

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 7:37 p.m.

8 APPLICATION: Popack
9 350 Longwood 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

Popack - 4/6/16

1 CHAIRMAN KEILSON: The next request for an
2 extension, we have a letter again to the Board and
3 to the Village regarding the Popack variance at
4 350 Longwood Crossing.

5 Mr. Castro, could you share some of the
6 history on this project.

7 MR. CASTRO: In 2008, the house without this
8 recently-purchased lot went for a variance.
9 Subsequently, there was a variance -- an extension
10 granted. The extension lapsed. I believe in 2012
11 the new application was brought before the Board;
12 different plans, different architect. Another
13 variance was granted. An extension was granted
14 after that, and so this would be the second
15 extension.

16 CHAIRMAN KEILSON: An extension on a second
17 set of variances?

18 MR. CASTRO: On a second set of variances.

19 CHAIRMAN KEILSON: I think they have
20 exhausted the good will of the Board in this
21 regard, and it's going to expire on April 30th, so
22 I think from the Board's perspective we'll vote on
23 it, but I, for one, would not be inclined to
24 extend it any longer, and let them come back with
25 whatever the project is going to be at this point.

Popack - 4/6/16

1 They bought contiguous properties. Let them deal
2 with it as far as what the new plans may be.

3 So Mr. Hiller, your feelings.

4 MEMBER HILLER: Against.

5 CHAIRMAN KEILSON: Mrs. Williams.

6 MEMBER WILLIAMS: Against.

7 CHAIRMAN KEILSON: Mr. Gottlieb.

8 MEMBER GOTTLIEB: Against.

9 CHAIRMAN KEILSON: Mr. Schreck.

10 MEMBER SCHRECK: Against.

11 CHAIRMAN KEILSON: And I as well. So you
12 will communicate that to counsel.

13 (Whereupon, the hearing concluded at
14 7:39 p.m.)

15 *****

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

19
20 Mary Benci

21 MARY BENCI, RPR
22 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 7:34 p.m.

8 APPLICATION: Gateley
9 264 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: Good evening, ladies and
2 gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. Please turn off your phones, and
4 please, no conversations. If you have a need to
5 discuss anything, please take it out into the
6 hall.

7 Okay, proof of posting, Mr. Castro?

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

10 CHAIRMAN KEILSON: Thank you very, very much.
11 Mr. Gray, perhaps a short preamble.

12 MR. GRAY: Sure. This Board is what's known
13 as a hot Board. They're very familiar with your
14 applications. They are very familiar with your
15 properties. In fact, they have probably visited
16 each one of the sites, so they have firsthand
17 knowledge of the current conditions of the houses
18 and the residences. They have reviewed the
19 applications. Obviously, they're going to ask you
20 to present what you are seeking, but you need not
21 regurgitate the entire application. They will
22 probably have pointed questions directly to the
23 issues in which they need some answers from you.

24 CHAIRMAN KEILSON: Thank you, Mr. Gray.

25 Okay, we have two requests for extensions on

Gateley - 4/6/16

1 MEMBER HILLER: For.

2 MR. GRAY: That was February 12th, 2017?

3 CHAIRMAN KEILSON: Yeah.

4 (Whereupon, the hearing concluded at
5 7:37 p.m.)

6 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 7:50 p.m.

8 APPLICATION: Jacobs
9 60 Barrett Road
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

Jacobs - 4/6/16

1 CHAIRMAN KEILSON: The next matter is Jacobs,
2 60 Barrett Road. Would they or their
3 representative step up.

4 MR. SCHAEFER: Would you like to swear me in?
5 I'm not an attorney.

6 CHAIRMAN KEILSON: Don't swear at us, and we
7 won't swear you in.

8 MR. SCHAEFER: Thank you.

9 CHAIRMAN KEILSON: Tell Mary who you are.

10 MR. SCHAEFER: My name is Hugh Schaefer,
11 174 West Merrick Road, Merrick, New York, 11566,
12 appearing for the applicant who is also the
13 petitioner.

14 Good evening, Mr. Chairman and members of the
15 Board.

16 CHAIRMAN KEILSON: Good evening.

17 MR. SCHAEFER: This application is for
18 installation of a proposed pool which actually
19 violates all three sections of 212-12.1, 212-48.B,
20 and 212-48.C. This is an area that the proposed
21 pool is to be installed in the rear yard having
22 less than the rear side yard. And also the
23 coverage, we're exceeding the coverage by
24 407 square feet. The proposed pool is a little
25 over 500 square feet, and this is a standard

Jacobs - 4/6/16

1 16-by-32 fiberglass pool. It's prefabbed and it's
2 made into sections.

3 I've been filing applications for Clearwater
4 Pools for maybe 20 years already and throughout
5 Nassau County, and that's why I'm here on behalf
6 of the petitioners this evening.

7 There is an existing deck, and the rear yard
8 proposed is 15, where it's required to be 20. The
9 side yard minimum requirement is 15, and proposed
10 is 10. I know that we're concerned about drainage
11 when I just heard the last case, but my client has
12 drainage dry wells throughout all corners of the
13 house, and the proposed pool has a dry well which
14 is to be used for backwashing, which would be
15 suitable for the normal backwashing of the pool.
16 He has a deck which is open, and you still have
17 percolation to the rest of the backyard area for
18 any water runoff. And naturally, the entire roof
19 system is going into dry wells on all four corners
20 of the house. Many of the neighbors have pools of
21 similar size, even larger. And it would be a
22 hardship for my client to not be able to put the
23 pool in or to put something in smaller. This is
24 prefab and it's made to size. Therefore, I would
25 respectfully request the Board consider granting

1 the application. There's no opposition from any
2 of the neighbors. They've all been notified.

3 CHAIRMAN KEILSON: I guess the concern we
4 have is this property was purchased in December of
5 2014.

6 MR. JACOBS: Yes. Stuart Jacobs, and I'm the
7 current owner of 60 Barrett Road on whose behalf
8 the application is being made.

9 CHAIRMAN KEILSON: Again, you know, we're
10 sympathetic of pools. The problem is there's so
11 much coverage here already with the deck.

12 MR. SCHAEFER: Well, the deck actually has --
13 water goes right through it, so it's percolation
14 for it. It's only exceeding by 8.3 percent which
15 is 407 square feet. This is prefab. We just
16 can't cut it in size. It's all molded where, you
17 know, they all fit together each piece of that
18 pool.

19 MEMBER GOTTLIEB: You said 8 percent?

20 MR. SCHAEFER: 8.3.

21 CHAIRMAN KEILSON: Are you speaking of the
22 deck?

23 MR. SCHAEFER: Oh, the deck itself.

24 CHAIRMAN KEILSON: What is the 8 percent that
25 you're referring to?

1 MR. SCHAEFER: That is the lot coverage. In
2 other words, we are exceeding it by 407 square
3 feet which is --

4 CHAIRMAN KEILSON: 12 percent.

5 MR. SCHAEFER: Well, I had 12, and then the
6 Building Department had changed it to three, but
7 my calculations were originally 12.

8 And another thing I'd like to mention is the
9 other neighbors' pools are much larger. This is
10 smaller.

11 CHAIRMAN KEILSON: That's irrelevant, as you
12 understand. It relates to the size of the
13 property and what else is on the property. So I
14 don't think the size of the pool is really
15 dispositive of what's going on here. There is a
16 question as to the overage on the surface
17 coverage.

18 Gerry.

19 MR. GRAY: The applicant had put down on his
20 code relief that it was 12 percent, but then your
21 calculations modified that to 8.3 percent. The
22 Chairman is just asking you to clarify.

23 CHAIRMAN KEILSON: It's 8.3.

24 MR. CASTRO: I believe it was the patio
25 around the pool was considered a walkway.

Jacobs - 4/6/16

1 MR. GRAY: It's less than four feet?

2 MR. CASTRO: It is four feet itself.

3 CHAIRMAN KEILSON: So it's 8.3 overage.

4 MR. CASTRO: Correct.

5 CHAIRMAN KEILSON: Per your letter.

6 MR. CASTRO: Correct.

7 MEMBER GOTTLIEB: That's one of the three
8 requests.

9 CHAIRMAN KEILSON: Questions, comments?

10 MEMBER GOTTLIEB: Are we in the flood zone
11 here? Is this property in the flood zone?

12 MR. SCHAEFER: I don't think we are, no. To
13 my knowledge it's not the flood zone, and there's
14 no change of grade expected on this application.

15 MEMBER GOTTLIEB: My concern is that you back
16 onto Bayberry and both Barrett and Bayberry had
17 severe flooding during Sandy as the water came
18 across the golf course.

19 MR. SCHAEFER: Did you have any flood
20 activity during the storm? The flood zone -- do
21 you know about the flood zone? Maybe the Building
22 Department.

23 MR. JACOBS: I don't know.

24 MEMBER GOTTLIEB: That's okay if you don't
25 know. I realize you are only in the house about a

1 year.

2 MR. JACOBS: I wasn't the owner then.

3 CHAIRMAN KEILSON: You didn't have to live
4 through Sandy.

5 MR. JACOBS: Thank God.

6 CHAIRMAN KEILSON: Does anyone in the
7 audience want to address this, or questions?

8 They said all the neighbors approved.

9 (No response.)

10 CHAIRMAN KEILSON: Okay. We go back to the
11 same question of whether every yard and lot can
12 accommodate a pool, and we're asking for
13 encroachments and we're asking for overages, and I
14 think we have to balance the benefit as opposed to
15 all these detrimental factors. So I'll leave it
16 to the Board to vote their conscience and how
17 they're inclined on it.

18 Mr. Hiller.

19 MEMBER HILLER: I'm going to vote for.

20 MR. JACOBS: Thank you.

21 CHAIRMAN KEILSON: Mrs. Williams.

22 MEMBER HILLER: Don't say thank you.

23 MEMBER WILLIAMS: I will vote for on this
24 one.

25 MR. JACOBS: Thank you, Mrs. Williams.

1 CHAIRMAN KEILSON: Mr. Gottlieb.

2 MEMBER GOTTLIEB: No, I'm sorry, I can't
3 approve this.

4 CHAIRMAN KEILSON: Mr. Schreck.

5 MEMBER SCHRECK: I'm going to have to vote
6 against. I just don't feel there is enough room
7 for a pool.

8 CHAIRMAN KEILSON: And I have to vote
9 against, so it's declined.

10 MR. CASTRO: I'm going to clarify for the
11 record, the difference in coverage was strictly
12 due to just a miscalculation. The numbers are all
13 correct. For some reason it was calculated wrong
14 as a percentage.

15 MEMBER SCHRECK: I had a question about the
16 fence. There's a fence on the property?

17 MR. JACOBS: There's a fence all around the
18 property.

19 MEMBER SCHRECK: How tall is that fence?

20 MR. JACOBS: It's about at least 20 feet,
21 15 feet.

22 MEMBER SCHRECK: No.

23 MEMBER GOTTLIEB: No, the height of the
24 fence.

25 MEMBER SCHRECK: The white fence, how high is

1 that white fence?

2 MR. JACOBS: The fence is six-foot.

3 MEMBER WILLIAMS: Who put up that fence?

4 MEMBER SCHRECK: Did you get a permit for
5 putting up that fence?

6 MR. JACOBS: It was there when I purchased
7 the property. If I just may indulge your request.

8 CHAIRMAN KEILSON: Yes.

9 MR. JACOBS: Would it help if I removed part
10 of the deck? I didn't want to deal with the
11 expense involved with removing part of the deck.

12 MEMBER GOTTLIEB: So if you removed the deck
13 you might remove the surface coverage or reduce
14 surface coverage.

15 MR. JACOBS: Yes, because the deck is like a
16 bilevel deck. I can remove part of it.

17 MEMBER GOTTLIEB: But will you also be
18 bringing the pool in from the ten-foot side yard?
19 Would you be moving the pool closer to the middle
20 of the yard?

21 MR. JACOBS: I think I can move it a couple.

22 MR. SCHAEFER: We can move the pool to the
23 south and then gain the distance.

24 CHAIRMAN KEILSON: I have a suggestion, all
25 right. I didn't gavel the decision down, okay.

Jacobs - 4/6/16

1 So why don't you step out for a few minutes.
2 We'll take the next matter, and see what you can
3 do, okay. And then we'll be happy to look at it
4 again.

5 MR. SCHAEFER: Thank you.

6 MR. JACOBS: Thank you.

7 MEMBER GOTTLIEB: So we'll leave it open.

8 CHAIRMAN KEILSON: We'll leave it open.

9 (Whereupon, a recess was taken; the
10 application was recalled.)

11 CHAIRMAN KEILSON: Let's recall Jacobs.

12 MR. SCHAEFER: I think we've worked something
13 out here.

14 CHAIRMAN KEILSON: Yes. Have you come to an
15 agreement with your client?

16 MR. SCHAEFER: He has the one deck that is
17 closest to the pool. It's approximately -- it's
18 somewhere between 240, 250 square feet. We can
19 remove that section of the deck and cut the
20 coverage in half, the overage on the coverage.
21 And by removing that deck and bringing the pool
22 closer to the south, we can maintain the required
23 15 feet, rather than the 10.

24 CHAIRMAN KEILSON: For the side yard.

25 MR. SCHAEFER: The side yard.

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1 The problem is the rear yard. The AC unit's
2 there, the filter is proposed there. There are
3 three AC units, and there's also a dry well that
4 is being installed in that area, so that would be
5 a hardship to have to relocate all of that to
6 accommodate the 20-foot rear yard. So we would
7 really seek the relief only for the rear yard at
8 that point and not the side yard any longer.

9 MEMBER HILLER: What would the rear-yard
10 setback be?

11 MR. SCHAEFER: Fifteen foot, instead of 20,
12 but we can maintain the side yard of 15 feet,
13 rather than the proposed 10. We're asking for
14 just the rear yard, and the coverage we can gain
15 probably another 240, 250 square feet by removing
16 that section of deck.

17 MR. JACOBS: I think the overage would be
18 about 158, 168. If the overage is 408, that upper
19 deck it's like a bilevel deck. I would get rid of
20 that and just keep the lower-level deck. That's
21 about 240, 250 square feet. I would remove it.
22 In fact, my kids wanted me to get rid of it. They
23 think that it would overcrowd the pool.

24 CHAIRMAN KEILSON: They told us.

25 MR. JACOBS: So it may be a blessing as it

Jacobs - 4/6/16

1 turns out because they wanted it out anyway.

2 CHAIRMAN KEILSON: We're in the business of
3 giving blessings.

4 MR. JACOBS: Thank you.

5 MEMBER GOTTLIEB: We do that too.

6 CHAIRMAN KEILSON: Yes, yes. We're going to
7 have to quantify because we have to create a
8 record. So let's see if Mr. Castro, along with
9 you, can come up with the numbers so that we know
10 exactly what we're voting on, if that's at all
11 possible.

12 MR. CASTRO: Can you repeat which portion of
13 the deck was going to be removed.

14 MR. SCHAEFER: The closest section to the
15 pool, that and all the steps.

16 MR. CASTRO: That would be the upper portion
17 of the deck?

18 MR. JACOBS: The upper, yes.

19 MR. CASTRO: You mentioned approximately
20 240 square feet?

21 MR. SCHAEFER: 240, 250. We haven't done it
22 exactly, but it's approximately in there. Would
23 you rather go with the lower number?

24 MR. GRAY: Go with the 240.

25 MR. CASTRO: So removing 240 it's going to

Jacobs - 4/6/16

1 drop it from 12 to 7 percent.

2 CHAIRMAN KEILSON: It wasn't 12, it was 8.3.

3 MR. CASTRO: I'm sorry 8.3 to 3.3. I think
4 it's a 5 percent reduction; 4.8.

5 MEMBER GOTTLIEB: You're using the 240
6 reduction or the 200?

7 MR. CASTRO: 240.

8 MEMBER GOTTLIEB: You're okay with that, the
9 240?

10 MR. JACOBS: Yes.

11 CHAIRMAN KEILSON: The excess is how much?

12 MR. CASTRO: To quantify it, 161 square feet,
13 161 square feet over.

14 MR. SCHAEFER: 161.

15 MR. GRAY: 3.4 percent.

16 MR. CASTRO: Yeah.

17 CHAIRMAN KEILSON: So what's the final
18 verdict?

19 MR. CASTRO: So there's going to be an
20 overage of 161 square feet -- 167 square feet, a
21 percentage of 3.4 over permitted.

22 CHAIRMAN KEILSON: Okay. So let's --

23 MEMBER GOTTLIEB: I have a question. I'm
24 sorry.

25 CHAIRMAN KEILSON: By all means.

Jacobs - 4/6/16

1 MEMBER GOTTLIEB: The 15 feet, is that to the
2 coping of the pool or is that to the deck around
3 the pool?

4 MR. SCHAEFER: The coverage of -- it's four
5 foot permitted just of pavers around the pool.

6 MEMBER GOTTLIEB: So are the pavers --

7 MR. SCHAEFER: That was included.

8 MEMBER GOTTLIEB: Right. Is the 15 feet to
9 the pavers or the 15 feet to the coping of the
10 pool?

11 MR. SCHAEFER: The coping of the pool.

12 MEMBER GOTTLIEB: Okay.

13 CHAIRMAN KEILSON: Okay. So what's before
14 the Board, again, is the excess coverage, surface
15 coverage of 167 feet, which equates to 3.3 percent
16 overage or 3.4, depending on the calculator you're
17 using, and then the request for the encroachment
18 in the rear yard where you're required to have
19 20 feet, you're asking for 15 feet, okay.

20 So we're assessing the benefit to the
21 applicant as opposed to any detriment to the
22 neighbors and the community, and with that in mind
23 we will vote. Mr. Schreck first.

24 MEMBER SCHRECK: Based on the reduction of
25 the overage and the compliance with the side yard,

Jacobs - 4/6/16

1 I'm going to vote for.

2 CHAIRMAN KEILSON: Mr. Gottlieb.

3 MEMBER GOTTLIEB: I'm okay with this. I vote
4 for.

5 CHAIRMAN KEILSON: Mrs. Williams.

6 MEMBER WILLIAMS: I'm still for.

7 CHAIRMAN KEILSON: Mr. Hiller.

8 MEMBER HILLER: I'm also for.

9 CHAIRMAN KEILSON: And I'm for as well. And
10 a year? How much time do you need? You're
11 putting it in this season, hopefully.

12 MR. SCHAEFER: As soon as the weather breaks
13 I guess we're ready to go. Yeah, we've been
14 waiting a while.

15 CHAIRMAN KEILSON: Let's give you a year and
16 a half.

17 MR. JACOBS: Thank you.

18 MR. SCHAEFER: Thank you.

19 CHAIRMAN KEILSON: Thank your kids for making
20 the modification.

21 MR. SCHAEFER: Thank you very much. Have a
22 good evening.

23 (Whereupon, the hearing concluded at
24 8:15 p.m.)

25 *****

Jacobs - 4/6/16

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

6 MARY BENCI, RPR
7 Court Reporter
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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 9:43 p.m.

8 APPLICATION:

9 Klein
10 183 Harborview North
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

1 CHAIRMAN KEILSON: The next matter is Klein.
2 Thank you for being patient, Kleins. We wanted to
3 get the easy ones out of the way.

4 MR. MACLEOD: Good evening. John Macleod,
5 595 Park Avenue, Huntington, New York, 11743.

6 I'm here representing the Kleins for their
7 second appearance in front of you, the first
8 appearance being in 2012 when we were granted
9 eleven variances.

10 CHAIRMAN KEILSON: Eleven variances? What
11 Board was sitting then?

12 MR. MACLEOD: It looks very similar, almost,
13 not quite.

14 MEMBER GOTTLIEB: I assure you it's not. We
15 may look the same.

16 MR. MACLEOD: I have six letters of support
17 from neighbors to put on the record (handing).

18 CHAIRMAN KEILSON: The Feldmans had 16.

19 MR. MACLEOD: For the Board members who were
20 not here at the time that we did our first
21 variance, basically, we've designed the same
22 house, very similar, same footprint, same number
23 of bedrooms and accommodations, same footprint
24 size. It did have a lower level which would be
25 like a walk-out basement, and that was part of the

1 variances that were approved back in 2012.

2 Hurricane Sandy came shortly after that
3 decision, within a few months, and we found
4 ourselves in a position of being unable to get
5 past the FEMA regulations at that point because
6 the focus of FEMA was then concentrated on
7 floodplains. And prior to Hurricane Sandy, as you
8 know, not an awful lot of interest was taken in
9 the FEMA elevation floodplains.

10 So what we have tried to do --

11 CHAIRMAN KEILSON: Hold on. Okay, continue.

12 MR. MACLEOD: So what we have done with this
13 proposal that we put in front of you today is keep
14 the exact same footprint and move the basement
15 functions from the lower level to a potential
16 third-floor level. With the exception, of course,
17 of the garage, which we could not lift three
18 stories in the air. And so on the previous design
19 there was a two-car garage in the basement and we
20 are requesting as part of this new reduced number
21 of variances down to seven, one of those variance
22 is for a one-car garage as opposed to a two-car
23 garage.

24 CHAIRMAN KEILSON: Why can't you put the
25 one-car garage at the first level?

1 MR. MACLEOD: If we did put it at the first
2 level, we have tried that in different
3 configurations, but it does take away a good
4 quarter -- not a quarter, but another corner of
5 the house which impacts the overall room sizes
6 that are required and desired.

7 CHAIRMAN KEILSON: How many variances would
8 we drop?

9 MR. MACLEOD: We dropped --

10 CHAIRMAN KEILSON: In other words, if you
11 redesigned to accommodate the garage at the first
12 level, would that eliminate the area coverage
13 somewhat?

14 MR. MACLEOD: It would reduce the area
15 coverage by 231 square feet which would go back to
16 the original approved square footage coverage which
17 was 9.4 percent. We do recognize that the extra
18 -- the one-car garage does represent an
19 8.5 percent increase in building coverage.

20 CHAIRMAN KEILSON: So the increase in the
21 building coverage is really attributable to that
22 detached garage?

23 MR. MACLEOD: Only attributable to the
24 garage. The rest of the house is exactly the same
25 footprint. The exterior design changed a little

Klein - 4/6/16

1 in terms of cosmetics.

2 CHAIRMAN KEILSON: I'm sorry. Surface
3 coverage is attributable to?

4 MR. MACLEOD: The building coverage -- I'm
5 sorry, I didn't say surface coverage. But the
6 surface coverage is actually being reduced to be
7 within the building code, the zoning code, whereas
8 in the first go-round we did require a surface
9 area variance.

10 CHAIRMAN KEILSON: So we've reduced the
11 surface, there's no variance required?

12 MR. MACLEOD: There's no requirement; hence,
13 we're only asking for seven instead of eleven this
14 time. Quite a few of the variances have
15 disappeared because of removing the garage from
16 the basement. One of the issues we had there was
17 the side-yard setback distance to the garage door,
18 like the turning curve that is required to get
19 into the garage. That is no longer there.

20 CHAIRMAN KEILSON: So back in 2012 we had ten
21 variances?

22 MR. MACLEOD: I believe eleven.

23 CHAIRMAN KEILSON: Eleven?

24 MR. MACLEOD: In the rejection letter there
25 was eleven -- or in the approval letter there was

1 eleven.

2 CHAIRMAN KEILSON: Okay, ten or eleven, let's
3 say, and now you're looking for seven?

4 MR. MACLEOD: We're looking at seven. And if
5 you look at the code relief chart, what is
6 presented I did add to it as requested the
7 previously approved items which were approved and
8 are relevant today in the existing in the new
9 chart. So if you start at the top line on the
10 chart that's dated 4/6/2016.

11 CHAIRMAN KEILSON: Yes. Everybody have that?

12 MEMBER HILLER: Yeah.

13 CHAIRMAN KEILSON: Okay.

14 MR. MACLEOD: The top line is the first one
15 which is the building area coverage, and as you go
16 to the middle column you will see --

17 CHAIRMAN KEILSON: Hold it, hold it, hold it,
18 hold it. This one. Okay, we're all on the same
19 page.

20 MR. MACLEOD: Yes. You probably have a copy
21 of the one that is dated approved 4/30/12.

22 CHAIRMAN KEILSON: We're all on the same
23 page.

24 MR. MACLEOD: Okay. The middle column is the
25 previously approved column, and so you can compare

1 that to what we are asking for now, and on that
2 first line that is where we are asking for
3 17.9 percent which is an increase of 8.5 percent,
4 all of which is attributable to that one-car
5 garage.

6 MEMBER GOTTLIEB: Great. So let's maybe do
7 one by one.

8 MR. MACLEOD: Okay.

9 MEMBER GOTTLIEB: Just by the numbers, you're
10 increasing 1,876 square feet at ground level over
11 existing 1,308. It's 143 percent larger than what
12 you have now. Not to push the point, I think
13 you've got to put the garage inside the house. I
14 don't think the 18 percent is going to work for
15 anyone, certainly not for me. So if there's a way
16 to reduce that, at least to go back, at least to
17 go back to where you were in the first
18 application. And I mean, I just assumed as a new
19 application, but I think the Chairman is more
20 sympathetic to the fact that you were approved and
21 that because of Sandy you couldn't build what you
22 wanted to.

23 You can continue. That's my first point.

24 MR. MACLEOD: We recognize, you know, that we
25 are asking for a substantial increase in

1 percentage of building coverage, but at the same
2 time we have reduced our surface coverage
3 substantially. If you would look on that other
4 piece of paper --

5 MEMBER GOTTLIEB: Respectfully, John --

6 MR. MACLEOD: I'm sorry?

7 MEMBER GOTTLIEB: Respectfully, we're not, so
8 to speak, charging you for the ten-foot-wide
9 driveway because you have a one-car detached. If
10 you look at it in reality as opposed to what's
11 permitted, there's another 500 feet of driveway
12 which is surface that you're not being penalized
13 for.

14 MR. MACLEOD: We understand that, which is
15 why we did it.

16 CHAIRMAN KEILSON: That's why he did it.
17 Deftly done, deftly done.

18 MR. MACLEOD: It does reduce our variances,
19 the variance items though, and I don't think we
20 should be penalized for that.

21 MEMBER GOTTLIEB: I can't penalize you for
22 it. You're entitled to have it. But you're not
23 entitled for 17.8 percent.

24 MR. MACLEOD: Can we come back to this item
25 and just look through the other ones, because I

1 think that's going to be our sticking point.

2 CHAIRMAN KEILSON: Not necessarily. He may
3 have others.

4 MEMBER GOTTLIEB: We may have others.

5 MR. MACLEOD: So let's go to line number two,
6 which is the rear-yard setback, and previously we
7 were approved to a 37-foot-6 setback to the deck,
8 where 40 was required, and that remains the same.
9 So we'd like to maintain -- we would hope that you
10 would maintain your approval on that item.

11 It's only to the deck, not to the house, and
12 it was only projecting into that 40-foot rear-yard
13 setback by two and a half feet.

14 The next item is the height/setback ratio for
15 the front yard. We're permitted 0.74; we were
16 previously approved at 0.8, and we are currently
17 asking for 0.93, which is a minute difference
18 between the two. It's probably, as I said in my
19 previous case this evening, a few inches, possibly
20 this amount of distance (indicating), which is not
21 noticeable.

22 CHAIRMAN KEILSON: De minimis.

23 MR. MACLEOD: De minimis, and not visible
24 from the street to the eye.

25 The next item is the rear-yard height/setback

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1 ratio, which has a similar slight increase from
2 0.64 to 0.75, a matter of two or three inches.

3 The next item is the 27-foot requirement for
4 a combination roof. We had previously requested
5 30 feet, and now that we are actually trying to
6 get a third floor in that area, we are asking for
7 a further two foot seven inches bringing it up to
8 a total height of 32-7, and we were able to do
9 that by not asking for more than two foot seven
10 because we lowered the first floor of this
11 proposed house down to the lowest level
12 permissible in the flood zone, which is 12.

13 CHAIRMAN KEILSON: I assume the numbers on
14 your streetscape are incorrect then. You show on
15 the existing streetscape a height of 32-7 on your
16 page A12. We can lend you one.

17 MR. MACLEOD: Okay. So the second house from
18 the left on the top line is the proposed Klein
19 residence. That is the proposed street scene and
20 it does call out for 32 foot 7 from the average
21 grade. And the house, the picture of the house
22 below it, which is the existing house, it does
23 have a dimension on there that says 32 foot 7,
24 which is not correct. The existing house is
25 actually --

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1 CHAIRMAN KEILSON: 37 -- 30 foot 7.

2 MR. MACLEOD: 30 feet 7, yes. So a typo.

3 CHAIRMAN KEILSON: So the third floor is
4 being added with the impact of only two feet of
5 height?

6 MR. MACLEOD: That is correct, to the
7 overall, beyond the original request.

8 The next item is the number of stories, and
9 again, we've explained the need for it. We are
10 permitted to have two, we're requesting three, and
11 that will be -- this house will be fully FEMA
12 compliant with the -- and New York State compliant
13 with a full sprinkler system throughout on all
14 three levels.

15 The last item is coming back to the one-car
16 garage. We're required to have two, we're
17 requesting one, and requesting two would have even
18 raised our building coverage even further by
19 another nine percent, eight percent, which we knew
20 was not a feasible request. So we have requested
21 a one-car garage and which does have an effect on
22 the first line, which we can come back to and
23 discuss now, unless you have any questions about
24 any of the other items.

25 MEMBER GOTTLIEB: Are you maintaining the

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1 same side yards as current?

2 MR. MACLEOD: Yes. The house did not move
3 from where we had it before and --

4 MEMBER GOTTLIEB: It's nice to see the --
5 I'll just comment, it's nice to see the nice wide
6 side yards, the 15 and the 22 feet -- 16 and
7 21 feet.

8 MR. MACLEOD: Yes, we tried to comply --
9 well, we did comply with the side-yard aggregate.

10 And actually, the house, also the depth of
11 the house it does comply with the rear-yard and
12 front-yard setbacks as well. So the setbacks were
13 not -- except for the deck, which is a two-and-a-
14 half-foot request, we do meet all the required
15 setbacks and we did try to center it as much as
16 possible on the property to avoid any interference
17 with neighbors' properties.

18 So this brings us back to the one-car garage.

19 CHAIRMAN KEILSON: The sticky wicket.

20 MR. MACLEOD: Would it be -- would it be in
21 any way acceptable to discuss not having a one-car
22 garage at all?

23 MEMBER WILLIAMS: No garage?

24 CHAIRMAN KEILSON: Put the garage on the
25 third floor.

1 MR. MACLEOD: In truth, most of my clients
2 use their garages for storage and not for putting
3 a car in.

4 MEMBER GOTTLIEB: Then you really need a
5 two-car garage. You have no basement.

6 MR. MACLEOD: We have a third floor, maybe.

7 MEMBER GOTTLIEB: The interior ceiling
8 heights are eight feet on the ground floor, seven
9 and a half, and six feet; is that -- am I reading
10 that right?

11 MR. MACLEOD: No.

12 MEMBER GOTTLIEB: That's because I'm looking
13 at window heads instead of --

14 MR. MACLEOD: If you go to drawing A6, the
15 front elevation -- is that the page you're on?

16 MEMBER GOTTLIEB: Yes.

17 MR. MACLEOD: So if you look to the left-hand
18 side, nine foot six first floor, nine feet second
19 floor, eight feet third floor.

20 MEMBER WILLIAMS: Say again.

21 MR. MACLEOD: Nine and a half, nine and
22 eight. And the first floor you will see is at
23 elevation 12, which is a few steps up, but we will
24 reduce those steps impact by spreading them apart
25 at the front door.

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1 MR. CASTRO: With a 12-inch floor in between
2 each one?

3 MR. MACLEOD: I have 12-inch floor system
4 between the first and second and the third, and
5 the upper roof will be a 10-inch framed roof,
6 flat-roof section.

7 CHAIRMAN KEILSON: Any suggestions?

8 MR. MACLEOD: Another option for us to
9 consider if we are looking to --

10 MEMBER HILLER: In your previous plan, the
11 one that was granted -- the code relief granted
12 4/30/12, how many car garage was there?

13 MR. MACLEOD: Two, it was a two-car garage.

14 MEMBER HILLER: Incorporated as part of the
15 house?

16 MR. MACLEOD: In the basement level.

17 MEMBER HILLER: I think you're going to have
18 to find a way to incorporate the one car into the
19 house.

20 MEMBER WILLIAMS: It was the basement level,
21 it didn't affect the first floor at all?

22 MR. MACLEOD: At the time the basement level
23 was -- the property had sub-contouring to it and
24 it was a drive-in level on the side of the house.

25 MEMBER WILLIAMS: So it wouldn't affect the

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1 first floor.

2 MR. MACLEOD: It didn't affect the first
3 floor.

4 MEMBER WILLIAMS: And this would.

5 MR. MACLEOD: And this would. If you look
6 again at the same drawing, A6, the front
7 elevation, which has a very symmetrical look to
8 it, and if you look on the right-hand side the
9 grade is a little lower, that is the driveway side
10 of the house. There's not enough room there to do
11 a turnaround and come in, and we would need
12 another variance, and actually we have 21 feet.
13 I'm not sure if we could actually turn in 21 feet
14 to do a side-entrance garage, and we would lose
15 that whole front room and part of the center
16 hallway because it's not 20 feet long; it's only
17 18.

18 So we would have to then approach this house
19 directly from the front with a one-car garage on
20 the right-hand side where those two windows are at
21 a -- you know, at a grade type level, and
22 aesthetically it would detract from the house.

23 I think that the way we have it set up now is
24 an attractive looking house and it would be a
25 shame to have to take away some of that symmetry

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1 that we have designed into it.

2 If we were looking to reduce our percentage
3 overages a little bit, what I was going to suggest
4 was we -- not that my client wants to do this, but
5 taking a few inches out of the width of the house,
6 I could reduce it down by one percent without it
7 being noticeable. Maybe two percent at the most.

8 MEMBER GOTTLIEB: So you've heard me say this
9 before, I think, that this falls under the
10 category of new construction, since you're
11 removing an old house, you're getting rid of the
12 foundation and you're putting a new foundation in.
13 And I like new construction to be done as of
14 right, without variances. But you know what, we
15 make exceptions, obviously, that's what we're here
16 for. But 18 percent over, 143 percent more than
17 what you have now is excessive. Given that it's
18 -- I'm looking at the lot size, but I'm -- I don't
19 have it in front of me.

20 MR. MACLEOD: How do you get the mathematics
21 to work?

22 MEMBER GOTTLIEB: Sure. You have now
23 1,308 feet. You're increasing it to 3,184.
24 That's a difference of 1,876. 1,876 divided by
25 1,308 is 143, or something like that. It is what

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1 it is.

2 MR. MACLEOD: You're comparing the existing
3 house to the end product of this?

4 MEMBER GOTTLIEB: Correct. I'm making the
5 reference that you're not making it a little bit
6 larger. You're more than doubling the size of the
7 house.

8 MR. MACLEOD: But in terms of overages,
9 we're --

10 MEMBER GOTTLIEB: No, you're still at the
11 18 percent.

12 MR. MACLEOD: The type of ratios that you're
13 using is not the ratios that we used to do the
14 zoning in the Village.

15 MEMBER GOTTLIEB: It's not for zoning. It's
16 just for relativity, to show you that you're not
17 getting a little bit larger house. You're more
18 than doubling the size of the house.

19 MS. KLEIN: Hi, Lisa Chavi Klein,
20 183 Harborview North, Lawrence, New York 11559.

21 I just wanted to say that we appreciate the
22 fact that it's new construction and that we're
23 asking for a significantly larger house. We asked
24 for the same size house four years ago. We never
25 -- you know, we admitted that we were starting

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1 over. We admitted that we were starting from
2 scratch. We wanted to center the property. We
3 wanted to give our other neighbor a little bit
4 more room.

5 The overage, like, and I understand what it
6 sounds like asking for 18 percent over, but it's
7 not like we're coming in and saying can we make --
8 you know, it's been four years, and we decided we
9 want a bigger house. We decided what you approved
10 us for which you gave us which we were so excited
11 about and so happy about, and then Sandy happened,
12 you know, and I decided, you know, we want it
13 bigger, we need more bedrooms, we need more
14 bathrooms, we're not saying that.

15 We're trying to keep the house that we had.
16 Especially the first floor, as I'm sure you know,
17 it's such an integral part of the living space.
18 It's where the kitchen is, it's where the kids
19 play, it's where, you know, life and family
20 happens. So we're asking that we not have to give
21 any of that up.

22 So then the extra nine percent is the garage.
23 So to me it's not 18 percent, that we're asking
24 please make our house bigger, please, you know,
25 again, make our kitchen bigger, give us more

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1 space. We're just asking, please, can we build
2 what you let us build four years ago, what if, you
3 know, the weather had been different, or we had
4 built it years before we would have had a totally
5 different house. So we're just asking for you to
6 allow us to build what you were approving, like
7 what you approved us for.

8 And the extra percentage, it's not -- I mean,
9 it's very, very specific and it's very specific to
10 our unique situation, which is a one-car garage in
11 the corner. So that we can keep our house. I
12 mean, when we met and this was four years, it
13 wasn't four years of us twiddling our thumbs. I
14 mean, the first -- after Sandy till everybody got
15 on their feet again it took quite a bit of time.
16 And then we -- I don't think anybody was ready for
17 us to build this type of house for the third
18 floor. I think it took the Village time; it took
19 us time.

20 And our kids are so happy here. We did
21 entertain for a while moving somewhere else, you
22 know, out of the flood zone; things would be
23 easier. Our house is filled with children from
24 the neighborhood. We laugh, we have the smallest
25 house on the block and everybody wants to come

1 over.

2 So if you can look at it, and I know numbers
3 are numbers and it is 18 percent. I'm not arguing
4 that it's not. But it's not 18 percent just
5 asking you for a bigger house. You gave us the
6 approval. You let us build the house that we had
7 submitted to you. We're trying to keep that the
8 same. Four years later and it is new construction
9 and it is a nice sized house, and we would like to
10 build it and stay here and not hopefully have to
11 move.

12 So that extra percentage just is the garage
13 in the corner, and I know it might be difficult to
14 look at it that way, but I mean, we're asking you,
15 if you can, not to view it as one full number, but
16 in this very, very specific case it's -- it's a
17 very unique situation, and what we've gone through
18 and what we've been through and the unique
19 circumstances brought us here and just that's why
20 we're here asking for what we're asking for.

21 MEMBER SCHRECK: We're sympathetic to you,
22 but you have to understand it may not be so unique
23 and there may be other applicants in the
24 Harborview area that are now going to come to us
25 and say you granted whatever it was before Sandy,

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1 18, 20 percent, and our situation is unique, and
2 we don't want to have the flood gates, no pun
3 intended, opening.

4 MS. KLEIN: Right. And I understand it, I
5 understand that. That was kind of why it took us
6 this long to get here. You know, our plans were
7 in the Village for a while, like it took us a
8 while.

9 MEMBER SCHRECK: But if we do it for you, we
10 have to do it for others, and then you're not
11 going to like the way the Harborview neighborhood
12 looks.

13 MS. KLEIN: Like, I mean, the way I see it,
14 and again, I'm just -- you know, I don't see --
15 you see a much bigger picture.

16 CHAIRMAN KEILSON: I think that you make a
17 compelling argument. I think we have to be overly
18 sympathetic to the fact that you sat idle all
19 these years while there was a lack of
20 determination on the part of the State and the
21 part of the Village until we come to this point.
22 You know, it's been a long, drawn-out process.
23 And so I'm not as fearful as my colleagues
24 necessarily in terms of precedent here. There are
25 very few matters waiting in the wings where people

1 were interrupted by Sandy. I can only think of
2 one other across the street where you had not a
3 too dissimilar situation.

4 I'm also concerned about the 18 percent, but
5 I'm not sure that it's precedent setting. And so,
6 I mean, everybody here is free to vote their
7 conscience in this regard. I'm not going to be
8 uncomfortable. I'd like to give back the two
9 percent that you've offered already, so that it is
10 evidence of some movement, but I don't think in
11 looking at the bulk of the house, and I agree it's
12 double the size, but in the streetscape it's not
13 as offensive as some others that we've seen.

14 I don't think it's offensive at all,
15 particularly in that area of Harborview North. So
16 at least, and I don't want to chill your opinion,
17 you know, you feel strongly about it and you vote
18 accordingly, but at least from my perspective I'm
19 not uncomfortable proceeding. Especially with the
20 lack of encroachments, you know, I'm not
21 uncomfortable with it as portrayed, but I'd like
22 to hear from the other Board members.

23 MR. MACLEOD: Could I also just add a little
24 bit to what Mrs. Klein just said?

25 CHAIRMAN KEILSON: You could diminish rather

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1 than add. Go ahead.

2 MS. KLEIN: Wait, I have more to say before
3 anybody votes.

4 MR. MACLEOD: I have just an aside which does
5 illustrate that we were approved for a full
6 basement which was the full footprint of the
7 house. In trying to get those items up onto the
8 third floor and because of the way the roof works,
9 it has sloping sides, you can't use the absolute
10 perimeter of the house, so you lose about five
11 feet all the way around. So the square footage on
12 that third floor is substantially less than the
13 two floors below it, and some of that loss, you
14 know, if you considered it to be a loss, is
15 shuffled out towards that garage out on the side.

16 MEMBER GOTTLIEB: But you had a two-car
17 garage in the basement.

18 MR. MACLEOD: We had a two-car garage which
19 was a full footprint.

20 MEMBER GOTTLIEB: Right. I understand you're
21 diminishing the third floor. It's not an equal
22 trade-off. You're not trading off the basement
23 for the third floor. It's not equal. That's what
24 you're saying.

25 MR. MACLEOD: Exactly, yes.

1 MEMBER GOTTLIEB: It's less.

2 MR. MACLEOD: If we added our cumulative
3 square footage on all three of those levels we
4 would be less than, we would be less than what was
5 originally approved, because the garage is only
6 230 square feet. But if you take five feet off of
7 the whole perimeter of the house it's going to be
8 170 times five, it's going to be --

9 MR. GRAY: 850.

10 MR. MACLEOD: -- 850. It's going to be
11 probably between 700 and 800, something of that
12 nature. So the square footage that we're
13 requesting cumulatively, and I understand you have
14 issues with the building coverage itself, but the
15 actual volume of space that we're requesting is
16 seven, 800 square feet less than what was
17 originally approved.

18 MEMBER GOTTLIEB: Did you have ten-foot
19 ceilings on the ground floor in the first
20 application?

21 MR. MACLEOD: I think we did have ten feet.

22 MS. KLEIN: We did. The ceiling heights were
23 a particular issue for me; I'm tall, my husband's
24 tall, we're tall people.

25 MEMBER GOTTLIEB: You're not nine feet tall,

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1 are you?

2 MS. KLEIN: No, I'm not, but as far as, you
3 know --

4 CHAIRMAN KEILSON: Relatively.

5 MS. KLEIN: Relatively, right.

6 CHAIRMAN KEILSON: Does anybody else from the
7 Board want to comment?

8 MEMBER HILLER: No comments.

9 CHAIRMAN KEILSON: No comments?

10 MEMBER SCHRECK: No comments.

11 CHAIRMAN KEILSON: Anybody from the audience
12 want to comment?

13 (No response.)

14 CHAIRMAN KEILSON: Okay. So we're at the
15 bewitching hour. Let's get the final number that
16 we're looking at in terms of the building
17 coverage, so at least we know what we're voting
18 on.

19 All right, so let's quantify so at least we
20 know what we're voting on.

21 MR. MACLEOD: Before you vote, could I ask a
22 couple of questions myself?

23 CHAIRMAN KEILSON: Of whom?

24 MR. MACLEOD: Mr. Schreck.

25 CHAIRMAN KEILSON: No, it's not necessary.

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1 MR. MACLEOD: Okay.

2 MEMBER GOTTLIEB: Can he ask me something?

3 CHAIRMAN KEILSON: It's 10:15.

4 MEMBER GOTTLIEB: It's early.

5 MR. MACLEOD: Okay.

6 CHAIRMAN KEILSON: I was asking you to
7 quantify so Mr. Castro can put down on paper what
8 we're voting on.

9 MR. MACLEOD: We are looking at my client
10 would like to give one percent; I suggested two
11 percent.

12 CHAIRMAN KEILSON: Right, that's what I
13 heard.

14 MR. MACLEOD: So two percent would represent
15 I believe 54 square feet. One percent on this
16 property represents 27 feet; is that correct,
17 Mr. Castro?

18 MR. CASTRO: Did you say 54 on two?

19 MR. MACLEOD: 54 on two.

20 MR. CASTRO: Correct.

21 MR. MACLEOD: So we are reducing the
22 footprint of the house by 54 square feet, but in
23 effect reducing the whole house by another
24 162 square feet, on three levels.

25 CHAIRMAN KEILSON: So what are our numbers,

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1 MEMBER HILLER: I'm persuaded by the
2 eloquence of Mrs. Klein and our Chairman, for.

3 CHAIRMAN KEILSON: And the Chair votes for as
4 well, okay.

5 MS. KLEIN: So what does that mean?

6 MR. MACLEOD: For.

7 CHAIRMAN KEILSON: It's two years, or do you
8 want more? I mean, I'd like to get it done
9 already.

10 MR. MACLEOD: We'll go for two years. Thank
11 you very much.

12 CHAIRMAN KEILSON: Two years. Board of
13 Building Design, no doubt.

14 And I think we are going to take a motion to
15 adjourn. The motion is carried, we are adjourned.

16 Thank you, ladies and gentlemen.

17 (Whereupon, the hearing concluded at
18 10:18 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

25



MARY BENCI, RPR
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 9:02 p.m.

8 APPLICATION:

9 Tessler
201 Harborview South
Lawrence, New York

10 P R E S E N T :

11 MR. LLOYD KEILSON
12 Chairman

13 MR. EDWARD GOTTLIEB
Member

14 MR. MARK SCHRECK
15 Member

16 MS. ESTHER WILLIAMS
Member

17 MR. DANIEL HILLER
18 Member

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

20 MR. GERALDO CASTRO
21 Building Department

22
23
24
25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Let's go to Tessler first,
2 the matter of Tessler. Welcome back, Mr. Bonesso.

3 MR. BONESSO: Good evening, Mr. Chairman,
4 members of the Board. William Bonesso, Forchelli,
5 Curto, Deegan, Schwartz, Mineo & Terrana,
6 333 Earle Ovington Boulevard, Uniondale, New York,
7 here on behalf of my applicants, Mr. and
8 Mrs. Tessler. They are the owners of premises
9 known as 201 Harborview South in Lawrence.

10 The property is a 14,280.1 square-foot parcel
11 of property situated on Harborview South in the
12 Residence B District.

13 By the way, I apologize, with me this evening
14 are Mr. John Capobianco, the architect for the
15 applicants, and Mr. Daniel Hyman, also from
16 Mr. Capobianco's office.

17 As indicated, the property is in the
18 Residence B District. It maintains 88.89 feet of
19 frontage on Harborview South and almost 98 feet of
20 water frontage on Banister Creek. The applicants
21 have owned the property since 1989. With the
22 exception of maintenance and upkeep, they've not
23 expanded the house or changed the house
24 significantly. But they're before the Board this
25 evening seeking permission to demolish the

1 existing house and build a new house requiring
2 variances.

3 We feel that there are legitimate bases and
4 justifications for the variances that they are
5 requesting. There are an array of variances being
6 requested, including building coverage and surface
7 coverage, height, number of stories,
8 height/setback ratio variances for the front, side
9 and rear, and also a parking garage variance,
10 whereas we have a one-car garage as opposed to
11 two.

12 First and probably foremost in terms of the
13 reasons why the Tesslers are looking for a larger
14 house is their present house, which is a two-story
15 house with a basement, where they presently reside
16 they've been residing since 1998, they presently
17 reside there with their 27-year old son, they have
18 reached a point in their lives where they would
19 like to have the master bedroom suite, all of the
20 living spaces on the first floor so that they're
21 not having to traverse the stairs on a regular
22 basis.

23 Additionally, while they live with one of
24 their children, they have five other children, and
25 of those six children there are a total of

1 25 grandchildren. So consequently, when they come
2 to visit, and they all live within driving
3 distance, and when they come to visit on a regular
4 basis, it's very difficult to accommodate the
5 needs of the family with the grandchildren. One
6 child has seven grandchildren, another child has
7 eight grandchildren. It's very tight. So they're
8 looking to provide for a more comfortable home for
9 their -- for when their family is present.

10 They're looking for a home to allow them to have
11 more access to all of the things that they need
12 and do on the first floor, and consequently,
13 they're requesting the building coverage and
14 surface coverage variances and the other variances
15 which I'll get into.

16 Notably, there are no setback variances being
17 required here. They meet the front, sides,
18 side-yard aggregates and rear-yard setback
19 variances, which I think the Board will agree
20 particularly with regards to the front-yard
21 setbacks and side-yard setbacks are important
22 requirements in terms of what the visual impact of
23 a dwelling appears, how a dwelling appears from
24 the street.

25 CHAIRMAN KEILSON: Very commendable.

1 MR. BONESSO: So they fully comply with that.

2 MEMBER GOTTLIEB: Mr. Chairman, really.

3 MR. BONESSO: With regard to the surface
4 coverage and the building coverage, they have
5 overages of 11.98 percent and 12.84 percent
6 respectively. The height to setback -- yeah,
7 height-to-setback ratios for the front is 0.22
8 overage, or 30 percent; the side is 0.32 overage,
9 or 21 percent; and the rear is 0.1 overage, or
10 18 percent.

11 The height of the proposed building is
12 34.5 feet. Because the Building Department has
13 characterized this as a flat-roofed house, which
14 I'll elaborate on in a few minutes, the
15 requirement is 25 feet. The Building Department
16 also considered the third level of the house to be
17 a third story; again, we'll address that. And
18 then as indicated, there's the one-car -- one-car
19 garage as opposed to the two.

20 As the Board is well aware, the Village law
21 requires them to perform a balancing test in terms
22 of area variances that are being sought from it.
23 And that balancing test takes into account the
24 benefit to the applicant versus the detriment to
25 the surrounding community. Well, I would put it

1 to the Board that because of the pattern of
2 development, the character of this neighborhood,
3 of the nine houses on the south side of Harborview
4 South which have frontage on Banister Creek, there
5 is not a single property that is not developed to
6 almost the same or larger building coverage,
7 surface coverage, and in many cases height as the
8 proposal that's before the Board.

9 Mr. Hyman has prepared an exhibit which shows
10 the eight houses other than the proposed house,
11 and a review of that will reveal, and we can
12 provide the Board with smaller copies of this for
13 the record, shows that with the exception of all
14 but one dwelling, 171 Harborview South, every
15 building coverage is over the 11.98 percent that
16 my client is requesting. And as for surface
17 coverage, every one of the other houses
18 surrounding my clients' property, every one is
19 over the 12.84 percent overage that my client is
20 requesting. So in terms of pattern of
21 development, in terms of character of the
22 neighborhood, that is established with these
23 large, stately homes which are occupying a great
24 deal of space on the property. And I know and
25 understand that Boards are always concerned about

1 precedent, setting a precedent that could be used
2 for future matters. Well, quite frankly, if you
3 will, if you're afraid of the domino effect, the
4 dominoes have fallen already. This is the one
5 domino that's left standing. So the fact of the
6 matter is that there will be no precedential
7 effect if the variances sought are granted, and as
8 such it really will not impact the surrounding
9 property -- the surrounding community.

10 CHAIRMAN KEILSON: I think you have to take
11 note though that the Board's position on these
12 types of construction has changed dramatically
13 post Sandy. If you study the decisions of this
14 Board over the last several years with the
15 encouragement of the Village government and the
16 concern for the water issues that now abound
17 throughout the Village, the attitude of the Board
18 has changed and our position and our
19 disinclination to give some of these requests the
20 type of approval that heretofore took place. I
21 think we have to put that into context, rather
22 than just looking at a mosaic of what buildings
23 exist and when it happened, et cetera, et cetera,
24 et cetera.

25 MR. BONESSO: I can appreciate that.

1 CHAIRMAN KEILSON: Good.

2 MR. BONESSO: But I would also argue in the
3 alternative --

4 CHAIRMAN KEILSON: No doubt.

5 MR. BONESSO: -- that the fact that this
6 property is in the AE flood zone causes some of
7 our hardship and some of our need for the
8 variances, and that's not the least of which with
9 regard to height. As indicated, this is in an AE
10 flood zone. The current dwelling has a basement.
11 We would not be permitted to put a basement in on
12 this house as you were discussing on the case
13 previously.

14 So consequently, what is proposed to be the
15 third level is going to house the types of things
16 that you would have found in the basement.
17 There's a mechanical room proposed up there.
18 There is a couple of extra bedrooms. There's a
19 small den. There's a Passover kitchen. So the
20 AE flood zone has created the need to, first of
21 all, build higher; our first-floor level is going
22 to be two and a half feet above grade. And the
23 lack of a basement forces those areas that are
24 described as the third floor -- third story up on
25 that level on the third -- on the top of the

1 house.

2 I would also question, and with all due
3 respect, the characterization of this house as a
4 flat-roofed house. The appearance of this house
5 from the street is that (indicating), and as much
6 as there is a flat terrace on the third level, it
7 looks like anything but a flat-roofed house.

8 CHAIRMAN KEILSON: And therefore? And
9 therefore?

10 MR. BONESSO: Therefore, the characterization
11 of that as a flat-roofed house puts us in a
12 requirement of 25-foot height as opposed to the
13 30 feet. If this was a more conventionally
14 designed house with a gabled roof, we would meet
15 the 30-foot height limitation as opposed to
16 25 feet. So in terms of the substantiality --

17 CHAIRMAN KEILSON: You're not asking for
18 30 feet.

19 MR. BONESSO: Pardon?

20 CHAIRMAN KEILSON: But you're not asking for
21 30 feet.

22 MR. BONESSO: I understand that. We're
23 asking for 34.5.

24 CHAIRMAN KEILSON: So why argue the 25 feet?

25 MR. BONESSO: Pardon?

1 CHAIRMAN KEILSON: So why argue the 25 feet?
2 Why?

3 MR. BONESSO: That raises us to 30. And then
4 if you consider the AE flood zone having to put
5 the first level at two and a half feet, or 12-foot
6 above the AE zone, 12 feet, that raises us up even
7 beyond that.

8 I would also argue, and this is elaborated on
9 in my petition, that third floor, what is being
10 called a third story, if you take a look at the
11 design of that area, you find a central roof
12 terrace and then you find in the curved roof lines
13 the spaces that are the mechanical spaces, the
14 bedrooms, the bedrooms and the den and the
15 Passover kitchen. Again, if this was a more
16 traditional house with gables, that would
17 basically -- that could basically be considered
18 dormers or attic space which might have qualified
19 it as a two-and-a-half-story house.

20 So the visual impact of the three stories is
21 really not noticeable because there are no windows
22 facing the street from the third level. So it
23 does not appear to be a three-story dwelling from
24 the street or for that matter the side. The only
25 real windows on the third level face the -- face

1 the creek. So from a visual impact it doesn't
2 look like a three-story house and won't have any
3 kind of change to the pattern of development and
4 the character of the neighborhood.

5 I think I also touched upon the fact that
6 those houses that are again very large and stately
7 are also very tall. A number of the houses are as
8 tall if not taller than the proposed house. So
9 again, taking into effect the pattern of
10 development and the character of the neighborhood,
11 we feel that there won't be a negative precedent
12 set and there won't be any harm to neighboring
13 property values and neighboring use and enjoyment
14 of homes.

15 CHAIRMAN KEILSON: And to be accurate, only
16 one house is taller; is that correct? I'm looking
17 at your streetscape.

18 MR. BONESSO: No, no, no, I believe --

19 MR. HYMAN: The first house is definitely
20 taller.

21 MR. BONESSO: The first house is taller. In
22 fact, to the peak I think it's 40 feet. This
23 house at 211 is the same height, I believe. The
24 house --

25 CHAIRMAN KEILSON: No, no, no, no.

1 MEMBER GOTTLIEB: 33.

2 CHAIRMAN KEILSON: I'm reading your
3 streetscape. No houses are comparing in size
4 except for one.

5 MR. BONESSO: Yes, I'm sorry.

6 MEMBER GOTTLIEB: That's a sloped roof.

7 CHAIRMAN KEILSON: I don't think you want to
8 argue from your streetscape.

9 MR. BONESSO: With regard to the --

10 CHAIRMAN KEILSON: Well, let the record
11 reflect that, unlike what you just said, none of
12 the houses are as tall or nearly as tall --

13 MR. BONESSO: Well, one of the houses is.

14 CHAIRMAN KEILSON: -- except one far to the
15 left which has a sloped roof.

16 MR. BONESSO: Well, two of the houses are
17 nearly as tall.

18 CHAIRMAN KEILSON: I don't know what "nearly"
19 means. That's not a term that we use on the Board
20 of Zoning Appeals. Do you want me to read them
21 all? You're not going to come out well. The one
22 to the right is 30. The one to the left is 29.
23 Bill, are those nearly?

24 MR. BONESSO: 181. I'm sorry?

25 CHAIRMAN KEILSON: I said the one to the

1 right is 30-foot.

2 MR. BONESSO: No, I understand that.

3 CHAIRMAN KEILSON: The one to the left is
4 29 feet. Are those nearly? They all have a
5 basement?

6 MR. BONESSO: They all have basements.

7 MEMBER WILLIAMS: Can I ask another question?
8 The height of the --

9 MR. BONESSO: I'm sorry?

10 MEMBER WILLIAMS: The height of the ceilings
11 in each floor it looks like the first floor is
12 11-6; is that correct?

13 MR. HYMAN: I believe it's 10 feet for the
14 first floor. I'm sorry, let me just check.

15 MEMBER WILLIAMS: I'm looking at page --

16 MR. CAPOBIANCO: It's 11-6 from the first
17 floor to the second floor.

18 CHAIRMAN KEILSON: John, we have to work with
19 one person. If you want to be the person, I have
20 no problem.

21 MR. HYMAN: The first floor is ten feet. The
22 second floor is nine feet and it's one foot six
23 between the levels.

24 MEMBER WILLIAMS: And how much is the third
25 floor?

1 MR. HYMAN: The third floor is seven foot
2 six, but then in the top of the vault is eight
3 feet.

4 MEMBER WILLIAMS: Okay.

5 MEMBER GOTTLIEB: So go over those numbers
6 again. The first floor is ten feet.

7 MR. HYMAN: The second floor nine feet, and
8 then third floor is eight feet at the top of the
9 curved space.

10 MR. CASTRO: I just want to make one comment.
11 Earlier, the height of the roof, were you trying
12 to argue that it could possibly be considered a
13 combination flat pitched or a pitched roof when
14 you argued the 30 foot?

15 MR. BONESSO: Well, I think I pointed out
16 that because of the curved roof lines that it
17 could possibly qualify as either. I understand
18 that if it was a combined it would be 27 feet. If
19 it was considered a gabled roof it would be
20 30 feet.

21 MR. CASTRO: Okay.

22 MEMBER SCHRECK: What about the impact to the
23 adjoining houses in terms of loss of light?

24 MR. BONESSO: We have looked at and we have
25 prepared a shadow study showing this particular

1 house as proposed and designed versus a house that
2 is fully compliant from the standpoint of height,
3 setbacks, building coverage, surface coverage.
4 And I think a review of it will reveal that
5 there's --

6 MR. HYMAN: This would be a compliant house
7 (indicating). And this is -- these two are in
8 particular ones that would cast, you know, the
9 strongest shadow at those times of day when the
10 sun is setting or rising, and it's very, very
11 close to the same place where the shadow falls in
12 these cases.

13 MR. BONESSO: The differences are de minimis.

14 MR. CAPOBIANCO: Also, the side yards on both
15 sides are compliant with the required side yards,
16 so you're quite a ways from the adjoining
17 neighbors from the sides. So I think that alley
18 of light would still be adequate, more than
19 adequate. It would be no hardship.

20 MEMBER GOTTLIEB: I'm glad that you mentioned
21 that, because I want to bring up height/setback
22 ratios. Because we talk about the roof height and
23 you're saying 34 and a half, you didn't use the
24 word de minimis yet, but I'm just waiting for it
25 to come up tonight.

1 MR. BONESSO: I did with the shadow studies.

2 MEMBER GOTTLIEB: But not regarding the
3 height. How deep is the house?

4 MR. BONESSO: How deep is the house?

5 MEMBER GOTTLIEB: The depth.

6 MR. HYMAN: The house is 58 -- 58 feet,
7 58.17 feet.

8 MEMBER GOTTLIEB: How deep is the existing
9 house?

10 MR. BONESSO: The existing house is not deep
11 at all.

12 MR. HYMAN: It's closer to maybe 30.

13 MEMBER GOTTLIEB: So you're going almost
14 twice as deep, if you will; you're doubling the
15 depth. And there goes the height/setback ratio
16 that you're saying 34 and a half feet is not
17 substantial perhaps. I'm referring to bulk is
18 really what I'm getting at when I'm talking about
19 the depth of it and the height/setback ratio, and
20 it may not look like much in your shadow study,
21 but I know that it appears somewhat massive. You
22 can interrupt.

23 MR. HYMAN: A number of the numbers are
24 increased because of -- as you see right here this
25 curve, when it hits this point that creates the

1 high number, whereas in most cases the roof is
2 sloped back and aren't so high and pronounced as
3 in the corners. So this point and also in the
4 rear create an increased volume in one point, like
5 right here there's an increased shadow there, but
6 the rest of it isn't all at the same volume. So
7 it's not like the numbers that are reflected in
8 the height setback are the volume of the entire
9 house. It's just one piece in that volume.

10 MEMBER GOTTLIEB: Let's take a look at the
11 height/setback page to justify what you just said.

12 MR. HYMAN: It's on the first page. It's on
13 the first page with the site plan. It's
14 underneath, on the bottom under the zoning.

15 MEMBER GOTTLIEB: A1, A2?

16 MR. HYMAN: It is N1. It's the very first
17 sheet of the set, should be.

18 MEMBER SCHRECK: Are you sure it's N1?

19 MR. HYMAN: (Indicating).

20 MR. CASTRO: It's on the bottom left.

21 MEMBER GOTTLIEB: This is N1, okay.

22 MR. HYMAN: So as you can see, if you were to
23 look at -- in the case of the rear yard which is
24 on the right-hand side of the diagram, the
25 permitted line almost meets that curve, but where

1 that one point hits the proposed is where that
2 corner of the volume where this same kind of shape
3 in the back has that higher point which is why the
4 line is hitting straight up.

5 MEMBER GOTTLIEB: You're talking about the
6 right side of the photo?

7 MR. HYMAN: In this case, it's -- I'm talking
8 about the rear but it's the same volume of --

9 MEMBER GOTTLIEB: Is that the front of the
10 house or the rear of the house?

11 MR. HYMAN: That's the front, but in the rear
12 the same volume happens. Right here it is the
13 same kind of shape and it hits that point and so
14 it creates the number as high as it is, whereas --

15 MR. CAPOBIANCO: The whole center complies,
16 actually; it's within the setback ratio.

17 MR. HYMAN: Right. It's just where that top
18 of the curve in this point, and in the front, it's
19 where those points are that creates the number,
20 the extent of the height/setback ratio.

21 MEMBER HILLER: I want to know why in this
22 huge voluminous house you have to reduce the
23 garages down to one garage.

24 MR. HYMAN: It was ultimately a result of the
25 requirements of the first floor having the master

1 suite, and balanced with the needs of the client
2 not requiring additional garage space because they
3 don't have lots of cars and they don't -- they
4 didn't need the additional storage.

5 MEMBER HILLER: What's the size of the master
6 bedroom?

7 MR. HYMAN: The master bedroom is 16 feet
8 wide by 16 foot 3.

9 MEMBER WILLIAMS: All the company that comes
10 that we need the house for come by foot?

11 MR. HYMAN: Certainly, the company doesn't
12 park in the garage.

13 MR. BONESSO: But I would point out that as
14 much as it's only a one-car garage, the driveway
15 can easily accommodate another four or even five
16 cars. The fact that there's a one-car garage is
17 not going to push a lot of cars out onto the
18 street.

19 MEMBER HILLER: But you could diminish some
20 of the objections or some of the code relief that
21 you're asking for by including the second car.

22 MR. BONESSO: We would, but we'd have to
23 shrink other portions of the house; otherwise, we
24 would be incurring a larger building coverage.

25 MEMBER HILLER: True.

1 MEMBER SCHRECK: You're doubling the depth of
2 the house. I don't understand why you have to go
3 up so high.

4 MR. CAPOBIANCO: Well, the house is wider
5 than this house also, the original house.

6 MR. HYMAN: Right. It goes right up to the
7 side-yard setbacks. It goes beyond them. It's
8 like 10 feet on either side, or 12.

9 MR. CAPOBIANCO: What you have to understand
10 is the old house, which was not very deep but very
11 wide, so the square-footage difference -- what was
12 the square footage in the old house?

13 MR. HYMAN: It would be -- it's different.
14 It's 1,980 the current square footage.

15 MR. CAPOBIANCO: And what was the new one?

16 MR. HYMAN: The new one is 3,211.

17 CHAIRMAN KEILSON: 40 percent larger.

18 MR. CAPOBIANCO: It's like 1,200 square foot
19 larger.

20 MR. BONESSO: It's about 30 percent larger.

21 MR. CAPOBIANCO: It's not double.

22 CHAIRMAN KEILSON: 38.9.

23 MR. CAPOBIANCO: 38.9 percent.

24 MR. BONESSO: But again, as was shown on the
25 shadow study, a compliant house would still be

1 significantly larger than the existing house in
2 terms of -- in terms of surface coverage, in terms
3 of the shadows that it would create. If we're
4 talking about shadows being created compared to
5 the existing house, yes, this new house is going
6 to generate greater shadows, but a compliant house
7 could be placed on the property in such a fashion
8 that would be completely compliant, but the
9 impacts on the shadows that it would cast would be
10 de minimis in terms of differences.

11 MEMBER SCHRECK: You mentioned six children
12 and 25 grandchildren. How can you justify a
13 one-car garage?

14 MR. BONESSO: Well, as indicated, the
15 driveway can accommodate five -- four to five
16 cars, if needed.

17 MEMBER GOTTLIEB: So let me tag onto this and
18 ask you, very often we have applicants that have
19 needs, they have young children, their family is
20 growing, there's a need; they buy a house, it's
21 small, and then they outgrow it. There are three
22 people who live here year-round?

23 MR. BONESSO: Presently, yes.

24 MEMBER GOTTLIEB: So a couple and one of the
25 children?

1 MR. BONESSO: Yes.

2 MEMBER SCHRECK: Do they live there during
3 the week or just on weekends?

4 SPEAKER: I live there. I live there
5 full-time.

6 CHAIRMAN KEILSON: Bill, can we get an answer
7 from you?

8 MR. BONESSO: Yes. The Tesslers share their
9 time in the city and here, and their son lives
10 there full-time.

11 MEMBER GOTTLIEB: Okay. I'm trying to
12 establish some justification for a 35-foot house
13 with eight variances, aside from that I like how
14 it looks, I like how it feels. You're asking for
15 eight variances, some are a little bit more
16 substantial than others. You're giving up a
17 basement. You want to recapture that space
18 somewhere else, right? I'm trying to find the
19 need here. Help me. Or maybe you can't.

20 MR. BONESSO: Again, we've touched upon the
21 familial needs, the familial needs with regard to
22 family when they're there and when they're
23 visiting. The remaining aspects of the
24 application are not necessarily based on hardship;
25 they're based on the pattern of development, the

1 existing character of the neighborhood, and the
2 fact that there is really not a negative impact on
3 the surrounding properties.

4 CHAIRMAN KEILSON: So here's your issues. I
5 think your petition speaks volumes. It's a
6 beautiful design. It's a beautiful, beautiful
7 design. Does it belong here in this location?
8 And unfortunately, your streetscape speaks volumes
9 against that. Just look at your streetscape and
10 you can see how it doesn't fit into the
11 neighborhood, as much as we'd love to grant it.

12 As you know, we are bidden to give a variance
13 and take into consideration, grant the minimum
14 variances that shall be necessary and adequate,
15 and at the same time preserve and protect the
16 character of the neighborhood and the health,
17 safety and welfare of the community. That's the
18 burden that we're facing. I love the house. It's
19 a beautiful house. But does it fit?

20 MR. BONESSO: I presume the Board is telling
21 us that we should consider adjourning the matter
22 and looking at a potential redesign?

23 CHAIRMAN KEILSON: I mean, there are five
24 members here. I wish they'd all --

25 MEMBER HILLER: I think a redesign and maybe

1 something a little less imposing, and I would --

2 MR. TESSLER: Wait a second. I have
3 something to say.

4 CHAIRMAN KEILSON: Please step forward,
5 introduce yourself to Mary.

6 MR. TESSLER: Ladies and gentlemen, my name
7 is Yitzchak Tessler, and I live in 201 Harborview
8 South. When I came to America 19 years ago, that
9 house was not in good shape. And I promised my
10 wife that by next year or the year after I'll do a
11 new house. In the meantime, it's 19 years, I've
12 done probably 20 high-rises in Manhattan. I don't
13 know how many apartments that is, several
14 thousand. It's now the time for me to build the
15 house because in two more years I'll be 70 years
16 old and I want to live here.

17 I don't think that this is too much to ask to
18 have a home where I can accommodate some of my
19 children and some of my grandchildren. Because
20 even if you grant me the full house, I still
21 cannot accommodate my entire family, and it's not
22 a crime to want that.

23 I also think it's a beautiful house. I
24 showed it around to everyone in my neighborhood,
25 and everybody liked it. There is one person that

1 is objecting, my neighbor, that thinks that they
2 will shade over their pool over a period of two or
3 three months in the year when the people sit in
4 the pool, and it's only late in the afternoon.
5 Listen, I cannot decide over there. That's why
6 the Board is here for it, to see if this is a
7 legitimate argument.

8 But I want to live here, it's my home, and I
9 want to accommodate my family. And if anybody
10 tell me what I want to do is wrong, then I say so
11 what, what's wrong with it? Why should I not be
12 able to accommodate my family? And if everybody
13 likes the design and everyone says it's a
14 beautiful design, so definitely is not going to
15 push the neighborhood down. If anything, it will
16 create value for the neighborhood.

17 MEMBER GOTTLIEB: Mr. Tessler, you just said
18 you build high-rises?

19 MR. TESSLER: Yes, I did.

20 MEMBER GOTTLIEB: You've been before various
21 Boards in the City, right?

22 MR. TESSLER: Yes, I was.

23 MEMBER GOTTLIEB: I imagine there must have
24 been very tough Boards there?

25 MR. TESSLER: No, every time I got what I

1 wanted because I was reasonable, and I can tell
2 you where and in which buildings. Yes, I did
3 appear before the Board before.

4 MEMBER GOTTLIEB: I'm sure.

5 MR. TESSLER: And other Boards as well. And
6 I don't think that what I'm asking is crazy,
7 because if you all agree that a two-floor house on
8 top of a basement recommends 25 feet, I will say
9 because I don't have a basement the three floor is
10 legitimate. And therefore, it should have been
11 37 and a half feet high.

12 But I've been discussing it with some good
13 people in this Board, and they have advised me
14 that if I ask for 37 it will be an overreach. So
15 I went with my architect and engineers, I reduced
16 I think ten feet. The first floor is not too much
17 high. I build them in the city apartments clear
18 11 feet high and penthouses six of them one on top
19 of each other which are 18 feet high.

20 The standards have changed. You know, the
21 children in America eat pizza and Coca-Cola and
22 they're all six-foot-four high, and this is the
23 shortest. I have higher than that, taller than
24 that, I mean. So, you know, I don't think that
25 the top floor being seven foot eight or something

1 like that is like very high. Nine foot is also
2 not very high. And ten foot is definitely not
3 high.

4 So I don't think that I'm asking too much. I
5 ask the minimum, minimum, and this is after we
6 revised our drawings twice. Here is John, he can
7 tell you. I can show you my original. I have
8 discussed it with good people, Gerry, and other
9 good people on this Board, and I have reduced two
10 times, but this is like the bare minimum I can
11 build, and I don't think it's any crime for you to
12 allow me that.

13 CHAIRMAN KEILSON: Thank you very much.

14 MR. TESSLER: You're welcome.

15 MR. HYMAN: I'd like to make another comment
16 about just the number of variances and some of
17 their overlap. Just because the house has to be
18 out of the ground so high, and in creating that
19 space, the basement space kind of becoming the
20 third floor creates overlap of variances that
21 triggers all the height/setback ratios as well, so
22 that it creates a lot more variances by having to
23 adjust the height of the house with the flood
24 zone.

25 CHAIRMAN KEILSON: All right. As a general

1 statement, you know on new construction this Board
2 likes to see people stay within the zoning
3 regulations. Granted that because of some of the
4 height aspects here, which we're not unsympathetic
5 to, we're trying to work with the residents to
6 achieve their needs; unfortunately, we can't
7 accommodate everybody with everything that they
8 would like to see. Irrespective of how they may
9 feel about it or how the neighbors may feel about
10 it, there are other people being impacted.

11 Does anyone else in the audience want to
12 speak?

13 MR. BONESSO: I would like to submit, in
14 keeping with what Mr. Tessler said, we do have a
15 petition in support signed by eleven neighbors of
16 the Tesslers. There is one signature belonging to
17 the Septimus residence at 207 Harborview which is
18 on here, but after signing it they alerted
19 Mr. Tessler that they were withdrawing their
20 support. So the eleven that I mentioned does not
21 include the Septimus signature.

22 MEMBER GOTTLIEB: Okay.

23 CHAIRMAN KEILSON: Fine. Is there anyone
24 else in the audience who wants to speak to the
25 matter?

1 statement, you know on new construction this Board
2 likes to see people stay within the zoning
3 regulations. Granted that because of some of the
4 height aspects here, which we're not unsympathetic
5 to, we're trying to work with the residents to
6 achieve their needs; unfortunately, we can't
7 accommodate everybody with everything that they
8 would like to see. Irrespective of how they may
9 feel about it or how the neighbors may feel about
10 it, there are other people being impacted.

11 Does anyone else in the audience want to
12 speak?

13 MR. BONESSO: I would like to submit, in
14 keeping with what Mr. Tessler said, we do have a
15 petition in support signed by eleven neighbors of
16 the Tesslers. There is one signature belonging to
17 the Septimus residence at 207 Harborview which is
18 on here, but after signing it they alerted
19 Mr. Tessler that they were withdrawing their
20 support. So the eleven that I mentioned does not
21 include the Septimus signature.

22 MEMBER GOTTLIEB: Okay.

23 CHAIRMAN KEILSON: Fine. Is there anyone
24 else in the audience who wants to speak to the
25 matter?

1 MS. SEPTIMUS: I would like to.

2 CHAIRMAN KEILSON: Please step forward,
3 identify yourself.

4 MS. SEPTIMUS: I just want to say --

5 CHAIRMAN KEILSON: Please introduce yourself.

6 MS. SEPTIMUS: Bonnie Septimus,
7 207 Harborview South.

8 CHAIRMAN KEILSON: You are the neighbor --

9 MS. SEPTIMUS: Next-door.

10 CHAIRMAN KEILSON: -- next-door to the
11 subject property?

12 MS. SEPTIMUS: Yes. I just want to voice my
13 concern once again for the fact that it's going to
14 be a full story higher than my house and a flat
15 roof, even though they claim that it's not a flat
16 roof, but it is. It's definitely going to block
17 light and sun to my property. I know this for a
18 fact because in the summer when we sit in the
19 backyard starting at around 3:00 we have to keep
20 moving our chairs, chasing the sun, and that's
21 with a much smaller house next-door to us. Now
22 that they're going to come much further into the
23 backyard and a full story higher, it will have
24 definitely a more negative impact on sunlight, and
25 that's my concern.

1 CHAIRMAN KEILSON: Okay, thank you very much.
2 Anyone else from the audience?

3 Yes, Mr. Bonesso, you want to make another
4 comment.

5 MR. BONESSO: Just with regard to the
6 shadows, again, I would point out that a house, a
7 fully compliant house could be built, and based on
8 the shadow study it would have almost the same
9 impacts, in some cases better, some cases worse
10 than what we're proposing.

11 If I can have one moment to speak to my
12 client.

13 CHAIRMAN KEILSON: Sure.

14 (Whereupon, a recess was taken.)

15 CHAIRMAN KEILSON: Ladies and gentlemen,
16 please.

17 MR. BONESSO: Thank you for your patience,
18 Mr. Chairman and members of the Board.

19 CHAIRMAN KEILSON: No problem.

20 MR. BONESSO: We've discussed the present
21 design and what we would like to ask the Board to
22 do is to grant us an adjournment so that we can
23 look at the design and perhaps some modifications
24 that would be acceptable to both the applicant and
25 to the Board.

Tessler - 4/6/16

1 CHAIRMAN KEILSON: I think it's a wise
2 decision, and I think there's enough good will on
3 your part in terms of that which you have
4 presented already in terms of side yards and the
5 like which I think will speak well in terms of
6 accommodating everyone's needs without creating
7 any issues, so at least from my vantage point.

8 MEMBER SCHRECK: I would agree.

9 CHAIRMAN KEILSON: So we'll adjourn to
10 whatever we're proposed for the next go-round.

11 MR. BONESSO: Thank you.

12 CHAIRMAN KEILSON: Thank you very much.

13 (Whereupon, the hearing concluded at 9:43
14 p.m.)

15

16 *****

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

20

21

Mary Benci

22

MARY BENCI, RPR
Court Reporter

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INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

April 6, 2016
8:15 p.m.

APPLICATION:

Feldman
151 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 Feldman. Would they or their representative step
3 up. Okay, Mr. Macleod.

4 MR. MACLEOD: Good evening.

5 John Macleod, 595 Park Avenue, Huntington,
6 New York 11743.

7 Good evening, members of the Board. This
8 evening I'm here representing the Feldmans for
9 their extension -- for alterations and additions
10 to the Feldman residence at 151 Harborview South.

11 Before I describe the project to you, I would
12 like to present 16 letters of support from the
13 various neighbors.

14 CHAIRMAN KEILSON: I think we have a minimum
15 of 20 required.

16 MR. MACLEOD: Would you like me to read them
17 into the record?

18 CHAIRMAN KEILSON: I'd prefer you don't.
19 We'll take the submission.

20 Each letter is different or each letter is
21 the same?

22 MS. FELDMAN: A lot of them are different.

23 MR. MACLEOD: So this project is basically an
24 enlargement of the existing house to add the
25 required accommodations for a growing family and

1 for weekend and family guests. If you looked at
2 the plans and read the petition, you will see that
3 we are here to ask for a few variances related to
4 this project.

5 CHAIRMAN KEILSON: How many is a few?

6 MR. MACLEOD: On the code relief chart that
7 you will find in the package, we have seven
8 variances requested.

9 CHAIRMAN KEILSON: Mr. Gottlieb has nine. So
10 let's make sure we know what we're asking for.

11 MR. MACLEOD: Okay.

12 MEMBER GOTTLIEB: I took the left side yard,
13 right side yard and aggregate as three separate
14 requests. I think you lumped them into one line.

15 MR. MACLEOD: Okay, thank you.

16 If we could look at each one. First of all,
17 I'd like to describe the project a little bit. It
18 is an existing house that was built in the mid
19 '60s, 1966. It's a two-story house with a
20 crawlspace, no attic, no basement, and part of the
21 second floor -- the second floor is only a partial
22 coverage of the footprint of the house. So there
23 are various roofs in the front and the back of the
24 house which we would like to build on top of to
25 gain an additional family bedroom and bathroom

1 space on the second floor.

2 And then because of the lack of a basement or
3 the possibility of a basement in the flood zone
4 that we are in, which is flood zone AE10, we were
5 looking to build a legal third floor on the house,
6 which will accommodate some of the functions that
7 a basement might otherwise be able to include,
8 such as guest rooms, a bathroom, playroom,
9 storage, mechanical room. And the height of the
10 building after we have built the third floor, we
11 will still be less than 30 feet on this particular
12 house because we are not knocking down the first
13 two floors which only have eight-foot ceilings.

14 Many of the houses that you see in front of
15 you do tend to be a little bit higher than that
16 because they are either new builds or the
17 possibility is to have nine- or ten-foot ceilings
18 to raise the height of the house. But because we
19 are maintaining the two eight-foot ceiling heights
20 and then adding a third eight-foot ceiling height,
21 we are actually under with a modified roof; we are
22 at 29 foot 10. That is one of the items on the
23 list here. I will go through the list
24 individually, if you like, but I would also like
25 to address each one of the -- each one of the

1 cited variance items individually as illustrated
2 in the petition.

3 If we can start at the item three on the
4 petition, which you don't have to look exactly at
5 it, but basically this is asking for a building
6 coverage variance, and we're not actually
7 increasing the footprint of the house. We are
8 192 square feet over the permitted building
9 coverage at this time and that number will remain
10 the same. It does represent 8.1 percent overage,
11 and we're basically asking to legitimize that
12 existing variance item.

13 CHAIRMAN KEILSON: The existing
14 nonconforming.

15 MR. MACLEOD: The existing nonconforming
16 building coverage, yes.

17 As I said, the second-floor additions are
18 being built on top of current one-story areas so
19 we have enough space on top of that footprint to
20 accommodate the number of bedrooms required on the
21 second floor, and bathrooms.

22 Regarding the side yards, we do have a
23 side-yard requirement of 15, a minimum of 15 feet,
24 with an aggregate of 30, and the existing house
25 does have 5 feet 5 on the east side and 14 feet 9

1 on the west side, and the aggregate from those two
2 is 20 feet 2 inches. Again, this is an existing
3 number which we are not looking to change, and so
4 we are asking to legitimize the existing
5 nonconforming side-yard setbacks and aggregate.

6 MEMBER GOTTLIEB: So you're not tearing down
7 the house foundation. You're just removing the
8 second floor and then building up.

9 MR. MACLEOD: We are keeping the first floor.
10 We are keeping a good portion of the second floor,
11 and we are building around that to create the full
12 second floor and then adding the third floor on
13 top.

14 MEMBER GOTTLIEB: Okay.

15 MR. MACLEOD: The height/setback ratios which
16 do occur on the front of the house, we are
17 permitted to have 0.74 in the Residence B
18 District, and at the very front of the house where
19 the house is L-shaped, you see there's a part
20 projecting towards the street, the uppermost roof,
21 which is a mansard roof on the third floor, at
22 that point it has an 11-foot width and that is the
23 only portion which requires a front-yard
24 height/setback ratio. It is only 0.80, marginally
25 greater than 0.74 permitted.

1 The total width of the house is 50 feet
2 8 inches, so the portion which does not comply is
3 less than a quarter of that.

4 CHAIRMAN KEILSON: The balance of the roof
5 complies?

6 MR. MACLEOD: The balance of the roof in the
7 front complies.

8 MEMBER GOTTLIEB: I'm looking at page A9. Is
9 that the page that has the -- I just want to see
10 that I'm looking at the right one.

11 MR. MACLEOD: A9 has got the height/setback
12 ratios, yes.

13 MEMBER GOTTLIEB: And I'm looking at where it
14 says front elevation.

15 MR. MACLEOD: The lower drawing.

16 MEMBER GOTTLIEB: The lower drawing, okay.

17 MR. MACLEOD: The right-hand side of the
18 lower drawing is the front of the house.

19 MEMBER GOTTLIEB: Okay.

20 MR. MACLEOD: And you will see there the two
21 lines.

22 MEMBER GOTTLIEB: So in the code relief it
23 says 0.80, but it looks like it's 0.88.

24 MR. MACLEOD: I believe that this was
25 adjusted upon review by Mr. Castro and --

1 MEMBER GOTTLIEB: So 0.80 is the correct
2 number?

3 MR. CASTRO: Yes.

4 MR. MACLEOD: 0.80 is the correct number and
5 the permitted is actually 0.74. The line which
6 says 0.81 as you see just clips the top of that
7 roof, and that portion of the roof is only 11 feet
8 wide, so it's marginally, marginally into the
9 required height/setback ratio by a couple of
10 inches.

11 CHAIRMAN KEILSON: We like to consider it
12 de minimis.

13 MR. MACLEOD: De minimis would be a very good
14 word.

15 While we're talking about height/setback
16 ratios, the existing side yards, particularly the
17 east side yard, which is the left as you're
18 looking at the house from the front on that same
19 diagram, the existing height/setback ratio is 3.7,
20 and we are looking to -- I'm sorry, the existing
21 is 4.47 to the existing ridge of the house, and we
22 are proposing to reduce that to 3.7. The diagram
23 says 3.34; it was adjusted by Mr. Castro to 3.7.

24 CHAIRMAN KEILSON: So you're giving back.

25 MR. MACLEOD: We are actually reducing the

1 height/setback ratio on the left side of the
2 house.

3 CHAIRMAN KEILSON: Okay.

4 MEMBER GOTTLIEB: Is that because you're
5 pulling back on the second floor?

6 MR. MACLEOD: It's because the mansard roof
7 slopes away from the neighbor's property as
8 opposed to being a gable end which is vertical,
9 coming back like this.

10 MEMBER GOTTLIEB: Got it.

11 MR. MACLEOD: The next variance item is the
12 height of the building. A modified roof is
13 supposed to be 27 feet, and we are requesting
14 29 feet 10 to accommodate a full eight-foot
15 ceiling on the upper level, and on top of that
16 there will be a slight sloping roof for full
17 drainage of the roof.

18 The next variance item has to do with the
19 valuation of the work. I'm sorry, I skipped one.

20 CHAIRMAN KEILSON: Yes, you did.

21 MR. MACLEOD: Yes, I skipped one. I just
22 tried to slip in a third floor there.

23 CHAIRMAN KEILSON: Thought we wouldn't
24 notice, huh?

25 MR. MACLEOD: So the third floor, obviously,

1 is something that the Village has not customarily
2 reviewed. And we are asking this, in this
3 occasion we are in a floodplain which does not
4 allow any sort of basement space, so the functions
5 which are normally able to be carried out in a
6 basement need to be provided elsewhere, and we are
7 trying to get that on the third floor where we
8 will be able to have guest bedrooms, playroom,
9 laundry, bathroom, and mechanical room.

10 So the mechanical equipment currently is in
11 the back of the garage at elevation 9.4, which is
12 under the floodplain, and although the house was
13 not damaged during Hurricane Sandy, the water did
14 not reach the house, we are going to relocate that
15 mechanical equipment on the third floor in a
16 mechanical room so it will never be flooded.

17 The house will also be fully fire sprinklered
18 to comply with New York State code, which is a
19 requirement for three-story wood-framed
20 structures, and that will be sprinklers on all
21 three levels.

22 MEMBER GOTTLIEB: You are maintaining the
23 two-car garage, correct?

24 MR. MACLEOD: We are maintaining the two-car
25 garage.

1 And that brings us to the classification of
2 substantial improvement or new construction. And
3 when we designed this house, we did seek advice
4 from the Building Department as to how to value
5 the work to try to maintain less than 50 percent
6 of the building cost value, and that number comes
7 from Nassau County; that is a \$671,000 number.
8 And we are supposed to keep our construction costs
9 at less than half of that.

10 MEMBER GOTTLIEB: Does the 671 include the
11 land or is that just the structure?

12 MR. MACLEOD: It is just the structure. In
13 your documentation there, you will find a piece of
14 paper that looks like this (indicating). This is
15 from the Nassau County Tax Assessors Office, and
16 at the bottom right-hand corner you will see the
17 second to last line says cost building value
18 671,660. So this is a number established by the
19 Nassau County Tax Assessors Office based on --
20 based on the size of the existing property, house,
21 and method of construction.

22 So what we did, we designed the house with a
23 certain number of new square feet and a certain
24 number of renovated square feet, and there is a
25 letter attached to that, I believe, which is my

1 letter describing the breakdown of spaces and
2 times-ing those numbers by the Building
3 Department's recommended cost per square foot at
4 the time that we designed this, and we come down
5 with a total number of 327,980 which is less than
6 half of the building cost value.

7 So based on this calculation and the
8 recommended guidelines from the Building
9 Department at the time that we designed and
10 submitted this project, we are less than
11 50 percent, and so, therefore, do not classify as
12 a substantial improvement. We would just be an
13 ordinary renovation and addition. The reason that
14 that's important is because, being in a flood
15 zone, if you are a substantial improvement or a
16 new building, you have to comply with all of the
17 FEMA rules including having the first floor of the
18 house at elevation 12 in this particular zone.
19 We're in an AE10 zone. A new house would require
20 an additional freeboard of two feet on top of
21 that, taking it up to elevation 12. The first
22 floor of the existing house which we intend to
23 keep where it is, is at elevation 10.9.

24 MEMBER GOTTLIEB: So we're short by?

25 MR. MACLEOD: We're short by 1.1 feet. As I

1 said, the house was not flooded during Sandy. The
2 water did not come up the driveway, did not touch
3 the house.

4 MEMBER GOTTLIEB: I understand everything
5 that you've said, and nicely done, but --

6 CHAIRMAN KEILSON: Deftly, deftly is the
7 word.

8 MEMBER GOTTLIEB: Mr. Chairman says deftly
9 done, so it's deftly done.

10 What does FEMA use? Because your
11 calculations are using Building Department numbers
12 of \$60 per foot?

13 MR. MACLEOD: These are numbers that were
14 provided to me by the superintendent of buildings
15 when we were designing this project.

16 MEMBER GOTTLIEB: Okay. Let's talk reality,
17 because I don't know what FEMA uses, reality or
18 fantasy property.

19 MR. MACLEOD: Well, I asked the
20 superintendent of buildings where he got his
21 numbers from, and he said they were country
22 averages and suitable for this purpose.

23 MEMBER GOTTLIEB: We don't live up in the
24 country. The reason I'm asking is there's no way
25 this job will cost anything near what -- \$60 per

1 foot or what he's projecting. So my question is
2 that just you don't want to build this and then
3 find out you've done -- you know, FEMA is not
4 going to approve this, or FEMA will hit you with a
5 flood zone insurance change.

6 MR. MACLEOD: Well, my clients who own this
7 property, they do not have a mortgage on it so
8 they don't have to carry -- they're not required
9 to carry FEMA insurance.

10 MR. FELDMAN: Correct.

11 MR. MACLEOD: Which casts a slightly
12 different view on it.

13 CHAIRMAN KEILSON: They still have to get
14 insurance in a flood zone. In any event, \$60 a
15 square foot is totally disingenuous. I mean, it's
16 laughable.

17 In trying to, you know, slice the benefit
18 from both sides, you want the benefit of the third
19 floor, which we are inclined to assist in a FEMA
20 situation, which we're giving to no one else
21 because you cannot build a basement or crawlspace,
22 attic crawlspace, okay.

23 Can they maintain the crawlspace?

24 MR. CASTRO: If it falls below the 50 percent
25 threshold, yes.

1 CHAIRMAN KEILSON: So there's no change. Do
2 you have a crawlspace currently?

3 MR. MACLEOD: There is a crawlspace.

4 CHAIRMAN KEILSON: So there's no change.

5 MR. MACLEOD: No.

6 CHAIRMAN KEILSON: So then --

7 MR. MACLEOD: It's not a usable crawlspace.

8 CHAIRMAN KEILSON: It's the same as it's
9 been, as all the other houses nearby, correct?

10 MR. MACLEOD: Correct.

11 CHAIRMAN KEILSON: Why should they be
12 entitled to the third floor? If you were raising
13 the house and eliminating the crawlspace and
14 basement, I guess that's the argument.

15 MR. MACLEOD: Well, there's a big difference
16 between a crawlspace and a basement. The
17 crawlspace is literally two feet high and it's not
18 used for anything.

19 CHAIRMAN KEILSON: Yeah, but we haven't given
20 any of the neighbors third floors who have
21 crawlspaces. The argument that you should be
22 making with respect to this is that because you
23 are in the flood zone you have to raise the house,
24 and thereby you're eliminating any possibility of
25 a crawlspace or basement. But you're not making

1 that argument. You want to keep the crawlspace,
2 and then you want us to give you a third floor
3 which is in effect legislating in an area which
4 the Trustees heretofore have not.

5 MR. MACLEOD: I believe that your description
6 of crawlspace as usable space is incorrect. There
7 is no intention to use a crawlspace for anything.

8 MEMBER GOTTLIEB: So let me --

9 MR. MACLEOD: Let's define basement versus
10 crawlspace.

11 MEMBER GOTTLIEB: You're claiming a hardship.
12 You have no basement. Where you normally put your
13 laundry equipment and excess bedrooms, as you just
14 described a few minutes ago, you don't have that
15 luxury. You don't have a basement. You didn't
16 have it before either. So you're not losing
17 anything. You just want to put a third floor on
18 because you would like to put a third floor on,
19 which is understandable. But it's not because of
20 FEMA and it's not because you're losing the use of
21 a basement to comply with FEMA.

22 MR. MACLEOD: Well, if we were not in a FEMA
23 flood zone, we would be able to excavate that
24 crawlspace deeper and create a basement, underpin
25 the foundations and you have extra depth. But

1 because we are in a flood zone, there's no
2 opportunity to do that under the code or
3 practically speaking either. So the additional
4 space --

5 MEMBER WILLIAMS: That's not how they bought
6 the house.

7 MR. MACLEOD: I'm sorry?

8 MEMBER WILLIAMS: That's not how they bought
9 the house. They bought the house with exactly
10 what's there, correct?

11 MR. MACLEOD: Correct.

12 MEMBER WILLIAMS: And they haven't had to
13 change that, correct? I'm talking about the sub
14 first floor.

15 MR. MACLEOD: They haven't had to change
16 that?

17 MEMBER WILLIAMS: In other words, it's not
18 like they had a basement, and now because of FEMA
19 they no longer can have a basement and, therefore,
20 they lost a tremendous amount of space that they
21 did have and, therefore, you're asking for it.

22 MR. MACLEOD: Correct. They do not have a
23 basement. We're not losing a basement. We would
24 like to have the functions that a basement would
25 otherwise provide.

1 MEMBER WILLIAMS: But it's not like most --
2 what the Chairman was saying, is we tend to
3 believe in the third floor if someone did have
4 existing living space and now because of FEMA they
5 no longer have it. That's I think what they're
6 trying to say.

7 MR. MACLEOD: I understand.

8 MEMBER WILLIAMS: Correct?

9 MEMBER GOTTLIEB: That's what I was trying to
10 say.

11 MEMBER WILLIAMS: Okay, I said it better.

12 MEMBER GOTTLIEB: You're more deftly than I
13 am.

14 MR. MACLEOD: So I think what this is coming
15 down to is whether we're in the flood zone,
16 whether we're classified as a FEMA -- are required
17 to be FEMA compliant with the first floor or not.
18 And if we are required to be FEMA compliant with
19 the first floor, it would mean a very large
20 expenditure on my client's behalf to actually
21 raise this house, to detach it from the
22 foundation, jack it up, disconnect all the
23 services, build a foundation up and drop it back
24 down again. Probably looking in the region of
25 somewhere 75, \$100,000 to do that.

1 CHAIRMAN KEILSON: Maybe you can get the same
2 guys who build at \$60 a square foot at that price.

3 MR. MACLEOD: It is a specialty to raise
4 houses, as you know, and that 100,00, \$75,000
5 would be a substantial hardship, and it's one of
6 the reasons we're here.

7 MEMBER SCHRECK: But since they don't have a
8 mortgage, perhaps they have the resources to do
9 that.

10 CHAIRMAN KEILSON: Could we have Mr. Castro
11 weigh in on this business of evaluation and what
12 impact it might have in the case of an audit, be
13 it for the Village, be it for the homeowner.

14 MR. CASTRO: Well, on the Village's end, the
15 Village is part of a community rating system which
16 gives overall the ability for residents to obtain
17 flood insurance through the federal government.
18 There's a rating system, and the rating system is
19 based on documents that we collect, elevation
20 certificates, cost construction analysis, which is
21 all used to determine substantial construction.
22 If they come in and feel that we are not doing or
23 using the proper procedures or policies, they
24 lower our community rating system which is a
25 number anywhere from 1 to 10, I believe, and the

1 higher the number, the less percent, less discount
2 that residents get to purchase the flood
3 insurance.

4 CHAIRMAN KEILSON: So it impacts on other
5 residents as well?

6 MR. CASTRO: Other residents as well.

7 MEMBER GOTTLIEB: Out of curiosity, do you
8 know what that number is now?

9 MR. CASTRO: I believe we're rated as an
10 eight. It's on the website. You can look up
11 Lawrence's rating system.

12 CHAIRMAN KEILSON: So the concern is really
13 more than just for the Feldmans, who we would like
14 to do everything possible for, but it can impact
15 on the neighbors as well if they look at it with
16 the same jaded view that we're now looking at it.

17 MR. MACLEOD: Well, I would suggest that the
18 Village comes up with a format for the valuation
19 of this type of value and assessment. Right now
20 there is really not anything written in the
21 Village Code, and it has been up to the
22 superintendent at the time to tell us what numbers
23 we should be using, which is what we did, and we
24 spent a long time doing so and we filed within the
25 time that the previous superintendent was in

1 administration, and so we feel that we should be
2 viewed under those rules, under those guidelines
3 that we were directed to follow, which we did.

4 CHAIRMAN KEILSON: Number one, we haven't had
5 a single matter before us with this question
6 arising, so it's new to the Board of Zoning
7 Appeals. We've had matters related to the flood
8 zone and FEMA, and all of those houses have been
9 raised. So this is the first time that we're
10 facing the question of a house not being raised,
11 and trying to avoid the impact of that 50 percent
12 number by deftly coming up with numbers that on
13 their face, prima facie, are not realistic. And I
14 don't know what numbers you're referring to and
15 which superintendent, but that certainly is not
16 going to hold for tonight to this superintendent
17 or so it seems. We have to guide ourselves by the
18 current superintendent. I don't know when the
19 plans were submitted.

20 MR. MACLEOD: They were submitted
21 September 15th last year.

22 MEMBER GOTTLIEB: Is it --

23 MR. MACLEOD: When Mike Ryder was the
24 superintendent.

25 MEMBER GOTTLIEB: Did the property use the

1 numbers provided by the Village or did the
2 property used the numbers the contractor provided
3 as estimates?

4 MR. MACLEOD: Again, I was using numbers that
5 were recommended by Mr. Ryder, and I had presented
6 similar type letters to him in the past proving
7 out less than the 50 percent rule, which he
8 accepted, and at least one of those houses has
9 been built, no name.

10 CHAIRMAN KEILSON: With variances?

11 MR. MACLEOD: With variances in front of this
12 Board. This question didn't come up. It was not
13 quoted as a variance item because Mike Ryder -- we
14 were following his guidelines. So we have a
15 change in position now, so Mr. Castro has looked
16 at this, obviously, and read it in a different
17 way.

18 MEMBER HILLER: That was also a flood zone
19 area house?

20 MR. MACLEOD: Yes.

21 MEMBER GOTTLIEB: Actually, perhaps it was a
22 mistake.

23 MR. MACLEOD: Again, I can only follow the
24 guidelines at the time presented to me by the
25 Building Department, and if there is something

1 that is -- and I think it should be, that the
2 Village should come up with direction for the
3 architects and designers so that we can be all on
4 the same page. The page that I was on was the
5 Mike Ryder page.

6 CHAIRMAN KEILSON: Well, fortunately, we have
7 40 percent of the Village government here tonight,
8 so I'm sure they're listening very closely.

9 MR. MACLEOD: And I'd be happy to contribute
10 my time towards helping make some of those
11 decisions, those guidelines.

12 MEMBER GOTTLIEB: That is on the record.

13 MR. MACLEOD: That's fine.

14 CHAIRMAN KEILSON: Can we go into executive
15 session? We're going to make a motion to go into
16 executive session to talk with counsel.

17 MR. MACLEOD: May my client say a few words
18 before you do so?

19 CHAIRMAN KEILSON: By all means.

20 MS. FELDMAN: Hi, Esther Feldman,
21 151 Harborview South. I understand the back and
22 forth about the basement. You're right, we didn't
23 buy it with a basement.

24 Coming from Brooklyn, I'll be honest, I did
25 not realize what a big deal the basement would be

1 not to have. It is a hardship, definitely.

2 As far as, you know, all of the talk with the
3 numbers and the 50 percent, we asked before, you
4 know, we didn't want to even go ahead with the
5 whole project if it was going to be moot from the
6 start. We kind of waited. Our plans have been
7 sitting for six months waiting to be rejected, so
8 it would have been nice to know last year if that
9 was the case.

10 But we would love -- I mean, listen, we love
11 Harborview, we have nice neighbors, we would love
12 to stay there, our kids love it. And we really,
13 really tried with John also to limit everything.
14 We didn't want to come sounding greedy, like we're
15 asking -- we don't want to raise the height of the
16 ceilings. We don't want to build a monstrosity.
17 We just need space, and that's it.

18 MR. FELDMAN: I'm her husband. My name is
19 Avi Feldman. You know, when we bought the
20 property, my wife said we did not have a basement,
21 and at that point we didn't feel the need. But,
22 thank God, you know, we're a growing family, my
23 wife is expecting, and hopefully we're going to go
24 ahead and expect more kids, and to have a playroom
25 and to have, you know, extra space for storage and

Feldman - 4/6/16

1 whatnot is an extreme -- you know, an extreme need
2 for us.

3 And my wife and I, as she said, we really
4 love the area, we love our neighbors, and we -- if
5 we can't really get the space, we're going to have
6 to start looking elsewhere, and we really want to
7 stay. You know, we really, really want to stay,
8 and we worked with John for the past year or so to
9 make sure to make it as tasteful as possible and
10 to make sure to work it through to every detail to
11 make sure to be respectful.

12 CHAIRMAN KEILSON: I think we're not
13 unsympathetic. I think we're trying to deal with
14 what may be impactful to the neighbors as well by
15 granting a variance for something that on its face
16 is very questionable. And that's why I'm asking
17 for an executive session for a few minutes with
18 counsel to at least guide us on the legal
19 ramifications. Okay, so bear with us.

20 MR. FELDMAN: Thank you.

21 (Whereupon, the Board went into Executive
22 Session.)

23 CHAIRMAN KEILSON: Okay, we've reconvened.
24 We're back on the record, Mary.

25 I think let's talk about all the other

1 variances, the nonconforming pre-existing, and
2 even the ones that you diminished and talk about
3 the third floor as well, which seemed to be the
4 issues that we could at least for the moment go
5 less on and come to some sort of consensus.

6 I think, and I'll let everybody speak for
7 themselves, I think the Board is very sensitive to
8 the fact that they've lived in the house for the
9 period of time that they have. We understand that
10 they haven't had the living space necessary until
11 now in terms of the crawlspace and we are
12 extremely sympathetic to all their requests.

13 The fact is that there's been a good-faith
14 showing in keeping things pre-existing
15 nonconforming, the garage as is and every area
16 that you've laid out. I think you've done a deft
17 job in preparing it, and I think we're very
18 sympathetic to that. And I'll let some of the
19 other members speak to that for the moment.

20 Gentlemen, want to weigh in on that?

21 MEMBER GOTTLIEB: I don't. I think you've
22 covered it.

23 CHAIRMAN KEILSON: I guess everybody is
24 tired, all right.

25 So the sticky issue at this point is the

1 question of the 10.9 percent. We cannot as a
2 Board accept prima facie numbers that we're
3 uncomfortable with.

4 MR. MACLEOD: The elevation you're referring
5 to?

6 CHAIRMAN KEILSON: The elevation, correct.
7 So I think we're going to ask or suggest that you
8 adjourn the matter for the moment. You explore
9 with the Building Department a variety of ways in
10 order to accommodate that with the approval of
11 FEMA, or however it's done so that it doesn't
12 impact. We can't walk out of here with the
13 possibility of impacting on neighbors in terms of
14 insurance rates and the like. We don't know where
15 our Village rate stands at this time. I think
16 that all has to be explored before we can give an
17 approval of the nature that you're requesting. So
18 with your indulgence, if you're inclined to accept
19 the idea of an adjournment, I think that's the
20 suggested way to go at this point.

21 MR. MACLEOD: Okay. We'll move to adjourn
22 until next month perhaps.

23 CHAIRMAN KEILSON: As soon as possible, as
24 soon as it can be worked out.

25 MR. MACLEOD: And I will meet with Mr. Castro

Feldman - 4/6/16

1 to discuss the different options.

2 CHAIRMAN KEILSON: Correct. Mr. Hiller,
3 okay.

4 MEMBER HILLER: Fine.

5 CHAIRMAN KEILSON: Mrs. Williams.

6 MEMBER WILLIAMS: I'm fine with that.

7 CHAIRMAN KEILSON: Mr. Gottlieb.

8 MEMBER GOTTLIEB: Very good idea.

9 CHAIRMAN KEILSON: Mr. Schreck.

10 MEMBER SCHRECK: Yes.

11 CHAIRMAN KEILSON: And of course I agree as
12 well. Thank you very much for your understanding.

13 MR. MACLEOD: Thank you.

14 (Whereupon, the hearing concluded at

15 9:02 p.m.)

16 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 7:39 p.m.

8 APPLICATION: Bobo
9 76 Park Row
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

Bobo - 4/6/16

1 CHAIRMAN KEILSON: The first matter is a
2 matter that we had at the last hearing date, that
3 of Bobo at 76 Park Row. Will they or their
4 representative please step forward.

5 MR. IGNATOW: Good evening. We shall be
6 succinct.

7 CHAIRMAN KEILSON: All right, identify
8 yourself.

9 MR. IGNATOW: Richard Ignatow, landscape
10 architect, 91 Green Street, Huntington, New York.

11 I won't belabor the point, but we've had no
12 objections from our neighbors, and I'll leave it
13 at that.

14 To get to the crux of the issue here, we were
15 here last month. We have since that time reduced
16 the paved areas because we were in excess of the
17 required impermeable area.

18 Let me just say quickly that the reason for
19 our request is the site is somewhat unique in that
20 it's a flag lot. A good part of the flag in this
21 land is driveway, and that sort of contributes
22 mightily to our coverage, number one.

23 Number two, the house itself is a relatively
24 modest house. There's a deck on it. The house
25 was not overbuilt. I'm just making the point that

Bobo - 4/6/16

1 -- our first point is it's a practical difficulty.
2 In order to put a pool of a modest size we go in
3 excess -- we are presently in excess of 25 percent
4 coverage. We are presently at 37.6 percent
5 coverage, and we are trying to get -- we're not
6 trying to -- we will end up, if granted, with a
7 43.8 percent coverage.

8 So again, I feel this is a somewhat unique
9 situation causing us to have a practical
10 difficulty.

11 The second issue is that the town -- the
12 Village counts the pool as impermeable surface,
13 and I'm not arguing that, but I can make a cogent
14 argument that without the pool whatever rain falls
15 in that area contributes to runoff which collects
16 between us and the neighbor to the -- I guess to
17 the south. With the pool, although again it is
18 considered an impermeable surface, the pool itself
19 acts as a reservoir during a rainfall, so it will
20 retain three to four inches of rain before it were
21 to go over the top. So rain that presently falls
22 in that area now contributes to a drainage problem
23 which we're all familiar with. Installation of
24 the pool would actually reduce it. So yes, it's
25 what causes us to go above the coverage number,

Bobo - 4/6/16

1 but in reality it reduces the runoff. And what
2 would occur is as the pool were to fill up,
3 eventually, after the rainfall stopped they would
4 pump the water out into the dry wells which we are
5 proposing. Dry wells are proposed to pick up
6 water from the pool and from the surrounding area.
7 So we feel this will not contribute to a drainage
8 problem in the area, despite the fact that we're
9 above the 25 percent.

10 We do not believe that this causes any
11 adverse environmental or economic impact to the
12 adjacent neighbors. That's one of the proofs that
13 one tries to make when one is requesting a
14 variance.

15 So what we have done in order to reduce the
16 coverage from the last time, this is the old map,
17 we've taken out paved areas here and here, reduced
18 the size of the pool somewhat to come up with
19 this, and that's reduced our numbers.

20 MEMBER GOTTLIEB: I have a couple of
21 questions.

22 MR. IGNATOW: Sure.

23 MEMBER GOTTLIEB: You say the pool acts as a
24 catch basin, but there's also the fact that by
25 putting the pool there you're removing the area of

Bobo - 4/6/16

1 percolation. That's where that cubic footage of
2 what could have percolated and caught the
3 rainwater is now the pool.

4 MR. IGNATOW: Yes, but it doesn't percolate
5 particularly well in the area, as you know, the
6 soils are bad, and it drains down to here. So
7 yes, I've removed area of percolation, but in
8 reality I'm holding the water as if it were a
9 reservoir and then letting it out slowly into the
10 dry wells.

11 MEMBER HILLER: Isn't a pool covered about
12 eight months a year?

13 MR. IGNATOW: That cover is porous and the
14 water just drops down. You normally in the
15 wintertime drop a pool. I've actually had a pool
16 myself and I've never seen it overflow in the
17 wintertime. So you drop it six inches below the
18 inlets so you end up with ten inches of reservoir,
19 what's called freeboard, actually. The cover is
20 not a solid cover. Most pools have a Loop-Loc
21 cover and the water goes through and the leaves
22 stay on top. But again, I've never had a pool
23 overflow in the wintertime.

24 MEMBER SCHRECK: Has this new plan been shown
25 to the Friedmans?

Bobo - 4/6/16

1 MS. BOBO: Yes. Excuse me. Robin Bobo. I
2 spoke with Mrs. Friedman this past week, and I
3 told her everything that we were doing, and she
4 was reluctant but was fine with everything we were
5 doing. Her concern is that our property would be
6 above hers, and although both of us have been
7 having all this runoff that something would change
8 and she would get even worse runoff, but we're
9 not. We are creating this, I guess, wall. The
10 pool is level, but yet it's still graded down
11 towards her property. So it's not like we're
12 raising it above. Just that one area is above and
13 we're grading it down to her.

14 MR. IGNATOW: The grade is not changed by her
15 property. Actually, this area beyond this small
16 wall the grade doesn't change.

17 MEMBER GOTTLIEB: So actually, you're talking
18 about grade. In the new application there's a
19 change of grade.

20 MR. IGNATOW: Yes.

21 MEMBER GOTTLIEB: Which we haven't addressed
22 yet.

23 MR. IGNATOW: Well, our prior application had
24 a deck around it, so the grade didn't change under
25 the deck. Clearly, I can't have nothing when I

1 get out of the pool. You can't drop down two
2 feet. So what we've done instead was to build an
3 18-inch wall, a 12- to 18-inch wall and fill in
4 there. That still acts as a permeable surface,
5 but the grade has been raised in this area and
6 that's resulted in the additional request for a
7 variance.

8 MEMBER GOTTLIEB: And that's the 18 inches of
9 grade change.

10 MR. IGNATOW: Yes. It's between the pool and
11 that wall.

12 MEMBER GOTTLIEB: So when the water hits
13 this, when the rain hits this, and it's a heavy
14 rain, it doesn't run off the wall?

15 MR. IGNATOW: No.

16 MEMBER GOTTLIEB: It runs through it?

17 MR. IGNATOW: Yeah, it would just run through
18 it.

19 MEMBER GOTTLIEB: It doesn't push onto
20 someone else's property?

21 MR. IGNATOW: No, not at all. In fact, there
22 are provisions to get the water to here and
23 eventually into the dry wells.

24 CHAIRMAN KEILSON: I think the issue we face
25 is that not every property can accommodate a pool.

1 As much as we're a little bit favoring in trying
2 to accommodate the local residents and understand
3 the necessity and importance of a pool, but you
4 begin with a situation where you're already in
5 excess before you begin the project, and now
6 you're introducing change of grade, and we look
7 with great disfavor on change of grades without
8 real studies being made as to the impact of the
9 change of grade. So you sort of mentioned it
10 passingly, but from the Board's perspective change
11 of grade is probably one of the most significant
12 things that we have to study, and we really are --
13 we look hard and long before we approve changes of
14 grade.

15 MR. IGNATOW: I understand change of grade
16 could result in an adverse drainage situation.

17 CHAIRMAN KEILSON: Correct.

18 MR. IGNATOW: We believe that is not the case
19 here. That, yes, it's a minor change in grade,
20 but it will not result in an adverse drainage
21 impact to the adjacent neighbors.

22 I think you had asked for a photograph, an
23 aerial photograph of the properties. I had
24 forgotten, but I had one in my folder. There are
25 pools in front of us; there are pools around us.

1 And again, there's always concern from a
2 Board like this that this is setting a precedent,
3 and I believe this is a somewhat unique piece of
4 property in that it is a flag lot. I know many
5 towns no longer allow flag lots. I'm not sure if
6 that's the case here, but there aren't going to be
7 a lot more of them and this is an unusual
8 situation. So much of this flag it adds very
9 little to our area, but it certainly adds
10 substantially to our impermeable surface because
11 of the driveway.

12 MEMBER GOTTLIEB: Where does the runoff from
13 the driveway go now? Does it just go --

14 MR. IGNATOW: I'm not sure. I assume it just
15 goes off because there's another driveway on the
16 other side, so I assume it goes here. This is
17 somewhat higher than over here, so I don't think
18 it goes all that far.

19 MS. BOBO: It just goes to the street. At
20 the end of the driveway is a drain and it goes
21 there.

22 MR. IGNATOW: On our property?

23 MS. BOBO: No, the Village.

24 MR. IGNATOW: So it pitches down to the
25 street. I guess that's how it was done very many

1 years ago when that occurred.

2 CHAIRMAN KEILSON: Okay. Does anyone in the
3 audience want to speak to the matter?

4 (No response.)

5 CHAIRMAN KEILSON: Any other questions from
6 the Board?

7 (No response.)

8 CHAIRMAN KEILSON: Okay. In assessing any
9 requests for variances we obviously have to take
10 into account the benefit to the applicant as
11 opposed to the potential impact on the neighbors,
12 on the community. I think there's significant
13 issues here that we have to, you know, deal with.

14 At least from my perspective, I think it
15 would be a very adverse move at this point to
16 introduce a pool over there, precedent or
17 otherwise.

18 Mr. Schreck.

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

20 CHAIRMAN KEILSON: Mr. Gottlieb.

21 MEMBER GOTTLIEB: I'm not ready. Maybe you
22 can pass me by and I'll have an answer in a
23 moment.

24 CHAIRMAN KEILSON: Okay. Do you want to
25 discuss it?

1 MEMBER GOTTLIEB: You know, there's really no
2 room for a pool. You just -- flag lot or not,
3 move the flag lot, there's just not enough space
4 to put a pool the way you want to have a pool.
5 There's decking, there's a spa, there's a house,
6 there's a long driveway. The more I talk myself
7 through it, I guess I sort of came to my answer.
8 I can't say yes, as much as I want to.

9 CHAIRMAN KEILSON: So you're voting?

10 MEMBER GOTTLIEB: I'm voting no.

11 CHAIRMAN KEILSON: Mrs. Williams.

12 MEMBER WILLIAMS: I'm concerned with the fact
13 with the information in terms of the grading and
14 everything, and we have nothing done
15 professionally to tell us that this won't be a
16 problem. I'm just taking your word for it, and
17 you're a little bit biased, so I guess I'll vote
18 no because I don't have enough information.

19 CHAIRMAN KEILSON: Mr. Hiller.

20 MEMBER HILLER: As much sympathy as I have
21 for people who want to have a pool, this lot does
22 not come under the kind of area that, giving
23 notice to the coverage that is in that area, so
24 I'm afraid I have to vote no.

25 CHAIRMAN KEILSON: And I vote no as well.

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I'm sorry.

(Whereupon, the hearing concluded at
7:50 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 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 April 6, 2016
7 8:00 p.m.

8 APPLICATION: Goldstein
9 One Meadow Way
10 Lawrence, New York

11 P R E S E N T :

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. 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
2 Goldstein, One Meadow Way. Will they or their
3 representative step up.

4 MR. CAPOBIANCO: Good evening, everyone.
5 John Capobianco, architect, 159 Doughty Boulevard,
6 Inwood.

7 MR. HYMAN: Daniel Hyman, architect,
8 159 Doughty Boulevard, Inwood.

9 MR. GOLDSTEIN: Daniel Goldstein, owner of
10 One Meadow Way.

11 CHAIRMAN KEILSON: Good evening, everyone.

12 MR. CAPOBIANCO: Good evening.

13 We've delineated a site plan to hopefully
14 clearly show that we have a unique situation with
15 the site in the sense that we have in the light
16 green area here is a paper street which runs down
17 as a continuation of One Meadow Way, and then the
18 remainder of the property is 58,000-plus square
19 feet, 941, and the thing that is so unusual is
20 that this was considered a front yard, even though
21 it's really a side yard, but we have a garage, a
22 detached garage, three-car garage that was built
23 in a front yard and we're seeking that variance.

24 The other variance, which is building
25 coverage, seems like a lot, but when you look at

1 this hatched area, which is an existing terrace,
2 which is about four feet above average grade,
3 because when we take the ten-foot interval around
4 the perimeter of the house we come up with an
5 average grade where the terrace level, which is
6 the existing first-floor level, which at the front
7 of the house is two steps up, but at the back of
8 the house the grade drops off significantly, about
9 eight feet. But if you take the average grade,
10 the terrace is approximately four feet above
11 average grade. But that particular area, because
12 it has living space under it, was considered
13 building coverage. So I just want to point out
14 that even though the building coverage seems high,
15 it's really not all house. It's -- most of it,
16 700 square feet of it, is terrace. So the
17 terrace, if it didn't count, we would be under the
18 required building coverage area.

19 CHAIRMAN KEILSON: What does it mean if it
20 didn't count?

21 MR. CAPOBIANCO: If it didn't count. I'm
22 just saying that because it's a structure that's
23 four feet above the average grade and there is
24 living space under it in some instances before we
25 were able to not count it as building coverage and

1 some instances before we counted it as surface
2 coverage on other applications, we did in the
3 past, but I understand now --

4 CHAIRMAN KEILSON: Is that any relevance to
5 tonight?

6 MR. CAPOBIANCO: No, the only relevance that
7 there is is that I'm just trying to point out that
8 the building coverage is not all house. So that
9 700 square feet of it is terrace which is only
10 four feet above average grade.

11 MR. HYMAN: And the space below is not really
12 occupiable. It's had water damage over time, and
13 even if that's kind of solved it's not space
14 that's intended to be made house the way a regular
15 house is living space.

16 MEMBER GOTTLIEB: So my question is what is
17 under the terrace?

18 MR. HYMAN: There's an unfinished basement
19 that the previous owner had intended to perhaps
20 finish. It was constructed as though it was going
21 to have a house on top of it really in terms of
22 the superstructure of it, but it's just a terrace
23 and there's kind of rough rooms that have had
24 water damage.

25 MEMBER GOTTLIEB: But it can be finished?

1 MR. HYMAN: It could be finished. There's
2 not the intention. I guess the only -- the space
3 -- we're intending to convert the existing garage
4 to living space to create a place for
5 Mr. Goldstein's grandmother -- I'm sorry -- for
6 his mother-in-law, and that space is immediately
7 on grade and doesn't have this basement-like feel
8 in an area that's really not close to the house
9 and accessible.

10 MEMBER GOTTLIEB: All right, you can finish
11 it. John, can you just, for those who don't know,
12 explain what a paper street means.

13 MR. CAPOBIANCO: Well, it's a street not used
14 and it's not paved. It's not improved. It has no
15 drainage.

16 MEMBER GOTTLIEB: It doesn't look like a
17 street when you look at it.

18 MR. CAPOBIANCO: It looks like lawn right
19 now. But it means that the Village has the right
20 at some point in the future, if they wanted to
21 pave it and use it, they can, but I don't see that
22 happening.

23 MEMBER GOTTLIEB: There's no adverse
24 possession because it's public property.

25 MR. CAPOBIANCO: There's no adverse

1 possession, even though there have been cases
2 where paper streets have filed for abandonment of
3 paper streets, not in this Village but in other
4 places, municipalities, that paper streets have
5 been purchased by the owners who border each side
6 of it so because it was something that just went
7 on in the tax roll. Right now it's just owned by
8 the Village and not used. That's it.

9 MR. HYMAN: I wanted to submit a survey that
10 has a correction. The rear lot was omitted from
11 -- I think it was filed in the original and then
12 somehow an error was submitted. So I just want to
13 put that on record with the rear lot showing the
14 58.

15 MR. GRAY: It adds in the extra 12,000 square
16 feet.

17 MR. HYMAN: All the numbers are in there and
18 clear.

19 CHAIRMAN KEILSON: So John, let's go over the
20 requested variances.

21 MR. CAPOBIANCO: Yes. We're requesting a
22 variance for building coverage of approximately,
23 what, 12 percent?

24 MR. HYMAN: 12.43 percent building coverage,
25 which includes the front porch area, because right

1 now you walk in and there's nothing over your head
2 and you get rained on and the rain comes in the
3 front door, as well as the area of the garage
4 which is detached. And then the other variance is
5 the garage in the front yard which is the front
6 yard on the paper street.

7 CHAIRMAN KEILSON: Okay. Any further
8 questions from the Board? Anyone from the
9 audience want to speak to the matter?

10 (No response.)

11 CHAIRMAN KEILSON: Okay. So we have the
12 excess coverage, but we have a huge lot, and we
13 have some rationales from Mr. John so that there
14 will be no detriment in terms of the any of
15 anything relating to the community, et cetera.

16 Okay, Mr. Schreck.

17 MEMBER GOTTLIEB: Before you vote, I need to
18 ask a question.

19 CHAIRMAN KEILSON: Please do.

20 MEMBER GOTTLIEB: Mr. Goldstein, your name is
21 very familiar to me. Have you and I spoken in the
22 past about any real estate matters?

23 MR. GOLDSTEIN: Here?

24 MEMBER GOTTLIEB: No, outside of here. Your
25 name is familiar. I just don't know whether

1 you're the Danny Goldstein that I spoke to in the
2 past. Whether you are or not, we have no business
3 relationship?

4 MR. GOLDSTEIN: Oh, I never spoke to you
5 before, never spoke to you.

6 MEMBER SCHRECK: We may have had a business
7 relationship. Does the name Schreck ring a bell?

8 MR. GOLDSTEIN: Schreck, no. The only one I
9 know is Jerry Schreck, but I don't know if he's
10 related to you.

11 MEMBER SCHRECK: He's my father.

12 MR. GOLDSTEIN: Oh, he's your father?

13 CHAIRMAN KEILSON: He's related by lineage.

14 MR. GOLDSTEIN: Then you have a nice father.
15 I've dealt with him.

16 MEMBER GOTTLIEB: I hope I didn't open a can
17 of worms. I just want to make sure that we don't
18 have a business relationship outside of this.

19 MR. GOLDSTEIN: No.

20 CHAIRMAN KEILSON: Mr. Hiller, do you have a
21 business relationship?

22 MEMBER HILLER: Unfortunately not, but
23 everybody is doing very well over there.

24 CHAIRMAN KEILSON: Okay. Having cleared that
25 up, thank you, Mr. Gottlieb, and muddying the

1 waters --

2 MEMBER GOTTLIEB: It's what I do.

3 MEMBER WILLIAMS: Very well.

4 MEMBER GOTTLIEB: Here and there.

5 CHAIRMAN KEILSON: Mr. Hiller.

6 MEMBER HILLER: For.

7 CHAIRMAN KEILSON: Mrs. Williams.

8 MEMBER WILLIAMS: For.

9 CHAIRMAN KEILSON: Mr. Gottlieb.

10 MEMBER GOTTLIEB: I can very much live with
11 this, for.

12 CHAIRMAN KEILSON: Oh, that's very kind of
13 you.

14 MEMBER GOTTLIEB: This one.

15 CHAIRMAN KEILSON: Mr. Schreck.

16 MEMBER SCHRECK: For.

17 CHAIRMAN KEILSON: And I vote for as well.

18 And as far as amount of time, a year and a half.

19 MR. CAPOBIANCO: Two years.

20 CHAIRMAN KEILSON: Two years, fine, give him
21 two years, so you don't have to come back and look
22 at this.

23 MR. GOLDSTEIN: Thank you very much, Board.

24 MR. CAPOBIANCO: This will have to go before
25 the Board of Building Design.

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1 CHAIRMAN KEILSON: Of course, of course.

2 MR. GOLDSTEIN: Thank you everybody very
3 much.

4 (Whereupon, the hearing concluded at
5 8:09 p.m.)

6 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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