTRO: So you said seven, correct. So  
22 if we use that number and you used 34 as the ridge  
23 height, you would take seven away, that would be  
24 your true elevation from crown of road or at least  
25 from mean grade.

1 MR. BARKUS: Okay.

2 MR. CASTRO: If you could just quantify that  
3 for us, and we'll use that as the proposed height.  
4 So what was the elevation, proposed elevation top  
5 of ridge?

6 MR. BARKUS: 34.8.

7 MR. CASTRO: And the grade is?

8 MR. BARKUS: The grade is --

9 MR. CASTRO: Lowest adjacent grade.

10 MR. BARKUS: Lowest adjacent is 7.1.

11 MR. CASTRO: It would be 27.7.

12 MR. BARKUS: Okay.

13 MEMBER GOTTLIEB: Can you just tell me what  
14 was surmised from this discussion?

15 MR. CASTRO: That the streetscape more  
16 accurately reflects the true height.

17 MEMBER GOTTLIEB: Okay. So this house will  
18 be closer to three feet higher than the adjacent  
19 houses, not 10 feet.

20 MR. CASTRO: Correct. In any case, it's well  
21 below the permitted.

22 MEMBER GOTTLIEB: Great, thank you.

23 CHAIRMAN KEILSON: Very good. Any further  
24 questions from the Board?

25 (No response.)

1 CHAIRMAN KEILSON: Anyone from the audience  
2 want to comment? If not, we're going to weigh the  
3 benefit of the applicant as to any detriment for  
4 health, safety and welfare to the community, and  
5 we're going to vote.

6 Mr. Moskowitz.

7 MEMBER MOSKOWITZ: For.

8 CHAIRMAN KEILSON: Mr. Gottlieb.

9 MEMBER GOTTLIEB: For.

10 CHAIRMAN KEILSON: Mr. Hiller.

11 MEMBER HILLER: For.

12 CHAIRMAN KEILSON: Mr. Felder.

13 MEMBER FELDER: For.

14 CHAIRMAN KEILSON: And I am for as well.

15 MR. CASTRO: Are you changing the facade on  
16 the house, the siding?

17 MR. BARKUS: The siding is going to stay the  
18 same.

19 MR. CASTRO: There's not going to be a  
20 tremendous increase in height. I don't think  
21 there's going to be a lot of foundation showing,  
22 so I don't believe it's necessary to go before the  
23 Board of Building Design for any landscaping  
24 plans, okay. How long?

25 CHAIRMAN KEILSON: Two years.

1 MR. CASTRO: 24 months, is that enough time  
2 to raise the house?

3 MR. BARKUS: That should be, yes.

4 MS. NEWMAN: I hope so.

5 CHAIRMAN KEILSON: Start on your way back.

6 MS. NEWMAN: Thank you.

7 MR. BARKUS: Thank you very much.

8 (Whereupon, the hearing concluded at  
9 8:14 p.m.)

10 \*\*\*\*\*

11 Certified that the foregoing is a true and  
12 accurate transcript of the original stenographic  
13 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 York6 June 6, 2018  
7 8:14 p.m.8 APPLICATION: Adler  
9 44 Broadway  
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. STEPHEN L. MARTIR, ESQ.  
23 Village Attorney24 MR. GERALDO CASTRO  
25 Building DepartmentMS. FLORENCE MAXWELL  
Building DepartmentMary Benci, RPR  
Court Reporter

1 CHAIRMAN KEILSON: The matter of Adler,  
2 44 Broadway. Would they and their representative.

3 MR. FLAUM: Good evening, members of the  
4 Board. My name is Shmuel Flaum, S-H-M-U-E-L.  
5 Last name is spelled F-L-A-U-M, as in Mary,  
6 residing at 194 Wanser Avenue, Inwood, New York.  
7 I'm the architect/applicant for this application.  
8 I'll just hand out some additional -- we did an  
9 additional diagram for the lot sizing. I can pass  
10 this out (handing).

11 CHAIRMAN KEILSON: Very good.

12 MR. FLAUM: So the subject of tonight's  
13 variance for this property is we're looking to  
14 subdivide an existing oversized parcel maintaining  
15 the house on the existing lot while subdividing a  
16 portion off to be subsequently developed by  
17 whoever purchases that vacant lot after.

18 CHAIRMAN KEILSON: You're appearing on behalf  
19 of Adler?

20 MR. FLAUM: I'm appearing on behalf of Adler  
21 and the future owner of Dr. Adler's property as it  
22 is currently in contract but hasn't yet been sold.

23 CHAIRMAN KEILSON: Okay. And who's the  
24 contract vendee, who might that be?

25 MR. BEISS: My name is David Beiss,

1 B-E-I-S-S.

2 CHAIRMAN KEILSON: Your address?

3 MR. BEISS: 1205 Sage Street, Far Rockaway.

4 CHAIRMAN KEILSON: Okay, welcome.

5 MR. BEISS: Thank you.

6 CHAIRMAN KEILSON: All righty.

7 MR. FLAUM: So I'm going to start by reading  
8 off the code relief, if that's okay.

9 CHAIRMAN KEILSON: One second.

10 MR. FLAUM: The code relief that we were  
11 seeking were Section 212-12.1, side yard  
12 height/setback ratio, permitted at 1.5, existing  
13 is 1.7 and 0.3, proposed at 1.7 and 2.1, with an  
14 overage of 0.6.

15 The second category of code relief was  
16 Section 212-12.1, front yard surface coverage,  
17 which was permitted at 15 percent, existing at  
18 26.9 percent. Proposed at 28.6 percent -- I think  
19 that's a mistake. It was 38.6 percent with an  
20 overage of 13.6 percent.

21 The third one was Section 212-17.H,  
22 subdivision of 70-foot diameter circle. The  
23 permitted 70-foot diameter circle existing, not  
24 applicable.

25 Last, impervious surface coverage, the



1 permitted allotment is 3,418.8 square feet, the  
2 existing is 8,175.9 square feet, proposed is  
3 4,886.9 square feet, with an overage of  
4 42.9 percent reduced from 57.7 percent.

5 The additional drawing that we just handed  
6 out, if you'll take a look, proposed lots A and B,  
7 which is at the bottom of the drawing, shows that  
8 after the lot would be subdivided lot B and lot A  
9 would be more in sizing with the surrounding lots  
10 of the existing block. So the existing lot was  
11 actually oversized for the surrounding lots on the  
12 same block that it currently is situated.

13 MEMBER GOTTLIEB: I'm looking at the code  
14 relief. This refers only to lot A.

15 MR. FLAUM: It only refers to lot A because  
16 lot B would be vacant so there wouldn't be any  
17 issues.

18 MEMBER GOTTLIEB: So when you talk about the  
19 side yard height/setback ratios there is 1.7 and  
20 2.1. Is the 2.1 the height/setback ratio against  
21 lot B or against the existing adjacent house to  
22 the west?

23 MR. FLAUM: Good question. It's not on this  
24 diagram drawing. I don't actually have a copy of  
25 the drawing with me, but I could tell you.

1 MR. MARTIR: Can we make copies of the  
2 drawing?

3 MS. MAXWELL: Which drawing?

4 MR. FLAUM: The 2.1.

5 CHAIRMAN KEILSON: Just give him our  
6 drawings.

7 MR. FLAUM: Not that drawing.

8 MS. MAXWELL: One of these?

9 MR. FLAUM: Yeah, that one. Thank you.

10 So on the bottom of Z100 you have the  
11 schematic front elevation which faces Broadway.  
12 So I believe that one would be the neighbor to the  
13 left or directionalized to the left.

14 MEMBER GOTTLIEB: Which is that, the 1.7 or  
15 the 2.1?

16 MR. FLAUM: It would be lot six, I believe.  
17 Where are you looking?

18 MEMBER GOTTLIEB: So lot six. However you  
19 describe it, I will --

20 CHAIRMAN KEILSON: He'll find it.

21 MEMBER GOTTLIEB: So lot six is 1.7 and  
22 that's staying the same?

23 MR. FLAUM: Correct.

24 MEMBER GOTTLIEB: And so the 2.1 references  
25 the new lot?

1 MR. FLAUM: It would be the adjacent lot  
2 subdivided that there is no current structure on.

3 MEMBER GOTTLIEB: Then when you talk about  
4 front yard surface coverage, typically we see this  
5 in square feet, not in percent. Do you happen to  
6 have those numbers? Or actually, no, this is  
7 front surface coverage.

8 MR. FLAUM: Front yard surface coverage, so  
9 if you could -- I don't have many copies but you  
10 could pass it to him.

11 MEMBER HILLER: I may be making a mistake in  
12 math, but for instance, your overage on your front  
13 yard surface coverage you say it's 13.6 percent.  
14 That's relative to the -- it's permitted 15, your  
15 proposed is 28, so you're 28 by 6. You're reading  
16 it 13.6. But really it's almost 100 percent  
17 overage on that single lot.

18 MR. FLAUM: There was an error in that  
19 calculation. We revised it after speaking with  
20 the head of the Building Department, Mr. Castro,  
21 so I just passed it to him.

22 MEMBER HILLER: So what does it reflect now?

23 MR. FLAUM: So this was the error in the  
24 calculation. The new one is 19.7 percent lot  
25 coverage, because the front yard requires 25 feet,

1 so the coverage is determined based off that  
2 setback. Previously, we did it to the front of  
3 the house. It's actually based off the front  
4 yard. So if you could pass this, you could see  
5 the difference.

6 MEMBER GOTTLIEB: So we're talking about  
7 front yard surface coverage. I'm looking at  
8 numbers 496.7. What does that represent?

9 MR. FLAUM: 496.7 is the amount of impervious  
10 surface from the asphalt. That's 333.1, added to  
11 the portion of the porch that's 163.28, added  
12 together is 496.7. When you divide that by the  
13 total front yard area, which is 2,515, gives you  
14 19.7 percent of impervious surface coverage in the  
15 front yard.

16 CHAIRMAN KEILSON: And what is permitted?

17 MR. FLAUM: Permitted was -- sorry, I was  
18 looking at the code relief. Permitted is  
19 15 percent. So it's 4.7 percent over.

20 CHAIRMAN KEILSON: We're creating a new  
21 situation here by your subdividing. We prefer not  
22 to have variances once you subdivide. Is that  
23 achievable?

24 MR. FLAUM: So we actually came up with a  
25 solution that was describing to me that a portion

1 of the porch has an issue that there's a tree  
2 growing through it, so it's being undermined. So  
3 the tentative proposed owner is willing to chop it  
4 back to get rid of that issue. So if you removed  
5 an additional 317 square feet of surface coverage,  
6 that would drop to only a -- just take a look at  
7 the number here -- a smaller amount of overage or  
8 it might not even be over at all.

9 MR. BEISS: What's allowable?

10 CHAIRMAN KEILSON: We prefer the non-over.

11 MR. BEISS: What is the allowable?

12 MR. CASTRO: 15 percent.

13 MR. BEISS: We can knock out 163 square feet.

14 MR. FLAUM: Well, the whole porch is 558. So  
15 if you chopped off the left part it probably would  
16 be about 200 square feet. So in order to get  
17 under --

18 CHAIRMAN KEILSON: Off the record.

19 (Whereupon, a discussion was held off the  
20 record.)

21 CHAIRMAN KEILSON: Let's go back on the  
22 record.

23 MR. BEISS: I'll knock out the porch to get  
24 it under. Not a problem.

25 CHAIRMAN KEILSON: Let's make it simple.

1 We're not disinclined to help you on the  
2 subdivision. We're disinclined to give you  
3 variances as a byproduct of the subdivision. Is  
4 that achievable? And let's do it quickly because  
5 there are a lot of people waiting. It's going to  
6 be a long night.

7 MR. FLAUM: I'm pretty sure we can.

8 CHAIRMAN KEILSON: No. "Pretty sure" doesn't  
9 work.

10 MR. FLAUM: I'm more than certain that we can  
11 redesign the front porch to eliminate the  
12 additional impervious surface coverage to bring it  
13 into compliance with the required 15 percent  
14 allowable.

15 MR. CASTRO: It's 120 square feet. You have  
16 to reduce it.

17 MR. FLAUM: Yes, we could do it.

18 MR. BEISS: The porch is 163.

19 MR. FLAUM: It's 558.

20 MR. CASTRO: You will reduce it.

21 MR. FLAUM: Yes, we will.

22 CHAIRMAN KEILSON: I think what's important  
23 is if you want us to vote on this tonight is for  
24 you to put your numbers together. Maybe we can go  
25 on to the next matter, and then we'll take you

1 right afterwards, and just define for us precisely  
2 what we're voting on. That way the record will be  
3 clear and everybody can go home happy.

4 MR. FLAUM: I just have to figure out what  
5 portion equals that amount. Was it 115?

6 MS. MAXWELL: 120.

7 MR. CASTRO: 120. Permitted is 377,  
8 according to the new chart.

9 MEMBER GOTTLIEB: They can also reduce the  
10 driveway and have the same accomplishment.

11 MR. FLAUM: We could do that also. Let's  
12 discuss it.

13 CHAIRMAN KEILSON: SO we'll call you back.

14 (Whereupon, a recess was taken; the  
15 application was recalled.)

16 CHAIRMAN KEILSON: Back to Adler. One second  
17 while we get our papers.

18 MR. FLAUM: Good evening.

19 So after discussing it with the future owner  
20 contract vendee of the subject property, we've  
21 decided that we're going to reduce the front yard  
22 surface coverage by eliminating the left side of  
23 the front porch, which is currently in disrepair,  
24 by approximately 20 feet in width and the full  
25 depth from where it starts to where it touches the

1 house, because there's approximately nine to ten  
2 feet which would give you anywhere between 180 to  
3 200 square feet. I don't have the actual depth of  
4 the porch on the survey. They didn't actually  
5 indicate a dimension, but I will follow up. It's  
6 more than the 120 that you're requesting, and  
7 it's --

8 CHAIRMAN KEILSON: I didn't request anything.

9 MR. FLAUM: It's more than 120 that would be  
10 bringing it into compliance.

11 CHAIRMAN KEILSON: We don't work  
12 approximates. So in order for us to vote we have  
13 to know what we are voting on. That was the  
14 purpose of giving you the hiatus. But can you  
15 tell us what the variance requests are, if any.

16 MR. FLAUM: There wouldn't be a variance  
17 required if we reduced it by the additional  
18 amount. So there would be no front yard surface  
19 coverage variance as a result of it.

20 CHAIRMAN KEILSON: Okay. So let's go back to  
21 it. So you would still have the side-yard  
22 height/setback ratio, I assume.

23 MR. FLAUM: Right.

24 CHAIRMAN KEILSON: The front yard surface  
25 coverage request is eliminated?



1 MR. FLAUM: Correct.

2 CHAIRMAN KEILSON: Good. The 70-foot  
3 diameter circle is not applicable.

4 MR. FLAUM: Uh-hm.

5 CHAIRMAN KEILSON: And the impervious surface  
6 coverage?

7 MR. FLAUM: What?

8 CHAIRMAN KEILSON: The impervious surface  
9 coverage request.

10 MR. FLAUM: The impervious surface coverage  
11 request it's reduced; meaning, it's an existing  
12 condition. We're making it better as a result of  
13 the subdivision. We're reducing it.

14 MEMBER GOTTLIEB: How are you reducing it?

15 MR. FLAUM: It's funny, by subdividing the  
16 lot into two, the new lot gets the majority or the  
17 majority of the impervious surface, so the  
18 resulting lot has a reduction because the majority  
19 of the impervious surface was on the adjacent  
20 vacant lot.

21 MEMBER GOTTLIEB: But you weren't counting  
22 that in lot A.

23 MR. FLAUM: What?

24 MEMBER GOTTLIEB: You weren't counting what's  
25 in lot B on lot A. When you calculated lot A

1 you're excluding everything that's on lot B.

2 MR. FLAUM: Correct.

3 MEMBER GOTTLIEB: So when you divide it, it  
4 shouldn't be a consideration because it's already  
5 been removed.

6 MR. FLAUM: Let me just check that.

7 MR. BEISS: I think what he's saying is that  
8 the overall lot now the way it exists is over on  
9 the impervious coverage.

10 MEMBER GOTTLIEB: Existing, right.

11 MR. BEISS: The existing. So after the  
12 subdivision, proportionately in lot A it will be  
13 significantly reduced based on what it is now; and  
14 in lot B the entire thing will be -- there's a big  
15 driveway, that will be completely removed, so that  
16 will be in total compliance. So the overall  
17 compliance based on what it is now, which is over  
18 significantly, will be reduced by about  
19 20 percent.

20 MEMBER HILLER: So what will the overage be?  
21 Is there going to be an overage?

22 MR. FLAUM: So it says 42.9 percent, which is  
23 reduced 14.8 percent from the existing. Because  
24 the existing lot impervious surface is 8,175.9.  
25 Proposed is 4,886.9.

1 CHAIRMAN KEILSON: And 8,175 is on the both  
2 lots?

3 MR. FLAUM: The existing current lot that's  
4 not subdivided. When you subdivide it the  
5 resulting lot has a proposed of 4,886.9. Now, I  
6 think what you're asking is what is the allowable  
7 for an individual lot. So if impervious is  
8 28.95 square feet, plus 20 percent in excess,  
9 which is a total of 3,418. So 3,418 -- so if you  
10 take a look at the second sheet in the drawing,  
11 Z101, there's an existing asphalt --

12 MEMBER GOTTLIEB: One second. Z101?

13 MR. FLAUM: Z101. There is a drawing close  
14 by lot A. So on the northern northeast corner  
15 there's a large asphalt patch of 635 square feet.

16 MEMBER GOTTLIEB: I see 536.

17 MR. FLAUM: No, that's the southeast.  
18 Northeast, northeast.

19 MEMBER GOTTLIEB: Northeast, 635, got it.

20 MR. FLAUM: Right. So that entire asphalt  
21 patch can be removed and we seed it with sod, and  
22 that can reduce it even further.

23 MEMBER GOTTLIEB: Will you have a driveway  
24 and do you have a garage?

25 MR. FLAUM: There's an existing driveway.

1 That's the one you were just referencing. The 536  
2 is the existing driveway that has an adjacent  
3 staircase to the porch that we're also going to  
4 reduce at the west side.

5 MEMBER GOTTLIEB: Is there a garage on this  
6 property and if so -- there is no garage.

7 MR. FLAUM: (Indicating.)

8 MEMBER GOTTLIEB: Do we need a garage  
9 variance also, Mr. Castro?

10 MR. CASTRO: No. The subdivision itself  
11 doesn't extend or exacerbate the nonconformity.

12 MEMBER MOSKOWITZ: What are the intentions  
13 for lot B? It's going to be -- what are the  
14 intentions for lot B?

15 MR. BEISS: Looking to sell it and have  
16 someone build a house there.

17 MEMBER MOSKOWITZ: So right now the  
18 impervious surface coverage on both lots combined  
19 is 8,175.9?

20 MR. BEISS: Right, which is over, yeah.

21 MEMBER MOSKOWITZ: Obviously, when lot B is  
22 sold, the impervious surface coverage on both of  
23 those plots is going to be higher than 8,175.9  
24 because somebody is going to build a structure on  
25 there and not use it as a field, right?

1 MR. BEISS: Right. But lot B could be  
2 totally in compliance.

3 CHAIRMAN KEILSON: Nothing will be in  
4 compliance.

5 MR. BEISS: I mean, there's all these slabs  
6 of concrete over here. I plan on removing all of  
7 them because they're all just annoying,  
8 personally. They're just random slabs of  
9 concrete. If that's what it requires, I'll do it  
10 immediately. I was planning on doing it over  
11 time. If that's what the Board requires, we'll  
12 just get rid of it. There's just like long --

13 MR. FLAUM: You already showed that you are  
14 eliminating this one in the back.

15 MR. BEISS: The 317, the 635. They don't  
16 need to be there. They can all go, if that's what  
17 the Board would prefer. That could basically put  
18 it into compliance, right?

19 MR. FLAUM: Yeah.

20 MEMBER GOTTLIEB: Does the concrete 220  
21 connect with the asphalt 536?

22 MR. BEISS: No, it does not.

23 MEMBER GOTTLIEB: So you're really not using  
24 anything. You don't propose to use that back area  
25 anyway, or were you going to pave to connect it?

1 MR. BEISS: The concrete 220 is going to be  
2 completely unusable, so that is going to go.  
3 Asphalt 635, right now is a basketball court.  
4 That could be removed if necessary. Concrete 317  
5 is also not necessary because it's a random slab  
6 of concrete.

7 MEMBER HILLER: That is a deck or what is it?

8 MR. FLAUM: There's a lot of slabs of  
9 concrete, all of which --

10 MEMBER FELDER: You would be willing to  
11 remove any pieces of concrete here --

12 MEMBER HILLER: Like 313.

13 MEMBER FELDER: -- to bring you into  
14 compliance?

15 MR. BEISS: And that will put it in  
16 compliance.

17 MEMBER HILLER: 313, 317, 635, 220.

18 MR. BEISS: The only one I would like to keep  
19 is 635, the basketball court. The other ones are  
20 unnecessary. The only reason why they're on the  
21 plans is because I was planning on doing it over  
22 time. But if you need me to do it immediately,  
23 that's perfectly okay.

24 MR. CASTRO: So is it correct to say that on  
25 the code relief the proposed 4,486.9 square feet

1 is represented by page -- by lot -- proposed lot A  
2 on plan Z101. And I'll just go through the  
3 numbers which is the main dwelling, the front  
4 porch at 585 square feet, the front asphalt  
5 portion of the driveway at 536 square feet, the  
6 rear asphalt paving at 635 square feet, and the  
7 rear concrete slab at 317 square feet.

8 MR. FLAUM: You missed two; concrete 220,  
9 between the asphalt and the asphalt there's a  
10 concrete.

11 MR. CASTRO: But I see those as hidden lines  
12 and you have existing concrete to be removed, so  
13 I'm assuming they're not included in that number  
14 in the code relief already.

15 MR. FLAUM: Okay.

16 MR. CASTRO: So what you're planning to  
17 remove, would we be able to actually quantify the  
18 new proposed square footage?

19 MR. BEISS: We're taking 200 feet off the  
20 front porch.

21 MR. FLAUM: The porch is going to be reduced  
22 from 585 to 385 square feet. We're going to keep  
23 the asphalt driveway 536, but we're going to take  
24 out the full 317 concrete square feet at the rear  
25 of the house. So that's a reduction of 200 and

1 317.

2 MR. CASTRO: 517.

3 MR. FLAUM: 517.

4 MR. BEISS: At that point it would only be  
5 over about -- about -- it will be about  
6 4,000 square feet and it's 3,418 allowable.

7 MEMBER HILLER: What about the 220? You were  
8 going to remove the 220 also.

9 MR. BEISS: Yeah, the 220 though, I think --

10 MR. FLAUM: That was already included but  
11 there's an additional amount here.

12 MEMBER GOTTLIEB: It was not included. We  
13 didn't talk about it yet. 200, 317 and now 220.

14 MEMBER FELDER: You have 317, 313.

15 CHAIRMAN KEILSON: All right, hold it, hold  
16 it, hold it. One person speak for the applicant  
17 and let's have the answers and let's get finished  
18 with this.

19 MR. FLAUM: Very simple. We're reducing the  
20 porch by 200 square feet. We're going to take out  
21 the concrete at 317. We're going to -- I think we  
22 should just remove the asphalt and repave it. And  
23 remove the additional asphalt at 635 for a total  
24 of --

25 MEMBER FELDER: You're removing 635 entirely?



1 MR. FLAUM: Yeah. Plus 200, plus 317, gives  
2 you a total of 1,152 as a reduction. If you  
3 subtract that from the 4,886.9 that was proposed  
4 brings you to 3,734, where 3,418 was allowed. I  
5 don't think there's anything more that we can  
6 remove.

7 CHAIRMAN KEILSON: Okay. So your proposed is  
8 37 --

9 MR. FLAUM: 34.9.

10 CHAIRMAN KEILSON: And the permitted is the  
11 3,418.

12 MR. FLAUM: 3,418.8.

13 CHAIRMAN KEILSON: So you are requesting,  
14 what is the difference?

15 MR. CASTRO: 316 square feet over or  
16 9.2 percent.

17 CHAIRMAN KEILSON: Okay, all right. So let's  
18 just summarize. Side yard height/setback ratio as  
19 previous. Anything else? And now the impervious.

20 MEMBER GOTTLIEB: Impervious 316.

21 CHAIRMAN KEILSON: 316. That's the only two  
22 requests?

23 MR. FLAUM: Those are them.

24 CHAIRMAN KEILSON: Okay. Any further  
25 questions from the Board?

1 MEMBER MOSKOWITZ: No.

2 CHAIRMAN KEILSON: Anyone from the neighbors  
3 or the audience?

4 (No response.)

5 CHAIRMAN KEILSON: So weighing the benefit to  
6 the applicant as opposed to any detriment to the  
7 community or the like, we will vote, before they  
8 change their mind. Mr. Felder.

9 MEMBER FELDER: I'm for.

10 CHAIRMAN KEILSON: Mr. Hiller.

11 MEMBER HILLER: For.

12 CHAIRMAN KEILSON: Mr. Gottlieb.

13 MEMBER GOTTLIEB: For.

14 CHAIRMAN KEILSON: Mr. Moskowitz.

15 MEMBER MOSKOWITZ: For.

16 CHAIRMAN KEILSON: I vote for. Good luck.

17 MR. FLAUM: Thank you very much.

18 MR. BEISS: Thank you very much.

19 MR. FLAUM: Have a good evening.

20 CHAIRMAN KEILSON: Thank you.

21 (Whereupon, the hearing concluded at  
22 9:00 p.m.)

23 \*\*\*\*\*

24

25

1 Certified that the foregoing is a true and  
2 accurate transcript of the original stenographic  
3 minutes in this case.  
4

5 Mary Benci

6 MARY BENCI, RPR  
7 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 June 6, 2018  
7 8:25 p.m.

## 8 APPLICATION:

9 Lipton  
10 280 Broadway  
11 Lawrence, New York

## 12 P R E S E N T :

13 MR. LLOYD KEILSON  
14 Chairman

15 MR. EDWARD GOTTLIEB  
16 Member

17 MR. DANIEL HILLER  
18 Member

19 MR. ELLIOT MOSKOWITZ  
20 Member

21 MR. AARON FELDER  
22 Member

23 MR. STEPHEN L. MARTIR, ESQ.  
24 Village Attorney

25 MR. GERALDO CASTRO  
Building Department

MS. FLORENCE MAXWELL  
Building Department

Mary Benci, RPR  
Court Reporter

1 CHAIRMAN KEILSON: The matter of Lipton,  
2 280 Broadway.

3 MR. CAPOBIANCO: John Capobianco, architect.

4 MR. LIPTON: Eric Lipton, owner. How are  
5 you?

6 CHAIRMAN KEILSON: Good evening.

7 MR. CAPOBIANCO: We're here this evening to  
8 seek variances for a rear-yard extension. The  
9 house exists as a high ranch right now, and we're  
10 going to extend the high ranch level. We're also  
11 seeking side-yard variances and a side-yard  
12 aggregate variance. We try to maintain the width  
13 of the house, line it up with the existing house  
14 and extend it in the same line so that the minimum  
15 ten-foot rear yard is now 9.85 in lieu of 10 feet.  
16 And the existing side yard which we want to  
17 maintain is 7.9.

18 The side-yard aggregate which is required at  
19 25 feet, trying to maintain what's presently  
20 there, it's 17.6. So that the side-yard aggregate  
21 would remain the same and the side yards would  
22 remain the same.

23 We're also seeking a variance with regard to  
24 height/setback ratio. Because of the self-imposed  
25 situation that's already there, it's a variation

1 of height/setback ratio of which is required to be  
2 2.2. We have 2.05 proposed. The side yard -- the  
3 impervious coverage, the building coverage  
4 complies. The pervious coverage is over.

5 Let's see here. All right, the impervious  
6 coverage, because of the front yard having the  
7 circular driveway, and the reason why we're  
8 seeking a circular driveway is because this is  
9 right on Broadway which makes it a little  
10 difficult to back out and it's an elderly couple  
11 that's going to be living here. It will be easier  
12 for them if they can use the circular driveway and  
13 drive in and drive out, because it's a little  
14 dangerous to back out right on Broadway. It's  
15 just a little bit west of Rockaway Turnpike. It's  
16 a busy intersection and a little difficult to back  
17 out.

18 Mr. Castro knows we made application with the  
19 Nassau County 239F for curb cuts, so that's also  
20 being reviewed now. So hopefully that will be  
21 approved by them.

22 But basically, this is the addition that you  
23 see in the back. It's an extension of that upper  
24 level floor. If you look at the floor plan, we've  
25 added a master suite to the back, extended the

1 kitchen and breakfast area. But pretty much the  
2 existing three bedrooms that are there are staying  
3 there and that the existing first-floor playroom  
4 will be extended at the first-floor level.

5 But that's the extent of the house. It's  
6 really an existing high ranch that we just wanted  
7 to expand in the same level, not raise it. But  
8 the roof line will be a different roof line to  
9 make it a more attractive looking house, and  
10 that's basically the application.

11 MEMBER HILLER: Mr. Lipton, how are you?

12 MR. LIPTON: Good.

13 MEMBER HILLER: Who will be living in the  
14 house?

15 MR. LIPTON: My parents. I currently reside  
16 at 185 Causeway and I do not intend on moving from  
17 there.

18 MEMBER HILLER: They have another residence  
19 right now?

20 MS. LIPTON: They have been in the Village of  
21 Lawrence for over 15 years, and they're currently  
22 living in the duplex right behind it on Central  
23 Avenue, and there's a tremendous amount of stairs.

24 MEMBER HILLER: I'm sorry. Where are they  
25 living?

1 MR. LIPTON: They currently live in the  
2 duplex apartments next-door to Lawrence Mews. I  
3 don't believe there's an identified name. I think  
4 it's 275 Central Avenue. And because of their  
5 age, it's become cumbersome for them to walk all  
6 those stairs. We were able to find this property  
7 for them and purchase it and it will be easier for  
8 them.

9 MEMBER HILLER: And just the two parents will  
10 be living there?

11 MR. LIPTON: That's correct.

12 MEMBER HILLER: And which bedroom will they  
13 occupy?

14 MR. LIPTON: The new master bedroom that will  
15 accommodate for -- with the help of God we won't  
16 need it right now -- with ADA compatibility and  
17 all those issues.

18 MEMBER HILLER: And you have the kitchen on  
19 the second floor and everything with --

20 MR. LIPTON: Well, it's not really the second  
21 floor because if we would have been within -- if  
22 I'm correct, if we wouldn't have asked for a  
23 variance we could have added another floor, but we  
24 didn't want to do that because of the additional  
25 stairs.



1 MEMBER HILLER: And do you have like  
2 approximately three or four additional bedrooms  
3 besides your parents' bedroom?

4 MR. LIPTON: Not additional, existing. And  
5 the reason for that is, again, God forbid, if  
6 family members need to stay there on chagaim  
7 (phonetic) or something like that, or also in the  
8 event of an aide needing in terms of, you know,  
9 age, because they are up there in terms of age and  
10 health, then we have the accommodations to, you  
11 know, keep them close to the family.

12 MEMBER HILLER: Okay. I mean, it's a large  
13 house for just two elderly people. It's also a  
14 difficult house. Do you have any elevator plans?

15 MR. LIPTON: No, no, no.

16 MEMBER HILLER: Okay.

17 MR. CAPOBIANCO: I was going to mention that  
18 the impervious surface coverage was 3.8 percent  
19 over on the overall. But the big surface coverage  
20 was the front yard surface coverage of  
21 30.3 percent over. That was primarily because of  
22 the circular driveway.

23 MEMBER GOTTLIEB: Do you have any letters of  
24 support from the adjacent neighbors?

25 MR. CAPOBIANCO: I'm sorry?

1 MEMBER GOTTLIEB: Do you have any letters of  
2 support from the adjacent neighbors?

3 MR. CAPOBIANCO: No, but I don't believe that  
4 the adjacent neighbors had any concerns with it.

5 Did you mention it or talk to them?

6 MR. LIPTON: No.

7 MR. CAPOBIANCO: I didn't get any letters,  
8 no.

9 MEMBER GOTTLIEB: I think my concern is that  
10 when you go back further, as you go back you're  
11 encroaching on your neighbor's light.

12 MR. LIPTON: Can I just interject on that?  
13 In terms of support, you should be aware that the  
14 property has been vacant for the last two and a  
15 half years. It's been a sore for the community as  
16 well. And since I took it over about a week and a  
17 half ago, we've cleaned it up, and I've met one or  
18 two neighbors that are happy that the property  
19 itself is being taken care of and being brought  
20 back to life kind of thing. Everything in that  
21 property has been in the original form that it was  
22 built with whatever date that it was built.  
23 Nothing has been touched.

24 MEMBER HILLER: Are you renovating the  
25 outside as well?

1 MR. LIPTON: Our intention on the plan is  
2 yes, and just very simply with a stucco. Right  
3 now they're shingled.

4 MR. CAPOBIANCO: Right now I'm going to do a  
5 stucco finish in the front, do a new entrance  
6 portico, and do a little applied culture stone at  
7 the bottom.

8 MR. LIPTON: As you all know, and I was there  
9 today, it's become an even more hazardous  
10 situation on Broadway and it really necessitates  
11 that circular driveway for even a person of any  
12 age to be able to drive properly out of the  
13 residences that are located on Broadway. And if  
14 you notice, I'm sure everybody knows in the last  
15 couple of weeks there's been a tremendous amount  
16 of construction and renovation and streets being  
17 closed and being diverted, and there really is a  
18 hazardous situation there. And that's why when  
19 speaking with our architect we came up with the  
20 idea to request this circular driveway to make it  
21 easier not only for the residents, but also myself  
22 and my family members when we visit our parents to  
23 come into the property, park, and leave properly  
24 without being in danger.

25 MEMBER HILLER: I certainly have great

1       respect and sympathy for somebody who wants to  
2       accommodate their parents, elderly parents. You  
3       look young. You look like your parents wouldn't  
4       be that elderly.

5               MR. LIPTON: I don't want to use the word  
6       "elderly" because I happen to be in health care  
7       myself. We actually treat a lot of different age  
8       groups. But I'd like to say that my parents are  
9       in their late 70s and, you know, with the help of  
10      God they're doing well but, by the same token  
11      there always are issues, and my wife and I decided  
12      to do this, you know, to really help them and help  
13      our family in general, especially being close to  
14      the shul and being close to everything.

15             MEMBER HILLER: Part of our obligation in  
16      deciding whether a variance should be granted or  
17      not is the need of the tenants. Now, you're  
18      having your parents as the tenants. You have a  
19      new, very large open playroom on the first floor.  
20      You have a bedroom on the first floor.

21             MR. LIPTON: Which is existing.

22             MEMBER HILLER: All right. You have a -- but  
23      you're adding -- I mean, you have existing three  
24      bedrooms. You're putting in -- and a bedroom on  
25      the first floor, so existing four bedrooms.

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1       You're putting in a playroom and a master -- a new  
2       master bedroom.

3               MR. LIPTON: Well, let me interject. The  
4       playroom is an extension.

5               MEMBER HILLER: Can I finish?

6               MR. LIPTON: Sure, sure, sure.

7               MEMBER HILLER: Thank you very much. When I  
8       come into the home, you'll have the last word.

9               Anyhow, so you're doing a very elaborate  
10       addition to the house, and I understand that  
11       people may have to come to visit, but there has to  
12       be some justification for the size of this  
13       addition and the fact that it will affect the  
14       coverage on the lot.

15              MR. LIPTON: Now, I could go?

16              MEMBER HILLER: Yes.

17              MR. LIPTON: Okay. So in terms of the  
18       expansion, if you look at the kitchen or you look  
19       at what's existing, and I think those plans are in  
20       there, it is not capable to even be functional in  
21       any form or fashion, and that's where you have  
22       that extension towards the back which  
23       automatically increases the lower floor's  
24       so-called playroom, because it's not really a  
25       playroom per se. It's going to be used mostly for

1 storage of furniture, so on and so forth. And the  
2 bedroom itself, if you take a look at it, the  
3 other rooms that are existing there, are small in  
4 nature, that you can't even fit an ADA-compliant  
5 bathroom, if you look at the existing plans versus  
6 what we're proposing.

7 So again, the whole idea, and I'll -- you  
8 know, I'll use the English version of respecting  
9 your father and mother, the idea is to go ahead  
10 and enhance the property to make it usable for  
11 them for their golden years, and that's what it's  
12 about. It's not for any other purpose at all.

13 MR. CAPOBIANCO: We're under by 240 square  
14 feet of what the allowable building coverage is.  
15 So we're under.

16 CHAIRMAN KEILSON: It's a big expansion.

17 MR. CAPOBIANCO: It's an 18-foot expansion,  
18 yeah.

19 CHAIRMAN KEILSON: And deep.

20 MR. CAPOBIANCO: Well, you still are  
21 maintaining a 31-foot rear yard, 31.5 rear yard.

22 CHAIRMAN KEILSON: I'm more concerned about  
23 the side yards.

24 MR. LIPTON: The side yards are existing.

25 MR. CAPOBIANCO: The house, the existing

1 house is very small.

2 CHAIRMAN KEILSON: I recognize that, I  
3 understand. It doesn't necessarily justify  
4 keeping the addition at the same nonconforming.  
5 We look at it, there's a lot of construction going  
6 on. There's a lot of surface coverage here.  
7 Impervious, pervious, I mean, there's just a lot  
8 of coverage here.

9 MR. CAPOBIANCO: Well, there's surface  
10 coverage that's 30.1 in front yard only. But the  
11 overall impervious coverage is only 3. --

12 CHAIRMAN KEILSON: What's the pervious over?

13 MR. CAPOBIANCO: The impervious --

14 CHAIRMAN KEILSON: Pervious, pervious.

15 MR. CAPOBIANCO: Pervious is 30.1 percent  
16 over. The impervious is 3.8 percent over.

17 MEMBER HILLER: The pervious you have listed  
18 as 7.9 percent over.

19 CHAIRMAN KEILSON: No, I have impervious.  
20 The total impervious is only 3.8 over. Where it's  
21 over is in the front yard impervious and front  
22 yard pervious, and that's because of the front  
23 yard pervious is only allowed a very small number.

24 MEMBER HILLER: What about that new driveway?  
25 You could have the -- you could have the circular

1 driveway without that new 1,227-foot driveway.

2 MR. CAPOBIANCO: Well, that's to bring it to  
3 the garage. The garage in this house is set back  
4 almost 70 feet at that corner. It's 60.6 feet and  
5 it's 40.15 on the east corner, but the west corner  
6 is 60 -- 60.8 feet back. So you have to get to  
7 the garage because there's an existing two-car  
8 garage.

9 MEMBER HILLER: You need that width?

10 MR. CAPOBIANCO: You need that width, yeah.  
11 It's only 16 wide at that point because it is a  
12 two-car wide driveway and two-car wide garage. We  
13 tried to make the circular as small as possible,  
14 you know, but that's just about bare minimum for  
15 the turning radius.

16 CHAIRMAN KEILSON: Again, can I just clarify.  
17 Pervious surface coverage front yard is over  
18 71 percent.

19 MR. CAPOBIANCO: The front yard impervious is  
20 70.

21 CHAIRMAN KEILSON: Pervious, pervious.

22 MR. CAPOBIANCO: The pervious is 70.9 percent  
23 over in the front yard, yes.

24 MEMBER GOTTLIEB: Or 287 square feet.

25 MR. CAPOBIANCO: Or 287 square feet.



1 MEMBER GOTTLIEB: Which doesn't sound as  
2 ominous as 70 percent.

3 CHAIRMAN KEILSON: I think it sounds just as  
4 ominous.

5 MEMBER GOTTLIEB: It just might.

6 MEMBER HILLER: Is there anything you can do,  
7 John? Is there anything you can do to reduce  
8 somewhat the coverage?

9 MR. CAPOBIANCO: If you want to do one car?

10 CHAIRMAN KEILSON: Mary, they're off the  
11 record.

12 (Whereupon, a discussion was held off the  
13 record.)

14 MR. CAPOBIANCO: We have Turfstone, which is  
15 a pervious material, which is a paver with grass  
16 that grows in between, that could be used to  
17 eliminate some of the impervious. But the  
18 pervious is a small -- a relatively small number  
19 that you're allowed in the front yard. You're  
20 only allowed 405 square feet and it's literally  
21 impossible. The existing driveway if you didn't  
22 even have a circular would be used up at  
23 405 square feet because the house is set back  
24 pretty far. To get to the garage you need to  
25 drive like 60 feet back. So it's really the front

1 yard that brings the numbers over. But the  
2 impervious overage on the whole property is only  
3 3.8 percent. But the impervious on the front yard  
4 is what's high; that's 30.1 percent.

5 Now, you can -- you can -- what you can do is  
6 you could, you know, introduce a little more  
7 pervious in the front yard and put less  
8 impervious, but I think I'd rather have -- you  
9 could put more impervious and have less pervious,  
10 but I think it's better to have more pervious than  
11 impervious because you want the water to drain.  
12 And that will drain through a Turfstone. We would  
13 use a lot more Turfstone.

14 And now they're coming out with a grass you  
15 could drive on, you know, like a grass that  
16 doesn't count as pervious or impervious. So we're  
17 doing that on a few houses. Or you could put, you  
18 know, like four strips of concrete.

19 MEMBER HILLER: So anything you could do to  
20 reduce this.

21 MR. CAPOBIANCO: You can, you can do  
22 something to reduce it.

23 MEMBER HILLER: So give us a figure.

24 MR. CAPOBIANCO: A figure?

25 MEMBER HILLER: Yeah.

1 MR. CAPOBIANCO: I'd say you could probably  
2 bring it down. The pervious which is 30 percent  
3 you could bring that down to 15 percent and the  
4 impervious -- I'm sorry -- that's impervious that  
5 was 30 percent, bring it down to 15. And then the  
6 70 -- 70.9 percent of front yard pervious, I'd say  
7 you could probably bring it down to 50 percent.

8 MEMBER HILLER: That's helpful.

9 MR. CAPOBIANCO: No, we could do that. We  
10 could bring it down. And you could also do, you  
11 know, strips of grass in between, just the  
12 driveway. Like half of that. We could do just  
13 the circular. And the area that you were  
14 mentioning, the 1,227 square feet, I can eliminate  
15 that by putting in the strips of concrete that are  
16 four-foot in width, three-foot wide, just so you  
17 can drive a car on it to get to the garage, and  
18 that would eliminate a lot of that area. The  
19 1,227 would come off the number.

20 MEMBER HILLER: That's very helpful.

21 MR. CAPOBIANCO: So that would be a big  
22 number. We can modify this so that it would  
23 bring it down significantly.

24 CHAIRMAN KEILSON: How fast can you do it?

25 MR. CAPOBIANCO: Well, I would say we could

1 bring it down to, you know, half on each, 15 and  
2 35. So you could bring it down from 30 percent to  
3 15, and the 70 to 35 percent.

4 MEMBER GOTTLIEB: For an older couple they'll  
5 be able to navigate driving on the strips?

6 MR. CAPOBIANCO: Yeah, because the strip it  
7 has to be less than four foot in width, 3-foot-11.  
8 And then you have plenty of room to drive on that.

9 MEMBER GOTTLIEB: So they'll be able to  
10 navigate it without --

11 MR. CAPOBIANCO: Yeah, I don't think that  
12 will be a problem for that 1,227 square feet.  
13 Then the circular portion they don't have to worry  
14 about jumping off that sidewalk. They would just  
15 have that as a pervious and impervious mix which  
16 would look nice and we can make it work, yeah.

17 MR. CASTRO: Where would the four-foot  
18 driveway start and end?

19 MR. CAPOBIANCO: Do you see where the  
20 circular ends, it would be approximately like half  
21 the depth, about 30 feet out from the base of the  
22 two-car garage, and that whole 1,227 square feet  
23 that we're talking about -- that's not 1,227.  
24 That would be like 20 by 30, about 600 square feet  
25 would be eliminated off the number. Do you see

1        what I'm talking about?

2            CHAIRMAN KEILSON: I suggest in order for us  
3        to vote properly you can quantify it. We can do  
4        -- let's do Adler. You step away, get your real  
5        numbers, and then we'll come back.

6            (Whereupon, a recess was taken; the  
7        application was recalled.)

8            CHAIRMAN KEILSON: Back to Lipton.

9            MR. CAPOBIANCO: On the front yard impervious  
10       which is permitted 405 square feet, we're going to  
11       have 445 square feet, which is 10.5 percent over.  
12       And then on the front yard pervious which is  
13       permitted 405 square feet, we're going to have  
14       445 square feet, which is 10.5 percent over. So  
15       we've reduced it, you know, significantly. And  
16       the overall impervious complies, and the overall  
17       pervious complies.

18           CHAIRMAN KEILSON: Mr. Castro, do you want  
19       him to repeat it?

20           MR. CASTRO: He can repeat it.

21           CHAIRMAN KEILSON: Please repeat it.

22           MR. CAPOBIANCO: On the chart they permit on  
23       the front yard impervious 405 square feet. We're  
24       proposing 445 square feet, which is approximately  
25       10.5 percent over. The pervious was also

1 405 square feet in the front yard. We're putting  
2 in 445 square feet, which is 10.5 over. The front  
3 yard impervious and pervious are the same. The  
4 overall impervious complies. It's under the  
5 required by about 75 square feet. And the overall  
6 pervious complies, and that's slightly under also  
7 of the requirement. So that complies.

8 MR. CASTRO: So you're no longer requesting  
9 the 3.8 percent over on impervious? That's  
10 eliminated.

11 MR. CAPOBIANCO: No.

12 CHAIRMAN KEILSON: Okay. Any further  
13 questions from the Board?

14 (No response.)

15 CHAIRMAN KEILSON: Anyone from the audience?

16 (No response.)

17 CHAIRMAN KEILSON: If not, we're going to  
18 take into consideration the benefit to the  
19 applicant and any possible detriment to the  
20 community, and we're going to take a vote at this  
21 point and we will start with Mr. Moskowitz.

22 MEMBER MOSKOWITZ: For.

23 CHAIRMAN KEILSON: Mr. Gottlieb.

24 MEMBER GOTTLIEB: For.

25 CHAIRMAN KEILSON: Mr. Hiller.

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1 MEMBER HILLER: For.

2 CHAIRMAN KEILSON: Mr. Felder.

3 MEMBER FELDER: For.

4 CHAIRMAN KEILSON: And we vote for. Two  
5 years.

6 MR. CAPOBIANCO: Two years, okay.

7 MR. LIPTON: Thank you very much.

8 MR. CASTRO: Board of Building Design  
9 approval.

10 MR. CAPOBIANCO: Board of Building Design,  
11 okay. Thank you very much.

12 (Whereupon, the hearing concluded at  
13 9:02 p.m.)

14 \*\*\*\*\*

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

18

19

\_\_\_\_\_  
*Mary Benci*

20

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 June 6, 2018  
7 9:02 p.m.

## 8 APPLICATION:

9 Nayman  
10 21 Herrick Drive  
11 Lawrence, New York

## 12 P R E S E N T :

13 MR. LLOYD KEILSON  
14 Chairman

15 MR. EDWARD GOTTLIEB  
16 Member

17 MR. DANIEL HILLER  
18 Member

19 MR. ELLIOT MOSKOWITZ  
20 Member

21 MR. AARON FELDER  
22 Member

23 MR. STEPHEN L. MARTIR, ESQ.  
24 Village Attorney

25 MR. GERALDO CASTRO  
Building Department

MS. FLORENCE MAXWELL  
Building Department

Mary Benci, RPR  
Court Reporter



1 CHAIRMAN KEILSON: Nayman, 21 Herrick Drive.

2 MR. CAPOBIANCO: John Capobianco, architect  
3 for Mr. and Mr. Nayman.

4 We're requesting a variance to construct a  
5 720-square-foot swimming pool. Also, we're  
6 requesting to shift the garage, actually  
7 reconstruct the garage further to the north of the  
8 property, five feet from the side and five feet  
9 from the rear, where eight feet is required.

10 The proposed garage will also house a cabana.  
11 So we'll have a one-car garage and a cabana, which  
12 is attached or part of the same structure.

13 The structure that you saw on the design  
14 replicates what's there now, since it kind of  
15 follows suit with the Tudor-style appearance of  
16 the house and also which is fairly typical down  
17 the block as to that type house having that style  
18 garage.

19 Unfortunately, it requires a height variance  
20 as well. The midpoint being 14 and a half feet  
21 versus 12 feet.

22 The other variance we're seeking, which we're  
23 approximately nine percent over on, is actually  
24 the impervious surface coverage. We met and  
25 complied with the impervious front yard and we met

1 and complied with the pervious front yard. The  
2 total pervious also is in compliance. So it's a  
3 nine percent overage on the overall impervious  
4 coverage.

5 I have photographs that I was there today  
6 taking of the rear, and I'd like to pass them out  
7 to show you how intensely buffered the property is  
8 (handing).

9 The hardship we have with this pool is the  
10 fact that there's only 33.54 feet that exists in  
11 the rear yard. And to maintain a pool of the size  
12 that they need, they would have to push the pool  
13 back to five feet from the property line. It  
14 probably could be brought forward more to increase  
15 that dimension to eight feet, which I think they  
16 would be willing to do. And the side -- and you  
17 know, when you're looking at the rear, you can't  
18 even, you know, see the house behind it. It's so  
19 intensely, you know, vegetated and buffered with  
20 plants and screening. And in addition to that,  
21 we're going to increase the screening with  
22 evergreens running down the back of the property  
23 to create more privacy from both sides.

24 The south part of the property there's a  
25 garage, a detached garage that they would be

1       against, which we feel shouldn't -- the pool  
2       shouldn't cause any adverse effect to the  
3       adjoining neighbor to the south. There's also  
4       right now an overage on the rear yard. There  
5       actually is an extra three and a half feet from  
6       the property line to the garage, which is really  
7       not shown in the picture, but the property line is  
8       about three and a half feet away from the existing  
9       garage that's there.

10           The side yard could also be increased to  
11       eight feet as well, which would diminish the  
12       distance between the garage and the pool. But  
13       this is the application, and you know, I don't  
14       feel it's that overdone. I feel that, you know,  
15       we have to move the half of the garage, otherwise  
16       it's smack in the middle of the new yard. You  
17       see, what happened was this was a subdivision, and  
18       they actually owned two lots and then they did a  
19       reapportionment taking a little away from the  
20       corner lot and adding it to theirs, which  
21       increased their property to 10,000.4 square feet,  
22       which helped their property a lot and helped their  
23       potential development of this property in regard  
24       to all the coverages.

25           So the unfortunate thing is that it shifted,

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1 it created an existing two-car garage smack in the  
2 middle of their yard. So that was really a  
3 problem, and we have to shift it over in order to,  
4 you know, have any sort of yard to create a pool  
5 and patio area. But this is the application and,  
6 you know, they're here to answer any questions  
7 that the Board might have with regard to what  
8 they're proposing. They have a child that is --

9 MS. NAYMAN: Did you get the --

10 CHAIRMAN KEILSON: We are in receipt of all  
11 the letters --

12 MS. NAYMAN: Okay, fine.

13 CHAIRMAN KEILSON: -- from the medical  
14 authorities.

15 MS. NAYMAN: So one of our kids has a rare  
16 genetic disorder and it affects him in many ways,  
17 as the doctor explained in the letter. Swimming  
18 is very beneficial to him in every possible way.  
19 So that's probably why we're trying to do this.

20 MR. CAPOBIANCO: So what we're asking for as  
21 an adjustment of this plan, because we feel that  
22 eight feet will work and required 15 on the side,  
23 and eight feet would work in the rear allowing us,  
24 you know, room to plant heavy shrubs and plants,  
25 evergreens along that west property line, and that

1 would diminish the pool a little bit, because you  
2 can't get very close to the house because the  
3 house is only 33.54 feet left in that yard. So  
4 but that would be the change that we would be --  
5 you know, it would be acceptable, I think, to the  
6 Naymans.

7 MR. NAYMAN: Of course, if it's acceptable to  
8 our neighbors, which they seem to have come here;  
9 I'm hoping they're coming to support us.

10 MEMBER GOTTLIEB: A couple of questions,  
11 John. The two lots, how -- what was the -- it was  
12 divided and then the dividing line was moved over.

13 MR. CAPOBIANCO: Yes.

14 MEMBER GOTTLIEB: The lot line was moved.

15 MR. CAPOBIANCO: Yes.

16 MEMBER GOTTLIEB: How far was it moved over  
17 to accommodate the new garage?

18 MR. CAPOBIANCO: It's shifted over. I think  
19 it was 9,000 -- it shifted over to gain about  
20 1,000 square feet.

21 MEMBER GOTTLIEB: So this one is 10,000 feet;  
22 the adjacent lot is 9,170.

23 MR. CAPOBIANCO: Right. So it was just about  
24 the reverse. It was like 9,000 originally and the  
25 other one was larger, so we shifted that north

1 property line to the north to increase the size of  
2 their property, and then that corner property was  
3 to be left as a potential new house or sale for a  
4 new house, whatever.

5 MEMBER GOTTLIEB: Who owns the corner lot  
6 now?

7 MR. CAPOBIANCO: Well, it's owned by the  
8 Naymans, but in a different corporation name.

9 MEMBER GOTTLIEB: Okay. Well, for this  
10 purpose it's by the Naymans?

11 MR. NAYMAN: It's owned by a multimember LLC,  
12 not controlled by either my wife or I.

13 MEMBER GOTTLIEB: I guess the former owner  
14 had no problem keeping it as one parcel.

15 MR. NAYMAN: No, he actually had it as two  
16 parcels.

17 MR. CAPOBIANCO: No, it was originally always  
18 two parcels.

19 MR. NAYMAN: What happened was we bought the  
20 house as two parcels, and accidentally at closing  
21 they closed under one name which accidentally merged  
22 it and then we re-subdivided it to be exactly as  
23 it was, only adding a little to our existing house  
24 in case we ever wanted to make it bigger or put a  
25 pool in.

1 MEMBER HILLER: So are you saying that in  
2 case you ever wanted to make it bigger it shows  
3 you do have control over the other lot.

4 MR. NAYMAN: No, no. We made it at the time  
5 of the application.

6 MEMBER HILLER: But you were able to do that.  
7 You were able to do that because you had control.  
8 You had some control.

9 MR. NAYMAN: At that time, yes. At this  
10 time, no.

11 MEMBER HILLER: All right. I just want to  
12 point out while I have a tremendous sympathy, and  
13 I've read your letters, a pool is not an  
14 entitlement. If the property doesn't warrant  
15 having a pool, or doesn't meet the specs of having  
16 the pool, then it is not an entitlement to get the  
17 pool. That's why you're here for a variance.

18 The variance you are asking for is a very  
19 severe variance, which would require us to do  
20 unprecedented things, unprecedented decisions to  
21 allow for this pool. And having the knowledge  
22 that there is some kind of relationship between  
23 yourselves and the adjacent property, whatever it  
24 may be, is one thing. That's one consideration.  
25 The second consideration is that the pool is not

1 -- does not conform to the requirements of the  
2 code in any way, or even close to requirement of  
3 the code.

4 MR. NAYMAN: So just in regards to our side  
5 lot, our side neighbor, there's an existing  
6 structure where -- which is 20 feet, plus three  
7 feet that our neighbor the Geliebters own, plus  
8 the five feet that we're requesting, so it's  
9 almost 28 feet from his area. And I realize that  
10 what we are asking for from our back neighbor is,  
11 let's call it, let's say, aggressive, and we've --  
12 I've spoken to the Davies, and I said what  
13 accommodations can we make, and they're not  
14 interested in us having a pool under any  
15 circumstances. I guess that's why they're here.

16 MEMBER HILLER: That makes it more difficult  
17 also. The fact that the structure and the garage  
18 exist there does not mitigate the fact of the  
19 obligations to have a 15-foot or 20-foot setback  
20 from the side yard.

21 MR. NAYMAN: Well, I would understand the  
22 reason that there is that requirement of the  
23 setback is not to intrude on your neighbors.

24 MEMBER HILLER: It's a requirement. I have  
25 great sympathy and I read everything. And I would



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1 invite you, if this -- whatever happens, I have a  
2 pool, I'd be happy to accommodate you in any way  
3 you can. But I tell you right now, this for me is  
4 a very, very severe request, a very outside  
5 request.

6 MR. NAYMAN: Is there anything that we could  
7 do or say to accommodate?

8 MEMBER HILLER: You could exercise your  
9 authority on the lot next to you.

10 MR. NAYMAN: We don't control it.

11 MEMBER HILLER: So in that case -- all right,  
12 I will dismiss that. I will dismiss that from  
13 consideration. So we are left with a lot which is  
14 not -- is not entitled to a pool.

15 MEMBER MOSKOWITZ: Let me ask you a factual  
16 question. This is a question for John. The  
17 distance from the Davies' property to the pool, is  
18 it five feet or is it eight feet?

19 MR. CAPOBIANCO: It's eight feet. We're  
20 proposing eight feet, yes.

21 MEMBER MOSKOWITZ: Okay.

22 MR. NAYMAN: Maybe the Davies have changed  
23 their mind and they wouldn't mind if we somehow  
24 accommodated. I'm not sure what we can do.

25 CHAIRMAN KEILSON: They'll be heard.

1 Everyone can be heard. We're here for the  
2 duration.

3 MEMBER FELDER: Is there any way to somehow  
4 move the garage to attach perhaps further forward  
5 to the house and create more space there?

6 MR. CAPOBIANCO: There's a way to move the  
7 garage forward and to put a pool in as of right.  
8 There is a way. So it's still a pool.

9 MEMBER HILLER: As of right then, it's as of  
10 right.

11 MEMBER FELDER: Then I think you would  
12 satisfy your neighbors if they have problems with  
13 it. I guess they'll be heard.

14 CHAIRMAN KEILSON: Off the record.

15 (Whereupon, a discussion was held off the  
16 record.)

17 CHAIRMAN KEILSON: Does anyone from the  
18 audience want to speak to the matter?

19 Please step back.

20 MR. DAVIES: My name is Sam Davies,  
21 2 Manor Lane. I am the back neighbor.

22 MR. GELIEBTTER: My name is Joseph Geliebter,  
23 side neighbor, 25 years. Not a neighbor, but  
24 living in the residence in Lawrence.

25 CHAIRMAN KEILSON: Who is first?

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1           MR. DAVIES: I've been a resident for  
2           35 years. I've appeared in front of this Board  
3           before many times, and I appreciate always their  
4           understanding of the cases, even as we heard  
5           tonight.

6           I was here a few years ago when the Naymans  
7           came with their original proposal. I think  
8           Mr. Keilson was the Chairman then also. That's  
9           when the lots were not divided, okay. As  
10          Mr. Nayman described, they did not divide it, but  
11          Mr. Hoffman who lived there before he did divide  
12          the lots, and they bought it and somehow the lots  
13          were merged again. At that time they proposed a  
14          building addition, and I have that plan here, the  
15          plan from a few years ago, and they also proposed  
16          a pool then also. And I spoke at the Board then  
17          also about the size of the lot that they had and  
18          they would be able, as was mentioned just now,  
19          able to build a pool without any variances, with  
20          plenty of room. But as was mentioned then, they  
21          were going to redivide it, and because of that  
22          they were coming for variances. At that time the  
23          Board did not accept their proposal, because they  
24          haven't done anything for the last few years.

25          Now that it's been divided again, they're

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1       trying to squeeze this whole complex, et cetera,  
2       et cetera, in an area where it does not fit in any  
3       way that I can see, okay. As was mentioned also  
4       by Mr. Hiller, and that's the way we see it.

5             My family room is in back which takes up  
6       almost the same size as this pool, and it would  
7       certainly be a quality of life issue for us also  
8       having the pool so close in the back. Especially  
9       since it should be 20 feet away and they're  
10      proposing eight feet, even with the trees.

11            As far as the lot itself, I am not against  
12      anyone enhancing their property or building  
13      something to their advantage if the Zoning Board  
14      agrees to it based on the laws of the Village.

15            However, I don't see how the lot the way it  
16      is now can accommodate that situation. Okay. So  
17      as far as we are concerned, we are very much  
18      against this plan.

19            Mr. Geliebter.

20            MR. GELIEBTER: From what I understood, the  
21      three and a half feet from my garage to the  
22      property line, the Nayman property line, was going  
23      to be used as part of this eight-foot settlement  
24      (sic), which am I wrong?

25            CHAIRMAN KEILSON: No, no, no. Turn our way.

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1 MR. GELIEBTER: Quality of life, privacy, and  
2 solitude is very important to us. The Naymans put  
3 all their equipment, and it doesn't show on the  
4 plan, I don't know why, four air-conditioning  
5 units, a pump, a well pump all on our side. They  
6 had plenty of space on their side, a vast lot.  
7 There's noise. We put our pump in our basement.  
8 We put our air-conditioning units behind our  
9 house, in between, in the middle. There's noise.  
10 To have the noise again from a pool, and this is  
11 not a quiet neighbor, this is not -- I don't want  
12 to go on the record formally, but I could just  
13 mention things, but I don't want to -- I could  
14 mention one thing. There's a knock on the door  
15 from the new neighbor. You know, he was cutting  
16 down a lot of trees. That tree that's on his side  
17 on his backyard, half of it is in my property, and  
18 I should pay for half. He already had a bill. I  
19 should pay. He wants to cut down that tree. I  
20 have to pay for it. That's all I will say.

21 CHAIRMAN KEILSON: The garage is between your  
22 property and -- the garage -- the proposed pool  
23 the proposed pool will be opposite the garage. Do  
24 you still think that's going to affect your  
25 quality of life?

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1           MR. GELIEBTER: Yes, yes. Another example,  
2 they have this vast property. Where are all their  
3 chairs, their backyard armchairs or whatever,  
4 beach chairs? Right by the side of my lot. This  
5 is not a neighbor that I can trust to keep it  
6 quiet. And just, you know what, I don't have to  
7 argue anything additional, just the code is there  
8 for a reason. And if this Village, if this  
9 Village says that this is an exceptional request,  
10 I say there's a reason for that code, and that's  
11 it.

12           MR. DAVIES: Can I ask you a question? You  
13 mentioned something before in one of the other  
14 cases, that when there's a subdivision you don't  
15 give variances. When it's a subdivision property,  
16 you're reluctant to give the variances; you just  
17 mentioned that before. So there's a subdivision  
18 here as well. So I don't know if that applies to  
19 -- which lot it applies to, or maybe I didn't  
20 understand it correctly.

21           CHAIRMAN KEILSON: We're talking about a  
22 subdivision that occurred years ago.

23           MR. DAVIES: No, this subdivision occurred  
24 now. This happened again now.

25           MR. MARTIR: No, at the same time that we

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1 granted the subdivision we're not willing to grant  
2 the variance.

3 CHAIRMAN KEILSON: The impact of a variance,  
4 that a variance is thereby created.

5 MR. DAVIES: I didn't understand it.

6 MR. GELIEBTER: I'm a reasonable neighbor.  
7 The second I come home from work, I was stalked to  
8 look at the plans and see what he's offering. I  
9 said, come back in 15 minutes. He said, when can  
10 I come to discuss it? I said in 15 minutes. He  
11 says, good, because I have to go to Cedarhurst  
12 later. I'm waiting and I'm waiting and I'm  
13 waiting and I'm waiting. Then another time I'm  
14 driving -- backing out of my driveway, and  
15 Mr. Nayman has his plans, and I say to him, I'm  
16 trying to catch a train, please move out of my  
17 driveway, really I need to catch a train. Again,  
18 he wouldn't move. Just to give you a sense. I'm  
19 reasonable. My wife's reasonable. And we're good  
20 neighbors.

21 CHAIRMAN KEILSON: Everybody is reasonable.

22 MR. GELIEBTER: Everybody is reasonable. And  
23 we want to be good neighbors.

24 MEMBER FELDER: Is there any compromise that  
25 either of you can see short of meeting the full --

1 Mr. Nayman meeting the full setbacks required and  
2 building as of right somewhere on that property?  
3 Is there any sort of compromise or is that --

4 MR. GELIEBTER: On their property.

5 MEMBER FELDER: I'm just asking.

6 MR. DAVIES: Well, I didn't analyze the  
7 square footage, okay. I'm not an architect. I'm  
8 not a builder.

9 MEMBER FELDER: Well, for you the rear  
10 setback would be --

11 MR. DAVIES: The rear is a big problem. If  
12 they figured out some way to maybe put it on the  
13 side of the house and the cabana in the back,  
14 something like that. The way they subdivided the  
15 property, at least the way I see it here, from my  
16 understanding there might be room to do it there.  
17 If they reduced the size of the pool a little bit  
18 and the width and they put it on the side of the  
19 house, and maybe leave the driveway the way it is.  
20 Make it a one-car driveway.

21 MEMBER MOSKOWITZ: Three questions. So  
22 Mr. Geliebter, who maintains the three-foot -- the  
23 three feet of property that is your property by  
24 deed but it's adjacent to your garage and it's  
25 contiguous with the Nayman property, who maintains



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1       those three feet?   Who mows the lawn?

2               MR. GELIEBTER:   I don't know if there's a  
3       lawn there.

4               MEMBER MOSKOWITZ:   Do you visit that  
5       property?

6               MR. GELIEBTER:   I do on occasion, I do, yeah.

7               MEMBER MOSKOWITZ:   But you don't know who  
8       maintains it?

9               MR. GELIEBTER:   I always visited that  
10       property.   I mean, retrieved balls when my kids  
11       were smaller.   I mean, I don't give up my rights.  
12       I always did, because they always used to throw  
13       there.

14               MEMBER MOSKOWITZ:   You don't know if you  
15       maintain that or Mr. Nayman maintains that, you  
16       don't know, or do you know?

17               MR. GELIEBTER:   I maintain that property.  
18       Are you talking about the property line?

19               MEMBER FELDER:   It would be the three feet to  
20       the right.   If you're facing your garage, it would  
21       be --

22               MR. GELIEBTER:   No, no, it starts before the  
23       garage.

24               MEMBER FELDER:   On the other side of that  
25       fence it's three feet.

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1 MR. GELIEBTER: But that fence is gone. It's  
2 not really a fence.

3 MEMBER FELDER: So it would be the three feet  
4 there.

5 MR. GELIEBTER: As they say, it is kaput.

6 MEMBER MOSKOWITZ: The focus of your  
7 objection seems to be more about the --

8 MR. GELIEBTER: It's quality of life.

9 MEMBER MOSKOWITZ: Let me just finish. More  
10 about -- if I understand your remarks, more about  
11 the location of all of the property, the pool  
12 equipment and pool machinery --

13 MR. GELIEBTER: The noise.

14 MEMBER MOSKOWITZ: -- the noise associated  
15 with that.

16 MR. GELIEBTER: And also, I'm entitled as a  
17 resident to have code, and there's a reason for  
18 code, and safety. There are safety issues. I  
19 have grandchildren. I have nine grandchildren and  
20 another one on the way. You know, like there's a  
21 spacer.

22 CHAIRMAN KEILSON: There will be fencing.  
23 Every pool requires additional fencing, so I don't  
24 think we should --

25 MR. GELIEBTER: I brought pictures. I have

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1 pictures too of the equipment. I don't know why  
2 it's not on the plans.

3 CHAIRMAN KEILSON: Okay. Thank you very  
4 much.

5 MR. GELIEBTER: I rest.

6 CHAIRMAN KEILSON: All right. Does anyone  
7 else want to speak to the matter?

8 MR. DAVIES: Thank you.

9 CHAIRMAN KEILSON: Last call.

10 MS. NAYMAN: Can I say a few things?

11 CHAIRMAN KEILSON: Yeah.

12 MS. NAYMAN: So I'm just like noticing that  
13 there seems to be like a misunderstanding or lack  
14 of clarity about the whole subdivision issue. So  
15 I just wanted to clarify it for everybody, that we  
16 -- the previous owner, Mr. Hoffman, in, I don't  
17 know, 1972 or whatever, subdivided the property.  
18 And when we bought it we bought two lots. There  
19 was an error.

20 MR. DAVIES: That's not true, by the way.

21 MS. NAYMAN: Maybe it was 1980. I don't  
22 know.

23 CHAIRMAN KEILSON: Mr. Davies, please.

24 MS. NAYMAN: When we bought it we bought two  
25 lots and there was an error. I mean, I think you

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1       were at the Board meeting that dealt with that.

2               CHAIRMAN KEILSON:   Absolutely.

3               MS. NAYMAN:   Basically, it was retroactive  
4       back to what it was supposed to be.  Then our  
5       lawyer in the closing made an error.  So it never  
6       was for all intents and purposes one lot.  And I  
7       know there's been a lot of discussion about, oh,  
8       well, why don't you put it on that other lot.  As  
9       my husband said, the problem was it was owned by  
10      the same person, which is the problem which is why  
11      it became remerged, so it was owned by a separate  
12      entity.  It's not us.  That's why it's maintained  
13      as two lots.

14              CHAIRMAN KEILSON:   Who maintains it?

15              MS. NAYMAN:   Mows the lawn?

16              CHAIRMAN KEILSON:   Maintains it.

17              MS. NAYMAN:   We do.  I guess we should charge  
18      them.

19              CHAIRMAN KEILSON:   Charge yourself or charge  
20      them?

21              MS. NAYMAN:   Charge them.  But anyway, but in  
22      any event, our understanding was that a lot  
23      without a house can't have a pool.  Like a pool is  
24      an accessory to a house structure, so there's no  
25      house there, so it's not even --

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1 CHAIRMAN KEILSON: Well, we'll let the  
2 Village address that.

3 MS. NAYMAN: -- a possibility.

4 CHAIRMAN KEILSON: I think that can be dealt  
5 with a lot easier than the issue between the  
6 neighbors probably.

7 MS. NAYMAN: So just getting back to the  
8 whole -- another thing I noticed that was maybe  
9 not clear is that the noise definitely is an  
10 issue, and we understand that. And in fact, we  
11 thought we were being considerate in that the  
12 noise doesn't come from the water. The noise  
13 comes from the people hanging out by water,  
14 laughing and shouting and talking. And the way  
15 the plan shows all of that, like where the people  
16 are going to be sitting, is totally on the other  
17 side, like closer to our home, not anywhere near  
18 the perimeter. In fact, if we would -- if the  
19 pool would be 15 feet away and 20 feet away,  
20 people would be sitting right next to the fence.  
21 So this way there's nobody sitting anywhere near  
22 the perimeter. They're sitting on the side by our  
23 house. So just a thought, just a thought that in  
24 fact if it was 15 feet and 20 feet away it would  
25 be a lot noisier for the neighbors than it would

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1 be if it was just the side of the pool and plants  
2 and fence and whatever else is there.

3 CHAIRMAN KEILSON: I think Mr. Hiller may  
4 bear me out that the noise really emanates from  
5 the pool itself because people are playing in the  
6 pool, the kids are playing in the pool, and that's  
7 where the noise emanates from. I'm not saying  
8 there's not noise from people sitting in the  
9 lounge chairs, but really the greatest noise  
10 emanates from within the pool itself.

11 MEMBER HILLER: Correct.

12 CHAIRMAN KEILSON: I've only had a pool since  
13 1984.

14 MR. NAYMAN: Again, I very much understand  
15 where the Davies are coming from because it would  
16 be so close to their backyard. Again, with  
17 regards to the Geliebters, they have a  
18 nonconforming garage which would never be allowed  
19 nowadays. That nonconforming garage abuts our  
20 backyard which buffers any possible noise. I  
21 don't know, but most people don't hang out in  
22 their driveways or their garages. I mean, maybe  
23 some people do. But since I've been living in  
24 Lawrence or in the Five Towns since 1979, I have  
25 never met anybody like that.

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1           We didn't intend on putting the pool  
2           equipment on the side of the house as  
3           Dr. Geliebter had suggested. And I think that an  
4           11-foot buffer from his garage has been done  
5           before in Lawrence.

6           Again, I understand the Davies' point of  
7           view. If we moved it from five feet -- our  
8           request from five feet to eight feet, would it be  
9           something that would be reasonable? We would be  
10          glad to, again, put up a higher fence, put up more  
11          trees alongside there to buffer any noise. As my  
12          wife said, the chairs in the sitting area would  
13          not be there. You know, it could be a great  
14          accommodation.

15          MS. NAYMAN: And also just to address one  
16          other issue that the Board had mentioned that  
17          would be an unprecedented, like, grant of a  
18          request. So our need because of our child, his  
19          condition is extremely rare. I'd never heard of  
20          it until I was told my child has it. I would say  
21          that's pretty unprecedented. And I mean, I think  
22          the doctor explained it in the letter, but the way  
23          of his life has to be, like, to move and to  
24          exercise, and the water because it supports his  
25          muscles is really the best way.

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1 MR. NAYMAN: He has zero muscle tone and he's  
2 been getting growth hormones since one month old.

3 MEMBER HILLER: We actually read the letter.  
4 As a matter of fact, I have sensitivity. We just  
5 wanted to refer to the letter. We didn't want to  
6 discuss the letter.

7 MS. NAYMAN: I understand. We're very  
8 private about it also.

9 MEMBER HILLER: There are eight or nine  
10 months out of the year that a pool cannot be used.  
11 It's not an indoor pool. And somehow I'm sure  
12 you're giving your child all the benefit of  
13 therapy that the child needs. This is -- to rest  
14 the entire case on the need for the child to have  
15 a pool is a weak argument.

16 MR. NAYMAN: Well --

17 MEMBER HILLER: Sir, let me finish. While I  
18 have tremendous sympathy for that, it does not  
19 preclude the rights of your neighbors for a  
20 variance of this nature which is a very, very  
21 demanding variance. Please understand that does  
22 not -- our sympathies are with you, but as you  
23 know, the pool is a three-month or four-month  
24 issue and that's what it is.

25 MR. NAYMAN: With all due respect, I think



1       that our child is almost ten years old. Most kids  
2       that are at that age start going to sleep-away  
3       camp and spend those two, three, four and I would  
4       say five months a year, almost half the year that  
5       they would use a pool, or he would be able to use  
6       a pool, a public pool that's heated he would be  
7       using for therapy. So whereas most kids enjoy two  
8       months away from home where they get to swim, he  
9       is not able to do that unless he is supervised  
10      like he is in school with a full-time shadow ten  
11      hours a day.

12           MEMBER MOSKOWITZ: Let me just come to the  
13      heart of it. So I speak only for myself and not  
14      the other members of the Board. I'm less  
15      concerned about the proximity to the Geliebter  
16      property because of the fact that there's a garage  
17      and it's a nonconforming garage, and the three  
18      feet are maintained by yourself. I'm less  
19      concerned about that.

20           What more -- are you presenting anything  
21      more? Are you able to present anything more to  
22      accommodate the Davies' concern, which is a very  
23      traditional concern. It's not out of the  
24      ordinary. And I think what you said was that you  
25      right now -- well, I'm not sure what you said.

1       What's the maximum accommodation of distance that  
2       you can --

3               MR. NAYMAN:   The yard from the house to the  
4       gate is 33 feet.   We had originally requested five  
5       feet so that the pool could be 18, which would be  
6       23 and 10 feet to put lawn chairs and so on next  
7       to our house.   If making it eight feet would  
8       conform, I'm still requesting an aggressive  
9       variance, and that would accommodate the Davies,  
10      so then we would have seven feet to put lawn  
11      chairs on that side, and the pool would shift over  
12      from five feet to eight feet from his property  
13      line.   Again, buffering it with trees, and our  
14      word that we would not put any more lawn chairs  
15      over there, as well as not on the Geliebter side.

16             MR. MARTIR:   Can I just ask, there was a  
17      radius map submitted, Joe -- excuse me -- John.  
18      Sorry.   You prepared this radius map or it was  
19      prepared for you by Long Island Expediters?

20             MR. CAPOBIANCO:   Yes.

21             MR. MARTIR:   Do you know how the list of  
22      names was compiled by them?

23             MR. CAPOBIANCO:   He compiled it.   He usually  
24      does it.

25             MR. MARTIR:   On property lot 881 it lists the

1 owner's name as Nayman. So you were saying it's  
2 owned by a multi LLC.

3 MR. NAYMAN: Yes, called HEBR, Herrick  
4 Broadway LLC.

5 MR. MARTIR: LLC, okay.

6 MEMBER HILLER: Are you a member of that LLC?

7 MR. NAYMAN: I'm a minority member.

8 MEMBER HILLER: Are you a member of that LLC?

9 MR. NAYMAN: She is not.

10 MS. NAYMAN: Nope.

11 MR. MARTIR: Okay.

12 MEMBER FELDER: John, what was the proposal  
13 that you said could be done?

14 CHAIRMAN KEILSON: As of right.

15 MEMBER FELDER: As of right.

16 MR. CAPOBIANCO: As of right you could move  
17 the garage forward instead of to the sides and  
18 then hold 20-foot rear and 15 side and do a  
19 slightly narrower pool.

20 MEMBER HILLER: On the side of the house or  
21 in back?

22 MR. CAPOBIANCO: No, it's still in the back,  
23 but it would be close to the house. The pool  
24 wouldn't be on the side of the house; the detached  
25 garage would be.

1 MEMBER GOTTLIEB: John, you've been here many  
2 times before, and I think you realize we've never  
3 given an eight-foot or even a ten-foot rear yard.  
4 I'm sure that you must have spoken with your  
5 clients about this. You came up with a plan.

6 MR. CAPOBIANCO: That would be the pool  
7 location as of right.

8 MEMBER GOTTLIEB: That would fall 20 feet --

9 MR. CAPOBIANCO: And the garage, which is  
10 here, instead of shifting to here would still be  
11 detached, maintaining eight feet from the side  
12 yard. So it is feasible to go in and just get a  
13 permit and comply with all the  
14 impervious/pervious.

15 MEMBER GOTTLIEB: You would have a backyard  
16 play area as well, which you wouldn't have in this  
17 plan.

18 MR. CAPOBIANCO: Right.

19 MEMBER GOTTLIEB: In the first plan.

20 MEMBER HILLER: So you're dropping the  
21 request?

22 MR. CAPOBIANCO: We don't know yet. That's  
23 up to them.

24 MEMBER MOSKOWITZ: Do you want to confer? Is  
25 it possible that your neighbors might actually

1 prefer something closer to the original plan that  
2 you're proposing versus the alternative that you  
3 could do as of right. Does it make sense to  
4 confer with them and see if --

5 MR. CAPOBIANCO: Well, if we could make the  
6 pool work holding 10 feet, for example, from the  
7 rear, and then 10 from the side, it would bring it  
8 down in size a little bit, but it certainly would  
9 be closer to what the requirements are, and then  
10 leave the garage the way we did it originally,  
11 slide it over to the north end.

12 MEMBER GOTTLIEB: Not to give false  
13 expectations, Mr. Capobianco, but I wouldn't give  
14 a 10-foot rear yard.

15 MEMBER HILLER: If you have a plan to do  
16 something by right, why are we having any  
17 discussions? We're done.

18 MR. CAPOBIANCO: Well, I'm just saying, a  
19 pool can be done as of right, and the garage would  
20 have to be shifted forward.

21 MEMBER HILLER: But there is no hardship and  
22 no request for a variance.

23 MEMBER GOTTLIEB: Do you want to speak with  
24 your clients?

25 MR. NAYMAN: It doesn't seem like you would

1 permit it anyway. It doesn't seem like there's  
2 anything to discuss. It sounds like, if you have  
3 to vote, it doesn't sound like we're going to have  
4 the vote.

5 MR. CAPOBIANCO: If you're not going to grant  
6 the 10-foot, then the pool where we propose it  
7 would never work.

8 MEMBER GOTTLIEB: I can't speak for the other  
9 members, but I've never approved 10 feet.

10 MR. CAPOBIANCO: Well, just saying, 33 feet,  
11 if you go 20, you're left with 13. If you hold it  
12 five feet from the house left with, you know, an  
13 eight-foot-wide pool.

14 MEMBER HILLER: I want to repeat that I want  
15 you to have the pool. Do you have a way to get  
16 the pool without a variance and without a hardship  
17 so there's no reason to bring it before this Board  
18 and have your neighbors incited by the  
19 construction?

20 MR. NAYMAN: Thank you for your time.

21 MEMBER HILLER: Thank you.

22 MR. CAPOBIANCO: Do you want to adjourn the  
23 meeting or rethink it?

24 MR. NAYMAN: They'll never say yes,  
25 obviously.

Nayman - 6/6/18

1 MR. MARTIR: You're withdrawing your request?

2 MR. CAPOBIANCO: Withdraw the application.

3 MEMBER MOSKOWITZ: Why don't you adjourn to  
4 collect your --

5 MR. CAPOBIANCO: I would adjourn.

6 MEMBER GOTTLIEB: Which allows you to come  
7 back should something change.

8 MR. CAPOBIANCO: That's what we'll do.

9 MR. NAYMAN: Thank you for your time.

10 (Whereupon, the hearing concluded at  
11 9:36 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 York6 June 6, 2018  
7 9:38 p.m.

## 8 APPLICATION:

9 Moret LLC  
10 210 Beach 2nd Street  
11 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. STEPHEN L. MARTIR, ESQ.  
24 Village Attorney25 MR. GERALDO CASTRO  
Building DepartmentMS. FLORENCE MAXWELL  
Building DepartmentMary Benci, RPR  
Court Reporter



1 CHAIRMAN KEILSON: On Moret LLC, 210 Beach  
2 2nd Street in Lawrence. So a motion from the  
3 Board members to reopen?

4 MEMBER GOTTLIEB: Motion to reopen.

5 CHAIRMAN KEILSON: Okay, reopen.

6 We have submission of a report, a SEQRA  
7 report.

8 MR. BROWNE: Good evening. It's Christian  
9 Browne, 333 Earle Ovington Boulevard, Suite 601,  
10 Uniondale, attorney for the applicant.

11 Yes. I believe the Board is now in receipt  
12 of a long form EAF, so we'd ask you to consider  
13 that in making your determination on both SEQRA  
14 and the merits of the application.

15 CHAIRMAN KEILSON: Very good. Accepted, yes,  
16 into the record.

17 MR. BROWNE: I have nothing further.

18 CHAIRMAN KEILSON: Very good. Thank you very  
19 much. We're adjourning that one today. We are  
20 going back to reserving decision.

21 (Whereupon, the hearing concluded at  
22 9:39 p.m.)

23 \*\*\*\*\*

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25

1 Certified that the foregoing is a true and  
2 accurate transcript of the original stenographic  
3 minutes in this case.  
4

5 Mary Benci

6 MARY BENCI, RPR  
7 Court Reporter  
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