

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 20, 2013
7 7:38 p.m.

8 APPLICATION:

9 Fox
10 51 Herrick Drive
11 Lawrence, New York

12 P R E S E N T:

13 MR. LLOYD KEILSON
14 Chairman

15 MR. EDWARD GOTTLIEB
16 Member

17 MS. ESTHER WILLIAMS
18 Member

19 MR. LESTER HENNER
20 Member

21 MR. MARK SCHRECK
22 Member

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

25 MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 have an extension request from the family Fox at
2 51 Herrick Drive. The variance has expired and
3 they're looking to extend it to June 30th of 2015.
4 The reason given is that they have some new
5 possible variances that they want to, I guess,
6 incorporate at more or less the same time.

7 MR. PANTELIS: Was that 2015 as opposed to
8 '14?

9 CHAIRMAN KEILSON: 2015, two years.

10 MR. PANTELIS: And that would be to commence
11 construction?

12 CHAIRMAN KEILSON: To commence construction,
13 correct, correct. Any comments, any objections?

14 MEMBER GOTTLIEB: Are they just thinking
15 about another variance?

16 CHAIRMAN KEILSON: Actually, Mr. Ryder, is
17 there anything -- you wanted to shed some light on
18 their request?

19 MR. RYDER: They've been going back and forth
20 with their architect on the design and raising the
21 roof and dormering out the third floor. It's a
22 change and it requires a variance. Even if it's
23 minimal, it still requires it, so she's not sure.

24 MEMBER GOTTLIEB: So if there are any changes
25 to what has already been granted, they will have

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1 to come back for a new hearing; is that correct?

2 MR. RYDER: Separate application, yes.

3 MEMBER GOTTLIEB: Okay.

4 CHAIRMAN KEILSON: So there's no objection?

5 MEMBER WILLIAMS: No.

6 CHAIRMAN KEILSON: Extended for the two years
7 till June 30th of 2015.

8 (Whereupon, the hearing concluded at 7:40

9 p.m.)

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

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Mary Benci

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MARY BENCI, RPR
Official Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 20, 2013
7 7:40 p.m.

8 APPLICATIONS FOR ADJOURNMENT:

9 Schlossberg
10 77 Muriel Avenue
11 Lawrence, New York
12 50 Doughty Boulevard, Inc.
13 50 Doughty Boulevard
14 Lawrence, New York

15 P R E S E N T:

16 MR. LLOYD KEILSON
17 Chairman

18 MR. EDWARD GOTTLIEB
19 Member

20 MS. ESTHER WILLIAMS
21 Member

22 MR. LESTER HENNER
23 Member

24 MR. MARK SCHRECK
25 Member

MR. THOMAS V. PANTELIS, ESQ.
Village Attorney

MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: I believe we have a couple
2 of adjournments. The matter of Schlossberg, if
3 they or their representative is present.

4 MR. GOLDMAN: Good evening, Mr. Chairman, and
5 members of the Board. On behalf of the
6 Schlossbergs, the architect is here as well, and
7 we're requesting an adjournment until July.
8 There's some adjustments. The Board had requested
9 an additional analysis of the property and the
10 drainage plan, et cetera. We retained as yet
11 another engineer, and there is a certain tweaking
12 of that plan that's being presented to the
13 Village. So we would need another month because
14 we also want to share it with the neighbors so we
15 can be adequately prepared.

16 CHAIRMAN KEILSON: Okay, any questions from
17 the Board? The next date we have is August --

18 MR. GOLDMAN: August?

19 MR. PANTELIS: Yes, we're not doing July.

20 MEMBER WILLIAMS: 7th.

21 CHAIRMAN KEILSON: 7th. Okay, so we'll
22 adjourn to the next available date.

23 MR. GOLDMAN: Thank you.

24 CHAIRMAN KEILSON: Let's talk about Doughty
25 Boulevard as long as you're up there.

1 MR. GOLDMAN: Yes. This is Mr. Henning.
2 We're simply asking for a final adjournment.
3 We're making efforts to reach out to the community
4 pursuant to the direction of the Board. It's a
5 little difficult to coordinate. So we're going to
6 do that and hopefully now August is a good date.
7 There's even, I believe, a resident of the Village
8 -- well, actually, within the radius, nevertheless
9 an interested party, so we're glad we're recalling
10 it. We'll adjourn for August 7th. I would note
11 I'm asking that this be a final adjournment. So
12 if somehow it doesn't coordinate or whatever,
13 we'll still make our application and rely on the
14 judgment of the Board.

15 MR. PANTELIS: Since there have been several
16 adjournments, I think it was the consensus of the
17 Board that notices be sent out again.

18 MR. GOLDMAN: We have. As a matter of fact,
19 so the Board knows, Mr. Henning has been
20 responsible and to the extent that we have in fact
21 notified every resident and this time basically in
22 anticipation of the adjournment we reached out to
23 the community representative to advise people.
24 And I apologize to Mrs. Tractenberg, though I'm
25 happy to meet her, that she was here tonight, but

1 she got to see democracy in action.

2 MR. PANTELIS: You understand this will be on
3 August 7th then.

4 MS. TRACTENBERG: August 7th, thank you.

5 CHAIRMAN KEILSON: Any comments from the
6 Board? Any objection?

7 MEMBER GOTTLIEB: Fine.

8 CHAIRMAN KEILSON: Adjourned.

9 (Whereupon, the hearing concluded at
10 7:43 p.m.)

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

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Mary Benci

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 20, 2013
7:43 p.m.

7 APPLICATION: Levovitz
8 144 Lakeside Drive South
9 Lawrence, New York

10 P R E S E N T:

11 MR. LLOYD KEILSON
12 Chairman

13 MR. EDWARD GOTTLIEB
14 Member

15 MS. ESTHER WILLIAMS
16 Member

17 MR. LESTER HENNER
18 Member

19 MR. MARK SCHRECK
20 Member

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

23 MR. GERALDO CASTRO
24 Building Department

25 MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

Levovitz - 6/20/13

1 CHAIRMAN KEILSON: The matter of Levovitz of
2 144 Lakeside Drive.

3 MR. GOLDMAN: Ronald Goldman, 17 Auerbach
4 Lane. If it please the Board, the designer is
5 here as well, Mr. Novello, which you might want to
6 step up, as well as the applicant.

7 This is an application that is essentially
8 rooted in necessity. You've read the petition,
9 and I don't know if I have to go into the
10 specifics, but there's a child that needs an
11 accommodation in terms of the necessity for the
12 expansion, and now sadly one of the -- that
13 child's grandparents, the applicant's mother has
14 taken severely ill and has no recourse but to have
15 to move onto the property as well with her father.
16 Thus, it is the genuine necessity for expanding
17 this property so that it can accommodate those
18 needs. That also requires by necessity again that
19 it has to be built out because the grandmother has
20 to have that kind of mobility.

21 I've indicated in the petition the
22 complications in terms of why the space is so
23 necessary both for the son who is ill and has a
24 caretaker and needs an exercise room, et cetera,
25 as well as for the mother and grandfather. So

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1 with that thought in mind that's the necessity.

2 There is no basement here. And as I
3 indicated again in the petition the garage has not
4 become viable because of the flooding in the area.

5 The only neighbor, if you will, that would be
6 imposed upon by this construction would be
7 Rock Hall Road, which is of course not a neighbor
8 at all, and that's where all the infringements, if
9 you will, would be noted. It's also an oddly
10 shaped plot. So that no matter how you would
11 design this, somewhere along the line it's kind
12 of like a balloon; if you squeeze it at one end it
13 would come out another, et cetera. So this is --
14 so that to that extent this seems to be the best
15 approach to it. So from that perspective I don't
16 mean to belabor the point. I know that the Board
17 likes to go over the variances specifically and
18 the code relief. I would just note as well that
19 there are neighbors obviously involved and we have
20 specifically written letters from each and every
21 one of them from 162 Lakeside Drive South,
22 149 Lakeside Drive South, 138 Lakeside Drive East,
23 150 Lakeside Drive South, 132 Lakeside Drive East,
24 156 Lakeside Drive South and 155 Lakeside Drive
25 South. So each of the letters is distinct but

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1 signed but they're all in support (handing).

2 MR. PANTELIS: We can mark these all as
3 Applicant's Exhibit A.

4 MR. GOLDMAN: So with the Board's permission
5 I would call upon the designer, Mr. Novello, and
6 of course, we have the code relief chart which
7 indicates the overage on the maximum building
8 area, but that's of necessity because of just the
9 way it's got to get laid out.

10 CHAIRMAN KEILSON: Why don't you tie in the
11 expansion to the necessity -- tie in the expansion
12 to the necessity which you have already expressed,
13 and we're very sympathetic to that obviously so we
14 can understand that it's directly related because
15 as you know we've been trying to mitigate
16 construction. You're well aware of the mayor's
17 edict, you read his letter, I'm sure.

18 MR. GOLDMAN: I had a free day.

19 MR. PANTELIS: Mr. Novello, just to perhaps
20 focus things, could you relate what is being added
21 and how the house is being altered and how it
22 creates the need for specifically specific
23 variances.

24 MR. NOVELLO: On the ground floor we are
25 creating a guest room for the parents who

1 library, family room, a den, and I understand a
2 sitting area is separate. They're all necessary
3 gathering spaces?

4 MR. NOVELLO: The sitting area, again, is
5 very small. There's a staircase in there.
6 Sitting room, the guest room, the den are
7 specifically quiet, like Mr. Goldman stated, quiet
8 areas for the parents and for the mother of the
9 applicant who is ill. Those specific areas.

10 MR. GOLDMAN: And also the grandfather is a
11 viable individual. I'm trying to be delicate.
12 It's a question of giving him some living space
13 where he too has a certain level of privacy.

14 CHAIRMAN KEILSON: Bringing the mother's
15 family into the house particularly with the aide,
16 very understanding of the situation.

17 MR. GOLDMAN: And the fact that the other
18 area, the child is not a child per se, but
19 requires a therapist and there's a separate, as I
20 indicated there, it's called an exercise room, but
21 I probably misstated because I don't want to give
22 you the impression that it's an exercise room in
23 the traditional sense. It's where the therapy
24 takes place on a regular basis.

25 MEMBER GOTTLIEB: Did I miss the exercise

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1 room or is it called something else?

2 MR. GOLDMAN: It may be called something else
3 on the plan. I referred to it when I drew up the
4 petition. It's not simply -- again, there's
5 nothing gratuitous about this project.

6 MR. PANTELIS: Maybe I could help you out
7 just a little bit here. This 28.7-foot rear yard
8 variance, is that a full variance you're
9 requesting or is there something about that that
10 relates to the shape of the property?

11 MR. NOVELLO: It's a triangular piece. So
12 the closest point to Rock Hall Road is 28 feet,
13 but it's triangular. So you know, as if you see
14 on the sheet A-0, you could see the line of where
15 the 40-foot setback is. It's just this little
16 triangular piece.

17 CHAIRMAN KEILSON: You say it's only one
18 specific point that it draws down to the 28,
19 but in fact in most of the backyard it's not
20 that.

21 MR. NOVELLO: That's correct.

22 MR. PANTELIS: That's important I think for
23 the record.

24 CHAIRMAN KEILSON: Very important for the
25 record.

1 CHAIRMAN KEILSON: Any questions from the
2 Board? Any comments from the audience? Anyone
3 that wants to comment for or against?

4 The fact of the matter is the family they're
5 very modest in everything they do, and I know it's
6 not an attempt to overbuild. I think it's
7 strictly out of necessity and I think we've always
8 been very sympathetic to hardship situations. So
9 I think our heart goes out to them in that
10 respect. And I think it meets the criteria in
11 terms of the -- for variance in terms of the
12 benefit that's going to be for the applicant, as
13 opposed to any potential detriment, which is
14 really I can't perceive it at this point in time.

15 MR. GOLDMAN: Thank you.

16 CHAIRMAN KEILSON: So having said that we'll
17 vote. Mr. Henner.

18 MEMBER HENNER: Having said that, I'm
19 against -- no, I'm sorry, I'm in favor. I was so
20 moved.

21 MEMBER SCHRECK: I'm in favor as well.

22 CHAIRMAN KEILSON: Mrs. Williams.

23 MEMBER WILLIAMS: For.

24 CHAIRMAN KEILSON: Mr. Gottlieb.

25 MEMBER GOTTLIEB: For.

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1 CHAIRMAN KEILSON: And I'm for as well. And
2 two years if you would like.

3 MR. GOLDMAN: Yes, with God's help. There's
4 an urgency here.

5 CHAIRMAN KEILSON: It's an urgent nature.

6 MR. GOLDMAN: This goes before the Board of
7 Building Design, Mr. Ryder?

8 MR. RYDER: Yes, Mr. Goldman.

9 (Whereupon, the hearing concluded at 7:54
10 p.m.)

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

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Mary Benci

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MARY BENCI, RPR
Official Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 20, 2013
7 7:54 p.m.

8 APPLICATION: Allen
9 100 Fulton Street
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MS. ESTHER WILLIAMS
17 Member

18 MR. LESTER HENNER
19 Member

20 MR. MARK SCHRECK
21 Member

22 MR. THOMAS V. PANTELIS, 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 Allen.

2 MR. GOLDMAN: Ronald Goldman, for the
3 applicant, 17 Auerbach Lane, Lawrence, New York.

4 Mr. Chairman, members of the Board, I'm here
5 this evening with both of the applicants, as well
6 as John Macleod, the architect on the project.

7 Mr. Macleod, join me, please.

8 CHAIRMAN KEILSON: Contract vendee, right?

9 MR. GOLDMAN: That is correct. I believe
10 that the Village had --

11 CHAIRMAN KEILSON: It's becoming habitual on
12 Fulton Street.

13 MR. GOLDMAN: That's correct.

14 MEMBER GOTTLIEB: There aren't too many
15 houses left that haven't come before us.

16 MR. GOLDMAN: This is an application before
17 you for essentially two variances. And what is
18 essentially there is that there's currently a
19 portion of a structure that has to be, for lack of
20 a better word, legitimized. It was inherited;
21 it's part of this property. It's part of the
22 purchase and yet somehow it's there. We're
23 prepared to explain. We didn't do it, obviously.
24 I'm not even certain that the current owners did
25 it. But it's a part of this application. It's a

1 component of it.

2 The remaining portion of the application
3 though is pretty straightforward, and that is that
4 it is a young, thank God, a young and expanding
5 family, and it's just, for a change, a truly
6 inadequate number of bedrooms. The plan here is
7 simply to cover the existing structure, fill it
8 in, if you will, without necessarily imposing on
9 anyone in any manner, shape or form.

10 And that's essentially what it is. It's only
11 the rear. It doesn't -- the side yards are not
12 involved. I will obviously leave it to
13 Mr. Macleod to explain, you know, the two
14 variances. Prior to doing so, however, I would
15 respectfully submit to the Board letters of
16 support from 119 Fulton Street.

17 CHAIRMAN KEILSON: How about the neighbor to
18 the rear?

19 MR. GOLDMAN: That would be which one?

20 CHAIRMAN KEILSON: Wilamowsky on Central
21 Avenue.

22 MR. GOLDMAN: I don't have from Wilamowsky.
23 I do know that efforts were made, I believe, to
24 reach out and they were unsuccessful, correct? I
25 do know that we sent out the notice. I can't

1 address that issue. I do have from the others and
2 I'll give it to counsel.

3 MR. PANTELIS: We'll mark it.

4 MR. GOLDMAN: The remaining neighbors are
5 supportive.

6 MR. PANTELIS: Just one question on the
7 contract vendee issue. Is the contract contingent
8 on obtaining these variances?

9 MR. GOLDMAN: Yes, it is. I would note too
10 that the current occupant -- the current salesman
11 -- the current seller of the house has taken ill
12 and has since moved to -- I'm sorry, they've had
13 to relocate, so this is a substantial --

14 MR. PANTELIS: But again, just to make sure
15 the record is clear, in the event the Board did
16 not grant the variances, the applicants as
17 contract vendees have the ability to cancel the
18 contract; is that correct?

19 MR. GOLDMAN: That's correct. I only note
20 and know it's almost incidental, but
21 notwithstanding the fact to some extent it's a
22 hardship sale because the gentleman has already
23 vacated the premises in order to relocate with his
24 wife.

25 MR. PANTELIS: Kind of extending the concept

1 there, if I may say.

2 MR. GOLDMAN: Giving it my best shot.

3 Nevertheless, on the other hand, having said
4 that, I will leave it to Mr. Macleod to explain
5 the necessity for it and the fact that, as I say,
6 it simply covers the existing footprint.

7 MR. PANTELIS: Again, Mr. Macleod, we would
8 like to hear existing conditions and how -- what
9 you're doing to change them and how it generates a
10 need for a variance.

11 MR. MACLEOD: John Macleod, 595 Park Avenue,
12 Huntington, New York 11743.

13 Good evening, members of the Board.

14 Yes, we are here this evening to request a
15 variance for an existing structure, a one-story
16 structure which has been on the back of this
17 particular residence for a number of years. We
18 haven't found the original drawings for it. There
19 is an old survey that shows it as a screened porch
20 from possibly 40 years ago, and sometime between
21 then and now and judging by the interior a
22 substantial time ago, it was enclosed and made
23 into part of the living space of the house.

24 As it is right now and as the space required
25 by the future owners, it would be very detrimental

1 not to have that as living space, as the footprint
2 of the house is not that great to begin with, and
3 so that is one of the contingencies of purchasing
4 this house, but they're able to maintain it.

5 MR. GOLDMAN: But there will be no change to
6 it. In other words, we're simply here because
7 it's existing and we want to make certain that
8 it's brought to your attention, but there will be
9 no construction on it. There might be some
10 adjustments to the roof from an aesthetic point of
11 view, but certainly no expansion of it and no
12 extension of it.

13 CHAIRMAN KEILSON: Is there a picture of what
14 you're referring to?

15 MR. MACLEOD: Yes. The photographs that you
16 have, if you look at the -- the photograph is
17 referred to as the rear neighbor. It shows both
18 the --

19 MR. PANTELIS: Neighbor to rear?

20 MR. MACLEOD: Rear neighbor. This is the
21 best photograph that shows both structures.

22 MR. GOLDMAN: Is it the last sheet or second
23 to last sheet?

24 MR. CASTRO: Last sheet.

25 MR. PANTELIS: It's just not labeled. It

1 says rear neighbor, but actually it's really
2 showing the white house is the house, the subject
3 property, and that's the rear addition that
4 they're seeking to maintain and go over.

5 CHAIRMAN KEILSON: So which portion was
6 illegally created?

7 MR. MACLEOD: In this photograph the rear
8 tail, the last eleven or twelve feet of that
9 one-story structure that you could see in that
10 photograph, the white structure.

11 CHAIRMAN KEILSON: Where the air-conditioning
12 unit is hanging out of the wall?

13 MR. MACLEOD: Yes, exactly that wall, with a
14 low pitched roof on it. That is the room if you
15 compare that to the survey that you have there,
16 you will see the tail of the house being that
17 room.

18 CHAIRMAN KEILSON: I see.

19 MR. GOLDMAN: The one with all the foliage
20 between it and the neighbor.

21 MR. MACLEOD: Correct. There is a screened
22 green separation between the two houses.

23 CHAIRMAN KEILSON: If we take the Google map,
24 I guess.

25 MR. RYDER: Correct.

1 CHAIRMAN KEILSON: On the left.

2 MR. RYDER: That's it.

3 MR. MACLEOD: It has a low pitched roof on
4 it, and we would intend to make that a better
5 performing roof by adding two hips on it, but it
6 would not be an end gable facing the house. So
7 we're not increasing the height of that structure.
8 It's just making it perform better. We're not
9 intending to build over it in any way and we're
10 just intending to use the space.

11 CHAIRMAN KEILSON: Where is the existing
12 two-story?

13 MR. MACLEOD: So if you look at the Google
14 photograph that you have, you will see that there
15 is clearly the second story, the two-story part of
16 the house that has the white roof on it, or the
17 light colored roof, and to the left of that which
18 would be to the north side of the second story you
19 will see there is a flat roof area which is
20 actually over the garage and over a workshop room
21 and bathroom.

22 MR. GOLDMAN: And that's over here on the
23 subject residence on the first page of the photos?

24 MR. MACLEOD: Yes. If you look at the first
25 photograph subject residence, 100 Fulton Street,

1 you will be able to see on the front elevation
2 that there is a space to the left of the main
3 second story part of the house.

4 CHAIRMAN KEILSON: Using your plans on A-1
5 and looking at that from Fulton Avenue, if you
6 take --

7 MEMBER GOTTLIEB: A-1 is the top page?

8 CHAIRMAN KEILSON: A-1 is the top page. Turn
9 it upside down. You can see the house from the
10 front. I assume that hatched area is going to be
11 the second story?

12 MR. MACLEOD: That is correct. That is the
13 second-story addition directly on top of the
14 one-story garage and workshop room behind it.

15 MR. GOLDMAN: In line with the current house.

16 MR. MACLEOD: In line with the rear of the
17 existing second floor of the house. The existing
18 rear second floor and the existing rear of the
19 house is noncompliant also. It should be 30 feet.
20 It is currently 25 foot 10. And we would like to
21 match that line as we extend the second floor
22 across the flat roof section of the garage.

23 MEMBER GOTTLIEB: So Mr. Macleod, I may have
24 read something incorrectly. Is it my
25 understanding or is it that there's really no

1 two-story structure for 24 feet? Approximately
2 24 feet that there's nothing that's going to be a
3 second-story structure? Basically, you're not
4 building over the existing enclosed porch.

5 MR. GOLDMAN: No.

6 MR. MACLEOD: No, that will remain.

7 MEMBER GOTTLIEB: It will remain 24 feet
8 between the property line and any second floor?

9 MR. MACLEOD: Correct. There will be 24.2
10 feet to the proposed second floor.

11 MR. GOLDMAN: As it is now.

12 MR. MACLEOD: As it is now.

13 CHAIRMAN KEILSON: As far as encroachments
14 go, the neighbor to the rear will be no further
15 encroached than he's been since that structure was
16 appended to the building some time ago.

17 MR. GOLDMAN: Correct. And nor will he be
18 encroached upon by height or anything else. The
19 only thing will be is improved.

20 CHAIRMAN KEILSON: Absolutely.

21 MR. GOLDMAN: No, because of the change in
22 the roof being modernized.

23 CHAIRMAN KEILSON: Any other questions from
24 the Board? Any other questions from the Board?
25 Anyone from the audience who would like to

1 comment?

2 (No response.)

3 CHAIRMAN KEILSON: Okay. All right, using
4 the criteria, I think we can understand fully that
5 the benefit to the applicant certainly outweighs
6 any sort of a detriment to any neighbor, and it's
7 almost been pre-existing other than the second
8 floor on the forward part, and the benefit to the
9 young couple moving in if they can't use the house
10 without it, I think it's a positive step for the
11 neighborhood. And therefore, we are going to
12 vote. Mr. Gottlieb.

13 MEMBER GOTTLIEB: I just had a question. I
14 don't recall, were there any letters of support?

15 MR. RYDER: Yes.

16 CHAIRMAN KEILSON: Everybody but the neighbor
17 encroached upon.

18 MEMBER GOTTLIEB: Oh, that was at the
19 beginning.

20 CHAIRMAN KEILSON: Right.

21 MR. RYDER: Would you like to see them?

22 MEMBER GOTTLIEB: No.

23 CHAIRMAN KEILSON: So Mr. Gottlieb, would you
24 like to vote?

25 MEMBER GOTTLIEB: I'll vote for.

Allen - 6/20/13

1 CHAIRMAN KEILSON: Mrs. Williams.

2 MEMBER WILLIAMS: For.

3 CHAIRMAN KEILSON: Mr. Schreck.

4 MEMBER SCHRECK: For.

5 CHAIRMAN KEILSON: Mr. Henner.

6 MEMBER HENNER: For.

7 CHAIRMAN KEILSON: I'll vote for. Two years.

8 MR. GOLDMAN: Two years, although again
9 there's an urgency to do this and this really
10 requires the Board of Building Design.

11 MR. RYDER: Yes, it does.

12 (Whereupon, the hearing concluded at
13 8:07 p.m.)

14 *****

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

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Mary Benci

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 June 20, 2013
7 8:07 p.m.

8 APPLICATION: Lebovic
9 180 Harborview North
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MS. ESTHER WILLIAMS
17 Member

18 MR. LESTER HENNER
19 Member

20 MR. MARK SCHRECK
21 Member

22 MR. THOMAS V. PANTELIS, 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 next matter is
2 Lebovic. Will they or their representative step
3 forward. Good evening.

4 MR. LEBOVIC: Good evening.

5 CHAIRMAN KEILSON: Please give the
6 stenographer your name and address.

7 MR. LEBOVIC: Joel and Esther Lebovic,
8 180 Harborview North, Lawrence, New York.

9 CHAIRMAN KEILSON: Why don't you give a quick
10 overview of what you're doing.

11 MR. LEBOVIC: We are looking to put in a pool
12 in our backyard. My wife is a big swimmer. My
13 kids are very interested in having a pool. They
14 think it will enhance our quality of life. My
15 wife is getting a little older, as we all are.
16 We're trying to keep in shape. She has,
17 thankfully, minor issues with her back, but it's
18 very important for health reasons.

19 CHAIRMAN KEILSON: Don't we all.

20 MR. LEBOVIC: Yeah, yeah. That's the short
21 end of it, yeah. Should I explain? We're asking
22 to put the pool on the right side of our yard.
23 The right side of the yard has advantages that
24 will leave the left side of the yard open, and our
25 house is like a high ranch. When you're standing

1 in the living room looking out over the yard, you
2 would see right into the pool. On the --

3 MS. LEBOVIC: If the pool were on the left
4 side.

5 MR. LEBOVIC: If the pool were on the left
6 side. Putting the pool on the right side of the
7 yard and, of course, a great deal of privacy
8 because we're higher up so all of our vision from
9 our dining room.

10 MS. LEBOVIC: The dining room and the
11 kitchen.

12 MR. LEBOVIC: Off the dining room and the
13 kitchen.

14 CHAIRMAN KEILSON: Stereo.

15 MEMBER HENNER: We're not going to suggest
16 that maybe your wife continue.

17 MR. LEBOVIC: We work together.

18 MS. LEBOVIC: I didn't want to interrupt him,
19 but I wanted to make sure that he said it the
20 right way.

21 CHAIRMAN KEILSON: Better here than at home.

22 MS. LEBOVIC: We gave you pictures. We gave
23 the Board some photos to help explain that. Our
24 house is a wide house, and the view -- and the
25 backyard is parallel to the house, and we want to

1 put the pool on the right side because as an
2 orthodox family it's important for us to have some
3 privacy so that when you're in the house you don't
4 have to close the shades looking out onto the
5 pool. Off the dining room and kitchen which is
6 more than half the house, we have a large deck; we
7 have it on the site plan. And when you're
8 standing in the house, and I took pictures sitting
9 at the table and standing in the room and even at
10 the windows, all you see is like the trees which
11 are just the last few feet of the yard. So the
12 pool will be mostly obscured by the deck. In the
13 living room if you're right at the window, yes,
14 you would see the end of the pool, but most people
15 are not standing at the windows, so that would be
16 a real help for us in terms of, you know, people
17 could be in the pool, my girls' friends.

18 MEMBER HENNER: What is to the right?

19 MS. LEBOVIC: To the right is the Stahler
20 family, they're on the corner. In other words, if
21 you're facing our house, the pool will be closer
22 to the Stahler family on the right. They're on
23 the corner of Lawrence Avenue and Harborview
24 North. Is that what you're asking?

25 MEMBER HENNER: Yes. So by putting it on the

1 right, is the pool going any closer to their
2 property?

3 MS. LEBOVIC: It is. That's why we are
4 asking for a variance.

5 MEMBER SCHRECK: Won't the Stahlers be able
6 to see the pool?

7 MS. LEBOVIC: The truth is, no. I took a
8 picture. You could see from the side yard we have
9 a bunch of tall trees, actually mostly on their
10 property and some on our property. As of now at
11 this time of the year they can't see anything at
12 all.

13 MEMBER HENNER: This is -- you know, since
14 I've been sitting on this Board, which is only a
15 year or two, but it seems longer, there have been
16 any number of people who come in with a pool
17 request and there were issues, there were privacy
18 issues, or there were people who had pools and
19 then the people next-door who were doing
20 alterations needed variances, there were privacy
21 issues raised. To my recollection, you're the
22 first people who raised the privacy issue about
23 your own family members being able to see you in
24 the pool, you know what I'm saying, with all due
25 respect.

1 MS. LEBOVIC: Can I explain?

2 MEMBER HENNER: Please.

3 MS. LEBOVIC: So even though we're not big
4 socialites, we tend to have a lot of company at
5 home. We have daughters who have friends, so it
6 just becomes a challenge, if anyone is in the pool
7 then anyone in the house could see them. I would
8 prefer that my boys not have to not be home when
9 the girls are in the pool with the friends. This
10 is a real issue because my boys are teens.

11 MEMBER HENNER: So you guys are up on this
12 stuff. So you know when you're applying for a
13 variance you know there are certain criteria.

14 MS. LEBOVIC: Sure.

15 MEMBER HENNER: So by you're having the pool
16 located where you located it, you're violating the
17 side-yard requirement. You're looking for a
18 variance for that so you can be closer to the
19 Stahlers. And I have no idea what their position
20 is. If they have any position on that, I don't
21 know if they have a letter, they don't care.

22 MR. LEBOVIC: They're very close friends of
23 ours.

24 MEMBER HENNER: Are they close enough that
25 they've given you a letter?

1 MR. LEBOVIC: We discussed it with them.

2 MEMBER HENNER: I'm just saying that you
3 heard the prior applications that you have to show
4 the necessity, you've got to balance this, that,
5 and we have -- and it's beyond just your property.
6 There are variance requirements that go for the
7 whole Village. And so why were you able to
8 encroach an extra two, three feet, whatever it is,
9 and the next guy is not allowed to? Well, I need
10 privacy when I go swimming in my own backyard. If
11 you moved it over two feet the other way, what --
12 then you wouldn't be encroaching, you wouldn't
13 need a variance, and we'd have nothing to say
14 about it, or nobody would have anything to say
15 about it. So all for the two feet so that you
16 could swim closer to the Stahlers than to your own
17 house. I'm just not following that. I'm not
18 trying to give you a hard time.

19 MR. LEBOVIC: Our primary explanation is
20 really why we are asking to encroach onto Rock
21 Hall Road, which is not a neighbor.

22 MEMBER HENNER: I'm not a big fan of Rock
23 Hall Road, you know what I mean. If you don't
24 mind swimming closer so that all the people
25 driving by can see in, be my guest.

1 MS. LEBOVIC: The explanation was why we
2 wanted the pool on the right side. In order to do
3 the pool on the right side because of the deck, we
4 have to go closer to Rock Hall Road. That was the
5 discussion. As far as Stahler, two and a half
6 feet, we, you know, discussed it with Mark. I
7 don't think Mark cares if we put the pool two and
8 a half feet closer to his property or two and a
9 half feet further from his property. When we went
10 to discuss it, he said, so you're telling me --
11 you're asking me if you want to put the pool here
12 or here? I said yes. So he doesn't seem to have
13 an issue with the two and a half feet. We prefer
14 to go five feet, but we don't want to encroach too
15 much. It's only two feet. It's only two and a
16 half -- two and a half feet.

17 MEMBER SCHRECK: How about making the pool
18 smaller?

19 MR. LEBOVIC: It's an option.

20 MS. LEBOVIC: For laps that's not great
21 because that's the length side.

22 MR. PANTELIS: Now, has your house been
23 granted variances by the Board?

24 MR. LEBOVIC: Yes, it has.

25 MR. PANTELIS: What were the nature of those

1 variances? Because what you are doing now is
2 layering on top of previous variances, and I'm not
3 sure what degree the Board --

4 MS. LEBOVIC: Maybe John can help us out.

5 CHAIRMAN KEILSON: Building coverage, surface
6 coverage, you name it.

7 MS. LEBOVIC: We're building over an existing
8 wide house so we have variances -- what do the
9 call it, the angles with the side?

10 MR. PANTELIS: Height/setback.

11 MR. LEBOVIC: The only variance that was more
12 at the time, what they called the technicality,
13 extending the house further back along existing
14 was the height issue and --

15 CHAIRMAN KEILSON: Just for the record, we
16 live with technicalities, as Mr. Macleod would be
17 happy to share with you.

18 MR. MACLEOD: If I can illuminate that
19 subject. The actual -- not wishing to backtrack
20 on the house, but just to say that the house at
21 the time when it was built did not actually
22 require a surface coverage variance. And now it
23 does because we're building a pool and a patio and
24 that adds to it. So and we -- the end result of
25 that is 9.6 percent overage in surface coverage,

1 which includes the pool and the patio and the
2 existing -- the surface coverage.

3 CHAIRMAN KEILSON: I'll save time. The
4 encroachment to the rear is to Rock Hall Road.
5 Thus far I haven't heard anybody concerned about
6 the effect on Rock Hall Road. Mr. Gottlieb, do
7 you have any concern about Rock Hall Road?

8 MEMBER GOTTLIEB: That's the least of my
9 concerns on this, so I'll leave that one aside.

10 CHAIRMAN KEILSON: Now we'll talk about the
11 encroachment to the right to the neighbor, the
12 two-and-a-half-foot encroachment. Mr. Henner
13 already expressed himself. Mr. Gottlieb.

14 MEMBER GOTTLIEB: I can certainly tell you
15 that while the neighbor himself might not object
16 to it, and I don't know exactly what variances
17 were given before, I certainly don't like seeing
18 particularly an exceptionally large house that
19 overtowers the neighbor to the right, the Stahler
20 house, to yet encroach another two and a half feet
21 for the pool. This does not please me at all.

22 I think this could be mitigated by either
23 making the pool two and a half feet shorter or
24 moving the pool towards the center of the property
25 as most of the neighbors have done.

1 MEMBER SCHRECK: I would concur with
2 Mr. Gottlieb and what Mr. Henner said. We never
3 had an application where people said there would
4 be a privacy issue in their own home. I
5 understand what you're saying, but I think that
6 the pool should be moved over, you know, more to
7 the center, or the pool should maybe be perhaps
8 made smaller. But to encroach on a neighbor, even
9 if the neighbor is okay with it, is not something
10 that, you know, we can tolerate. We have to look
11 out for everybody.

12 CHAIRMAN KEILSON: Mrs. Williams.

13 MEMBER WILLIAMS: I tend to agree. I respect
14 your desire to have privacy but it's at someone
15 else's expense, and one of our criteria is simply
16 is there any other way to do this, and there is.

17 MR. MACLEOD: Could I just explain. One of
18 the reasons also apart from the privacy issue why
19 it is tucked over towards that side a little bit
20 more, as you --

21 MEMBER HENNER: Speak up a little.

22 MR. MACLEOD: Sorry. Just to explain why,
23 another reason why it is tucked into that corner
24 somewhat. There is some space left on the rear,
25 on the left-hand side of the rear yard which they

1 would like to preserve for their children to play
2 in. And if you look on the site plan that was
3 prepared for this you will see there's an
4 extensive drainage system over there as well which
5 is a shallow Cultec system which we've started to
6 use on some projects where the water table is very
7 high, and you need a substantial area to
8 accommodate all of the surface areas within this
9 property. And you will see on the diagram that it
10 does take up that whole left-hand side of the
11 yard.

12 MR. PANTELIS: Isn't that a grass surface?

13 MR. MACLEOD: It is a grassy surface and it
14 is a shallow buried drainage field with a series
15 of pipes and culverts.

16 MR. PANTELIS: But wouldn't preclude someone
17 from using it for purposes of play.

18 MR. MACLEOD: We want to use it. On the top
19 surface of that is grass and there will be a play
20 area there. But you can't put it underneath the
21 pool.

22 MEMBER WILLIAMS: You can't pull the whole
23 thing under the pool?

24 MR. MACLEOD: Well, you can't put any of that
25 under the pool.

1 MEMBER WILLIAMS: You want a play area, you
2 want a pool, you want everything, and it's okay
3 for Barbara Stahler. We have to come up with
4 something that's fair.

5 MEMBER HENNER: Are you finished? I don't
6 want to jump in. I'll just quote you or your
7 neighbor, and again, I'm not trying to give you a
8 hard time. But you know, the same two feet that
9 you did the little jump thing on, where you jumped
10 over two feet, and Stahler said that's two feet?
11 That two feet from your pool is half a structure;
12 you know, you could do two feet less. Swim one
13 extra lap and it's the same effect.

14 MR. LEBOVIC: There is another argument and I
15 don't know how the Board will take to this
16 argument. But the Stahlers are very close
17 friends. It will be very beneficial when they
18 walk over to the pool to have it two and a half
19 feet closer.

20 MEMBER HENNER: That's good. Why didn't you
21 say that before.

22 MR. LEBOVIC: It's a benefit.

23 MEMBER HENNER: Why didn't you say that
24 before. You know what, I have a better idea. Put
25 it in their backward. They don't have to walk.

1 MR. LEBOVIC: We could put in a door.

2 MEMBER WILLIAMS: You can't make it on the
3 fact that the Stahlers are living there. Whoever
4 it is, it's a neighbor.

5 MR. LEBOVIC: We're very good neighbors. You
6 know, there are no guarantees. There are no
7 guarantees.

8 CHAIRMAN KEILSON: Okay, then we have the
9 surface coverage question.

10 MEMBER GOTTLIEB: So I'd like to ask you
11 folks, during the storm that we had in last
12 October did you experience any flooding in the
13 rear yard along Rock Hall Road?

14 MR. LEBOVIC: We had severe flooding, but not
15 so much the yard. It was -- came up from the
16 storm sewers on Lawrence Avenue and Harborview
17 North, and Lawrence Avenue and Rock Hall Road, and
18 those houses that were by the intersection over
19 there and were second off the intersection had
20 huge amounts of water. We got slammed, yeah.

21 MEMBER GOTTLIEB: It was all from groundwater
22 swelling up?

23 MR. LEBOVIC: No, it was from the storm
24 sewers, yeah.

25 MEMBER GOTTLIEB: It wasn't from rain coming

1 down?

2 MR. LEBOVIC: No, no. Thank God we never had
3 an issue with rainwater.

4 CHAIRMAN KEILSON: Do we have a study here as
5 far as absorption?

6 MR. RYDER: We have soil borings.

7 MR. MACLEOD: We do have a soil test which
8 shows the water table. We had a test hole dug to
9 find the water table, and we designed the drainage
10 system as shown on the site plan.

11 MS. LEBOVIC: Four foot six.

12 MR. LEBOVIC: Four foot eight.

13 MR. RYDER: Designed for three inches of
14 rainfall.

15 MR. MACLEOD: Designed for three inches of
16 rainfall to accommodate the surface area coverage.

17 MEMBER GOTTLIEB: So I'll ask Mr. Macleod,
18 because you'll probably be the easiest to answer.
19 How can we reduce the 455 overage to perhaps
20 something like zero? If you make the pool two and
21 a half feet shorter, as a suggestion, that's going
22 to take away some of it.

23 MR. MACLEOD: It's going to take away 25
24 square feet.

25 MEMBER GOTTLIEB: I realize there's a

1 beautiful large deck here. Do we need this much
2 patio and brick walk around the property?

3 MR. MACLEOD: Well, we do need some patio
4 area around the pool for safety purposes and for
5 observing children while they're in there and just
6 for enjoying the pool. In order to reduce this
7 number substantially, you would have to eliminate
8 that whole patio from around the pool. You would
9 see the patio on the site plan, it says 596 square
10 feet. So to reduce it by 450 square feet we would
11 be left with a very minimal amount of area.

12 MEMBER GOTTLIEB: The 596 includes all the
13 brick around the perimeter of the pool?

14 MR. MACLEOD: It actually does not include
15 the two far sides which are four-foot walks which
16 are not countable, but it does count the six foot
17 on the left and the six foot on the right on
18 towards the house. The six-foot walk between the
19 house and the pool and left-hand side.

20 Now, taking into account your
21 two-and-a-half-foot objection, my clients are more
22 than happy to move the pool and the patio two and
23 a half feet to the left towards the drainage
24 system, and which would negate the request for the
25 side-yard variance. But we would request that we

1 maintain the patio around the pool for usage of
2 the pool and for safety.

3 MEMBER WILLIAMS: You're moving the whole
4 thing but you're keeping the amount of the patio?

5 MR. MACLEOD: We would just take the whole
6 pool and the whole patio setup exactly as you
7 have it, and slide it two and a half feet to the
8 left.

9 MEMBER WILLIAMS: The coverage stays the
10 same?

11 MR. MACLEOD: Correct. It's not a huge patio
12 that we're looking at here. It's literally twelve
13 foot deep, which is enough for some chaise lounges
14 and safe circulation around the pool.

15 MEMBER GOTTLIEB: Would the patio become
16 shorter as you move it to the left?

17 MR. MACLEOD: Hopefully we'll just move it.

18 CHAIRMAN KEILSON: It will be the same other
19 than the encroachment will disappear.

20 MEMBER GOTTLIEB: Right.

21 CHAIRMAN KEILSON: Anyone in the audience
22 want to comment?

23 MR. LEBOVIC: So the last argument for the
24 two and a half feet it wasn't a big hit? No?

25 MEMBER WILLIAMS: It's enough that we're

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1 concerned about the coverage.

2 CHAIRMAN KEILSON: You made a very compelling
3 argument for the size of the patio.

4 Gentleman and lady. Okay, I think we
5 understand that the encroachment to the rear
6 really impacts on no one. As much as being
7 sympathetic to Rock Hall Road, it's twice tonight
8 we're impacting on Rock Hall Road, and I think
9 that moving over the pool so it doesn't encroach
10 on the right, and I think we can live with the
11 patio being as such. We understand around a pool
12 you need some area for leisure. Okay, so
13 Mr. Henner.

14 MEMBER HENNER: I'm in favor.

15 CHAIRMAN KEILSON: Mr. Schreck.

16 MEMBER SCHRECK: I'm in favor.

17 CHAIRMAN KEILSON: Mrs. Williams.

18 MEMBER WILLIAMS: I'm in favor. I just want
19 to comment that I hope you understand with the
20 coverage issue it's not a simple thing and people
21 make very light of it, but the more coverage the
22 less grass we have. It impacts everybody on some
23 level in terms of drainage, so that's why we're so
24 particular about it.

25 MS. LEBOVIC: We understand.

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1 MEMBER WILLIAMS: But I'm for.

2 CHAIRMAN KEILSON: And I'm for, so everybody
3 into the pool.

4 MS. LEBOVIC: Thank you.

5 CHAIRMAN KEILSON: How long do you need?

6 MR. MACLEOD: Two years.

7 CHAIRMAN KEILSON: Two more years.

8 MR. LEBOVIC: We'll take the two years.

9 CHAIRMAN KEILSON: Proof as modified, no
10 encroachment on the side yard.

11 MR. MACLEOD: Thank you very much.


12 (Whereupon, the hearing concluded at
13 8:25 p.m.)

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

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

7
8 June 20, 2013
9 8:25 p.m.

10 APPLICATION: Marx
11 5/7 Keewaydin Road
12 Lawrence, New York

13 P R E S E N T:

14 MR. LLOYD KEILSON
15 Chairman

16 MR. EDWARD GOTTLIEB
17 Member

18 MS. ESTHER WILLIAMS
19 Member

20 MR. LESTER HENNER
21 Member

22 MR. MARK SCHRECK
23 Member

24 MR. THOMAS V. PANTELIS, ESQ.
25 Village Attorney

MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The final matter of this
2 evening is the iconic matter of Marx. Will they
3 or their representative, Mr. Goldman.

4 MR. GOLDMAN: Yes, good evening.

5 CHAIRMAN KEILSON: Back on the record. Bring
6 forward your client so we'll do it all at one
7 time.

8 MR. GOLDMAN: If it please the Board, I'm
9 here on behalf of the Marx family, 5 Keewaydin
10 Road. This is a matter that had been on once
11 before, and we thank you for your attention to it
12 then, and when I say once before I mean once
13 before this Board. We thank you for your
14 attention then. I would note that at that last
15 hearing it was suggested that we sort of go back
16 to the drawing board and see what accommodations
17 could be made that the Board would deem somewhat
18 more reasonable. In so doing --

19 CHAIRMAN KEILSON: So the Board would be more
20 reasonable?

21 MR. GOLDMAN: No, that would be more
22 reasonable. This Board could not be more
23 reasonable.

24 CHAIRMAN KEILSON: I misheard, I'm sorry.

25 MR. GOLDMAN: That's all right. Now you've

1 knocked off my train of thought. What we did,
2 what we've discovered, what we did do, however,
3 was we returned not only to one drawing board but
4 to a substantially prior drawing board and looked
5 at the matter that had been presented to you, to
6 this Board, in 2007.

7 And we have the unique situation here of a
8 prior real precedent in terms of the Board having
9 evaluated substantially or essentially the same
10 application once before and having granted it.
11 Now, I deliberately chose those words because
12 there is in fact case law that indicates that if
13 there is a prior decision and if it's pretty much
14 substantially the same, the Board should pretty
15 much again abide by it. I'm deliberately being
16 euphemistic because there's probably -- and you
17 have very capable counsel that could certainly
18 argue under what circumstances would a Board be
19 automatically bound to say, you know what, I have
20 no choice, it's a precedent and it's been set.
21 We're not arguing that necessarily here tonight
22 because there's no necessity to fall on that
23 particular technicality.

24 What is more germane is the fact that this
25 really is substantially the same application and

1 essentially the same application as was presented
2 in 2007. And on its own merit, not necessarily
3 exclusively relying on that precedent, though I
4 suspect one could argue one could, nevertheless in
5 deference to this Board and in deference to an
6 independent judgment, if you will, you will find
7 that what was good back in 2007 remains good here
8 tonight, with certain tweaking that may have
9 changed a tad, but nevertheless, substantially the
10 same.

11 I'm not going to --

12 CHAIRMAN KEILSON: I'm sorry. Since it is so
13 relevant, you used several terms interchangeably.
14 Substantially, essentially. I haven't heard the
15 word identical, but what are we dealing with here
16 tonight substantially, essentially, identical?

17 MR. GOLDMAN: The reality is, is that it is
18 not the identical word-for-word, inch-for-inch
19 application. It's improved on the 2007, but I
20 don't want to deliberately misuse the word
21 identical. It's essentially -- you know, is two
22 plus two the same thing as three plus one?
23 They're not identical, but they ultimately reach
24 the same result. In this particular case here I
25 won't say that they're identical. They are --

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1 first of all, in 2013, for lack of a better way to
2 describe it, in 2013 there are fewer variances
3 that were requested in 2007.

4 CHAIRMAN KEILSON: So that's positive.

5 MR. GOLDMAN: That is correct. But it's not
6 identical. In the 2013 there is a juggling, if
7 you will, of where the requests are in terms of
8 there's -- and it will be explained better by
9 Mr. Fischler, but there are issues that instead of
10 being the back and the front, it's now only the
11 front with a little jiggle of that. But even in
12 that case there's less of an intrusion. But this
13 will be explained, but I don't want to mislead
14 you by saying --

15 CHAIRMAN KEILSON: Is jiggle a zoning term?

16 MR. GOLDMAN: Jiggle in some circles it's an
17 improper term. So we'll move on, if you don't
18 mind.

19 CHAIRMAN KEILSON: I'm not going to question
20 that further.

21 MR. GOLDMAN: Perhaps that's off the record.
22 Nevertheless, it's certainly not identical, but to
23 the extent that it is that's why I'm deliberately
24 using the term. Now, I think even the language in
25 the case that we have cited which would be the

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1 American Red Cross versus Thompson County --
2 Thompson County Chapter versus the Board of Zoning
3 Appeals of the City of Ithaca. They don't say
4 that it was exactly identical, but they say when
5 it is essentially, and I'm using it again, and
6 substantially the same, and there is no major
7 deviation. And there isn't a giant change of
8 circumstance. Now, in the particular matter
9 before you tonight --

10 CHAIRMAN KEILSON: Didn't you say we're
11 talking about case law?

12 MR. PANTELIS: This is not the time to really
13 debate case law.

14 CHAIRMAN KEILSON: I'm trying to clarify.

15 MR. PANTELIS: The cases that I'm very
16 familiar with, essentially almost every case is a
17 presentation of the same case to the Board and the
18 same variances, and the law does seem to indicate
19 when it is the same, same variances, meaning an
20 identical case, that a Board may be more compelled
21 absent a change in conditions and circumstances to
22 follow that earlier decision. But you are saying
23 that there are differences in this application.

24 MR. GOLDMAN: There are differences.

25 MR. PANTELIS: And you're going to tonight to

1 articulate those hopefully in a very specific --

2 MR. GOLDMAN: That is correct.

3 MR. PANTELIS: -- manner.

4 MR. GOLDMAN: Nevertheless, the concept of
5 the fact that some deference or at least some
6 acknowledgement should be given. I would note too
7 that the change of circumstance is a very
8 interesting one. This is not an application that
9 in 2007 I needed an extra bedroom because my
10 grandmother needed it in 2007. And now in 2013
11 she's passed away, but I still want that exact
12 same variance or the same relief, if you will.

13 This is a situation that the prior Board was
14 quite specific in acknowledging that they were
15 inclined and in fact did in fact give the variance
16 for two very specific reasons. One, because of
17 the location in terms of it being a cul-de-sac,
18 and one because of the nature of the property
19 there was the necessity for the height variance.
20 None of that has certainly changed and that was a
21 compelling reason for the Board.

22 We've indicated, and I don't have to repeat
23 my petition from before, but nevertheless, it's
24 part of this record, that this is a substantially
25 -- this is not one small little lot. This isn't

1 even one big little lot. This is essentially
2 where two substantial homes were located, where
3 two substantial homes could be replaced on those
4 spots, and nevertheless the Marx family is
5 desirous of putting together a house. And to the
6 extent it was granted once before, that's
7 something in terms of the weighing of the interest
8 of the community that I would respectfully suggest
9 to the Board it takes some weight. And the fact
10 especially that it's better than it was in 2007
11 and that we'll note. So what I would suggest we
12 do, if you don't mind --

13 MR. PANTELIS: Mr. Goldman, are you going to
14 submit a copy of the 2007 decision for the record?

15 MR. GOLDMAN: Well, I would, I would make it
16 part of the record. I have, of course, a copy of
17 it, and I make reference to it in my petition. I
18 assumed -- I apologize. I assumed that the Board
19 had the 2007.

20 MR. PANTELIS: If it's not in the record it's
21 not in the record.

22 MR. GOLDMAN: Fair enough.

23 MR. PANTELIS: And the record is yours to
24 make.

25 MR. GOLDMAN: Correct. So as luck would have

1 it, I have the 2007 decision which I would make
2 part of the record, though I would probably need a
3 copy back.

4 MR. PANTELIS: Do you want to hold it?

5 MR. GOLDMAN: Yeah, I'll hold it tonight, but
6 it would be made part. And I would note that was
7 a decision rendered November 29th, 2007 with the
8 late Shephard Melzer, Elliot Feit, Mr. Keilson,
9 Mr. Cohen and Mr. Gottlieb as members of the
10 Board.

11 The Board happens to have a full set of plans
12 that we've submitted and that we're relying on.
13 Nevertheless, the applicant has the same set of
14 plans but with an adjustment on the front that
15 gives you some picture of the comparisons between
16 the 2007, if you will, and what is being proposed
17 here tonight in 2013. Do you have enough to pass
18 it up?

19 CHAIRMAN KEILSON: I have a suggestion. Why
20 don't you proceed with the template, identify, you
21 know, each of them and the differences, and then
22 we'll go to the videotape.

23 MR. GOLDMAN: Fair enough. That will put it
24 in context. So what you have before you, the code
25 relief, our village form, and you would note that

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1 the maximum building coverage, the current overage
2 for -- I'm just going to go 2013, 2007 if you
3 don't mind.

4 CHAIRMAN KEILSON: Exactly.

5 MR. GOLDMAN: 2013 where it's an overage of
6 57.6. In 2007 it was 57.6.

7 The maximum building surface coverage it's
8 now -- in 2007 it was 30 percent, and now in 2013
9 it's 18.9.

10 CHAIRMAN KEILSON: So it's actually
11 diminished, the request is diminished.

12 MR. GOLDMAN: That is correct. The other one
13 is the same, this one is diminished.

14 The third one is the front-yard setback.
15 Take it away, we're up to the front-yard setback
16 for 2013 is sixteen point -- sixteen --

17 MEMBER HENNER: No, eighteen.

18 MR. GOLDMAN: Sorry, eighteen, the 18.9 and
19 then it was ten.

20 CHAIRMAN KEILSON: No.

21 MR. GOLDMAN: So why don't I stop doing this
22 and let --

23 MR. FISCHLER: Yossi Fischler. I could go
24 through each one.

25 MR. GOLDMAN: Why don't we let Mr. Fischler

1 do the numbers, and I apologize.

2 CHAIRMAN KEILSON: Please state your name and
3 address for the record, please.

4 MR. FISCHLER: Yossi Fischler, 280 Morris
5 Avenue, Inwood, New York.

6 Okay, so do you want me to continue or start
7 over?

8 MR. PANTELIS: Continue from that point, the
9 front-yard setback.

10 MR. FISCHLER: So the front yard -- so the
11 front yard in 2007 was 24.87, and now it's 18.93
12 -- 18 and 9 and three-quarters.

13 CHAIRMAN KEILSON: So here we have a
14 difference.

15 MR. GOLDMAN: Correct.

16 MR. FISCHLER: That is a difference.

17 CHAIRMAN KEILSON: Continue.

18 MR. FISCHLER: Okay. In '07 the side yards
19 and 2013 the side yards stayed the same, so there
20 was nothing affected there.

21 MEMBER HENNER: Are we looking at the same
22 chart?

23 MR. FISCHLER: You want to go --

24 MR. RYDER: You increased the setback, I'm
25 sorry to interrupt.

1 MR. FISCHLER: So in --

2 CHAIRMAN KEILSON: Normally, you know, we
3 don't make the presentation.

4 MR. GOLDMAN: We need all the help we can get
5 here.

6 MEMBER GOTTLIEB: We're happy to help.

7 MR. FISCHLER: Are you up to the height
8 setback?

9 MR. PANTELIS: No, let's stay with the east
10 side yard and west side yard. What did you
11 request in 2007 -- or what did you provide in 2007
12 and what are you providing now?

13 MR. RYDER: That was provided by the Building
14 Department.

15 CHAIRMAN KEILSON: That's unfair. We have
16 accurate numbers.

17 MR. FISCHLER: I've never seen that.

18 MR. PANTELIS: No, it's our own.

19 MR. GOLDMAN: But I was using the code relief
20 that we submitted.

21 MEMBER HENNER: The numbers should still be
22 the same. We just put it on another piece of
23 paper.

24 MR. RYDER: He only shows what he's proposing
25 for the application. The spreadsheet that you

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1 submitted --

2 MR. FISCHLER: I have it here that I was
3 reading from which they have also.

4 MR. RYDER: I broke it down for them.

5 MR. GOLDMAN: We'll give you --

6 MEMBER WILLIAMS: The front yard is you
7 said --

8 CHAIRMAN KEILSON: Do you have an extra copy
9 for him?

10 MR. RYDER: Yes (handing).

11 MR. PANTELIS: It's okay, you can.

12 CHAIRMAN KEILSON: So we'll all be on the
13 same page.

14 MEMBER HENNER: Literally.

15 CHAIRMAN KEILSON: Each side yard.

16 MR. PANTELIS: We asked the Building
17 Department to prepare an analysis of what you had
18 before and what you are proposing now.

19 MR. GOLDMAN: Might I just interrupt. The
20 truth of the matter is that the policy has always
21 been that we're going along with the variances
22 that we've asked as we requested them and what the
23 proposal is, et cetera, using our own form. Now I
24 recognize the fact that there may be a more
25 sophisticated form, but there's things being

1 discussed here that are not on the application for
2 the variance.

3 MR. PANTELIS: Not at all.

4 MEMBER WILLIAMS: I'm worried about the
5 numbers that are incorrect.

6 MR. PANTELIS: The Building Department was
7 asked since we are not sure if the applicant is
8 going to do it, what did you ask for in 2007 and
9 what are you asking for in 2013? So that's very,
10 very germane. We're sharing with you the
11 comparison chart that was made at the request of
12 the Board.

13 MR. GOLDMAN: Fair enough.

14 MR. PANTELIS: And I think you're predicating
15 part of your case on the fact that --

16 MR. GOLDMAN: On the 2007.

17 MR. PANTELIS: -- you're very favorable to
18 what we had granted in 2007, so what is the
19 objection.

20 MR. GOLDMAN: Fine, thank you.

21 MR. FISCHLER: I should go through.

22 MR. PANTELIS: If there's something that's
23 not right on that you can certainly.

24 MR. MARX: David Marx. My address is
25 7 Keewaydin Road currently, hopefully for the next

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1 short while. The 18 foot -- 18.81 feet front-yard
2 encroachment, if you look at the plan --

3 MR. GOLDMAN: They don't have that yet.

4 MR. MARX: I'd like you to see it. It's a
5 small smidge.

6 CHAIRMAN KEILSON: Mr. Marx, we will give you
7 the opportunity to explain everything.

8 MR. MARX: Okay, fine.

9 CHAIRMAN KEILSON: I'm just trying to narrow
10 the discussion.

11 MR. FISCHLER: Fine. I'll go through and
12 clarify. I have my own spreadsheet.

13 MR. PANTELIS: Sure, absolutely.

14 MR. FISCHLER: You want to do the side yards,
15 right?

16 MR. PANTELIS: Just for the record, even
17 though you're not requesting a variance --

18 MR. GOLDMAN: Right.

19 MR. PANTELIS: -- is it correct that in 2007
20 you had proposed 20-foot side yards on either side
21 and now you have an east side yard of 27.96 and a
22 west of 23.08?

23 MR. FISCHLER: Correct.

24 MR. PANTELIS: Which is actually an increase
25 in the side yards that you're providing?

1 MR. FISCHLER: Correct. And therefore, no
2 variance is requested.

3 Then in the rear yard.

4 CHAIRMAN KEILSON: West side yard.

5 MR. PANTELIS: Well, we did it already. We
6 just did both of them.

7 CHAIRMAN KEILSON: Okay.

8 MR. MARX: The aggregate is 51 feet. Just
9 take note of that.

10 MR. GOLDMAN: We're addressing issues that we
11 hadn't really requested, but since they enhanced
12 the application we're happy to do so.

13 MEMBER WILLIAMS: The only one is the front
14 yard is less. You're asking for more than you had
15 asked for before.

16 MR. MARX: I can't help but interject. If
17 you would square out --

18 CHAIRMAN KEILSON: No, no, no.

19 MR. PANTELIS: You can make those arguments.

20 MR. FISCHLER: So the rear yard in 2007 was
21 8.75 feet and now it's 50 feet.

22 MR. PANTELIS: And that complies.

23 MR. FISCHLER: And that complies and
24 therefore there is no variance requested.

25 CHAIRMAN KEILSON: Go ahead.

1 MR. FISCHLER: Then the height/setback
2 ratios. So in the front yard I'm just making sure
3 they are correct according to what I have here.

4 CHAIRMAN KEILSON: Please.

5 MR. PANTELIS: Okay.

6 MR. FISCHLER: In 2007 the front yard height/
7 setback ratio is 1.1 and now it's 1.7 -- 1.17, I'm
8 sorry. Okay, the next one is the east side; it
9 was 1.16, and now it's 0.72.

10 The west side was 1.28, and now it's 1.06.
11 And the rear --

12 MR. RYDER: Excuse me, which complies now.

13 MR. FISCHLER: Which complies. The east,
14 west and rear comply. And then the rear was 0.92,
15 and now it's 0.55.

16 MEMBER HENNER: Does that comply?

17 MR. FISCHLER: And that complies.

18 MEMBER HENNER: It does comply.

19 MR. RYDER: Yes, it complies. He eliminated
20 variances for the two height/setback ratios.

21 MEMBER WILLIAMS: It doesn't comply. It's
22 just less than --

23 MR. RYDER: I'm sorry.

24 MEMBER WILLIAMS: It's just less than what
25 you had requested before.

1 MR. MARX: I'm saying at our last hearing we
2 discussed it.

3 MEMBER HENNER: It's a blur.

4 MR. GOLDMAN: Just explain, stay focused on
5 just that issue.

6 MR. MARX: The problem with the site is that
7 we are at the end of the cul-de-sac so as the
8 circular nature of the cul-de-sac impinges on the
9 property, or eats away at the property, so if I
10 had my full front setback, if I set that back all
11 the way to meet the normal front setback, and then
12 I had the normal rear-yard setback, I would have
13 no house basically. So it's inevitable --

14 MEMBER HENNER: But you already have a house.

15 MR. MARX: Well, probably for the larger lot
16 I think there's a larger front setback and a
17 larger rear setback that's normally required for a
18 smaller lot. So I'm being punished for the larger
19 lot.

20 MR. GOLDMAN: Well, you're making
21 accommodations to the peculiarities of the
22 statute. Perhaps this might be a good time, if we
23 might, to pass up this particular sheet so it's
24 what Mr. Marx is describing can be seen in the
25 context.

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1 MR. FISCHLER: If you look at the front page
2 is shows the difference between '07 and '13.

3 MR. GOLDMAN: We'll explain it but perhaps a
4 copy.

5 MR. PANTELIS: Do we have this already?

6 MR. GOLDMAN: No.

7 MR. FISCHLER: We did this to clarify more.

8 MR. GOLDMAN: The stop sheet is the
9 clarification.

10 MR. PANTELIS: We'll pass this set up.

11 MR. FISCHLER: Do you need one more? We have
12 one more.

13 MR. RYDER: You know what, that would be
14 great.

15 MR. MARX: Let me finish my thought,
16 Mr. Henner. If I squared out -- if I squared out
17 the cul-de-sac to make it -- to make it perfectly
18 straight --

19 MR. GOLDMAN: I'm sorry, stop. Just he's
20 referring now to off of the six boxes in front of
21 you, the one to the --

22 MR. MARX: If we are referring to the six
23 boxes in front of us, the box on the lower
24 left-hand side of the page. Okay, the front page
25 of the illustration.

1 MR. PANTELIS: We're looking at neighborhood
2 site plan and zoning DSM Design Group A-001.

3 MR. MARX: Right. And if you look at that
4 illustration, you'll notice a darker area over the
5 house and that shows in that circle which part of
6 the house is infringing on the front-yard setback.
7 Okay, just parenthetically, the center of the
8 house is the part that's really at the 18-foot
9 infringement, which is the most severe
10 infringement.

11 MR. GOLDMAN: Or encroachment.

12 MR. MARX: Or encroachment. And that's just
13 a very small percentage of the entire lot. I
14 don't know if it's ten feet even.

15 MR. GOLDMAN: It's not reaching straight
16 across.

17 MR. MARX: When you say 18 feet, I just want
18 you to have the proper perspective that it's just
19 a small piece, maybe ten feet of the whole
20 200-foot frontage of the lot that is at that
21 18-foot encroachment.

22 CHAIRMAN KEILSON: What is the rest?

23 MR. MARX: So if you compare -- most of the
24 infringement comes, if you look at the picture you
25 can see it, it's just the --

1 CHAIRMAN KEILSON: Off the record.

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

4 CHAIRMAN KEILSON: On the record.

5 MR. MARX: I want to refer back to the top of
6 the page, all the way to the top of the page where
7 there's an illustration of the surrounding houses,
8 okay.

9 MEMBER GOTTLIEB: The little houses?

10 MR. MARX: What?

11 MEMBER GOTTLIEB: The little houses?

12 MR. MARX: The little houses.

13 MEMBER GOTTLIEB: Sorry.

14 MR. MARX: If you go to Causeway you will see
15 all the big houses. We are just half a block from
16 it. If you look at the rear of the house there's
17 another anomaly with this site. And that is
18 Herrick, if you see a cul-de-sac if you can past
19 the back of the house and you go straight through
20 you will see Herrick Road ends also in a
21 cul-de-sac, all right. And there are two houses
22 there that are literally on my rear yard,
23 literally on my rear yard. So not only do I have
24 the problem of having the cul-de-sac in the front
25 which is pushing me back, I have two houses in the

1 back that are literally on my rear yard. So when
2 I originally had the variance to push the houses
3 back and infringe on my rear yard, the 2007
4 variance, I was now creating a situation where I
5 was literally on top of the back-door neighbor,
6 okay. I've alleviated that now by pushing -- by
7 taking that part of the house and creating in the
8 front where I'm not affecting anybody, I'm on
9 Keewaydin, where if it would be a normal lot and
10 you just filled in, theoretically filled in the
11 cul-de-sac I would be well within the confines of
12 my regular front-yard setback.

13 MEMBER HENNER: I don't know the scale here,
14 but as far as your rear yard is concerned
15 everything back here is 50 feet from the property
16 line?

17 MR. MARX: Correct. There's a 50 foot line
18 on the -- yes. Everything is 50 foot.

19 MEMBER HENNER: Is this a pool in the back?

20 MR. MARX: Yeah, that pool -- the house is 50
21 feet from the -- there's one thing on that picture
22 that's a little bit not illustrated properly.
23 That garden that you see on the right-hand side of
24 the house, the right-hand back corner of the
25 house, facing the house the right-hand back corner

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1 of the house, that's a garden. It looks like some
2 sort of a structure, it's deceiving. It's just
3 bushes.

4 MR. GOLDMAN: Landscaping.

5 MEMBER HENNER: What's to the left of that?

6 MR. MARX: That's the pool.

7 MEMBER HENNER: And that pool is not within
8 50 feet of the backward?

9 MR. MARX: You're allowed to be.

10 MR. FISCHLER: You're allowed to be.

11 MR. RYDER: It meets the setback of twenty
12 and fifteen, twenty to the rear.

13 MR. MARX: I meet all the requirements on
14 that pool.

15 MR. GOLDMAN: If I could just pull us back
16 just for a moment. The issue before you, with all
17 due respect of the moment of concern, is the
18 front-yard encroachment. The front-yard
19 encroachment was made as an accommodation to
20 remove any encroachment -- further encroachment,
21 if you will, in the rear. Unless I'm misstating
22 it. And I believe Mr. Fischler, if you could just
23 address that, it's illustrative of what would have
24 been in the 2007 and he will now explain why it
25 came to the front rather than to the rear.

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1 MR. MARX: In other words, if you take a look
2 at the upper right-hand picture of the six boxes,
3 the upper right-hand picture. That illustrates
4 the 2007 plan. And there you see the projection
5 out in the rear yard that we were approved for,
6 okay. And now -- and it shows also if you look at
7 the upper left-hand box of the six boxes it shows
8 what we were approved for in the front
9 encroachment. The total of both encroachments,
10 both front and rear together total if you see that
11 total obstructions on the left-hand side 968
12 square feet. If you now go to the lower three
13 boxes, you see the illustration in the right-hand
14 box all the way on the lower right-hand corner
15 clean backyard, no obstruction.

16 MR. GOLDMAN: No obstruction in the rear.

17 MR. MARX: It illustrates the side yards,
18 which is probably unprecedented in most houses in
19 Lawrence, 30 feet on one side and at least 20 feet
20 on the other. I don't have it in front of me, but
21 substantial room on the sides. And in the front
22 we have an obstruction of --

23 MR. GOLDMAN: Encroachment.

24 MR. MARX: -- an encroachment that's -- no,
25 that's total, that's a total there. On the front

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1 we have 798 feet. So now -- right. So the total
2 obstruction now has gone down from 968 between
3 front and back, has gone down from 968 to 798.

4 MR. GOLDMAN: And remembering, of course,
5 that, one, the encroachment on the front, as we've
6 indicated, is because of the nature of the
7 cul-de-sac, and also it essentially doesn't
8 infringe on anyone because indeed there's nobody
9 that's complained or nobody who could.

10 CHAIRMAN KEILSON: Mr. Marx, you want to
11 rejoin us?

12 MR. MARX: Yes.

13 CHAIRMAN KEILSON: Okay, good. The issue is
14 as follows: Had this proposal been brought to us
15 without any history, I daresay that you would have
16 an issue convincing this Board to accept it
17 because the tenor of the Board is such today
18 because of everything that's involved that they're
19 much more restrictive and we would take a lot more
20 things into consideration and we think we can
21 buttress it based on community standards even
22 though we could give a debate over criteria.

23 So we're coming here today to look at what
24 happened in 2007 and any changes from that.
25 Counsel has suggested that if based on our

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1 understanding of the case law that identical would
2 be a very compelling argument. This is not
3 identical, okay. And we'd be much more
4 comfortable if it were identical particularly in
5 the front because that's where the issues arise.
6 And again, although it's not of great moment, but
7 we have received calls from neighbors who are very
8 concerned about what's being constructed here.
9 And therefore, when we talk about our greatest
10 concern it's to the front. So we're not -- we're
11 not comfortable. And again, I'll let each Board
12 member speak their peace, but we're not
13 comfortable with the encroachment to the front.

14 MR. GOLDMAN: One second before you answer.
15 Excuse me.

16 I don't know the number --

17 MEMBER HENNER: Let me ask you a simple
18 question. I think it's a simple question. Having
19 heard what you just heard, if instead of
20 encroaching in the front as much as you're
21 encroaching and you pushed everything back,
22 whatever it is, ten feet, twelve feet, so instead
23 of being 50 feet from your rear you were 40, so
24 you had an encroachment in the back but you're
25 encroaching by 10 feet, not 50 feet, would that

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1 affect -- do you understand what I'm saying? You
2 just push everything back.

3 MR. MARX: The problem is if you look at the
4 rear yard, I made the point before, that that
5 house is literally on my rear yard. That house is
6 on my rear yard. It's overlooking me.

7 CHAIRMAN KEILSON: Mr. Marx, in 2007 it was
8 fine.

9 MR. MARX: I know, I agree with you.

10 MEMBER HENNER: Yeah, in 2007.

11 CHAIRMAN KEILSON: You advocated for that.

12 MEMBER HENNER: In 2007 you were nine feet
13 from that line. What I'm talking about is being
14 40 feet from that line, instead of 50 feet from
15 that line. So why -- is that a terrible question,
16 I mean?

17 MR. MARX: You want me to shift the whole
18 house back; is that what you're saying?

19 MEMBER HENNER: Yes.

20 CHAIRMAN KEILSON: What we're saying is if
21 you were identical with 2007, since you made
22 improvements in other areas, it would be very
23 compelling if what we considered to be the most
24 egregious concern was also satisfied.

25 MR. GOLDMAN: Now, how many feet are we now

1 encroaching into the front?

2 CHAIRMAN KEILSON: Off the record.

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

5 CHAIRMAN KEILSON: We're going back on the
6 record.

7 MR. GOLDMAN: Mr. Chairman, we've had the
8 opportunity to step outside with Mr. Ryder of the
9 Building Department, and I believe that we have
10 made some proposed adjustments that might be more
11 amenable to the Board. Do you want to just
12 outline it, Mr. Fischler, and you're referring
13 from point of reference to page A-003 on the plans
14 in front of you, correct?

15 MR. FISCHLER: Correct.

16 MR. GOLDMAN: Noting that the prime concern
17 was the front yard.

18 MR. FISCHLER: So in '07, the permitted
19 granted variance was 24.87. So therefore, if you
20 look on the page where it says eighteen nine and
21 three-quarters, the distance between the property
22 line and the entrance. So therefore, we'll make
23 that fit the 24.87. We'll take -- cut off part of
24 the house and make that fit the 24.87.

25 MR. MARX: Anywhere else that doesn't conform

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1 to the 24.87 of 2007, we're not exactly sure, but
2 we think the garage conforms. If it doesn't, we
3 have enough room on the side yard to set it back
4 to conform.

5 MR. FISCHLER: I think it's about six inches
6 to twelve inches that it might need to be set back
7 also.

8 MR. GOLDMAN: We want to confirm that this
9 proposal is being absorbed and perhaps even agreed
10 with by the Building Department that this is a
11 viable --

12 MR. PANTELIS: Now, Mr. Goldman, just by way
13 you said might tinker with that garage, you
14 wouldn't be expanding it in another direction?

15 MR. FISCHLER: We're not in the side yard
16 yet. We still have about a foot or two. So we
17 wouldn't be shifting it back and we would comply
18 and not need a variance for the side yard and not
19 add square footage either.

20 MR. GOLDMAN: This proposal would push us
21 into another variance.

22 MR. FISCHLER: Or add to square footage. It
23 would just shift it back so we encroach less on
24 the front yard to meet the 2007.

25 CHAIRMAN KEILSON: The problem is we can't

1 walk out of here with something vague. And even
2 if we have a number, it's hard to vote on
3 something without it being defined in some way.

4 MR. GOLDMAN: Well, rather than delaying, we
5 have the Building Department here, what we could
6 do is make the representation that we will submit
7 whatever adjustment has to be made that would be
8 in compliance and in conformity with what we're
9 saying here tonight. So in other words, it's not
10 a question of I'm going to lob a piece of house
11 off somewhere down the road. In other words,
12 we're specifically citing where it is we're going,
13 what it would require to do as well as on the side
14 as well. And we would do it, if you're inclined
15 to agree, to do it subject to the Building
16 Department saying that the numbers exactly work
17 out. And we would understand if that turns out
18 not to be the case that we would consider it then
19 and come back to you and explain it.

20 MR. PANTELIS: I think the Board would
21 probably rather have, if we're going to do that,
22 that based on the discretion of Mr. Ryder that if
23 he feels it necessary to refer it, if it's
24 questionable, back to the Board, and so be it.
25 Other than that --

1 MR. GOLDMAN: We would rely on his
2 discretion.

3 MR. PANTELIS: Would that be comfortable with
4 you?

5 CHAIRMAN KEILSON: Yes. There's one other
6 matter we wanted to bring up, Mr. Marx, if you
7 want to rejoin us. After so many years, you can
8 stay another few minutes, right?

9 MR. MARX: I want to leave when the getting
10 is good.

11 CHAIRMAN KEILSON: We have a great concern
12 about the appearance of a parking lot in front of
13 your house.

14 MR. MARX: Okay.

15 CHAIRMAN KEILSON: It's depicted, for
16 example, on the left.

17 MR. FISCHLER: If you look at the page --

18 CHAIRMAN KEILSON: Can I finish, please?
19 Listen to your elders.

20 MR. FISCHLER: Sorry, I apologize.

21 CHAIRMAN KEILSON: It's okay. All right,
22 what we have depicted here is over and above
23 whatever other parking you may have here an
24 additional parking area with I think four cars
25 illustrated, but you could easily accommodate

1 seven or more, and the last thing in the world
2 that we want is to have a parking lot in front of
3 a house. So I guess, number one, what is really
4 being depicted here?

5 MR. MARX: The answer is we've located a
6 product and we specified it on the plans, which is
7 it's grass product with a brick underneath it. So
8 when you come down the block you will see grass
9 there, okay.

10 CHAIRMAN KEILSON: You will see grass if
11 there are no cars on there.

12 MR. MARX: Well, if we ever need an overage
13 area, we have an overage area for, you know, the
14 weekend.

15 MEMBER WILLIAMS: How many cars would fit on
16 this brick grass technically? If I needed to use
17 the whole space, how many cars?

18 MR. MARX: Well, the architect drew four for
19 me.

20 MEMBER WILLIAMS: I know. Obviously, you
21 could fit more.

22 MR. MARX: I don't think so.

23 MR. FISCHLER: Not with driving in.

24 MEMBER GOTTLIEB: Technically being parked
25 tandem.

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1 MEMBER WILLIAMS: I'm having a party -- one
2 second. I'm having a party. People are going to
3 pull in and out. Technically how many cars
4 practical can fit there? Obviously, you don't
5 want to put more than four at a time because
6 people need to back out, I understand that.

7 MR. MARX: Exactly, exactly.

8 MEMBER GOTTLIEB: If you have overnight
9 guests and you have a 24,000-foot house you might
10 have a few overnight guests.

11 MR. GOLDMAN: What I'm a little confused
12 about, with all due respect, is what is the Board
13 -- in other words, in any -- in other words -- let
14 my just finish. In other words, as with any
15 situation if there were a party or if there were
16 guests, they would have no recourse but either to
17 park on the street or park in someone else's lot
18 and double up that way. So I'm not exactly clear
19 to the extent that to this being a cul-de-sac
20 you're trying to make some accommodations so they
21 don't block up the whole street.

22 MEMBER WILLIAMS: The concern that we're
23 getting from the neighbors is this massive thing,
24 and imagine driving up and seeing seven, eight
25 cars almost like a parking lot in front of the

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1 MEMBER WILLIAMS: So two cars will stay in
2 the garage.

3 MR. GOLDMAN: That's correct, so for sure
4 two.

5 MEMBER WILLIAMS: I just want you to be --

6 MR. GOLDMAN: There's a certain sensitivity
7 that's going to have to be displayed to the
8 neighbors.

9 MEMBER WILLIAMS: Exactly.

10 MEMBER GOTTLIEB: But once it's done and --

11 MR. MARX: I want you to be just aware --

12 MEMBER WILLIAMS: I assume you don't want to
13 get your neighbors upset, or anymore upset than
14 they already are.

15 MR. GOLDMAN: Nor, in all honesty, does he
16 want to have the appearance in a beautiful home
17 like this to suddenly have the appearance. And
18 just like anyone else, you know, I don't know how
19 to -- other than leave it on the street.

20 MEMBER WILLIAMS: I'm just putting it out
21 there. It's been a concern that was expressed and
22 you should be aware of it.

23 MR. MARX: You know, I just want you to be
24 aware the driveway itself, because again --

25 MEMBER WILLIAMS: Is very short, I

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1 understand.

2 MR. MARX: -- is very short.

3 MEMBER WILLIAMS: I'm not going to come an
4 give you tickets on the car. I'm just saying I
5 want you to be aware what the people are concerned
6 about.

7 MR. MARX: I want you to be aware that that
8 is grass. So there are going to be times when it
9 is going to be parked, okay, because there's going
10 to be a time when you have a holiday.

11 MEMBER WILLIAMS: I can't tell you not to.
12 All I'm saying --

13 MR. MARX: But when it's not parked it's
14 going to look like grass.

15 MR. GOLDMAN: As opposed to pavement.

16 MEMBER WILLIAMS: I think it's a beautiful
17 thing you did. I'm very impressed.

18 MR. PANTELIS: It's been pointed out by the
19 Building Department who are indicating that it's
20 grass and not a paved surface, because if it was a
21 paved surface it would be surface coverage and we
22 would have an increased variance that it may be a
23 violation of village code to park on the grass.
24 So you may have an area which is not really usable
25 for that purpose. So somehow or other we

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1 suggested I think the Board of Trustees will be
2 taking that up at some point soon as to what their
3 position is going to be on what these things are.
4 But if it's not paved surface, you just may be in
5 violation.

6 MR. GOLDMAN: Like any other homeowner, we'll
7 do our best. And if it turns out that there's too
8 many cars, we'll go and park on the neighbor's
9 driveway.

10 MR. PANTELIS: Before you spend the money on
11 this you may want to find out what the current
12 regulations are.

13 CHAIRMAN KEILSON: So if I may summarize, I
14 think I should summarize, I think so. So in
15 effect, Mr. Marx --

16 MR. MARX: I know if I stand there I can't
17 help but interrupt.

18 CHAIRMAN KEILSON: You can also listen to
19 your elders.

20 MR. GOLDMAN: What are you using as your --

21 CHAIRMAN KEILSON: The same document
22 (indicating). It's become the holy grail, so to
23 speak.

24 All right, so we have at this point for the
25 2013 there's going to be a not essential and not

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1 substantial but identical in terms of the variance
2 requests other than those that no longer require a
3 variance. How's that?

4 MR. PANTELIS: If I may correct, there were
5 reductions in certain areas.

6 CHAIRMAN KEILSON: I understand.

7 MR. GOLDMAN: And elimination of some.

8 CHAIRMAN KEILSON: I'll just itemize them.
9 Building coverage is 57 and a half. The surface
10 coverage is 18.9. The front-yard encroachment
11 will be 24.87, at least, no greater than.

12 The side yards have no encroachment, all
13 right. The rear yard will now have no
14 encroachment, all right. The front yard height/
15 setback ratio will be modified to some extent.

16 MR. GOLDMAN: As I guess the Building
17 Department determines based on the reduction.

18 CHAIRMAN KEILSON: In terms of the front yard
19 that the resulting front yard height/setback ratio
20 will be within the --

21 MR. PANTELIS: Just one thing I think we have
22 to really recognize is that by now complying with
23 the setback the applicant is indicating that he's
24 going to reduce and eliminate certain areas; is
25 that correct?

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1 MR. MARX: No.

2 MR. PANTELIS: Or are things going to be
3 pushed back?

4 MR. RYDER: You're going to cut out so your
5 numbers will decrease by cutting out
6 automatically.

7 MEMBER GOTTLIEB: To reduce.

8 CHAIRMAN KEILSON: Fine.

9 MR. PANTELIS: So then it's not going to be
10 57 and a half feet building coverage. That's one
11 of the problems, with all due respect, of not
12 seeing the plan and having new numbers.

13 CHAIRMAN KEILSON: Right.

14 MEMBER HENNER: But the plan is going to be
15 subject to the Building Department?

16 MR. PANTELIS: But we can't put numbers on
17 the record because we don't have those exact
18 numbers, so the percentage of variance that you're
19 granting in certain areas is going to be different
20 from what you're putting on the record. It may be
21 less, but it will be different.

22 MR. GOLDMAN: So we would make the commitment
23 that if there's any change it will be a change to
24 be reduced, not increased.

25 MR. PANTELIS: But a decision of the Board,

1 with all due respect, should reflect what is being
2 granted by the Board, especially since we're
3 dealing with certain percentages and certain
4 numbers.

5 MEMBER WILLIAMS: It sounds to me, Tom, like
6 you're just not comfortable unless it comes before
7 the Board.

8 MR. PANTELIS: Well, we don't have, for
9 example, and I don't expect that you would have at
10 this moment what the new numbers are, because
11 there will be some reduction by virtue of your
12 tinkering.

13 MEMBER HENNER: Aren't we able to say that
14 the numbers will not be greater than X? As long
15 as they're below X, aren't we satisfied?

16 MR. PANTELIS: Ten years from now what is it
17 that you approved?

18 MR. GOLDMAN: May I make the suggestion that
19 it be granted in this way so we can move forward,
20 and then what we would do is we're more than happy
21 to come back and amend the record, if you will, at
22 an appropriate time.

23 CHAIRMAN KEILSON: To the actual numbers.

24 MR. GOLDMAN: Right.

25 MR. PANTELIS: It could be as simple as

1 putting a statement on the record indicating that
2 these are the final plans with the final numbers,
3 and if the Board is comfortable granting it so
4 that they can move forward, and again, unless
5 Mr. Ryder when he reviews it sees something that's
6 inconsistent with what we've done tonight, then in
7 that case he may say time out.

8 MR. GOLDMAN: Okay.

9 MEMBER WILLIAMS: If he doesn't say time out
10 and he says okay, then why can't we just put the
11 stamp of approval on it at the April meeting --

12 MR. PANTELIS: August meeting.

13 MR. GOLDMAN: August meeting.

14 MEMBER WILLIAMS: August meeting, I'm sorry.
15 The August meeting just like you said we have
16 numbers to look back at in ten years.

17 MR. PANTELIS: I think that should happen,
18 but they should have the comfort of moving
19 forward. It's going to take you some time to even
20 redo these plans, I assume, and get them to
21 Mr. Ryder and let him review. So we're not really
22 using a lot of time under any set of
23 circumstances.

24 MR. GOLDMAN: No, but we would like to know
25 that there's a decision rendered tonight.

1 MR. PANTELIS: Okay.

2 MR. GOLDMAN: Because also then I can move
3 forward to some extent with the Board of Building
4 Design, and don't forget too that there is
5 demolition to consider here. There's a whole lot
6 of stuff and at the meeting in August --

7 MR. PANTELIS: I think the Board is sensitive
8 to that.

9 MR. RYDER: Just for the record, do we leave
10 this case open and then return in August and read
11 the -- after review and the revised plan?

12 CHAIRMAN KEILSON: Close it and amend.

13 MR. PANTELIS: Well, if you're comfortable
14 saying on the record this is what we are going to
15 approve --

16 CHAIRMAN KEILSON: Right.

17 MR. PANTELIS: -- then you have the
18 confidence of moving forward, not really losing
19 time, and we have the ability to get the final
20 plan with the final percentages and just adopt a
21 resolution.

22 MR. GOLDMAN: Fair enough. And we would
23 bring that to you back in August.

24 MR. PANTELIS: So there really shouldn't be
25 any uncertainty on your part. We understand what

1 you're going to do, and I think you understand
2 what we --

3 MEMBER WILLIAMS: The only problem is if
4 we're not happy with what you're bringing.

5 MR. GOLDMAN: Yes, that's correct.

6 MR. PANTELIS: That would be the only thing.

7 CHAIRMAN KEILSON: So having expressed all
8 that, how would you like me to summarize it, one
9 by one, or just say that it will be no --

10 MR. PANTELIS: We've already I think --

11 CHAIRMAN KEILSON: We've done an adequate
12 job?

13 MR. GOLDMAN: Right. We would make the
14 representation to the Board that we're going to
15 try to be -- not try -- we are going to be either
16 compliant or beyond compliant with that which was
17 granted in 2007. And that in the interim we will
18 make available to the Building Department and
19 we'll do -- in deference to the Building
20 Department we'll do in compliance with whatever
21 numbers he concludes. Fair enough?

22 CHAIRMAN KEILSON: Fair enough. So I'd also
23 like the record to reflect that it's solely
24 because of the nature of this particular unique
25 case where in 2007 it was granted, and we are in

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1 CHAIRMAN KEILSON: And I approve it as well,
2 and we wish you well. And how many years, ten
3 years?

4 MR. MARX: Two years.

5 MR. GOLDMAN: Three?

6 MR. MARX: Two or three?

7 MR. RYDER: Two years, and Board of Building
8 Design.

9 MR. GOLDMAN: Mr. Ryder, three years to do
10 it?

11 MR. RYDER: That's up to the Board.

12 CHAIRMAN KEILSON: Gentlemen and lady, the
13 request is three years. I have no objection.

14 MEMBER GOTTLIEB: Yes, I thought it was three
15 years.

16 CHAIRMAN KEILSON: Since we know Mr. Marx
17 well, three years it is.

18 (Whereupon, the hearing concluded at
19 9:30 p.m.)

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

24

Mary Benci

25

MARY BENCI, RPR
Court Reporter