

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 July 23, 2014
7:33 p.m.

7 APPLICATION: Passmore
8 111 Barrett Road
9 Lawrence, New York

10 P R E S E N T:

11 MR. LLOYD KEILSON
12 Chairman

13 MR. EDWARD GOTTLIEB
14 Member

15 MR. MARK SCHRECK
16 Member

17 MR. LESTER HENNER
18 Member

19 MS. ESTHER WILLIAMS
20 Member

21 MR. THOMAS V. PANTELIS, ESQ.
22 Village Attorney

23 MR. MICHAEL RYDER
24 Building Department

25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Good evening, ladies and
2 gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. Please turn off any cell phones,
4 and if there's a need for conversation please take
5 it outside. Thank you very much.

6 Mr. Ryder, proof of posting?

7 MR. RYDER: Mr. Chairman, I offer proof of
8 posting.

9 CHAIRMAN KEILSON: Very good. Thank you very
10 much.

11 All right. The first matter we're addressing
12 is a request for an extension on a variance from
13 Dr. Craig Passmore of 111 Barrett Road. We're in
14 receipt of a letter. The variance was granted in
15 September 2012. I assume it's expiring in
16 September of 2014.

17 MR. RYDER: Correct.

18 CHAIRMAN KEILSON: Okay. And because of some
19 adverse financial situations he was unable to
20 fulfill the construction that he had hoped to do.
21 He's asking us for an extension of a year. I
22 would recommend we offer the two years so that we
23 won't have to face another deadline if there's any
24 other obstacles or impediments.

25 MEMBER GOTTLIEB: Mr. Chairman, do we know if

1 any work has started yet?

2 CHAIRMAN KEILSON: I assume not because it
3 appears that --

4 MR. RYDER: That's correct.

5 CHAIRMAN KEILSON: -- he's waiting on the
6 funding.

7 MEMBER GOTTLIEB: So there's been no
8 inconvenience to the neighbors?

9 CHAIRMAN KEILSON: Mr. Ryder.

10 MR. RYDER: The permit is still pending as
11 well.

12 MEMBER GOTTLIEB: Okay. So there's been no
13 inconvenience to the neighbors.

14 MR. RYDER: No.

15 MEMBER GOTTLIEB: Fine, two years.

16 (Continued on the following page.)
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1 CHAIRMAN KEILSON: Okay. Everybody approve?
2 It's approved.

3 MEMBER WILLIAMS: For.

4 MEMBER SCHRECK: For.

5 MEMBER GOTTLIEB: For.

6 (Whereupon, the hearing concluded at
7 7:34 p.m.)

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 July 23, 2014
7 7:34 p.m.

8 APPLICATION: Zimmer
9 190 Lakeside Drive South
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. MARK SCHRECK
17 Member

18 MR. LESTER HENNER
19 Member

20 MS. ESTHER WILLIAMS
21 Member

22 MR. THOMAS V. PANTELIS, ESQ.
23 Village Attorney

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

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1 CHAIRMAN KEILSON: The first matter we're
2 addressing tonight is Zimmer, 190 Lakeside Drive
3 South. If they or their representative is here.

4 Mr. Pantelis, if you want to give a quick
5 preamble.

6 MR. PANTELIS: Well, the Board is very
7 familiar with the applications that they have
8 before it. In almost all cases they've seen the
9 properties; they're certainly familiar with the
10 plans that you submitted. We would ask that you
11 relate your request to the variances that are
12 advertised so that we have an intelligent
13 understanding of what it is that you are actually
14 asking for.

15 CHAIRMAN KEILSON: Just tell the reporter
16 your name and address.

17 MR. ZIMMER: Eric Zimmer, 190 Lakeside Drive
18 South, in Lawrence, New York.

19 CHAIRMAN KEILSON: That's fine.

20 The instant case, Mr. Zimmer, I think we're
21 all familiar with it, and it's really a de minimis
22 request. So just state for the record what you're
23 requesting, and then we'll address it in short
24 order.

25 MR. ZIMMER: Okay. The request is for to

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1 extend our dining room. It's an extension of only
2 the first floor. It's a total extension of 133
3 square feet; 71 square feet is as of right. The
4 variance is for the 62 feet. We need the --

5 MR. PANTELIS: I think you're incorrect.
6 It's maybe 64 plus.

7 CHAIRMAN KEILSON: 64.43 reads on the denial
8 letter.

9 MR. ZIMMER: I know it said that. It was 133
10 minus 71.

11 CHAIRMAN KEILSON: We have a different
12 calculator in the Village.

13 MR. PANTELIS: We would rather go with 64.43.

14 MR. ZIMMER: Go with the higher number.

15 MEMBER HENNER: 62.

16 MR. ZIMMER: We'll take it, 64.

17 It's only going to be the first floor. We're
18 going to tie the roof line into the existing roof
19 line, or how we're going to restructure the roof
20 line so it's one contiguous roof line. We have a
21 need for -- the need is for the dining room. Our
22 dining room is -- basically, it's a square, and
23 the problem is we frequently have a lot of guests
24 either on my wife's family, my family. Also, I
25 teach in a yeshiva, and we frequently have a lot

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1 of boys from yeshiva over, and basically we don't
2 really have enough room for the table, basically,
3 because the dining room is a square, it doesn't go
4 lengthwise, so really the whole issue is to make
5 the length of the dining room longer.

6 CHAIRMAN KEILSON: Mr. Zimmer, we understand
7 very much the case, and I think it's a record for
8 modesty in terms of I don't think we've seen a two
9 percent request, certainly not in the last ten
10 years, so I don't think we have to belabor beyond
11 that. Are there any questions from the Board?

12 MR. PANTELIS: Any questions from the public?

13 CHAIRMAN KEILSON: Are there any questions
14 from anybody present this evening?

15 (No response.)

16 CHAIRMAN KEILSON: Okay. Evaluating the
17 benefit to the applicant as opposed to any
18 detriment in terms of the community or the like,
19 using the statutory criteria we will vote at this
20 point. Mr. Henner.

21 MEMBER HENNER: I'm in favor.

22 CHAIRMAN KEILSON: Mrs. Williams.

23 MEMBER WILLIAMS: For.

24 CHAIRMAN KEILSON: Mr. Gottlieb.

25 MEMBER GOTTLIEB: For.

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1 CHAIRMAN KEILSON: Mr. Schreck.

2 MEMBER SCHRECK: For.

3 CHAIRMAN KEILSON: And I vote for.

4 MR. ZIMMER: Thank you very much.

5 CHAIRMAN KEILSON: We'll give you -- I think
6 we'll give you officially two years, and
7 obviously, if you can accelerate.

8 MR. ZIMMER: Hopefully it doesn't take that
9 long.

10 CHAIRMAN KEILSON: All right.

11 MR. ZIMMER: Thank you very much.

12 CHAIRMAN KEILSON: Good luck to you.

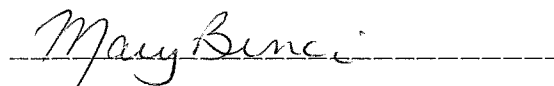
13 (Whereupon, the hearing concluded at
14 7:38 p.m.)

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

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 July 23, 2014
7 7:38 p.m.8 APPLICATION: Hass
9 27 Merrall Drive
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman14 MR. EDWARD GOTTLIEB
15 Member16 MR. MARK SCHRECK
17 Member18 MR. LESTER HENNER
19 Member20 MS. ESTHER WILLIAMS
21 Member22 MR. THOMAS V. PANTELIS, ESQ.
23 Village Attorney24 MR. MICHAEL RYDER
25 Building DepartmentMary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Hass.

2 MR. AVRUTINE: Good evening, Chairman,
3 members of the Board. Appearing for the
4 applicants, Howard Avrutine, 575 Underhill
5 Boulevard, Syosset.

6 This is the application of Ari Hass an Elisa
7 Hass for variances required in order to renovate
8 and construct additions to an existing
9 single-family home. The premises on the
10 application is located on the southerly side of
11 Merrall Drive, 254.98 feet east of Broadway, and
12 has a street address of 27 Merrall Drive. It's
13 also known as Section 40, Lot 208.

14 CHAIRMAN KEILSON: I don't want to interrupt
15 you. We've seen the matter before, right?

16 MR. AVRUTINE: Okay. Do you want me to cut
17 through that, Mr. Chairman?

18 CHAIRMAN KEILSON: So we really would
19 appreciate it. I also want to commend you on your
20 preparation of the papers, the clarity.

21 MR. AVRUTINE: Good. I'm glad that it was
22 helpful.

23 CHAIRMAN KEILSON: Your up-front investment
24 of time has given us a much easier burden in terms
25 of evaluating and in terms of the plans of the

1 architect so to have a lineup of the original
2 approved plans in terms of the depiction of the
3 property and the elevations it's been very helpful
4 in analyzing. And if in the future all such
5 matters were handled in the same way we'd probably
6 have half the time spent at hearings.

7 MR. RYDER: I believe so.

8 MR. PANTELIS: Mr. Avrutine, he's going to
9 put that in his firm brochure.

10 CHAIRMAN KEILSON: But having said that.

11 MR. AVRUTINE: Thank you, Mr. Chairman. I'll
12 cut to the chase. As you know, the variances were
13 previously issued on December 20th of 2012 with
14 respect to the subject premises. All of the
15 variances sought today are either identical or
16 less severe than approved back in 2012. For
17 instance, building coverage, the maximum permitted
18 is 2,340 square feet. The existing is 2,473
19 square feet, which is 5.6 percent overage.
20 Previously approved by the Board in 2012 was
21 2,603, that's an 11.2 percent overage, which was
22 approved. The new plan 2,558, 9.3 percent
23 overage, so it is less than the Board approved in
24 2012.

25 Similarly, the rear yard 30 feet is required;

1 existing is 28.83 feet. Previously approved was
2 26 feet 4 inches. On the new plan it is 26 feet 8
3 inches. So it is more compliant than previously
4 approved, although we still require a rear-yard
5 variance.

6 With respect to the northwest side side yard
7 height setback, permitted is 1.5, previously
8 approved was 1.8, new plan 1.75. So again, less
9 than previously approved.

10 With respect to the southeast side side yard
11 height setback, permitted again is 1.5, previously
12 approved 1.9, and the new plan the same, 1.9.

13 The rear yard height setback permitted is
14 0.74, previously approved was 1.0 and the new plan
15 is 0.90, less than previously approved. So that's
16 essentially what we're dealing with, identical
17 relief as to that previously sought with no
18 additional variances being sought than were
19 previously requested or approved, and all but one
20 are less severe, one being identical.

21 I do have a petition I'd like to hand up for
22 the record, which we have three of the four
23 abutting property owners have signed, and I've
24 marked the radius map to depict the property
25 owners who have signed the petition that they have

1 no objection (handing). And unless the Board has
2 any questions regarding the application, that
3 would be our case.

4 MR. PANTELIS: If I may, if we can just mark
5 this as Applicant's Exhibit A for the purposes of
6 this hearing, or one, Applicant's Exhibit 1.

7 CHAIRMAN KEILSON: My personal concern was on
8 the south side or where there are additional
9 windows over the previous presentation. So I
10 wanted to know if that neighbor was approached.
11 Is it one of these three neighbors?

12 MR. AVRUTINE: Yes, it is. That neighbor was
13 approached, and as said, that they are supportive
14 of the application. They signed the petition.

15 CHAIRMAN KEILSON: They saw the new plans and
16 they understand the difference between the first
17 set and the second set?

18 MR. AVRUTINE: Yes. Mr. Hass met with them
19 personally.

20 MR. HASS: I met with them personally.

21 CHAIRMAN KEILSON: Please state your name and
22 address for the record.

23 MR. HASS: Ari Hass, 2028 North Monticello,
24 Chicago, Illinois 60659. I was in town a couple
25 of weeks ago to meet some of the neighbors as

1 well. I had the opportunity to meet with all of
2 them, yes, all of them in person with copies of
3 the new plans, showed them elevations as well.

4 This particular neighbor I believe is
5 Mr. Goodman to the left as you face the house.
6 Both him and his wife saw the plans and
7 demonstrated full support. So that's the
8 petition. They signed, you know, they offered any
9 follow-up if needed.

10 CHAIRMAN KEILSON: On the north side who is
11 that neighbor?

12 MR. HASS: On the north side is my fine
13 neighbor here, Mrs. Lichtman.

14 CHAIRMAN KEILSON: We'll hear from her as
15 well. Do you have a letter of support from her?

16 MR. HASS: I don't, not yet. We're hoping to
17 work that out tonight.

18 CHAIRMAN KEILSON: Any questions from the
19 Board?

20 MEMBER HENNER: I want to ask you about the
21 basement.

22 MS. LICHTMAN: That's my concern. That is my
23 concern.

24 MR. AVRUTINE: The height of the basement I
25 believe is currently seven feet. It's going to be

1 raised to eight feet. We do have a letter. I
2 know Mrs. Lichtman has concerns about drainage
3 issues. We have a letter from Soil Mechanics
4 Drilling Corporation dated July 22, which
5 basically states that the work that's being done
6 in the basement, to just simply lower it
7 essentially by about a foot, will not cause any
8 drainage problems and, of course, it does not --
9 the footprint of the basement is not changing.
10 It's just a matter of lowering it and so it
11 doesn't impact the zoning request before you
12 tonight. We do have a letter from Soil Mechanics
13 where a professional engineer who is employed by
14 Soil Mechanics offers his certification that there
15 will be no negative impact as far as water
16 intrusion resulting from this. If I could submit
17 that for the record.

18 CHAIRMAN KEILSON: Mr. Ryder of the Building
19 Department, are you aware of that fact?

20 MR. PANTELIS: We'll mark that as Applicant's
21 2, and maybe Mr. Ryder wants to look at it.

22 CHAIRMAN KEILSON: Is the Building Department
23 sensitive to the fact that they're actually
24 adjusting the height of the basement and does it
25 have any impact on anything?

1 MR. RYDER: We'll request plans, revised
2 plans to depict that. And the concern of the
3 Building Department would be the storm water
4 retainage, and Mr. Hass has submitted a plan for
5 storm water retainage, which is sufficient for the
6 roofed-over structures.

7 MR. PANTELIS: I think so that the record is
8 clear, the Board has jurisdiction over the
9 variances that are before it. Ultimately, the
10 responsibility for ensuring that there's
11 compliance in terms of drainage and water issues,
12 the Building Department must certify that it meets
13 those standards, code standards, and will not
14 issue permits or C of O's unless those
15 requirements are met.

16 MR. RYDER: Correct.

17 MR. AVRUTINE: And the Hasses will certainly
18 ensure they don't want to cause a problem for
19 anyone and will absolutely make sure that all such
20 requirements are satisfied.

21 MEMBER GOTTLIEB: Mr. Avrutine, I may have
22 missed this. When you say that the basement is
23 currently seven feet and it's going to be eight
24 feet --

25 MR. AVRUTINE: Correct.

1 MEMBER GOTTLIEB: -- does that mean you're
2 excavating a foot further down, or are you using
3 the existing foundation and making the ceiling
4 higher?

5 MR. HASS: If I could just speak to that and
6 why that's been a recent change. We're in the bid
7 process. Two out of the three GC's that we've met
8 with recommended because of the -- they're going
9 to be digging trenches for the sewer lines for the
10 basement bathrooms, and hand French drains on the
11 perimeter, and they're pretty much going to tear
12 up 60 percent of the concrete floor because of
13 that. Once they're doing that they recommended
14 you might as well, if they're doing that, might as
15 well raise the ceiling height. Right now it's
16 from the floor to the bottom of the joist is seven
17 feet. We were concerned by the time we put
18 air-conditioning ducts, dry wall, we would end up
19 with a six-foot-two, six-foot-four ceiling. And
20 that option once we're open they suggested to dig
21 down, and like you mentioned, just on the existing
22 and if it's amenable with -- you know, with the
23 Board, we certainly would like to do that.

24 MR. RYDER: If I may, for minimum code
25 requirement is seven feet so you would have to go

1 down.

2 MEMBER GOTTLIEB: Is the house coming down or
3 are you working with the existing structure?

4 MR. HASS: Well, as the project evolved,
5 initially we were going to keep the outside frame,
6 the second floor, the foundation is staying. At
7 this point pretty much all of the perimeter walls
8 will end up being either moved or taken down.
9 There's a portion on the north side that may stay.
10 That's where we have the chimney lines, pipes
11 coming up from the boilers. We're trying to
12 retain that foundation wall, but for the most part
13 it's going to be a pretty thorough renovation.

14 CHAIRMAN KEILSON: The question we have now
15 is should this have been viewed as a new
16 construction as opposed to what's been presented
17 to date, Mr. Ryder? I don't know if the Board
18 viewed the original --

19 MR. RYDER: Right. My understanding was that
20 the existing foundation was going to be
21 underpinned, as per our conversation. When we
22 remove the foundation and all of the framing
23 members, the vertical supports, now we're talking
24 about new construction, which changes the
25 application.

1 MR. HASS: The foundation walls on the
2 perimeter do stay. Am I understanding correctly?
3 The floor is coming out. The walls are staying.

4 CHAIRMAN KEILSON: Didn't we go beyond that
5 in recent criteria that we had set down for the
6 Board that it's not simply the foundation. Isn't
7 it in terms of percentage of the building?

8 MR. RYDER: Once the roof is removed and the
9 vertical supports, it's considered a new
10 structure. That's how we determine it under the
11 definition, and that is the definition of a
12 structure in our code.

13 MEMBER WILLIAMS: What is going to be left?
14 Explain what's going to be left from the original
15 house.

16 MR. HASS: Frankly, the technical details,
17 the architect I have him on standby if you want
18 to. We couldn't have him here tonight. I can
19 call him if needed. I'm familiar with the
20 generalities of the plans. You're talking about
21 side supports, underpinnings. I don't want to
22 speak incorrectly. I'm not even sure how to
23 technically answer.

24 MEMBER GOTTLIEB: It's your understanding
25 when they do the construction the majority of the

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1 house as it stands now will be removed, the roof
2 is coming off?

3 MR. HASS: The roof is coming off. The
4 second floor is definitely coming off.

5 MEMBER GOTTLIEB: Which pretty much leaves
6 some of the retaining -- or some of the vertical
7 concrete basement walls?

8 MR. HASS: And the first wall with the
9 separator between the basement and the main floor
10 is staying. That's where we're going down. We
11 are not trying to raise any floor. This is an
12 option that's been only recently brought up
13 because the GC's were -- I guess what they call
14 the valuation area of the basement and the levels
15 to try to achieve the ceiling height.

16 MR. RYDER: How about the first floor seaming
17 joist?

18 MR. HASS: I know since the house has flooded
19 that we made an effort, and upon the GC's
20 recommendation to do the best we can to make sure
21 those were not getting molded, which we've done.

22 MEMBER HENNER: What do you mean the house
23 was flooded?

24 MR. HASS: We've had quite the saga. We had
25 a pipe burst. We had the oil heat over the winter

1 apparently leaked out, ran out. We had a pipe
2 froze, busted. We had a flood. I mean, we had a
3 big mess. The back left corner of the house, the
4 kitchen/dining room area we had to tear that all
5 out and we're doing our best to maintain, which I
6 think we did. There is no mold on there. There
7 was an issue that was discussed, so I would
8 imagine based on that he's certainly planning on
9 keeping some of that. I feel ill equipped to
10 answer all the technicalities properly.

11 MR. RYDER: Let me try one more time, just so
12 I'm clear. The existing foundation, the perimeter
13 walls are going to stay?

14 MR. HASS: Yes.

15 MR. RYDER: And you're going to underpin the
16 perimeter walls, and you're going to leave the
17 first floor deck, basically?

18 MR. HASS: I believe so. The underpinning is
19 in order to lower the bottom, that's how you
20 support the sides while the bottom comes out.

21 MR. RYDER: Correct, correct.

22 MR. HASS: Yes. That's an option. We
23 haven't confirmed that, but even the way you're
24 saying if we have to have the seven feet, two out
25 of the three GC's strongly recommended we do that.

1 That's why this is kind of changing over the last
2 two weeks.

3 CHAIRMAN KEILSON: One of our concerns is
4 people come in requesting variances with the
5 understanding that there will be a retention of a
6 significant portion of the existing edifice and
7 then, lo and behold, generally it starts with,
8 well, there was a problem with the joist. There
9 was a problem with this.

10 MR. RYDER: Mold, rot.

11 CHAIRMAN KEILSON: The bottom line is
12 anything of that magnitude would have to be run by
13 the Building Department before those types of
14 steps are taken. I think you should acquaint your
15 architect with the GC. It's not the first time
16 this has come before us. It's a little unusual
17 now we're catching it now because of the new
18 presentation on the construction.

19 MR. PANTELIS: So then the question for the
20 Board then at least will be if Mr. Ryder makes a
21 determination that it is a new construction, does
22 the Board want this application to come back for a
23 further reconsideration or not? Or is it simply a
24 Building Department matter with respect to what
25 you're going to require code-wise, fee-wise, and

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1 whatever else it might be.

2 CHAIRMAN KEILSON: Right. I think heretofore
3 in such situations it was a judgment that was
4 shared. At the time when it arose, the Building
5 Department brought it to the attention of the
6 Board and then there was a discussion as to
7 whether it was contemplated, not contemplated, and
8 as a matter of fact we're coming around for a
9 second time, and I'm not sure the third time is
10 going to be any better.

11 Questions from the Board?

12 MEMBER HENNER: I want to ask Mr. Ryder, you
13 said that there's a minimum ceiling height of
14 seven feet, I think was the requirement down
15 there.

16 MR. RYDER: For habitable space in the
17 basement.

18 MEMBER HENNER: Yes. And they're talking
19 about digging down a foot. But there's no -- is
20 there any kind of requirement with respect to a
21 maximum? In other words, somebody says -- this
22 thing doesn't say -- this letter doesn't say how
23 far down you're digging. If someone decides, you
24 know what, it really would be better instead of a
25 seven-foot ceiling, we should make it eight, let's

1 dig down two feet, okay, is that -- you know, I
2 don't know that this letter addresses it. I don't
3 know who addresses it. Because if it does impact
4 then on the water situation or the drainage,
5 whatever you want to call it, who is responsible
6 for that? I think Mr. Avrutine said that they're
7 taking care of it. So I don't know if that means
8 that somebody is on the hook, that they agree to
9 indemnify anybody. I don't know what that means
10 that they're taking care of it. And I don't know
11 whether those plans come to you. I mean, tonight
12 is the first we're hearing, I think, that someone
13 is digging -- is digging down there, correct, on
14 the variance?

15 MR. RYDER: Correct.

16 MEMBER HENNER: When the variance was granted
17 in December, am I right, when the variance was
18 granted in December? I was not here.

19 MR. AVRUTINE: It was not contemplated that
20 the height was going to be raised.

21 MEMBER HENNER: So that is a change.

22 MR. AVRUTINE: If I may interrupt, we would
23 consent to a condition whereby it would be no
24 greater than eight feet so that issue is resolved.
25 In other words, it would be the one-foot increase

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1 to eight feet so that we have the eight-foot
2 coverage and we meet the habitable space
3 requirements, and we would agree to that as a
4 condition of the approval.

5 MR. RYDER: That works for the Building
6 Department. But to answer your question,
7 Mr. Henner, yes, he could go down nine, ten feet
8 if we don't regulate that going down, but we do.

9 MEMBER HENNER: So who does?

10 MR. RYDER: The Building Department.

11 MEMBER HENNER: You said you don't regulate
12 it.

13 MR. RYDER: Well, I have not seen any
14 applications.

15 MR. AVRUTINE: I think in many instances that
16 would be based upon the height of the water table
17 and similar items that would dictate whether you
18 could dig down. If you had a water table 20 feet
19 lower, you could go down.

20 MEMBER HENNER: So my question, and this is
21 with all due respect to Soil Mechanics Drilling
22 Corp., who I don't know, but I don't know any
23 drilling corps, so they might be very prominent,
24 okay. What's to protect neighbors and the
25 Village? I mean, if there's a situation, you

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1 know, he gave you a letter based on what he's been
2 told and this letter is dated yesterday, okay.

3 MR. HASS: This was specifically -- I'm sorry
4 to interrupt, but we specifically investigated
5 based on Mrs. Lichtman's --

6 MEMBER HENNER: I understand. Your thing is
7 kind of a little bit in flux in terms of exactly
8 what you're doing, so he's opining in terms --
9 he's opining based on what somebody told him
10 yesterday or a week ago, we're going to go down
11 about a foot, blah, blah, blah. I assume he came
12 out to the house before he gave such a letter.

13 MR. HASS: Sure.

14 MEMBER HENNER: Let's say he's wrong. Let's
15 say he's wrong. Let's say it turns out that you
16 actually go down a foot and a quarter, or even you
17 go down eight inches and it turns out that
18 notwithstanding what he says there is an adverse
19 effect, and it turns out that your neighbors on
20 all sides end up getting excess drainage water
21 that goes onto them that they didn't have before,
22 and now the new guys from Chicago they got some
23 water. What's the answer to that? Then do you
24 stand behind it?

25 MR. AVRUTINE: I can address that, sure.

1 MEMBER HENNER: Please, thanks.

2 MR. AVRUTINE: The applicant -- let's change
3 the scenario for a moment. Let's assume we needed
4 no variances whatsoever.

5 MEMBER HENNER: Correct.

6 MR. AVRUTINE: We just were going to build an
7 as-of-right house here and we wanted to have a
8 full height basement. We would have to submit
9 plans that met all the requirements. We would
10 have to submit drainage designs that had a
11 sufficient capacity to ensure no runoff to other
12 properties. If despite all of that and the house
13 was built and all of a sudden there's problems on
14 adjoining property, we would have to then take
15 remedial steps. We would have to come back to
16 Mr. Ryder and say okay, what --

17 MEMBER HENNER: I'm sorry, let me interrupt
18 you. When you say we have to do it, who says? I
19 mean, my property is flooded all the time, nobody
20 has to do anything. You know what I'm saying?
21 And you don't live anywhere near me, so it has
22 nothing to do with you. I'm just saying this is
23 not a personal water issue on my part. Nobody has
24 to do anything unless they're bound to do it.

25 MR. AVRUTINE: The code requires that you do

1 not discharge water onto any other property, so
2 there is a code violation. In your situation as
3 an example, if neighbors are draining onto you,
4 that's a code violation.

5 MEMBER HENNER: Okay.

6 CHAIRMAN KEILSON: You're very tolerant. My
7 wife calls the Building Department every day.

8 MEMBER HENNER: Next time I call I'm using
9 your name.

10 MR. RYDER: On top of that we have an open
11 building permit. So time out, stop the job, let's
12 correct the drainage issue.

13 MEMBER HENNER: So are you okay with it?

14 MR. RYDER: I'm okay with this. I'm okay if
15 he was to underpin the existing foundation,
16 absolutely.

17 MR. HASS: Would it help if we have the
18 engineer quantify up to the eight-foot limit?

19 MEMBER HENNER: You have to satisfy the
20 Building Department.

21 MR. HASS: We can have the engineer -- he did
22 soil borings just two days ago.

23 MEMBER HENNER: Are you sure the current
24 height is seven feet?

25 MR. HASS: From the floor to the bottom of

1 the joist, yes.

2 MEMBER GOTTLIEB: Okay. Mr. Avrutine, so I'm
3 looking at the plans now and I see on this
4 application there is a plan for basement, and I
5 really don't remember the original plan, but I
6 believe there was no mention of a basement on the
7 prior application. And the reason, I mean, unless
8 there was --

9 MR. RYDER: Yes, there was.

10 MEMBER GOTTLIEB: There was a basement.

11 MR. RYDER: There was, yes.

12 MEMBER GOTTLIEB: Was it a seven-foot
13 basement or eight foot?

14 MR. RYDER: I don't recall the height, but I
15 did pull the plans prior to the meeting, and the
16 original was with an interior alteration to the
17 existing basement.

18 MEMBER GOTTLIEB: So there were going to be
19 bedrooms and -- or rather, guest rooms and
20 bathrooms there.

21 MR. RYDER: Yes, that was asked earlier today
22 and I looked into it.

23 MEMBER GOTTLIEB: Was that going to make it
24 seven foot --

25 MR. RYDER: I have the plans. I can look.

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1 MEMBER GOTTLIEB: The reason why I mention it
2 is because previously we had approved something
3 without a basement, and all of a sudden now you
4 have another living space that would be considered
5 in the first application, but it wasn't presented
6 then, so be it.

7 MR. AVRUTINE: The basement is existing and
8 it's a seven-foot-high basement, so it was --

9 CHAIRMAN KEILSON: Mr. Gottlieb is driving at
10 the fact when the variances were considered during
11 the first round he wanted to know whether the
12 basement was in consideration at the time, did we
13 have it depicted as such?

14 MR. AVRUTINE: It was depicted.

15 MR. RYDER: It's right here.

16 MR. AVRUTINE: It was absolutely depicted.

17 MEMBER GOTTLIEB: Thank you.

18 MR. HASS: The floor plan you had on the
19 first sheet.

20 MR. RYDER: Seven feet. Seven feet,
21 Mr. Gottlieb.

22 MEMBER GOTTLIEB: Thank you.

23 CHAIRMAN KEILSON: Any further questions from
24 the Board? All right, anyone from the audience?
25 Mrs. Lichtman.

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1 MS. LICHTMAN: The only thing --

2 CHAIRMAN KEILSON: Please give your name and
3 address.

4 MS. LICHTMAN: My name is Sandra Lichtman,
5 21 Merrall Drive, Lawrence. I have no objections
6 to anything, except the water table on the block
7 which has been a problem. We used to have what
8 was called Merrall Lake, we did. We called it. I
9 think that there was some drainage correcting --
10 there was some drainage that was corrected, but I
11 know that with Hurricane Irene and Hurricane Sandy
12 we were all hit and I just hope that this is not
13 going to impact.

14 CHAIRMAN KEILSON: Other than the hurricanes,
15 do you have recurring issues?

16 MS. LICHTMAN: Not anymore, not anymore.

17 CHAIRMAN KEILSON: You sent it to Harborview
18 North where I live, or to Mr. Henner's.

19 MS. LICHTMAN: So that is my concern. It's
20 just the whole, all the neighbors, all the
21 neighbors. I mean, we've all had a lot of water.
22 I mean, and that's my sole --

23 CHAIRMAN KEILSON: We're all very mindful of
24 the Village law, equally so, and we're trying to
25 have greater sensitivity in terms of the new

1 construction in the Village, taking that into
2 consideration because it will probably not get
3 better. There is nothing suggesting it will get
4 better. If anything, there's a deterioration of
5 the situation.

6 MS. LICHTMAN: Well, I just appreciate the
7 concern of the Board.

8 CHAIRMAN KEILSON: I think we heard tonight
9 the willingness on the part of the Building
10 Department to be responsive. So in the event that
11 you find that something arises, or you have a
12 question, do not hesitate to call Mr. Ryder.

13 MS. LICHTMAN: Okay.

14 CHAIRMAN KEILSON: Or Mr. Pantelis in
15 Florida.

16 MS. LICHTMAN: Thank you.

17 MR. AVRUTINE: If I could briefly attempt to
18 assuage Mrs. Lichtman a little bit further. We do
19 have the engineer's assessment, and in addition
20 we're going to be installing drainage structures
21 on our property which are designed to ensure that
22 we retain all of our water. So to the extent that
23 maybe that's not happening today because of
24 whatever conditions there are, it should be better
25 because we're going to -- we're submitting a

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1 design that's been engineered to retain all of our
2 own water. So there should be -- assuming the
3 engineering is correct and that's verified by the
4 Building Department, there should be no runoff.

5 CHAIRMAN KEILSON: You recognize one of our
6 concerns would be you have a remote architect.
7 It's not the same as having somebody local where
8 we have resources or having experience in the
9 Village, and although we commend the architect in
10 terms of the design, but again, not being present
11 in the Village on an ongoing basis so the Building
12 Department will have to be yet more vigilant.

13 MR. RYDER: Understood, Mr. Chairman.

14 MR. AVRUTINE: Understood.

15 CHAIRMAN KEILSON: Okay. Any further
16 questions from the Board? Okay, this is a little
17 bit of an unusual situation in that we've already
18 approved it, and we were just concerned about the
19 changes, and I think we found that the changes
20 have actually moderated the request for the
21 variance. I think we should go on the record in
22 terms of our concern about whether it becomes new
23 construction, at which time we'll have to
24 reevaluate, but on the basis of what we see here
25 and taking into consideration that we already

1 approved it based on normal criteria, I think
2 we'll ask for a vote at this time.

3 Mr. Schreck.

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

5 CHAIRMAN KEILSON: Mr. Gottlieb.

6 MEMBER GOTTLIEB: For.

7 CHAIRMAN KEILSON: Mrs. Williams.

8 MEMBER WILLIAMS: For.

9 CHAIRMAN KEILSON: Mr. Henner.

10 MEMBER HENNER: For.

11 CHAIRMAN KEILSON: And I will vote for as
12 well. We'll go with the two years.

13 MR. RYDER: Two years, and Board of Building
14 Design.

15 CHAIRMAN KEILSON: Board of Building Design.

16 MR. AVRUTINE: Understood.

17 CHAIRMAN KEILSON: If you want more up front
18 in terms of three years or two and a half years.

19 MR. HASS: If you're giving the time, might
20 as well, but God forbid it takes that long.

21 CHAIRMAN KEILSON: Certainly, with the
22 neighbors' concerns if you start construction we
23 would like you to expedite it because it becomes
24 an intolerant situation. Mr. Pantelis.

25 MR. PANTELIS: That's why two would be the

1 normal.

2 CHAIRMAN KEILSON: Right. But it's a major
3 job, but all right, so how about two and a half
4 years? We'll compromise on that.

5 MR. AVRUTINE: Thank you.

6 MR. PANTELIS: Also, I would ask that when
7 the decision is prepared by letter it will
8 specifically reflect the amendments to the prior
9 variances with respect to the difference in
10 certain figures.

11 MR. AVRUTINE: Certainly.

12 MR. HASS: Thank you very much.

13 MR. AVRUTINE: Thank you very much.

14 (Whereupon, the hearing concluded at
15 8:05 p.m.)

16 *****

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

20

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Mary Benci

22

MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 July 23, 2014
7 8:05 p.m.

8 APPLICATION: Kahn
9 20 Muriel Avenue
10 Lawrence, New York

11 P R E S E N T :

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. MARK SCHRECK
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. LESTER HENNER
21 Member

22 MR. THOMAS V. PANTELIS, ESQ.
23 Village Attorney

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Kahn.

2 MR. ROSENFELD: Meir Rosenfeld, 466 Central
3 Avenue, on behalf of the petitioner. This is --
4 it's been a while, so you'll excuse me if I'm a
5 bit rusty.

6 You have before you this evening, as I'm sure
7 this hot Board knows, a request that was
8 originally scheduled to be heard last time around
9 with a 15 percent overage on lot coverage. We
10 have since in consultation with the architect
11 reached a point where we have a 10 percent
12 overage, and in addition I just wanted to address
13 a couple of points that the Chairman articulated
14 so well in that the major concern in the Village
15 as well as particularly in this house would be
16 water issues.

17 There are four, currently four dry wells in
18 the property, each of which is, you know -- let me
19 take that back -- in combination would be more
20 than adequate to handle any drainage. In
21 addition, my clients are willing to, should they
22 be able to get the variance, to in consultation
23 with the Building Department if so required, to
24 install more dry wells and additional trench
25 French systems.

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1 MEMBER HENNER: What's your client's name?

2 MR. ROSENFELD: Kahn.

3 MEMBER HENNER: Because I'm looking at Sara
4 Zahn. Is it Sara Zahn or is it Kahn?

5 MR. ROSENFELD: Mr. Henner, really? Off the
6 record.

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

9 MR. ROSENFELD: As I say, the entire
10 encroachment it consists of additional decorative
11 paving that originally was in compliance, and when
12 my client hired a paving guy directly, a paving
13 contractor directly, the paving contractor as I'm
14 sure you've all been through, said, well, why
15 don't you just do this, and why don't you just do
16 that, without any regard to zoning regulations.
17 Thinking that we were -- that they were covered
18 and they were within it, so my clients acquiesced
19 to it and then realized that there was an overage
20 issue.

21 CHAIRMAN KEILSON: Where was the general
22 contractor during this period of time, or is the
23 paver --

24 MR. ROSENFELD: The paver was independently
25 contracted for. The general contractor was not

1 involved.

2 CHAIRMAN KEILSON: Where was the architect
3 during this period of time?

4 MR. ROSENFELD: The architect has been at all
5 times and as a matter of fact very, very local.

6 CHAIRMAN KEILSON: Yes. He's an architect I
7 hold in high esteem and we've always had great
8 regard, so that's why we were in shock when I saw
9 this application.

10 MR. ROSENFELD: Mr. Shteierman, the
11 architect, is here and can speak to that.

12 CHAIRMAN KEILSON: I was looking forward to
13 it.

14 MR. ROSENFELD: At any rate, before we get to
15 that --

16 MR. PANTELIS: I'm sorry to interrupt.
17 Mr. Ryder and myself were just having a little
18 discussion. You indicated I think in your opening
19 that you reduced it to 10 percent. Do the plans
20 -- do the plans that the Board have reflect 10
21 percent and I see your petition still says 10
22 percent.

23 MR. ROSENFELD: That is correct.

24 MR. PANTELIS: So what do we have?

25 MR. ROSENFELD: The plans that were submitted

1 to the Board show 15 percent overage down from
2 originally what was 25 percent. It's 15 percent
3 now. Mr. Shteierman has had ongoing conversations
4 with the client and with the Building Department
5 to the point that we can now bring it down to 10
6 percent. I will shortly have him testify as to
7 exactly where that has been cropped.

8 MEMBER WILLIAMS: So what we're seeing is not
9 what we are going to be voting on?

10 MR. PANTELIS: Or being asked to vote on,
11 correct.

12 MR. ROSENFELD: It's an interesting way of
13 putting it. It is in fact -- it will be revised.
14 It will be, yes.

15 CHAIRMAN KEILSON: Mr. Rosenfeld, the issue
16 is that while you've been gone there's been a rule
17 that we've promulgated that we like to see what
18 we're voting on and not the night of.

19 MR. ROSENFELD: Understood.

20 CHAIRMAN KEILSON: I think you can appreciate
21 that.

22 MR. ROSENFELD: Hundred percent.

23 CHAIRMAN KEILSON: You had ample time to
24 submit this. It's been a month.

25 MR. ROSENFELD: I will represent to the Board

1 that my understanding was that new plans would be
2 forthcoming. I was -- I was told relatively
3 recently that the architect had revised it.

4 CHAIRMAN KEILSON: Do you want to caucus with
5 the architect?

6 MR. ROSENFELD: What you have before you is
7 what you're going to be voting on.

8 MEMBER WILLIAMS: Just 15 percent.

9 MR. ROSENFELD: The 15 percent. I have been
10 informed that we are at the 15 percent.

11 MEMBER HENNER: So what was the first part of
12 your presentation about? You agreed to come down
13 to 10 percent?

14 MR. ROSENFELD: I have --

15 MEMBER HENNER: Was that off the record? Was
16 that with my stuff? Was that off the record with
17 my stupid comment or was that for real?

18 MR. ROSENFELD: In fact, Mr. Henner, I was
19 under the impression that we had revised it down
20 to 10 percent. I'm being informed now that what
21 you have before you to vote on is in fact -- it is
22 in fact what's submitted. But at this point I
23 wanted to just have the architect possibly explain
24 why we're -- Mr. Shteierman, if you want to --

25 MEMBER HENNER: Quite the intro.

1 MR. SHTEIERMAN: Good evening, ladies and
2 gentlemen. My name is David Shteierman. As
3 you've heard from Mr. Rosenfeld, we're asking for
4 a variance for lot coverage. I did have several
5 conversations with the Building Department. What
6 you see before you is our reduced plan which is
7 approximately 890 square feet over. We did
8 provide and you have photographs.

9 MEMBER HENNER: Could you speak up a little
10 bit.

11 MR. SHTEIERMAN: Sure. We did provide dry
12 wells on the site to handle storm drainage. We
13 feel this would not be increasing the runoff into
14 the village storm system. These were originally
15 provided under the construction. To answer the --
16 to answer the Chairman's questions as to where I
17 was at this point when the paving was done, I was
18 pretty much done with the project.

19 MEMBER WILLIAMS: You were what?

20 MR. SHTEIERMAN: I was finished with the
21 project. The interior house, the house was up.
22 It was just about occupied when all of this was
23 done, and I was not aware of any of this. There
24 was somebody hired to do some landscape design and
25 met with the Kahns who may not have made the right

1 decision by saying sure, sounds great, but they
2 had no idea of the zoning regulations who
3 regulates such things because most clients don't
4 know these things and don't realize why they
5 should have an architect involved in every step,
6 and they went ahead and started doing all of this
7 paving. It's not finished, but a lot of it was
8 done.

9 I did go out there subsequently and measured
10 what was there, it's reflected on the plans, and
11 submitted to the Village, and that's why we are
12 here today requesting such a variance. My client
13 is willing to add additional dry wells if that
14 will satisfy the runoff. They're willing to take
15 on all the runoff for the additional coverage onto
16 their property. And --

17 CHAIRMAN KEILSON: I believe the issue is
18 whether -- obviously, it's of concern to us that
19 in their zeal they ended up with 25 percent
20 excess, but even 15 percent is something that we
21 normally don't approve of. That's the issue
22 before us tonight. Setting aside how it was done,
23 for whatever reason it was done, due to the
24 ignorance and the like.

25 MR. SHTEIERMAN: And that penalty because, no

1 matter what, they will be spending a significant
2 amount of money to correct this. Even for this
3 plan it will require significant renovations to
4 what was already done, at a substantial cost, and
5 I understand they're going to have to swallow
6 that.

7 My other point I'd like to make is if the
8 concern here is storm runoff, they're handling the
9 storm runoff within the site as well. This is
10 figured for a three-inch rainfall, and they are
11 willing to take it upon themselves to provide for
12 that.

13 CHAIRMAN KEILSON: But the general rule is we
14 don't approach it with applicants that lets
15 overbuild and we'll remediate in anticipation of
16 any potential issue. So we really have to review
17 it based on whether it's something that under the
18 current circumstances whether we are approving
19 such excess.

20 MR. SHTEIERMAN: Correct. I'm not suggesting
21 we build it first and then figure out if there's a
22 problem. Obviously, we calculated the --

23 MEMBER HENNER: But it's been built. It's
24 been built first already.

25 MR. SHTEIERMAN: Understood. It's partially

1 built and that will have to be modified to match
2 this plan that's before you. It's my
3 understanding that the whole reason for this
4 zoning -- this surface coverage rule is to control
5 the storm runoff within the Village.

6 MEMBER WILLIAMS: It's also an aesthetic
7 issue.

8 MR. SHTEIERMAN: Again, it was a question I
9 posed to the Village, and the reason I got was
10 that it was for storm runoff.

11 MEMBER WILLIAMS: We're not looking for a
12 concrete --

13 MR. SHTEIERMAN: I understand that. I can
14 appreciate that.

15 MEMBER GOTTLIEB: Mr. Shteierman --

16 MR. SHTEIERMAN: David, please.

17 MEMBER GOTTLIEB: That's why you gave her the
18 card, and I can't pronounce it.

19 MR. SHTEIERMAN: David is fine.

20 MEMBER GOTTLIEB: David, thank you. I just
21 want to point out to my colleagues on the Board,
22 in this particular case, because you have a
23 detached garage --

24 MR. SHTEIERMAN: Correct.

25 MEMBER GOTTLIEB: -- that's something we look

1 at as a Board that's sometimes not pointed out.
2 So if this was an attached garage versus a
3 detached garage you would not get the free 1,500
4 square feet.

5 MR. SHTEIERMAN: Okay. So that is indicated
6 on my drawing exactly what is calculated.

7 MEMBER GOTTLIEB: That's where the numbers
8 come from.

9 MEMBER HENNER: Let me ask you a question.
10 We're kind of trying to look at this as if you're
11 coming in -- stupidly, coming in first without
12 having done the work and making an application for
13 a variance for this. And so part of that would be
14 like to show the hardship, you know, how your
15 concerns outweigh any neighbor concerns, whatever.
16 So what's the hardship for this paving, you know?

17 MR. SHTEIERMAN: The reason why the surface
18 coverage comes up this high is because of the
19 existing pool.

20 MEMBER HENNER: Because of what?

21 MR. SHTEIERMAN: There is an existing pool.
22 So all that contributes to the surface coverage.
23 Whereas a normal residence if it didn't have the
24 pool and the subsequent deck around the pool, this
25 is technically not that much -- you know, this

1 probably would be close or if not in compliance
2 with the coverage. The driveway, the walkways,
3 everything is fine. Since there's a pool, which
4 was existing, and my client likes the pool, would
5 like to keep the pool, and the small deck that
6 goes around the pool, that puts them over the line
7 on the coverage. So to address the aesthetic
8 issue, the pool is not seen from the street as far
9 as paving. Meaning, if we had to comply and there
10 wasn't the pool there, we would still see the same
11 driveway on the side. It's not a huge driveway.
12 You can fit, you know, two cars as you get further
13 back so they can each park a car. The material
14 used for the deck around the pool is marble. It's
15 not a concrete jungle, as they say. The entire
16 back deck and the walkways around the pool and the
17 deck around the pool is all white marble, which is
18 actually -- I had nothing to do with picking it
19 out, but it's actually quite nice.

20 MR. ROSENFELD: If I could just interrupt for
21 a second just to address one issue. The benefit
22 to them far outweighs any negative -- negative --

23 MEMBER WILLIAMS: Impact.

24 MR. ROSENFELD: Thank you. I was looking for
25 the right word. Negative impact because it is all

1 in the backyard, and the backyard is going to be
2 obscured from the street by -- there's high
3 fencing, there's plenty of trees, and
4 aesthetically it is -- it is their optimum use of
5 the rear yard.

6 CHAIRMAN KEILSON: The driveway is not in the
7 backyard.

8 MR. ROSENFELD: No, the driveway is --

9 MEMBER WILLIAMS: This whole section here is
10 right in the front of the house.

11 MR. ROSENFELD: Which section are you
12 referring to?

13 CHAIRMAN KEILSON: The blacktop section.

14 MEMBER WILLIAMS: The blacktop section.

15 MR. ROSENFELD: Well, that's the driveway
16 that's --

17 MEMBER WILLIAMS: No, no, no. This is the
18 driveway. This is the driveway. What is this
19 (indicating)?

20 MR. PANTELIS: What are you pointing to?

21 MR. ROSENFELD: What number are you looking
22 at?

23 MEMBER WILLIAMS: I don't know. This area
24 here (indicating).

25 MR. ROSENFELD: What number?

1 MR. RYDER: The shaded area in the front.

2 MEMBER WILLIAMS: It has a 22 on it. What is
3 that?

4 MR. SHTEIERMAN: That's the driveway.

5 MEMBER WILLIAMS: Yeah, that's not a
6 driveway. The driveway is number 19; that's a
7 driveway. What's number 22? I don't understand.

8 MR. SHTEIERMAN: Okay.

9 MEMBER WILLIAMS: Because you're telling me
10 that you can't see so much -- that --

11 MR. ROSENFELD: Overage.

12 MEMBER WILLIAMS: Overage over here, but what
13 I'm seeing here is the place that could be grass
14 and is not.

15 MR. SHTEIERMAN: I would love the opportunity
16 to explain.

17 MEMBER WILLIAMS: Okay, that's great.

18 MR. SHTEIERMAN: The Village discounts a
19 portion from the front line of the house to the
20 garage, which is why --

21 MEMBER WILLIAMS: Correct, not that wide.

22 MR. SHTEIERMAN: Excuse me?

23 MEMBER WILLIAMS: It doesn't have to be that
24 wide. It has to be the width of --

25 MR. SHTEIERMAN: That's number 23. Do you

1 see the numbers where I marked up each area of
2 paving? If you're looking at the surface area
3 coverage diagram, second in from the left side of
4 the page.

5 MEMBER WILLIAMS: Yeah.

6 MR. SHTEIERMAN: Okay. So number 23 is
7 what's discounted.

8 MEMBER WILLIAMS: What's at 23?

9 MR. SHTEIERMAN: Twenty-three is the portion
10 with the X going to the back garage. That's the
11 strip that's discounted. That doesn't count
12 towards the coverage even if it's paved.

13 MEMBER WILLIAMS: But what I'm asking you
14 about is 22.

15 MR. SHTEIERMAN: I understand.

16 MEMBER WILLIAMS: Go ahead.

17 MR. SHTEIERMAN: Would you like me to
18 explain?

19 MEMBER WILLIAMS: Yes.

20 MR. SHTEIERMAN: Thank you. The portion from
21 the curb to the front line of the building counts
22 as coverage and that's why it's shaded in.

23 MEMBER WILLIAMS: Correct.

24 MR. SHTEIERMAN: Okay. So all number 22 is
25 indicating here, the reason why it's shaded in,

1 the entire thing is paved going back to the
2 garage. The area that's not shaded is not counted
3 towards surface coverage, but to get to the curb I
4 can't drive on grass so that's paved as well. The
5 Village only discounts from the street wall of the
6 house.

7 MEMBER WILLIAMS: You're saying this whole
8 area, this area of 23 is also paved?

9 MR. ROSENFELD: It's the extension of the
10 driveway.

11 MEMBER WILLIAMS: Got it, got it.

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

14 MR. ROSENFELD: I would like to submit that I
15 have nine letters of support including from each
16 of the -- from each of the adjacent neighbors.

17 CHAIRMAN KEILSON: Fine, please.

18 MR. PANTELIS: We'll mark these as an
19 Applicant's Exhibit.

20 CHAIRMAN KEILSON: Is there anyone in the
21 audience who would like to speak to the matter?

22 (No response.)

23 MEMBER GOTTLIEB: I just looked at an overall
24 number of 42 percent surface coverage for the lot.
25 Sometimes I look at that number.

1 CHAIRMAN KEILSON: Mr. Rosenfeld was kind
2 enough to direct us to discuss the criteria in
3 determining whether the benefit to the applicant
4 outweighs the detriment to the health, safety and
5 welfare of the neighborhood, and we have five
6 criteria, and the Board will vote based on their
7 view of the situation and these criteria.

8 Will an undesirable change be produced in the
9 character of the neighborhood and nearby
10 properties?

11 Two: Can the benefit sought by the applicant
12 be achieved by some method other than a variance?

13 Number three: Is the requested area variance
14 substantial?

15 Number four: Will the proposed variance have
16 an adverse effect on the physical or environmental
17 conditions of the neighborhood?

18 Number five: Is the alleged difficulty for
19 the applicant self-created?

20 Okay, we're going to go for a vote.

21 Mr. Schreck.

22 MEMBER SCHRECK: I'm going to vote no.

23 CHAIRMAN KEILSON: Mr. Gottlieb.

24 MEMBER GOTTLIEB: I'm going to vote no.

25 CHAIRMAN KEILSON: Mrs. Williams.

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1 MEMBER WILLIAMS: No.

2 CHAIRMAN KEILSON: Mr. Henner.

3 MEMBER HENNER: No.

4 CHAIRMAN KEILSON: And the Board finds that
5 you fail on all the criteria, and we decline the
6 application.

7 MR. ROSENFELD: Okay, thank you.

8 CHAIRMAN KEILSON: Okay.

9 (Whereupon, the hearing concluded at
10 8:23 p.m.)

11 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 July 23, 2014
7 8:23 p.m.

8 APPLICATION: Stern
9 201 Broadway
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MR. MARK SCHRECK
17 Member

18 MR. LESTER HENNER
19 Member

20 MS. ESTHER WILLIAMS
21 Member

22 MR. THOMAS V. PANTELIS, ESQ.
23 Village Attorney

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Stern of
2 201 Broadway. Will they or their representative
3 please step forward. Please let the stenographer
4 know your name and address.

5 MR. STERN: Asher Stern, 201 Broadway.

6 MS. STERN: Lisa Stern.

7 MR. STERN: I don't know where to start
8 though.

9 CHAIRMAN KEILSON: You are before us for an
10 application.

11 MR. STERN: So I could discuss just the
12 application or are there other questions perhaps
13 regarding the lead-up to the application?

14 CHAIRMAN KEILSON: Well, why don't you
15 discuss the application and we'll see if you need
16 the lead-up.

17 MR. STERN: Okay. At a certain point in time
18 we were concerned about the fact that there was no
19 door opening to our property on Lawrence Avenue.
20 We have a child who attends HASC; he's a disabled
21 child, and the bus company will not stop on
22 Broadway because it's too busy. They only want to
23 drop him off on Lawrence Avenue, and he has low
24 tone and he also has difficulty walking. So we
25 wanted to create an entrance for him into the

1 property on Lawrence Avenue and not have to come
2 around to Broadway.

3 Plus, the fact that on this Broadway side
4 there is -- or on -- I forget which side --
5 there's no sidewalks so it makes it even more
6 difficult. One of the sides doesn't have a
7 sidewalk, so we wanted to make an entrance for him
8 on the Lawrence Avenue side. So we have a garage,
9 but the garage would be hazardous for him to come
10 through, so we created this room which was
11 basically a hallway, a four-by-ten hallway in the
12 driveway, which I believe I submitted pictures for
13 to the Board of how it looks with the room there.

14 Now, what happened was we built the
15 structure, unfortunately, and without realizing
16 that it was not legal because there was a
17 requirement once over 9,000 square feet, I
18 believe, there has to be a two-car garage, and it
19 was turning it into a one-and-a-half-car garage
20 with a four-by-ten mudroom, walk-in room on the
21 side of the house.

22 So Leo, the inspector, came down to the
23 house, and he told my contractor who had already
24 built this structure that it was an illegal
25 structure. So what we did was we submitted the

1 application for this, even though we had already
2 built it, and we applied for the variance
3 subsequently. Instead of doing it the right way,
4 which was to actually apply first and then build
5 it afterwards.

6 MEMBER HENNER: How did that happen? Just
7 out of curiosity.

8 MR. STERN: We didn't know it was illegal.
9 We thought we were just building in our garage.
10 We didn't know that it was a problem. We didn't
11 know how it affected anyone else around us, it was
12 internal, and in terms of how it affects the
13 neighbors now, obviously, I believe the most --
14 probably the most crucial factor is parking space.
15 If we take room out of the garage, I would imagine
16 that there would be less room for parking, and we
17 still can fit one car in the garage but we still
18 have enough sufficient room in the driveway for
19 our two cars and even another car, three cars in
20 the driveway in order to enable -- yeah, and the
21 circular driveway was approved by the Board of
22 Building Design at the previous meeting. So we
23 certainly have enough parking within that area so
24 it doesn't really affect anyone externally or on
25 the outside.

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1 MEMBER SCHRECK: Is there a reason why your
2 son can't go in through, let's say, a back door?

3 MR. STERN: If you look at the property right
4 now, the only thing we have on the property is
5 sliding doors in the back, but there is no deck.
6 There is no -- nothing was submitted on the plan
7 and we don't have any plans yet of doing anything
8 further because of, shall we say, a lack of funds
9 to continue. So we don't really have the ability
10 for him to go out any other way except from the
11 side or from the front on Broadway.

12 MEMBER SCHRECK: He can't go in through the
13 sliding --

14 MR. STERN: There's a drop, there's nothing
15 there.

16 MR. PANTELIS: May I ask, was this project,
17 the work that you were doing, was this part of an
18 overall project at the house? And did that
19 project -- and was that project being done
20 pursuant to building permits?

21 MR. STERN: Yes.

22 MR. PANTELIS: So you had plans that had been
23 approved?

24 MR. STERN: Yes.

25 MR. PANTELIS: This was not on the approved

1 plans?

2 MR. STERN: Correct, correct.

3 MR. PANTELIS: And have you completed that
4 project yet?

5 MR. STERN: We have two -- two things that
6 are outstanding on the job. We did receive the
7 electrical inspection. The two things that are
8 left on the job are the grates over the window
9 wells, which are going to be completed at the
10 beginning of next week, I'm happy to say, and the
11 final survey which was completed yesterday by the
12 survey company. So they're preparing the document
13 to be submitted to the Village, so we will have
14 completed the job by the middle of next week. And
15 those are the only two outstanding issues.

16 MR. PANTELIS: So were all of the -- all of
17 the alterations that you had permits for interior
18 alterations?

19 CHAIRMAN KEILSON: No, no, no, no. If I may
20 just clarify for the record.

21 MR. PANTELIS: I'm sorry. That part of it I
22 didn't understand.

23 CHAIRMAN KEILSON: We had significant
24 requests for variances, which the Board did
25 approve, and the work was done pursuant to those

1 variances. I think it's important for the record,
2 although it will not jaundice off you in terms of
3 evaluating whether we approve the variance or not,
4 it's my clear understanding that the work
5 proceeded notwithstanding your awareness that it
6 was not permitted. We've interviewed both the
7 general contractor and the architect. The Village
8 itself had issued work stop orders and the work
9 continued thereafter in terms of finishing up this
10 particular mudroom. And again, I'm not saying
11 it's going to jaundice off you in terms of how
12 we'll vote tonight, but it's a concern and it's
13 not something that we look upon lightly.

14 You heard the prior one where they finished
15 their work with zeal, okay, so it's very important
16 that for the purposes of the Village that the
17 citizenry have regard for the rules and
18 regulations, because otherwise we just have
19 anarchy here.

20 We're very mindful of the particular
21 situation you have with the child and so that will
22 certainly be, you know, very important in our
23 determination. But I just think to go on the
24 record in terms of what actually occurred here.

25 Do you have a question to say?

1 MEMBER WILLIAMS: I had a small question.
2 Prior to this construction, there was no access
3 directly from the garage into the house; is that
4 correct, or there is?

5 MR. STERN: Prior to the construction, no.

6 MEMBER WILLIAMS: In other words, right now
7 if you had not done this, you would have to park
8 your car close to the garage from the outside and
9 go through the front door?

10 MR. STERN: No, there was a door coming from
11 the garage into the home.

12 MEMBER WILLIAMS: So why wasn't that
13 sufficient?

14 MR. STERN: Because if the cars are parked in
15 the driveway, and the driveway is used for
16 storage, it's very difficult to be able to have --

17 MEMBER WILLIAMS: I'm not understanding that.
18 There was a door in the garage to go into the
19 house.

20 MR. STERN: You mean the driveway?

21 MEMBER WILLIAMS: From the garage.

22 CHAIRMAN KEILSON: Within the garage.

23 MR. STERN: Inside the garage.

24 MEMBER WILLIAMS: You pull in your car at
25 night, you want to go into your house. Before you

1 did this thing, how did you go into the house?

2 MR. STERN: There is a door to get into the
3 house through the garage.

4 MEMBER HENNER: There you go.

5 MEMBER WILLIAMS: I'm not understanding why
6 that door wasn't sufficient for these purposes.
7 That's the only thing I don't understand.

8 You could talk, it's okay.

9 MS. STERN: I just came back from the
10 dentist. My lips are not working.

11 MR. STERN: She's asking why we don't --

12 CHAIRMAN KEILSON: Off the record.

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

15 MEMBER WILLIAMS: This is what was built,
16 correct?

17 MR. STERN: Correct.

18 MEMBER WILLIAMS: Is this door in the garage?

19 MR. STERN: This door is in the garage.

20 MEMBER WILLIAMS: Yes. Originally, what
21 you're telling me is the door was just further in
22 the garage?

23 MR. STERN: Correct.

24 MEMBER WILLIAMS: Okay. I still don't
25 understand, okay. Fine, that's all I needed to

1 know.

2 CHAIRMAN KEILSON: What she's trying to
3 clarify is why you needed to encroach into the
4 garage and create a mudroom as opposed to just
5 allowing the door to remain and for your son to
6 move along in the interior of the garage and go to
7 that door.

8 MR. STERN: While it's open. Meaning if it
9 was open to the rest of the objects that are in
10 the garage.

11 MEMBER HENNER: You could put up a partition
12 there, whatever you want, to go through.

13 MR. STERN: That's not open.

14 MEMBER WILLIAMS: Okay.

15 MR. STERN: That was closed.

16 MEMBER GOTTLIEB: Let me ask you. In order
17 to get into this door, do you need to open the
18 garage door? Do you need to open the overhead
19 garage door to get access to the door?

20 MR. STERN: No, there is a side door to that.
21 There is a side door. He does not come through
22 the garage now.

23 MEMBER WILLIAMS: That's what I'm asking you.

24 MR. STERN: That door is only so that we can
25 get into the house from the garage as well.

1 MEMBER WILLIAMS: So now where is the door
2 your son comes into?

3 MR. STERN: He comes in the side of the
4 house. Oh, I see what you're saying. You're
5 saying that he still had to go through the garage
6 anyway. I'm sorry, he does not have to go through
7 the garage. Then what was I helping, right,
8 exactly. I didn't understand what you meant. He
9 comes through a side door.

10 CHAIRMAN KEILSON: Mr. Pantelis.

11 MR. PANTELIS: The plan does show an exterior
12 door leading into the mudroom from which I think
13 the applicants are saying access can be provided.
14 There is also a second door which leads directly
15 into the garage for what would be the purpose that
16 it had been before.

17 MEMBER WILLIAMS: I didn't know about the
18 second door. You answered the question.

19 CHAIRMAN KEILSON: Mr. Ryder, is there a
20 parallel action pending in Village Court regarding
21 lack of a CO?

22 MR. RYDER: Yes, there is.

23 CHAIRMAN KEILSON: Certificate of Occupancy.
24 If you can clarify for the record what that might
25 be.

1 MR. RYDER: The house is being occupied
2 without a C of O. As Rabbi Stern has mentioned,
3 he is in the process of having the final survey
4 and the final inspection, which is still
5 outstanding, in order to be issued the C of O, so
6 that case is still pending.

7 MR. STERN: We aren't occupying the house as
8 of July 1st.

9 CHAIRMAN KEILSON: Excuse me?

10 MR. STERN: We haven't been living in the
11 house since July 1st and that will continue until
12 we have the C of O. We're in the country for the
13 summer regardless, so nobody is living there.
14 Nobody is occupying the residence.

15 MEMBER HENNER: Can I say something? I'd
16 like to be off the record.

17 (Whereupon, a discussion was held off the
18 record.)

19 CHAIRMAN KEILSON: Back on the record.

20 MR. STERN: All I will say in regards to the
21 comments of the Chairman I would just say as
22 follows. We've lived in four residences in the
23 past year. Our lease was up in June of 2013 in
24 the house and it was not renewed. Someone else
25 was coming in and renting the place for a higher

1 amount. We had to move out of there. We put our
2 stuff into storage. We expected the construction
3 of the house to be completed within four months
4 after the summer. Unfortunately, our first
5 contractor ran off the job with \$60,000 of our
6 money, and we had to hire a new contractor to come
7 onto the job. It was delayed therefore.

8 We expected we would only have to live in a
9 temporary residence for two months after the
10 summer when we get back from the country. The
11 two-month residence was graciously provided by the
12 shul, which is called Ohel Dovid (phonetic). They
13 did not have a rabbi at the time and they allowed
14 us or permitted us to live in that residence for
15 three months after the summer. However, when they
16 did hire a rabbi, we no longer could remain at
17 that residence either.

18 Then came our third move. Then we went to
19 10 Meadow Lane, which was a house of one of the
20 members of my synagogue who had graciously
21 provided free of rent for the amount of time that
22 we were able to stay there, except he had to come
23 for the summer residence. So at that point we had
24 to move out in April because he needed the
25 residence.

1 Our fourth move was to 201 Broadway. We had
2 nowhere to go and we really did not have money to
3 rent a different residence. We didn't have any
4 place to put ourselves, so we moved into the house
5 even though we didn't have a Certificate of
6 Occupancy. So sorry for that long clarification,
7 but that was the story.

8 CHAIRMAN KEILSON: Is there anyone that
9 wanted to speak to the matter from the audience?

10 MR. STERN: Mr. Kappel here is a neighbor and
11 he's speaking on our behalf.

12 MR. KAPPEL: Dr. Kappel, 204 Broadway. I've
13 been living in the neighborhood for 30 years. I
14 know what this house looked like before. I've
15 been in the house, and I think the Board should
16 commend Dr. Stern and his wife for doing such a
17 great job enhancing the neighborhood and putting
18 an edifice that will do anybody great honor.

19 As far as the issue of the variance, I very
20 much feel for the issue of the special-needs
21 child. I don't think it has any impact on any of
22 the other neighbors. Other issues I cannot
23 comment on, but I'd be more than willing to accept
24 the variance.

25 CHAIRMAN KEILSON: Thank you very much.

1 MR. STERN: I do have one other statement
2 that I would like to make. I was recommended by
3 my -- I was recommended by someone, a professional
4 who was working on the job, perhaps you may have
5 revealed that, but I would imagine in your
6 interviews it wasn't revealed, that person who
7 works in the Village -- who works with the Village
8 on many situations told me I should just ignore
9 the citation, tear out the mudroom and just build
10 it after I get the Certificate of Occupancy, and
11 don't get it approved and no one will care. What
12 we did was we built it and we did build it by
13 mistake, but yet we decided that if we're going to
14 do this we're going to do it legally and we're not
15 going to do it after we get a Certificate of
16 Occupancy.

17 When we were informed that it was illegal,
18 then we decided immediately to apply for the
19 variance, notwithstanding your comments on the
20 previous interviews.

21 MEMBER GOTTLIEB: I have a couple of
22 questions, please. How many people live in the
23 house?

24 MR. STERN: Eight people live in the house.

25 MEMBER GOTTLIEB: So my concern with the

1 two-car garage is that that could be eight cars.
2 I don't know how big your circular driveway is,
3 but at some point all your children will be
4 driving.

5 MS. STERN: The special child is not driving.

6 MEMBER GOTTLIEB: Okay, seven.

7 MR. STERN: We don't have -- we have three
8 licensed drivers in the home.

9 MEMBER GOTTLIEB: Well, at some point your
10 younger children will grow up and then have cars
11 too.

12 MR. STERN: I hope by the time those grow up
13 the ones that are now driving won't be in the
14 house either.

15 CHAIRMAN KEILSON: They will rotate out.

16 MEMBER GOTTLIEB: I have heard they rotate
17 back in, except they come back with spouses and
18 children.

19 MR. STERN: No, they just rotate under the
20 financial payroll.

21 MEMBER GOTTLIEB: Rabbi Stern, I'm going to
22 make a proposal, and I don't know how the rest of
23 the Board feels, but should this be approved, I
24 might ask at some point in the future that this be
25 removed. I don't know if that's permissible that

1 if the need is no longer there 10, 20 years from
2 now when you no longer have that need.

3 CHAIRMAN KEILSON: Mr. Gottlieb, we have
4 taken such steps in very unusual circumstances,
5 but I think you have to take into consideration
6 that in the past short periods of time when people
7 have come and requested narrowing of garages so it
8 narrows down to one car and the like, we've been
9 fairly compassionate. And we have a particular
10 situation that's fairly compelling. I'm not sure
11 we want to connect it with some future date to
12 have a reversal, and we're certainly not going to
13 enforce it.

14 MR. PANTELIS: There wouldn't be any
15 objective way to do that.

16 MEMBER GOTTLIEB: I meant, for example, when
17 they sell the house.

18 MR. PANTELIS: I don't think, if I may
19 interject, that it rises to that level also, as
20 opposed to some exterior situation we had seen in
21 another case.

22 CHAIRMAN KEILSON: Okay. So we weigh the
23 benefit to the applicant as opposed to any
24 detriment to the community. And we will ask the
25 Board to vote taking into consideration the

1 special circumstances that have arisen here.

2 So Mr. Henner.

3 MEMBER HENNER: I'll vote in favor.

4 CHAIRMAN KEILSON: Mrs. Williams.

5 MEMBER WILLIAMS: In favor.

6 CHAIRMAN KEILSON: Mr. Gottlieb.

7 MEMBER GOTTLIEB: For.

8 CHAIRMAN KEILSON: Mr. Schreck.

9 MEMBER SCHRECK: In favor.

10 CHAIRMAN KEILSON: And the Chair will vote in
11 favor as well.

12 MR. PANTELIS: Mr. Chairman, before you
13 indicate what would be the condition, the normal
14 condition to complete construction, we do have a
15 situation which has been acknowledged where there
16 is not a Certificate of Occupancy for the present
17 house, and since this construction has been
18 completed, I would think that the Board might want
19 to consider a shorter duration to obtain complete
20 construction, obtain the Certificates of Occupancy
21 and --

22 CHAIRMAN KEILSON: From my understanding,
23 they're endeavoring with fervor, with zeal to get
24 the C of O. They're not building at this point.

25 MEMBER HENNER: Labor Day is September 1st

1 and summer is over. You're coming back by Labor
2 Day?

3 MR. STERN: Last week in August.

4 MEMBER HENNER: So does that mean the CO is
5 supposed to be in?

6 MR. STERN: It should be in next week. I'm
7 going to have the final inspection next week, but
8 all the outstanding issues will be completed by
9 the beginning of next week.

10 MEMBER WILLIAMS: Mike, is there any reason
11 that shouldn't happen?

12 MR. RYDER: I see no reason that shouldn't
13 happen.

14 CHAIRMAN KEILSON: You're suggesting that in
15 the event there is no C of O that --

16 MR. PANTELIS: The variance, again, they
17 would have to request an extension which would
18 serve as a control purpose, we'll call it a
19 control mechanism for this Board.

20 CHAIRMAN KEILSON: How does the Board feel on
21 that, Mr. Schreck?

22 MEMBER SCHRECK: That's fine.

23 CHAIRMAN KEILSON: Mr. Gottlieb.

24 MEMBER GOTTLIEB: Fine.

25 CHAIRMAN KEILSON: Mrs. Williams.

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1 MEMBER WILLIAMS: Fine.

2 MR. RYDER: I just have one question
3 regarding this, Mr. Chairman. So would that be --
4 if I provide to the Board the C of O, Rabbi Stern
5 doesn't have to come back?

6 MR. PANTELIS: No, he doesn't have to come
7 back unless -- we just have a six-month duration
8 on the variance or request for extension.

9 CHAIRMAN KEILSON: You said you expect it to
10 be next week.

11 MR. STERN: I expect.

12 CHAIRMAN KEILSON: Okay. So it's approved
13 and we adjourn for the evening.

14 MR. STERN: Thank you very much.

15 MS. STERN: Thank you.

16 (Whereupon, the hearing concluded at
17 8:48 p.m.)

18 *****


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

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MARY BENCI, RPR
Court Reporter