

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 March 3, 2016
7 7:38 p.m.

8 APPLICATION: Partnership 1995/Café Petite
9 392-398A 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. MARK SCHRECK
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. DANIEL HILLER
21 Member

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

24 MR. GERALDO CASTRO
25 Building Department

Mary Benci, RPR
Court Reporter

Partnership 1995/Café Petite - 3/3/16

1 CHAIRMAN KEILSON: Okay. Ladies and
2 gentlemen, welcome to the Lawrence Board of Zoning
3 Appeals.

4 I'll ask you to please turn off your cell
5 phones, and if there's need for conversation,
6 please take it out into the hallway.

7 Thank you very much.

8 Mr. Castro, proof of posting?

9 MR. CASTRO: Chairman, I offer proof of
10 posting and publication (handing).

11 CHAIRMAN KEILSON: Thank you very much.

12 Mr. Gray, do you want to offer the preamble?

13 MR. GRAY: Certainly. My name is Kenneth
14 Gray. I'm with the law firm of Bee, Ready,
15 Fishbein, Hatter & Donovan. We act as the Village
16 Counsel to the Village of Lawrence, and I
17 represent and give counsel to the Zoning Board of
18 Appeals.

19 The Board would like you to know that they
20 have read your applications thoroughly. They have
21 individually appeared on your properties, so they
22 have firsthand knowledge of what your application
23 is about. They're familiar with the application.
24 They thoroughly read them and they are what's
25 considered a hot Board. They will be asking

Partnership 1995/Café Petite - 3/3/16

1 questions. So they ask when you do your
2 presentation, whether it's your counsel, your
3 architect or yourself individually, that you go
4 directly to the issues as to what you're asking,
5 what relief you're seeking and why you're seeking
6 it. But they are familiar with your application,
7 and they will be asking very pointed, specific
8 questions because they are familiar.

9 CHAIRMAN KEILSON: Thank you, Mr. Gray.

10 MR. GRAY: Thank you, sir.

11 CHAIRMAN KEILSON: The first matter this
12 evening is Partnership 1995/Café Petite. Will
13 they or their representative please step forward.
14 Over there, down at the bar. Just give Mary your
15 name and your address.

16 MR. BENALTABA: My name is Ofeer Benaltaba,
17 B-E-N-A-L-T-A-B-A. My address is 696 Wilson
18 Street, North Woodmere 11581.

19 CHAIRMAN KEILSON: So you're here tonight to?

20 MR. BENALTABA: Request hardship for our
21 parking variance. As you well know, our building
22 was built in 1980 and -- I'll start over.

23 So we're opening up a new business on
24 Central Avenue, which our business model is a play
25 area for the kids and a small -- a small snack

Partnership 1995/Café Petite - 3/3/16

1 bar/cafe for the adults. So adults bring their
2 kids while they're shopping and running errands,
3 shopping on Central Avenue, walk over to us, bring
4 their kids, sit have a cup of coffee while the
5 kids blow off some steam and play, and play while
6 their parents could sit down, relax and have a
7 good cup of coffee.

8 CHAIRMAN KEILSON: Okay. Anybody else who
9 wants to contribute just give Mary your name if
10 you're going to speak; otherwise, we'll ask our
11 questions, okay.

12 MR. BENDELSTEIN: No.

13 CHAIRMAN KEILSON: The requirement is for
14 off-street parking requiring ten spaces. Do you
15 know what the history is of that location?

16 Mr. Castro, do you want to share with us the
17 history of that location, what type of
18 establishments were there previously.

19 MR. CASTRO: The building was built, I
20 believe, on or about 1980. It did go for a
21 variance. Parking was not a -- I don't believe it
22 was an ordinance at that time. It didn't come
23 till later on. Various uses were a restaurant
24 business, there was a dry cleaner, and I believe
25 one of the last ones was a karate, which would be

Partnership 1995/Café Petite - 3/3/16

1 an exercise use.

2 CHAIRMAN KEILSON: So what precipitated the
3 need for the parking this time?

4 MR. CASTRO: Our ordinance says if there is a
5 change of use that they must have the correct
6 parking.

7 CHAIRMAN KEILSON: So any change of use,
8 irrespective of whether it's food or not food
9 involved?

10 MR. CASTRO: The change of use is according
11 to New York State Code, their classifications.

12 CHAIRMAN KEILSON: How many people do you
13 intend to service at this site?

14 MR. BENALTABA: At one time in the play area
15 it's in between 15 and 20 kids, and then where the
16 adults could sit it's about 20 people, 10 to 15
17 people.

18 CHAIRMAN KEILSON: And the kids have to be
19 accompanied by an adult?

20 MR. BENALTABA: The kids must be accompanied
21 by an adult. I believe it's the same use as --
22 even less than what the Warren Levi was. The
23 Warren Levi serviced maybe a hundred kids at one
24 time. We're servicing a lot less kids, and the
25 cafe part is an incidental part of our business.

Partnership 1995/Café Petite - 3/3/16

1 It's just, you know, to serve the adults that are
2 coming there a cup of coffee, so it's not a
3 full-fledged cafe. We're not doing like meals and
4 stuff, like huge meals. They're coming there just
5 to be occupied while their kids are playing.

6 CHAIRMAN KEILSON: What are the hours that
7 you expect to be open?

8 MR. BENALTABA: Probably from nine till about
9 six.

10 CHAIRMAN KEILSON: Okay. Is there any
11 parking at all presently?

12 MR. BENALTABA: So it wasn't accounted for,
13 behind our building is a Bank of America parking
14 lot, which is closed on Sundays. So on Sundays we
15 could use the Bank of America parking lot. And
16 also attached to our building we do have room for
17 two cars to be parked that's on our property that
18 they allow, and it wasn't really accounted for,
19 you know, we didn't bring it up.

20 And also, you know, 200 feet one way,
21 300 feet another way, there's a lot of -- in the
22 Cedarhurst -- in the Cedarhurst part, which we
23 have a big map of it --

24 MR. BENDELSTEIN: Which we took a Google
25 map --

1 CHAIRMAN KEILSON: You have to identify
2 yourself.

3 MR. BENDELSTEIN: My name is Oran
4 Bendelstein, O-R-A-N, B-E-N-D-E-L-S-T-E-I-N. My
5 address is 10 Franklin Boulevard, apartment 100,
6 in Long Beach, New York.

7 If you look, this was done during business
8 hours on Google maps randomly, and you can see
9 open spots on lot number one, many -- about 20, 30
10 spots available. And then you can see even more
11 than that, and then you can see open spots in the
12 other lot, which is number ten, which I see at
13 least 15, 20 spots available inside there.

14 MR. BENALTABA: And we have a whole --

15 MR. BENDELSTEIN: And also here --

16 MR. BENALTABA: Fifty to a hundred--

17 CHAIRMAN KEILSON: One at a time, one at a
18 time.

19 MR. BENDELSTEIN: There's clearly almost 50
20 to 60 spots available that are not being occupied
21 during business hours on Google Earth, which is as
22 good as you can get for random, you know, during
23 the daytime, clearly during working hours.

24 MEMBER GOTTLIEB: If I understand you
25 correctly, you put in the application that you

Partnership 1995/Café Petite - 3/3/16

1 needed ten spaces to meet code, but you have two
2 spaces which you're entitled to use exclusively
3 for your use?

4 MR. BENDELSTEIN: Exactly.

5 MR. BENALTABA: I don't know if you could
6 account, also the bank allows us --

7 MEMBER GOTTLIEB: Yeah, we can't count that.
8 That's private parking.

9 MEMBER WILLIAMS: And that's only on Sunday.

10 MR. BENALTABA: No, but the bank allows us as
11 the business owners to park. They gave us like in
12 the back where we're allowed to park, besides the
13 ones attached to the building where we could park
14 our personal cars also. So when we come we could
15 come in and out as we please with a spot. And
16 also, on the way, you know, this block does have
17 parking spots in Lawrence. There's plenty of
18 parking spots that are even open.

19 MEMBER WILLIAMS: What street is that?

20 CHAIRMAN KEILSON: The street that you're
21 pointing to.

22 MR. BENALTABA: Central Avenue. It's right
23 in front of the HAFTR business office up
24 towards --

25 MEMBER WILLIAMS: Show me where you're --

Partnership 1995/Café Petite - 3/3/16

1 MR. BENALTABA: So our store is right here,
2 and these are all the fire lanes, and then past
3 that you have spots here and here on Lawrence
4 (indicating), and it's metered, and you also have
5 spots all the way down Central.

6 And our main target audience is the moms and
7 dads that are running errands on Central in
8 Cedarhurst that are doing their personal shopping
9 or just out, and they come by us and, you know,
10 they walk over to us and, you know, enjoy like an
11 hour of a break and then go back and do whatever,
12 whatever they were doing.

13 MEMBER GOTTLIEB: What are the ages of the
14 children you're expecting to be caring for?

15 MR. BENALTABA: The ages are from like zero
16 to -- a baby, from baby till about -- from like
17 six months till about eight years old.

18 MEMBER SCHRECK: Are the parents leaving
19 their children there?

20 MR. BENALTABA: Absolutely not. We're not a
21 baby-sitting service. It's not allowed for us.
22 It's more for the mom with a carriage and her
23 baby. She could sit with the baby, play with the
24 baby in our facility and, you know.

25 MEMBER GOTTLIEB: You're not going to have

Partnership 1995/Café Petite - 3/3/16

1 drop-off service where you --

2 MR. BENALTABA: No drop-off service
3 whatsoever.

4 MEMBER GOTTLIEB: -- stop in the front of the
5 store, open the door and the kids go out?

6 MR. BENALTABA: Absolutely not. We can't
7 take liability for people's kids, absolutely not.

8 MR. BENDELSTEIN: Because we knew about the
9 fire department issue, and we spoke already with
10 Mr. Campbell over here, we came up with a proper
11 -- because we heard about some of the situations
12 that might have been going on before we were in
13 business. We thought about very -- what happened
14 with Warren Levi, where people were just dropping
15 off their kids. It's not in our business, but
16 that was his model. He does a lot of programs
17 like that. We decided that it would be a very
18 smart idea, and we'd be willing to do this, to put
19 up barriers, which is right here (indicating). I
20 showed you a bike rack. We did a couple I could
21 show you if you would like to see it.

22 MR. BENALTABA: So it's like a creative way
23 to make it look pretty.

24 MR. BENDELSTEIN: It doesn't look ugly, but
25 it's still -- here's a bike rack with some

Partnership 1995/Café Petite - 3/3/16

1 planters. Here's -- here, bring that up to the
2 Board, please. Here's a -- we photo-shopped this
3 so you can kind of see it. Here's just planters
4 in general. I don't want to give them like all of
5 them. And here's another just variation of
6 planters with something here. This would be --
7 this would stop the situation that the fire
8 department might have with anybody stopping in
9 front of our store to do any type of business,
10 just in case that ever did happen, and it could
11 halt them from attempting to get inside our store
12 from parking on the street.

13 MEMBER WILLIAMS: I have a question. Is this
14 just an idea you have or have you cleared this?

15 MR. BENALTABA: No. This is just an idea we
16 have to prevent any future problem.

17 MEMBER WILLIAMS: You don't know if that's
18 legal for you to do or not in terms of blocking
19 the road like that?

20 CHAIRMAN KEILSON: On the sidewalk at the
21 curb.

22 MR. BENALTABA: It's the curb.

23 MS. BENDELSTEIN: This is what it looks like
24 now.

25 MEMBER SCHRECK: If you're not having

Partnership 1995/Café Petite - 3/3/16

1 drop-offs, why do you need to have something like
2 that?

3 MS. BENDELSTEIN: Because of the fire
4 department.

5 MR. BENDELSTEIN: Because of the fire
6 department issue, we just wanted to make sure that
7 nothing ever happens in the future, like not even
8 our business, but on any other people's
9 businesses. We just wanted to --

10 MR. BENALTABA: We understood there was a
11 concern with the fire department when people are
12 pulling up, even though that's not going to be our
13 business model of drop-offs and pickups, that that
14 would be a concern. So we just --

15 MR. BENDELSTEIN: We just wanted to be out of
16 our way, if that makes sense.

17 MR. GRAY: If I may, if it appears that what
18 they're proposing would be on Village property,
19 they would have to get an easement or a license
20 from the Village in order to install something
21 like that.

22 MEMBER WILLIAMS: They're saying that they
23 want to do it, that it would help the issue.

24 MR. BENALTABA: Right. We were saying,
25 basically --

Partnership 1995/Café Petite - 3/3/16

1 MR. BENDELSTEIN: We want to do whatever
2 helps the city because the property has
3 been around for a long time.

4 CHAIRMAN KEILSON: Thank you for the
5 initiative.

6 MR. BENDELSTEIN: Thank you.

7 MR. BENALTABA: And we reconstructed the --

8 MR. BENDELSTEIN: If you want us to work
9 here, we'll be happy to take the job.

10 CHAIRMAN KEILSON: Any other questions from
11 the Board at this moment? Anyone from the
12 audience want to speak to the matter?

13 I know the fire department is present. So
14 why don't we allow the fire department to step
15 forward.

16 CHIEF CAMPBELL: The Village of Cedarhurst
17 can go ahead of me, if that's okay.

18 CHAIRMAN KEILSON: By all means.

19 MR. EVOLA: My name is Salvatore Evola, the
20 Village Administrator for the Village of
21 Cedarhurst, and I have a letter from
22 Mayor Benjamin Weinstock regarding the parking
23 issue. Do I read it or present it?

24 CHAIRMAN KEILSON: Why don't you tell us the
25 essence of it.

Partnership 1995/Café Petite - 3/3/16

1 MR. EVOLA: Okay. Well, parking in the
2 parking lots suggested in the Village of
3 Cedarhurst are very busy, especially on Thursday,
4 Friday and Sundays. And the Mayor, although
5 hasn't had an official parking traffic study
6 performed, he feels that there's not enough
7 parking for this variance to use the Village of
8 Cedarhurst parking lots to satisfy their parking
9 requirements. That's the essence of the letter.

10 CHAIRMAN KEILSON: Does he understand that
11 we're talking about eight spots?

12 MR. EVOLA: Yeah, I think he understands.

13 CHAIRMAN KEILSON: Okay.

14 MR. EVOLA: But he just wanted the Board to
15 -- to present this letter to the Board.

16 CHAIRMAN KEILSON: Thank you very much.

17 MR. EVOLA: Thank you.

18 MR. GRAY: Thank you.

19 CHAIRMAN KEILSON: From the fire department.

20 CHIEF CAMPBELL: Good evening. My name is
21 David F. Campbell, C-A-M-P-B-E-L-L. I'm the chief
22 of the department for the Lawrence-Cedarhurst Fire
23 Department.

24 CHAIRMAN KEILSON: Thank you for coming, and
25 thank you for all the good work you do for the

1 Village.

2 CHIEF CAMPBELL: Thank you very much,
3 likewise.

4 Mr. Chairman, and the respective Board
5 members, the petitioner that is seeking relief
6 from the Village of Lawrence zoning code for non
7 on-site parking is located directly across the
8 street from the Lawrence-Cedarhurst Fire
9 Department on Central Avenue.

10 If this exemption is granted, it will have a
11 significant negative effect on the fire
12 department's ability to respond to emergencies.
13 The fire department has been at that location for
14 the last 114 years and has had many years of
15 experience in dealing with businesses at this
16 location.

17 The fire department's issue is with the
18 illegal parking of civilian vehicles in the fire
19 zone on the north side of Central Avenue, which is
20 directly in front of the proposed store. The
21 section of Central Avenue from Washington Avenue
22 to the apartment building located at 376 Central
23 Avenue is currently marked as a fire zone with
24 four signs indicated: fire zone, no stopping,
25 except fire personnel, along with a painted curb

1 and a painted street. There's a box painted in
2 the street. The fire department utilizes this
3 section of the street for firefighter parking with
4 the permission of the Village of Lawrence for
5 firefighters to respond to the firehouse for
6 alarms in their personal vehicles.

7 If the firefighters cannot park in that
8 section because of illegally parked civilian
9 vehicles, they may have to drive around looking
10 for parking. This delays response to the fire
11 apparatus to the emergency. When vehicles park
12 illegally in that section of the street across
13 from the firehouse, the fire department's ladder
14 truck cannot safely navigate pulling out of the
15 firehouse without backing up. This also delays
16 the truck's response. Whenever the truck has to
17 back up, it requires a firefighter to exit the
18 truck and to act as a spotter at the rear. All of
19 this has a negative impact on the department's
20 ability to respond to emergencies in a timely
21 manner. In our business, seconds can mean the
22 difference between life and death.

23 You might be asking yourselves a question.
24 If firefighters are parking there, then how is it
25 that they do not have an effect on the truck

1 response? There are two electrical poles that are
2 directly across from the ladder truck bay. Our
3 members are forbidden to park from pole to pole,
4 so much forbidden that they are suspended for
5 30 days if they do.

6 I had an opportunity to meet with the
7 petitioner this past Monday. We discussed the
8 petition for relief and the fire department's
9 concerns. I found the petitioners to be genuine,
10 courteous people who understand our concerns.

11 The Board is faced with and relegated with a
12 difficult decision, and I personally do not envy
13 you. You have many areas of the petitioner's
14 relief that you have to consider, and public
15 safety is just one.

16 On the other hand, as a fire chief I only
17 have one thing that I have to consider, and that
18 is public safety. The fire department fully
19 understands the need for businesses to be able to
20 operate within the Village. They are part of the
21 lifeblood of making a strong community. Without a
22 strong community, you do not have a strong fire
23 department.

24 People have a right to operate a business and
25 to make a living. However, an individual's need

Partnership 1995/Café Petite - 3/3/16

1 and rights to operate a business cannot take
2 priority over the needs of the public when it
3 comes to public safety.

4 The fire department respectfully requests
5 that this Board notify the fire department in
6 writing on their decision on this petition.

7 And actually, if I'm permitted, I have some
8 questions for the petitioner as they were speaking
9 tonight. I just jotted down a question.

10 CHAIRMAN KEILSON: The questions are directed
11 to the Board.

12 CHIEF CAMPBELL: Okay. Did they have a
13 traffic survey?

14 CHAIRMAN KEILSON: I'm sure not, and I'm not
15 sure why they would require one.

16 Would we require a traffic survey for what
17 we're discussing?

18 MR. CASTRO: No, it's typically on new
19 development.

20 CHAIRMAN KEILSON: Okay.

21 CHIEF CAMPBELL: They brought up the
22 easement. The easement that is there is not just
23 for their store. That building was actually four
24 stores at one time when it was originally built.
25 That one store currently occupies two stores, and

Partnership 1995/Café Petite - 3/3/16

1 they would be occupying two stores, so that
2 easement is not exclusively for them.

3 CHAIRMAN KEILSON: It's to be used for the
4 two spots?

5 CHIEF CAMPBELL: Yes, sir.

6 CHAIRMAN KEILSON: So instead of eight,
7 you're saying they will still need ten?

8 CHIEF CAMPBELL: Yes, sir. That easement is
9 not exclusively theirs. That easement, also, it
10 is my understanding that when that building was
11 built that easement was there not only for parking
12 but also for deliveries. So the sanitation trucks
13 go in and out of there to get to the dumpsters in
14 the back. So that easement is not exclusively
15 theirs.

16 CHAIRMAN KEILSON: Okay.

17 CHIEF CAMPBELL: Is the petitioner going to
18 have parties, birthday parties, special events?

19 CHAIRMAN KEILSON: We'll ask that question.
20 Anything else?

21 CHIEF CAMPBELL: Well, if the petitioner is
22 going to have parties, that creates a real problem
23 because then there will be the dropping off of
24 kids.

25 CHAIRMAN KEILSON: Okay.

Partnership 1995/Café Petite - 3/3/16

1 CHIEF CAMPBELL: The Bank of America lot on
2 Sundays, does the petitioner have a letter of
3 agreement with the Bank of America? And the
4 reason that I ask this is the Bank of America
5 actually pays a security guy to sit in the lot so
6 nobody parks in that lot unless they're doing
7 business with Bank of America.

8 CHAIRMAN KEILSON: Okay.

9 CHIEF CAMPBELL: Also, if Bank of America
10 sells the property and somebody else takes it,
11 there's no guarantee that they're even going to
12 allow the petitioner to park their personal cars
13 there while they're working, let alone customers'
14 cars.

15 The petitioner brought up about the parking
16 on Central Avenue in front of HAFTR. HAFTR
17 utilizes every space. I'm there all the time.
18 Teachers are running out, putting money in the
19 meters. HAFTR currently does not have enough
20 parking to satisfy their requirements for all of
21 their staff members, visitors, vendors and such.
22 So those meters are not readily available.

23 In regards to the planters, we are not having
24 objection to that. We would have to see what
25 they're looking to do. We would hope that the

1 Village would consult with us so we could have our
2 input on any type of barricade that limits our
3 access as the fire department to a structure.

4 And that's all that I have.

5 CHAIRMAN KEILSON: I'm just curious. We've
6 had egregious use of that area by the karate store
7 previously, correct?

8 CHIEF CAMPBELL: It was a nightmare.

9 CHAIRMAN KEILSON: What did you do about it?

10 CHIEF CAMPBELL: We notified -- made numerous
11 complaints to the Village. We made numerous
12 complaints to the fourth precinct, in addition to
13 911 calls. When you do a 911 call, by the time it
14 goes through the system and the officer gets
15 there, you know, the cars come and go, they drop
16 people off, they run in there for 10, 15 minutes.

17 There are problems with the bank also. Now
18 that the store is vacant, a lot of the problems
19 have been solved a little bit. The current store
20 that's next door to them that utilizes the same
21 piece of property is a clothing store, and there's
22 really not too many problems with them. The
23 enforcement, their signage, you know, the
24 enforcement is tough. Unless there's going to be
25 somebody posted there during their business hours

1 to enforce it, which I don't think the Village is
2 going to pay an inspector to write summonses and
3 stay there during their business hours.

4 CHAIRMAN KEILSON: I think it appeals to me
5 the idea of a barrier. That really would preclude
6 any dropping off.

7 CHIEF CAMPBELL: If they were going to do a
8 barrier, the barrier would have to go from the
9 crosswalk on Washington Avenue and Cedarhurst and
10 Central Avenue, down in front of the private
11 parking building. If it does not go that far, the
12 barrier is useless. I didn't see the drawings or
13 the pictures. If you're just going to put a
14 barrier in front of their store, that doesn't stop
15 people from walking around.

16 CHAIRMAN KEILSON: I just think that if you
17 have such an egregious problem, I don't understand
18 why it wasn't addressed earlier in a more creative
19 way.

20 CHIEF CAMPBELL: Well, this --

21 CHAIRMAN KEILSON: Excuse me. We've
22 discussed this entire matter for 24 hours and we
23 came up with the idea of a barrier. I mean, it
24 cries out for a barrier. I'm not sure why it
25 wasn't done.

Partnership 1995/Café Petite - 3/3/16

1 CHIEF CAMPBELL: The fire department -- well,
2 I just became chief a few months ago.

3 CHAIRMAN KEILSON: Congratulations.

4 CHIEF CAMPBELL: Thank you. Here I am.

5 The fire department has made complaints to
6 the Village in the past. Like I said, the fire
7 department has complained to the fourth precinct.
8 This is the first time that I'm aware of that
9 there's been actually a zoning hearing on this
10 piece of property.

11 CHAIRMAN KEILSON: I don't think that this
12 new retailer should suffer the consequences,
13 especially if they are low key as they're
14 describing it. Again, we're assuming they're
15 genuine in the way that they're describing what
16 they're going to be doing. And if they have a cap
17 of 15 families or whatever it is, and if it's a
18 mother and child, and for that matter what should
19 the landlord do, just shutter the place?

20 CHIEF CAMPBELL: Absolutely not.

21 Mr. Chairman, I can appreciate that. We're
22 not talking about a zoning appeal here for a
23 private residence. We're talking about a zoning
24 appeal for a business. Businesses grow, that's
25 why you start a business. You start a business to

Partnership 1995/Café Petite - 3/3/16

1 grow it and make money.

2 With 114 years being there, and that building
3 has been there since the '80s, we have gone
4 through Zomick's, the bakery, which was a
5 nightmare, right, and that was before any Village
6 ordinance was in effect about parking. There was
7 a dry cleaner, another, you want to talk about
8 pickup and drop-off?

9 CHAIRMAN KEILSON: Right.

10 CHIEF CAMPBELL: There was a restaurant.
11 We've had a couple of clothing stores in there,
12 and then the karate place. All of these
13 businesses were a problem. Yes, the fire
14 department does not want to stop somebody from
15 having a business, but we would be amiss if we
16 didn't advise this Board of the public safety. It
17 is a problem.

18 CHAIRMAN KEILSON: It sounds like you should
19 almost be thankful that a business of this type is
20 being brought in there which really doesn't cry
21 out for all the type of traffic and congestion
22 that all the aforementioned businesses required,
23 just by definition.

24 CHIEF CAMPBELL: Mr. Chairman, on the face
25 value, yes, but I know and most people know that's

Partnership 1995/Café Petite - 3/3/16

1 not going to be the case, and once the petition --

2 CHAIRMAN KEILSON: I didn't know that you
3 were a prophet.

4 CHIEF CAMPBELL: I've been around. Sir, I'm
5 a realist. That's my job. As the fire chief, I
6 have to be a realist.

7 CHAIRMAN KEILSON: To anticipate, I
8 appreciate that.

9 CHIEF CAMPBELL: I'm not a prophet. If I was
10 a prophet, I wouldn't be sitting here tonight; I'd
11 be making a lot of money, all right.

12 The reality of it is that it's going to be a
13 problem, and if we -- if you approve the petition
14 and it's a problem, then -- well, then it's too
15 late.

16 MEMBER GOTTLIEB: Can I ask you two
17 questions?

18 CHIEF CAMPBELL: Yes, sir.

19 MEMBER GOTTLIEB: One is regarding the bank's
20 ATM. Do you have a problem with cars parking in
21 that no-parking zone using that ATM?

22 CHIEF CAMPBELL: Cars do park there, not only
23 for the ATM, but businesses do. There's a night
24 drop box there. That is a problem. It's usually
25 just like one car at a time. The problem is

Partnership 1995/Café Petite - 3/3/16

1 emergencies happen all the time. You know, there
2 could be one going on --

3 MEMBER GOTTLIEB: It's the nature of the word
4 emergency, you don't know when, it just happens.

5 CHIEF CAMPBELL: So there is -- there is
6 people there parking, yes.

7 MEMBER GOTTLIEB: The reason why I mentioned
8 it is because now we have for the first time that
9 I'm hearing an option of putting up barricades
10 like they do in other areas to prevent people from
11 walking across, which would actually perhaps
12 eliminate some of that problem with the bank if
13 these barriers went from the curb to an extended
14 length.

15 CHIEF CAMPBELL: I am in favor of reviewing a
16 barrier project, all right. I don't think that
17 the barrier is going to stop anybody from going to
18 the ATM or the night deposit, because they're
19 going to park right -- the barrier, there's a
20 crosswalk that goes north to south, so the barrier
21 really can't go right to the corner. So they're
22 able to walk just right around and get to it. I
23 can park right before the end of the barrier and
24 get out of my car and walk and go to the ATM or
25 night deposit.

Partnership 1995/Café Petite - 3/3/16

1 A barrier, what I envision of a barrier would
2 be a fence type that goes from that crosswalk all
3 the way to 376 Central. I forgot to mention
4 there's also a fire hydrant in that area too that
5 gets blocked on a regular basis by delivery trucks
6 and such. That barrier -- a barrier of that
7 magnitude would then in turn deter people from --
8 because they would have to get out in the street
9 and walk quite a distance to be able to get back
10 up on the sidewalk.

11 We're not opposed to a barrier. We would
12 just request that the fire department agrees to
13 whatever type of barrier that they're looking to
14 put in that we feel would be sufficient enough to
15 address our concerns, and our concern is solely
16 public safety. This is the first time that I'm
17 aware of that the fire department has had a forum
18 to come and address this issue since 1980, so I
19 look forward to it.

20 CHAIRMAN KEILSON: I think in light of
21 everything that's been said it cries out for
22 Mayor Weinstock, who had the time to write a
23 letter about this, to meet with Mayor Oliner and
24 discuss what seems to be a very serious matter
25 that can be cured very easily. And let's forget

Partnership 1995/Café Petite - 3/3/16

1 about this small retailer for the moment and let's
2 talk about what can be done to solve a problem
3 that seems --

4 CHIEF CAMPBELL: An ongoing problem.

5 CHAIRMAN KEILSON: -- to be an ongoing
6 problem. So I'm happy it was brought to light by
7 this particular situation, but I'm not sure we
8 should burden this applicant with solving it.
9 It's easily solvable. All we need is the same
10 actions you got to get the Administrator to come
11 down and read that letter and have the letter
12 drawn up by the Mayor should have been -- the
13 effort should have been made to see to it that
14 this problem gets resolved for all our common
15 interests.

16 CHIEF CAMPBELL: Right.

17 CHAIRMAN KEILSON: Thank you very much.

18 CHIEF CAMPBELL: Thank you.

19 CHAIRMAN KEILSON: Do we have any further
20 questions of the applicant?

21 MEMBER SCHRECK: What about parties, are you
22 planning on having any parties?

23 MR. BENALTABA: No, we don't plan on having
24 any parties. No, you -- just to answer him on
25 three things. One, I wish we would have known so

1 many business were in and out of there. Maybe the
2 place is bad luck from the start. Wish you would
3 have told us from the beginning.

4 Two, as far as the easement on the site,
5 that's not what I was speaking about. I was
6 talking about the parking directly behind our
7 store. There's the property line. There's enough
8 space on our property line for two cars to fit
9 there with the width of our store.

10 And the third, if you look here, you know, a
11 random picture on Google Maps, in front of the
12 HAFTR business office there's five out of ten
13 spots that are open, and it's a random picture.

14 MR. BENDELSTEIN: And the lot is not full at
15 all. And during the daytime --

16 MEMBER SCHRECK: You say it's a random
17 picture. What does that mean? It could have been
18 taken on a Saturday. What does that mean?

19 MR. BENALTABA: It could be, but I'm just
20 saying --

21 MR. BENDELSTEIN: HAFTR doesn't have school
22 on Saturday.

23 CHAIRMAN KEILSON: Hold it, hold it, hold it.

24 MS. BENDELSTEIN: Reut Bendelstein, R-E-U-T,
25 same address. We're actually HAFTR parents, so

Partnership 1995/Café Petite - 3/3/16

1 I've been to that parking lot a million times. I
2 have four children, two of them go to HAFTR. The
3 only time parking is really an issue, if any time
4 at all, would be at pickup and drop-off.

5 MR. BENDELSTEIN: 3:45.

6 CHAIRMAN KEILSON: All of us live in the
7 Village. We know the use of the parking lots as
8 well as everybody else. We're here.

9 MS. BENDELSTEIN: I've never had an issue.

10 CHAIRMAN KEILSON: Don't interrupt. We're
11 talking about ten spots maximum that are involved,
12 maybe eight spots. I don't think we're discussing
13 anything of consequence.

14 I'm really disappointed that Mayor Weinstock
15 bothered to write a letter. I don't think it's
16 appropriate. We have more egregious issues than
17 parking than potential, you know, eight or ten
18 spots that these people need. But that's a
19 separate discussion I'll have with the Mayor at a
20 different time.

21 So the question is, having heard the
22 presentation, at this time we have to, as a Board,
23 weigh the benefit to the applicant as opposed to
24 any detriment that might be potentially here. We
25 can couch it with all the caveats that we want to

Partnership 1995/Café Petite - 3/3/16

1 in terms of having the Village investigate and put
2 up the necessary barriers. I don't know if you
3 want to burden the applicant with that. I think
4 it's not within their kin to be able to accomplish
5 that.

6 So I think what I would recommend to the
7 Village that, assuming that we're going to pass
8 this, is to recommend to the Village that it be
9 accompanied by proactive action on the part of the
10 Building Department in concert with the Trustees
11 to be done. I don't think it's that momentous a
12 decision that requires so much time and effort. I
13 think it should be taken care of, period, end of
14 sentence.

15 Okay, Mr. Schreck.

16 MEMBER SCHRECK: I'm going to vote for.

17 CHAIRMAN KEILSON: Mr. Gottlieb.

18 MEMBER GOTTLIEB: For.

19 CHAIRMAN KEILSON: Mrs. Williams.

20 MEMBER WILLIAMS: For.

21 CHAIRMAN KEILSON: Mr. Hiller.

22 MEMBER HILLER: For.

23 CHAIRMAN KEILSON: And I vote for as well.

24 MR. BENALTABA: Thank you.

25 MS. BENDELSTEIN: Thank you.

Partnership 1995/Café Petite - 3/3/16

(Whereupon, the hearing concluded at
8:08 p.m.)

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
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

March 3, 2016
8:08 p.m.

APPLICATION:

Manela
18 Lawrence Avenue
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. MARK SCHRECK
Member

MS. ESTHER WILLIAMS
Member

MR. DANIEL HILLER
Member

MR. KENNETH A. GRAY, ESQ.
Village Attorney

MR. GERALDO CASTRO
Building Department

Mary Benci, RPR
Court Reporter

Manela - 3/3/16

1 CHAIRMAN KEILSON: The next matter is Manela,
2 18 Lawrence Avenue.

3 MR. YOON: My name is Young Yoon, Y-O-O-N,
4 with PAU Architects. So I'm here representing
5 Manela, who is seeking relief from
6 Section 212-12.1 which has a maximum allowable lot
7 coverage of 5,566 square feet. We are requesting
8 an overage of 1,212 square feet, which is 21.7
9 over what's allowed.

10 CHAIRMAN KEILSON: Would it make you happier
11 if we told you that you're incorrect and you're
12 only asking for 668 square feet overage because
13 the four-foot around the pool does not count
14 towards the surface coverage?

15 MR. YOON: We already took the four-foot into
16 consideration.

17 CHAIRMAN KEILSON: I know. That becomes
18 egregious. We're trying to help you, okay.

19 Mr. Castro of the Building Department, would
20 you care to explain?

21 MR. CASTRO: Yeah. If you take the
22 difference, if you look at the difference in the
23 proposed versus the existing, it equals the exact
24 area of the pool plus the four-foot walk.

25 MR. YOON: Okay.

Manela - 3/3/16

1 CHAIRMAN KEILSON: So your proposal is really
2 6,234 square feet, which is an overage of
3 668 square feet, which results in 11 or 12 percent
4 excess.

5 MEMBER HILLER: 12 percent.

6 CHAIRMAN KEILSON: 12 percent excess. You
7 can take a deep breath now.

8 MR. YOON: Thank you very much.

9 So Mr. and Mrs. Manela and their children
10 have been living in this home. They chose --

11 CHAIRMAN KEILSON: For how long?

12 MR. YOON: Since last May, I believe --
13 March. And they purchased this home, they have
14 not done additions to this home, and which
15 currently exceeds what is allowed for building
16 area. Nor have they made changes to the existing
17 circular driveway, which together is just under
18 what's allowed for lot coverage.

19 The circular driveway is a necessity due to
20 how busy Lawrence Avenue gets with the school, the
21 buses driving down Lawrence Avenue and the
22 proximity to Broadway. Their house is the second
23 house from Broadway.

24 We believe we've kept the pool at a minimum
25 size, proportional to the lot size.

Manela - 3/3/16

1 CHAIRMAN KEILSON: What's the minimum size?

2 MR. YOON: The size of the pool is 20 feet by
3 40 feet.

4 CHAIRMAN KEILSON: Why is that the minimum
5 size?

6 MR. YOON: It's a -- they have a big
7 backyard, and we feel that proportionate to the
8 house this would be the ideal size for the pool.

9 CHAIRMAN KEILSON: You're still 11 percent
10 over or 12 percent over. Okay, continue.

11 MR. YOON: And the walk-around, like you
12 said, is four feet, which does not count towards
13 coverage. It minimizes the actual coverage and
14 maximizes the grassed area in the back. And
15 they're proposing to provide tall landscaping
16 around the perimeter to provide the proper
17 screening for privacy. And they're also going to
18 provide dry wells to deal with the issues of water
19 runoff. And for these reasons we're asking relief
20 from the --

21 MEMBER GOTTLIEB: How many dry wells are you
22 proposing?

23 MR. YOON: So the house is existing and what
24 actually ended up happening, and I had a
25 conversation with Gerry on this, was prior to

Manela - 3/3/16

1 Gerry, Mike told us that we needed dry wells for
2 the entire house, and when Gerry came on board we
3 argued and said that the house is existing and
4 so --

5 CHAIRMAN KEILSON: Just answer the question.

6 MR. YOON: So we're providing two for the
7 pool.

8 MEMBER GOTTLIEB: I thought the plans say
9 three, but that's okay. Whatever Gerry decides is
10 necessary.

11 So you're still 668 feet over, which is
12 better than your original application, but it's
13 still 12 percent beyond what I think is
14 acceptable. And I think a 20-by-40 pool is
15 excessive given that you're 668 feet over. That's
16 my opinion.

17 CHAIRMAN KEILSON: Any other questions?

18 MEMBER HILLER: I have a question for you,
19 but I'm not sure how to phrase it, because I went
20 to the backyard and I did not see the -- it did
21 not seem to me that the footage that you show here
22 from the back of the house to the rear fence is
23 accurate. I could be wrong, but it did not seem
24 to me to be accurate, but it seemed that the size
25 of the pool and the space that it's occupying is

Manela - 3/3/16

1 far in excess of what the real backyard seems to
2 be.

3 MR. YOON: We had a professional engineer's
4 survey done when we did this drawing, and we did
5 our drawings based off that survey. We could have
6 the professional engineer double-check the --
7 double-check the survey, but it's under my
8 assumption that the survey is accurate.

9 MEMBER HILLER: The other point was already
10 made, but I want to reiterate that the size of the
11 pool is excessive for the lot size and the room
12 back there, and I think something has to be done
13 about that.

14 MR. YOON: Would you give me a moment to
15 speak with my client?

16 MEMBER HILLER: Yeah.

17 CHAIRMAN KEILSON: We'll hum while you do it.

18 (Whereupon, a recess was taken.)

19 MR. YOON: So, I spoke with -- I spoke with
20 my client, and they felt that reducing it down to
21 anything less than 20 by 35 would be -- they
22 didn't want anything smaller than 20 by 35. So
23 what they're willing to do is reduce it down to
24 20 by 35, and also reconfigure the driveway so
25 that it's no longer a circular driveway and they

1 can pull in, pull out and it becomes like a
2 parking pad on the side.

3 MEMBER GOTTLIEB: So are you prepared tonight
4 to give us those numbers?

5 MR. YOON: I would not be able to give you an
6 accurate number.

7 MEMBER GOTTLIEB: Okay.

8 MEMBER HILLER: You mean you are removing
9 coverage from the front of the house?

10 MR. YOON: Correct, removing coverage from
11 the front of the house so that they can have a
12 bigger pool.

13 MEMBER SCHRECK: But you stated at the
14 beginning that it was very important to maintain
15 the circular driveway because of safety, and
16 Lawrence Avenue is so busy, so now you're going to
17 take away from the circular driveway because you
18 want a bigger pool.

19 MR. YOON: Which is why -- it's not to take
20 away from the entire circular driveway. So they
21 can pull in and pull back out this way, so having
22 a little driving spot, a pad in the front here to
23 pull in and pull out.

24 MEMBER GOTTLIEB: So much for safety.

25 MS. FELDER: Can I speak for a minute?

Manela - 3/3/16

1 Esti Felder, designer on the project.

2 When we were speaking about removing some of
3 the driveway, we're going to remove the portion
4 closest to the safety issue, which is the Broadway
5 end of this. This is towards the Rock Hall Road
6 end of it. So we're distancing ourself from the
7 traffic towards the light and relieving some of
8 the safety issues by doing that.

9 And one more thing, the reason for the size
10 of the pool is because it's a very large family
11 with a lot of grandchildren, they all come every
12 single Sunday, and to have a small pool that ends
13 up being a bathtub full of people is also a
14 danger, where you don't know who's where, what's
15 happening under the water. So that was our
16 concern in making the pool small.

17 Thank you.

18 MEMBER HILLER: You realize, of course,
19 there's no as of right to have a pool, and a pool
20 -- there's no as of right to have a pool. And
21 also, that while a pool is lovely to have and may
22 be important, its use is about three months a
23 year, and you have to come within the restrictions
24 of the zoning. So while we are sympathetic to
25 you, you can't just declare it as if the pool is

Manela - 3/3/16

1 something that is coming to you.

2 MS. FELDER: No, I don't believe that.

3 Thank you.

4 MR. YOON: I mean, if you want a more solid
5 number, I could say that we could reduce the
6 driveway in the front by roughly 200 -- by
7 200 square feet and then reduce the size of the
8 pool to 20 by 35.

9 MEMBER GOTTLIEB: So 20 by 35 would be
10 700 feet, and then you're taking off 200?

11 MR. YOON: Yes.

12 CHAIRMAN KEILSON: So it's a total of 300.

13 MEMBER GOTTLIEB: 500. We're adding seven,
14 taking off two, that's five. And then you have
15 132 feet of allowable coverage.

16 CHAIRMAN KEILSON: We'll tell you in a
17 moment.

18 MEMBER GOTTLIEB: Provided that the
19 representation of the 200 feet will be as you
20 said. You're going to take off 200 feet of
21 surface coverage from the driveway.

22 CHAIRMAN KEILSON: Okay. We're going to
23 change the application to a total of 368 over on
24 surface coverage between a pool 20 by 35 and
25 reduction of 200 square feet on the front circular

Manela - 3/3/16

1 driveway in some manner which will be submitted
2 subject to the approval of the Building
3 Department.

4 And weighing the benefit to the applicant as
5 opposed to any detriment to the community, we will
6 vote on that basis.

7 Mr. Hiller.

8 MEMBER HILLER: For.

9 CHAIRMAN KEILSON: Mrs. Williams.

10 MEMBER WILLIAMS: For.

11 CHAIRMAN KEILSON: Mr. Gottlieb.

12 MEMBER GOTTLIEB: For.

13 CHAIRMAN KEILSON: Mr. Schreck.

14 MEMBER SCHRECK: For.

15 CHAIRMAN KEILSON: And I vote for.

16 Is a year adequate?

17 MR. YOON: It should be adequate.

18 CHAIRMAN KEILSON: It's really important to
19 get it done.

20 MR. YOON: I'm pretty sure they want to get
21 it done sooner. Thank you very much.

22 (Whereupon, the hearing concluded at

23 8:22 p.m.)

24 *****

25 Certified that the foregoing is a true and

Manela - 3/3/16

1 accurate transcript of the original stenographic
2 minutes in this case.

3
4 Mary Benci

5 MARY BENCI, RPR
6 Court Reporter
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 March 3, 2016
7 9:57 p.m.

8 APPLICATION:

9 Lowy
10 9 Lakeside Drive West
11 Lawrence, New York

12 P R E S E N T:

13 MR. LLOYD KEILSON
14 Chairman15 MR. EDWARD GOTTLIEB
16 Member17 MR. MARK SCHRECK
18 Member19 MS. ESTHER WILLIAMS
20 Member21 MR. DANIEL HILLER
22 Member23 MR. KENNETH A. GRAY, ESQ.
24 Village Attorney25 MR. GERALDO CASTRO
Building DepartmentMary Benci, RPR
Court Reporter

Lowy - 3/3/16

1 CHAIRMAN KEILSON: The matter of Lowy. Will
2 they or their representative step up. Please
3 state your name for the record.

4 MS. LOWY: Chava Lowy, C-H-A-V-A, L-O-W-Y,
5 9 Lakeside Drive West in Lawrence.

6 CHAIRMAN KEILSON: Welcome back.

7 MS. LOWY: Thank you. Due to the late hour,
8 I will spare all of the details of this very long,
9 long story, but we are in the middle of a project
10 that has been approved by the Board of an
11 expansion of our home, and submitted a while ago
12 was a plan to level the property so that we can
13 utilize more of it for our enjoyment since it's
14 sloped dramatically toward the rear. Along with
15 the leveling --

16 CHAIRMAN KEILSON: What variances are we
17 addressing tonight?

18 MS. LOWY: We're addressing the leveling of
19 the property.

20 CHAIRMAN KEILSON: Regrading of the property.

21 MS. LOWY: Regrading the property, and the
22 15-foot setbacks should be changed to 11-foot
23 setbacks with a four-foot easement on the --

24 CHAIRMAN KEILSON: Side yard.

25 MS. LOWY: -- on the side yard to allow more

Lowy - 3/3/16

1 space between the pool and the house for safety
2 and ability to walk around the pool and access all
3 of the sides of it easier.

4 CHAIRMAN KEILSON: Okay. So the side-yard
5 request is impacting solely on the neighbor to
6 your right, to the west?

7 MS. LOWY: Correct.

8 MEMBER GOTTLIEB: And who is that neighbor,
9 please?

10 MS. LOWY: That neighbor is Dr. Marshall
11 Keilson, who has approved the request of the plans
12 and is not here to argue with it tonight.

13 CHAIRMAN KEILSON: He shared with me, to his
14 wiser, older brother.

15 MEMBER GOTTLIEB: Are there copies of the
16 revised plan that are available?

17 MS. LOWY: I have -- to be honest, I have all
18 of the information on the other issue we're
19 discussing tonight because that's sort of where
20 the focus was in terms of expecting to be
21 problematic.

22 CHAIRMAN KEILSON: So given the old plan,
23 what we're saying is that the pool placement --

24 MS. LOWY: It was submitted at the original
25 submittal for this. It will be lined up with the

Lowy - 3/3/16

1 home. The pool will be lined up with the home.

2 MEMBER GOTTLIEB: The re-placement of the
3 pool, just to clarify, doesn't change the surface
4 coverage or any other -- it doesn't change any of
5 the variances, it's just a little bit closer to
6 the side yard. You're at 11 feet instead of
7 15 feet.

8 MS. LOWY: Correct. It would be in line with
9 the house which is right now existing as an
10 11-foot setback.

11 MEMBER GOTTLIEB: All right. On to the main
12 issue, the main event.

13 MS. LOWY: So along with the -- when we
14 realized that the grade was too low, we submitted
15 a plan to build a four-foot retaining wall along
16 the rear of the property, while taking into
17 consideration the fact that all of our water
18 runoff is continuously going onto our neighbors.
19 And we have already installed dry wells and had a
20 drainage plan drawn up by John Capobianco, making
21 sure that our water retention is appropriate for
22 the house and the surface coverage that we're
23 building, and greatly improved from where it was
24 before we started our project in any which way or
25 form.

Lowy - 3/3/16

1 I will also mention that when we started our
2 project we did submit to the Board about a year
3 ago letters from all of our adjoining neighbors,
4 as well as all the neighbors on the block and
5 surrounding blocks, supporting the project,
6 trusting that we are doing what we want -- what we
7 want on our property with taking into
8 consideration only the best interests of the
9 Village of Lawrence and all of the residents in
10 Sutton Park. It is a very close-knit community.
11 Everyone in Sutton Park gets along very nicely,
12 and we only want to keep everybody happy. That is
13 our main concern as well.

14 The Board sort of gave us the impression that
15 the four-foot retaining wall was not being
16 accepted easily by some of the neighbors, so we
17 proceeded to submit our other revisions with
18 different variations on how the property can be
19 leveled, and we're here tonight I think to address
20 those revisions and to see what conclusions we can
21 come up with.

22 CHAIRMAN KEILSON: Perhaps we can discuss the
23 last one. Perhaps you're at the stage in between.
24 Where are we up to tonight at 9:58?

25 MS. LOWY: So revision number five was, I

Lowy - 3/3/16

1 believe, where we are basically putting a
2 retaining wall. The retaining wall -- basically,
3 the main retaining wall is going to be set back
4 10 feet from the property. It's a three-foot
5 retaining wall. At the property line there would
6 be a two-foot retaining wall, which it would carry
7 across the entire rear of the property, but it is
8 almost the natural grade that was there originally
9 because the property was graded as such. So it
10 wasn't like it was a hill and we're just going to
11 be sort of separating it into two sections. It
12 would be a two-foot retaining wall along the whole
13 rear of the property and then 10 feet in would be
14 an additional three-foot retaining wall, which for
15 safety and security I would need to create some
16 sort of stairs, because I can't have people
17 dropping off the three-foot. So it would have to
18 be a level of some sort so that it can be
19 accessible; otherwise, I would be cutting off all
20 of the property.

21 So the architect that drew the plans drew it
22 as some sort of timber steps to allow for people
23 to access different levels of the property, and
24 then it curves around towards the pool where
25 there's another retaining wall to allow for a

Lowy - 3/3/16

1 straight fence around the pool, so the pool will
2 be safe.

3 And then there's already an approved patio or
4 play area on the opposite side of the property
5 that would be at the two-foot level of that
6 retaining wall towards the rear, so that would be
7 two feet higher than the rear property line, and
8 that would extend towards where the pool is. And
9 then there would be another wall bringing it up to
10 where the pool level is which is the existing
11 level of that area.

12 And that's it.

13 CHAIRMAN KEILSON: You reviewed this with
14 Mr. Castro?

15 MS. LOWY: I did.

16 CHAIRMAN KEILSON: Okay. You reviewed it
17 with the neighbors as well?

18 MS. LOWY: Correct.

19 CHAIRMAN KEILSON: Okay. Any questions right
20 now from the Board?

21 MEMBER GOTTLIEB: Not yet.

22 CHAIRMAN KEILSON: Okay, hold everything.
23 Okay. Can we hear from the neighbor or their
24 representative. Welcome, Mr. Avrutine.

25 MR. AVRUTINE: Good evening, Chairman Keilson

Lowy - 3/3/16

1 and members of the Board. Howard Avrutine,
2 575 Underhill Boulevard, Syosset. I'm here this
3 evening representing Dr. Dennis Rossi and
4 Mrs. Mary Ann Rossi. The Rossis reside at
5 124 Sutton Place South, and their home abuts the
6 Lowy premises to its south.

7 Essentially, the Rossi premises shares a rear
8 property line with the Lowys for the entire width
9 of the Lowy property, that's 83 feet. The
10 remainder of the Rossi property shares a real
11 property line, which is the Elefant property at
12 1 Lakeside Drive West.

13 I would like to start just for the record
14 with two legal issues that were raised for the
15 Board's consideration.

16 Firstly, the SEQRA form that was filed as a
17 legal matter is technically incorrect. The short
18 form submitted was substantially revised in 2013.
19 The form submitted is the outdated form which was
20 used prior to that time. So I would state that as
21 a result in order for the Board to adequately
22 consider the environmental impact under SEQRA,
23 that the correct form be filed. Especially when
24 you're dealing with issues of drainage and similar
25 impacts that this case implicates.

Lowy - 3/3/16

1 Secondly, I would respectfully submit to this
2 Board that based upon the way the code is written
3 the Board lacks the legal authority to consider
4 and/or approve this application. The applicant's
5 requests -- or the applicant's request for a
6 permit is under Section 70-11(B) of the Village
7 Code, and that states: It shall be unlawful to
8 alter, change, add or remove from any site soil or
9 other material which will result in any deviation
10 from the original grade of the property. That
11 section is located in Chapter 70 of the Village
12 Code, and that chapter is entitled, Building
13 Construction and Fire Prevention. Significantly,
14 the relief requested is not a provision which is
15 maintained in the Village zoning code which is set
16 forth, as of course the Board is aware, in
17 Chapter 212. This is clearly a police power
18 regulation, not a zoning regulation that they seek
19 relief from. I would submit to this Board that it
20 does not have the authority legally to consider
21 and/or approve this request pursuant to Village
22 Law Section 7-700 which sets forth the power of
23 Zoning Boards statewide and, of course, the
24 Village's own code.

25 By way of analogy, the subject application is

Lowy - 3/3/16

1 really pursuant to Section 70-11(B) of the Village
2 Code. Now, that section, which it's a separate
3 subsection of the same section that we're talking
4 about, contains an unequivocal prohibition against
5 issuance of a building permit -- excuse me -- I'm
6 talking about 70-11(A) which contains the
7 requirement that a building permit be obtained
8 prior to commencement of construction. But
9 basically, (A) says you need a building permit
10 before you can build. (B) says you can't change
11 the grade.

12 Now, I would suggest that the Board does not
13 have the authority to waive the obligation to file
14 a building permit application or obtain a building
15 permit before construction begins. Similarly,
16 within the same section is the subsection that
17 says the grade cannot be changed, and that is an
18 unequivocal prohibition, not one that is under the
19 zoning code that can be varied.

20 MR. GRAY: Mr. Avrutine, wouldn't you agree
21 that if a building permit was denied because part
22 of the application requests a regrading of the
23 property, that denial by the Building Department
24 or the building superintendent is appealable to
25 the Zoning Board?

Lowy - 3/3/16

1 MR. AVRUTINE: But there's no authority to
2 grant a variance from it. That's my point. It's
3 not a zoning regulation.

4 MR. GRAY: But do you agree that part of the
5 role of the Zoning Board that applicants have the
6 ability to appeal a denial of the Building
7 Department to the Zoning Board?

8 MR. AVRUTINE: They do have. That's part of
9 the Board's jurisdiction. What I'm saying is
10 though they have no power to grant this relief
11 even though technically as a matter of an appeal
12 from a determination they don't have the power to
13 grant it the way the codes are written.

14 MR. GRAY: Do you have any case law to
15 support that position?

16 MR. AVRUTINE: Specifically regarding grade,
17 no, I don't have any cases. I can do further
18 research. But what I'm pointing out is the fact
19 that if you look at the code you'll see that the
20 zoning chapter contains the requirements that this
21 Board typically considers.

22 CHAIRMAN KEILSON: Mr. Avrutine, how many
23 times was this matter adjourned, and why wasn't
24 this brought up before if it really bothered you
25 so much?

Lowy - 3/3/16

1 MR. AVRUTINE: Well, I'm raising my points.
2 I'll get to the practical side.

3 CHAIRMAN KEILSON: I think you should get to
4 the practical side. The hour is late and our
5 patience is running very short.

6 MR. AVRUTINE: I understand.

7 CHAIRMAN KEILSON: Okay.

8 MR. AVRUTINE: But with all due respect --

9 CHAIRMAN KEILSON: You've had more than
10 adequate time to address it in its earlier venues.

11 MR. AVRUTINE: Well, I still think it is
12 appropriate, and to the extent that there's
13 another venue after this one that this case goes
14 to, I want to make sure that my clients are
15 protected on the record.

16 CHAIRMAN KEILSON: Let's get to the matter.

17 MR. AVRUTINE: I will. Now we've -- in
18 addition to those issues, we've reviewed the plan,
19 and of course, there's no drainage depicted on it,
20 and that's a significant problem from our
21 perspective as to how the drainage is going to be
22 dealt with.

23 After we received the revised plan that was
24 submitted by the Lowys, we had raised some issues,
25 and Mr. Castro has been very accommodating in

Lowy - 3/3/16

1 terms of acting sort of as a liaison between the
2 Rossis and the applicants on this particular case.

3 And in order, the remaining issues that we
4 have, number one, of course, the drainage plan.

5 Number two, the area depicted within between
6 the 10-foot area is still sloped toward the Rossi
7 property. The Rossis would like that to be flat
8 and would not like it to be sloped toward them.

9 Similarly, we have said from the start that a
10 timber retaining wall along that property is
11 problematic because it degrades over time, and
12 they will be the beneficiaries, or to their
13 detriment, it will be a detriment to them if
14 there's a degrading retaining wall on that
15 property. It should be another material, such as
16 concrete, and that would alleviate one of their
17 major concerns.

18 So if -- their concerns were that the grading
19 be toward the Lowy home and not toward their home
20 (A); (B) that we have that flat grade in the back;
21 and (C) that we have a different retaining wall
22 configuration -- not configuration, different
23 materials comprising the retaining wall.

24 So those were the issues that we raised with
25 Mr. Castro, and Mr. Castro indicated that those

Lowy - 3/3/16

1 concerns were conveyed to the Lowys and that at
2 least as of now there was no response to those
3 concerns that we raised. So we're here to raise
4 them again tonight because there hasn't been an
5 official response one way or the other, and that
6 we could, if those items were addressed, I believe
7 the Rossis would be amenable to changing their
8 position as far as this application is concerned.

9 There is one other issue that I would like to
10 raise, and that is there were statements made, and
11 I just want to put this in the record because I
12 think it's important, there were statements made
13 regarding the original application and that
14 everybody was contacted, all the neighbors were
15 contacted. The Rossis were never contacted
16 regarding the original. While the affidavit of
17 service of mailing, I should say, with respect to
18 the notices is in the file and it shows that it
19 was mailed, they stated to me that they never
20 received it. And there was a letter submitted,
21 which I want to submit a copy of to the Board,
22 which Mrs. Rossi claims is not her signature and
23 was submitted, and she knew nothing about it, no
24 one ever spoke to her, yet there was a letter
25 submitted to the hearing which is not her

Lowy - 3/3/16

1 signature. So I'd like to submit --

2 CHAIRMAN KEILSON: Signature on what?

3 MS. LOWY: It's Mr. Rossi's signature, and

4 I --

5 CHAIRMAN KEILSON: Hold it. Signature on
6 what?

7 MR. AVRUTINE: On a letter of consent in the
8 original application. And they will speak for
9 themselves and address it.

10 CHAIRMAN KEILSON: Let's go back to your
11 three issues. Mr. Castro, can we talk about the
12 three issues. As far as the -- Mr. Avrutine, stay
13 focused. Let's go through your three issues one
14 at a time.

15 MR. AVRUTINE: Okay. We have the slope of
16 the area between what was described as the
17 retaining wall and steps during the presentation
18 and the property line to have that flat area, and
19 also we would want to make sure the patio is not
20 sloped toward our property. That should be sloped
21 in the opposite direction so it does not cascade
22 down the water. Also, that the retaining wall be
23 constructed of concrete or some other --

24 CHAIRMAN KEILSON: Let's do one at a time.
25 There are three. What's the first one? Because

Lowy - 3/3/16

1 that wasn't the first one previously.

2 MR. AVRUTINE: Okay, I'm not sure what --
3 I'll go through the order again. Let me find it
4 in my notes so we'll make it concise.

5 CHAIRMAN KEILSON: I think you should.

6 MR. AVRUTINE: Just bear with me a moment.

7 CHAIRMAN KEILSON: No problem.

8 MR. AVRUTINE: Okay. The first one was
9 whatever steps would need to be taken so that the
10 area which states gradual gentle slope would be
11 eliminated and that would be level ground; that's
12 number one. Number two --

13 CHAIRMAN KEILSON: Let's talk about that.
14 Mr. Castro, anything to discuss on that?

15 MR. CASTRO: No. If properly graded, the
16 water shouldn't -- you know, shouldn't cascade
17 down.

18 MR. AVRUTINE: Well, I think the concern is
19 that it's still sloping towards up as opposed to
20 being flat.

21 MR. CASTRO: Gradual gentle slope is a bit
22 ambiguous. I mean, it could be a matter of an
23 inch or it could be a matter of 12 inches.

24 CHAIRMAN KEILSON: Is there any way to
25 tighten that up?

Lowy - 3/3/16

1 MR. AVRUTINE: I can say from looking at the
2 plan, and again, the plan is not nearly as
3 detailed as we would have otherwise hoped, but
4 it's probably at least a foot or two difference in
5 slope from where those steps will be and our
6 property line, so it's -- it's going to be just by
7 the forces of gravity dictating that the water
8 comes toward our property. And that, of course,
9 leads to another item, which was the timber wall,
10 which if it's frequently being hit with moisture
11 it's going to degrade that much faster than a
12 timber wall would under normal circumstances. And
13 the --

14 CHAIRMAN KEILSON: Number three.

15 MR. AVRUTINE: The other issue was the patio
16 grading. It appears, again, that it's sloping
17 toward our property, toward the Rossi property,
18 and it should be sloped in the other direction or
19 graded, constructed such that the grading is
20 toward the Lowy home, not toward the Rossi
21 property.

22 MEMBER GOTTLIEB: Are we putting in dry
23 wells? Are there dry wells proposed in the areas
24 that are sloped?

25 MR. AVRUTINE: Well, there's nothing depicted

Lowy - 3/3/16

1 on this plan.

2 MR. CASTRO: Well, I think it would have to
3 be changed. It would have to be changed from the
4 prior plans and then corrected with this new
5 design.

6 MR. BLUMENKRANZ: Aaron Blumenkranz,
7 B-L-U-M-E-N-K-R-A-N-Z. Currently, as per the
8 approved plan, there is three dry wells in the
9 rear yard. I believe two of them are to handle
10 the pool, if they ever need to empty out the pool,
11 and one is for the gutters, for the gutters and
12 the leaders.

13 Just to interrupt for a minute, they -- one
14 of the original requests which is what the Lowys
15 really want, I hear a lot of the sloping being an
16 issue by the neighboring property, is the fact
17 that they originally wanted everything graded
18 straight, no slope at all, build a retaining wall
19 level with their exit of the rear of their home
20 and build it at the same level of the home without
21 any sloping.

22 The reason of all the sloping was because the
23 complaint came to us that they don't want any type
24 of retaining wall. They want level with their
25 backyard to the rear of the home, which is where

Lowy - 3/3/16

1 it was, which is where it used to be. Which to me
2 and to I believe when we discussed it with the
3 Building Department, is a worse situation than we
4 were proposing to make the backyard ultimately be,
5 which is one flat level without any slope. All
6 these slopes came about because we're trying to
7 maintain what there is now.

8 CHAIRMAN KEILSON: Okay.

9 MR. AVRUTINE: I'd like to address that, if I
10 may. The original plan had a retaining wall with
11 -- from the Rossi perspective of a four-foot
12 structure plus a fence above it. And was going to
13 create what I would call a promenade effect where
14 it was simply unacceptable to them. You had the
15 entire rear yard raised to that level. So that
16 needed to be addressed in a way that would at
17 least try to minimize some of the impact.

18 The truth of the matter here is that the
19 grading of this property existed the way it was
20 when the Lowys purchased it, and it's clear from
21 the submission that they made from their
22 application, they are saying, well, we want to do
23 this so that we have more usable backyard space.
24 Now, I understand that sentiment.

25 CHAIRMAN KEILSON: We're well beyond that at

Lowy - 3/3/16

1 this point.

2 MR. AVRUTINE: Okay. But I just wanted -- I
3 wanted just to make it clear that we're -- not to
4 the burden of someone else is simply my point, and
5 that's what this situation is creating.

6 CHAIRMAN KEILSON: So let's go back to the
7 three points.

8 MR. CASTRO: Just going back to the elevation
9 of the upper portion where the swimming pool is,
10 the higher, if you notice, there is four elevation
11 points depicted, 15 and a half on the front, the
12 back of the pool, and then when you move further
13 south you see 15 and a half again, and 15 and a
14 half, that would indicate that that area is flat.

15 MR. AVRUTINE: It seems to be.

16 MR. CASTRO: Correct. Now, if you go to the
17 bottom left of the diagram, again, you will see
18 top of wall 12, and then 12 again in the middle of
19 that area, which indicates that that square is
20 also level. The only area that doesn't have exact
21 elevations is that area where it says gentle
22 slope.

23 MR. AVRUTINE: Wait one second, Mr. Castro.
24 When talking about the patio, I see, and again,
25 I'm not sure exactly what it's referring to, I see

Lowy - 3/3/16

1 an elevation of 13.50, do you see that one? Right
2 below where it says one-foot-six-inch wall?

3 MR. CASTRO: Yes.

4 MR. AVRUTINE: And below that I see 12, and I
5 see further down 10 in the middle there, and then
6 10.73 over to the left. So it seems to me that
7 it's going from 13 and a half to 10 from the -- I
8 believe -- I guess that would be the northerly
9 section of the patio to the southerly section
10 where it abuts the Rossis. So clearly, at least
11 the way I read it, and I'm not an engineer, but it
12 seems that the slope of that patio is definitely
13 toward the Rossis.

14 MR. CASTRO: Well, there's a one-foot-six
15 wall that's shown there, and that would give you
16 the difference in elevation of 13 and a half
17 versus 12. Obviously, with a wall it's not a
18 slope, it's just a drop-off. It's a retaining
19 wall, essentially.

20 MR. AVRUTINE: From the middle of that patio
21 or even from the wall to the south there's going
22 to be a two-foot difference in elevation, 12 to
23 10.

24 MR. CASTRO: Due to a retaining wall.

25 MR. AVRUTINE: But I don't see how that's due

Lowy - 3/3/16

1 to a retaining wall if you have -- how is the
2 slope -- how is the elevation in the middle of the
3 -- unless that 12 is referring to something else.
4 I can't tell.

5 MR. CASTRO: There's an elevation 12 in the
6 center of that.

7 MR. AVRUTINE: Correct. And there's an
8 elevation 10 at the south.

9 MR. CASTRO: Well, I think that's on the
10 other side of the retaining wall.

11 MS. LOWY: It's on the other side of the
12 wall.

13 MR. CASTRO: Correct. The top of the wall is
14 12.

15 MR. GRAY: So it appears that the patio would
16 be level at 12 foot.

17 MR. AVRUTINE: At the top of the wall.

18 MR. CASTRO: Correct.

19 MR. AVRUTINE: So you're saying the patio is
20 at the top of the wall.

21 MR. CASTRO: Yes.

22 MEMBER GOTTLIEB: If you look, it says
23 two-foot high wall, and the 10 is below the patio.
24 So there's a two-foot drop-off from the patio to
25 the next level.

Lowy - 3/3/16

1 MR. AVRUTINE: Is there going to be drainage
2 in the patio itself? That's a large impervious
3 surface. That water has to go somewhere.

4 MR. CASTRO: Again, we have to know what the
5 material is then of the patio.

6 MR. AVRUTINE: Mr. Gursky is here, John
7 Gursky, who is our engineer, to address some of
8 the drainage points.

9 MR. GURSKY: John Gursky. I'm a senior
10 engineer associated with Cameron Engineering &
11 Associates. We're at 100 Sunnyside Boulevard in
12 Plainview.

13 The Rossis had contacted us in August of last
14 year because during the construction of the Lowy
15 additions, there was a great amount of soil that
16 was piled in the rear yard. They were concerned
17 because of the history, the history of the
18 drainage situation in their rear yard. The Lowys'
19 rear yard before they changed anything always
20 sloped to the Rossis' rear yard, as did the
21 adjacent neighbors, creating runoff that inundates
22 the Rossis' rear yard. And this is historic.

23 Once they saw the soil that was piled in the
24 rear yard and the erosion that was happening and
25 runoff coming in, silted runoff coming into their

Lowy - 3/3/16

1 rear yard, they contacted us for advice on just
2 exactly how they could safeguard their rear yard.

3 So we produced a limited site study to take a
4 look at the proposed Lowy construction drawings
5 and the existing conditions at the site. At the
6 time, the Rossis did take a look and they did not
7 like the idea of a four-foot retaining wall with a
8 fence on top of it because it would be very
9 prominent from their rear yard. Their major
10 concern though is the drainage in the rear yard.

11 I see that there is a new plan that's dated
12 January 25th, 2016, which shows a tiered rear
13 yard, and with that tiered rear yard it shows a
14 two-foot maximum high retaining wall off the
15 property line. There is an area where there is a
16 gentle slope coming off the eastern -- the
17 southern eastern part of the Lowy property where I
18 believe that that area is too low to have any
19 effective drainage associated with it.

20 From the previous drawings that we examined
21 during our study the dry wells were all placed
22 basically north of the existing trees on the
23 property. We've also looked at the test borings
24 that were done on the groundwater elevations,
25 because dry wells have to be a certain distance

Lowy - 3/3/16

1 above groundwater by state law, and you have to
2 supply adequate drainage for your construction,
3 again by state law.

4 MEMBER HILLER: What is that distance?

5 MR. GURSKY: Well, it was two feet, and the
6 plan shows two feet. The DEC has three and
7 four feet in mind at most places, but, however, in
8 an area of low-lying grounds and high groundwater
9 tables two feet is adequate.

10 So if you look at the grading of the concrete
11 patio that is proposed in the latest drawing, the
12 distance from groundwater to the top of the patio
13 is inadequate based on the previous drainage plan,
14 based on the six-foot high dry wells that were
15 proposed. So I have heard that the dry wells have
16 been installed in the rear yard.

17 I would and I think the Rossis would like to
18 see that an as-built plan would be done of that to
19 ensure that the proper amount of drainage was
20 installed and is functional, and that would be the
21 most important thing, not just that the volume was
22 installed but it's actually functional because
23 their rear yard floods constantly with runoff from
24 the adjacent properties. And they just want that
25 to be corrected.

Lowy - 3/3/16

1 MS. LOWY: Can I speak for one moment?

2 CHAIRMAN KEILSON: Not yet.

3 MR. GURSKY: Am I yielding?

4 MR. AVRUTINE: Are you finished?

5 MR. GURSKY: I think I am.

6 MEMBER GOTTLIEB: Can I ask the engineer a
7 question?

8 MR. GURSKY: Absolutely.

9 MEMBER GOTTLIEB: I just tried to understand
10 something. You said that the dry well under the
11 proposed patio --

12 MR. GURSKY: I'll do the math for you.

13 MEMBER GOTTLIEB: It's not the math. What's
14 the height of the water table under the patio?

15 MR. GURSKY: Well, the soil borings were done
16 before any work was done at the house, okay, so
17 there was an existing topographic survey that was
18 done. We can estimate from the location of boring
19 number one and boring number two, boring number
20 two is probably the most appropriate for the
21 Rossis because it's the southern-most boring.
22 Ground level appears to be about elevation 13.
23 The boring shows that 9.2 feet, or 9, you know,
24 9 feet a little over two inches below that
25 existing ground is where groundwater is. So what

Lowy - 3/3/16

1 you would typically do is take that elevation, add
2 two feet, and that's where the bottom of your dry
3 well would be.

4 MEMBER GOTTLIEB: Okay. Not the dry well,
5 but the actual water table is at what elevation?
6 Is it 13 minus 2 or 9?

7 MR. GURSKY: Yes, it is 13 minus 9.2. So the
8 actual groundwater is 3.8.

9 MEMBER GOTTLIEB: So that's where the
10 groundwater is, at 3.8?

11 MR. GURSKY: Which is pretty much
12 appropriate, pretty much believable in this area.

13 MEMBER GOTTLIEB: What is the elevation of
14 the Rossi property?

15 MR. GURSKY: Well, the elevation of the
16 Rossis' property at the corner, the southeast
17 corner of the Lowys' property is elevation 9. So
18 we have --

19 MEMBER GOTTLIEB: So it should be six feet
20 above the water table.

21 MR. GURSKY: Correct. You see, with six feet
22 above the water table you would have to have dry
23 wells that were probably only two feet deep on the
24 Rossis' property, which that's completely
25 ineffective.

Lowy - 3/3/16

1 MEMBER GOTTLIEB: What I was getting at was
2 it sounded as if the water table was above the
3 Rossis' property.

4 MR. GURSKY: No, no. I apologize if I was
5 not clear.

6 I think the Lowys do have room to put
7 sufficiently deep dry wells in place. The problem
8 is that they are sloping their rear yard towards
9 the Rossis' property, and at that elevation above
10 the two-foot retaining wall there is not really a
11 lot of area for dry wells to be placed in that
12 area or pick up that area for drainage, effective
13 drainage.

14 So I don't want to bore everyone, but I
15 believe the best solution would be for a new
16 drainage plan to be submitted, we humbly request
17 that, so that it could be proven that adequate
18 drainage will be built on the site.

19 CHAIRMAN KEILSON: We could make the drainage
20 plan subject to the approval of the Building
21 Department, as we've done in many variances
22 previously.

23 MR. AVRUTINE: In this particular instance,
24 we respectfully request that that procedure not be
25 followed. I think this is too sensitive a

Lowy - 3/3/16

1 situation, and we want to ensure with our
2 consultant that it's a viable situation and that
3 it's proper. And again --

4 CHAIRMAN KEILSON: We've never found that the
5 Building Department has been inadequate in
6 reviewing such drainage plans. Mr. Cameron has
7 worked very closely with the Village. I don't
8 think there's any issue with Cameron consulting
9 with the Village in terms of whether the plan is
10 going to be required by the Village.

11 MR. AVRUTINE: Then I'm just reiterating my
12 request. The Board will take whatever action it
13 deems proper.

14 CHAIRMAN KEILSON: Right.

15 MR. AVRUTINE: But I just wanted to also
16 state that we still have the concern about the --
17 as Mr. Gursky reiterated my point about the gentle
18 -- the quote-unquote gentle slope and the
19 construction materials of the wall itself.

20 CHAIRMAN KEILSON: He didn't say anything
21 about construction materials, you said it.

22 MR. AVRUTINE: Yes, I did.

23 CHAIRMAN KEILSON: You said Mr. Gursky had
24 concerns.

25 MR. AVRUTINE: No, no. Well, the -- no, he

Lowy - 3/3/16

1 didn't reiterate that. That was my point.

2 CHAIRMAN KEILSON: Right. If I can ask, how
3 long has Mr. Gursky had this plan in his
4 possession?

5 MR. GURSKY: The new plan?

6 CHAIRMAN KEILSON: Yeah.

7 MR. GURSKY: A week or two.

8 MR. AVRUTINE: Whenever I got it from
9 Mr. Castro.

10 CHAIRMAN KEILSON: Why wasn't it shared with
11 him, you know, a week, two weeks ago?

12 MR. AVRUTINE: It was shared with him when it
13 was shared with me. He had it and we discussed --
14 as I said, we've discussed various things through
15 Mr. Castro, and then the discussions came to an
16 abrupt halt, and so we're here tonight.

17 I would just also like to point out we cannot
18 tell from the plan what the height of the fence
19 above the retaining wall is going to be. There's
20 no dimension which depicts it, so I don't know,
21 because it's also an issue regarding the pool
22 that's on the Rossis' property, and currently we
23 just want to make sure that there's no issue with
24 the safety and the legality of the fencing
25 separating the two properties because of the

Lowy - 3/3/16

1 existence of a new retaining wall.

2 CHAIRMAN KEILSON: I have difficulty,
3 Mr. Avrutine, I have a note here that the plans
4 were sent to you on 1/27.

5 MR. AVRUTINE: That's fine, that's when it
6 was sent.

7 CHAIRMAN KEILSON: You said two weeks ago.

8 MR. AVRUTINE: I didn't say two weeks ago.

9 CHAIRMAN KEILSON: You just said two weeks
10 ago.

11 MR. GURSKY: I may be in error.

12 CHAIRMAN KEILSON: So it's been in your
13 possession for over a month, and you've had many
14 conversations with Mr. Castro since then, have you
15 not?

16 MR. AVRUTINE: I had several conversations
17 with Mr. Castro.

18 CHAIRMAN KEILSON: So why are we waiting till
19 this evening to bring this up?

20 MR. AVRUTINE: To bring what up in
21 particular, Mr. Chairman?

22 CHAIRMAN KEILSON: Your objections tonight.

23 MR. AVRUTINE: They were raised with
24 Mr. Castro.

25 CHAIRMAN KEILSON: Mr. Gursky's were also

Lowy - 3/3/16

1 raised?

2 MR. AVRUTINE: Not in that detail. I related
3 to Mr. Castro what --

4 CHAIRMAN KEILSON: I'm concerned with the
5 good-faith efforts to resolve this matter.

6 MR. AVRUTINE: There's been ultimate good
7 faith on the part of the Rossis. I've contacted
8 Mr. Castro on any number of occasions.

9 CHAIRMAN KEILSON: Well, let's see if we can
10 resolve it this evening, okay.

11 MR. AVRUTINE: That would be fine with us.

12 CHAIRMAN KEILSON: Okay. So as far as the
13 plan, we can come up with a plan that the Village
14 will approve, if the Board goes along with that,
15 with Mr. Gursky consulting, that will be fine.
16 We'll deal with that. Now the material --

17 MR. AVRUTINE: The drainage.

18 CHAIRMAN KEILSON: Correct. As far as the
19 nature of whether it's timber or concrete or the
20 like, that's another point you raised.

21 MR. AVRUTINE: Yes.

22 CHAIRMAN KEILSON: Can we hear from the
23 applicant.

24 MS. LOWY: I just wanted to state that the
25 original drainage plan was created by John

Lowy - 3/3/16

1 Capobianco at the referral of Mike Ryder, because
2 we wanted to make sure that an efficient drainage
3 plan was drawn.

4 CHAIRMAN KEILSON: We're beyond that at this
5 point.

6 MS. LOWY: No, but when the changes started
7 arising I was apprehensive that the drainage plan
8 would not be efficient, so I went back to John
9 Capobianco and his associates, reviewed the plan,
10 and submitted a letter to the Village stating that
11 the plan would be effective in drainage at any
12 level point that was being discussed ranging from
13 the Rossi level to our existing house level. So
14 no matter where the grade was going to end up,
15 those dry wells in those positions would suffice
16 for the drainage in question.

17 CHAIRMAN KEILSON: Okay, we're beyond that.
18 Let's talk about the material.

19 MS. LOWY: Material. So I mean --

20 MR. BLUMENKRANZ: It's really more of a cost
21 thing on the homeowners' end, but we discussed it
22 quickly over here and I don't think that would be
23 an issue if we built some kind of timber lock,
24 which is more of a masonry kind of retaining wall
25 which locked into each other and create some kind

1 of 45, and it's made for retaining soil, so there
2 are colors. I don't know if the neighbor has to
3 pick the color, but they come in different styles.

4 CHAIRMAN KEILSON: Mr. Castro, do you have an
5 opinion on that?

6 MR. CASTRO: No. I think I know the blocks
7 that you're talking about. They are staggered and
8 they interlock from the rear to retain the dirt
9 behind them. I've seen them used on walls that
10 are eight, nine feet high.

11 MR. AVRUTINE: Unfortunately, Dr. Rossi is
12 having a little trouble hearing what's being said.

13 CHAIRMAN KEILSON: We'll repeat it in a few
14 moments. So why don't you explain what's being
15 offered by the applicant.

16 MR. CASTRO: Okay. So the change in the
17 material of the retaining wall from timber to some
18 type of interlocking masonry, I have no objection
19 to it. Like I said, I've seen it in retaining
20 walls eight, nine feet high, so it's used all the
21 time.

22 MR. ROSSI: And putting the four-foot fence
23 to protect the property? Excuse me. I'm
24 Dr. Rossi. I'm the owner of the property at
25 124 Sutton Place South. And as I said, the

1 original plan with a four-foot high retaining wall
2 was totally unacceptable. That was created for
3 some kind of --

4 CHAIRMAN KEILSON: We're not doing that.

5 MR. ROSSI: Well, I mean, because reference
6 is being made to drainage plans that were
7 applicable to that plan and not to this plan.

8 CHAIRMAN KEILSON: And we're talking about a
9 drainage plan to be approved by the Village in
10 concert with your consultant.

11 MR. ROSSI: So again, my concern is --

12 CHAIRMAN KEILSON: What's the third point,
13 Mr. Avrutine?

14 MR. AVRUTINE: It was the slope issue, the
15 gradual slope as opposed to it being flat.

16 MR. ROSSI: My concerns with the final plan
17 were quite simple. I was ready to make some kind
18 of compromise, because everyone should be able to
19 enjoy their property, but I didn't want a
20 four-foot wall. So when it came down to two feet,
21 I said that's a compromise, I can deal with that.
22 I don't want it made out of timber because it's
23 going to rot and it's going to --

24 CHAIRMAN KEILSON: We're beyond that. Next.
25 What else is your concern?

1 MR. ROSSI: I wanted the four-foot fence to
2 protect the property and the pool which I think
3 legally has to happen. I wanted that gentle slope
4 to be flat so that to continue the water runoff,
5 and all they had to do is add a couple of more
6 steps in that back section and make that level so
7 that the water wouldn't run off over the wall onto
8 my property. And I wanted an engineer-approved
9 drainage plan.

10 CHAIRMAN KEILSON: Hold it. Let's talk about
11 the gentle slope. Is there something we can do to
12 accommodate this?

13 MS. LOWY: Well, essentially, we're at the
14 top of the hill, and the Rossi property is at the
15 bottom of the hill, so we have to work at some
16 point, but we are higher than them. So the higher
17 I go in retaining walls to make more flat space
18 versus a gentle, natural slope which is existing
19 as it is right now, then I would need to -- I
20 would have to have like more concrete in the
21 property because I'd have to have more steps,
22 especially if I'm not going with timber and I'm
23 going with concrete, which is a concern as the
24 good of Lawrence, but I'm going to have a lot of
25 concrete in my backyard. Now, I know when it

1 pertains to making these stairs as retaining walls
2 I was advised that it's not going to be a problem
3 in terms of ground cover, but I mean, to take the
4 property and to put fences across it, and large
5 retaining walls with fences on top so no one falls
6 down a four-foot wall, I'd rather leave the
7 property as it exists, which is a full runoff to
8 the Rossis, and not do any of the work because
9 that would break up the property as unusable in my
10 eyes. So if I can create an area which we can use
11 with retaining walls that has steps in it so that
12 the area is still open, functional space with,
13 let's say, a 24-foot retaining wall that has a
14 two-step level difference so the child can run
15 down it as they're playing a game, I'm willing to
16 compromise and do that type of, you know, change.
17 The problem is, is that I'm still a full six feet
18 higher than the Rossis' property, so I only have a
19 certain amount of width to play and a certain
20 amount of height to play with. So the gentle
21 slope was sort of making it realistic. I'm open
22 to suggestions from the Board on how that can be
23 realistic with a flat property, but I think that
24 the square footage is not workable unless I make
25 the retaining wall higher in order to make that

1 property level. I just don't think it can work
2 unless we change the plans to make higher walls,
3 and higher walls would mean more steps, which
4 would be more cover and less grass, which, once
5 again, I'm open to, but it definitely would not
6 help the drainage on the Rossis' end because the
7 water is going to run off of the concrete. If
8 it's flat and all concrete, I don't see how it
9 would help. The soil that I'm adding is good,
10 absorbent soil. It's not like clay at the bottom
11 of the level, because I'm adding this good soil
12 that's going to absorb the dirt into the dry wells
13 that I installed to make much more comfortable --

14 CHAIRMAN KEILSON: Mr. Castro, do you have
15 any suggestions as to how we can bridge this
16 question?

17 MR. CASTRO: You're showing elevation 11 at
18 the top of the rear retaining wall, and you're
19 showing elevation 15 and a half at the uppermost
20 portion, giving you a difference of four and a
21 half. So how high is that retaining wall, the
22 intermediate retaining wall between those two, the
23 one with the steps?

24 MS. LOWY: The steps I think it was
25 three feet, three feet high, 36 inches.

1 MR. CASTRO: That would signify an 18-inch
2 difference between the steps and the rear
3 retaining wall. I consider it more than a gentle
4 slope.

5 CHAIRMAN KEILSON: Let's break for five
6 minutes.

7 (Whereupon, a discussion was held off the
8 record.)

9 CHAIRMAN KEILSON: Did somebody want to speak
10 from your side?

11 MR. AVRUTINE: I think Mr. Gursky had a
12 suggestion. We obviously weren't privy to the
13 discussions that were taking place, but
14 Mr. Gursky, I think, has a suggestion that
15 might --

16 MR. GURSKY: It's just something that we
17 discussed in that the concern seems to be the
18 slope coming towards the Rossis' property. If you
19 added an additional step down from that tier it
20 could flatten out the rear yard. However, I do
21 see that there could be up to seven steps there,
22 rather than the three shown on the plan just based
23 on the elevations. So, you know, I would submit
24 that a new plan needs to be submitted that solves
25 these issues.

1 MR. AVRUTINE: But I would respectfully
2 submit to this Board that a configuration of that
3 nature with steps on the Lowys' property is more
4 appropriate than having a higher wall at the Rossi
5 property line.

6 Mrs. Rossi would like to address the Board.
7 State your name and address.

8 MS. ROSSI: Mary Ann Rossi, 124 Sutton Place
9 South in Lawrence. I just wanted to show you that
10 this is what started it all. It's a picture of
11 the top of my four-foot fence and the mound of
12 dirt that I was facing on my property.

13 I have been a resident of my property for
14 over 43 years. I was never made aware of the
15 multiple meetings, adjournments and postponements,
16 nor the December 17, 2015 meeting when the
17 variances were granted to the Lowy property. In
18 fact, this is the first time I'm ever seeing or
19 meeting them.

20 The minutes state that the Lowys knocked on
21 doors.

22 CHAIRMAN KEILSON: The notices went out.

23 MS. ROSSI: The minutes state that the Lowys
24 knocked on doors, especially the adjacent
25 properties, to avoid anyone disapproving. No one

1 ever informed me, and I have a copy of the
2 meetings where the statement was made that I
3 signed off and I was aware and shown anything that
4 they were doing. They made sure that all the
5 other neighbors were privy to this.

6 My property is six feet lower than theirs.
7 Drainage is of the utmost importance to me. So I
8 became upset when I noticed the excavation and
9 mounding of over 10 feet of soil to the original
10 grade, and that at that time no variance for grade
11 change was requested or granted.

12 Now, after much expense to me, back and
13 forth, a new plan has been submitted. Please be
14 aware that a change of grade affects the flow of
15 water. And any runoff or deterioration of a wall
16 built to contain the soil or any lack of a
17 specific drainage plan will impact my property,
18 the value of it, the safety of it, and the
19 desirability of it. A professional drainage plan
20 should be submitted. That's my main concern.

21 CHAIRMAN KEILSON: Okay.

22 MS. ROSSI: In addition to the fact that I
23 was not aware of this until excavation started.
24 No one has ever called me, approached me or
25 mentioned this to me.

1 CHAIRMAN KEILSON: Again, just for the
2 record, the notices went out.

3 MS. ROSSI: But she said she knocked on
4 doors.

5 CHAIRMAN KEILSON: That's irrelevant. The
6 notices went out.

7 MS. ROSSI: That's not our signature.

8 CHAIRMAN KEILSON: Again, the notices went
9 out.

10 MS. ROSSI: Okay, fine.

11 MR. ROSSI: Mary Ann, it's part of the
12 record. Don't worry about it.

13 CHAIRMAN KEILSON: Thank you.

14 MS. ROSSI: Thank you.

15 CHAIRMAN KEILSON: At this point in time, I
16 think the concern of the Board is that we've had
17 this plan for a while. The device of the Building
18 Department is that this is an improved situation
19 over the pre-existing situation prior to the
20 entire project being undertaken. The Rossis
21 themselves have told me previously that they have
22 conditions relevant to the elephant next door, the
23 residence that's abutting from the other side,
24 also significant runoff.

25 I think as a general statement, a genuine

1 effort has been made to try to ameliorate the
2 situation every which way. I think the plan as
3 submitted goes a long way towards that. There's
4 definitely a need for a drainage plan. I think
5 whatever we are going to vote on should be subject
6 to having the drainage plan, and the Building
7 Department will have to approve it during
8 consultation with whomever you want from the
9 Cameron group.

10 As far as the nature of the timber that's
11 used, or whatever the new suggestion was in terms
12 of that retaining wall, that as far as that was
13 concerned I think that would be acceptable to the
14 applicant, and seems to be that the Village would
15 see to it that that's what happens.

16 I think at this point in time we're going to
17 go for a vote.

18 MR. AVRUTINE: I wanted to clarify,
19 Mr. Chairman, that that's the concrete, the
20 interlocking material that was discussed?

21 CHAIRMAN KEILSON: Yes. I wish there was a
22 name for it.

23 MR. ROSSI: He didn't address the sloping.

24 CHAIRMAN KEILSON: We're addressing the plan
25 as submitted that we worked with until now from

1 January 27th is the plan that we're voting on as
2 indicated. The Building Department will see to it
3 that they are -- that they supervise whatever is
4 going to be done and is consistent with the plan,
5 assuming that the Board votes for it at this point
6 in time. Have I covered mostly everything?

7 MR. GRAY: You have. And I just wanted to
8 clarify, I believe, if it's going to be in the
9 form of a motion to approve the plans as submitted
10 dated January 27th --

11 MR. CASTRO: 28th.

12 MR. GRAY: -- 28th, 2016 with the two
13 conditions. One condition that a drainage plan
14 satisfactory to the Building Department be
15 submitted and given to the Rossis' engineers,
16 Cameron Engineering, an opportunity to comment on
17 it.

18 CHAIRMAN KEILSON: Consult and comment.

19 MR. GRAY: Consult and comment on it. And
20 the second condition, that any retaining wall as
21 proposed would be of a material, of a concrete
22 interlocking type of material. I think those are
23 your two conditions.

24 CHAIRMAN KEILSON: Correct.

25 MR. AVRUTINE: Can we get clarification as to

1 what the height of the fence will be on top of the
2 wall? It's not shown on the plan, so I just want
3 to make sure that there's no issues as far as
4 compliance with the pool enclosure.

5 MR. CASTRO: Yeah, I believe we spoke.
6 There's a little bit of a technicality because the
7 fence is not on the property line. The property
8 line is actually two feet beyond the fence. I
9 guess --

10 MR. AVRUTINE: You're talking about the
11 Rossis' fence?

12 MR. CASTRO: Yeah, the Rossis' fence. I
13 guess you could say that it's two feet on the
14 Lowys' property. I don't know if you've had a
15 chance to actually take some measurements,
16 Mrs. Lowy or Aaron, to see where --

17 MS. LOWY: It was on the survey that was
18 originally in the hands of the Village. We
19 created our plan based on that survey. If the
20 Rossis' survey is consistent with our survey,
21 there should be a 24-inch difference between the
22 Rossis' chain-link fence and our two-foot
23 retaining wall, which would make it that our
24 retaining wall is not nullifying the four-foot
25 height of their fence.

1 MR. CASTRO: Correct, correct. There would
2 be no need to put a fence on top of that retaining
3 wall.

4 MR. ROSSI: That simply isn't true, because
5 someone standing on top of the retaining wall will
6 only see two feet of fence. My fence is four
7 feet.

8 MR. CASTRO: Correct.

9 MR. ROSSI: The retaining wall is two feet.
10 Somebody standing here will have only protection
11 of -- children will have only protection of two
12 feet of fence, my fence. And if the Village is
13 okay with that, just be aware that those children
14 will only have a protection of two feet.

15 CHAIRMAN KEILSON: Is the Village okay with
16 that?

17 MR. CASTRO: Yes.

18 CHAIRMAN KEILSON: He said he's okay with
19 that.

20 MR. ROSSI: You're okay with that?

21 CHAIRMAN KEILSON: He just said that, yes.

22 MR. ROSSI: Okay, for now anyway.

23 CHAIRMAN KEILSON: Okay. So in evaluating
24 the benefit to the applicant as opposed to any
25 detriment to any neighbors or the community, I

1 think we've shown at this point sufficient
2 discussion on it and sufficient evidence that this
3 is actually an improved situation for the
4 neighbors, and we're going to vote at this point.

5 Mr. Schreck.

6 MEMBER SCHRECK: For.

7 CHAIRMAN KEILSON: Mr. Gottlieb.

8 MEMBER GOTTLIEB: For.

9 CHAIRMAN KEILSON: Mrs. Williams.

10 MEMBER WILLIAMS: For.

11 CHAIRMAN KEILSON: Mr. Hiller.

12 MEMBER HILLER: For.

13 CHAIRMAN KEILSON: And I as well. So the
14 Village knows what they have to do in this case,
15 and obviously at this point we're going to
16 adjourn.

17 (Whereupon, the hearing concluded at
18 10:58 p.m.)

19 *****

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

23
24 Mary Benci
25 MARY BENCI, RPR
Court Reporter

INCORPORATED VILLAGE OF LAWRENCE
BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

March 3, 2016
8:22 p.m.

APPLICATION: Pollack
138 Harborview South
Lawrence, New York

P R E S E N T :

MR. LLOYD KEILSON
Chairman

MR. EDWARD GOTTLIEB
Member

MR. MARK SCHRECK
Member

MS. ESTHER WILLIAMS
Member

MR. DANIEL HILLER
Member

MR. KENNETH A. GRAY, ESQ.
Village Attorney

MR. GERALDO CASTRO
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is
2 Pollack.

3 MR. YOON: Young Yoon.

4 CHAIRMAN KEILSON: Proceed.

5 MR. YOON: I'm here representing the Pollack
6 residence, and we're seeking relief from Section
7 212-12.1 for lot coverage, requesting an overage
8 of 752 square feet, which is 19 percent over what
9 is allowed, and Section 212-12.B which requires a
10 swimming pool to be a minimum of 15 feet from the
11 rear property line. We're requesting relief from
12 the rear-yard setback for the swimming pool to be
13 four feet from the rear property line, 212-12.C
14 which requires the minimum distance of 15 feet to
15 the side property line and a minimum distance of
16 20 feet from the rear property line for a swimming
17 pool and any purifying apparatus. We are seeking
18 relief from the side-yard setback for the swimming
19 pool to be four feet from the property line, the
20 swimming pool equipment to be a minimum of six
21 feet from the property line, and 212.12.D which
22 requires the minimum distance of eight feet for
23 any accessory structure, a generator, to be five
24 feet one and a half inches from the side-yard
25 setback.

1 Mr. and Mrs. Pollack have been living in this
2 home for about 13 years -- I apologize, 21 years,
3 excuse me, and you know, they love the
4 neighborhood, they want to stay in this
5 neighborhood and they plan on being in this
6 neighborhood for, you know, for the foreseeable
7 future.

8 CHAIRMAN KEILSON: If we decline the pool are
9 they moving out?

10 MR. YOON: No.

11 CHAIRMAN KEILSON: Okay, I got nervous.

12 MR. YOON: When they started building their
13 home in 2005 and which was completed in 2007, they
14 originally had a variance that was approved to
15 have a 20-by-33 swimming pool with a jacuzzi and a
16 patio that's of a similar size.

17 CHAIRMAN KEILSON: The same placement?

18 MR. YOON: A different placement.

19 CHAIRMAN KEILSON: So what happened in the
20 interim?

21 MR. YOON: For financial reasons they weren't
22 able to build the pool at that time.

23 CHAIRMAN KEILSON: No, why did you change the
24 placement?

25 MR. YOON: They wanted to move it more to one

1 side to provide a bigger green grassed area for
2 their children to play.

3 CHAIRMAN KEILSON: They required more
4 variances.

5 MR. YOON: Yes. And the pool size is 20 feet
6 by 34 feet, with a four-foot walk-around on three
7 sides and a patio, a 12-foot patio on the fourth
8 side to provide an area for lounge and pool
9 furniture, and again, to maximize it we're
10 requesting a side-yard setback to maximize the
11 grassed area and an area for their children to
12 play.

13 The property currently has a six-foot privacy
14 fence along the perimeter which will give them and
15 their neighbors privacy. They're proposing to put
16 in three dry wells which, based on the
17 calculation, far exceeds what the requirements are
18 to maintain the water runoff on the property.

19 And in regards to the generator, we found
20 that the side of the house that we were putting it
21 on is the optimal location based on New York State
22 code, which requires generators to be a minimum of
23 five feet from any open windows, operable windows,
24 leaving that one area the only place for them to
25 put the generator.

1 So and then we have -- we have letters from
2 the adjacent properties that are not -- and
3 they're not contesting the -- here's a letter of
4 no contest (handing).

5 MEMBER GOTTLIEB: So my first question is --
6 I have many -- there aren't going to be too many.
7 Did you have a four-foot walkway around the pool
8 in its entirety?

9 MR. YOON: Around the three sides. So along
10 the --

11 MEMBER GOTTLIEB: Just tell me which side
12 doesn't have it.

13 MR. YOON: The side towards the backyard; the
14 open space does not. On the drawing it says
15 proposed patio pavers on concrete slab. So that
16 is the 12-foot side and then the other three sides
17 are the four-foot walk-around.

18 MEMBER GOTTLIEB: So you're paving up to the
19 property line?

20 MR. YOON: Yes.

21 MEMBER GOTTLIEB: I have no more questions.
22 I'm done. You have four variances for a pool that
23 shouldn't be there. This is beyond.

24 MEMBER HILLER: I went -- after looking at
25 the property, again, I want to contest the -- I

1 know this sounds ridiculous, but I want to contest
2 the footage that you're assigning to the size of
3 the backyard.

4 CHAIRMAN KEILSON: There's nothing you could
5 say that could be ridiculous.

6 MEMBER HILLER: Thank you. You haven't
7 spoken to my wife.

8 I didn't find it to be that size, but
9 regardless, you are asking for a serious amount of
10 variances for a pool in a rather small area.

11 MS. POLLACK: Can I speak?

12 CHAIRMAN KEILSON: By all means, yes. Just
13 let Mary know your name and your address.

14 MS. POLLACK: I'm Esther Pollack,
15 138 Harborview South. I just would want to have
16 clarity on that comment. Are you referring to the
17 area where we specifically want to put the pool or
18 the size of our lot when you say that?

19 MEMBER HILLER: From what I saw or attempted
20 to measure, which wasn't professionally done,
21 regardless of that, I felt that the area was not
22 the size as indicated on the map, but it's
23 possible that I'm wrong in that. But the amount
24 of variances that you are asking for, a pool in
25 that size space, is excessive.

1 MS. POLLACK: Again, clarity. The space,
2 meaning the yard, the available yard?

3 MEMBER HILLER: Even if I'm wrong as far as
4 the measurement, the amount of variances that you
5 are asking for in that space is excessive.

6 MR. GRAY: Can I answer the question I think
7 that's being asked. I believe what the Zoning
8 Board member is saying is that your plans indicate
9 from the rear of the house to the rear property
10 line is 48 and a half feet. He doesn't believe
11 that's the correct distance. He believes it's a
12 little bit shorter. He doesn't believe that the
13 survey is correct.

14 MEMBER HILLER: Correct.

15 MS. POLLACK: We had a survey completed when
16 we completed the building of the house.

17 MEMBER HILLER: Even should I be wrong on
18 that, which is very possible --

19 MS. POLLACK: We had it built before we got
20 our C of O, before we completed the construction
21 on our home and got our C of O -- when we
22 completed the construction we had a C of O and a
23 new survey.

24 So I respectfully ask from the Board, if you
25 could, we're flexible, we really, really would

1 like to have a pool. The initial, the first time
2 we came before the Board and we were approved the
3 pool was placed horizontally rather than
4 vertically in the yard. Being that you object to
5 this location, you know, I would humbly respect
6 that we do it the other way where it's horizontal
7 where we reduce the amount of footage that we're
8 asking for in the variance. We're further away
9 from our neighbors, and we will compromise on the
10 fact that we don't have, you know, play space
11 left. The pool is very important to us. It
12 dominates our issue with regard to what's left
13 over, and I hope we can work together to figure it
14 out.

15 CHAIRMAN KEILSON: I think I would urge you
16 to consider an adjournment at this time because
17 we're not here to refashion people's applications
18 to something that might ultimately be suitable or
19 not suitable. We don't have the time. It's a
20 very long night. There's a lot of people here
21 tonight.

22 Number one, it would have been helpful to see
23 what exactly was approved by the Board in 2005.
24 Let me finish. It was a long time ago. At least
25 it could speak to the matter. But I think at

1 present we don't have enough information to
2 consider -- information before us to consider the
3 presentation as such. I think Mr. Gottlieb was
4 kind and gentle in describing how difficult he is
5 finding it, and I think it's a universal feeling.
6 So I think either we can go for a vote, which I
7 don't think will be good for you, or I think seek
8 an adjournment and you can discuss it with the
9 Building Department.

10 MS. POLLACK: As to how to proceed.

11 CHAIRMAN KEILSON: As to how to proceed.

12 MS. POLLACK: Just to mention in terms of the
13 old plans, we were looking for them, but the
14 Village doesn't have them anymore.

15 MEMBER GOTTLIEB: Mrs. Pollack, regardless of
16 what the old plans were, that was eleven years
17 ago, and that was what we call the pre-Sandy era.
18 This is the post-Sandy era; we look at things
19 very, very differently regarding flooding and
20 percolation of water.

21 Your application was 752 square feet above
22 what's permitted, or 19 and a half percent, and
23 trying to put this within four feet of your
24 neighbor and having a paved area right up to your
25 neighbor's property was far beyond everything

Pollack - 3/3/16

1 we've ever approved or would approve. So coming
2 back with something, and I guess you're going to
3 have to do a trade-off when you come back, either
4 having any backyard or just a pool. I think that
5 might be your choice, obviously.

6 MEMBER HILLER: The size of the pool would
7 also be significant.

8 MR. YOON: Okay. So we request an
9 adjournment.

10 MEMBER GOTTLIEB: Good idea.

11 MS. POLLACK: And my architect will be
12 advised as to how to go forward by Mr. Castro?

13 CHAIRMAN KEILSON: By Mr. Castro, yes.

14 MS. POLLACK: Thank you for your time.

15 MR. YOON: Thank you.

16 (Whereupon, the hearing concluded at
17 8:33 p.m.)

18 *****

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

22
23 Mary Benci

24 MARY BENCI, RPR
25 Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 March 3, 2016
7 8:33 p.m.

8 APPLICATION: Lobell
9 227 Hollywood Crossing
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. MARK SCHRECK
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. DANIEL HILLER
21 Member

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

24 MR. GERALDO CASTRO
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is that of
2 Lobell. Would they or their representative step
3 forward.

4 MR. YOON: I'm young Yoon, and this is Kevin
5 Natalie, landscape architect (indicating).

6 Good evening, Chairman, members of the Board.

7 So we're seeking relief from Section 212-12.1
8 which allows a lot coverage of 13,392 square feet.
9 We are requesting an overage of 7,211 square feet,
10 which is 53.8 percent over what is allowed. And
11 we're also seeking relief from 212-48.C which
12 requires a minimum distance of 30 feet to the side
13 property line for a swimming pool. We are seeking
14 relief from the side-yard setback for the swimming
15 pool to be 18 feet 4 inches from the property
16 line.

17 Mr. and Mrs. Lobell has recently purchased
18 this home last May. They were especially
19 attracted to this home because of the size and the
20 layout of the house which accommodates their
21 needs. They plan to stay in this house for a long
22 time.

23 The house was completed back in 2009. The
24 previous owner at that time had intentions of
25 building a swimming pool and a game court in the

1 future, and therefore, the plans at that time were
2 designed accommodating the extra lot coverage.

3 The driveway was designed to be permeable
4 with cobblestone and gravel and was not counted
5 towards the overall lot coverage at that time.

6 The previous owners sold the property to
7 Mr. and Mrs. Lobell under the same pretense, and
8 when the application was filed recently for the
9 game court and the swimming pool, the surface
10 coverage presented issues due to the recent
11 changes in the interpretation -- or not changes,
12 but the recent interpretation of the code, where
13 permeable driveways are now counted towards
14 surface coverage.

15 CHAIRMAN KEILSON: I have to stop you right
16 there, because, Mr. Castro, would you like to
17 opine on these allegations?

18 MR. CASTRO: It is true that permeable
19 driveways were once looked at as being porous and
20 didn't count towards surface coverage. But I
21 think it's been proven that in this region, the
22 northeastern U.S., they don't -- over time they
23 don't prove to continue to be as porous as when
24 they're first put in.

25 I will also mention that the driveway, if you

1 do look at aerial photographs, when you take a
2 measurement, it's actually five feet wider than
3 what was approved back in I believe it was 2010.

4 CHAIRMAN KEILSON: And I think, furthermore,
5 those of us who visited, I'm not sure where
6 anybody could have interpreted that as being
7 porous or pervious. I mean, it's --

8 MR. NATALIE: Based on the measurement, the
9 joints are with gravel upon -- from pervious
10 design, there's pervious table designs now where
11 there's a certain amount of porous space that is
12 gravel so the joints are accessible and they do
13 let the material go through and that is the
14 current standards of new design. So it is
15 relative, but again, I don't know the exact
16 installation, but it does fall into the pretense
17 of how construction of permeable pavers, meaning
18 today's current code, is in terms of the porous
19 space and the gravel in the joints between.

20 CHAIRMAN KEILSON: So you're suggesting what?

21 MR. NATALIE: That the way that it's
22 installed without a mortar joint, without a solid
23 joint between the way that the gravel -- the joint
24 between the cobbles are large and it's filled with
25 gravel, it allows for the water to seep between

1 the stones, the individual stones themselves.

2 MEMBER GOTTLIEB: So are you asking us to
3 reconsider what we're considering as impervious,
4 or are you saying that we're interpreting it
5 wrong?

6 MR. NATALIE: I'm not saying you're
7 interpreting it wrong. What we're under the
8 pretense is that when the house was granted a CO
9 at the time, the current home right now -- well,
10 again, I was unaware of the expansion of the
11 driveway, so I stand corrected there. But I could
12 run the math, but it was understood that the lot
13 coverage of the driveway was not counted under the
14 current code, but it was an interpretation of the
15 law -- of the code at the time. And that thereby
16 leaving room for --

17 CHAIRMAN KEILSON: How do we know that?

18 MR. NATALIE: There's a CO on the home.

19 CHAIRMAN KEILSON: We also have a driveway
20 that's five-foot over. So, obviously, something
21 is awry here, right?

22 MR. NATALIE: I can't argue.

23 CHAIRMAN KEILSON: Maybe we should consider
24 having it ripped up.

25 MR. NATALIE: The extra five feet?

1 CHAIRMAN KEILSON: Whatever, the excess that
2 wasn't really approved. Continue.

3 MR. YOON: So we have calculated that the
4 driveway is 8,600 square feet, and if it wasn't --
5 if it was not counted towards lot coverage --

6 CHAIRMAN KEILSON: But it is.

7 MR. YOON: But it is. But under the pretense
8 that if it was not --

9 CHAIRMAN KEILSON: But we don't work under
10 pretense. We work in the real world.

11 MR. YOON: Okay. So the pool size is going
12 to be 18 feet by 40 feet is what we're proposing,
13 with a patio on all three sides, with a four-foot
14 walk on the one side. And because of the
15 irregular shape of the lot, and the rear yard is
16 very limited in space, we felt that the placement
17 and the location of the swimming pool is optimal,
18 and while trying to maintain as much grass area as
19 possible. We reduced the size of the existing
20 terraces to accommodate this as well.

21 The property currently has tall landscaping
22 along the perimeter of the property, and then
23 along the one side that doesn't we're proposing to
24 put tall landscaping there as well.

25 And we're also putting in two dry wells with

1 very large capacity, one that's eight-feet deep
2 and the other one to be twelve-foot deep with a
3 ten-foot radius, to maintain any water runoff and
4 to maintain that water to stay on that property
5 and which is why we're here presenting.

6 MEMBER GOTTLIEB: Can I ask you what a game
7 court is?

8 MR. YOON: So a game court could be
9 basketball hoops. It's going to be a play area.

10 MEMBER GOTTLIEB: I mean, it looks like a
11 tennis court.

12 MR. YOON: It looks like a tennis court, but
13 it's not the size of a tennis court because a
14 tennis court, I believe, is roughly 7,000 square
15 feet, but this is not 7,000 square feet.

16 MR. NATALIE: There's games referred to as
17 paddle tennis, short court tennis. It's an
18 active-use area.

19 MEMBER GOTTLIEB: I didn't know why the word
20 game court was used.

21 MR. NATALIE: It's not a tennis court.

22 And the current state of the driveway doesn't
23 allow for active use, you know, with the cobble
24 and the gravel, so it was an active-use area.

25 MEMBER HILLER: You know what your problem

1 is, the front of the house going all the way up to
2 the house while it's true there is gravel between
3 the blocks, it's overwhelmingly block and it
4 counts as coverage. We have never given an
5 approval to a 54 percent overage on coverage. You
6 know that. You've been here several times. That
7 is beyond -- it's beyond excessive. And while
8 it's a beautiful plan, you have way far -- way too
9 much coverage on the lot to allow a variance of
10 this type. That's just the way it is.

11 CHAIRMAN KEILSON: Is there anyone in the
12 audience who wants to speak to the matter?

13 (No response.)

14 CHAIRMAN KEILSON: Okay.

15 MEMBER GOTTLIEB: This isn't even a matter
16 where I would say why don't you come back and make
17 the pool smaller. This is a 7,000-foot overage.
18 I can't make any suggestions to you on this one.

19 CHAIRMAN KEILSON: I think we also have to
20 take into consideration water runoff and
21 spill-off, and there's just so many issues that
22 arise because of so much coverage of property that
23 we wouldn't even know where to begin to suggest
24 anything at this point. So unless you're going to
25 seek an adjournment or the like, we're going to

Lobell - 3/3/16

1 vote at the present time.

2 MR. YOON: We'd like to seek an adjournment.

3 MEMBER GOTTLIEB: Good idea.

4 CHAIRMAN KEILSON: Okay, no problem.

5 MR. YOON: Thank you very much.

6 MR. NATALIE: Thank you.

7 (Whereupon, the hearing concluded at

8 8:43 p.m.)

9 *****

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

13

14

Mary Benci

15

MARY BENCI, RPR
Court Reporter

16

17

18

19

20

21

22

23

24

25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 March 3, 2016
7 8:43 p.m.

8 APPLICATION: 18 Causeway LLC c/o Joel Preminger
9 18 Causeway
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. MARK SCHRECK
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. DANIEL HILLER
21 Member

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

24 MR. GERALDO CASTRO
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Preminger on
2 Causeway.

3 MR. HOPKINS: Mr. Chairman, members of the
4 Board, Good evening. Michael Hopkins, from the
5 firm of Hopkins and Kopilow, counsel for the
6 applicant in this particular case.

7 I've been before the Board many times before.
8 I know that the Board is a hot Board. I know that
9 you've read through the petition. So
10 understanding all of those things, let me just
11 focus in very quickly on the code relief which is
12 being sought.

13 CHAIRMAN KEILSON: Having said that, having
14 said that, we, as a Board, cannot begin to fathom
15 why, front and center, you wouldn't indicate that
16 it's new construction.

17 MR. HOPKINS: I'm sorry, sir?

18 CHAIRMAN KEILSON: We, as a Board, cannot
19 fathom why you don't go on the record in your
20 petition as a first item that it's new
21 construction, number one.

22 Number two, on your code relief template,
23 once again, under existing, you indicated "not
24 applicable." We've had this before with you and
25 we explained to you it's very much applicable.

1 MR. HOPKINS: Yes, indeed, sir, and in fact
2 it was amended and if I may with your permission,
3 I did think -- I thought clearly and specifically
4 that the subject property is presently improved,
5 but it will be removed and replaced with a new
6 one-family dwelling and attached garage. That's
7 the paragraph numbered five of the application,
8 and that was then supplemented by a clear,
9 unambiguous statement by the architect that the
10 existing structure is coming down in its entirety
11 and that a new structure will be replacing it.

12 With regard to the fact that this is new
13 construction and removal of old house, that was
14 also supplemented. I know that was filed with the
15 Board as well. We have been told if it hadn't
16 been filed we wouldn't be on for tonight. I
17 apologize that it wasn't incorporated in the first
18 instance. By definition, Mr. Chairman, there was
19 no way I could possibly put it over on you that
20 this is something other than. I apologize for the
21 fact that I just simply didn't put it in the
22 petition more clearly, more unambiguous than I did
23 in the first instance. No effort to deceive, I
24 assure you.

25 CHAIRMAN KEILSON: I assure not.

1 MR. HOPKINS: If I may, I'll focus,
2 therefore, on the application and what is being
3 sought, as a practical proposition.

4 The first one has to do with the building
5 coverage under 212-2.1. We are proposing that the
6 existing building coverage -- this is a lot, by
7 the way of 15,528 square feet, existing building
8 coverage is 2,350.50 feet and that which is
9 proposed is a structure of 3,291 square feet.
10 That is approximately a shade under, I believe,
11 ten percent. That's the first thing that's being
12 sought.

13 The second thing has to do with maximum
14 surface coverage. Again, the lot is of the size
15 that I just described. Surface coverage existing
16 is 3,999 square feet; that which is proposed is
17 going to be 5,956 square feet. That is an overage
18 of approximately 369 feet, or 6.6 percent.

19 The third has to do with the setbacks. There
20 is a 30-foot setback aggregate proposed, and
21 there's I think a 30-foot -- 30.50-foot aggregate
22 at the present time. But if you take a look at
23 the existing structure as against the proposed
24 structure, on the north side the setback is only
25 7.9 feet, and that which is being proposed, I

18 Causeway LLC - 3/3/16

1 believe, is 15-foot setback on each side with an
2 aggregate of 30 feet. The building height of the
3 building at the present time is 29 feet. That
4 which is proposed is 30 feet. So it would be one
5 foot over that which currently exists.

6 And the dormers, again, dormers are not
7 permitted under the code, but there is a request
8 for dormers. This particular structure, the
9 people have occupied the house for approximately
10 eight or nine years. They have a family of five
11 children. They are hopeful to have more children.
12 It is the fervent desire to have each child having
13 his or her own bedroom, as a practical
14 proposition.

15 I left one thing out, I apologize, the
16 garage. We ask that it be diminished somewhat in
17 size in the width. I took the liberty of looking
18 at this house -- when was this house built,
19 probably back in the early fifties, sixties?

20 MR. CAPOBIANCO: This home?

21 MR. HOPKINS: Yeah.

22 MR. CAPOBIANCO: Probably.

23 MR. HOPKINS: I took a look, Mr. Chairman, on
24 the standard width of a full-sized sedan back in
25 the early '50s, it was approximately 80 -- just

1 give me a second, I have the exact number so I
2 don't have to guess. It was approximately 80
3 inches, if my memory serves me correctly. And
4 that was the standard width. And the standard
5 length of a full-sized car at that time, believe
6 it or not, was between 200 and 210 inches overall.
7 I took a look at a standard mid-sized car today,
8 just a standard Lexus, the width is only
9 71 inches. So if you're looking at a building
10 that was constructed for a full-sized vehicle
11 thirty years ago, the vehicles are not that large
12 any longer. Even though there's a relatively --
13 what did we say? It's about three feet in width
14 plus or minus a few inches that we seek in
15 reduction. It really should have no material
16 impact on the size of the vehicles that we're
17 dealing with today.

18 MEMBER GOTTLIEB: Mr. Hopkins, I'm sorry, I
19 just have to stop you. But I don't know any
20 full-sized SUVs that hold a family of seven that
21 fit the same size as a standard sedan. You have a
22 family of seven, and you're proposing to have, God
23 willing, more children.

24 MR. HOPKINS: Believe it or not, if you go on
25 the Internet you will find the approximate size of

1 the full-sized sedans today. The lengths are
2 remarkably close in terms of the depth of cars as
3 they existed all those many years ago. The width
4 even on the size vehicle that you're talking about
5 is still approximately the same, on the magnitude
6 of 71, 72 inches, as compared to all those many
7 years ago it was approximately 80 inches, plus or
8 minus a few, and I believe I'm fully aware of what
9 you're talking about. The further reality, as we
10 all know, is that rarely, if ever, are garages
11 today used as dedicated housing for the vehicle.

12 MEMBER GOTTLIEB: That's another issue.

13 MR. HOPKINS: I understand, I understand.

14 CHAIRMAN KEILSON: Isn't that really the
15 question? All this is really irrelevant to what
16 you just -- this lecture you gave us on the size
17 of cars. There's a requirement for a two-car
18 garage. You're building a new house, so you build
19 a two-car garage. You want to have a variance
20 only because they want to have a variance because
21 they use it for storage, not for cars.

22 All right, let's get to the point.

23 MR. HOPKINS: You've got a good point. In
24 fact, what I was only trying to attempt to point
25 out is simply that the width is not that terrific.

1 In terms of the logistical or technical
2 questions, Mr. Chairman, if you should have them,
3 I have here Mr. Capobianco to certainly answer any
4 questions you may have.

5 CHAIRMAN KEILSON: I guess the real question,
6 which is going to be asked by everyone, if you're
7 doing new construction, why can't you stay within
8 code?

9 MEMBER GOTTLIEB: That was my question.

10 CHAIRMAN KEILSON: I'm sorry.

11 MEMBER GOTTLIEB: You stole my thunder,
12 Mr. Chairman.

13 MR. CAPOBIANCO: Well, if you look at the
14 plan, the area of the garage that we encroached
15 into adds up to like three and a half by
16 10.4 feet. It's a very small area we took out of
17 a standard two-car garage. The reason for that
18 was because --

19 CHAIRMAN KEILSON: John, John, we're not hung
20 up on the car garage. Overall, why couldn't you
21 stay within code, new construction?

22 MR. CAPOBIANCO: Well, we don't really feel
23 that a two-car garage -- why can't we stay in the
24 code?

25 CHAIRMAN KEILSON: You have six variances.

1 MR. CAPOBIANCO: Well, because the code is
2 ambiguous, and it also jumps from one old code to
3 a new schedule, and it's also somewhat unfair.

4 CHAIRMAN KEILSON: What the hell are you
5 talking about?

6 MR. CAPOBIANCO: Pardon me?

7 CHAIRMAN KEILSON: Why can't you live within
8 the building coverage, for example?

9 MR. CAPOBIANCO: Well, because the house will
10 not -- their program won't fit in the house
11 without making it 300 square feet larger.

12 MEMBER GOTTLIEB: Let me ask you a couple of
13 questions. How many bedrooms, how many bathrooms?

14 MR. CAPOBIANCO: We have six bedrooms, one
15 study and one master suite on the second floor.
16 So there's a total of seven bedrooms and a study
17 on the second floor.

18 MEMBER HILLER: There's just one bathroom?

19 MR. CAPOBIANCO: No, no, I said one study.

20 MEMBER HILLER: How many other bathrooms?

21 MR. HOPKINS: On the second floor he's
22 asking, John.

23 MR. CAPOBIANCO: I'll give it to you right
24 now. There's one -- we have a master bath, a
25 master bedroom bath. We have a studio bath. We

18 Causeway LLC - 3/3/16

1 have one, two, three, four, five, six bathrooms on
2 the second floor.

3 MEMBER GOTTLIEB: Did you account for the two
4 bathrooms in the master bedroom?

5 MR. CAPOBIANCO: Well, there's two bathrooms,
6 I call it one because it's really a separate
7 toilet. I would say it's one super bathroom with
8 two fixtures in it. You could call it two
9 bathrooms, so seven bathrooms.

10 MEMBER GOTTLIEB: So seven.

11 MR. CAPOBIANCO: I'm sorry, go ahead.

12 MEMBER GOTTLIEB: I'm just trying to say that
13 I think you can build a nice new house with seven
14 bedrooms and seven bathrooms within code.

15 MR. HOPKINS: Well --

16 MEMBER GOTTLIEB: Easily. I know John's
17 capability. I have personal experience with his
18 capability.

19 MR. HOPKINS: John is a master, of that there
20 is no doubt, but I think it's fair to say and I
21 know everybody is familiar with that area.
22 There's a relatively enormous house on the -- I
23 guess it would be the south side, as a practical
24 proposition. The streetscape of the other houses
25 -- by the way, I do have three letters endorsing

1 that which is being proposed.

2 CHAIRMAN KEILSON: Can you answer the
3 question?

4 MR. HOPKINS: Why can't it be constructed?
5 Because in a code compliance and the answer to the
6 question is that it doesn't do justice to, in my
7 humble opinion, the aesthetics of the house not to
8 construct in the way that John is proposing to do
9 it. It really and truly does, and it accommodates
10 all the kids and hopefully some more kids to come.
11 It doesn't just shout out that it's being
12 unreasonable, in my opinion.

13 MEMBER GOTTLIEB: This is a 15,000-foot lot.
14 On the second floor alone are seven bedrooms and a
15 study, and seven bedrooms, seven bathrooms, maybe
16 plus one. We didn't get to the basement bedrooms
17 and bathrooms. We didn't get to the indoor pool.
18 This is a 15,000-foot lot. This is not two acres.
19 This is not even an acre. This is not half an
20 acre.

21 MR. PREMINGER: Can I speak up at all?

22 MR. HOPKINS: Hold on, hold on.

23 MR. PREMINGER: Joel Preminger. So
24 currently, we live with five kids in a
25 three-bedroom, two-bathroom house. We did look

18 Causeway LLC - 3/3/16

1 for I would say about five, six years for another
2 house that's something that maybe we could
3 accommodate, and it really doesn't exist. It
4 really doesn't.

5 We did -- we drew these plans almost a year
6 ago. I worked continuously with John to try to
7 figure out any way to try to get within the
8 confines of the exact coding of the ordinances of
9 the Village. And we really tried to play around
10 every which way, and I really think that in
11 regards to what we're asking, considering our
12 neighbors and we're actually shifting the house
13 more centered, so the neighbor on the house
14 actually appreciates what we're doing and they're
15 actually looking forward to it. We're good
16 neighbors. I don't think we're trying to build
17 this big monstrosity on this little property. I
18 think aesthetically it looks very nice and it fits
19 with the property. But we did try really hard to
20 try to negate as many variances as possible.

21 MR. CAPOBIANCO: Have you reviewed the
22 streetscape plan that we put in?

23 CHAIRMAN KEILSON: Certainly.

24 MR. CAPOBIANCO: I mean, if you look at it,
25 it's pretty consistent in what's going on on that

18 Causeway LLC - 3/3/16

1 road to the south.

2 CHAIRMAN KEILSON: So you answered the
3 question you could but you didn't?

4 MR. CAPOBIANCO: We didn't. We could but we
5 didn't.

6 MR. PREMINGER: Even the surface coverage
7 would be a little basketball area over there. One
8 of the reasons is we're close to the corner and
9 Causeway cars do speed excessively. And one of
10 the things I used to do when the kids were playing
11 in the driveway, I would actually block the
12 driveway with my car, but one of the ordinances
13 the Village passed is alternate side parking on
14 different days, so I actually got a ticket a few
15 times blocking my own driveway. I actually got
16 two tickets because one was the alternate side and
17 I was pointing the wrong way. So part of the
18 surface coverage issue is for the children to have
19 to be able to like play basketball and even ride
20 little tricycles in the backyard because of that
21 reason. So that's one of the issues with the
22 surface coverage we didn't do a circular driveway.
23 I don't think it's --

24 MR. CAPOBIANCO: And the other thing in terms
25 of height and, you know, the bulk and the size of

18 Causeway LLC - 3/3/16

1 the house is that we did a widow's walk on a flat
2 section of roof, which is a very minor area of
3 flat section, really is not a flat roof, the way I
4 interpret it as not being a flat roof. It's no
5 different than a gambrel with a lower pitch. A
6 flat roof, in my opinion, is a contemporary, boxy
7 kind of roof where you take the flat roof all the
8 way out to the wall -- the surface of the wall.
9 In this case there's a sloped roof with a flat
10 section so that we don't have a 35-foot high
11 house.

12 CHAIRMAN KEILSON: Does anybody know what
13 he's talking about?

14 MR. HOPKINS: It has to do with the
15 configuration of the roof.

16 CHAIRMAN KEILSON: The thing is we're all
17 arguing the case. I'd be arguing the fact that
18 you have no issues with the height/setback ratio.

19 MR. HOPKINS: There are no issues with
20 height/setback ratio, Mr. Chairman, you're
21 absolutely correct. Had there been, they would
22 have been --

23 CHAIRMAN KEILSON: They would have brought it
24 up.

25 MR. HOPKINS: That's correct.

18 Causeway LLC - 3/3/16

1 MEMBER GOTTLIEB: I think the homeowner
2 pointed that out by saying that he tried to
3 minimize the number of variances.

4 MR. PREMINGER: Trust me, I did.

5 MR. CAPOBIANCO: Yes, we did.

6 MR. PREMINGER: I would have avoided this if
7 I could.

8 CHAIRMAN KEILSON: We would also.

9 MR. CAPOBIANCO: A flat roof variance should
10 be eliminated because it's not a flat roof.

11 MR. PREMINGER: It's also the cost. I'm
12 already knocking down the house and doing new
13 construction, so I don't want to spend the time
14 and money involved to build something that I'm
15 going to outgrow in a few years. You know, I have
16 five kids, I'm still young, I'd like to continue
17 to grow my family and have more children. And you
18 know, I know people my parents' age that built the
19 house and they thought it would be enough, and
20 then, God willing, the grandkids. To spend the
21 amount of time and money invested to do this and
22 to build something that's small I think is pretty
23 futile. So we really tried every which way, you
24 know. They brought up if you look at the
25 streetscape, you know, our house is insignificant

18 Causeway LLC - 3/3/16

1 compared to all the houses on the block on our
2 side of the street.

3 MEMBER GOTTLIEB: To be fair, the other
4 houses on your side of the street have larger lots
5 than 15,000 square feet.

6 MR. PREMINGER: Some do, some don't.

7 MEMBER GOTTLIEB: Everything to the south of
8 you is very large.

9 MR. HOPKINS: You're referring to south of
10 and on the same side as his house?

11 MR. PREMINGER: The houses are larger also.

12 MR. HOPKINS: Mr. Gray, if I could hand you
13 the letters as part of the record, as a practical
14 proposition (handing).

15 MR. PREMINGER: The neighbors actually want
16 it to be done, believe it or not.

17 MR. CAPOBIANCO: In addition to the
18 streetscape, we did a --

19 CHAIRMAN KEILSON: John, just wait a moment.
20 They're consulting.

21 MEMBER HILLER: What is the total square
22 footage of the house?

23 MR. HOPKINS: Proposed is -- give me a
24 fraction of a second, please -- 3,291.

25 MEMBER HILLER: I'm talking about the total.

18 Causeway LLC - 3/3/16

1 That's one floor.

2 MR. CAPOBIANCO: The footprint.

3 MR. HOPKINS: Oh, the footprint, yes, the
4 total, John.

5 MR. CAPOBIANCO: It's approximately double
6 that. Not counting the garage, it's approximately
7 6,400 square feet, about 6,500.

8 MEMBER HILLER: And the basement?

9 MR. CAPOBIANCO: The basement is the same,
10 3,000, because we went under the garage.

11 MEMBER HILLER: So you have close to 10,000,
12 9,000, 10,000 square feet all together.

13 MR. CAPOBIANCO: Including the basement,
14 right.

15 MEMBER SCHRECK: Why are there two maids'
16 rooms in the basement?

17 MR. PREMINGER: Maid's room and guest room,
18 we drew it as a maid's room, a guest room.

19 MEMBER SCHRECK: You have guest rooms.

20 MR. PREMINGER: Well, one of my children
21 likes to do a lot of art, so we figured we'd make
22 it an art room. And when I asked him to change
23 it, he said it doesn't make a difference, call it
24 a maid's room or art room. I didn't know it was
25 an issue or I would have had it changed.

1 MR. CAPOBIANCO: It has an egress window in
2 there. I thought there was a butler -- I'm only
3 kidding. But anyway, it's a maid's room, maid's
4 room together, but one can be a multipurpose room.

5 MR. PREMINGER: Another reason is the pool is
6 in the basement because -- I'm not even going to
7 try to get a pool outside.

8 CHAIRMAN KEILSON: It could be a Costco room,
9 we've seen those.

10 MR. PREMINGER: That's the garage.

11 MR. HOPKINS: So we have eliminated any
12 consideration of outside ground-level pool setback
13 issues by putting it inside the house.

14 CHAIRMAN KEILSON: Further questions from the
15 Board?

16 MEMBER GOTTLIEB: So I don't know if my
17 numbers are right, but so far I counted eleven
18 potential bedrooms and ten-plus bathrooms. I've
19 always said that, and you can check the record on
20 this, I've always said that if you have new
21 construction you can build within code, unless
22 there are extenuating circumstances such as an
23 odd-shaped lot or some other reason or topography
24 that doesn't work. I'm not comfortable, and I
25 won't personally approve an application for new

1 construction with six variances.

2 MR. HOPKINS: If I could, Mr. Gottlieb,
3 though on two of the variances -- first of all,
4 the dormers, the dormers I think historically with
5 this Board if they are aesthetically pleasing,
6 have been found not to be a major impediment, have
7 been found historically, at least from my
8 experience and from what I understand are not a
9 major impediment. Yes, it counts as a variance,
10 no denying it.

11 MEMBER GOTTLIEB: If you're pushing me to the
12 wall and I had to give in and you only had one
13 variance for dormers, I don't have a problem with
14 it.

15 MR. PREMINGER: The issue with the bedrooms,
16 is it an issue of just how many bedrooms you have
17 in a house?

18 MEMBER GOTTLIEB: No, it's the overall size.

19 MR. PREMINGER: I'm just asking about the
20 number of bedrooms, not in a disrespectful way.
21 I'm just trying to understand.

22 MEMBER GOTTLIEB: You can make the bedrooms
23 larger, you can make them smaller. I was trying
24 to just really exemplify that you're getting so
25 much on a 15,000-foot lot. You can certainly cut

18 Causeway LLC - 3/3/16

1 this back a little bit, be within code and get
2 almost everything that you've asked for.

3 MR. PREMINGER: But the problem we found is
4 that even when you go to code and you shrink
5 things, theoretically, you have to worry about
6 getting to these rooms and the layout.

7 MR. CAPOBIANCO: The variances are necessary
8 because the width of the house has to be
9 maintained in order to get the elements that you
10 need across the front.

11 MEMBER HILLER: You made a very good point
12 about new construction. We look differently
13 towards new construction.

14 Here's the issue: You have a problem.
15 Everyone wants you to have room for your children
16 and your grandchildren and great grandchildren,
17 but the room sizes add significantly. I'm just
18 pointing this out, not because I'm happy for you.
19 The fact that you have a 50 by -- what is it --
20 50-by-17 master bedroom, including a bathroom, and
21 the other size of the rooms they are ample, and
22 it's new construction. There has to be a way for
23 you to get everything that you wanted and bring
24 the construction somehow within a range of the
25 code. No, because there are -- even the garage,

18 Causeway LLC - 3/3/16

1 which you make into a minor issue, if you're
2 making new construction as was said before, the
3 three feet which you minimize, so minimize it the
4 other way. Add it to the garage so you come to
5 code. Eliminate another variance.

6 Try to come in to give us something that we
7 can be sympathetic to you as far as the variances
8 you are requesting.

9 MR. HOPKINS: Mr. Chairman, I don't want to
10 request an adjournment just yet.

11 CHAIRMAN KEILSON: I'm not encouraging you to
12 do so.

13 MR. HOPKINS: Okay.

14 CHAIRMAN KEILSON: I'm encouraging you to
15 caucus.

16 MR. HOPKINS: Thank you. That's what I was
17 going to suggest as well. Can you give us two
18 minutes?

19 CHAIRMAN KEILSON: Or if you want longer we
20 can go to the next matter. Which do you prefer?

21 MR. HOPKINS: I think two minutes.

22 CHAIRMAN KEILSON: Okay, we'll hum.

23 (Whereupon, a recess was taken.)

24 CHAIRMAN KEILSON: We are back on the record.

25 MR. HOPKINS: Mr. Chairman, I think what we

18 Causeway LLC - 3/3/16

1 can do, if it would meet with the approval of the
2 Board, is we'll take care of the garage issue.
3 We'll contour the garage so that it in fact will
4 be in compliance with the code.

5 John is telling me that the driveway can be
6 reconfigured probably to bring it down maybe
7 another hundred square feet or so on the issue of
8 the surface coverage.

9 And then instead of asking for ten percent in
10 excess for building coverage, seven percent, if
11 that would be acceptable to the Board. But we
12 find it terribly important to maintain the width
13 that is being proposed. What we can do is pick up
14 the -- and John can explain where he can pick up
15 the extra three percent, as a practical
16 proposition. But the width with the 15-foot
17 setbacks, in order to maintain the integrity of
18 the house has to be, we believe, maintained.

19 MR. CAPOBIANCO: Well, in order to keep a
20 20-foot wide, two-car garage and have a
21 center-hall setup you need the width, so the extra
22 five feet is all we're asking for from 35 to 30.

23 CHAIRMAN KEILSON: The encroachment is less
24 than the existing. I don't think we're focusing
25 on that; is that correct?

18 Causeway LLC - 3/3/16

1 MEMBER HILLER: Correct.

2 MR. HOPKINS: So if we were to reduce the
3 building coverage to seven percent, if we were to
4 take the total setback coverage and reduce that at
5 6.6 now to maybe 5 percent, 4 and a half percent
6 perhaps, eliminate the issue of the garage as
7 being an issue, and otherwise maintaining the
8 30-foot aggregate with two 15-yard setbacks on the
9 sides, the 29 feet, forgive me, on the house, or
10 is it 30, John? I'm sorry.

11 MR. CAPOBIANCO: Thirty.

12 MR. HOPKINS: The thirty feet on the house in
13 terms of the height, and we do respectfully
14 request the dormers, I hope that that would be
15 consistent with that which you have found of late
16 to be acceptable.

17 MEMBER GOTTLIEB: Can you give us the raw
18 numbers on the building and surface. You
19 mentioned a hundred feet off on the surface?

20 MR. HOPKINS: No, if we were to -- for
21 example, if we asked for six percent -- I
22 apologize. If we asked for 298 feet, roughly,
23 that's ten percent. If we were to reduce that by
24 -- John, can you give us a sense of how many
25 square feet.

18 Causeway LLC - 3/3/16

1 MR. CAPOBIANCO: Approximately, it would be
2 reducing the house by a hundred feet, bringing it
3 down to about seven percent.

4 MR. HOPKINS: That would be 198, rather than
5 298 square feet, over that which is otherwise
6 permitted by code in terms of building coverage.

7 CHAIRMAN KEILSON: Hold on a second.

8 MR. CASTRO: 6.6 percent.

9 CHAIRMAN KEILSON: 6.6.

10 MR. HOPKINS: That also reduces this number,
11 John, by a hundred square feet in terms of lot
12 coverage. It will take off more in terms of the
13 driveway.

14 MR. CAPOBIANCO: The surface coverage I think
15 can be reduced down to about four and a half
16 percent.

17 CHAIRMAN KEILSON: Give us hard numbers, if
18 you can.

19 MR. CAPOBIANCO: Four and a half percent.

20 MEMBER GOTTLIEB: So the percent, we
21 understand you're working on the numbers.

22 CHAIRMAN KEILSON: Hard numbers.

23 MR. CAPOBIANCO: It would be about 250 square
24 feet over, 250 square feet over on surface
25 coverage.

18 Causeway LLC - 3/3/16

1 CHAIRMAN KEILSON: Thank you for sparing us.
2 Mrs. Williams.

3 MEMBER WILLIAMS: I'll vote for.

4 CHAIRMAN KEILSON: Mr. Hiller.

5 MEMBER HILLER: I want to commend you for
6 making our job easier and still getting pretty
7 much what you want. I vote for.

8 MR. HOPKINS: Thank you.

9 CHAIRMAN KEILSON: And the Chair votes for as
10 well. Two years.

11 MR. HOPKINS: Two years.

12 MR. CAPOBIANCO: And Board of Building
13 Design.

14 CHAIRMAN KEILSON: Board of Building Design.

15 (Whereupon, the hearing concluded at
16 9:15 p.m.)

17 *****

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

21
22 Mary Benci

23 MARY BENCI, RPR
24 Court Reporter
25

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 March 3, 2016
7 9:15 p.m.

8 APPLICATION:

9 Bobo
10 76 Park Row
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. MARK SCHRECK
18 Member

19 MS. ESTHER WILLIAMS
20 Member

21 MR. DANIEL HILLER
22 Member

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

25 MR. GERALDO CASTRO
Building Department

Mary Benci, RPR
Court Reporter

Bobo - 3/3/16

1 CHAIRMAN KEILSON: The next matter is Bobo.

2 MR. KOVIT: Mr. Chairman, I'll just wait
3 until the people leave the room.

4 CHAIRMAN KEILSON: Okay, ladies and
5 gentlemen, please.

6 MR. KOVIT: Thank you. Thank you, Chairman.

7 CHAIRMAN KEILSON: Mr. Kovit, good to see
8 you.

9 MR. KOVIT: Yes, same to you.

10 CHAIRMAN KEILSON: We look forward to seeing
11 you.

12 MR. KOVIT: Thank you, Chairman Keilson.
13 It's always a pleasure to be in front of this
14 esteemed Board.

15 Tonight, I believe I have a good case that I
16 hope the Board will find meritorious based on the
17 evidence in the record.

18 So I have some prepared remarks, and I know
19 that the Board has a tendency to interject, and
20 that's fine, but I do assure you based upon the
21 considerations that were raised by the members of
22 the Board that if you allow me to get through my
23 presentation you will see that I will
24 substantially, if not completely, address those
25 concerns.

1 CHAIRMAN KEILSON: We will accord you that
2 courtesy.

3 MR. KOVIT: Thank you very much. Thank you.

4 So good evening, Chairman and members of the
5 Board. I'm Charles Kovit, 1267 Sturlane Place,
6 Hewlett, New York. I am appearing as attorney for
7 Dr. and Mrs. Ralph Bobo, applicants in this
8 variance hearing.

9 With me in attendance tonight are the Bobos
10 and also our architect, Mr. R.B. Ignatow.

11 This case involves the Bobos' application for
12 permits to install a 40-by-16 swimming pool and
13 surrounding deck in the rear yard of their home at
14 76 Park Row.

15 The mechanicals would be located adjacent to
16 the south side of the Bobo dwelling alongside of
17 the pool and away from residences. Ultimately, it
18 is our position that under the particular
19 circumstances relating to the existing pattern of
20 development of the Bobo property and the three
21 surrounding properties the addition of the
22 swimming pool and deck, while greatly benefitting
23 the Bobos' use and enjoyment of their property,
24 will cause no corresponding or countervailing
25 detriment to the three adjacent properties. As

1 such, in assessing this case under the legislative
2 criteria for the grant of area variances pursuant
3 to the Village Law Section 7712B(3), we're hopeful
4 that the Board will exercise its discretion in our
5 favor and grant the requested variances.

6 Now, pursuant to the December 17th denial
7 letter we received from the building inspector, we
8 seek three area variances tonight. The first is
9 maximum surface area coverage. We're allowed
10 6,076 square feet of lot coverage of our 17,466
11 square-foot lot. Our existing lot coverage is
12 6,202, and the pool would add 1,524 square feet,
13 bringing us up to 7,726 for an overage of
14 1,650 square feet of lot coverage. I will address
15 that later in my presentation.

16 The second variance is side-yard setback.
17 15-foot minimum is required, and we're proposing
18 ten feet at the rear portion of our south
19 side-yard setback, now where a small portion of
20 the pool is proposed to go.

21 And third and finally is the minimum
22 side-yard setback for an accessory structure. Our
23 pool deck is considered an accessory structure,
24 and while eight feet is the minimum side yard
25 allowable for accessory structures, our deck will

Bobo - 3/3/16

1 come within three feet at the far rear portion of
2 our southerly property line.

3 Now, as I said, under the particular
4 circumstances of this case, and the existing
5 layout of all four properties, we believe we have
6 a very strong case in favor of the grant of
7 relief. That is, a review of the existing
8 configurations reveals no discernible adverse
9 impact to be suffered by surrounding properties as
10 a result of the grant.

11 Specifically, there are three fully developed
12 residential properties surrounding the Bobo
13 residence. To the southwest of the Bobo residence
14 is the backyard of 80 Park Row, which is owned by
15 the Pfeifers. Directly south of the Bobos is the
16 rear side yard of the Friedman residence at
17 82 Park Row. And to the east of the Bobos is the
18 backyard of the Wanderer residence at 66 Chauncey
19 Lane. To the northwest of the Bobos is a portion
20 of the Woodmere Club golf course and is really not
21 something that we're considering in terms of area
22 character. A review of the layouts of the three
23 surrounding homes reveals that there will indeed
24 be no negative impact.

25 I'll address the two side-yard variance cases

Bobo - 3/3/16

1 first and in doing so I'll address the impact of
2 the variances on the Friedman residence at 82 Park
3 Row because the side-yard deficiencies are on the
4 shared side boundary line with the Friedmans. The
5 ten-foot side-yard setback from the pool, the
6 south property line, is adjacent not to the
7 Friedmans' residence but actually to the far
8 northerly end of the Friedmans' full-size tennis
9 court. Under these circumstances, the area of
10 side-yard encroachment is nowhere near the
11 Friedmans' beautiful and quite impressive home.
12 Plus, it is not just the tennis court separating
13 the Friedman residence from our swimming pool.
14 That is because to the west of the tennis court is
15 the Friedmans' beautiful swimming pool and well
16 landscaped surrounding deck area. It is only in
17 proceeding further westerly from the Friedman pool
18 area that we finally reach the Friedman residence,
19 and by that time we're so far away from the Bobos'
20 swimming pool that the swimming pool has
21 absolutely zero chance of causing any disturbance
22 to the Friedman property. Indeed, that is true
23 either as a result of the five-foot side-yard
24 deficiency or otherwise.

25 Plus, in regard to the three-foot accessory

1 structure variance, the area of the Bobo property
2 where the proposed deck comes to within three feet
3 of the Friedmans' side-yard line is even further
4 away from the Friedman residence than the tennis
5 court. That is the three-foot side line is at a
6 point opposite the Friedman residence to the
7 further east of the tennis court, away from the
8 residence, in an unimproved nether region of the
9 Friedman property. Indeed, opposite the
10 three-foot side-yard area on the Friedman property
11 is simply unimproved space which is occupied by a
12 small storage shed that sits on blocks, and to the
13 further south of the shed sits an aged looking
14 jungle gym, and that jungle gym is sitting on
15 grass.

16 Also, since we are talking about a swimming
17 pool fence, there's going to be a swimming pool --
18 there's going to be a swimming pool fence
19 surrounding the pool and combining this with
20 landscaping along the side property line, the pool
21 will be invisible from the Friedmans' tennis court
22 and shed. As such, as regards the Friedman
23 property, there is simply no discernible negative
24 impact on the Friedmans from the grant of the
25 side-yard setback variances. It's just too far

1 away from the Friedman house and pool area
2 adjacent to the tennis court where people are
3 playing tennis and generally not interested in
4 peace and tranquility, and the storage shed at the
5 farthest-out region of the Friedman property.

6 I have for the Board a letter in support of
7 the application from Ms. Helen Friedman supporting
8 the grant of the application provided that the
9 height of the pool does not exceed the height of
10 the top of the first step up from the ground --
11 from the ground to the existing deck, the existing
12 backyard deck maintained on the Bobo property.

13 Attached to the Friedman letter is a letter
14 from Ignatow, Mr. Ignatow, the architect, who
15 wrote the letter at my request, and the letter
16 confirms that we'll be fully complying with
17 Mrs. Friedman's requirement. The existing filed
18 plans confirm that we're already complying. And
19 if the Board deems it necessary, we're happy to
20 accept a condition of the grant that we will
21 comply with Mrs. Friedman's height requirement.

22 I would also like to submit some photos
23 showing the Friedman property from the vantage
24 point of the pool, including the tennis court and
25 storage shed. With the permission of the Board,

Bobo - 3/3/16

1 I'd like to do that now.

2 CHAIRMAN KEILSON: Okay.

3 MR. KOVIT: I have copies of the pictures of
4 82 -- let me make sure I give you the right ones.
5 These are the pictures of 82 Park Row as seen from
6 the Bobo property (handing). So if you look at
7 these pictures, I'll give you a moment.

8 MEMBER GOTTLIEB: Mr. Kovit, can I ask a
9 question at this moment?

10 MR. KOVIT: Absolutely.

11 MEMBER GOTTLIEB: Do you have any aerial
12 photos? Let's say Google Earth or the aerial
13 photos shown don't seem to show enough detail. Is
14 there any other larger photos?

15 MR. KOVIT: I do not have aerial photos, but
16 I can provide them in due course if you'd like to
17 keep the record open.

18 MEMBER GOTTLIEB: No, it's all right.

19 MR. KOVIT: But if we look at these two
20 photos, I think they're fairly elucidative.
21 Firstly, we see the view of 82 Park Row, which is
22 the Friedman property, and you can see there that
23 there's a tennis court with a fence behind it.
24 Now, admittedly, you can't see the swimming pool
25 past the tennis court because of the fence, but

Bobo - 3/3/16

1 it's definitely there, and I know that you've gone
2 to the property. They've got a beautiful swimming
3 pool with beautiful decking there. And then past
4 that you see this beautiful, I mean, really
5 beautiful house that the Friedmans live in.

6 But since we're looking at the area of the
7 encroachment, the ten-foot side-yard variance, we
8 could see that the swimming pool is going to be
9 very, very far away from the Friedman house. So
10 this would definitely foreclose issues of privacy
11 or noise. It's really just sitting at the far end
12 of the tennis court and then the swimming pool
13 acts as a buffer. So the generic reasons for
14 feeling askance at side-yard variances probably
15 does not apply here, simply because we're nowhere
16 near the house and so, you know, issues of privacy
17 and noise just don't seem to be applicable here.
18 The Friedmans have a big beautiful tennis court
19 and a pool. So I don't think that really that is
20 something that should be a concern.

21 And then, of course, there's this second
22 picture of 82 Park Row and that shows the storage
23 shed where the three-foot side-yard encroachment
24 is for the accessory structure, meaning the
25 swimming pool deck. You could see it's on blocks,

Bobo - 3/3/16

1 and you could see it's not something that is
2 really part of the opulent, beautiful Friedman
3 estate. It's just sort of an out parcel, and the
4 reason for that is because it's practically just a
5 few feet from their own shared property line with
6 the Wanderer residence at 66 Chauncey Lane. So
7 while we do have the three-foot side-yard setback
8 in that area, it's all the way in the nether
9 regions of the Friedman property. It has nothing
10 to do with their tennis court. It has nothing to
11 do with their swimming pool, and certainly has
12 nothing to do with their house. So even though
13 variances are required, I think in this instance
14 the effect is clearly de minimis.

15 Also, also, very important, we've had contact
16 with Mrs. Friedman, and she has sent us a letter,
17 and in her letter she said that she is in favor of
18 this application. She reviewed it and, lo and
19 behold, she is totally in favor of this
20 application. And not only that, but she put it in
21 writing. So I would like to hand to the Board her
22 letter in which she says that she doesn't oppose
23 this application as long as the swimming pool to
24 be constructed does not exceed the height of the
25 first step up of the existing patio at the back of

Bobo - 3/3/16

1 the Bobo residence, okay. And then when I heard
2 from Mr. Bobo what her condition was, I
3 immediately asked him to ask our architect,
4 Mr. Ignatow, to supplement that with a letter in
5 which he says, having reviewed the plans, that it
6 absolutely does not exceed that height, and if the
7 Board deems it appropriate we are happy to accept
8 that as a condition.

9 MEMBER HILLER: What is the date of that
10 letter?

11 MR. KOVIT: The date of that letter --

12 MEMBER HILLER: The date of the Friedman
13 letter.

14 MR. KOVIT: The date of the Friedman letter
15 is 9/27/15, shortly after the building permit
16 application was filed and the plans were
17 submitted. So it does say 9/15; nevertheless, I'd
18 like to submit it.

19 CHAIRMAN KEILSON: By all means.

20 MR. KOVIT: So here it is and attached to it
21 is the letter from Mr. Ignatow, basically assuring
22 that it does not violate her preference. And in
23 fact, we are willing, even though I don't know if
24 he says it, but I'll say it, we're willing to
25 accept a condition of that grant. We would be

Bobo - 3/3/16

1 happy to consider to accept a grant subject to
2 that condition.

3 MEMBER SCHRECK: Do you have a letter from
4 the Pfeifers or the Wanderers?

5 MR. KOVIT: Yes, we do, yes, we do, yes. And
6 I just want to get into that right now.

7 CHAIRMAN KEILSON: Mr. Kovit, the hour is
8 late, so if you could.

9 MR. KOVIT: Okay. I'll just diverge from my
10 remarks and be just more responsive to the things
11 that you deem most appropriate. So here's the
12 letter, and there's one for everybody, from the
13 Pfeifers.

14 MR. GRAY: Submit them all at the same time,
15 please.

16 MR. KOVIT: Here they go and there's one for
17 everybody, and let me tell you, the Pfeifers are
18 completely in support of this application.

19 Now, we know that they live just basically to
20 the west of the subject premises. They have a
21 common boundary line. And the most notable thing
22 there is that we're not going to put this swimming
23 pool in front of our front building line. We're
24 going to keep it back of the front building line.
25 That means that due to the irregular shape of the

Bobo - 3/3/16

1 lot, the buffer area in terms of unimproved grass,
2 lawn on our property ranges from about 25 feet to
3 60 feet. So you've got that very substantial
4 buffer. And then the kicker is if you look at the
5 fence beyond the property line, the Pfeifers have
6 a swimming pool, they have a swimming pool and a
7 deck, and the swimming pool and the deck are
8 separating the Pfeifer property -- the Pfeifer
9 residence from the Bobo property. So again, it's
10 kind of analogous to the Friedman situation,
11 although the Pfeifers don't have the sprawling,
12 you know, opulent setup that the Pfeifers do.
13 It's the same concept. There's a swimming pool in
14 between us and them, and not to mention the lawn
15 area on the Bobo property.

16 And then, finally, since I know the hour is
17 short, I would like to also present the letter
18 that we got from the Wanderer family (handing).
19 Now, here it is, and as you can see there is an
20 absolutely unambiguous four-square approval.

21 CHAIRMAN KEILSON: The letter will speak for
22 itself. You don't have to elaborate on it.

23 MR. KOVIT: Yeah, you could read the letter,
24 but I'll just say it looks pretty good.

25 MEMBER GOTTLIEB: It's a good-looking letter.

Bobo - 3/3/16

1 MR. KOVIT: It's a good letter, and I don't
2 know if you want to see the pictures of the
3 Wanderer property?

4 CHAIRMAN KEILSON: It's the same letter as
5 the other letter?

6 MR. KOVIT: No, this is the pictures of
7 the --

8 CHAIRMAN KEILSON: It's the same as the other
9 letter, Pfeifer?

10 MR. KOVIT: Yes, they are verbatim. I wrote
11 a generic letter for Mr. Bobo and then with the
12 idea that the two would change it a little bit to
13 suit their positions, but they basically said
14 fine, we're signing the letter. Would you like to
15 see the --

16 MEMBER HILLER: Are you finished, sir?

17 MR. KOVIT: I'm finished, unless you'd like
18 to see the --

19 MEMBER HILLER: No, I've seen so many
20 pictures, I feel like I've been to the movies.

21 MR. KOVIT: Okay. I will never be accused
22 of wasting the time of the Zoning Board. I just
23 hope that based upon the real separation between
24 the pool, and the fact that everybody else has a
25 pool, that you'll act favorably on this

1 application.

2 MEMBER HILLER: So I have a couple of issues.
3 One of them is we are especially sensitive after
4 Hurricane Sandy, and especially in those areas,
5 that there shouldn't be excessive coverage of the
6 property. And you have excessive coverage of
7 property already -- already partially existing and
8 now you want to go over it.

9 The second thing is, what you didn't show and
10 what flies in the face of the letter that you got
11 of the agreement from the Friedmans is the fact
12 that the Friedmans are constantly telling the
13 Village that because of elevations, which your
14 pictures do not show, and they are -- they are on
15 the lower elevation than the Wanderers and
16 yourselves and Pfeifers, the runoff onto their
17 property right now without your excessive coverage
18 is -- they have a clay tennis court, it's
19 constantly being redone, the water sometimes
20 reaches their pool area, and their backyard if you
21 walk through their opulent -- as you used the word
22 25 times -- backyard you will see that it's
23 opulently muddy, the entire surface is muddy, and
24 now you want to add a pool and decking and surface
25 coverage over and above the coverage you have now.

1 And as the Officials of the Village will tell you,
2 the Friedmans -- I'm shocked that Helen Friedman
3 signed this because their complaints, which have
4 been heavily made to the Village, fly in the face,
5 as I said, of this letter that she wrote. And by
6 having the surface coverage that you're doing, by
7 putting in the pool, you will only exacerbate the
8 fact that they are a lower elevation, and you will
9 -- their property will be a swamp, basically a
10 swamp. And they have had times where the water
11 even from moderate rains has reached their pool
12 and just flooded the tennis court. So I find it
13 difficult to -- I find it difficult to accept this
14 excessive coverage that you are proposing.

15 MR. KOVIT: May I respond?

16 CHAIRMAN KEILSON: I think we also have to
17 take into account that you focus -- you've chosen
18 to focus on one aspect, namely, whether it will
19 interfere with the quiet enjoyment of the
20 neighbors and the like. Every presentation on
21 pools they bring in neighbors who approve of what
22 the neighbor is going to do as far as putting in a
23 pool. We don't put much weight on that any
24 longer, it's just the reality of it.

25 And I think that I have to reinforce what

1 Mr. Hiller has suggested. We have to focus on the
2 excess coverage; that's our responsibility. And
3 there's nothing you've said to help ameliorate our
4 concern about excess coverage, which the Trustees,
5 the Mayor of this Village have bidden us to try to
6 deal with. Okay.

7 MR. KOVIT: Yes, sir.

8 CHAIRMAN KEILSON: And the proposed excess
9 coverage and percentage is well above anything
10 that we've approved in recent times.

11 MR. KOVIT: May I respond, Mr. Chairman?

12 MEMBER GOTTLIEB: Before you respond, I just
13 have to piggyback onto what they already said
14 because there's another point that hasn't been
15 brought up yet, but I'm going to ask Gerry at the
16 same time. Isn't this in the flood zone, as I
17 recall?

18 MR. CASTRO: Yes.

19 MEMBER GOTTLIEB: This is low lying and in
20 the flood zone. So this is already an exacerbated
21 situation. If I recall from Sandy, these areas
22 were well under water. That's all I wanted to
23 bring up, just the flood zone area. So now you
24 can answer them all together.

25 MR. KOVIT: Thank you very much, and I

1 appreciate all your comments, okay. There's two
2 remarks, okay, and I'm going to take the more
3 important one first. I have our architect with
4 us. He has submitted a plan of dry wells. He is
5 going to show how under the configuration he
6 proposes, the water will go away from the Friedman
7 property and be located in the lawn area to the
8 front of the front building line of the Bobo
9 property where he has ample dry wells. That's
10 number one.

11 Number two, we are ready to put in such
12 further dry wells as the Building Department deems
13 appropriate, and I'll let him come up and be more
14 specific about that because he's the architect and
15 I'm the lawyer.

16 The only other thing that I wanted to say is
17 that in terms of lot area occupied, it really
18 should be noted that currently 41 percent of the
19 lot area coverage is due to the fact that this is
20 a flag lot which is 110 feet long and basically
21 currently covers 41 percent of the total lot area.
22 It's a flag lot. So it's not really a situation
23 where the Bobos have really gone over the max with
24 development. They've got a normal, upscale house
25 in the Village of Lawrence and they've got a nice

1 little deck and jacuzzi. They don't have other
2 accessory buildings. They've got lots and lots --

3 CHAIRMAN KEILSON: Excuse me. But the bottom
4 line of coverage is the same, irrespective of how
5 it came about, because it's a flag lot.

6 MR. KOVIT: No, I agree with that. That's my
7 secondary point. My first point is to address the
8 very meaningful aspect of drainage. And as I
9 said, my understanding from talking to the
10 architect, it is going to be moving away from the
11 Friedman property and towards the --

12 CHAIRMAN KEILSON: Can we hear from the
13 architect?

14 MR. KOVIT: Yes, yes, please do.

15 MR. IGNATOW: Good evening. Richard Ignatow,
16 landscape architect, 91 Green Street, Huntington,
17 New York.

18 We are lower here than the adjacent property
19 based on the topography that I received from our
20 surveyor. To be specific, the elevation of 9.6
21 here at the corner, this is the Friedman property
22 back here, and I have an elevation of 8.6 here.
23 So if anyone is having a problem with drainage
24 it's us. Our intent is to put in dry wells to
25 cover this area and pick up the water that's here

1 and bring it toward the front and put it into dry
2 wells, and I believe this will improve the
3 situation. Despite the fact that we are putting
4 in impermeable now, pools are considered
5 impermeable, in reality, they hold three to four
6 inches in what's referred to as a freeboard. So
7 if it rains two inches, three inches in successive
8 rainfall it stays in the pool until such time as
9 you pump it out to lower the pool. But you'll be
10 pumping it into dry wells. So this will not
11 exacerbate a drainage situation, number one.

12 Number two, we are lower than they are, and
13 the tennis court they have comes right up to our
14 property line.

15 CHAIRMAN KEILSON: Okay.

16 MR. KOVIT: And we would also, whatever other
17 dry wells the Village deems appropriate, be ready
18 to put them in.

19 CHAIRMAN KEILSON: Is there anyone in the
20 audience who wants to speak to the matter?

21 (No response.)

22 CHAIRMAN KEILSON: Okay. Anything further
23 from the Board?

24 (No response.)

25 MR. KOVIT: I just have one last thing.

1 CHAIRMAN KEILSON: Go ahead.

2 MR. KOVIT: I'm sorry. It's just that the
3 other three properties in question have swimming
4 pools, and I hope that we have a swimming pool
5 too. I think it's consistent with the area
6 character, which is the Board's main function. I
7 understand drainage is very important, and we will
8 follow the dictates of the Building Department in
9 terms of drainage.

10 MEMBER GOTTLIEB: I don't know how to express
11 this other than what you have already seen, but I
12 know the area reasonably well, and there it seems
13 to be rather wet all the time. I don't know --
14 you're putting in dry wells, I don't know where
15 the water table is, how many -- you've done the
16 math, you're the architect.

17 MR. IGNATOW: The water table is high and we
18 have borings that were sent in showing that. And
19 in fact, these dry wells have been designed to
20 meet the standards.

21 MEMBER GOTTLIEB: They're shallow but wide.

22 RESPONDENT: They're two-foot dry wells,
23 because the groundwater is extremely high.

24 MR. KOVIT: Do you have a curriculum vitae?
25 Not with you, but can you supply one?

1 MR. IGNATOW: Yes. Bachelor's and Master's
2 in landscape architect, and licensed.

3 CHAIRMAN KEILSON: That's not our issue
4 tonight.

5 MR. KOVIT: You accept him as --

6 MEMBER GOTTLIEB: The issues I really have --
7 thank you for what you explained. I know that
8 you've obviously done your homework, you know the
9 water table is very high. And just living nearby
10 I see the water even on the street doesn't seem to
11 disappear. The intersection of Park Row and Main
12 Street there's always some wet areas there.

13 We're still looking at 27 percent overage and
14 1,650 square feet, and that's not counting the
15 other issues, which is the three foot or the ten
16 foot to the neighbor's property. The biggest
17 issue I have is 27 percent overage. It is what it
18 is.

19 MR. KOVIT: I'd like to answer that. If that
20 is going to be determinative, and as I understand
21 you just want to know, if that's going to be
22 determinative, we can possibly after consulting
23 with clients see if there's anything that we can
24 do in terms of -- I'll ask the building inspector
25 if we make part of the -- of the driveway gravel,

1 is that, you know, pervious, is that going to
2 change? And don't get me wrong, I still think
3 it's a good application the way it is, but we
4 really want to have our pool and we're ready to do
5 whatever the Village says is appropriate.

6 MEMBER GOTTLIEB: I don't think it's what I
7 can say that makes it appropriate or not
8 appropriate. The question about the driveway, the
9 driveway is shared with the adjacent house to your
10 north, if you will. There's no letter of support
11 from that house, I guess, right?

12 MR. KOVIT: No, because the application was
13 nowhere near their house.

14 MEMBER GOTTLIEB: Okay. So the driveway is
15 an easement? The driveway is shared by both
16 houses? Is it owned by one house? Is it split
17 down the middle 50 percent? Is your lot coverage
18 50 percent, is theirs?

19 MR. KOVIT: I assume it's a cross-easement.

20 MS. BOBO: No, it's --

21 MR. BOBO: Ralph Bobo, homeowner, 76 Park
22 Row. So Mr. Chairman, members of the Board, yes,
23 the driveway, as I understand it, it's a
24 two-car-wide driveway, so it's my understanding
25 from our surveyors is that it goes down the middle

1 to the driveway being our half of the coverage.

2 MEMBER GOTTLIEB: So when Mr. Kovit was
3 saying about the surface coverage, half of that
4 driveway is your surface coverage and half is your
5 neighbor's surface coverage?

6 MR. BOBO: No. The surface coverage was
7 based on our driveway, that half of the driveway.

8 MEMBER GOTTLIEB: Right.

9 MR. BOBO: And the driveway going from
10 Park Row all the way back to the house.

11 MEMBER GOTTLIEB: I was trying to see whether
12 you're being penalized by all the driveway is
13 considered yours.

14 MR. BOBO: No, I don't believe so.

15 MR. IGNATOW: They each have separate
16 driveways which happen to be contiguous, but the
17 property line runs down the middle, so their
18 driveway is on their property, and the neighbor's
19 driveway --

20 MR. BOBO: To some degree we are being
21 punished or penalized a little bit because of the
22 length of the driveway and that coverage.

23 MS. BOBO: Robin Bobo. We didn't do any
24 extensions on the house. We didn't make it any
25 bigger. We just really wanted to put a pool, and

1 we've been also very much like Helen Friedman, and
2 she's been very sweet and very nice going along
3 with this because it's been kind of us against the
4 world with this flooding. We've been getting the
5 brunt of it from all the neighbors because we are
6 on the down slope. And yeah, we get her runoff
7 too, she knows it, and it is, we have like a
8 little lake on the side of our house with ducks
9 and everything.

10 CHAIRMAN KEILSON: She should allow you to
11 use her pool as a quid pro quo.

12 MS. BOBO: She probably would.

13 MEMBER GOTTLIEB: Mrs. Bobo, you just
14 happened to mention something I wasn't going to
15 bring up. Didn't you do an extension recently?

16 MS. BOBO: We did, over the garage. Nothing
17 to extend the floor plan, nothing surface area.

18 MEMBER GOTTLIEB: Or else you would have been
19 here.

20 MS. BOBO: But we purposely never -- we
21 always knew we wanted a pool, but circumstances --

22 MR. KOVIT: There's always a possibility that
23 we can come back next time with a professional
24 written study to show that dry wells properly
25 placed, basically the way they are, or maybe a

1 little different, will completely solve the
2 drainage issue. I understand that the Board may
3 not be convinced by the presentation of our
4 architect, so really it's just a matter of proof,
5 if the Board would be willing to allow us to make
6 that showing, because we're pretty confident that
7 we've got the drainage under control, and
8 especially we're ready to do what the Village
9 wants us to do beyond that.

10 MEMBER GOTTLIEB: I wouldn't throw the
11 architect under the bus yet.

12 MR. IGNATOW: Thank you.

13 MEMBER GOTTLIEB: He did as much as he could
14 possibly present, as much as any architect. I
15 just continue to look at 27 percent overage is
16 really way beyond excessive. You know, I don't
17 want to give you a number. There's no certain
18 number that we agree on.

19 MS. BOBO: Honestly, I don't know what --
20 because of the driveway, I don't know what would
21 work. There's only one place on our property we
22 can put a pool with these setbacks. There's only
23 one -- in other words, you're just essentially
24 telling us -- like, I don't know what else. We're
25 willing to concede to make the pool a little

1 smaller, but it's not going to change the side
2 setbacks, because unless you move the pool up --
3 the coverage rather, and it won't -- in terms of
4 the side setback it's not going to change it
5 either.

6 CHAIRMAN KEILSON: The hour is late. I'm not
7 sure we want to engage right now in discussing
8 what would stimulate the Board to support the -- I
9 don't know how the vote would go now. You can go
10 to a vote or you can go back and reconsider, and
11 perhaps in concert with the Building Department
12 come up with some new suggestions. I mean, I'm
13 not going to presage what that might be. There's
14 discomfort on the part of and it's been made clear
15 by some Board members that as it's presently
16 constituted we have issues with it.

17 MR. KOVIT: I think that the fundamental
18 problem is that one or more members of the Board
19 do not believe that we have control of the
20 drainage situation, and we would like to provide
21 further submissions that that is not correct.

22 CHAIRMAN KEILSON: I think that, accompanied
23 by some --

24 MS. BOBO: The coverage is the main issue,
25 and I don't know what we can change with the

Bobo - 3/3/16

1 coverage. We can do -- you know, the most we can,
2 the best we can, whatever you want in terms of the
3 dry wells and the drainage, and we of all people,
4 it's on our property so, of course, we want it
5 improved and we'd like to get rid of all the
6 runoff. So we will put as many dry wells or
7 whatever we have to do in terms of that, but I
8 know the coverage is the main issue, I understand
9 that. I just don't know what --

10 CHAIRMAN KEILSON: I just don't think at
11 10 to 10 tonight we are going to come with a
12 solution to that.

13 MS. BOBO: I understand.

14 CHAIRMAN KEILSON: As opposed to taking an
15 opportunity to take it back, as opposed to a
16 potential declination at this point in time.

17 MEMBER GOTTLIEB: I think the Chairman's
18 suggestion is very prudent and to your benefit.

19 MS. BOBO: Thank you.

20 MR. KOVIT: So we'll ask for an adjournment.

21 MEMBER GOTTLIEB: Good idea.

22 MR. KOVIT: Thank you.

23 CHAIRMAN KEILSON: I'm happy you came up with
24 that idea.

25 MR. KOVIT: All right, all right.

Bobo - 3/3/16

1 MR. BOBO: Thank you.

2 MR. KOVIT: Thank you very much.

3 CHAIRMAN KEILSON: We'll see you again.

4 (Whereupon, the hearing concluded at

5 9:57 P.M.)

6 *****

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

10
11 Mary Benci

12 MARY BENCI, RPR
13 Court Reporter
14
15
16
17
18
19
20
21
22
23
24
25