

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Lawrence Village Park House
4 101 Causeway
5 Lawrence, New York

6 January 13, 2010
7 7:08 p.m.

8 APPLICATION: Goldner
9 22 Herrick Drive
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. ELLIOT FEIT
15 Member

16 MS. ESTHER WILLIAMS
17 Member

18 MR. J. PHILIP ROSEN
19 Member

20 MR. EDWARD GOTTLIEB
21 Member

22 MR. RONALD GOLDMAN, ESQ.
23 Village Attorney

24 MR. GERALDO CASTRO
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Welcome to the Lawrence
2 Board of Zoning Appeals this evening. Let me
3 remind you, please, turn off your cell phones, and
4 please, no talking during the proceedings.

5 Mr. Castro, proof of posting?

6 MR. CASTRO: I offer proof of posting in five
7 conspicuous places for tonight's meeting.

8 CHAIRMAN KEILSON: Thank you very much.

9 The first matter we'll address tonight is
10 actually a request for an adjournment on the
11 Goldner matter. We have a letter from
12 Mr. Rosenfeld.

13 Do you want to express yourself?

14 MR. ROSENFELD: I think that says it all.

15 MR. GOLDMAN: For the purposes of the record.

16 MR. ROSENFELD: Meir Rosenfeld, Meir
17 Rosenfeld, P.C. 466 Central Avenue, Cedarhurst,
18 New York.

19 After consultation with my client, the
20 architect, and from our understanding of some of
21 the neighbors' objections, I'd like to ask for an
22 adjournment so that we may revise the plans and
23 possibly meet with the neighbors to possibly
24 alleviate any further opposition.

25 CHAIRMAN KEILSON: Okay, we'll take a vote.

1 Any comment on that? No.

2 Mr. Rosen.

3 MEMBER ROSEN: Fine.

4 CHAIRMAN KEILSON: Mr. Gottlieb.

5 MEMBER GOTTLIEB: For.

6 CHAIRMAN KEILSON: Mr. Feit.

7 MEMBER FEIT: Yeah.

8 CHAIRMAN KEILSON: Mrs. Williams.

9 MEMBER WILLIAMS: For.

10 CHAIRMAN KEILSON: For.

11 What's the next date that we set?

12 MR. GOLDMAN: February 16th.

13 MEMBER FEIT: February 16th, a Tuesday.

14 MR. GOLDMAN: February 16th will be a
15 Tuesday.

16 (Whereupon, the hearing concluded at
17 7:09 p.m.)

18 *****

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

22
23 Mary Benci

24 MARY BENCI, RPR
25 Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall Park House
4 101 Causeway
5 Lawrence, New York

6 January 13, 2010
7 7:10 p.m.

8 APPLICATION: Congregation Bais Medrash
9 214 Harborview South
Lawrence, New York

10 P R E S E N T :

11 MR. LLOYD KEILSON
12 Chairman

13 MR. ELLIOT FEIT
14 Member

15 MS. ESTHER WILLIAMS
16 Member

17 MR. J. PHILIP ROSEN
18 Member

19 MR. EDWARD GOTTLIEB
20 Member

21 MR. RONALD GOLDMAN, ESQ.
22 Village Attorney

23 MR. GERALDO CASTRO
24 Building Department

25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter on the
2 agenda is the Congregation Bais Medrash.

3 Mr. Goldman, do you have an opening comment?

4 MR. GOLDMAN: Yes, Mr. Chairman.

5 For the purposes, this matter is on and
6 scheduled for decision. However, I would note for
7 the record prior to the Chairman closing the
8 hearing, that there was some question as to
9 whether the Nassau County Planning -- the Nassau
10 County Planning Commission had been notified of
11 this application, and indeed, they were so
12 notified and the Village is in possession of a
13 correspondence from them dated November the 5th,
14 2009, indicating that pursuant to Section 239(1)
15 and (m) of the General Municipal Law that they
16 have reviewed the case, they've deferred it to
17 this Board to take action as deemed appropriate,
18 and they cite specifically that the Nassau County
19 Planning Commission has no objection or
20 modification.

21 Having done so, Mr. Chairman, I believe that
22 that closes the record, and I believe that this
23 matter is on for discussion and decision by the
24 Board.

25 CHAIRMAN KEILSON: Thank you, Mr. Goldman.

1 I will exercise the prerogative of the Chair
2 and will express my position first.

3 On December 3rd last, the Board of Zoning
4 Appeals, as well as several hundred Village
5 residents, endured an unprecedented five-hour
6 hearing at which the Bais Medrash of Harborview,
7 by its attorney Mr. Tom Pantelis, sought
8 modification of prior variances which had been
9 granted in 2005. Relief was sought in six areas:
10 Maximum building coverage, maximum surface area
11 coverage, minimum rear and front-yard setbacks,
12 maximum front and rear-yard height setback ratios.

13 We would like to thank all parties for their
14 patience during those very lengthy proceedings and
15 compliment both counsels for their collegial
16 behavior, notwithstanding what could have been a
17 fairly contentious evening.

18 Extensive testimony was taken from a series
19 of witnesses, and in the case of each witness,
20 Mr. Kovit, attorney in opposition, was afforded
21 great latitude for cross-examination.

22 The public was offered an opportunity to
23 comment and ask questions as well.

24 It should be noted that the Board of Zoning
25 Appeals is composed of neighbors, all of whom know

one another, as well as many of the applicants and witnesses. But at no point does any member of the Board allow personal knowledge or opinion to interfere with or compromise his or her obligations as a Board member.

This application is unique in that it is brought on behalf of not merely one family or a single individual, as is most often the case, but rather on behalf of a religious institution and a not-for-profit corporation that represents a wide range of individuals. That there may be personal agendas, disparate motives, and/or personality clashes is not a concern of this Board.

Rather, this Board is concerned exclusively with the Village of Lawrence, its residents, current and future, the safety and welfare of the entire community, and compliance with the law.

On a personal note, reference was made by opposing counsel at the last hearing as to, "the stark appearance of impropriety."

Mr. Kovit, you allege that a member of this Board, referring to me, was "a founding member of the applicant, Bais Medrash, and that an alternate member is a member of the applicant's construction committee." You quickly abandoned the latter

1 accusations because you acknowledged that it was
2 entirely false. As to the former, it is an abject
3 calumny that I resent.

4 I covet above all my good reputation. I
5 opened the hearing on December 3rd stating on the
6 record that I am a member of the applicant
7 synagogue. I also stated that it is a long-held
8 tenet of this Board, pursuant to legal opinion
9 based on ample case law, that members of the
10 Village Board of Zoning Appeals are not asked to
11 recuse themselves unless they have a monetary or
12 pecuniary interest in the outcome of the matter
13 before them.

14 Firstly, I have no personal benefit to be
15 derived from the outcome of this hearing.

16 Secondly, I have participated in six hearings
17 on the status of the applicant over the last seven
18 years, and no party, including yourself, has ever
19 raised a suggestion of impropriety attributable to
20 my status.

21 Thirdly, I'm not a founding member, nor have
22 I ever been an officer of this synagogue. While I
23 am a member of the Bais Medrash, this is only one
24 of numerous community synagogues to which I belong
25 and of an even greater number of community

institutions with which I am affiliated.

Now, to the subject matter. The first question before the Board is: Why are we here?

The answer is that a resident is requesting a modification of a previously granted variance.

The next question is: Should we be here and should the fact that these matters were previously considered preclude our considering them once again?

Counsel for those opposing this application cites the concept of res judicata as barring us from doing so, noting that it had already been decided at a prior hearing. I have given great consideration to his argument, as well as the response of counsel for the applicant, and have concluded that res judicata does not apply in this instance. This is not a case where an applicant was denied relief and either failed to appeal the decision or unsuccessfully appealed the decision. We are here to review a situation where there are changed circumstances.

This Board has long held that when there are changed circumstances, then a rehearing is appropriate and justified. Facts in the instant matter, as revealed in testimony from the

1 architect and confirmed by the former Village
2 Building Inspector, indicated that the building
3 could not be built as originally planned due to a
4 higher than anticipated water table; that the
5 planned basement which was to house restrooms and
6 mechanical equipment could not be built and
7 necessitated further encroachment into the rear
8 yard. Obviously, these difficulties constituted
9 dramatically changed circumstances that would
10 justify a rehearing of the application.

11 It should be noted that per Village Law
12 Section 7-712-a, this Board could, under
13 appropriate conditions, reconsider a rehearing
14 even without changed circumstances. Nevertheless,
15 as noted, there are indeed changed circumstances
16 that merit reconsideration.

17 Still another question as to whether we
18 should be here involves the role of the Nassau
19 County Planning Commission and whether it has any
20 objection or modification to the proposed variance
21 application. Testimony was offered that a letter
22 from the Village was sent on October 28th, 2009 by
23 the Commission to the Village, and we now know
24 that an answer was received November 5th, 2009,
25 indicating that the commission has no objection

and we can proceed.

Finally, a crucial question is as to whether we should be hearing this application when it comes to us as a fait accompli. The crucial issue is whether to grant or even consider a variance for a rear-yard setback of 23 feet versus 28 feet for a building already built that way. Much has been made, and should be, of whether the applicant has operated in good faith by building first and asking later.

A substantial amount of time and energy went into considering that point and what circumstances precipitated the post-construction application for a variance. I am of the opinion, based on the testimony of the applicant's architect, the chairman of the building committee, its president, the general contractor, as well as that of the former Lawrence Building Inspector, and documentation and photographs, that the extra five feet was the result of too many cooks pouring over the brew, poor management and supervision by all parties, oversights by the Village Building Department, mishandled paperwork, and general miscommunication, but not because of ill will, bad faith or impropriety on anyone's part. There were

1 clearly a series of missteps and mistakes by
2 assorted parties, but no action or misdeed that
3 would compel us not to consider this application
4 on its merits.

5 So now, having resolved the threshold
6 questions, we can step back and evaluate this
7 application as we would any other, and we could
8 look at it as if it came to us anew and not as a
9 structure already built.

10 Under Village Law Section 7-712(1), the
11 standards for granting an area variance requires
12 that this Board consider the benefit to the
13 applicant, weigh it against the detriment to the
14 health, safety and welfare of the community by
15 such grant. In making such a decision, I would
16 suggest that the granting of a five-foot variance
17 will produce no undesirable change in the
18 character of the neighborhood, nor be a detriment
19 to nearby properties; a point attested to by the
20 rear neighbor most directly affected by the
21 change.

22 I also submit that the requested variance in
23 the context of the entire project is not
24 substantial, nor can the benefit sought by the
25 applicant be achieved by some other method. I

1 note that the five feet does not increase the
2 building's occupancy capacity. There are no SEQRA
3 issues, nor will the variance have any adverse
4 impact on the physical or environmental condition
5 of the neighborhood. I note that while the
6 difficulty was self-created, it was not through
7 any deliberate misconduct, but rather by the
8 belated discovery of topographical obstacles.
9 This matter comes before the Board after a
10 torturous route, but now having arrived, this
11 Board must consider whether a denial would not
12 only place an unbearable financial burden on the
13 applicant, but would impede, if not preclude, the
14 completion of a project deemed worthy by the
15 community.

16 Indeed, Mr. Kovit, in your letter of October
17 17th of 2008, to Mr. Shephard Melzer, my
18 predecessor of blessed memory, you wrote that "the
19 residents of the immediate vicinity did not
20 challenge the grant of the variances because they
21 agreed with the Board that this shul will be a
22 positive factor in the neighborhood."

23 I, for one, after careful consideration,
24 would recommend the granting of five variances
25 sought, noting that had they been considered as

1 part of the original application they would have
2 most certainly been granted. I would add,
3 however, that as part of the granting of the
4 variances, the 18-inch by 22-foot bump-out towards
5 the front, which was never submitted as part of
6 any building plan or application, be removed.

7 Finally, it must be noted that irrespective
8 of when the current variances were, or are
9 considered before this Board, both now and in
10 2005, the issue was truly never the structure's
11 size per se, but rather its size as it impacted on
12 the community, its safety, and vehicular and
13 pedestrian traffic. The issue was and remains
14 solely when it was to be used. All variances were
15 granted then, and I submit now, based on a
16 universal understanding that the premises would be
17 granted all the variances and especially those
18 pertaining to parking and traffic matters because
19 such premises would only be utilized on such
20 religious days as precluded motor vehicle traffic
21 and not on weekdays, except as noted.

22 My vote to grant the instant variances
23 requested is predicated on continued full
24 compliance with the conditions, stipulations,
25 restrictions and agreements contained in paragraph

34 of the Findings of Fact dated December 31st, 2005, and the Declaration of Covenants filed with the Nassau County Clerk's Office by the applicant on November 25th, 2009.

I now turn to the Board members and ask and solicit their opinion and open it for discussion.

Mr. Rosen.

MEMBER ROSEN: Thank you, Mr. Chairman.

I am relatively new to the Board. I guess I'm the newest of the Board members, but I'm not new to the practice of law. I've practiced for 27 years with the firm of Weil, Gotshal & Manges in New York.

I'm extremely troubled when broad accusations are made against Board members or other attorneys without proof or backup. This is a very serious business. Just because our meetings are in Lawrence Country Club does not mean it's any less serious than in a court of law. I take it very seriously, and I would hope that everybody who comes before this Board takes it very seriously. Throwing mud against the wall to see what would stick is a legal method that I find quite objectionable. I would hope that care is taken in all proceedings to abandon that type of method and

1 move on to serious methods of practice.

2 That does not affect my decision, but before
3 I get to my decision what I'd like to do, and with
4 your permission, Mr. Goldman, can I read from the
5 Findings of Fact, because I'd like them to be on
6 the record. These are the Findings of Fact on
7 December 31.

8 CHAIRMAN KEILSON: Can you hold that till
9 after?

10 MEMBER ROSEN: You want me to hold that till
11 after?

12 MR. GOLDMAN: But you're basing your
13 reasoning on the inclusion of those?

14 MEMBER ROSEN: A hundred percent, but I would
15 like them to be in the record.

16 MR. GOLDMAN: If the Chair would like, when
17 and if you render a decision, that's a component
18 of it, then the Chairman can call upon you to read
19 those in, that there's no dispute that that's
20 incorporated into tonight's opinion.

21 CHAIRMAN KEILSON: Mrs. Williams.

22 MEMBER WILLIAMS: Let him finish.

23 MEMBER ROSEN: No, I was going to say on that
24 condition I concur with your opinion.

25 CHAIRMAN KEILSON: Okay, Mr. Feit.

1 MEMBER FEIT: Thank you.

2 Next to our Chairman, I believe I'm the
3 longest sitting member over here on this Board,
4 and beforehand I was on the Planning Board as a
5 number, if not all, of the members of the Zoning
6 Board were before me. And I can honestly say in
7 the 30 years that I've been in the Village,
8 30 plus years, and sitting on the Boards for a
9 good part of it, this is probably the longest
10 zoning case I have ever seen in the Village of
11 New York. For those who have been around for a
12 long time, I even think this is longer than
13 Calandrillo.

14 Just one point, it's indicated the variance
15 was given December of '05, the latest variance.
16 We are now in January '10, that's over four years.
17 And this thing started many, many, many years
18 beforehand. Before even I was on the Zoning
19 Board, when variances were given, it went to the
20 court, it came back. I would hope that tonight
21 puts an end to it, but quite frankly, I'm not very
22 optimistic.

23 As I recall, back in 2005, when we had our
24 hearings, one of the questions raised and serious
25 questions raised by a member of the Board was

1 whether they indeed could build the building with
2 the basement because of the high water table. It
3 was very much of concern to a lot of people. We
4 were assured at that time that they could build it
5 and that the water table would be no problem, that
6 they can drain out the area. Well, it appears
7 that the applicants were wrong. The water
8 prevented them from building the building the way
9 they wanted to with the variance.

10 Now, my first reaction when I heard that
11 Bais Medrash built outside of the variances that
12 we had granted them, I was not a happy camper. In
13 fact, the way I felt could not be mentioned in
14 genteel company. But as the information and the
15 testimony developed, it showed -- the testimony
16 showed it was not a simple matter of disdain for
17 the Village and Zoning Board on behalf of the
18 applicant, but that the issue was much more
19 complicated and involved, and I cannot rely on my
20 first impressions. There were many, many serious
21 issues that have arisen subsequent to 2005.

22 First, let me state unequivocally that in my
23 opinion what Bais Medrash did was improper and
24 illegal. I cannot accept their explanation that
25 they thought because they couldn't build a

1 basement they could transfer what was granted in
2 the original variance and move the space upstairs
3 and move it around. I just don't accept this
4 reasoning.

5 I also found the testimony of their
6 president, quite frankly, disgraceful and an
7 insult to our intelligence. He is an intelligent
8 man, and I was very unhappy, to say the least,
9 about it.

10 I would also point out that the cost to
11 remedy the problem doesn't concern me. If I felt
12 that something was done illegally, which shouldn't
13 have been, I have no problem with voting to take
14 it down irrespective of the cost, because the
15 people should have known better.

16 That being said, I do not believe that the
17 conduct of Bais Medrash was malicious or done with
18 any intent to fool the Village. The construction
19 was open to all, not done at night. Plans were
20 filed with the Village. Albeit plans were filed,
21 misfiled, we're not sure which plans were filed,
22 but certainly an honest attempt was made to
23 conform.

24 Based on plans, the Village employees went to
25 the construction site and inspected it and checked

1 it and, in fact, approvals were given to various
2 parts of it, I believe concrete and possibly some
3 of the structure. It goes without saying that the
4 Village had also authorized the issuance of a
5 building permit which allowed them to start
6 building. It was only after that the construction
7 of the illegal addition passed the point of no
8 return that it was discovered and the violation
9 was discovered and the stop order was issued.

10 In fact, what seems to have gone on up until
11 that point reminds me of a Max Senate movie where
12 the Keystone Cops, everybody running around and
13 nobody knows what anybody else is doing or where
14 they're doing it.

15 Now, let me just briefly touch on res
16 judicata. Like many of my colleagues here, I am a
17 lawyer and do take the practice of law very, very
18 seriously. I also don't countenance very much to
19 threats. I've had decisions going against me, and
20 I appeal, and I tell the Judge, don't you get
21 upset or change your decision because somebody
22 threatens to appeal you. Do what you have to do
23 and if an appeal is filed, oh, so be it.

24 But going back to res judicata, rather than
25 belabor the point, I would only say that I agree

1 with our Chairman that res judicata does not apply
2 here.

3 First of all, a variance was given. It was
4 not a turn-down of an application, but we gave the
5 variance based on the information which we had at
6 that time. What has happened was a change in
7 circumstances. We have new information which
8 warrants and, in fact, I would think necessitates
9 that Bais Medrash come to us for a variance. If
10 they didn't, I would be concerned. And I will
11 give Bais Medrash the benefit of the doubt that
12 they truly believed at the time of the first
13 variance that they could build the basement, and
14 they believed that it really wasn't that much of a
15 violation to build the way they did.

16 I am unhappy about a few things with Bais
17 Medrash. The stipulations that were referred to
18 which Bais Medrash agreed to follow apparently was
19 only filed recently. They should have been filed
20 years ago. I mean, just because now they realize
21 they have to come back for a variance, filing it
22 really does not sit well with me. Add to the fact
23 that a couple of weeks before we had our first
24 variance hearing one member specifically went and
25 violated the stipulations by filing for a tent

1 permit. Now, everybody in Bais Medrash should
2 have been well aware of the fact they could not
3 put up a tent. I mean, I thought it was sort of
4 chutzpahdic for this to happen, but this was not
5 done by the shul, it was done by an individual
6 member, and I don't know if that was with or
7 without the shul's acquiescence.

8 Now, concededly, based on the testimony and
9 admissions, the illegal addition in the back of
10 the building is at the most a minor inconvenience
11 and not a serious impediment to the neighbors. As
12 I recall, not only did the backyard neighbor say
13 it didn't bother him, but I believe there was a
14 concession that Mrs. Moushoutas didn't object to
15 the building itself but to the violation.

16 Now, as was stated and as we are governed by,
17 we have to look into whether the benefit to the
18 applicant outweighs the detriment to the
19 community. Well, right now there is no detriment
20 to the community that I saw which was not present
21 four or five years ago when we granted the
22 variance. This addition itself is minor in the
23 back, doesn't block anybody's light or air. I
24 personally went over there, I looked at it, I
25 checked it out, as I'm sure did the rest of the

1 Board.

2 However, there is one thing which I do not
3 believe was discussed enough, if at all, at this
4 meeting, and that is RLUIPA. This is a religious
5 institution which is governed by RLUIPA and we are
6 governed by it. The only way under RLUIPA that we
7 can put restrictions is if it impedes on the
8 health, the welfare and other serious conditions
9 involving the community. Just because we don't
10 like the building or it's a few feet too large or
11 too small or too high, the case law under RLUIPA
12 seems to say that we would be in violation of the
13 law if we refused that variance. We can only rely
14 on what would affect the community safety-wise,
15 et cetera.

16 It is fairly obvious that this addition does
17 not in any way affect the safety or other grounds
18 where we can turn down a variance by a religious
19 institution. In fact, the stipulations stay in
20 place as was agreed to, and the synagogue did not
21 even add any more space; as I recall, they may
22 have lost a few seats by this revision of the
23 plans.

24 We also had in the original plans a ramp
25 because of safety concerns because of handicapped.

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1 They have now improved on that, at least in my
2 opinion, by having everything on the main floor
3 where handicapped could enter and exit on ground
4 level, and there will be no crushing together
5 trying to get out of the doors.

6 I, therefore, believe that legally,
7 especially with RLUIPA, we must give the new
8 variance. However, the bump-out which was put in,
9 which we never knew about, quite frankly, as far
10 as I'm concerned must be knocked out and restored.
11 It adds nothing to religious observance, and they
12 should have put that in the original variance.

13 I would also love to find some penalty to
14 slap on Bais Medrash because of what went on, if
15 nothing else, by their stupidity and what went on.
16 However, I would suggest that the law does not
17 allow me to affix same, but please, gentlemen, you
18 are so much more smarter than what happened.

19 Thank you.

20 CHAIRMAN KEILSON: Thank you.

21 Mrs. Williams. Mr. Gottlieb.

22 MEMBER GOTTLIEB: I'll just speak briefly, as
23 I think you've got someplace to go tonight. I'm
24 not one of the newest members to the Board, nor am
25 I one of the oldest members, but more importantly

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1 I don't practice law as most of my fellow
2 colleagues do. However, I do share a mutual
3 respect for the law and our community.

4 In a sequence of events that included the
5 following: BZA approved a request for variance.
6 Extensions are granted by the BZA. Problems are
7 discovered requiring some changes to plans
8 previously approved by the BZA. Permits issued by
9 the Building Department. Amended plans were never
10 approved by the Building Department. Permits
11 issued without an approved complete set of plans.
12 Contractor encouraged to work without approved
13 plans. Applicant did not reapply to BZA to
14 increase footprint and deviate from original
15 variance because Building Department did not send
16 a letter of denial for changes. During the course
17 of construction, members of the Building
18 Department inspected and approved various stages
19 of the completed work. The applicant, given an
20 architect, surveyors, contractors, attorneys,
21 applicants, building committee members, should
22 have each known that something was not right.
23 Particularly because of the nature of their
24 requested variance, the number of attendees at the
25 hearings and the contentious nature of this

1 application it should have been apparent that one
2 should cautiously abide by the letter of the
3 approved variance.

4 Furthermore, because it was not approved by
5 the Nassau County Planning Commission, and the BZA
6 needed a supermajority to override the
7 Commission's decision, it was apparent that one
8 must cautiously follow all the municipal rules.

9 Furthermore, because of the opposition to the
10 original variance sought, the neighbors were
11 certainly going to be an additional set of eyes
12 that would demand complete compliance. However,
13 the Building Department should have noted --
14 should have noticed that plans were not approved,
15 missing, and not in compliance with the granted
16 variance, et cetera.

17 Given the sequence of errors, omissions,
18 oversights by both the applicant, Village
19 Officials and considering the good nature of this
20 Board, I would be tempted to deny this revised
21 application. There are just too many improper
22 events going on and too many culpable parties that
23 should have known.

24 However, at this point I believe in putting
25 all that aside in reevaluating the new request

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1 before the Board considering the substantial
2 change in circumstances. With this application to
3 be presented as a new application fresh from the
4 start, I would approve it as it is based upon its
5 merits, benefits and limited use, weighing the
6 benefit to the applicant versus the detriment to
7 the surrounding community.

8 Furthermore, I would insist that every
9 article in the Findings of Fact be reiterated at
10 this time and agreed to as part of the variance.

11 CHAIRMAN KEILSON: Thank you, Mr. Gottlieb.
12 What about the bump-out?

13 MEMBER GOTTLIEB: I left the bump-out to
14 Elliot.

15 CHAIRMAN KEILSON: Mrs. Williams.

16 MEMBER WILLIAMS: I believe that 98 percent
17 of what I would have said has been covered very
18 eloquently by my colleagues, so I'll spare being
19 repetitive. My frustration with the ineptness
20 equals theirs, but I too have no proof of any
21 malicious behavior and I would vote for.

22 CHAIRMAN KEILSON: With the qualification or
23 without?

24 MEMBER WILLIAMS: With a qualification.

25 CHAIRMAN KEILSON: So let's vote formally.

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1 Okay, in terms of the approval for the five feet?

2 MEMBER WILLIAMS: I would vote for.

3 CHAIRMAN KEILSON: And for the 18 inches?

4 MEMBER WILLIAMS: Against.

5 CHAIRMAN KEILSON: Mr. Feit.

6 MEMBER FEIT: For the five feet in the rear,
7 against the bump-out in the front.

8 CHAIRMAN KEILSON: Okay. I made myself clear
9 already.

10 Mr. Gottlieb.

11 MR. GOLDMAN: But formally though the Chair
12 is voting.

13 CHAIRMAN KEILSON: The Chair is voting for
14 the five feet and to decline the 18 inches.

15 MEMBER GOTTLIEB: For the additional five
16 feet, declining the 18-inch bump-out in the front.

17 CHAIRMAN KEILSON: Mr. Rosen.

18 MEMBER ROSEN: For the five feet, against the
19 18 inches, again, on the condition that the
20 conditions again be made part of the record.

21 CHAIRMAN KEILSON: I'd like to ask Mr. Rosen
22 to please read those conditions so that we have a
23 very clear record.

24 MEMBER ROSEN: Okay. This is in paragraph 34
25 of the December 31, 2005 Findings of Fact in the

1 matter of the application of Congregation Bais
2 Medrash of Harborview and Benjamin Goldstein for a
3 variance from Section 212-12.1 and Section
4 212-27(B) of the Village of Lawrence Code of
5 Ordinances.

6 The Board notes, and I'm reading from
7 paragraph 34. The Board notes several conditions
8 that the applicant would have to (and indeed agree
9 to) comply with should the requested relief be
10 granted, and these include:

11 (a) 218 Harborview Location must be brought
12 up to code to the satisfaction of the Building
13 Department.

14 (b): 214 Harborview Location will have a
15 maximum of 298 seats.

16 (c): 218 Harborview Location will have a
17 maximum of 122 occupants.

18 (d): As noted, adequate bathrooms will be
19 provided.

20 (e): As noted, a landscape plan involving
21 both sides of the premises will be provided.

22 (f): A public commitment by the Petitioners
23 that subsequent lay leaders of Congregation Bais
24 Medrash of Harborview as well as the property
25 owner will comply with all conditions and

1 restrictions.

2 (g): That the premises (i.e., both the 214
3 and 218 Harborview Locations) while used for
4 religious purposes and functions ancillary to
5 religious services would not be used for any
6 weekday activities (except as specifically noted
7 in paragraph 29 above).

8 (h): That the premises at both sites would
9 only be used on Friday night, Saturday, the
10 religious holidays of which there are twelve and
11 only three of which (Purim, Hoshana Raba and
12 Tisha B'Av) permit driving and not on any other
13 days including minor fast days.

14 (i): That the restriction limiting the days
15 of usage to those cited in paragraph 33(g) and (h)
16 above shall be part of a written covenant that
17 will run with the deed and property subject only
18 to Applicant/Petitioner's right to return at any
19 time in the future to this Board to apply for a
20 variance and relief from that
21 condition/restriction.

22 (j): That a carriage/stroller storage area
23 will be provided on-site or at the 118 Harborview
24 Location or within a garage extant at the 114 -- I
25 think these both mean 218 and 214 Harborview

1 Locations.

2 MR. GOLDMAN: Right.

3 MEMBER ROSEN: That's a typo, I assume.

4 (k): That any increase in building height
5 would be limited to the legal height of 30 feet
6 and only at points that conform to the submitted
7 plans.

8 (l): That the exterior of the proposed
9 premises shall remain consistent with the
10 residential character of the neighborhood, as
11 shall all aspects of the structures.

12 (m): That the surface coverage, building
13 coverage front, side and rear-footage (especially
14 as it pertains to a rear neighbor) shall be as
15 noted.

16 (n): There shall be no ritual bath (i.e.,
17 Mikveh) on either site.

18 (o): That there shall be no catering
19 facilities.

20 (p): That there shall be no catering trucks.

21 (q): There shall be no trucks of any kind
22 except those coming and going to make same-day
23 deliveries, and such as there are shall be
24 contained on the site.

25 (r): That there will be no weddings,

1 bar mitzvahs, bat mitzvahs or circumcisions on the
2 premises except for those that may occur on the
3 particular permitted days.

4 (s): That there shall be no youth groups;
5 activities or classes of any kind during the
6 weekdays, except for those held on the particular
7 permitted days.

8 (t): If necessary, garbage shall be by a
9 commercial pick-up in a timely fashion as
10 determined by the Building Department.

11 (u): On-site garbage shall be covered and
12 stored in a shed at a site approved by the
13 Building Department.

14 (v): Concealed air-conditioning units shall
15 be placed as noted, unless relocated at the
16 direction of the Building Department.

17 (w): There shall be designated handicapped
18 parking.

19 (x): The design and any proposed aesthetic
20 changes to the premises or either site shall be
21 subject to the Village of Lawrence Board of
22 Building Design's review and approval.

23 (y): There shall be full compliance with all
24 State and Village regulations (including
25 sprinklers, smoke detectors, et cetera.)

1 (z): That Petitioners (both personal and
2 institutional) shall take affirmative steps to
3 insure compliance with every condition.

4 (aa): That no tent shall be erected or
5 placed on the site (albeit a religious booth,
6 i.e., a Sukkah, shall be allowed during the
7 specific Succos Holiday and duration, though said
8 Sukkah shall not be visible, if possible, from the
9 front of the building line.)

10 (bb): Except for the High Holy Days, there
11 shall not be two concomitant or simultaneous adult
12 congregations at the two sites; that 214
13 Harborview Location shall be the exclusive,
14 primary adult congregation site.

15 (cc): The proposed building shall be, to the
16 extent practical, soundproof (i.e., double-glazed
17 windows, et cetera) to minimize any possible
18 disturbance to the neighbors.

19 (dd): While the proposed structure shall
20 have a basement, the structure (and the
21 construction thereof) shall not impact negatively
22 in terms of drainage and water displacement on any
23 adjoining properties; and that Petitioner shall
24 comply with any Building Department directives
25 issued to alleviate any such problems that might

1 arise.

2 (ee): As needed, fencing and trees shall be
3 placed appropriately, including but not limited to
4 a six-foot fence and/or trees between Petitioner
5 and an adjoining neighbor at 210 Harborview South
6 to be determined by the Building Department.

7 (ff): The west exit shall be alarmed to
8 prevent it being utilized in such a way as to
9 disturb neighbors.

10 (gg): That such outdoor lighting shall be
11 provided at the direction of the Building
12 Department as will provide for illumination and
13 safety without imposing on adjoining homeowners.

14 (hh): That the covenants, as noted, which
15 shall run with the land shall be prepared by the
16 Petitioner and submitted to the Board's counsel,
17 the Village's Attorney, for approval prior to
18 filing.

19 (ii): That there shall be no outdoor signage
20 of any kind on or near the proposed site.

21 And the last (jj): That there shall be no
22 bridge between the two structures and/or sites.

23 CHAIRMAN KEILSON: Okay.

24 MR. KOVIT: Thank you, Mr. Chairman. I
25 appreciate the decision of the Board. I just want

1 to ask a couple of quick questions.

2 CHAIRMAN KEILSON: Okay.

3 MR. GOLDMAN: Within the context of the
4 decision, I'm not sure based on what though. I
5 must tell you, this hearing, I believe there's
6 been a vote.

7 CHAIRMAN KEILSON: The vote is in. So
8 basically it's closed.

9 MR. GOLDMAN: I believe the matter is
10 concluded.

11 MR. KOVIT: Understood. I'm not arguing the
12 merits of this case.

13 MEMBER ROSEN: Are these questions or
14 statements?

15 MR. KOVIT: Questions.

16 CHAIRMAN KEILSON: Mr. Pantelis.

17 MR. PANTELIS: As a point of information, if
18 Mr. Kovit chooses to get into it, I hope the Board
19 would afford me the same time and latitude as
20 necessary.

21 MR. GOLDMAN: Then let us be certain that
22 Mr. Kovit is not getting into it, because it no
23 longer exists. It's been decided.

24 MEMBER ROSEN: When you ask the questions, we
25 cannot guarantee we will answer the questions. I

1 want to make sure you know that.

2 MR. KOVIT: Charles Kovit. You have my
3 appearance.

4 First of all, I thank the Board.

5 Do you have my letter in the record from
6 January 12th responding to Mr. Pantelis's
7 memorandum of law?

8 MR. GOLDMAN: Yes, it's part of the record.

9 MR. KOVIT: It's part of the record, okay.
10 And also in case there's an Article 78 proceeding,
11 reference was made to the rehearing statute
12 Section 7-712(a)(12) of the Village Law. Am I to
13 understand that --

14 CHAIRMAN KEILSON: I think you're getting
15 into it.

16 MR. GOLDMAN: No, I think that in
17 anticipation of your non-existent question, there
18 was reference made to it that pursuant to the
19 overall situation there might have been another
20 option that this Board, and its the Chairman, if
21 I'm correct, said on the specific circumstances.
22 Those circumstances were not raised. Those
23 circumstances did not come up simply for the
24 purpose that there would have been another option,
25 it would have required an entire different tact on

1 the part of the applicant. It would have required
2 a different set of circumstances in terms of the
3 conduct of this Board. That was a theoretical.
4 It's simply an option that could have been
5 exercised. It was not necessary, as the Board
6 specifically mentioned, because of the
7 determination that there was changed
8 circumstances.

9 MR. KOVIT: Right. So I understand that to
10 mean you're not going under the rehearing statute.

11 MR. GOLDMAN: Absolutely, yes, and nor was
12 there any indication.

13 MR. KOVIT: Thanks. Also, is there a
14 specific instruction about when the 30 days start?

15 MR. GOLDMAN: Right. I was going to --
16 that's why I was asking.

17 MR. KOVIT: Before you address it, I just
18 want to say one other thing, and I guess it's a
19 statement but it's going to be a very brief one.

20 I have complete respect for you and your
21 integrity, Mr. Chairman. It was never my
22 intention to imply otherwise. If you read a
23 little more closely again what I said, it was the
24 appearance. I didn't want you to get caught up in
25 something that would be an appearance of

1 something.

2 CHAIRMAN KEILSON: Not only did I read it, I
3 memorized it.

4 MR. KOVIT: My point was I didn't want you,
5 an honorable person, to get caught up in something
6 that appeared a certain way based on the totality
7 of the circumstances as has been described, not at
8 all to try and impugn --

9 CHAIRMAN KEILSON: I fully appreciate the
10 snake misled you.

11 MR. KOVIT: And also, it was not my
12 intention, Mr. Rosen, to sling mud on anyone.
13 I've never done that in my life. I don't think
14 I've done it here. To the extent it was
15 interpreted that way, that was not my intention.
16 And thank you.

17 CHAIRMAN KEILSON: We accept that as given.

18 MR. GOLDMAN: Thank you.

19 Mr. Chairman, if I might, a decision has been
20 rendered. Nevertheless, I assume based on prior
21 experience that the Board will now instruct me to
22 prepare a Findings of Fact. I will do so subject,
23 of course, to burdening the reporter to prepare a
24 copy of these minutes. And what I will then do is
25 I will, as quickly as I can, prepare a Finding of

1 Fact.

2 However, having done so, I will then submit
3 it to the Board; the Board will hopefully approve
4 it and sign it. Then prior to submitting it to
5 the clerk for filing, I will notify both Mr. Kovit
6 and Mr. Pantelis, with the Board's permission, of
7 the fact that it's been filed, and that will
8 certainly give you the 30 days notice should you
9 wish to appeal these proceedings. So there will
10 be no entrapment here that something happens
11 without your knowing it.

12 MR. KOVIT: Okay. So the 30 days start when
13 that document is prepared and filed in the
14 Village's clerk's office, not when the minutes or
15 transcripts are --

16 MR. GOLDMAN: No, not by no means. As a
17 matter of fact, as a courtesy to both of you,
18 since courtesy seems to be the topic tonight,
19 right, the order of the day, I will make it clear
20 to both of you prior to my filing when it's about
21 to be done and you will get copies of it with the
22 appropriate date so you will know exactly what, so
23 no one will be compromised.

24 MR. KOVIT: Thank you, Mr. Goldman, members
25 of the Board.

Proceedings - 1/13/10

1 CHAIRMAN KEILSON: Do we have to give them
2 the terms of the variance? We normally extend the
3 term as to when the construction will be
4 completed.

5 MR. GOLDMAN: Oh, oh, that's an interesting
6 question.

7 CHAIRMAN KEILSON: Is there anybody here from
8 Bais Medrash?

9 MR. GOLDMAN: And also the bump-out has to be
10 removed. What is the time frame?

11 CHAIRMAN KEILSON: Mr. Pantelis.

12 MR. PANTELIS: Its actual completion, meaning
13 assurance of a C of O on it, because it's usually
14 commencement. If it's completion, we would just
15 ask for, let's say, two years, not thinking in any
16 way that it's going to go that long.

17 CHAIRMAN KEILSON: Fine.

18 MEMBER FEIT: I would just amend your request
19 to indicate if there is appeal, two years from the
20 finality of the decision, because we've already
21 had it where Bais Medrash began building and the
22 Court said, uh-uh, the variance is no good. So I
23 don't need your two years to start from today. I
24 have no problem if you want to withhold
25 construction from when we have finality finally.

1 CHAIRMAN KEILSON: Fine.

2 MR. GOLDMAN: That would only be a period of
3 a couple of months anyway because I hope to
4 prepare it and then you would have the 30 days,
5 et cetera.

6 (Whereupon, the hearing concluded at
7 7:55 p.m.)

8 *****

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

12

13

Mary Benci
MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3
4 Lawrence Village Park House
5 101 Causeway
6 Lawrence, New York

7
8 January 13, 2010
9 7:55 p.m.

10 APPLICATION: Rabinowitz
11 5 Andover Lane
12 Lawrence, New York

13 P R E S E N T:

14 MR. LLOYD KEILSON
15 Chairman

16 MR. ELLIOT FEIT
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. J. PHILIP ROSEN
21 Member

22 MR. EDWARD GOTTLIEB
23 Member

24 MR. RONALD GOLDMAN, ESQ.
25 Village Attorney

MR. GERALDO CASTRO
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is
2 Rabinowitz.

3 Mr. Rosenfeld.

4 MR. ROSENFELD: What we have before us is the
5 petition of the Rabinowitz. It is slightly out of
6 the ordinary for the cases that I usually present
7 wherein they have not lived in the house and nor
8 did they buy it with the anticipation of doing
9 extensive renovations. This house was transferred
10 to them through an inheritance, and as it stands
11 now it maintains only three, possibly four
12 bedrooms.

13 The Rabinowitz are currently the parents of
14 seven children, with, God willing, another one on
15 the way. I think that we can say that that's not
16 a de minimis amount of difference for the children
17 to be accommodated.

18 The variances that we have before us, the
19 most pressing one probably would be the building
20 overage of approximately 18.2 percent, which is
21 still under the customary variance allowance of up
22 to 20 percent in my experience. Although the
23 important thing is --

24 CHAIRMAN KEILSON: I want to -- I'm sorry.
25 There is nothing customary, okay.

1 MR. ROSENFELD: In the previous Board's
2 custom it has been -- 20 percent has been a pretty
3 good rule of thumb.

4 CHAIRMAN KEILSON: I understand, but Exodus
5 18 tells you that a new king has arisen.

6 MR. ROSENFELD: Yes, but there are several
7 interpretations, as I'm sure you are aware.

8 At any rate, we're looking for 488 feet.

9 CHAIRMAN KEILSON: 422 feet.

10 MR. ROSENFELD: Well, over what is --

11 CHAIRMAN KEILSON: Your math is incorrect.

12 MR. ROSENFELD: No, no, over what is legal.

13 CHAIRMAN KEILSON: 422.

14 MR. ROSENFELD: But that's over.

15 CHAIRMAN KEILSON: 422. Your math is
16 incorrect.

17 MEMBER GOTTLIEB: We have amended your
18 returns.

19 MEMBER FEIT: Can you take a brush-up course
20 in math.

21 MR. ROSENFELD: You know what, I enjoy doing
22 these little mathematical errors because it gives
23 the Board something to pick on. Because the rest
24 of my papers are so sterling.

25 It should be noted that -- in all

1 seriousness, it should be noted that the residence
2 here is bounded in the rear by 878, a highway, and
3 down in the front by the parking lot for the
4 Congregation Shaarei Fela. It is difficult to
5 visualize any kind of hardship on those particular
6 neighbors for whatever is being contemplated to be
7 done.

8 In addition, I would note that the left side
9 encroachment is a pre-existing one, as is the
10 right side which is not even an encroachment, a
11 required ten feet on the right side, there's
12 fourteen on the left side. It's eight feet seven
13 inches, and it's been that way since the house was
14 erected.

15 With respect to the last variance issue that
16 the garage must be 20 interior feet, I would point
17 out two things.

18 MEMBER FEIT: Yeah, could you please educate
19 me. On the category it says inside dimensions are
20 not less than 25 feet. On the permit it says 20
21 feet. What is the right number?

22 MR. ROSENFELD: That's for you. That was
23 like my little gift to you. The requirement is 20
24 -- is 20 feet. The existing is, I think --

25 MEMBER FEIT: No, I'm talking about on the

1 category what you wrote. Read category, what you
2 wrote.

3 MR. ROSENFELD: I don't write the rules for
4 the Village of Lawrence. I can't take
5 responsibility for that. It's 20 feet is the
6 requirement.

7 CHAIRMAN KEILSON: Right.

8 MR. GOLDMAN: Not less than 20 feet.

9 MR. ROSENFELD: Not less than 20 feet, that's
10 correct, and I apologize. Someday I'll get it
11 right. I just have to appear before the Board
12 another couple of hundred times.

13 At any rate we're required to have a one-car
14 garage. We are building a two-car garage. The
15 reason that we are building the two-car garage is
16 to alleviate the congestion that exists in the
17 area between the synagogue parking and the way the
18 road is configured. We are looking for what I
19 would consider really a minor variance of
20 approximately a foot, from a foot and a half, I
21 think from what is required and I believe that
22 their cars will easily -- it's one foot seven
23 inches. I believe that their cars will easily fit
24 into that --

25 MR. GOLDMAN: Are you expanding a one-car

1 garage to a two-car?

2 MR. ROSENFELD: To a two-car, yes.

3 MEMBER WILLIAMS: But the depth is the thing
4 that we're cutting.

5 MR. ROSENFELD: Right. We're cutting the
6 depth by approximately one foot seven inches.

7 MEMBER WILLIAMS: There is no problem with
8 the front yard. Why wouldn't you pull it out the
9 full 1.7 just not have an issue?

10 MR. ROSENFELD: If we would push out --

11 MEMBER WILLIAMS: Pull out.

12 MR. ROSENFELD: Right, right. If we would
13 push out to the front, it actually would bring it
14 -- if you notice it says 25, on the plot plan it
15 says 25.8 for the front of the house. If you pull
16 out where the garage would be another foot and a
17 half, it would encroach further into that.

18 MEMBER WILLIAMS: By how much from what's
19 allowed?

20 MEMBER GOTTLIEB: It would still be allowed.

21 MR. ROSENFELD: It still would be allowed,
22 right, it still would be. I believe that the
23 architect, and this is in conversations I had with
24 him, felt that it would be more in keeping with
25 the front view of the house to not have certain

1 jut-outs, and it would look like it's corrugated
2 almost, as opposed to just taking off less than
3 two feet from the interior where it wouldn't be
4 visible to anybody on the side.

5 MEMBER WILLIAMS: So you're saying that the
6 decision was an aesthetic one as opposed to trying
7 to have less coverage?

8 MR. ROSENFELD: Oh, absolutely, absolutely.

9 MEMBER WILLIAMS: I think I'd be more
10 comfortable with the garage being as code. And so
11 you're telling me it's a major aesthetic problem,
12 that's another story.

13 MR. ROSENFELD: But the truth is that it
14 would also push the coverage not by that much, but
15 probably it would still be under 20 percent, but
16 as we know, that 20 percent is a --

17 MEMBER WILLIAMS: Right. But you're saying
18 the decision, you think, was based on this
19 aesthetic thing?

20 MR. ROSENFELD: Well, no. The truth is,
21 Ms. Williams, it's a combination of factors. One
22 is the aesthetics. It would look better to just
23 to leave the front of the house as much as it
24 appears as possible. The second is that certainly
25 if we're looking for whatever we're looking for,

1 on the overage, there's no need to push it for
2 non-living area. And again, this is necessary.
3 And I will point out, finally, that if you look at
4 the plans, one of the reasons that it is done is
5 because directly behind is going to be access.

6 CHAIRMAN KEILSON: You have a mudroom.

7 MR. ROSENFELD: Right, a mudroom. In order
8 to make that access viable, they had to sort of
9 like move into the garage. This Board has, and I
10 know from my own experience, we tried to see to it
11 for in safety's view that there are as many
12 egresses and ingresses to the house as possible.
13 This would be in order to have a viable egress
14 from that left -- from the right side of the house
15 it was necessary to make -- you know, to cut off a
16 little from the garage.

17 MEMBER WILLIAMS: I guess my question is
18 let's pretend that coverage wasn't an issue.
19 Would you be telling me that aesthetically it
20 would still be unacceptable or you would be able
21 to work with that?

22 MR. ROSENFELD: Not unacceptable. I would
23 probably be able to work wit it.

24 MEMBER WILLIAMS: I just want to understand.
25 I've never done this before.

1 MR. ROSENFELD: I think that there is also in
2 addition to the aesthetics there's also renovation
3 costs. When you're pulling it out to someplace
4 that's not there, you have to --

5 MEMBER WILLIAMS: Oh, this way you're leaving
6 the original.

7 MR. ROSENFELD: Right. You have to put a new
8 slab down, a foundation. If you noticed, the
9 foundation plan has --

10 MEMBER WILLIAMS: Right, now the door is just
11 staying where it is?

12 MR. ROSENFELD: Right. So, you know, in
13 moving the garage forward entails a lot more work.

14 MEMBER WILLIAMS: Okay, I hear you.

15 MR. ROSENFELD: I just wanted to -- before
16 there were any other questions, I wanted to submit
17 four letters of support from each of the
18 residences, including, well, not the highway, but
19 in each of the residences who are adjacent to the
20 property evidencing their support for the proposed
21 variance.

22 MEMBER GOTTLIEB: Mr. Rosenfeld, while you
23 distribute the letters, do you want to make a
24 notation as an exhibit, Mr. Goldman?

25 MR. GOLDMAN: Yes. The record should reflect

1 that the applicant is submitting collectively one,
2 two, three, four letters from the residents at
3 34 Lismore Road, 34 Lismore.

4 CHAIRMAN KEILSON: Lismore, L-I-S.

5 MR. GOLDMAN: No, I understand.

6 MR. ROSENFELD: This is their house although
7 it's right there. The address is on Lismore.

8 MR. GOLDMAN: So it would be 34 Lismore Road,
9 7 Andover, 25 Central Avenue, and 1 Andover Lane,
10 collectively supporting the application, and we're
11 making that applicant -- we're deeming it
12 Applicant's 1. I'm submitting it to the Board for
13 its review.

14 MEMBER GOTTLIEB: Mr. Goldman, you're done?

15 MR. GOLDMAN: Yes, I am, thank you.

16 MEMBER GOTTLIEB: Continuing on with
17 Miss Williams' comments, I'm looking at your plan
18 labeled A-3. It looks as if the garage is already
19 being extended seven foot two inches toward the
20 front of the property from existing. So it seems
21 as if there's a slab that's coming down and there
22 is substantial work being done to bring the garage
23 forward.

24 MR. ROSENFELD: I see what you're pointing
25 out. I'm not at all certain -- no, no, no, I

1 think that that may actually be -- no, what I
2 would point out is -- that's correct. The garage
3 that's as it exists now is a one-car that's
4 perpendicular to the house. So I believe this is
5 the --

6 MEMBER GOTTLIEB: This is your house.

7 MR. ROSENFELD: No, it's not, okay. I'm
8 sorry. You're right.

9 CHAIRMAN KEILSON: You moved it back.

10 MR. ROSENFELD: You're right, you're right.

11 MEMBER GOTTLIEB: The reason why is I'm more
12 inclined --

13 MEMBER WILLIAMS: They are pulling it back.
14 Help me here. Ed, I'm sorry. You're saying they
15 are pulling it out?

16 MEMBER GOTTLIEB: It look likes it's being
17 pulled out seven feet.

18 MEMBER WILLIAMS: Okay. So then in other
19 words, then the argument is that it might not
20 apply.

21 MR. ROSENFELD: It's moot.

22 MEMBER GOTTLIEB: I would rather go with an
23 additional 30 feet of coverage, or thereabouts,
24 30, 40 feet of coverage than have to give a
25 variance on a garage.

1 MR. ROSENFELD: We're certainly willing to
2 entertain that. We're cognizant of the fact that
3 it does add onto the overage slightly of whatever
4 it is.

5 MEMBER ROSEN: I was just going to make
6 mention of the fact that there seems to be a lot
7 of people living at 34 Lismore because the first
8 two letters are from two different families and
9 are both 34 Lismore.

10 MR. ROSENFELD: You know, that's for the
11 Building Department.

12 MEMBER ROSEN: There is a Hirsch family and
13 Mansbach family.

14 MR. ROSENFELD: The Mansbach has corrected
15 their address.

16 CHAIRMAN KEILSON: Let's move on.

17 MEMBER GOTTLIEB: We have how many children,
18 eight children?

19 MR. ROSENFELD: Seven currently, one on the
20 way.

21 MEMBER GOTTLIEB: Eight and ten, eleven,
22 twelve people living there, with housekeepers?

23 MR. ROSENFELD: What makes you assume that
24 everybody has a housekeeper in this neighborhood?

25 MEMBER GOTTLIEB: I'm hoping.

1 MEMBER FEIT: Mr. Rosenfeld, where are you
2 going to put the other seven or eight cars? This
3 is Lawrence.

4 MR. ROSENFELD: Off the record.

5 (Whereupon, a discussion was held off the
6 record.)

7 CHAIRMAN KEILSON: Any other comments from
8 the Board? Okay. Any comments from anyone in the
9 audience who wants to comment? Anybody in
10 opposition?

11 MR. GOLDMAN: Just to clarify, if I might.

12 CHAIRMAN KEILSON: Please.

13 MR. GOLDMAN: The statement about the point
14 of entry and exit, would that be compromised by
15 moving out the garage?

16 MR. ROSENFELD: Not at all, not at all, not
17 at all. Just for clarification so that we make
18 sure, what I believe I would present to the Board
19 now to vote upon would be taking away the variance
20 application for the garage and moving the garage
21 forward 1.7 feet and --

22 MEMBER WILLIAMS: Increasing the coverage.

23 MR. ROSENFELD: -- increasing the coverage by
24 that amount, by twenty times 1.7, which you'll
25 figure out.

1 CHAIRMAN KEILSON: Okay, having said that,
2 let's call for a vote.

3 Mrs. Williams.

4 MEMBER WILLIAMS: As much as I'm not thrilled
5 about the coverage, I'm less thrilled about the
6 compromise on the law about the garage, and I
7 would vote for it with that change.

8 CHAIRMAN KEILSON: Mr. Feit.

9 MEMBER FEIT: For.

10 MEMBER WILLIAMS: We just gave you a gift.

11 MEMBER GOTTLIEB: With the amended
12 application, I vote for.

13 CHAIRMAN KEILSON: Mr. Rosen.

14 MEMBER ROSEN: For.

15 CHAIRMAN KEILSON: And the Chair votes for as
16 well.

17 MR. ROSENFELD: Thank you.

18 CHAIRMAN KEILSON: How much time?

19 MR. ROSENFELD: I don't know. What are we
20 giving, two years?

21 CHAIRMAN KEILSON: Two years is fine.

22 MR. ROSENFELD: I'll take it.

23 MR. GOLDMAN: The Board of Building Design
24 has to be consulted.

25 MR. ROSENFELD: Yes, as always.

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(Whereupon, the hearing concluded at
8:10 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 Lawrence Village Park House
4 101 Causeway
5 Lawrence, New York

6 January 13, 2010
7 8:10 p.m.

8 APPLICATION: Gold
9 55 Lawrence Avenue
10 Lawrence, New York

11 P R E S E N T :

12 MR. LLOYD KEILSON
13 Chairman

14 MR. ELLIOT FEIT
15 Member

16 MS. ESTHER WILLIAMS
17 Member

18 MR. J. PHILIP ROSEN
19 Member

20 MR. EDWARD GOTTLIEB
21 Member

22 MR. RONALD GOLDMAN, ESQ.
23 Village Attorney

24 MR. GERALDO CASTRO
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is Gold.
2 Will they or their representative please step
3 forward.

4 MS. MIRO: Good evening to all of you. I've
5 never presented to you. My name is Maria Miro,
6 M-I-R-O, and I'm associated with Rabco
7 Engineering, and we're located at 8 West Merrick
8 Road, suite 219, Freeport, New York 11520.

9 I am here tonight to represent Anna and
10 Nathan Gold. Mr. Gold is standing here. And also
11 with me is Mr. Moffet, Tom Moffet, who is the
12 contractor who is hopefully going to be
13 constructing our rear addition.

14 CHAIRMAN KEILSON: Hopefully.

15 MS. MIRO: We are respectfully asking the
16 Board this evening to grant us permission to
17 construct a one-story rear addition, a new outdoor
18 patio at grade.

19 Now, basically what we have, the current
20 existing two-story, one-family residence has a
21 side-yard setback on the southerly property line
22 of 8.84 feet. This is the way the house was
23 constructed. And the Golds bought this house
24 several years ago with this condition.

25 CHAIRMAN KEILSON: How many years ago,

1 Mr. Gold?

2 MR. GOLD: Let's see, 1987.

3 CHAIRMAN KEILSON: Several years.

4 MS. MIRO: Several years ago, okay, several
5 years. Excuse me.

6 CHAIRMAN KEILSON: Time flies by.

7 MS. MIRO: The existing house was -- I'm
8 sorry. And then the side-yard setback on the
9 northerly property line is 18.4 feet from the
10 octagon and, again, this existing house was
11 constructed without meeting the required side
12 yard.

13 Now, the addition that we're asking of the
14 Board will protrude towards the rear of the
15 property in the same line of the existing house.

16 CHAIRMAN KEILSON: Right.

17 MS. MIRO: Okay. As a result, we are
18 maintaining the existing side yard of 8.84 feet,
19 and we still don't meet, of course, the required
20 20-foot side-yard setback.

21 The purpose of the addition is to allow for
22 Anna Gold's invalid aging parents to be cared for
23 and live in their home. The addition will allow
24 for a family room, a bedroom, a handicapped
25 bathroom and a powder room with ample storage

1 closets. And please note that there will be no
2 additional kitchen and, you know, the house will
3 be maintained to its one-family status.

4 Mrs. Gold's parents do need to be located
5 within the first floor of the home. They cannot
6 climb the steps.

7 CHAIRMAN KEILSON: Okay.

8 MS. MIRO: Also, for your information, the
9 existing house currently has a building area of
10 2,987 square feet. The proposed building area is
11 3,581 square feet. This is 109 square feet or 3.1
12 percent over the maximum allowable building area
13 of 3,472 square feet for a lot of this size. It's
14 20,904 square feet of this lot.

15 CHAIRMAN KEILSON: The most modest request
16 we've had in seven years.

17 MS. MIRO: There's more. The existing
18 surface coverage is 5,701 square feet. The
19 proposed surface coverage, this would include the
20 patio, is 7,345 square feet. This is 318 square
21 feet or 4.5 percent over the maximum allowable
22 coverage, and that maximum allowable coverage is
23 6,927 square feet.

24 From an aesthetic point of view, the addition
25 will conform to the charm and character of the

neighborhood. It will not interfere or harm the general character of the neighborhood. Also, for your information, the addition and the patio will not be visible or affect the front facade from the view of the front of the street.

We have also conferred with several of the neighbors, including the Benjamin residence, which is the adjacent property owner immediately south, regarding these plans and specifications. None of the neighbors have any objection to the proposed variances.

Given the mentioned conditions we are respectfully asking the Board to take special consideration with this matter and with Anna Gold's parents and grant us relief to allow for the construction of the rear addition and patio at grade.

Thank you for your time. May I answer any questions.

CHAIRMAN KEILSON: Thank you for your presentation. Yes. Just to amend one point on the maximum surface coverage, your request should actually be for 418.

MS. MIRO: Okay.

CHAIRMAN KEILSON: It's a malady for anybody

1 who comes before us. Which is actually six
2 percent.

3 MS. MIRO: Okay, so it's actually six
4 percent. Sorry about that.

5 CHAIRMAN KEILSON: No problem. It happens
6 all the time.

7 Anybody from the Board have any questions?

8 MEMBER WILLIAMS: I have nothing.

9 MEMBER FEIT: No.

10 MEMBER GOTTLIEB: You're adding a bathroom
11 and a powder room; is that correct?

12 MS. MIRO: That's correct.

13 MEMBER GOTTLIEB: Is there an existing powder
14 room on the ground floor?

15 MR. GOLD: Yes, and that's being destroyed.

16 MEMBER WILLIAMS: It's being taken out?

17 MR. GOLD: Taken out.

18 MS. MIRO: What they did here they took the
19 powder room out to accommodate the handicapped
20 bathroom.

21 MEMBER GOTTLIEB: So you're exchanging one
22 for the another.

23 MR. GOLD: That's correct.

24 MEMBER GOTTLIEB: You had a powder room,
25 you're going to have a powder room, you're not

1 having two powder rooms and a bathroom.

2 MS. MIRO: Correct, correct. I'm sorry.

3 MEMBER GOTTLIEB: I think your request is
4 reasonable. It is rather necessary and the
5 request is quite modest.

6 CHAIRMAN KEILSON: Mr. Rosen, any questions?

7 MEMBER ROSEN: No. But that was the most
8 pleasant presentation I've heard in many years as
9 a professional.

10 MS. MIRO: Thank you very much.

11 MEMBER GOTTLIEB: I'm hoping you'll come back
12 to the Board again.

13 MS. MIRO: Me too.

14 MEMBER GOTTLIEB: And when you do, when you
15 do, can you kindly either hire a new surveyor
16 because this is --

17 MS. MIRO: We couldn't find one on file.

18 MEMBER GOTTLIEB: I don't know if anyone else
19 had a problem with this.

20 MR. GOLDMAN: Well, if I might, even though
21 this has been to the Building Department for just
22 an inquiry, there seems to be an older patio
23 someplace over in the upper right-hand corner of
24 the property.

25 MS. MIRO: Maybe Mr. Gold could answer that.

1 CHAIRMAN KEILSON: Mr. Gold, do you want to
2 remove it?

3 MR. GOLD: We would really like to remove it;
4 it's not being used at all. It dates back to
5 1970.

6 MR. GOLDMAN: The only reason that we mention
7 it is that were that to be removed that would even
8 reduce the surface coverage further. But to the
9 extent that that -- all kidding aside. To the
10 extent that that can be done, it would just as
11 well be done essentially for neighbors as well so
12 it helps the drainage and whatever.

13 CHAIRMAN KEILSON: Anyone in the audience
14 wants to comment, any opposition? If not we'll
15 move on to the voting.

16 Mr. Rosen.

17 MEMBER ROSEN: Yes.

18 CHAIRMAN KEILSON: Mr. Gottlieb.

19 MEMBER GOTTLIEB: For.

20 CHAIRMAN KEILSON: For.

21 Mr. Feit.

22 MEMBER FEIT: For.

23 CHAIRMAN KEILSON: Miss Williams.

24 MEMBER WILLIAMS: For.

25 CHAIRMAN KEILSON: You got it.

1 MS. MIRO: Thank you very much.

2 CHAIRMAN KEILSON: How much time?

3 MR. GOLDMAN: That's with the removal of that
4 particular piece?

5 CHAIRMAN KEILSON: Yes, with the removal of
6 the piece.

7 MEMBER FEIT: Did I hear two years?

8 MR. GOLD: Maximum.

9 CHAIRMAN KEILSON: Take the two years.

10 MEMBER FEIT: Take the two years.

11 MEMBER WILLIAMS: Take the two years.

12 MEMBER FEIT: You have to go to Building
13 Design.

14 MR. GOLDMAN: Just for the record, there were
15 letters of support that were attached to the file
16 pertaining to this matter.

17 (Whereupon, the hearing concluded at
18 8:20 p.m.)

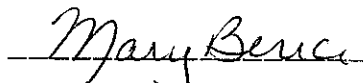
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20 Certified that the foregoing is a true and
21 accurate transcript of the original stenographic
22 minutes in this case.

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MARY BENCI, RPR
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Lawrence Village Park House
4 101 Causeway Avenue
5 Lawrence, New York

6 January 13, 2010
7 8:20 p.m.

8 APPLICATION: Kagan
9 34 Lord Avenue
Lawrence, New York

10 P R E S E N T :

11 MR. LLOYD KEILSON
12 Chairman

13 MR. ELLIOT FEIT
14 Member

15 MS. ESTHER WILLIAMS
16 Member

17 MR. J. PHILIP ROSEN
18 Member

19 MR. EDWARD GOTTLIEB
20 Member

21 MR. RONALD GOLDMAN, ESQ.
22 Village Attorney

23 GERALDO CASTRO
24 Building Department

25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is that of
2 Kagan. Will they or their representative please
3 step up.

4 MR. CAPOBIANCO: John Capobianco, architect,
5 159 Doughty Boulevard, Inwood.

6 I'm here this evening on behalf of Mr. and
7 Mrs. Kagan who just purchased a house at 34 Lord
8 Avenue. They are requesting a variance to
9 construct a second floor on top of an existing
10 one-story rear extension that's on the house
11 already.

12 As you could see, the property is kind of odd
13 shaped in the sense that it has a little piece cut
14 out of it which creates a rear-yard situation of
15 21 feet versus 30, but the other side has a
16 52-foot rear yard. The side yard is 13.18 and we
17 require 15. So it's really a small variance we're
18 asking for.

19 I brought some photos because I wanted to
20 indicate the location of this addition where it's
21 going on top of a one-story which is, you know,
22 well buffered with planting and screening.

23 CHAIRMAN KEILSON: Is this in the package?

24 MR. CAPOBIANCO: I don't think it's in the
25 package. I might have submitted photos.

1 MR. GOLDMAN: We have photos.

2 MEMBER WILLIAMS: We have photos.

3 MR. CAPOBIANCO: So if you look at the
4 photos, you can see it's well buffered with
5 planting and landscaping to the rear and also to
6 the side where the addition is going.

7 The footprint of the house is unchanged, it's
8 the same footprint, therefore building coverage is
9 unchanged, surface coverage is unchanged. Nothing
10 really is being added in that regard.

11 We feel the variance -- there are two other
12 variances, I believe, height setback ratio to the
13 rear and the side which is very small, 1.5
14 required; I think we have 1.6.

15 MEMBER FEIT: Mr. Capobianco, would it be
16 fair to say that all you're doing now is
17 you're coming for construction is koshering
18 up the variance that you're really asking that
19 most of the overages already exist according to --
20 or are extremely de minimis according to the
21 plan?

22 MR. CAPOBIANCO: Well, actually, the existing
23 building coverage is really under what's required
24 and that's not changing. Yeah, I mean it's
25 de minimis.

1 CHAIRMAN KEILSON: The answer is yes to his
2 question.

3 MR. CAPOBIANCO: The answer is yes to your
4 question.

5 CHAIRMAN KEILSON: Any comments from the
6 Board?

7 MEMBER GOTTLIEB: Just so I understand,
8 you're just -- the variance you're requesting is
9 for height setback?

10 MR. CAPOBIANCO: Height setback ratio on
11 the side yard and rear yard. The side yard is
12 13.18 and it just slightly, you know, violates
13 the height setback ratio. And the rear which
14 is a 21-foot setback versus 30, those violate
15 the height setback ratio. So it's a rear yard,
16 side-yard and the height setback ratios for
17 both.

18 CHAIRMAN KEILSON: Does the neighbor to the
19 left have any concerns?

20 MR. CAPOBIANCO: No, there was no concern, no
21 adverse effect created by this, and there's no
22 issue with regard to the neighbors having a
23 problem.

24 MR. GOLDMAN: The record should reflect
25 there is no one in opposition present before the

1 Board.

2 CHAIRMAN KEILSON: I was about to ask.

3 MR. GOLDMAN: Sorry.

4 CHAIRMAN KEILSON: Anyone in opposition?
5 Evidently not. Let's vote.

6 Mrs. Williams.

7 MEMBER WILLIAMS: I would vote for.

8 MEMBER FEIT: For.

9 CHAIRMAN KEILSON: For.

10 MEMBER GOTTLIEB: For.

11 MEMBER ROSEN: For.

12 MR. CAPOBIANCO: Thank you.

13 CHAIRMAN KEILSON: How long do you need? How
14 much time?

15 MR. GOLDMAN: How much time?

16 MR. CAPOBIANCO: Eighteen months is fine.

17 CHAIRMAN KEILSON: Take 24.

18 MR. GOLDMAN: You do understand you have to
19 appear before the Board of Building Design as
20 well.

21 MR. CAPOBIANCO: Thank you.

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

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

4
5 Mary Benci

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

2 BOARD OF APPEALS

3 Lawrence Village Park House
4 101 Causeway
5 Lawrence, New York

6 January 13, 2010
7 8:23 p.m.

8 APPLICATION: Lowinger
9 22 Causeway
Lawrence, New York

10 P R E S E N T :

11 MR. LLOYD KEILSON
12 Chairman

13 MR. ELLIOT FEIT
14 Member

15 MS. ESTHER WILLIAMS
16 Member

17 MR. J. PHILIP ROSEN
18 Member

19 MR. EDWARD GOTTLIEB
20 Member

21 MR. RONALD GOLDMAN, ESQ.
22 Village Attorney

23 GERALDO CASTRO
24 Building Department

25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The Lowinger matter. Will
2 they or their representative please step forward.

3 MR. BONESSO: Good evening, members of the
4 Board. William Bonesso, Forchelli, Curto, Deegan,
5 Schwartz, Mineo, Cohen & Terrana, 333 Earle
6 Ovington Boulevard, Uniondale, New York, here on
7 behalf of Mr. Lowinger.

8 Mr. Lowinger is the owner of the premises
9 known as 22 Causeway in the Village. He is here
10 this evening requesting variances to permit a
11 two-story renovation to the residence in order to
12 accommodate his growing family for the use and
13 enjoyment of the residence.

14 It's important to note that we're requesting
15 -- first I'll point out we're requesting four
16 variances. We are requesting a rear-yard setback
17 variance where 50 feet is required; we're
18 proposing 40.7 feet. A height variance for the
19 new addition, 30 foot required; we are at 32.41
20 feet. But it's important to note that the house
21 as it presently exists is 33 feet, 33.2 feet, and
22 in fact that is a grandfathered condition dating
23 back to the turn of the century.

24 Building coverage we are requesting a
25 variance. We are at 4,709.31 square feet, where

1 4,033.28 is permitted. And surface coverage we're
2 requesting a variance 9,453.52 square feet where
3 7,609.84 is permitted.

4 Now, it's important to note that back three
5 years ago, now going on four years ago
6 Mr. Lowinger came before the Board and requested
7 the same four variances: rear-yard setback,
8 height, building coverage and surface coverage,
9 but all four of those variances were, in fact,
10 larger variances. Whereas we're requesting
11 19 percent rear-yard setback, 8 percent height
12 variance, 17 percent building coverage and
13 24 percent surface coverages.

14 The prior application in 2006, which was
15 approved, proposed and granted a 22 percent
16 rear-yard setback variance, and 11 percent height
17 variance, a 25 percent building coverage variance
18 and a 30 percent surface coverage variance. So
19 we're now coming before the Board asking, yes, for
20 variances again, but it's the same variance and
21 it's lesser relief for all four variances.

22 I do have renderings. As indicated, the
23 application is to allow for the renovations for
24 the improved living in the residence for a growing
25 family. And the applicant -- previously the

1 applicant was approved in 2006 but due to economic
2 conditions, the economy being what it was, he held
3 off on the construction. Now he's prepared to
4 move forward with a more -- a slightly more modest
5 plan and he's asking for the lesser variances to
6 allow for the --

7 CHAIRMAN KEILSON: Rebounding economy.

8 MR. BONESSO: Yes. We're not a hundred
9 percent sure it's going to come back all the way,
10 so we're going with slightly less.

11 Also, I did take the liberty of checking the
12 building file, the Building Department file on
13 this, and I noticed a letter from a neighbor,
14 Rochelle Stern Kettleson, who wasn't opposed to
15 our application, but she did point out that she
16 was concerned about trucks and flatbeds being in
17 the roadway, blocking the roads.

18 Mr. Lowinger and our design team --

19 CHAIRMAN KEILSON: Where is that letter from?

20 MR. BONESSO: Rochelle Stern Kettelson,
21 21 Causeway Road.

22 CHAIRMAN KEILSON: When, when?

23 MR. BONESSO: Oh, when? I'm sorry.
24 January 10th, 2010.

25 MEMBER GOTTLIEB: I thought it was an old

1 letter.

2 MR. BONESSO: No, I picked this up on Monday
3 from Gail, but it's part of the file.

4 The first one, two, three, four paragraphs
5 state objection to a different application.

6 MR. GOLDMAN: If I might interrupt, the
7 record should reflect that indeed attached to the
8 file are copies for the Board to consider.

9 CHAIRMAN KEILSON: Can you circulate it.

10 MR. GOLDMAN: Yes. Therefore, let the record
11 reflect that one is going into the file as, I
12 guess, opposition. Well, not even opposition.
13 The Village's --

14 MR. BONESSO: Well, it raises an objection,
15 not to my client's addition. In fact, it says I
16 have no objection to the addition to that
17 property. Her concern is more related --

18 MR. GOLDMAN: You know what, I withdraw it.
19 One second. One is addressing 22 Herrick Drive.

20 MR. BONESSO: Right. The first several
21 sentences --

22 MR. GOLDMAN: I don't mean to interrupt you,
23 but the first several sentences are referring to
24 22 Herrick Drive and should be made part of that
25 application which has been, the record should

1 reflect, adjourned for this evening and not before
2 this Board.

3 Incidentally, she indicates that I'm a
4 neighbor of 22 Causeway. I have no objection to
5 the addition to that property. I do have an
6 objection to the blatant disrespect of starting
7 times in the morning. In previous construction
8 times I had to deal with trucks and flatbeds
9 idling at 5 a.m., not being able to exit my
10 driveway because I was blocked by cars and trucks
11 way into the evening. I want a written promise
12 this will not occur in the future. If I do not
13 receive a confirmation to the fact, I will object
14 to the construction.

15 So obviously, the letter speaks for itself.
16 It addresses the issue of construction conditions,
17 rather than an overall issue of whether this
18 variance should be granted; am I correct?

19 MR. BONESSO: That is a correct
20 characterization. And I brought it up because in
21 speaking with Mr. Lowinger about this letter that
22 was in the file, he and his design team before I
23 ever mentioned this had actually already talked
24 about ways to avoid congestion on Causeway. They
25 have a rather large side yard. The intention is

1 to create an area in that side yard, put some
2 gravel down, use that as a staging and loading and
3 unloading area so that there won't be trucks and
4 flatbeds blocking the roads. So that's an
5 intention on the part of the applicant. It's
6 something that he and his design team came up
7 with.

8 MR. GOLDMAN: And I'm sorry to interrupt,
9 Mr. Chairman, and you will be bound as to times as
10 also there are restrictions as to days of the week
11 that the work can be done, so that will be part of
12 it.

13 MR. BONESSO: We will comply with the Village
14 requirements.

15 MEMBER GOTTLIEB: Will the family be living
16 in the house at the time of construction?

17 MR. LOWINGER: Yes, we will be.

18 MEMBER GOTTLIEB: Then I can assure you there
19 won't be idling at 5 a.m.

20 MR. BONESSO: That's our presentation.

21 MEMBER GOTTLIEB: Was there a need for this
22 that I didn't hear?

23 MR. BONESSO: Well, it was indicated
24 Mr. Lowinger resides there with his family. His
25 wife is expecting; they have a growing family.

1 They would like the opportunity to enlarge the
2 house at this time.

3 MEMBER GOTTLIEB: Is that a need or --

4 MR. BONESSO: How many children do you have?

5 MR. LOWINGER: Four going on five.

6 MEMBER FEIT: How many bedrooms are there
7 upstairs?

8 MR. LOWINGER: We've also taken in a
9 relative's child to live with us who's attending a
10 local Yeshiva.

11 MEMBER FEIT: How many bedrooms are there
12 upstairs?

13 MR. LOWINGER: There are six bedrooms
14 presently.

15 MR. GOLDMAN: Let the record reflect his name
16 is Ben Lowinger who is responding. You haven't
17 given your name for the record.

18 MEMBER FEIT: So you have enough bedrooms now
19 for meeting your current needs including your
20 guest and the hopeful delivery of your next child.

21 MR. LOWINGER: There are a total of six
22 bedrooms including the master bedroom, and that
23 will, I mean, theoretically make for a total of
24 six children.

25 MEMBER FEIT: So I assume that your nephew is

1 -- it is your nephew I think?

2 MR. LOWINGER: Yes.

3 MEMBER FEIT: He's only going to be here
4 temporarily when he graduates from high school.

5 MR. LOWINGER: Yeah, that's another four and
6 a half years.

7 MR. BONESSO: All the kids are temporary
8 until they go to high school.

9 MEMBER FEIT: They never go away.

10 MR. BONESSO: I'm coming to learn that
11 myself, Mr. Feit.

12 MEMBER GOTTLIEB: We like to hear a need or
13 there's got to be a nice reason for it. And not
14 to compare one application against another, there
15 was a three-bedroom house with eight kids; there
16 you have a need. I was hoping to hear something
17 that would express a need why this is necessary.

18 MR. GOLDMAN: It falls within the context of
19 a self-created --

20 MR. BONESSO: I understand that. I don't
21 know that --

22 MEMBER ROSEN: I'll answer that. To be
23 frank, you know, the Lowinger family, thank God
24 they have a lot of children, and I am pretty
25 confident that the need will be there in the

1 future.

2 MR. LOWINGER: Well, regardless, we've -- you
3 know, we lost our guest quarters that we presently
4 have and, you know, we were hoping to be able to
5 continue to be able to host guests like my in-laws
6 and such. This would allow us to do so.

7 MEMBER FEIT: Aren't you going to be having
8 extra bedrooms and guest quarters in the basement
9 and the main floor?

10 MR. LOWINGER: Nothing in the basement.

11 MEMBER FEIT: And the main floor, do you have
12 a guest room?

13 MR. LOWINGER: No.

14 MEMBER ROSEN: Elliot, if you look at the
15 plans, the bedrooms are on the main floor.

16 MR. LOWINGER: We're adding two guest rooms
17 to the second level.

18 MEMBER FEIT: I have one concern, among
19 others. We had before us an application a number
20 of years -- about a year ago, where Mr. Melzer was
21 Chairman, where an individual came to us and
22 wanted to expand his den to a huge size. And when
23 I looked at it along with Mr. Melzer it appeared
24 that we thought this individual was actually going
25 to be having a synagogue or a minion in his house.

Now, on the main floor we have a number of big rooms which could be considered a synagogue, and the thing that concerns me most is that Mr. Lowinger ran a minion in his house for many months, even though he received objections from the Village, and the Village had to threaten him with court action to finally close down that minion, which all the neighbors complained about.

So how do we know that these rooms and the addition is just going to be not used for another minion Friday night or Saturday evening or any other time?

MR. LOWINGER: If I might respectfully respond. As soon as we received -- there was no legal action taken or threatened by the Village. We got one letter and at that time we ceased services at the empty residence next-door to me. I can assure the Board that I have no intention now or ever of hosting a minion, other than, you know, casually for some unforeseeable reason. But I have no intention of making a shul on either a permanent basis or on a temporary basis.

If you look at the rooms, they are all very clearly labeled and the way they're labeled are actually the way they're intended to be used and

1 will be used.

2 MEMBER FEIT: Labels, I could write labels on
3 anything also, but obviously, my recollection of
4 what happened with the minion in your house and
5 your recollection differ somewhat.

6 MR. LOWINGER: As you know, Mr. Feit, we were
7 building a shul in the neighborhood and we used
8 the empty house next door to me on a temporary
9 basis, and when the Village did object we stopped
10 using that location.

11 MEMBER FEIT: I promised I would not bring up
12 the Wedgewood shul, and I will not.

13 MR. LOWINGER: Well, you have.

14 MR. GOLDMAN: Gentlemen, Counsel, you might
15 want to advise your client.

16 MEMBER ROSEN: Obviously, the fact is that
17 he's not standing when he addresses the Board.

18 MEMBER FEIT: I'm still looking for the
19 pressing need. Right now he has more than enough
20 rooms. If, God willing, he has another five
21 children, then I certainly would see a major
22 pressing need.

23 CHAIRMAN KEILSON: That's changed
24 circumstances; is that what you're saying?

25 MEMBER FEIT: Yes. But right now you're only

1 looking to just increase sizes which isn't a
2 pressing need under the -- under our regs.

3 MR. BONESSO: With all due respect, the tests
4 for an area variance is benefit to the applicant
5 versus detriment to the community. Here, the idea
6 of having to present practical difficulties or a
7 hardship of some kind no longer applies to the
8 area variance requirements. Clearly, the benefit
9 to the applicant is the ability to add to his home
10 for the use and enjoyment of that home, to add
11 additional bedrooms for coming children,
12 potentially more than just the one that is being
13 expected.

14 MR. LOWINGER: If I might, the reason for the
15 variance and the reason for the construction is to
16 be able to use the house as we have, you know, for
17 the past twelve years. In adding the additional
18 space and with the additional capacity necessary
19 it gives us the guest quarters and the additional
20 space that we've enjoyed to date. I don't --

21 MEMBER ROSEN: Mr. Chairman, if I could just
22 interrupt.

23 CHAIRMAN KEILSON: Let me just make my
24 comment because he mentioned the test.

25 It is though, however, with the caveat that

1 when the balancing comes out in favor of the
2 applicant, the Board may only authorize the
3 minimum variance necessary.

4 MR. BONESSO: Understood. That is 267(c).
5 B)(3)(c).

6 CHAIRMAN KEILSON: I would hope you would
7 know it by now.

8 MEMBER FEIT: Isn't the total surface
9 coverage that you're requesting over 30 percent
10 and building coverage over 20 percent? I just did
11 it quickly in my head.

12 CHAIRMAN KEILSON: No, building is 17
13 percent.

14 MEMBER FEIT: Okay. And surface coverage?

15 CHAIRMAN KEILSON: Is nine percent.

16 MEMBER FEIT: It can't. You have 76 square
17 feet allowed and they're proposing 9,400?

18 CHAIRMAN KEILSON: The permitted is 8,614.

19 MEMBER FEIT: Not according to this plan.

20 MR. BONESSO: I will point out that there is
21 a discrepancy on the present plan indicating that
22 the surface coverage permitted is 7,609.84.

23 However, in 2006 I looked at the plans that
24 were approved by the Board and that were
25 submitted. It indicated that the allowable

1 surface coverage was 8,609.84 square feet.

2 MEMBER FEIT: But that's off the petition,
3 right?

4 CHAIRMAN KEILSON: Hold it one second.

5 MR. BONESSO: No, no, no. That's from the
6 result sheet that was part of the --

7 CHAIRMAN KEILSON: We have the Building
8 Department here. Let's see if we can verify.
9 Mr. Castro.

10 MR. CASTRO: Yes.

11 CHAIRMAN KEILSON: What do you have as the
12 permitted surface area coverage?

13 MR. CASTRO: That upon going over the zoning,
14 I found out that what they were proposing was more
15 by about a thousand square feet than what it
16 should have been upon doing the calculation,
17 current calculation. I think there might have
18 been an error in that. It should really be about
19 a thousand less, square feet less.

20 MR. BONESSO: What should be a thousand
21 square feet less?

22 MR. GOLDMAN: What's permitted?

23 MR. CASTRO: What's being proposed. So
24 you're not exceeding by --

25 MEMBER WILLIAMS: So you're saying that the

1 8,600 number is probably more correct; is that
2 what you're saying?

3 CHAIRMAN KEILSON: No, no, no. The proposed.

4 MEMBER FEIT: What is total surface coverage
5 allowed now?

6 MR. CASTRO: Allowable?

7 MEMBER FEIT: Yeah, what is allowable? I'm
8 looking at the plans they prepared, and as
9 Mr. Bonesso was talking about plans from four
10 years ago he seems to have another number, and we
11 have -- according to these sheets we have also
12 another number.

13 MEMBER WILLIAMS: Which is the right number?

14 MEMBER FEIT: Yeah, what's the right number
15 as far as total surface coverage and building
16 coverage?

17 MEMBER WILLIAMS: Because the discrepancy of
18 a thousand square feet is a lot. So if it's
19 correct that would be great.

20 MR. BONESSO: I can tell you this much. What
21 is being proposed now for the surface coverage is
22 9,453.52 square feet. In 2006 the Board approved
23 9,896.

24 MEMBER WILLIAMS: That's really irrelevant.
25 What's important now is what's the difference.

1 MR. BONESSO: Well, no, it's not irrelevant,
2 because it means that's it's a lesser variance
3 that we are requesting now.

4 MEMBER FEIT: But they may have had a wrong
5 number as far as the allowable. This is what
6 we're trying to find out, what the real allowable
7 square footage is. I mean, it could be four years
8 ago we had wrong numbers. Inadvertently, but it
9 could have been wrong.

10 MR. BONESSO: When I calculated the percent
11 variance on the surface coverage from both 2006
12 and 2010, I used the lower of the two numbers
13 allowed, 7,609.84 square feet. If you applied
14 that allowable, the 2006 variance was a 30 percent
15 variance. The 2010 variance is a 24 percent
16 variance.

17 MEMBER WILLIAMS: Okay. Is it possible that
18 the real number is 8,609?

19 MR. BONESSO: It may be. That is --

20 MEMBER WILLIAMS: So who has that
21 information? Because it makes a big difference.

22 MR. BONESSO: Well, I only noticed the
23 discrepancy when I looked at the plans.

24 MEMBER WILLIAMS: That would work very much
25 in your favor.

1 MR. BONESSO: Obviously, it would turn a
2 24 percent variance into a 10 percent variance.

3 MR. CASTRO: The allowable surface coverage
4 based upon the denial letter written is 8,614
5 square feet.

6 MR. BONESSO: Okay. So then the 7,609 was an
7 incorrect number.

8 MR. CASTRO: Correct.

9 MEMBER FEIT: That's a big difference.

10 MEMBER WILLIAMS: So that's giving you an
11 extra thousand. I'm trying to work for you.

12 MR. BONESSO: So it makes it about a 10
13 percent variance that we're requesting.

14 MEMBER FEIT: What about building coverage,
15 was that correct, it was 4,033?

16 CHAIRMAN KEILSON: Thirty-five.

17 MR. CASTRO: That's correct.

18 MEMBER WILLIAMS: So then we're talking --
19 let's just go over this again. If that number is
20 correct, 8,609, we're talking about a total
21 surface coverage of what percent?

22 CHAIRMAN KEILSON: About ten.

23 MR. BONESSO: About 10 percent.

24 MEMBER WILLIAMS: And we're talking about a
25 building coverage of what percent?

1 MR. BONESSO: Seventeen percent. Whereas,
2 previously we were granted a 15 percent variance
3 on surface coverage and a 25 percent variance on
4 building coverage from 2006.

5 MR. CASTRO: If I may, I think the error was
6 on part of taking the wrong number off of the
7 worksheet where these numbers come from. It was
8 based off of a smaller lot size, and that's why
9 they came up with a thousand square feet less.

10 MEMBER WILLIAMS: This is the correct one?

11 MR. CASTRO: Yes.

12 MEMBER WILLIAMS: Because ten percent is a
13 big difference and it definitely works in your
14 favor.

15 MR. BONESSO: Clearly.

16 CHAIRMAN KEILSON: The only thing I would add
17 is that this Board is much more restrictive in
18 2010 than that Board in 2006, in awareness.

19 MR. BONESSO: I understand.

20 MEMBER WILLIAMS: Which is why I keep saying
21 that's irrelevant. It's not that it's irrelevant
22 but it's different.

23 CHAIRMAN KEILSON: Any further questions from
24 the Board? Any comments from the audience?

25 MEMBER GOTTLIEB: Any letters of support?

1 MR. BONESSO: No letters of support, but I do
2 believe --

3 MR. LOWINGER: I have actually spoken to
4 Dr. Hamlet who is the immediate neighbor to the
5 right facing the house where the construction
6 would be going on, and although I didn't get
7 anything in writing from him, I had offered to
8 come over show him the plans, explained to him
9 what we are doing, and he said that he didn't see
10 that he had any problem with it. Again, that's
11 just a verbal conversation.

12 MS. ELIAS: I just realized -- my name is
13 Etta Elias, 330 Ocean Avenue. Judith Levine and
14 Michael Levine are across the street and are fully
15 in support, have no objection. I have spoken to
16 them.

17 MEMBER FEIT: And the house behind is?

18 MR. LOWINGER: There are three houses behind,
19 and we haven't heard any objections from them, but
20 I haven't spoken to them again.

21 MEMBER WILLIAMS: But they've all gotten
22 notice?

23 MR. LOWINGER: They've all been noticed, yes.

24 CHAIRMAN KEILSON: Any other comments from
25 the Board?

1 MEMBER FEIT: No. But as long as Mrs. Elias
2 is here, I would like to ask her why she submitted
3 plans that were completely unreadable and we had
4 to request larger plans?

5 MS. ELIAS: And you did receive them, I
6 believe.

7 MEMBER FEIT: But why did you submit
8 originally plans that you could have looked at and
9 know were not readable?

10 MS. ELIAS: Actually, I thought they would be
11 easier to handle than a large set so I was trying
12 to look out for your welfare, not for mine.

13 CHAIRMAN KEILSON: Thank you.

14 MEMBER GOTTLIEB: Can I address the
15 applicant?

16 MR. BONESSO: Absolutely, absolutely.

17 MEMBER GOTTLIEB: Do you still own the two
18 houses there or is there one house that's adjacent
19 to -- this is the one we're looking at right now.

20 MR. LOWINGER: Right. We still own these on
21 Causeway which is this house.

22 CHAIRMAN KEILSON: Having said all of that,
23 Mr. Rosen.

24 MEMBER ROSEN: For.

25 CHAIRMAN KEILSON: Mr. Gottlieb.

1 MEMBER GOTTLIEB: For.

2 CHAIRMAN KEILSON: I am for. And once again,
3 the aesthetics are beautiful.

4 MS. ELIAS: Thank you.

5 CHAIRMAN KEILSON: Mr. Feit.

6 MEMBER FEIT: Abstain.

7 CHAIRMAN KEILSON: Okay. Miss Williams.

8 MEMBER WILLIAMS: I'm for. And I'd love to
9 be invited over when it's done because I'm sure it
10 will be gorgeous.

11 MR. LOWINGER: Thank you.

12 MEMBER GOTTLIEB: Are you going to put a
13 topiary in this house also?

14 MR. LOWINGER: Yes.

15 MEMBER GOTTLIEB: That was in the original
16 plan?

17 MR. LOWINGER: It still is.

18 CHAIRMAN KEILSON: How much time would the
19 applicant like?

20 MR. BONESSO: Two years.

21 CHAIRMAN KEILSON: Before the economic
22 reversals. Having said that, we adjourn.

23 (Whereupon, the hearing concluded at
24 8:45 p.m.)

25 *****

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

5 Mary Benci

6 MARY BENCI, RPR
7 Court Reporter
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