

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 June 17, 2010
7 7:40 p.m.

8 APPLICATION:

9 Cohn
43 Meadow Lane
Lawrence, New York

10 P R E S E N T:

11 MR. LLOYD KEILSON
12 Chairman13 MR. ELLIOT FEIT
14 Member15 MS. ESTHER WILLIAMS
16 Member17 MR. EDWARD GOTTLIEB
18 Member19 MR. RONALD GOLDMAN, ESQ.
20 Village Attorney21 MR. GERALDO CASTRO
22 Building Department23 MR. MICHAEL RYDER
24 Building Department25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Okay, good evening, ladies
2 and gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. I'd ask you to turn off your
4 phones if you have a phone, and please, no talking
5 during the session. If you have the need to talk,
6 please step out of the room.

7 Proof of posting, Mr. Castro?

8 MR. CASTRO: I offer proof of posting
9 (handing).

10 CHAIRMAN KEILSON: Thank you very much.

11 Mr. Goldman, do you want to offer your
12 preamble?

13 MR. GOLDMAN: Yes, I will. And it's
14 particularly important tonight because there are
15 several matters that are on the calendar. It's
16 important for those of you for whom this is a new
17 experience and for those of you who are in the
18 audience to understand that this Board has two
19 ways in which to evaluate a case. They can wait
20 for this evening and look at everything from
21 scratch and wait for you to make the application,
22 which would keep us here probably all night. Or
23 they can be conscientious, which is what they are,
24 and in advance of tonight's meeting each and every
25 member of the Board individually, not as a group

1 because that's for the purposes of the Open
2 Meetings Law, but individually has reviewed each
3 and every one of your applications, they have
4 addressed each and every one of the issues that
5 are salient, and in many cases, in most, they've
6 even made site visits. The reason I mention this
7 to you is that they don't expect you or need you
8 to make a full presentation of your full
9 application. And you may find that they're just
10 going to focus in on certain particular points.
11 It's important that you don't think you're getting
12 short shrift from the Board and that the audience
13 doesn't think there is a short shrift. What it
14 really means is that they are particularly
15 prepared, they know what the issues are, and they
16 are focusing in on them.

17 So that being said, Mr. Chairman, good luck.

18 CHAIRMAN KEILSON: Thank you. The first
19 matter tonight is Cohn. Will they or their
20 representative please step forward.

21 MR. COHN: Good evening. Hi, Mr. Chairman.
22 Hi, Board. I'm here to file. I'm here looking
23 to --

24 MR. GOLDMAN: You have to just say who you
25 are, please.

1 MR. COHN: I'm sorry. I'm Levi Cohn,
2 43 Meadow Lane, Lawrence, New York 11559.

3 I'm looking to put in a pool, and I'm looking
4 for an easement of seven feet on the right-hand
5 side of my house and ten feet on the back.

6 CHAIRMAN KEILSON: In the rear you're
7 required to have 20 foot. You're looking for ten
8 foot?

9 MR. COHN: For ten feet.

10 CHAIRMAN KEILSON: And on the side yard which
11 requires 15 foot, it shows eight foot.

12 MR. COHN: Yeah.

13 CHAIRMAN KEILSON: Okay. Did you speak to
14 your neighbors?

15 MR. COHN: I tried to get to the one behind
16 me, and I couldn't get in touch with her ever.

17 MEMBER FEIT: Who was that?

18 MR. COHN: I don't know her name.

19 MEMBER FEIT: Lebor?

20 MR. COHN: I don't know.

21 MR. GOLDMAN: What's the address, if you went
22 there?

23 MR. COHN: I know the house. It's literally
24 right behind me.

25 MEMBER FEIT: What does the front of the

1 house look like?

2 MR. COHN: My house? I mean, my house is
3 sitting on a setback. I have more land in the
4 front of the house than I do in the back of my
5 house.

6 MEMBER FEIT: No, the house in back of you.

7 MR. COHN: Stucco a little bit and she has a
8 round archway.

9 MEMBER ROSEN: The name is Herman Morris.

10 MEMBER FEIT: I thought it was Lebor.

11 Do you have any flooding in your backyard now
12 when we get heavy rain?

13 MR. COHN: No, no.

14 MEMBER WILLIAMS: Did you go to your
15 neighbors on the two sides?

16 MR. COHN: I did not.

17 MEMBER WILLIAMS: You didn't approach any
18 neighbors?

19 MR. COHN: No, not on the two sides. The
20 only one that I wanted to go to was in the back.

21 MEMBER WILLIAMS: That you wanted to go to?

22 CHAIRMAN KEILSON: But you're encroaching on
23 the right as well.

24 MR. COHN: Right. I didn't go to my neighbor
25 on the right or on the left.

1 I'm actually putting in also a very small
2 pool, it's a 12 by 24. I'm not going for anything
3 lavish or big.

4 MEMBER GOTTLIEB: Not to correct you, I'm
5 looking at 14 by 28.

6 MR. COHN: Oh, I'm sorry, 14 by 28.

7 MEMBER GOTTLIEB: Stand corrected.

8 CHAIRMAN KEILSON: Is there any reason you
9 can't move the pool over so that the encroachment
10 on the side yard is lessened?

11 MR. COHN: If you see, my house has a little
12 extension. The sun room sticks out. So it has to
13 be in between the sun room and my neighbor on the
14 right.

15 MEMBER WILLIAMS: I just don't understand
16 that you haven't spoken to your neighbor on the
17 right.

18 CHAIRMAN KEILSON: It's the neighbors that
19 are being encroached upon who are most affected.

20 MR. COHN: Right. No, I didn't have a chance
21 to go to my neighbor on the right.

22 MEMBER WILLIAMS: What?

23 MR. COHN: I thought that by sending out the
24 letter, if anyone, you know, if any of the
25 neighbors had an issue they would come.

1 CHAIRMAN KEILSON: Generally, propriety would
2 require you to visit the neighbors most affected,
3 just for some reason they didn't see the letter,
4 or the like, and they're going to be affected in
5 perpetuity.

6 MR. COHN: Right.

7 CHAIRMAN KEILSON: I mean it would appear
8 that you could still move the pool over somewhat.

9 MR. COHN: I can lose the two feet, meaning I
10 can go to a 12 by 24 instead of the 14 by 28.

11 CHAIRMAN KEILSON: Well, 12 by 24 would have
12 dramatic improvements in terms of the
13 encroachment.

14 MR. COHN: Right.

15 MEMBER GOTTLIEB: It would be ten feet on one
16 side and --

17 MR. COHN: The main issue is my back, my
18 neighbor facing in the back of me because there I
19 must have it. If I don't have the ten feet I just
20 can't put the pool in, I don't have the space.

21 MEMBER ROSEN: But if you do a 12 by 24, now
22 you have a 12-foot side yard -- a 12-foot rear
23 yard.

24 MEMBER WILLIAMS: He's not willing to move it
25 that way. He wants to move it the other way. He

1 wants to move it from the garage, not from the
2 neighbor's backyard.

3 CHAIRMAN KEILSON: Are you moving or reducing
4 the side?

5 MR. COHN: I can reduce the side.

6 MEMBER WILLIAMS: You say you're only willing
7 to reduce the side on the 14-foot side, but not on
8 the 10-foot side?

9 MR. COHN: No, I'm willing to instead of
10 having a 24 -- instead of having a 28, I can have
11 a 24-foot, which that would be --

12 CHAIRMAN KEILSON: Four feet more.

13 MR. COHN: -- that would be four feet more
14 which is only 12 feet, which I'm asking basically
15 for only three feet on my right-hand side.

16 MEMBER GOTTLIEB: No, no.

17 CHAIRMAN KEILSON: It would be 12 foot from
18 the rear.

19 MR. COHN: Correct.

20 MEMBER GOTTLIEB: We want to know that the
21 reduction is coming off the rear and the side
22 yard. You're not just keeping it in the same
23 space reducing it by one foot -- by two feet less
24 side-yard encroachment, two feet less rear-yard
25 encroachment.

1 MR. COHN: Two feet less rear --

2 MEMBER GOTTLIEB: By reducing the pool two
3 feet on the side --

4 MR. COHN: Right.

5 MEMBER GOTTLIEB: -- and you're reducing the
6 encroachment by two feet.

7 MR. COHN: Right.

8 MEMBER GOTTLIEB: Okay.

9 MR. COHN: Meaning that that's totally fine.

10 CHAIRMAN KEILSON: The side yard would now be
11 -- he's taking it down four feet on the side, so
12 it will be 12 foot instead of 14, and the rear
13 would be 14 instead of -- 12 instead of ten.

14 MR. COHN: Twelve instead of ten.

15 CHAIRMAN KEILSON: Okay.

16 MEMBER WILLIAMS: Is there anybody here who
17 wants to speak?

18 CHAIRMAN KEILSON: Anyone else want to speak
19 on the matter, the neighbors, the like? Any other
20 questions?

21 MEMBER FEIT: There are no letters, Mike?

22 MR. RYDER: No.

23 MR. GOLDMAN: No letters in support, no
24 letters in opposition?

25 MR. COHN: Yeah.

1 CHAIRMAN KEILSON: Okay, Miss Williams.

2 MEMBER WILLIAMS: I vote for, with the
3 changes.

4 CHAIRMAN KEILSON: Mr. Feit.

5 MEMBER FEIT: For, with the changes.

6 CHAIRMAN KEILSON: I'm for.

7 MEMBER GOTTLIEB: For.

8 CHAIRMAN KEILSON: Okay, approved.

9 MEMBER GOTTLIEB: The changes have been
10 noted.

11 MR. GOLDMAN: It's being granted with the
12 changes though that have been cited, and you
13 probably have to see the Board of Building Design
14 as well, correct?

15 MR. RYDER: Yes.

16 MR. COHN: I'll redo the plans and send it
17 in. Is that okay?

18 MR. RYDER: Yes.

19 MEMBER FEIT: How much time do you need?

20 MR. COHN: I'm sorry?

21 MEMBER FEIT: How much time do you need?

22 MR. COHN: For what, to change the plans?

23 MR. GOLDMAN: No, to do the job.

24 MR. COHN: Oh, to do the job? Now I'm going
25 to call them tomorrow. Hopefully I'll have them

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 June 17, 2010
7 7:45 p.m.8 APPLICATION: Herman
9 351 Broadway
Lawrence, New York

10 P R E S E N T :

11 MR. LLOYD KEILSON
12 Chairman13 MR. ELLIOT FEIT
14 Member15 MS. ESTHER WILLIAMS
16 Member17 MR. EDWARD GOTTLIEB
18 Member19 MR. RONALD GOLDMAN, ESQ.
20 Village Attorney21 MR. GERALDO CASTRO
22 Building Department23 MR. MICHAEL RYDER
24 Building Department25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is Herman,
2 351 Broadway.

3 MR. HERMAN: Allen Herman, 351 Broadway,
4 Lawrence, New York.

5 MR. MACLEOD: John MacLeod, 595 Park Avenue,
6 Huntington.

7 MR. HERMAN: We're requesting a variance from
8 Section 212-12.1, Section 212-16.D.(1), and
9 Section 212-16.D.(2)(c), for a rear two-story
10 extension. We have letters of support from the
11 immediate neighbors.

12 CHAIRMAN KEILSON: Mr. Goldman, do you want
13 to take the letters.

14 MR. GOLDMAN: Yes. Let the record reflect
15 that it's collectively Applicant's 1, and there
16 are letters of support from 355 Broadway,
17 345 Broadway, and 8 Margaret Avenue. And they're
18 being submitted to the Board for their review
19 (handing).

20 Thank you, Mr. Chairman.

21 CHAIRMAN KEILSON: Okay. So let's just
22 briefly go through the variances requested. We
23 have a four percent surface coverage overage. We
24 have a rear-yard encroachment, correct. Should be
25 30 feet, it's 28.4. And what else do we have?

1 MR. HERMAN: Side yard.

2 CHAIRMAN KEILSON: Side yard.

3 MR. HERMAN: Which one would you like us to
4 address first?

5 CHAIRMAN KEILSON: Whichever order you'd
6 like.

7 MR. HERMAN: The surface area is specifically
8 due to an extended soffit. It's one of these old,
9 I guess, grand colonials, and the soffit sticks
10 out approximately three feet. And that's what is
11 one of the --

12 CHAIRMAN KEILSON: That's for the surface.

13 MR. HERMAN: That's for the surface area.

14 CHAIRMAN KEILSON: Okay.

15 MR. HERMAN: The side yard, the house was
16 built in 1920, approximately 1920, pre-zoning from
17 my understanding, and the house is built
18 approximately five foot eleven inches from the
19 neighbor. All we ask is that we continue the line
20 of the house.

21 CHAIRMAN KEILSON: By how many feet?

22 MR. HERMAN: Eleven foot eight, and the rear
23 is the eleven foot eight.

24 CHAIRMAN KEILSON: Which is part of the
25 extension?

1 MR. HERMAN: Part of the extension.

2 CHAIRMAN KEILSON: How long have you lived at
3 the site?

4 MR. HERMAN: We're about seven years.

5 CHAIRMAN KEILSON: Okay. And four children?

6 MR. HERMAN: Yes.

7 CHAIRMAN KEILSON: Okay. Any questions from
8 the Board?

9 MEMBER GOTTLIEB: Who owns the house
10 next-door that's most affected by this?

11 MR. HERMAN: The house next-door is owned by
12 myself and my uncle. My uncle resides at the
13 home. My uncle and my grandmother reside at the
14 home.

15 MEMBER GOTTLIEB: So you apparently have no
16 objection to your own variance?

17 MR. HERMAN: I didn't put in a letter of
18 support, but my uncle didn't put in a letter of
19 support.

20 CHAIRMAN KEILSON: Very nice of him.

21 MR. GOLDMAN: There's no letters of
22 opposition.

23 MR. HERMAN: My wife may have an objection
24 though.

25 MR. GOLDMAN: There are no letters of

1 opposition though.

2 MR. HERMAN: There are no letters of
3 opposition. We spoke to many of the neighbors. I
4 only have letters of support from the immediate
5 ones affected.

6 MR. GOLDMAN: But no letters of opposition?

7 MEMBER GOTTLIEB: It seems that the house
8 most affected happens to be owned by you and your
9 family because they will now have an additional
10 12-foot brick wall to look at.

11 MR. HERMAN: Yes and no. Yes, because there
12 will be an additional approximately 12 feet, but
13 my house is set very far back. Their house is --
14 they really look out at the yard as opposed to
15 that. Their back yard though will have an
16 extended wall there.

17 MEMBER FEIT: Just let the record reflect
18 that I was actually served. I was in the 300-foot
19 radius, but it has absolutely no bearing on me. I
20 am so far away that it doesn't concern me at all,
21 doesn't affect me at all.

22 MR. GOLDMAN: And you have no opposition to
23 Mr. Feit considering that?

24 MR. HERMAN: No opposition.

25 MR. GOLDMAN: You have to ask that.

Herman - 6/17/10

1 CHAIRMAN KEILSON: By all means.

2 Anyone in the audience wants to speak to the
3 matter? If not, we'll take a vote.

4 Mr. Gottlieb.

5 MEMBER GOTTLIEB: For.

6 CHAIRMAN KEILSON: For.

7 MEMBER FEIT: For.

8 MEMBER WILLIAMS: For.

9 CHAIRMAN KEILSON: Two years?

10 MR. MACLEOD: Two years sounds good.

11 MR. GOLDMAN: Good luck.

12 MR. HERMAN: Thank you very much.

13 MR. GOLDMAN: Building Design.

14 (Whereupon, the hearing concluded at
15 7:50 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

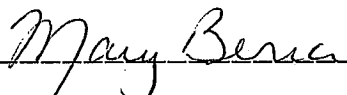
21

22

23

24

25



MARY BENCI, RPR
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 17, 2010
7 7:50 p.m.

8 APPLICATION: Simpson
9 38 Muriel 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. EDWARD GOTTLIEB
19 Member

20 MR. RONALD GOLDMAN, ESQ.
21 Village Attorney

22 MR. GERALDO CASTRO
23 Building Department

24 MR. MICHAEL RYDER
25 Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Simpson,
2 38 Muriel. Will they or their representative
3 please step forward.

4 MR. BEECHERT: Daniel Beechert, 366 Bayside
5 Avenue, Oceanside, New York 11572.

6 MR. SIMPSON: Joseph Simpson, 38 Muriel
7 Avenue, Lawrence, New York 11559.

8 MR. GOLDMAN: You're the owner?

9 MR. BEECHERT: I am the architect for the
10 project.

11 MR. SIMPSON: I am the owner.

12 MR. BEECHERT: This project, as stated in the
13 petition, the existing house no longer is adequate
14 to supply the needs of a growing family, married
15 children, grandchildren. And this project is a
16 side addition and a rear addition on the second
17 floor and pulling out a garage on the first floor.

18 The garage, unfortunately, because of the
19 site limitations was inadequate in size. So that
20 was one of the variances that we had to apply for.
21 Instead of being 20 by 20, it ended up being 18 by
22 20 because I lined up the existing wall coming
23 out.

24 MEMBER FEIT: It's currently 18 by 20?

25 MR. BEECHERT: It is, yes.

1 MEMBER FEIT: So the 18 is the actual house
2 wall?

3 MR. BEECHERT: Exactly, exactly. And if I
4 had tried to go wider, I would have been
5 encroaching even further on the side-yard setback;
6 plus, there would have been a break in the design.

7 Upstairs we added two bedrooms and a bath for
8 the doctor and his wife and for their children and
9 grandchildren. So originally, my original intent
10 on the project was to take the one-time exemption.
11 However, when I worked out the design, I was one
12 foot over on the height requirement.

13 CHAIRMAN KEILSON: Right.

14 MR. BEECHERT: Which I didn't think was going
15 to be an issue, but it ended up being an issue
16 because it negated my being able to take the
17 one-time exemption.

18 CHAIRMAN KEILSON: The exemption, right.

19 MR. BEECHERT: And as you know, you know, the
20 architect's biggest challenge in doing any kind of
21 alteration work is the roof design, trying to fit
22 the roofs together. So that's why I put it ridge
23 to ridge, instead of trying to lower it down,
24 ending up with frame problems and flashing
25 problems, and so I'm a foot over on the height of

1 the new ridge fitting it into the existing ridge.
2 And that raised the issue on the side with the
3 side-yard setback and the side yard height ratio
4 setback.

5 CHAIRMAN KEILSON: So the side-yard setback
6 is consistent with what's existing, correct?

7 MR. BEECHERT: Yes, sir.

8 CHAIRMAN KEILSON: And the two-car garage
9 will be consistent with what's existing?

10 MR. BEECHERT: Yes, sir.

11 CHAIRMAN KEILSON: So the issue -- and the
12 building area coverage is de minimis; it's 1.4
13 percent over.

14 MR. BEECHERT: Yes.

15 CHAIRMAN KEILSON: So we're discussing the
16 building height or ways to discuss the building
17 height, which is the most pressing issue, because
18 generally we've been generally rigid about giving
19 new ridges. So as a general statement, we're
20 loathe to give anything above the 30 foot, okay.
21 We understand the present case. You have an
22 existing 31-foot height, and that aesthetically in
23 terms of building the addition it would make most
24 sense and would be non-objectionable to work with
25 the 31-foot height again. So I think from our

1 perspective, at least my perspective, I'm
2 sympathetic to that. I have no issue with it.

3 MR. BEECHERT: Thank you.

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

6 Any letters in support?

7 MR. SIMPSON: Yes. Actually, I have letters
8 from all of my neighbors that are within possible
9 affect of this work. All of them are positive and
10 nobody had any objection that I spoke to
11 (handing).

12 MR. GOLDMAN: Collectively, letters of
13 support from 30 Muriel Avenue, 45 Washington
14 Avenue, 33 Muriel Avenue, 37 Muriel Avenue,
15 50 Muriel Avenue, 34 Muriel Avenue, and 45 Muriel
16 Avenue, 41 Muriel Avenue, and collectively they're
17 being deemed marked Applicant's 1 (handing).

18 CHAIRMAN KEILSON: Thank you.

19 MR. GOLDMAN: It's being submitted to the
20 Board for their review.

21 CHAIRMAN KEILSON: Is there anyone in the
22 audience who wants to speak to the issue?

23 Mr. Cohn, are you here in support or
24 objecting?

25 MR. COHN: Fully support.

Simpson - 6/17/10

1 MEMBER FEIT: He wasn't served anyway.

2 CHAIRMAN KEILSON: He wasn't served.

3 MEMBER GOTTLIEB: Although,

4 uncharacteristically for me to agree to over 30
5 feet, in this case this is fine. I approve.

6 CHAIRMAN KEILSON: I'm for.

7 MEMBER FEIT: For.

8 MEMBER WILLIAMS: For.

9 MR. BEECHERT: Thank you.

10 MR. SIMPSON: Thank you very much.

11 CHAIRMAN KEILSON: Take two years.

12 MR. GOLDMAN: The Board of Building Design
13 has to review the plans.

14 MR. BEECHERT: Yes, that's the next step.
15 Thank you.

16 CHAIRMAN KEILSON: Thank you.

17 (Whereupon, the hearing concluded at
18 7:55 p.m.)

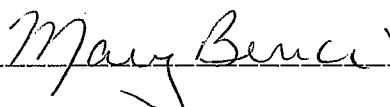
19 *****

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

23

24

25



MARY BENCI, RPR
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

7 June 17, 2010
8 7:55 p.m.

9 APPLICATION: Portnoy
10 148 Sutton Place
11 Lawrence, New York

12 P R E S E N T:

13 MR. LLOYD KEILSON
14 Chairman

15 MR. ELLIOT FEIT
16 Member

17 MS. ESTHER WILLIAMS
18 Member

19 MR. EDWARD GOTTLIEB
20 Member

21 MR. RONALD GOLDMAN, ESQ.
22 Village Attorney

23 MR. GERALDO CASTRO
24 Building Department

25 MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Portnoy.
2 Would they or their representative please step up.

3 MR. CAPOBIANCO: John Capobianco, architect,
4 159 Doughty Boulevard, Inwood, New York.

5 Nice to see you again.

6 Two years ago we were before the Board. We
7 had a variance for building coverage. During the
8 construction of the house one of the things came
9 up that the kitchen was kind of small, and with
10 this size family it was important to expand the
11 kitchen a little bit so it would be more
12 commensurate with the rest of the house.

13 CHAIRMAN KEILSON: Who was the architect?

14 MR. CAPOBIANCO: I don't know, this guy
15 Capobianco.

16 However, what we'd like to do is withdraw our
17 request for that one-foot extension on the side,
18 which was approximately 22.45 feet, because during
19 -- now we're under construction with the building
20 and it would be a little difficult to accomplish
21 it. So we agreed with the client and the
22 decorator and the interior people that we can make
23 it work without that extension. So we're really
24 asking for the, you know, extension at the rear
25 which is to the kitchen of 105 square feet, which

1 would line up with the existing rear of the house
2 maintaining the same rear yard of 35.65 feet.

3 And, you know, we feel that it's a one-story
4 addition with a balcony above that will come off
5 the master bedroom.

6 And unfortunately, the first design that we
7 had there was a balcony off the master bedroom,
8 but apparently, the preliminary that was approved
9 at the time didn't show the balcony. So we were
10 granted the approval without the balcony. We
11 never had planned to extend the kitchen, but we
12 did plan to build a balcony which wasn't on the
13 plan. So that was an error at that time.

14 The other thing we got approved but when we
15 went before the Board of Building Design to do a
16 house of brick in lieu of stucco, and that the
17 front two windows -- actually, it's the family
18 room and the library, we have like a bay window,
19 and what we want to do instead of having a 90 box
20 bay is to go with a 45-degree angled bay so that
21 we can support the brick. And at that point when
22 we got approved, it was a projecting bay of
23 approximately two feet with a window seat. And
24 what we want to do now is project the two bays out
25 so it looks a little more commensurate with the

1 look of the house, and I think it's a much more
2 improved look and it would be the time to do it.
3 I just wanted to bring this before the Board
4 tonight, and I was going to offer this elevation,
5 you know, as a document.

6 MR. GOLDMAN: I was just going to ask whether
7 it's made prior.

8 CHAIRMAN KEILSON: How does it bear on
9 tonight's petition?

10 MR. CAPOBIANCO: It bears on it in the sense
11 that I gave up that 25 feet of building coverage
12 because before when you have a projecting bay
13 that's a window seat it's not calculated as part
14 of the building coverage. But since this is going
15 down to a foundation that's supported by brick to
16 support the brick I would feel that that
17 additional 14 feet on each side would have to be
18 added to the building coverage. So I was going to
19 make that amendment tonight. That's why we
20 decided to deduct --

21 CHAIRMAN KEILSON: You're doing a trade-off?

22 MR. CAPOBIANCO: We made like kind of a
23 trade-off.

24 MR. GOLDMAN: Just let me make sure. I've
25 marked Applicant's number 2 as part of the record

1 (handing).

2 MEMBER GOTTLIEB: So do we have a change in
3 application or are we doing a -- we're swapping
4 square footage?

5 MR. CAPOBIANCO: If I create that bay as a
6 window-seat bay, then we don't have to calculate
7 it as a building coverage addition. Is that
8 correct, sir?

9 MR. CASTRO: It is.

10 MR. CAPOBIANCO: So I mean, we just want to
11 build a foundation out to support the brick so we
12 can leave it as a window bay and, therefore, the
13 building coverage would remain the same; it
14 wouldn't change except we'd be asking for 22.45
15 less because of the second floor projecting when
16 we're going to back off on that.

17 CHAIRMAN KEILSON: Well, less is always
18 better.

19 MEMBER GOTTLIEB: Less is more.

20 MR. CAPOBIANCO: So we're asking for 105 feet
21 additional square footage to the building coverage
22 so that the kitchen would be more commensurate
23 with the house and also function for the family.

24 CHAIRMAN KEILSON: Okay. I think we
25 recognize that the kitchen as originally

1 constituted was too small for the house. We can't
2 believe that an architect would have prepared it
3 accordingly, but we understand that it was many
4 years ago. How many years is this already?

5 MR. CAPOBIANCO: Two years ago.

6 MEMBER FEIT: Is it true that you didn't
7 realize it was a kosher house and you needed more
8 room?

9 MR. CAPOBIANCO: We realize that.

10 MEMBER GOTTLIEB: John, what was the square
11 footage of the kitchen originally, and what will
12 it be with your revised plans?

13 MR. CAPOBIANCO: Oh, the kitchen had an usual
14 shape. I'm working with a designer from Israel
15 and they like weird shapes. So the kitchen had a
16 very weird shape, and it was approximately 16 by
17 18 that area. So say it's about 300 square feet.
18 So we're adding approximately another 100 square
19 feet, 105 square feet to it.

20 CHAIRMAN KEILSON: Okay. Anyone in the
21 audience want to speak to the matter? I guess
22 not. I assume there's no need for letters of
23 support at this point.

24 MR. CAPOBIANCO: Well, we spoke to the
25 neighbor on the rear who is also the owner of this

1 house; he was fine with it. We spoke to the
2 neighbor next-door, Mr. Ravenstein, he was
3 absolutely fine with it.

4 CHAIRMAN KEILSON: For sure.

5 MR. CAPOBIANCO: And we really don't know who
6 else it affects really.

7 CHAIRMAN KEILSON: Okay. Any further
8 questions of the Board?

9 MEMBER GOTTLIEB: I need to know what we're
10 approving because I got thrown off with this. Can
11 you tell us exactly.

12 CHAIRMAN KEILSON: Can you distill down to
13 the precise.

14 MR. CAPOBIANCO: The procedure is that we're
15 going to do a 45 bay supported with a foundation
16 with a window seat detail so that it's actually
17 not a projecting walk-out bay and wouldn't count
18 for building coverage. So that we're asking for
19 105 additional square feet added to the existing
20 building coverage, and we're minusing, we're
21 taking off the 22.45 on the second-floor
22 projection of a foot because we feel it's not easy
23 to accomplish at this stage of the game because
24 the house is under construction.

25 MEMBER FEIT: So are you asking for 80 or

1 105?

2 MR. CAPOBIANCO: No, asking for 105.

3 MEMBER FEIT: That's after you take off the
4 22?

5 MR. CAPOBIANCO: That's after you take off
6 the 22.

7 CHAIRMAN KEILSON: It's the net amount.

8 MR. CAPOBIANCO: It's the net amount,
9 correct.

10 MEMBER GOTTLIEB: So the 128 was for the
11 kitchen?

12 MR. CAPOBIANCO: No, 128 plus the side
13 addition was for the kitchen.

14 MR. RYDER: The side bump-out.

15 MEMBER GOTTLIEB: The side bump-out, okay.

16 MR. CAPOBIANCO: Yeah, the combination. You
17 had 105 and you had 22.45.

18 MR. GOLDMAN: I think just so the record is
19 clear, because -- that which was published in the
20 legal notice asked for certain variances, correct?

21 MR. CAPOBIANCO: Correct.

22 MR. GOLDMAN: Okay. Of the ones that were
23 published are you still asking for all those
24 variances?

25 MR. CAPOBIANCO: No.

1 MR. GOLDMAN: Okay. Can you just tell the
2 Board, you wanted from Section 212-1 maximum
3 building coverage of whatever, are you still on
4 that one?

5 MR. CAPOBIANCO: Yes.

6 MR. GOLDMAN: Okay. And then your second
7 one?

8 MR. CAPOBIANCO: Which was the 12-inch
9 overhang, I'm going to withdraw.

10 MR. GOLDMAN: You're withdrawing that.

11 MR. CAPOBIANCO: That would be an
12 encroachment into the side yard, so withdrawing
13 that.

14 MR. GOLDMAN: So far you're only asking for
15 one, not the second?

16 MR. CAPOBIANCO: That's correct.

17 MR. GOLDMAN: How many variances have you
18 asked for?

19 MR. CAPOBIANCO: One more.

20 MR. RYDER: There's a rear-yard setback.

21 MR. GOLDMAN: You're asking for four and
22 you're withdrawing one, and there is remaining
23 three in place as such.

24 MR. CAPOBIANCO: That's correct.

25 CHAIRMAN KEILSON: Under res judicata, do we

1 need all four to vote for it?

2 MR. GOLDMAN: No.

3 CHAIRMAN KEILSON: We'll take a vote.

4 Mrs. Williams.

5 MEMBER WILLIAMS: All I know is the kitchen
6 is too small. I vote for.

7 MEMBER FEIT: For.

8 CHAIRMAN KEILSON: For.

9 MEMBER GOTTLIEB: For.

10 MEMBER FEIT: The time is still running from
11 the earlier one?

12 MR. CAPOBIANCO: I think it was 24 months.

13 MR. RYDER: No Board of Building Design.

14 MR. CAPOBIANCO: Just go ahead, thank you.

15 (Whereupon, the hearing concluded at
16 8:05 p.m.)

17 *****

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

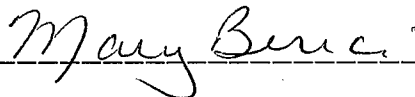
21

22

23

24

25



MARY BENCI, RPR
Court Reporter

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 17, 2010
7 8:05 p.m.

8 APPLICATION: Goldberg
9 177 Lakeside Drive South
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

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Goldberg, the matter of
2 Goldberg. Will they or their representative
3 please step forward.

4 MR. ROSENFELD: Good evening.
5 Meir Rosenfeld, 466 Central Avenue, second floor,
6 Cedarhurst, New York..

7 This is the third time that we are in front
8 of the Board with these plans, and I have the
9 architect who was previously introduced to the
10 Board here. Now, this is a rather unique set of
11 circumstances.

12 MR. GOLDMAN: Can we have the name though.

13 MR. MACLEOD: John MacLeod.

14 MR. ROSENFELD: This is because of the unique
15 site of this property and the flood zone, there's
16 obviously no basement and, therefore, it is
17 necessary to put the boiler and the hot water
18 heater on the main floor. Previously approved
19 plans allowed for it to be in the existing garage.
20 And the plumber has advised us that the safe way
21 to do it is to allow for six feet of space, rather
22 than the approved three feet that we originally
23 had.

24 All we are seeking now is to really, for
25 safety purposes, to extend what was an eight-foot

1 by three-and-a-half-foot room to eight foot -- to
2 eight-seven. So it's in effect four more feet
3 into the -- further along into the existing
4 garage. And the primary reason that -- I should
5 note two things. This is -- we were notified that
6 this was not in compliance well into the building
7 process. We'd already built and framed the
8 chimney prior to being made aware of that. That's
9 an extraordinarily large expense. And the primary
10 reason this was done is for safety. Rather than
11 have the boiler and mechanicals directly abutting
12 the family room, we felt it was better to have it
13 -- and onto the master bedroom, we felt it more
14 prudent to leave it on the other side of the house
15 into the garage.

16 The only other alternative would have been to
17 come to the Board for a variance to increase the
18 footprint of the house and encroach into the side
19 yard, which I don't think was in anybody's best
20 interest because we already got approved for the
21 initial variance with the footprint as it is.

22 MEMBER WILLIAMS: So basically, you now only
23 have a one-car garage?

24 MR. ROSENFELD: The truth, Miss Williams, is
25 that, effectively, there would have been only a

1 one-car garage according to the approved plans,
2 because the approved plans allowed for that bay to
3 be 17 feet. We are now seeking to make that bay
4 14 feet. So to the extent that that bay was
5 usable --

6 MEMBER WILLIAMS: I remember it. Wasn't it
7 supposed to be raised or something? It was --

8 CHAIRMAN KEILSON: Suspended.

9 MEMBER WILLIAMS: -- suspended.

10 CHAIRMAN KEILSON: Allow a car to come in and
11 leave.

12 MR. ROSENFELD: There is a major safety issue
13 involved.

14 MEMBER WILLIAMS: That was the original plan.

15 MR. MACLEOD: That is correct. We were
16 planning on having a slightly raised floor with
17 enough room for a nose of a car.

18 MEMBER WILLIAMS: There was a time when the
19 original plans allowed for two cars is what I'm
20 saying.

21 MR. ROSENFELD: Okay. In truth, if it makes
22 it -- and I only speak the truth, but in fact if
23 it makes it more palatable to the Board we could
24 endeavor to continue with the same way of raising
25 it.

1 MEMBER WILLIAMS: I know, but that's not
2 going to help. If you're taking six feet it might
3 take the front of the car but it's not going to
4 take the roof of the car.

5 MR. ROSENFELD: Well, remember, we're only
6 looking for an additional three feet.

7 MEMBER GOTTLIEB: Aren't you looking for
8 three feet on ground surface as opposed to
9 elevated? You're looking for 56 square feet
10 ground coverage.

11 MR. ROSENFELD: No, we were originally
12 looking for three feet of ground space as well.
13 It was then suggested by the Board that that get
14 raised enough so a car could park there.
15 Whichever way you want to look at it, it was still
16 only --

17 CHAIRMAN KEILSON: The Board suggested that?

18 MR. ROSENFELD: If I'm not mistaken, it was
19 either the Board or the Building Department. I
20 think it was probably the Building Department.

21 CHAIRMAN KEILSON: The Board is not that
22 creative.

23 MEMBER WILLIAMS: So we're up to the part --

24 MR. ROSENFELD: That's true. Maybe strike
25 that from the record.

1 MEMBER WILLIAMS: -- where the Board came
2 back to you and said how about if you elevate it,
3 then we can put the nose of the car under it, and
4 then we still have two two-car garages. Then what
5 happened? I got up to that point. I got up to
6 that point now. It wasn't big enough.

7 MR. ROSENFELD: I want to say this as
8 delicately as possible. I think that the Building
9 Department's approval process was a little more --
10 I don't want to say accommodating, but it was a
11 little more lenient than it is now. And perhaps
12 what we were looking at it is in practicality at
13 that point the elevation would have for safety
14 reasons not have been as pronounced as is required
15 now. If we lifted it up five feet there wouldn't
16 be enough clearance for the boiler on the -- you
17 know, to hit the ceiling.

18 MR. GOLDMAN: Was anybody advised of that
19 conclusion?

20 MR. ROSENFELD: I'm sorry, I don't
21 understand.

22 MR. GOLDMAN: In other words, you were
23 granted something and then it was determined that
24 that wasn't appropriate?

25 MR. ROSENFELD: No.

1 MR. GOLDMAN: This conclusion that you're
2 sharing with the Board, was it shared with anybody
3 else?

4 MEMBER WILLIAMS: I'm having a problem with
5 the process.

6 CHAIRMAN KEILSON: Is there anybody in the
7 Building Department present here tonight who was
8 participating in this process who could shed some
9 light from the Building Department perspective?

10 MEMBER WILLIAMS: I'm not understanding.

11 MR. ROSENFELD: The answer is emphatically
12 no.

13 MEMBER WILLIAMS: So they told you you can
14 elevate it. You went back to your -- and they
15 said? Mr. MacLeod, you said?

16 MR. MACLEOD: The plumber said there was
17 difficulties in, number one, the size of the
18 space; and number two, if it was elevated it would
19 be difficult to service. And it's not only
20 installing, but it was servicing that equipment
21 safely as well.

22 MEMBER WILLIAMS: And that's why we're back
23 here.

24 Mr. MACLEOD: Right. We'd like to lower it
25 back down and make the space bigger so we can put

1 the equipment in properly and safely and to code.

2 MEMBER WILLIAMS: And the reason for not
3 being able to flip it is because the chimney is
4 already in?

5 MR. ROSENFELD: Well, the chimney is already
6 in and --

7 MR. MACLEOD: Correct.

8 MEMBER WILLIAMS: You don't want it near the
9 family living area.

10 MR. ROSENFELD: And we really needed to try
11 and get it across from the family area. Even if
12 we were to uproot the chimney and move it to where
13 the mudroom is, and move the mudroom to where the
14 boiler is, then it directly abuts the master
15 bedroom and family room.

16 MR. MACLEOD: And the noise and actually the
17 discomfort of knowing that there is a boiler right
18 underneath my client's bed is not appealing to
19 her.

20 MR. ROSENFELD: I'm sorry. Mr. Feit, just
21 keep in mind that ordinarily in most homes the
22 boiler equipment is in the basement where you
23 don't feel the vibration or you hear the sound,
24 certainly not in the bedroom. Here because of the
25 -- as the Board is well aware and the Building

1 Department is well aware, because of the revised
2 flood zone map there is no other alternative. We
3 need to put it on the main floor somewhere. And
4 if it were possible to elevate it to accommodate a
5 full car, we would absolutely do so. However, and
6 I think that the Board will agree, safety is
7 paramount.

8 CHAIRMAN KEILSON: Paramount.

9 MR. ROSENFELD: And you certainly don't want
10 to have something that's on less than solid
11 footing and certainly something where somebody
12 would pull a car into.

13 CHAIRMAN KEILSON: Mr. Ryder or Mr. Castro,
14 could you shed some light on this chimney
15 question?

16 MR. RYDER: Chimney question.

17 MEMBER WILLIAMS: Well, the two points that
18 he's making, the chimney is there and moving it
19 would be a big issue. And the second point he is
20 making is that it's dangerous or uncomfortable to
21 have a boiler room next to living space. So what
22 from your experience, what's your opinion on that?

23 MR. RYDER: Well, one, for a boiler I don't
24 know if it's already purchased, but you can direct
25 vent these boilers today instead of going up

1 through the chimney.

2 Secondly, as a matter of safety, yeah, having
3 a boiler next to a master bedroom --

4 MEMBER WILLIAMS: It's not next to it, it's
5 under, a floor below.

6 MR. RYDER: It's not recommended because of
7 the gases, possibility of leakage.

8 MEMBER GOTTLIEB: We're not privy to the
9 second-floor plans. What is above the garage?

10 MR. MACLEOD: Above the garage is the master
11 bathroom and closet.

12 MEMBER GOTTLIEB: So either way you've got
13 the boiler under the master bedroom suite.

14 MR. MACLEOD: Yes.

15 MEMBER GOTTLIEB: Whether the bathroom or
16 bedroom.

17 MR. MACLEOD: Right now where it's located
18 directly above that would be the bathroom, and
19 then beyond that towards the front of the house is
20 closets. So the sound of the boiler clicking on
21 and off would not be heard from the master bedroom
22 where it is currently.

23 MEMBER WILLIAMS: Let me understand
24 something. This is -- you're telling me that this
25 area above is the master bedroom, dressing area,

1 bathrooms.

2 MR. ROSENFELD: Right.

3 MEMBER WILLIAMS: And show me where the --

4 MR. MACLEOD: The bedroom is virtually over
5 the family room and the mudroom.

6 MEMBER WILLIAMS: And hold on a sec. So
7 you're telling me that the beds are here
8 (indicating)?

9 MR. GOLDBERG: Right in the front of the
10 garage directly above that is the closet, and
11 further back is the master bathroom and then
12 further back is where we sleep.

13 MEMBER WILLIAMS: Right here, back here?

14 MR. GOLDBERG: A little closer towards --

15 MEMBER WILLIAMS: Just between you and me, my
16 house is the same. My boiler is right under my
17 bedroom.

18 CHAIRMAN KEILSON: State your name for the
19 record.

20 MR. GOLDBERG: Mark Goldberg.

21 MR. ROSENFELD: He's the owner.

22 MR. GOLDMAN: Let the record reflect that
23 Member Rosen has joined the panel.

24 CHAIRMAN KEILSON: Mrs. Williams is saying,
25 very simply, if you flipped it to the mudroom.

1 MEMBER WILLIAMS: I'm not saying you should.
2 I'm trying to understand what you're saying.

3 MR. ROSENFELD: Well, then it would directly
4 about the family room. According to Mr. Goldberg,
5 it would be directly under the --

6 MR. MACLEOD: Well, actually, it would be
7 directly --

8 MEMBER WILLIAMS: You're telling me that the
9 family room goes all the way back to -- the master
10 bedroom follows a line all the way back to the
11 family room?

12 MR. MACLEOD: No. May I approach and show
13 you.

14 CHAIRMAN KEILSON: Please.

15 MEMBER WILLIAMS: It would have been helpful
16 to have the plans.

17 MR. ROSENFELD: I should point out that the
18 plans were previously submitted and approved. And
19 just to address Mr. Gottlieb's question, if we
20 could -- if we were allowed to put the hot water
21 heater --

22 MR. GOLDMAN: Wait, stop.

23 (Whereupon, a discussion was held off the
24 record.)

25 MEMBER FEIT: My problem is considering I'm

1 now redoing my house, is that as far as I know you
2 can put firewalls in and you can put soundproofing
3 insulation in, and from what I've seen it may be
4 possible to put some springs or some type of
5 cushioning, rubber or whatever, to prevent as much
6 vibration as may happen. It's only a question of
7 a couple of extra dollars. I mean, I don't see if
8 you spend a couple of bucks for the extra
9 fireproofing, et cetera, and also the top, since
10 why it can't be done.

11 Interestingly enough, whether the bedroom or
12 the bathroom is above the boiler room, it's the
13 same difference. If fumes are going to get up,
14 they'll go into the bathroom and with the bathroom
15 door open go into the bedroom.

16 MR. ROSENFELD: Mr. Feit, one of the things
17 that does make a difference is potential leakage,
18 as Mr. Ryder pointed out. If there is to be a
19 boiler leak and, unfortunately, I know this from
20 firsthand experience, the devastation is somewhat
21 significant. If that could be limited to a garage
22 rather than into the family room and into the main
23 structure of the house, that is certainly more
24 advantageous irrespective of the cost of the
25 insulation and the vibrations. Just from a safety

1 point of view, when boilers crack and leak, both
2 the hot water heater and the boiler can really
3 wreak havoc. And part of the reason that most
4 people have them in the basement or in the garage
5 or someplace outside of that is to limit the
6 damage that that would cause.

7 MR. GOLDMAN: This is gas-fired? The
8 question came up is it gas-fired?

9 MR. MACLEOD: Yes, a gas-fired boiler.

10 MEMBER FEIT: Let me go a little further.
11 You have the same problem if you have a garage
12 under the living space because of the fumes, the
13 carbon monoxide that is pushed off from cars. You
14 forget to turn off a car. And most of the new
15 homes today are indoor or attached garages with
16 living space built right above it. I don't see
17 the difference.

18 MR. ROSENFELD: That's why there's a window
19 in the garage.

20 MR. GOLDBERG: The living space of closet and
21 bathroom is frequent in one-fiftieth the amount of
22 times as sleeping space.

23 MEMBER FEIT: Can you tell me, if it happens
24 -- hopefully, it will never happen, whether you
25 will be in the bathroom, the bedroom or outside on

1 that second? We don't know.

2 MR. GOLDBERG: The chances are, you know, way
3 higher if it's right under the bed where you spend
4 ten hours.

5 MR. RYDER: For the record, we also will have
6 smoke detection and carbon monoxide detection.

7 MR. MACLEOD: Can I address the issue of the
8 sound and the location of the boiler underneath
9 the bed?

10 CHAIRMAN KEILSON: Please.

11 MR. MACLEOD: The time that you are spending
12 in your bedroom hopefully getting some rest is
13 very quiet. In the middle of the night you can
14 certainly hear small sounds around the house. No
15 matter how much insulation you would put in the
16 ceiling below, it's impossible to totally sound
17 insulate a wood-framed house. Sound is
18 transmitted through not only through air but also
19 through the structure, and I believe that you
20 would definitely hear that boiler going on no
21 matter how quiet it is. It would be clicking on
22 and off from time to time during the middle of the
23 night.

24 Not only that, my client has a particular
25 very, very real concern about sleeping over a

1 boiler and not feeling comfortable over that
2 situation, which I can certainly understand.

3 MR. GOLDBERG: The house I'm renting now my
4 daughter sleeps over the boiler, and it stresses
5 me out a lot knowing that it's like that. And
6 knowing that it's in my family room right under my
7 bed is -- you know, I'm neurotic in certain areas
8 and this will keep me up at night.

9 MEMBER WILLIAMS: What I don't understand is
10 how this happened to begin with. You're an
11 architect. You know what size mechanical rooms
12 are meant to be. They probably are pretty much
13 standard, just like, you know, what a minimum of a
14 toilet area has to be, a minimum of a chimney.
15 How did this happen? That's what I'm having a
16 hard time understanding.

17 MR. GOLDBERG: Sometimes radiant heat, you
18 know --

19 MR. ROSENFELD: No, no, no, that's not the
20 question.

21 MR. MACLEOD: Can I answer that, please? In
22 an attempt to make a very energy-efficient house,
23 we have introduced a lot of separate zones of
24 heating and cooling equipment in the house,
25 including radiant heat, and all of this takes up

1 additional space, not only for what you see there
2 as illustrated, a boiler and a hot water tank, but
3 there are all associated multiple zones of piping
4 and circulators and controls.

5 MEMBER WILLIAMS: They came off the plan?

6 MR. ROSENFELD: No, I think they were
7 originally there.

8 MEMBER WILLIAMS: But not taken into
9 consideration.

10 MR. MACLEOD: They were there but we've
11 expanded on it in terms of concept and trying to
12 make a very energy-efficient house.

13 MEMBER WILLIAMS: So more mechanics than you
14 thought you'd have, okay.

15 MEMBER GOTTLIEB: Is the entryway to the
16 mechanical room from the inside of the house or
17 from the garage?

18 MR. ROSENFELD: It's supposed to be from the
19 inside of the house, so the hallway.

20 MEMBER GOTTLIEB: Are there steps down into
21 the mechanical room or is it going to be elevated?

22 MR. MACLEOD: No, it would preferably be on
23 the same level as the house.

24 MR. ROSENFELD: And we would eliminate -- no,
25 no, I'm sorry, you're right. It is from the

1 inside of the house and preferably, as Mr. MacLeod
2 said.

3 MEMBER GOTTLIEB: And then basically a
4 step-down?

5 MR. ROSENFELD: Step down, right. That's
6 because of the grade.

7 MR. MACLEOD: The steps go down into the
8 garage.

9 CHAIRMAN KEILSON: Anyone in the audience
10 wants to speak to the matter?

11 MEMBER GOTTLIEB: Would this be mounted on
12 wood or on concrete? How do you propose to
13 elevate this?

14 MR. MACLEOD: We would prefer to have a wood
15 frame floor on a concrete foundation. So it is
16 not a hazard if somebody does drive in there. We
17 don't want them to knock a post out and have a
18 subsidence of the floor. It would be safer if it
19 was built on a concrete foundation holding up a
20 wood frame.

21 CHAIRMAN KEILSON: Mr. Rosenfeld, if we grant
22 this variance, can you promise you won't come back
23 for Mr. Goldberg again?

24 MR. ROSENFELD: I wouldn't know what to do.

25 CHAIRMAN KEILSON: All right, we're going to

1 vote on the matter.

2 Mr. Rosen, have you heard enough?

3 MEMBER ROSEN: Start down there.

4 CHAIRMAN KEILSON: We'll start with
5 Mr. Gottlieb then.

6 MEMBER WILLIAMS: I'll vote on this one. I
7 vote for.

8 MEMBER FEIT: No.

9 CHAIRMAN KEILSON: Mr. Gottlieb.

10 MEMBER GOTTLIEB: For.

11 MEMBER ROSEN: For.

12 CHAIRMAN KEILSON: And for.

13 MR. GOLDMAN: Four yeses, one no.

14 MR. RYDER: All the conditions are the same.

15 MR. ROSENFELD: I think it's subject to the
16 previous one.

17 MR. GOLDMAN: But that has to be put on the
18 record.

19 (Whereupon, the hearing concluded at
20 8:25 p.m.)

21 *****

22

23

24

25

1
2
3 Certified that the foregoing is a true and
4 accurate transcript of the original stenographic
5 minutes in this case.
6

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

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 17, 2010
7 8:25 p.m.

8 APPLICATION: Ostreicher
9 198 Harborview South
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

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The matter of Ostreicher.
2 Mr. Rosenfeld.

3 MR. ROSENFELD: Meir Rosenfeld, 466 Central
4 Avenue, Cedarhurst.

5 MR. OSTREICHER: Michael Ostreicher,
6 198 Harborview South, Lawrence, New York 11559.

7 MR. ROSENFELD: And by coincidence, the
8 architect is John MacLeod.

9 This is several variances, and the
10 predominant among them is we are seeking building
11 area coverage in excess of exactly 19.8 percent
12 over what is permitted. There are -- we are not
13 seeking to change either of the side yard
14 pre-existing encroachments which have existed
15 since the house was erected.

16 CHAIRMAN KEILSON: How far back will the new
17 encroachment be on the side?

18 MR. ROSENFELD: On the side, the existing
19 encroachment is one side is eleven feet one inch,
20 and one side is nine feet two inches.

21 CHAIRMAN KEILSON: You're running the
22 encroachment further back?

23 MR. ROSENFELD: The encroachment -- oh,
24 further than the existing house?

25 CHAIRMAN KEILSON: Yes.

1 MEMBER FEIT: Yes.

2 MR. ROSENFELD: Yes, it does. Yes, it does.
3 By how many feet?

4 MR. MACLEOD: Sixteen feet to the first
5 corner.

6 MR. ROSENFELD: By sixteen feet to the first
7 corner along the right side of the house.

8 CHAIRMAN KEILSON: How about on the left
9 side, anything?

10 MR. MACLEOD: Left side we have seven foot
11 nine inches to the first corner. Beyond that
12 corner --

13 CHAIRMAN KEILSON: Beyond the pre-existing?

14 MR. ROSENFELD: Beyond the corner.

15 MR. MACLEOD: Beyond the existing rear left
16 corner.

17 CHAIRMAN KEILSON: Right side, sixteen?

18 MR. MACLEOD: Sixteen-three beyond the
19 existing foundation of the garage.

20 MR. ROSENFELD: We as well seek to have a
21 30-foot roof. The Building Department classified
22 it as a combination roof, and at the risk of
23 sounding repetitive, once again, we tried to get a
24 traditional roof in the -- excuse me -- in this
25 house, but it would have -- the apex of it would

1 have been approximately five -- 35 feet. So it's
2 cut off at a certain point and, therefore, it's --
3 the only reason it's a combination roof is because
4 it was cut off before we could get to a
5 traditional roof.

6 I believe, and I've stated here before, that,
7 you know, based on conversations with Trustees
8 when the law was enacted, the combination roof law
9 really was intended for houses that were of a art
10 deco style that are totally flat and may have one
11 or two gables on the side.

12 Additionally, we --

13 CHAIRMAN KEILSON: The neighbor's house to
14 the left is how tall, if you know, Zelig?

15 MR. ROSENFELD: Zelig is 30 feet. The
16 neighbor to the right is the same height as this
17 house. I believe it is --

18 CHAIRMAN KEILSON: Twenty-four feet.

19 MR. ROSENFELD: I believe it is 24 or 25
20 feet. Maybe just visually it looked like it was a
21 little higher. I should point out that almost all
22 the other surrounding homes both across the street
23 and some along the same side of the street are in
24 excess of 27. As a matter of fact, there's the
25 ones on Harborview South.

1 CHAIRMAN KEILSON: We have to examine that,
2 but let's stay with the neighbors right now.

3 MR. ROSENFELD: Well, the neighbor
4 immediately to the left is at 30 feet. The
5 neighbor across the street is at 30 feet.

6 CHAIRMAN KEILSON: The neighbor to the right
7 is the most impacted.

8 MR. ROSENFELD: The neighbor to the right is
9 most impacted. The neighbor to the right -- and
10 thank you for that segue, Mr. Chairman. I would
11 submit ten letters of support from the neighbors,
12 including the neighbors to the right and to the
13 left. There was one ornery neighbor in the rear
14 who refused to sign anything.

15 CHAIRMAN KEILSON: The neighbor to the rear
16 is Shindel, is that who it is?

17 MR. ROSENFELD: Yes, Shindel was totally in
18 accord.

19 MR. GOLDMAN: Before we continue, I assume
20 you want to take back the characterization of
21 ornery. It's perfectly within the province of any
22 neighbor here not to feel inhibited or have any
23 kind of chilling effect.

24 MR. ROSENFELD: Totally off the record and
25 it's an inside joke and I stand chastised.

1 MR. GOLDMAN: You don't have to stand
2 chastised. We're talking about neighbors. This
3 Board is composed of neighbors and we're sensitive
4 to the issues of neighbors. So when someone wants
5 to oppose it, they don't have to feel that they
6 have to sign and then make anonymous phone calls.
7 I understand that the record doesn't reflect it.

8 We have letters of support from 195
9 Harborview North, 181 Harborview South,
10 194 Harborview South, 193 Harborview North,
11 191 Harborview South, 202 Harborview South,
12 201 Harborview South, 207 Harborview South, and
13 131 Harborview East and 206 Harborview South.
14 They're being submitted collectively. They're a
15 form letter and they're in support of the project
16 (handing).

17 MEMBER FEIT: Mr. Rosenfeld, let me tell you
18 what's bothering me.

19 MR. ROSENFELD: Okay.

20 MEMBER FEIT: And this is not --

21 CHAIRMAN KEILSON: Can I interject? Let's
22 just summarize where we're up to.

23 MR. ROSENFELD: There was just one more item
24 on the list, and before Mr. Feit, before I hear
25 your complaint, there is an existing basement.

1 The flood zone has changed. If we were to build
2 this house from scratch we would not be able to
3 have the basement. It is in my client's extreme
4 interest to do whatever is necessary to maintain
5 as dry and as safe a basement as possible. And on
6 the record I state that all sump pumps, French
7 trench systems in concert with the architect and
8 the Building Department, whatever is reasonably
9 directed that will be complied with. There is no
10 contemplated change to the footprint, so to speak,
11 of the basement.

12 CHAIRMAN KEILSON: I assume you've done
13 engineering studies and the basement's been dry or
14 whatever?

15 MR. ROSENFELD: As far as we know the
16 basement has always been dry.

17 CHAIRMAN KEILSON: All the basements in
18 Harborview have issues; they generally have sump
19 pumps and that generally relieves the issue.

20 MR. MACLEOD: Right. There was no standing
21 water in the basement. There's normal humidity
22 that you would find in an average basement, and
23 any infiltrating water should be taken care of by
24 a perimeter sump pump which will be installed as
25 part of the construction.

1 MEMBER FEIT: What does this do to the
2 saturation of the property? In other words, by
3 expanding the building it's going to cause excess
4 water outside, from the backyard of this house and
5 neighbors' houses.

6 MR. ROSENFELD: Well, I can state that
7 whatever grading is necessary to grade away from
8 the house will be undertaken as per the guidelines
9 of the Building Department. In addition, the new
10 construction will benefit from leaders and
11 gutters, so runoff water would probably not be any
12 more of an issue than it would on any other
13 structure.

14 MEMBER FEIT: But I'm talking by the
15 displacement of the building, where you're
16 extending the building down, will that not get rid
17 of land which normally might absorb the water and
18 push that water to the surface and out?

19 MR. MACLEOD: As a matter of fact, we will be
20 reducing the surface coverage on the property.
21 There's currently a large surface coverage and we
22 will be reducing that from 4,844 to 4,377 which is
23 actually less than the required 4,973.

24 MR. ROSENFELD: Specifically, Mr. Feit, if I
25 may, specifically, what we're doing to alleviate

1 that problem is we're taking out an existing pool.
2 So any existing water is going to be lessened.

3 MEMBER FEIT: Now, let me go to where I have
4 a major problem, okay. I have a major problem
5 when people come in and buy and immediately put in
6 for renovations. Let them buy property or a house
7 that fits what they need. Right here in this
8 petition it says: "We bought this home knowing
9 that from the start that renovations will be
10 undertaken," and then you go into all the
11 expansion.

12 MR. ROSENFELD: Correct.

13 MEMBER FEIT: Why don't you buy something
14 without having to come here that fits your needs?
15 I really object to this type of stuff.

16 MR. ROSENFELD: I understand, Mr. Feit, and a
17 review of the petition reveals also that this
18 neighborhood is a particularly desirous one for
19 them. And as an attorney, I'm sure you know the
20 old adage about the three most important things in
21 real estate are location, location, location.
22 This is a very desirable location. There are many
23 people who would like to live in the Harborview
24 area. For better or for worse, and I'm not
25 passing judgment on it, there are still a number

1 of unimproved homes in Harborview.

2 By the same token, I would venture to guess
3 that almost everyone who has bought there has gone
4 through some sort of a renovation of their house.
5 There are homes on that block that defy any
6 conformity of any kind of a residence. There
7 are --

8 CHAIRMAN KEILSON: What?

9 MR. ROSENFELD: There are homes on that block
10 that are so overblown and so --

11 CHAIRMAN KEILSON: On south?

12 MR. ROSENFELD: Yes. I'm referring
13 specifically to the neighbor.

14 CHAIRMAN KEILSON: Zelig didn't come in for a
15 variance.

16 MR. ROSENFELD: No, I understand that. I'm
17 not saying that there was a variance involved.
18 I'm speaking to the point of somebody coming in
19 and renovating a house.

20 CHAIRMAN KEILSON: No, but he's concerned
21 about the variance that's required.

22 MEMBER FEIT: No, within right. If you gut
23 inside and rebuild it, pretty much what I'm doing,
24 that's fine, but I do object to coming in, buying
25 a house, knowing that you're going to expand it

1 another 20, 30, 40 percent. Go buy a house two
2 blocks away that has the land or that's big enough
3 for what you need. Don't come in and say, come
4 on, now I want to redo it. There's no pressing
5 need where you're looking for a house and the
6 needs -- for me the community's needs far excess
7 -- far excess --

8 MR. ROSENFELD: Exceed.

9 MEMBER FEIT: -- what somebody who is looking
10 to come in and build. It doesn't fly with me, I'm
11 sorry.

12 MR. ROSENFELD: Mr. Feit, I understand your
13 point. I would hasten to point out that the
14 effect on the community here is really minimal.
15 The presentation and the petition shows that we
16 are not -- we are not encroaching into the side
17 yard. We are not encroaching into the front yard.
18 From the street level this house will only be
19 improved in its appearance. The only -- the only
20 part of the house that is going to be expanded
21 upon is towards the rear. And once again, I will
22 hasten to add -- oh, and some of the garage comes
23 forward, but there's no variance necessary for
24 that.

25 I will hasten to add that there are many

1 homes in the desirable Harborview area that have
2 undergone some form of change and renovation. In
3 fact, I can testify that there's a number of
4 variances that were issued and granted there. The
5 homes there are on smaller lots. There's just no
6 getting around it. It's an area that people want
7 to live in. They want to go to the house of
8 worship that they want. It's somewhat enclosed
9 and it's desirable because it's on the water, but
10 because of the size of the lots almost everyone
11 undertakes some kind of renovation from the small,
12 if you will, the splits or the cottages that
13 existed there when the subdivision was built.

14 MEMBER FEIT: And there are people who live
15 on streets like Martin or some of the others and
16 also walk to Rabbi Kalish or whatever shuls are
17 around. You know, so walking another block, you
18 want to be another block closer doesn't impress
19 me.

20 MR. ROSENFELD: I'm certainly not looking to
21 impress you, Mr. Feit. All I'm saying is that
22 part of it is the location, and the location
23 factor is something that is totally subjective,
24 and understanding where you're coming from and the
25 exasperation that I sense, it's understandable.

1 However, I would hasten, once again, to point out
2 that people buy homes primarily because of the
3 area that they would like to live in. As for the
4 expansion on this house, the Ostreichers currently
5 have three children. They're expecting a fourth,
6 God willing, very, very shortly.

7 MEMBER FEIT: And they're planning seven
8 bedrooms, seven bedrooms in the house?

9 MR. ROSENFELD: Mr. Feit, if I may, there's a
10 master bedroom, there is a guest room, a maid's
11 room, and four bedrooms for the children. This is
12 not at all unusual in the Village of Lawrence to
13 have guest rooms on the main floor and to have
14 room for live-in help.

15 CHAIRMAN KEILSON: Four or three? The
16 application reads four.

17 MR. ROSENFELD: I was jumping the gun.

18 MR. OSTREICHER: God willing, four.

19 MR. ROSENFELD: God willing, four. I didn't
20 put the God willing part.

21 MEMBER GOTTLIEB: So wait a minute. We have
22 three going on four?

23 MR. ROSENFELD: Yes.

24 MEMBER GOTTLIEB: Or four going on five?

25 Three going on four. But the seven bedrooms is

1 still seven?

2 MR. ROSENFELD: God willing.

3 MEMBER ROSEN: Wait a second. I just want to
4 say, first of all, I don't think the number of
5 bedrooms is relevant. I don't think we have the
6 right to question the number of children that a
7 person has, and I've said this before. So any
8 mention of that is just not part of our -- of our
9 auspices. So however number of kids you want to
10 have is fine with this Board, despite what you
11 might have heard.

12 So the other point I wanted to make --

13 CHAIRMAN KEILSON: I'm sorry. I have to take
14 exception.

15 MEMBER GOTTLIEB: I'm going to take exception
16 as well.

17 CHAIRMAN KEILSON: Need is a very important
18 part of our purview and need relates to the number
19 of people in a family, and if building coverage is
20 excessive because you're building more bedrooms
21 than necessary.

22 MEMBER ROSEN: We've had this issue before
23 and I've said the same thing before. I don't
24 think that projection of need is the purview of
25 us. I think it's the purview of the family to

1 decide how many kids they want to have and what
2 they want to do with their house. It's not our
3 role to say that because you only have three kids
4 now and a fourth on the way that you could only
5 have four bedrooms in the house. That's not our
6 purview.

7 MR. ROSENFELD: I can assure the Board --

8 CHAIRMAN KEILSON: Mr. Rosenfeld, please
9 wait.

10 I have to correct you. Under the statutory
11 zoning regulations, the minimum variance
12 requirement is what we address. That's what we
13 address, the minimum. Not that you think you're
14 going to have eighteen kids and need twenty
15 bedrooms.

16 MEMBER ROSEN: I don't think we should get
17 into this now because I think there are other
18 issues.

19 MR. ROSENFELD: I would just like to say that
20 we can stipulate here that each bedroom will be
21 fully and totally utilized and, God willing,
22 doubled up and tripled up and all kinds of nice
23 things, but there is a real need. There are eight
24 grandparents and great grandparents who are in a
25 very close-knit family who are frequent guests for

1 the weekend, none of whom live in the
2 neighborhood. It's necessary to have a guest room
3 on the main floor.

4 MEMBER WILLIAMS: I'm not arguing with you.
5 I'm just curious whether you understand where the
6 Board is coming from. The perception -- you're
7 implying that there's a perception out there that
8 this Board will grant variances because there is
9 need across the board and because the entire
10 Harborview is people who are going to have big
11 families, et cetera, et cetera, and I think that
12 the message that Mr. Keilson is trying to bring is
13 that a variance is an exception. The rule is not
14 to.

15 MR. ROSENFELD: Right.

16 MEMBER WILLIAMS: When you ask for a
17 variance, we want it recognized that that is
18 something you're asking for that is technically we
19 can say no to. And when you present the variance
20 it should be something that has to be proven to be
21 a need, not just because. What's frustrating
22 Mr. Feit is I want it and therefore I should have
23 it. That's not -- I'm not saying that that's the
24 case. Don't misunderstand me. I'm just trying to
25 explain what's going on here.

1 When you buy a house, this is the house you
2 bought, this is what you're entitled to,
3 et cetera. You're coming to a Village and you're
4 saying I need more space. You're asking for
5 something that we technically are supposed to say
6 no, but we are trying to find a way that we can
7 say yes to. And that's what I think Mr. Keilson
8 is trying to say, and that's why he's arguing with
9 Mr. Rosen who seems to be implying that, well, if
10 you want to have a house with eighteen kids, go
11 ahead, and that's why Mr. Feit is frustrated.

12 MR. ROSENFELD: Outside of anybody on this
13 side of the railing I would say I'm as cognizant
14 of anybody in the Village probably of what the
15 purview is and what we're looking at. And you're
16 right. Obviously, you're very right when you say
17 that we're looking for exceptions.

18 I would stretch that a little bit to say that
19 the Harborview neighborhood is probably -- if you
20 have to look for a neighborhood that is an
21 exception in the Village of Lawrence, it would be
22 Harborview. It's an extremely desirable
23 neighborhood coupled with home lots that are much
24 smaller than what you would find in back Lawrence
25 or in some other areas. That having been said,

1 that's why we see this phenomena maybe there and
2 it's more pronounced there than it would be other
3 places.

4 MEMBER WILLIAMS: I'm not arguing. I just
5 want you to understand the frustration.

6 MR. ROSENFELD: I totally understand, and I
7 think my client and the architect gets that and
8 appreciates that.

9 MEMBER GOTTLIEB: I didn't even start with
10 you yet, I'm sorry to say.

11 MR. ROSENFELD: You didn't want me to be here
12 to begin with.

13 MEMBER GOTTLIEB: We can talk about the
14 ground percolation. We can talk about Harborview
15 is perceived by many to be overbuilt, and I'm
16 talking about neighbors who choose to remain quiet
17 but do have quiet objections, and that's the
18 objections that we hear and we're entitled to
19 hear.

20 There are objections of an appearance. It is
21 a massive house. There are other massive houses,
22 but we're looking for a reason to make another
23 massive -- actually, we're not looking for a
24 reason to. You're giving us a reason to make
25 another massive house on this street and, you

1 know, Mr. Rosenfeld, you've come before us, you're
2 one of the finest attorneys, you usually get your
3 way. What I mean by that is you present wonderful
4 arguments. I have objection with the size of this
5 house.

6 MR. ROSENFELD: Right.

7 MEMBER GOTTLIEB: With the appearance. Not
8 the aesthetic appearance. With the bulk of it. I
9 can go into a couple of questions. I actually
10 counted eight bedrooms. There's something called
11 a loft area; that looks like a bedroom without a
12 door.

13 MR. MACLEOD: If I can explain that. A lot
14 of the designs that I've been involved in recently
15 have requested an upstairs den as an open loft
16 area. It's a very busy family area which will be
17 used oftentimes by the kids when the parents are
18 having adult functions downstairs and the children
19 need to be upstairs. So it will get a lot of use
20 and not as another bedroom.

21 MEMBER GOTTLIEB: But even still --

22 MR. ROSENFELD: Mr. Gottlieb, I would point
23 out that I understand that there's an issue with
24 the appearance of the house and the massiveness of
25 it, but once again, I would point out we're not

1 going any further widthwise or from the curb, from
2 the front of the house. We're not encroaching --
3 there is no front-yard variance. We're moving the
4 garage a little bit forward and there is a porch.
5 We're not encroaching any further on the side.
6 It's the same profile of the house that it is now.

7 MEMBER GOTTLIEB: You're raising the height
8 of the house.

9 MR. ROSENFELD: We are raising the height of
10 the house, that's correct.

11 MEMBER GOTTLIEB: Therefore, you increase the
12 bulk.

13 MR. MACLEOD: Mr. Gottlieb, can I address the
14 bulk issue?

15 MEMBER GOTTLIEB: Please.

16 MR. MACLEOD: As Mr. Rosenfeld states, we're
17 not really coming any -- we are coming closer to
18 the street, but we're not requiring a front-yard
19 variance. This house has got nine-foot ceilings
20 on the first floor and the second floor, which is
21 standard if not smaller than some houses which are
22 requested to have ten-foot ceilings on the ground
23 floor.

24 The front profile of the house if you look at
25 the plan and the front elevation, you will see

1 that I have worked hard to articulate the form of
2 the house so it is not just a big box house. It
3 has a lot of indentations and interesting
4 projections I hoped which would be recognized that
5 way which will give a good amount of relief on the
6 front of the house, not giving it that large box
7 appearance.

8 Furthermore, the roof apart from the gables
9 in various places around the house which add
10 interest to the overall aesthetic, the main roof
11 is sloping towards the center of the house from
12 all sides. When you look at the front elevation
13 of the house you will see what may appear because
14 it is a two-dimensional drawing, it may appear to
15 be bulkier than it is from that drawing because
16 the two triangles left and right on the roof that
17 you see are actually gables; the side roofs have
18 gables in the background.

19 If you look at page A-6, the front elevation
20 is depicted at the top of the page and at the
21 lower section of the page there's the left side
22 elevation. Now, the left side elevation shows one
23 of those small gables up on the roof which is
24 visible on the front elevation as a triangle which
25 may look from that drawing to be more massive than

1 it actually is.

2 So from all four directions of the house the
3 roof is sloping towards the interior. And the
4 plate height because this house is actually almost
5 on grade when you compare it to some others in
6 that -- on that block which have -- like start off
7 as high ranches and then get taller from there.
8 We are actually starting at a normal type height,
9 about two feet above grade for the first floor,
10 and that puts our plate height of the second floor
11 somewhere around 21, 22 feet which is not actually
12 high.

13 So I disagree with what you're saying about
14 the height on the building from the front. It
15 really is reasonable standards compared to others
16 that have been built.

17 MR. ROSENFELD: It slopes backwards.

18 MEMBER GOTTLIEB: Just let me -- to address
19 the bulk again, I realize you're entitled to build
20 up to 2,700 feet. What I was doing was and still
21 do is there's a 2,000-foot house there now.
22 You're looking to go about 60 percent more.
23 Granted, you're allowed to do most of that by
24 right. But when I look at this house I'm looking
25 at a house and a half, a house 60 percent more.

1 MR. ROSENFELD: Compared to what is there
2 now.

3 MEMBER GOTTLIEB: Compared to what is there
4 now. I realize you're allowed to go to 2,700
5 feet, and now you're going another 500 feet of
6 building coverage over that.

7 MR. ROSENFELD: I think that's symptomatic of
8 the neighborhood. I think that, once again, not
9 to guild the lily, but there were smaller houses
10 there and the people who are living there now have
11 requirements for larger homes. I think it may
12 have been fine.

13 CHAIRMAN KEILSON: I think, just factually,
14 to set the record straight, since I know the area
15 intimately, the north side of south is really not
16 that way. I could give -- recite each of the
17 houses.

18 MR. ROSENFELD: I think Zelig's house was
19 also similar --

20 CHAIRMAN KEILSON: Built by right, no
21 variance.

22 MR. ROSENFELD: It was -- originally, there
23 were three of the same houses.

24 CHAIRMAN KEILSON: I'll go down the list.
25 Shindel is, you know, 24. Siegel is not a high

1 house, Moushoutas is a ranch, Bais Medrash is 30.
2 Kalish is not anywhere near 30. Schunkauf
3 (phonetic) is not anywhere near 30.

4 MR. ROSENFELD: Across the street. Well,
5 you're saying the north side.

6 MEMBER GOTTLIEB: You're talking about the
7 north side of Harborview South?

8 CHAIRMAN KEILSON: Correct.

9 MEMBER ROSEN: Kalish was 30 you said?

10 CHAIRMAN KEILSON: No, Kalish is not. The
11 shul is going to be.

12 MR. ROSENFELD: The shul, which is two
13 structures away. So you have one structure
14 immediately to the left and a structure two houses
15 away that are both 30 feet, and almost all the
16 houses on the opposite side of the street are also
17 30, and I will bet dollars to doughnuts that at
18 some point when the two houses on the right side
19 eventually get sold either I or one of my
20 colleagues will be here looking for some kind of a
21 variance because I doubt that those houses will be
22 sold with the intention of as is.

23 CHAIRMAN KEILSON: One has been sold already.

24 MR. MACLEOD: Could I point out that when
25 this house, the original house was built there

1 were different standards in place and expectations
2 from general building standards and planning and
3 design. It was as a 2,700 square foot footprint
4 with smaller bedrooms, smaller living spaces, and
5 not only have the general standards changed, but I
6 believe the neighborhood has changed as well with
7 larger families and requirements for extra space,
8 in particular, dining rooms, kitchens and number
9 of bedrooms, which I'm sure you're well aware.

10 MR. ROSENFELD: Which I hasten to add also
11 that none of the rooms are gargantuan scale or
12 anything other than really proportional and this
13 is not like an extensive or expansive dining room
14 or very large kitchen. It's really very much
15 within proportion and in scale. None of the
16 bedrooms are massive and they're all quite
17 functional. So there hasn't been -- the bulk that
18 you're referring to is not as a result of
19 capriciousness and just saying I want to have as
20 large a bedroom as I can within the framework of
21 the house. It's functional and it's not
22 overwrought.

23 CHAIRMAN KEILSON: Mr. Goldman, you wanted to
24 say something?

25 MR. GOLDMAN: Just so the record is clear, I

1 think of what's of some concern to the Board based
2 on conversations with individuals is that there's
3 almost a presumption of a 20 percent overage.
4 You've cleverly, or perhaps deliberately, but
5 certainly practically gone to 19.8. I don't think
6 that that's an accident. I think 19.8 is a little
7 bit less than 20 percent. That's almost as if I'm
8 given the 20 percent and I'm going out of my way
9 to make it a little bit less. There are
10 components of it, you're true about your bedrooms
11 that they are indeed appropriate in size. But
12 going over it with members of the Building
13 Department, your family room, certainly your
14 living room, the breakfast room, there are little
15 chunks that if you didn't presume to be able as a
16 given to go up toward 20 percent, almost as a
17 given, and you make reference indeed in your
18 application. We have in Paragraph (6): We have
19 further been given to understand that particularly
20 in this neighborhood there is ample precedent for
21 allowing such variance where need is shown.

22 So it combines everybody's arguments, the
23 bedrooms, perhaps there's certainly a need, but in
24 terms of the size of the living room or the size
25 of the family room or the size of some of the

1 other components, it's almost as if they're done
2 with the understanding that, what the heck, I know
3 I can get 20 percent, let me fill in that 20
4 percent.

5 MR. ROSENFELD: By no -- by no stretch were
6 we. As a matter of fact, we're still looking for
7 a variance to that. In fact, when the original
8 plans were submitted to the Building Department we
9 had an overage of close to 40 percent. No, we did
10 have that.

11 After speaking to the neighbors, getting
12 their input, and the neighbors saying that that
13 was going to be too large, we revised it. Did we
14 revise it down? We tried to get it to 20 and,
15 yes, Mr. Goldman, a precedent is precedent. There
16 have been cases where 20 percent overages in the
17 Harborview area have been granted. There is
18 nothing more that I can go on until the Board
19 decides that they are going to allow 30 or only
20 allow ten. But the precedent has been that that
21 has been a guideline and that has been something
22 that we voluntarily went and complied with.

23 MR. GOLDMAN: Let the record be abundantly
24 clear that that's faulty reasoning. There are no
25 guidelines as 20 percent as the guideline. This

1 Board is required to grant a variance when there's
2 need demonstrated, whether it's 20 as the Board
3 has said, or 40, or 90 or 100 or whatever it is.
4 So to say that there are guidelines, but we sort
5 of start as a threshold issue of we know we're
6 exceeding, but let's exceed, we'll go 20 but we're
7 not going to go 27 unless it's a really freaky
8 situation.

9 MR. ROSENFELD: I apologize if I gave that
10 impression. That's not at all what I'm saying.
11 I'm saying specifically in agreement with you that
12 there are no guidelines. However, precedent has
13 shown in the past I've gotten 25 percent. I've
14 gotten 10 percent. There is no hard and fast
15 rule, but in order to come up with something that
16 I believe would have been more in comportion with
17 what the Board is looking for we voluntarily
18 diminished it from what we originally submitted to
19 the Building Department to what we have now.

20 MR. GOLDMAN: And I don't mean to belabor the
21 point.

22 MEMBER FEIT: I just want to ask
23 Mr. Rosenfeld one question. I'm just very
24 disturbed by what I heard. You are an excellent
25 attorney.

1 MR. ROSENFELD: Thank you.

2 MEMBER FEIT: You've been appearing before
3 this Board from probably before I joined this
4 Board ten years or more ago.

5 MR. ROSENFELD: Right.

6 MEMBER FEIT: Mr. MacLeod has had many
7 applications before us. You are both very good.
8 But you people should know ab initio you don't put
9 in for 40 percent increase and then try and cut
10 down. I don't understand how the two of you filed
11 original plans for over 40 percent increase
12 knowing the way this Board is running.

13 MR. MACLEOD: Thirty-four percent.

14 MR. ROSENFELD: Thirty-four percent.

15 MEMBER FEIT: Even 34 percent. Even 34
16 percent. You've been here so much.

17 MR. ROSENFELD: Right, right.

18 MEMBER FEIT: Why do you even start that way
19 or advise your client? It's not going to go. Why
20 should we have to tell him?

21 MR. MACLEOD: Mr. Feit, may I address the
22 size of the rooms?

23 MEMBER FEIT: Well, that's not what I asked.

24 MR. MACLEOD: That's what we're coming back
25 to. So let's look at the size of the rooms

1 because I don't believe that the size of the rooms
2 that we have in this house are overly large or
3 even could be described that way,
4 disproportionate. The living room is 18 feet
5 long. Eighteen feet long, that's not a huge room.

6 MEMBER GOTTLIEB: Eighteen by what?

7 MR. MACLEOD: Eighteen by fifteen foot two is
8 what I would describe from --

9 MR. RYDER: Wait a minute. I'm sorry, John.
10 The living room is eighteen by?

11 MR. MACLEOD: The front section of that.

12 MR. OSTREICHER: The bottom portion, right
13 there.

14 MR. MACLEOD: The living room, there is a
15 dividing wall between the living room and dining
16 room.

17 MR. RYDER: Okay, all right.

18 MR. MACLEOD: The living room which is in the
19 front part of the left side of the house is 18
20 feet to a pocket door arrangement, and the dining
21 room behind that which needs a little more space
22 to the table is 20 feet.

23 MEMBER GOTTLIEB: Twenty-one by fifteen.

24 MR. MACLEOD: By fifteen foot two. The
25 family room is nineteen foot ten by fourteen and,

1 again, that is not an oversized room. These are
2 more or less standard sized rooms, and I've
3 certainly been in houses with rooms --

4 MEMBER GOTTLIEB: Mr. MacLeod, what size is
5 the foyer?

6 MR. MACLEOD: The entrance foyer is fourteen-
7 nine wide and approximately the same to the
8 furthest part of the staircase. From the front
9 door to the beginning of the staircase is about --
10 from the closet to the beginning of the staircase
11 is -- I don't have a dimension on there, but it's
12 about -- it's about eight and a half feet.

13 MEMBER FEIT: Meanwhile --

14 MR. MACLEOD: The width of the house -- the
15 width of the house is consistent with the existing
16 width of the house. So working with that
17 dimension one of my client's first requirements
18 when we met was that they would like to have an
19 open area space and have an entranceway with a
20 beautiful staircase. And I've endeavored to
21 provide that within the width of the house without
22 trying to go any wider, and the way that these
23 numbers have worked out or forward to any greater
24 extent the width of the living room at
25 fifteen-two, the foyer at fourteen-nine allows for

1 a beautiful staircase and adequate reception space
2 for people coming, the kids leaving, going to
3 school, that space will be well used.

4 MEMBER GOTTLIEB: The library, please.

5 MR. MACLEOD: The -- I'm sorry?

6 MEMBER GOTTLIEB: The size of the library.

7 MR. MACLEOD: The library size is
8 seventeen-ten by twelve-foot-six, plus the bay
9 window.

10 MEMBER GOTTLIEB: I'm adding these up that
11 now you have four living areas.

12 MR. MACLEOD: Four different functions.

13 MEMBER GOTTLIEB: Four different -- living
14 room, family room, library.

15 MR. MACLEOD: Family room for social
16 occasions.

17 MR. ROSENFELD: Mr. Gottlieb, I would say
18 that there probably hasn't been a house built in
19 Lawrence in the last ten years that didn't have a
20 separate library and living room and family room.

21 CHAIRMAN KEILSON: I don't think you want to
22 make that statement.

23 MR. ROSENFELD: That I know of.

24 MEMBER FEIT: But that wasn't my question or
25 my statement.

1 CHAIRMAN KEILSON: Off the record one second.

2 (Whereupon, a discussion was held off the
3 record.)

4 CHAIRMAN KEILSON: Mr. Rosenfeld,
5 Mr. MacLeod, there's strong reservation on the
6 part of the Board members, as you can tell,
7 towards what we're presently being presented with.

8 MEMBER ROSEN: Struggling with.

9 CHAIRMAN KEILSON: We're struggling with this
10 issue, okay. We're not here to negotiate, but if
11 there's something that you want to consider before
12 we take a vote.

13 MR. OSTREICHER: If I can have permission to
14 speak --

15 CHAIRMAN KEILSON: Please, by all means.

16 MR. OSTREICHER: -- plead my case.

17 CHAIRMAN KEILSON: By all means.

18 MR. OSTREICHER: I understand fully what
19 Mrs. Williams said a little earlier which is that
20 none of this is a given, and none of it is taken
21 for granted. I'm standing here to plead my case,
22 so to speak. We are expecting our fourth child.
23 We currently live about a mile away from this
24 location. And, thank God, we outgrew our home.
25 We're very excited about moving into our home

1 where we'll have ample room for our children, for
2 a housekeeper and for guests. The proposed home
3 only has one extra room which is one single guest
4 room. My children are very fortunate that they
5 have eight great grandchildren alive and --

6 MEMBER FEIT: Grandparents.

7 MR. OSTREICHER: -- great grandparents and
8 four grandparents alive, thank God, and we enjoy
9 having our family over for the weekends. None of
10 them are within walking distance. My children
11 look forward to it. In our current home we don't
12 have room for anyone to come over for the weekend.

13 MEMBER FEIT: Where is your current home?

14 MR. OSTREICHER: In Far Rockaway.

15 I personally sat with each of those ten
16 people who signed the thing. They were not
17 intimidated by any means. I sat with them at
18 their kitchen tables. I sat with them in their
19 living room. We went through the plans page by
20 page. No one had a reservation. They all said to
21 me that we wish you the best of luck, God bless
22 you, I hope it works out. They said they're
23 looking forward to having new kids on the block,
24 youth on the block.

25 CHAIRMAN KEILSON: I don't want to disappoint

1 you or disillusion you, but I've had phone calls,
2 but continue.

3 MR. OSTREICHER: But the people who I have
4 met with were all very kind and courteous and they
5 all gave us their blessings. None of it was done
6 over the phone. None of it was done by mailing
7 them this letter. I sat with each and every one
8 of them and they were okay with it, to me at
9 least. I met with them alone. I did not meet
10 with them with any attorney or any architect and
11 they were all okay with it.

12 MR. GOLDMAN: Probably to your advantage.

13 MR. OSTREICHER: So again, I understand the
14 reservations of the Board. I respectfully plead
15 my case that we just want to have ample room for
16 our growing family to live comfortably in a
17 beautiful neighborhood. We don't want to bring
18 any problems, we don't want to bring any noise, we
19 don't want to bring any headaches. We just want
20 to live peacefully and be good neighbors, and I
21 appreciate your consideration.

22 CHAIRMAN KEILSON: Very well presented.

23 MR. ROSENFELD: There's possibly through the
24 -- I was just conferring with the architect --
25 through the use of maybe reducing some of the bay

1 areas and cantilevering the windows in front to
2 something we can possibly get down to another 2.8
3 to three percent. Excuse me just one second.

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

6 CHAIRMAN KEILSON: All right, gentlemen,
7 please.

8 MR. OSTREICHER: Mr. Chairman and Board
9 members, with your permission we'd like to submit
10 some concessions to the original plan which would
11 hopefully satisfy the needs of the Board members.
12 If I can have Mr. MacLeod present.

13 MR. MACLEOD: What we are trying to do is we
14 understand the possible precedent of a 20 percent
15 number, and we did strive to get under that
16 number. It's true. And we're willing to try to
17 go down some further but we would like to maintain
18 the essence of the house and the room sizes that
19 we have. In an attempt to do this, I can revise
20 the plans slightly to indicate that the four bay
21 windows that we have in the house would be
22 cantilevered structures and the percentage number
23 would probably drop by two to three percent as a
24 result of that.

25 MEMBER FEIT: But actually, the window would

1 be there and still look the same. The only thing
2 that changes is because of a quirk in the Building
3 Code; if it has a wall underneath it, it counts;
4 if it's cantilevered without the wall, it doesn't
5 count. So actually, you're just a little slight
6 of hand over there. That's what it is.

7 MR. OSTREICHER: I mean, I think what the
8 objective is, if I may speak, is that the primary
9 issue is the overage in the percentage and we're
10 trying to minimize that as much as possible
11 without completely changing the home. As we had
12 said earlier, none of the rooms are exceptionally
13 large. We're trying to be creative in ways to
14 satisfy the primary issue that the Board has with
15 the plans without completely redoing the home.

16 MR. MACLEOD: The width of the house, as I
17 stated before, is exactly the same as what it is
18 now. We just distributed that width in a pattern
19 that will give my client all the necessary spaces
20 that they're requiring for their family.

21 MEMBER FEIT: I think if you go back to
22 basics, am I right, the rule, Mr. Meirbaum, is the
23 need of the applicant?

24 MR. ROSENFELD: Who?

25 CHAIRMAN KEILSON: Mr. Rosenfeld.

1 MEMBER FEIT: Oh, sorry about that.

2 MR. ROSENFELD: No problem, Mr. Heller, go
3 ahead.

4 MEMBER FEIT: But isn't it the rule that the
5 need of the applicant has to outweigh the needs of
6 the community? The point of those extra bedrooms,
7 what is the need at this point for those extra
8 bedrooms that are going to offset the problems we
9 have with the bulk?

10 MR. ROSENFELD: Well, I would say, first off,
11 that the majority of the construction is in the
12 back. So the bulk will not be visible from the
13 front, thereby mitigating any detriment to the
14 neighbors.

15 MEMBER FEIT: Tell us what the needs of the
16 applicant is for seven or eight bedrooms at this
17 time.

18 MR. OSTREICHER: If I may, there's two
19 parents, plus four children, plus live-in help.
20 That comes out to six bedrooms. We would love to
21 have a guest room that we can have guests come
22 over for the weekends, family, friends.

23 Technically, you can say that each child
24 doesn't need their own bedroom, and that would be
25 a valid complaint, but it was our dream to be able

1 to build a home where each of our kids have their
2 own bedroom, and live-in help to assist my wife
3 with the children. That would be six bedrooms
4 right there. We're hoping to also have a guest
5 room, which would be all of the bedrooms.

6 MR. MACLEOD: Mr. Feit, to reply to your
7 point regarding the balance of the detriment to
8 the neighborhood, I don't believe that anything
9 that we've proposed here this evening is a
10 detriment to the neighborhood. It's certainly to
11 the benefit of my client, but to the detriment of
12 the neighborhood this house will only improve the
13 aesthetics of the street. I believe the house
14 that is there now has no redeeming features about
15 it.

16 I venture to say that the house that I've
17 designed is an attractive house and, again,
18 without speaking too much for myself, I really
19 enjoyed designing this house and look forward to
20 it being built in this format. It will only
21 enhance the value of other houses on the street,
22 as generally renovated houses do, and I'm sure
23 that, as someone pointed out before, any other
24 house that comes up for sale on the street will
25 also more than likely go under some degree of

1 renovation.

2 MR. OSTREICHER: If I may interject one more
3 point. Regarding the neighborhood itself,
4 obviously, most of the work that's being done, the
5 extension is in the rear of the house. The two
6 people who I spent the most time with prior to
7 this meeting were Mr. Kershenof and Dr. Plout who
8 are the two people directly behind me who will be
9 most affected by it. I spent an extensive amount
10 of time with each of them sitting down, going
11 through it, and they both did feel comfortable
12 with it. They both said it's aesthetically nicer
13 to look at than the house that is currently there,
14 and they were okay with it.

15 CHAIRMAN KEILSON: It's really the house to
16 the right that's most affected because he has that
17 big new wall 16 foot deep, 30 foot high which he
18 hasn't had until now.

19 MR. ROSENFELD: I don't think it extends to
20 his house. I think that's his backyard because
21 the house to the right is very similar to -- it is
22 very similar to this house as it exists. We're
23 extending to the back. I don't believe it
24 encroaches.

25 CHAIRMAN KEILSON: I hear what you're saying.

1 MR. OSTREICHER: As I said, I did sit with
2 Mr. Shindel, who is to my immediate right, this
3 past Sunday. We sat for two hours at his kitchen
4 table, and he had absolutely no problems with it.

5 CHAIRMAN KEILSON: How long did you sit with
6 him?

7 MR. OSTREICHER: Two hours.

8 CHAIRMAN KEILSON: That's two hours longer
9 than I spent with him in 35 years, and I'm the
10 neighbor --

11 MEMBER GOTTLIEB: You're the neighbor to the
12 rear.

13 MEMBER FEIT: What is the distance between
14 the two houses, the house on the left and the
15 subject house? You're already encroaching, am I
16 correct?

17 MR. ROSENFELD: Pre-existing, yes.

18 MEMBER FEIT: Pre-existing, but you're
19 encroaching. So how close is it to the other
20 house? I can't quite tell from the pictures.

21 MR. ROSENFELD: I would say it's no -- we're
22 eleven feet from the property line. Even if they
23 have the same amount, so it's 22 feet.

24 MEMBER FEIT: Is their garage right on the
25 property line?

1 MR. ROSENFELD: No, that's Zelig. They don't
2 have --

3 MEMBER FEIT: This is Zelig?

4 MR. OSTREICHER: Yes, that's Zelig.

5 MR. ROSENFELD: They have a part of the
6 garage.

7 MEMBER GOTTLIEB: Mr. MacLeod, I have to ask
8 you a question. I should have done this an hour
9 ago when I started this. What is the width of the
10 front of the property? I couldn't read it on your
11 plan.

12 MR. MACLEOD: Of the actual property or the
13 house?

14 MEMBER GOTTLIEB: The property.

15 MR. MACLEOD: The property width is 90.5
16 feet.

17 MEMBER GOTTLIEB: Ninety feet. So the house
18 is 70 feet wide?

19 MR. MACLEOD: Correct.

20 MEMBER GOTTLIEB: And I think that that's
21 where the bulk-out problem is. You've got 70 feet
22 of house on a 90-foot lot, and I understand you're
23 building on what was already there. And this is
24 where perhaps there is a disconnect between my
25 belief that it's bulking out and you're saying but

1 you're staying within the same parameters. I
2 don't know that there's a way to get around this,
3 but you've got a 70-foot very large house on a
4 90-foot front. What's the depth?

5 MR. MACLEOD: The depth of the house or
6 property?

7 MEMBER GOTTLIEB: I'm sorry, of the property.

8 MR. MACLEOD: The property is 140 feet deep.

9 MEMBER GOTTLIEB: That's why there's no
10 surface coverage problem, okay.

11 MEMBER FEIT: Mr. Rosenfeld, I think you
12 might recall about six months ago or seven months
13 ago I think it was on Arrowhead where your
14 argument is you're only looking for a two-foot
15 addition to the front to rebuild the whole house,
16 and our position was once you ask for that
17 variance everything is on the table.

18 MR. ROSENFELD: Okay, I do recall that.

19 MEMBER FEIT: Yeah.

20 MR. ROSENFELD: I do recall that.

21 MEMBER GOTTLIEB: Mr. MacLeod, I need to ask
22 you one more question. It doesn't have to do with
23 the variance, but on page A3, if I'm not mistaken,
24 and it's just going to piggyback on a prior matter
25 we just took up, it seems to me the boiler and the

1 hot water heater are in the living space adjacent
2 to a guest room, below a bedroom, unless I'm
3 mistaken.

4 MR. MACLEOD: You're correct. It's an
5 occasional use guest room with a direct vent
6 boiler to the right, with no chimney.

7 MEMBER FEIT: Is there a bedroom on top of
8 that?

9 MEMBER GOTTLIEB: It doesn't really
10 necessarily bear on the variance. It's just
11 something that I couldn't let go.

12 CHAIRMAN KEILSON: On credibility.

13 MR. MACLEOD: Could I just say something
14 else. Because we are in a flood zone we're not
15 allowed to put this equipment in the basement, and
16 even if we were --

17 CHAIRMAN KEILSON: I understand that.

18 MR. ROSENFELD: And it is adjacent to the
19 garage, by the way.

20 MEMBER GOTTLIEB: So is the mudroom.

21 MEMBER ROSEN: We saw the picture.

22 CHAIRMAN KEILSON: So let's just summarize
23 where we're at, what's being requested. We have a
24 flood zone issue in terms of the basement that we
25 want to have a variance to allow them to continue

1 the existing basement. And we have dormers or
2 decorative dormers which aren't permitted, even
3 though we don't allow attics with dormers. I
4 assume that there's no issue in terms of use of
5 that attic.

6 MR. ROSENFELD: Correct, it will not be used
7 for living space.

8 CHAIRMAN KEILSON: We have the height issue
9 on the combination roof. We're looking to go
10 instead of 27 to 30. We have the height setback
11 ratios as enumerated on the spreadsheet 1.2 foot
12 and 1.76 foot. We have the side-yard
13 encroachments on both left and right. And then we
14 have building area coverage. Is there any way of
15 quantifying what we're asking for with the
16 building coverage so that at least we could put on
17 the record what we're voting on?

18 MR. MACLEOD: I think that if we could bring
19 this down to say seventeen and a half percent
20 overage, approximately, because I have to do the
21 calculations.

22 MR. ROSENFELD: What would it come out to,
23 approximately, in square feet?

24 MR. MACLEOD: It would be a technical
25 reduction of approximately 60 square feet.

1 CHAIRMAN KEILSON: Approximately 60.

2 MR. ROSENFELD: A little more.

3 MEMBER FEIT: That's out of 3,243 square
4 feet.

5 MR. MACLEOD: Correct. The overage is the
6 difference between 2,707 and 3,243.

7 MR. ROSENFELD: 3,180 something.

8 MEMBER FEIT: But the house is now only 2,000
9 square feet.

10 MR. MACLEOD: The overage is calculated on
11 the overage over the amount permitted.

12 MEMBER FEIT: No, I know that, but we're
13 starting with a house 2,000 feet. You can build
14 another 700 as of right, and then on top of that
15 you want another 536. So you're talking about
16 1,250 square feet approximately over and above
17 what the current house is. That's all.

18 CHAIRMAN KEILSON: Anyone in the audience
19 want to speak as to the issue? Thank God, no.

20 All right, we're going to vote.

21 MR. OSTREICHER: Thank you again for your
22 time and for your consideration.

23 MR. GOLDMAN: As a consideration of your
24 vote, we're required to note that because of the
25 basement situation and the request in terms of

1 retaining the basement at this point and that the
2 basement is below the required flood elevation, in
3 order to grant the variance, the Board has to
4 consider pursuant to Section 94-21, Paragraph F,
5 of the Village Ordinance.

6 CHAIRMAN KEILSON: I remember it well.

7 MR. GOLDMAN: And just to refresh your
8 recollection, that a variance shall only be issued
9 and, therefore, you have to take into
10 consideration in your determination, shall only be
11 issued upon receiving justification, it says
12 written justification, but we've had that and, of
13 course, we've had those proceedings showing a
14 showing of good and sufficient cause, a
15 determination that failure to grant a variance
16 would result in exceptional hardship to the
17 applicant and a determination that the granting of
18 a variance will not result in increased flood
19 heights, additional threats to public safety or
20 extraordinary public expense, create nuisances,
21 cause fraud on or victimization of the public or
22 conflict with existing local laws. In the event
23 that you grant this particular variance pertaining
24 to the flood component in the basement, at some
25 point we will be giving and you will be receiving,

1 so there's no misunderstanding, from an official
2 of the Building Department that the cost of your
3 flood insurance will be commensurate with the
4 increased risk resulting from the lowest floor
5 elevation. That is to say that, theoretically,
6 the basement should not be there at this point
7 because of the flood components. You don't want
8 to take out the basement or fill it in, and that's
9 been explained for various reasons. But in the
10 event that that is the case, that may be a
11 commensurate increase of your flood insurance, and
12 the Village is obligated to tell you that.

13 MR. ROSENFELD: Maybe, maybe, but it won't
14 necessarily because they just redid the flood
15 plan.

16 MR. GOLDMAN: Well, to the extent that there
17 is, there's an understanding and they have to tell
18 you.

19 CHAIRMAN KEILSON: Thank you, Mr. Goldman,
20 for making the record.

21 We're going to take the vote. Mr. Rosen.

22 MEMBER ROSEN: I vote yes.

23 CHAIRMAN KEILSON: Mr. Gottlieb.

24 MEMBER GOTTLIEB: I vote no.

25 CHAIRMAN KEILSON: Mr. Feit.

1 MEMBER FEIT: No.

2 CHAIRMAN KEILSON: Mrs. Williams.

3 MEMBER WILLIAMS: I'm going to abstain simply
4 because I'm upset as I am about assumptions being
5 made. I'm not quite sure how they could possibly
6 decrease this to make a difference.

7 CHAIRMAN KEILSON: I'm voting for.

8 MEMBER FEIT: That makes two two.

9 MR. GOLDMAN: You don't have a --

10 MEMBER WILLIAMS: I'll change my vote.

11 MEMBER ROSEN: No, no, it doesn't matter.

12 She just said --

13 MEMBER WILLIAMS: I'll change mine to for.

14 It's a split vote, yeah, because I'm more inclined
15 towards that.

16 CHAIRMAN KEILSON: Okay. In recognition of
17 the petitioner's presentation we will vote for.

18 MR. GOLDMAN: With the adjustments to the
19 reduction.

20 CHAIRMAN KEILSON: With the adjustments as
21 indicated and with all your recitations.

22 MR. OSTREICHER: Thank you all very much.
23 Thank you.

24 MR. MACLEOD: Thank you all very much.

25 MR. RYDER: John, Board of Building Design.

Ostreicher - 6/17/10

CHAIRMAN KEILSON: Two years.

(Whereupon, the hearing concluded at
9:25 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