

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 September 5, 2012
7 7:38 p.m.

8 APPLICATION: Verschleiser
9 95 Briarwood Lane
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: Good evening, ladies and
2 gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. I would ask you to please turn
4 off your cell phones, and if you have need for
5 conversation I ask that you take it outside. We
6 would appreciate it. We want to move along as
7 expeditiously as possible. We have a long
8 calendar this evening.

9 Proof of posting, Mr. Castro.

10 MR. CASTRO: Yes, Chairman. I offer proof of
11 posting and publication.

12 CHAIRMAN KEILSON: Okay, thank you very much.

13 Mr. Pantelis, would you like to offer the
14 preamble.

15 MR. PANTELIS: A very brief preamble, yes, I
16 will.

17 Good evening, ladies and gentlemen. The
18 Zoning Board is required by law to evaluate
19 certain things in reference to your application,
20 and they're all mandated by statute, and we'd
21 encourage you or your representative to clearly
22 state what it is that you're asking for with
23 respect to the code, how your application differs
24 from the code. The Board is very familiar with
25 these -- each of the applications and in almost

1 all cases has visited the property. It's a hot
2 Board, so you can expect that they're going to ask
3 questions and please be prepared for that.

4 Thank you.

5 CHAIRMAN KEILSON: Thank you, Mr. Pantelis.

6 This evening as our first order of business,
7 we will be issuing a decision on the application
8 of Verschleiser. They came before us several
9 times, most recently on June 27th of 2012. That
10 evening the Board heard extensive presentations
11 from both the applicant, their architect and their
12 experts. In addition, we had a presentation from
13 the neighbor in opposition, his architect, and
14 comments from the audience.

15 Mindful that it was a matter laden with great
16 emotion, complexity and history, the Board voted
17 to reserve decision so that we would have ample
18 time to review the transcript and come to a
19 judicious decision in an open forum such as this
20 evening.

21 I will begin by offering my analysis and
22 invite each of the members of the Board to do so,
23 and then we'll call for a vote on the application.
24 We will then request of Counsel to the Board of
25 Zoning Appeals to prepare a findings of fact

1 capturing the essence of the decision in a formal
2 writing.

3 In brief, the petitioners who resided at
4 their location for over a decade sought relief
5 through eight significant variances to allow for
6 the expansion of their home through several
7 additions and the addition of a swimming pool.

8 Mr. Goldman, counsel for the petitioner,
9 opened by framing the question: Why is the
10 applicant asking to place the new addition on the
11 north side of their house within ten feet of the
12 neighbor's property, an area which requires under
13 zoning regulation a 40-foot rear yard, when there
14 is more than ample space on the south side of the
15 house to accommodate this construction.

16 Mr. Goldman threw down the gauntlet of his
17 architect and expert witness, and in my opinion
18 they fell short in explaining the absolute
19 necessity for the addition to be placed in very
20 close proximity to their neighbor.

21 Mr. Goldman then attempted to address the
22 issue of relabeling the yard. In fact, that
23 suggestion had been made in the hearing in 2002
24 and it was rejected. The bottom line is that
25 irrespective of what you call the yard, you need

1 spacing to allow for light and air.

2 Petitioner attempted to suggest for some
3 reason, notwithstanding that there's adequate room
4 on the south side of the house to accommodate the
5 addition, the construction should be done on the
6 narrow side encroaching down to ten feet of the
7 neighbor. That placement would be violative of a
8 host of setback requirements, including height
9 setback requirements.

10 Testimony was offered by the architect of the
11 neighbor, and not rebutted by the petitioner, that
12 the two-story encroachment would absolutely impact
13 the light that enters the neighbors' yards and
14 would cast a shadow deep into their yard and
15 impact negatively on the foliage demarking their
16 properties.

17 Moreover, a reading of the transcript of ten
18 years ago when the petitioner requested to build a
19 single-story garage on the narrow side shows there
20 was similar concerns expressed and a compromise
21 was forged with the prior neighbor for the
22 placement of a garage in the upper-most area
23 between the properties so as not to impact on the
24 neighbor.

25 My reading of the statutory criteria is as

1 follows:

2 One: Will an undesirable change be produced
3 in the character of the neighborhood? Absolutely,
4 yes. We do not want 10-foot rear yards when
5 40 foot is required, and so the Board declared in
6 2002 on this very subject in relating to this very
7 lot.

8 Two: Can the benefit sought by the applicant
9 be achieved by some other method? One hundred
10 percent, yes. Just go and move the additions to
11 the other side.

12 Three: Is the requested area variance
13 substantial? Absolutely. A 10-foot encroachment
14 where 40 foot is called for is beyond egregious.

15 Four: Will the proposed variance have an
16 adverse effect on the physical or environmental
17 conditions of the neighborhood? Absolutely, yes.
18 It changes the entire concept of spacing and light
19 and air, everything that zoning is designed to
20 protect.

21 And five: Is the alleged difficulty for the
22 applicant self-created? Absolutely.

23 The conclusion is inescapable that the
24 application must be declined.

25 I know that the Verschleisers made an earnest

1 effort to achieve an accommodation with their
2 neighbor and they believe that they have no
3 alternative, but a fair review of the
4 presentations does not support their position.

5 Now, I invite the other members of the Board
6 to express their thoughts.

7 MEMBER GOTTLIEB: I was not voting on this
8 matter.

9 CHAIRMAN KEILSON: That's right.
10 Mr. Gottlieb has recused himself; I point that
11 out.

12 Other members of the Board. Mr. Henner.

13 MEMBER HENNER: I thought that the
14 presentation you just made captures all my
15 thoughts on the matter, so I have nothing to add
16 to it, but I agree with it in its entirety.

17 CHAIRMAN KEILSON: Mr. Schreck.

18 MEMBER SCHRECK: I agree with it as well. I
19 don't feel that there was any compelling reason
20 why the additions couldn't be done on the other
21 side. And I would agree. Again, I think the
22 Chairman did capture the essence of what the
23 record contains and why it needs to be denied.

24 CHAIRMAN KEILSON: Mrs. Williams.

25 MEMBER WILLIAMS: I clearly remember your

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1 quest to explain. I don't remember there being an
2 adequate explanation. And I would agree with
3 everything you said.

4 CHAIRMAN KEILSON: Okay. So having discussed
5 it, I will now call for a vote.

6 Mr. Henner, how do you vote?

7 MEMBER HENNER: I vote against.

8 CHAIRMAN KEILSON: Mr. Schreck.

9 MEMBER SCHRECK: Against.

10 CHAIRMAN KEILSON: Mrs. Williams.

11 MEMBER WILLIAMS: Against.

12 CHAIRMAN KEILSON: And I too will vote
13 against.

14 (Whereupon, the hearing concluded at
15 7:46 p.m.)

16 *****

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

20

21

Mary Benci

22

MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York6 September 5, 2012
7 7:46 p.m.8 APPLICATION: Passmore
9 111 Barrett Road
10 Lawrence, New York

11 P R E S E N T:

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

1 CHAIRMAN KEILSON: The next application is
2 Passmore, 111 Barrett Road.

3 MR. ROSENFELD: Good evening.

4 Meir Rosenfeld, 466 Central Avenue,
5 Cedarhurst, New York, for the petitioner.

6 CHAIRMAN KEILSON: Good to see you again.

7 MR. ROSENFELD: It's good to be back, thank
8 you.

9 The petition that the Board has before it
10 this evening is requesting two variances. One is
11 a rear-yard setback where 50 feet is required.
12 The pre-existing nonconforming encroachment is a
13 setback of 42.8 feet and it was -- the home was
14 built that way. And it's been that way since the
15 home was built.

16 There is no change proposed. The reason this
17 variance is necessitated is because they are
18 changing the roof from a shed-like structure to
19 incorporate it more aesthetically into the other
20 renovations in the house. So that is really the
21 only reason that that variance appears.

22 The more immediate, if you will, of the
23 variance requests is an overage of surface area
24 coverage of requested 31.6 percent which is --
25 consists of a circular driveway and a swimming

1 pool and the paving around it.

2 The site is, as I'm sure the Board knows,
3 it's an irregularly shaped lot and it's on a
4 curvature and it's on a hill. The placement --
5 there are many swimming pools in the immediate
6 surrounding neighborhood, and given the Board's
7 predisposed notions of overage, I voluntarily in
8 conversations with my client sought to find ways
9 to cut out the overage.

10 If you look at the --

11 CHAIRMAN KEILSON: All of it?

12 MR. ROSENFELD: No, a significant portion of
13 it. Enough to make it worth my while.

14 There is -- if -- I'm sorry.

15 With the addition of the circular driveway,
16 the turnaround, the existing turnaround is
17 rendered superfluous. That would be -- taking
18 that out -- that's on the extreme right of the
19 survey. Taking that out and covering that with
20 grass would result in lessening the overage by
21 eight and a half percent, or some 600 square feet.

22 MR. PANTELIS: Just to be clear, are you
23 talking about the unshaded area?

24 MR. ROSENFELD: Correct, that's correct,
25 right.

1 MR. PANTELIS: How much of that would come
2 out?

3 MR. ROSENFELD: The entire amount outside of
4 the straightaway, to the garage. Right, that line
5 that you're just about to draw. That's it.

6 MR. PANTELIS: Okay.

7 MR. ROSENFELD: Which would result in an
8 overage of 23 percent.

9 MR. RYDER: Mr. Rosenfeld, do you have the
10 square footage of that part of the driveway that
11 you are planning on removing?

12 MR. ROSENFELD: Yes. It's in excess of
13 600 square feet based on the measurement.

14 MR. RYDER: Thank you.

15 MR. ROSENFELD: It's 610, 612, something
16 along that line. But 600 is operative. That
17 makes it -- that's eight and a half percent. That
18 brings it down to 23.

19 CHAIRMAN KEILSON: What's your second step?

20 MR. ROSENFELD: The second step consists of
21 charming the Board in to giving me the variance.
22 The truth is, is that I understand from
23 experience, and this is, I should note, this is my
24 180th appearance before this Board. I've been
25 counting.

1 CHAIRMAN KEILSON: Wow.

2 MEMBER HENNER: What's your record?

3 MR. ROSENFELD: So far, 179.

4 I realize that there is an unspoken line, and
5 what I have in conversations with my client come
6 to offer the Board prior to anything from the
7 Bench is that we could eliminate -- if we were to
8 eliminate this paving, about two and a half feet
9 of paving from the perimeter of the pool, that
10 would result in a savings or a reduction of over
11 255 square feet, which would bring it below a
12 20 percent overage. It would actually make it a
13 19.7 percent. Don't test me on my math, but it's
14 somewhere along those lines.

15 CHAIRMAN KEILSON: That's why Mr. Castro is
16 here.

17 MR. ROSENFELD: Right. It would bring it --
18 it's about 3.8 percent or 3.9 percent over -- for
19 the reduction which would make it 19.1 percent
20 overage.

21 And in further, I would like to submit some
22 letters of support from the neighbors. I have
23 four letters of support. I'll save you the line.
24 They're remarkably identical in content, but they
25 are from all the adjoining neighbors.

1 Dr. Passmore, who is present this evening,
2 attempted to speak with all the neighbors, and one
3 of the neighbors, I believe in attendance this
4 evening, had asked him if it was possible to make
5 sure that the pool equipment would not be placed
6 along their property line. That would be -- I
7 believe it's the Friedmans that's to the immediate
8 rear of them and, obviously, we are prepared to do
9 so. The initial point of replacing it was to be
10 where there was the cooling and air-conditioning
11 equipment previously. Although it sounds --
12 although it doesn't sound as good as I'd like it
13 to, that is actually in the front corner of the
14 property. Because of the way the property is
15 sloped and was covered by shrubbery, it was not
16 visible and this is certainly less than that.
17 However, I will state for the record that we're
18 willing to work with the Building Department to
19 wherever the optimum placement of the pool
20 equipment would be and, of course, we would put
21 sound-deadening shrubbery and fencing around that.

22 CHAIRMAN KEILSON: In terms of the optimum
23 location, I think it's more the disposition of the
24 neighbor who is concerned. In other words, I
25 don't think the Building Department can

1 determine --

2 MR. ROSENFELD: Oh, no, no, no. I wasn't
3 saying that. Mr. Chairman, what I meant to say
4 is, obviously, we will not put it anywhere near
5 where the neighbor -- anywhere near where the
6 neighbor is located. That we were looking at
7 other locations within the property to locate it
8 so that it would not be too far from the pool.

9 CHAIRMAN KEILSON: Is it showing now 20 feet
10 from the property line?

11 MR. ROSENFELD: Which? The --

12 CHAIRMAN KEILSON: The equipment.

13 MR. ROSENFELD: Yes.

14 CHAIRMAN KEILSON: The pool filter.

15 MR. ROSENFELD: Yes. However, Dr. Passmore
16 is a very peace loving sort of guy and if he can
17 do anything to help out with the neighbors he has
18 no problem doing so, as far as I know.

19 MEMBER GOTTLIEB: I'd like to go back to the
20 patio for a moment.

21 MR. ROSENFELD: Sure.

22 MEMBER GOTTLIEB: I realize it's an odd
23 shape, if you will; it has ins and outs. What is
24 the approximate width of the pool then and now
25 after your proposal of moving two and a half feet?

1 MR. ROSENFELD: Are you talking about the
2 patio around the --

3 MEMBER GOTTLIEB: The pool.

4 MR. ROSENFELD: Around the pool, right. What
5 is the approximate coverage of that?

6 MEMBER GOTTLIEB: The width.

7 MR. ROSENFELD: At its narrowest on the
8 southern -- or on the northern side towards the
9 street, it's almost six feet.

10 MEMBER GOTTLIEB: So --

11 MR. ROSENFELD: So taking off -- the
12 reduction would be less than half of the narrowest
13 width.

14 MEMBER GOTTLIEB: Leaving the narrowest width
15 off because most of it is the widest width.

16 MR. ROSENFELD: No, but I'm saying just so
17 you can sort of like see.

18 MEMBER GOTTLIEB: In order to gauge it.

19 MR. ROSENFELD: To gauge it, right.

20 MEMBER GOTTLIEB: What is the average width
21 of the patio around the pool?

22 MR. ROSENFELD: It's somewhere between eight
23 to ten feet.

24 MEMBER GOTTLIEB: And you're bringing that
25 down to about seven and a half feet?

1 MR. ROSENFELD: Correct, at its widest, yes.
2 As I said, Mr. Gottlieb, that would result in
3 approximately a shaving of 255 square feet.

4 MR. PANTELIS: You indicated you have -- I
5 think you submitted four letters.

6 MR. ROSENFELD: Yes, sir.

7 MR. PANTELIS: And you said they were
8 adjacent.

9 MR. ROSENFELD: Yes.

10 MR. PANTELIS: Because you have two who are
11 adjacent according to the radius map. So I assume
12 we're including Friedman, Kavarsky, or no?

13 MR. ROSENFELD: Right.

14 MR. PANTELIS: Maybe we can identify here
15 because it doesn't seem to line up. So we have
16 Kavarsky, or Paley.

17 MR. ROSENFELD: That's adjacent. Paley is
18 across the street.

19 MR. PANTELIS: Okay. And Susan Wein.

20 MR. ROSENFELD: Right. That's directly
21 across the street.

22 MR. PANTELIS: And Mandel.

23 MR. ROSENFELD: Yes, it's Lieberman.

24 MR. PANTELIS: No, I have Mandel.

25 MR. ROSENFELD: No. Mandel is -- oh, I'm

1 sorry. Mandel is behind Friedman. It's around
2 the corner on Clinton Road.

3 MR. PANTELIS: Okay. So you don't have
4 Friedman then?

5 MR. ROSENFELD: No, the Friedmans are here.
6 I did better.

7 MR. FRIEDMAN: I did better.

8 MR. PANTELIS: I just wanted to understand
9 because you said four adjacent and there are only
10 two and we didn't line up. Good, so we have four
11 letters of consent.

12 MEMBER HENNER: Would it matter if the pool
13 was shaped any differently? This is kind of a
14 strange shape.

15 MR. ROSENFELD: It is. This is what's known
16 as a free-form pool.

17 MEMBER HENNER: I don't know what to call
18 that. Free form.

19 MR. ROSENFELD: The truth is it would not,
20 because the pool itself, if you notice, is about a
21 35 by 16. And although it looks, it has like
22 little coves, it's basically a rectangular shape.

23 MEMBER HENNER: Okay.

24 MR. ROSENFELD: It's not like a kidney-shaped
25 pool or anything like that. A kidney shape would

1 allow for significantly more pavement area.

2 CHAIRMAN KEILSON: Is there anyone in the
3 audience who would like to speak to the matter?
4 Please step forward, identify yourself.

5 MR. FRIEDMAN: Sure. Good evening. My name
6 is Russell Friedman. I'm here with my wife,
7 Elaine Friedman. We currently reside at
8 123 Barrett Road. We have lived there for
9 approximately nine years, and prior to that
10 resided also in Lawrence on Muriel Avenue -- it
11 took me a moment -- for about seven years before
12 that. So we've been in Lawrence for about fifteen
13 or sixteen years.

14 I have had the opportunity to discuss the
15 proposed plans with Dr. Passmore in his home. I
16 reviewed his proposed drawings. We discussed the
17 issue with regard to the placement of the pool
18 filter as well as the heating unit. I had
19 expressed some concerns with regard to the
20 location being adjacent to or contiguous to the
21 existing air-conditioning systems and generator
22 that was recently put there. Dr. Passmore has
23 agreed with me that with regard to my request, to
24 honor my request to move from his proposed
25 location of the pool equipment to what would be

1 the front left -- I'm not sure north/south -- but
2 it would be the front left portion of the house
3 that would be adjoining or facing Barrett Road.

4 CHAIRMAN KEILSON: Would it be helpful if you
5 could identify it on a --

6 MR. ROSENFELD: This is the house
7 (indicating).

8 MR. FRIEDMAN: It would be over here,
9 literally in the front of the house.

10 MR. ROSENFELD: In between -- in between the
11 shaded area and the --

12 CHAIRMAN KEILSON: I think it would be
13 helpful to the Building Department if you step
14 forward and just identify it on their plans.

15 MR. FRIEDMAN: The front of the house is
16 over --

17 CHAIRMAN KEILSON: Off the record.

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

20 MR. FRIEDMAN: I believe when talking to
21 Dr. Passmore he had -- we had discussed moving it
22 to the location that I indicated to the Board, and
23 I think that he also discussed putting shrubbery
24 or hedging around there. We also discussed other
25 issues relating to the air conditioning and

1 cooling systems, which I think he's also going to
2 be trying to accommodate our request to cover that
3 up.

4 We've had no issues with him as a neighbor.
5 He's been a lovely neighbor since he moved in.
6 The house was vacant for approximately seven and a
7 half years before that, on and off, and there have
8 been some tenants in there who all were evicted
9 one after the other for nonpayment. He is
10 actually the first neighbor we've had almost since
11 we moved in that actually owns the house. So
12 we're very happy to have neighbors who own the
13 house.

14 I did not really -- I have to be honest, I
15 didn't realize there was going to be a change in
16 the roof line over the sun room. I didn't look at
17 their proposal; I apologize. I don't think that
18 we're going to have an objection with regard to
19 that. I don't think that's a significant change
20 in the house.

21 We don't have an objection with regard to an
22 issue on the overage. I don't think it's going to
23 adversely affect us. And the only issue we really
24 have with Dr. Passmore was the location of the
25 equipment for the pool which he is willing to

1 accommodate us for.

2 Other than that, we join with him in the
3 application. We're not looking to object to it,
4 and we don't really have any other issues other
5 than that.

6 CHAIRMAN KEILSON: Thank you very much. It's
7 nice to see the collegial neighborly feeling.
8 It's a nice change.

9 MR. ROSENFELD: I just wanted to reiterate
10 that the proposed location for the pool equipment
11 is in a location where there was air-conditioning
12 equipment previously.

13 MR. FRIEDMAN: Correct.

14 MR. ROSENFELD: So we're not breaking new
15 ground.

16 MR. FRIEDMAN: This was a lot better than my
17 last appearance here eight years ago where I was
18 the only matter on the agenda and 150 people
19 showed up in opposition. So it's a lot nicer to
20 be here this evening.

21 MR. ROSENFELD: I didn't represent him at
22 that point.

23 MR. COHEN: I have objection.

24 CHAIRMAN KEILSON: If you want to speak to
25 the matter, please step forward, identify yourself

1 for the record.

2 MR. COHEN: My name is Dr. Ezra Cohen. I
3 live in 115 Barrett Road for the last 23 years.

4 CHAIRMAN KEILSON: Okay.

5 MR. COHEN: We moved from Brooklyn to
6 Lawrence to have big properties and lots of
7 greenery and trees. Now, I am objecting -- object
8 to the putting a pool on this small lot because
9 it's gonna take away from -- he has to cut trees
10 and he has to move and he has to put it right in
11 front of Barrett Road.

12 Barrett Road and Ocean Avenue are the eyes of
13 Lawrence. People walk there, jog there, they
14 roller skate there all day. Now, if you gonna cut
15 the trees and put the pool right in front of the
16 street, what is it going to be? He's gonna put a
17 fence there and it's going to look like a ghetto
18 there.

19 CHAIRMAN KEILSON: Did you have a chance to
20 look at the plans?

21 MR. COHEN: No, I did not. But anyway, it's
22 gonna be right adjacent to Barrett Road.

23 CHAIRMAN KEILSON: The pool itself is set
24 back appropriately. I don't think there's any
25 issue in terms of the setback of the pool.

1 Mr. Ryder from the Building Department, is
2 there any issue with the placement of the pool?

3 MR. RYDER: No, the setbacks are in
4 compliance.

5 CHAIRMAN KEILSON: The pool is being built
6 according to the law. There's no zoning issue in
7 regards to the pool itself, and it is set back at
8 least -- how many feet do you have there?

9 MR. RYDER: Thirty-six feet to the paving,
10 41 to the pool.

11 CHAIRMAN KEILSON: Forty-one feet to the
12 pool.

13 MR. COHEN: Yeah, but the lot is half an
14 acre. It's taking away a lot of space.

15 MR. ROSENFELD: No trees are being cut down
16 by the placement of the pool.

17 CHAIRMAN KEILSON: We'll address each one.
18 You have to look at the plan, and the plan was
19 available. You've had notification, and I
20 understand that you're concerned, but I think,
21 number one, a pool is not an uncommon recreational
22 facility in Lawrence. People have pools and it
23 enhances, you know, the life and enjoyment of the
24 property. And in this case it's set back quite a
25 ways. We have many requests where the setback is

1 not appropriate. Here the setback is appropriate.
2 I don't think there's any issue, and I'm sure
3 there's going to be enough screening and new
4 shrubbery. The property shows that to be the case
5 that they're looking for the privacy as well. So
6 I don't think it's going to really intrude on, you
7 know, pedestrians or people walking in the street.

8 And then in regard to the question of whether
9 they're cutting down trees, Mr. Rosenfeld?

10 MR. ROSENFELD: No trees will be cut down.

11 CHAIRMAN KEILSON: No trees will be cut down.

12 MR. ROSENFELD: As a matter of fact, we'll
13 only add.

14 MR. RYDER: Mr. Chairman, I'm sorry.

15 Mr. Rosenfeld, with all due respect, there's
16 plenty of dry wells being put here.

17 MR. ROSENFELD: Correct.

18 MR. RYDER: Those locations are -- there are
19 no trees in those locations?

20 MR. ROSENFELD: No, the dry wells will be put
21 in so that -- in a manner to leave the existing
22 foliage there. They're not -- the trees don't
23 cover the entire area of the -- well, first of
24 all, let me just bifurcate my answer. Where the
25 swimming pool is going, no trees are being cut

1 down. As for the dry wells, are we taking down
2 any trees to --

3 MR. PASSMORE: No trees are planned to be
4 taken down, no.

5 MR. ROSENFELD: As it is currently planned,
6 including the dry wells, I can state on the record
7 that we're not taking down any. As a matter of
8 fact, we're reducing the number of dry wells.

9 CHAIRMAN KEILSON: Okay.

10 MR. RYDER: Thank you.

11 CHAIRMAN KEILSON: Thank you, Mr. Cohen.

12 Let me just ask in terms of the concern about
13 water spill-off and absorption, you've seen -- the
14 Building Department has seen the plans. Do we
15 need borings to be made?

16 MR. RYDER: It's all been supplied,
17 Mr. Chairman, and they met our minimum
18 requirements.

19 CHAIRMAN KEILSON: The Board is ready to
20 discuss and vote, and what we're voting on is a
21 reduction to 19.7 percent excess surface coverage
22 and then of course whatever setback which is
23 pre-existing.

24 MR. ROSENFELD: Pre-existing.

25 CHAIRMAN KEILSON: All right, Mr. Gottlieb,

1 since you didn't vote the first time.

2 MEMBER GOTTLIEB: With the amended changes,
3 I'm okay for this application.

4 CHAIRMAN KEILSON: Mrs. Williams.

5 MEMBER WILLIAMS: I'm for.

6 CHAIRMAN KEILSON: Mr. Schreck.

7 MEMBER SCHRECK: For.

8 CHAIRMAN KEILSON: And Mr. Henner.

9 MEMBER HENNER: I agree.

10 CHAIRMAN KEILSON: Okay, and I'll vote for as
11 well.

12 MR. ROSENFELD: Thank you.

13 CHAIRMAN KEILSON: And obviously, you'll be
14 very sensitive to the neighbors' concerns.

15 Mr. Ryder already has a comment.

16 MR. RYDER: Thank you, Mr. Chairman. Just
17 for the record, can we go over these numbers one
18 more time.

19 MR. ROSENFELD: Absolutely. Surface coverage
20 will not exceed 19.7 percent. And the -- and
21 the --

22 MR. RYDER: The coverage.

23 MR. ROSENFELD: I mean, do I have to specify
24 that we're taking out that side way?

25 MR. RYDER: I have that. I just wanted the

1 percentage of overage.

2 CHAIRMAN KEILSON: Two years?

3 MR. ROSENFELD: Yeah. Is that what you're
4 giving?

5 CHAIRMAN KEILSON: Take it.

6 MR. ROSENFELD: Okay.

7 MR. PANTELIS: I would just like the Board to
8 acknowledge formally that this application
9 pursuant to SEQRA, the State Environmental Quality
10 Review Act, is a Type II action requiring no
11 further SEQRA review.

12 CHAIRMAN KEILSON: Absolutely, absolutely.
13 Thank you very much, Mr. Rosenfeld.

14 (Whereupon, the hearing concluded at
15 8:07 p.m.)

16 *****

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

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MARY BENCI, 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 September 5, 2012
7 8:07 p.m.

8 APPLICATION: Hebrew Academy of Five Towns
9 and Rockaway
33 Washington Avenue
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
Member

16 MR. LESTER HENNER
17 Member

18 MR. MARK SCHRECK
Member

19 MR. THOMAS V. PANTELIS, ESQ.
20 Village Attorney

21 MR. GERALDO CASTRO
Building Department

22 MR. MICHAEL RYDER
23 Building Department

24
25 Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The next matter is the
2 Hebrew Academy of Five Towns and Rockaway.

3 MR. GOLDMAN: Good evening, Mr. Chairman and
4 members of the Board.

5 I would note parenthetically that even a
6 negative decision when it's rendered cogently and
7 fairly is appreciated by all parties.

8 CHAIRMAN KEILSON: Well, we have a long
9 evening ahead. Let's see.

10 MR. GOLDMAN: That's true. We'll see if I
11 maintain that attitude.

12 On behalf of the Hebrew Academy of the Five
13 Towns and Rockaway, Mr. Chairman, if it please the
14 Board, this is a matter that has been here before.
15 It's an ongoing project by a longstanding
16 institutional resident of the Village.

17 CHAIRMAN KEILSON: We understand that when
18 projects are done by committee that they have a
19 tendency to come back.

20 MR. GOLDMAN: That is correct, and that is
21 why camels come from horses, because of
22 committees.

23 Notwithstanding that, what has happened here
24 is that as the project developed it became obvious
25 that through the graciousness of the Board in

1 granting the earlier variances that certain little
2 things that developed. One of which was the fact
3 that in order to reach this gymnasium the original
4 intention was to have an outdoor --
5 notwithstanding the fact that it was within the
6 premises and not having anything to do with the
7 outside street, that it would nevertheless be an
8 outdoor element.

9 What has happened in the course of developing
10 is the conclusion that if they could enclose the
11 area and create almost, if you will, an alcove,
12 but a closed alcove, it would facilitate the use
13 of the premises, and certainly provide for greater
14 safety for the children involved.

15 In the course of doing it too, the space that
16 was granted it was discovered not by architects
17 and not by lawyers and not by administrators and
18 not by committees, but rather by the educators
19 that this was really good space that could be
20 utilized for the children. There's no increase of
21 student population, no increase of staff, no
22 increase of visitation or usage other than just a
23 diversification of the usage.

24 I mention that because, notwithstanding that,
25 based on the calculations, additional parking

1 would technically be required in this particular
2 case. Nevertheless, again, I attach the earlier
3 traffic study. There is nothing that is
4 substantially changed.

5 I have with me Mr. Capobianco who has an
6 illustration for the Board of what it is that we
7 would be talking about. And I defer to him as
8 always.

9 MR. CAPOBIANCO: What we're --

10 CHAIRMAN KEILSON: Mr. Capobianco, for the
11 record.

12 MR. CAPOBIANCO: John Capobianco, architect,
13 159 Doughty Boulevard.

14 An overview of the property showing the
15 elementary school, the middle school, the grade
16 school, and this little foyer where right now the
17 elementary school and middle school kind of
18 connect, what happens when we built the gym, there
19 was really no way for the middle school students
20 to get to the gym without walking through the
21 cafeteria and the old gym.

22 So we had an idea that we would just continue
23 the width of the structure all the way over to the
24 gym and around the stair in order to have a glass
25 enclosed or passive solar area, what we would call

1 just a vestibule, kind of a large glass-enclosed
2 vestibule which actually gives the students access
3 to the gym from the middle school without walking
4 through any other part of the school which would
5 be great access to the middle school.

6 The other access would be access to the
7 basement of the gym which we had constructed under
8 the 7,500 square foot gym is a 6,000 square foot
9 basement with approximately 2,000 it's just pure
10 storage, and then the other 3,800 to 4,000 square
11 feet would be used for some multipurpose rooms
12 down there, possibly a classroom, and we would
13 work on that with the Building Department in terms
14 of access and putting toilets and bathrooms when
15 we submit the plan for construction. But it would
16 really open up a whole area down there to the
17 school without having to go outside to enter the
18 gym and to, you know, access the basement.

19 So, you know, we feel that it's a glass, kind
20 of a greenhouse look, enclosed structure which
21 still allows a lot of light to come in, and we're
22 not taking any doors away from the exterior wall.
23 The exterior wall the way it presently is will
24 remain, and this will be like kind of a corridor
25 of glass that connects the two structures

1 together. And that's basically it. It's
2 approximately nine --

3 CHAIRMAN KEILSON: I think it will be an
4 enhancement.

5 MR. CAPOBIANCO: It'll be an enhancement, and
6 also it's approximately nine feet wide and runs
7 about 80, and returns about 30, so it's about
8 120 feet.

9 CHAIRMAN KEILSON: Any questions from the
10 Board?

11 MEMBER WILLIAMS: It's a very nice idea.

12 MR. PANTELIS: In connection with the SEQRA
13 review of the application, this is an unlisted
14 action as opposed to a Type II action which we
15 have in most residential applications; therefore,
16 the Board is required to adopt a resolution on
17 this. If you find -- or if you find there were no
18 adverse environmental impacts.

19 CHAIRMAN KEILSON: I just want to give an
20 opportunity to anyone in the audience who wants to
21 comment.

22 (No response.)

23 CHAIRMAN KEILSON: Good. Okay, so based on
24 the testimony presented on this application, I
25 would recommend for the other members there will

1 not be an adverse impact on the environment from
2 the project and, therefore, make a negative
3 declaration of environmental significance.

4 And do the members agree with that?

5 MEMBER SCHRECK: Yes.

6 MEMBER WILLIAMS: Yes.

7 CHAIRMAN KEILSON: And we're also going to
8 vote on the application. Mr. Henner.

9 MEMBER HENNER: I'm in favor.

10 CHAIRMAN KEILSON: Mr. Schreck.

11 MEMBER SCHRECK: For.

12 CHAIRMAN KEILSON: Mrs. Williams.

13 MEMBER WILLIAMS: For.

14 CHAIRMAN KEILSON: Mr. Gottlieb.

15 MEMBER GOTTLIEB: In favor.

16 CHAIRMAN KEILSON: And I vote for it as well.

17 MR. GOLDMAN: Thank you.

18 MR. CAPOBIANCO: Thank you.

19 CHAIRMAN KEILSON: Two years.

20 MR. GOLDMAN: At the rate it's going. And
21 also, I believe the Board of Building Design might
22 want to see it, although it's totally interior,
23 but nevertheless, Mr. Ryder, do you think it's
24 appropriate for them to review it?

25 MR. RYDER: I don't think it's necessary.

HAFTR - 9/5/12

1 It's a hallway. It speaks for itself.

2 MR. GOLDMAN: Thank you.

3 MR. CAPOBIANCO: Thank you very much.

4 MR. GOLDMAN: Thank you, Mr. Capobianco.

5 (Whereupon, the hearing concluded at

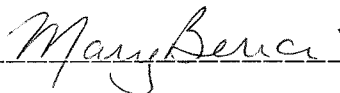
6 8:14 p.m.)

7 *****

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

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MARY BENCI, RPR
Court Reporter

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1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

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

6 September 5, 2012
7 8:14 p.m.

8 APPLICATION: Schwartz
9 45 Briarwood Lane
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 Schwartz on Briarwood Lane. So we're dealing with
3 the matter of Schwartz.

4 MR. GOLDMAN: Good evening, Mr. Chairman and
5 members of the Board, on behalf of the Schwartz
6 family at 45 Briarwood Lane. This is a matter
7 that the Board, of course, has the petition before
8 it.

9 This is a matter where the Board has appeared
10 -- the applicant has appeared before this Board
11 before. This is a huge piece of property that
12 runs essentially through a block, and what they're
13 essentially doing now is they're adjusting and
14 expanding their kitchen ever so slightly. And
15 what they discovered is that there is a slab, if
16 you will, on one side of the property that
17 currently has a small basketball court, not a full
18 court, but almost a half court. It's in close
19 proximity to their swimming pool, and therefore
20 poses something of a hazard and a disturbance and
21 a distraction.

22 What they essentially want to do is move that
23 basketball court, remove that block of -- I'll
24 call it concrete, and I believe it is, remove that
25 block of concrete and remove it slightly down and

1 away from the pool toward the rear of the
2 property. Now, I say the rear of the property.
3 It's deemed in some circumstances as the front of
4 property, but that's where there were two homes on
5 this property. That's where the first home has
6 been constructed and it had been removed. So it's
7 essentially taking off a small portion of that.

8 If you would look at the petition, you will
9 note that what we're essentially asking for is an
10 additional surface area coverage, and I think it's
11 only 6.2 percent. And of course, the fact that
12 it's a recreational structure in what would be
13 defined by the code as a front yard. I'm not sure
14 that you have all the photos. I would call upon
15 the architects and I would -- if there's any
16 questions as to the placement. You have here a
17 tremendous piece of property and it runs as you
18 well can see. I don't know if you've been to the
19 site.

20 CHAIRMAN KEILSON: I think we've all visited
21 the site.

22 MR. GOLDMAN: Right. And so you see where
23 it's being tucked. The only issue that might
24 arise that would be of a concern of the actual
25 neighbor that's the closest to the proposed

1 addition. I call it a replacement because even
2 though it's a piece, it's taking -- it's not just
3 digging up what was green grass and placing a half
4 court basketball court. There was a half court
5 basketball court; it's simply substituting. I
6 don't want to mislead the Board. It's somewhat --
7 it is larger than the piece that's being replaced,
8 but not appreciably. So it's not a full court.
9 So I note that the only one that has a direct
10 concern would be the neighbor that's most
11 impacted.

12 CHAIRMAN KEILSON: You keep on emphasizing a
13 full court. Is a full court generally overbuilt?

14 MR. GOLDMAN: No, not necessarily. In the
15 appropriate spot a full court --

16 CHAIRMAN KEILSON: I understand. We'll
17 figure it out later.

18 MR. GOLDMAN: In deference to my own
19 inadequacies, I prefer a half court to a full
20 court. I can hardly walk the half court.

21 Nevertheless, what we're simply doing is that
22 this is what's essentially replacing what's there.

23 If I might, the neighbor has indicated
24 certain reservations, one of which was that he
25 would want it placed --

1 CHAIRMAN KEILSON: Which neighbor?

2 MR. GOLDMAN: What's the address, please?

3 It's 22 Waverly. At the site of where the court
4 would be, this would be off to the left, if you
5 will --

6 CHAIRMAN KEILSON: Madowicz?

7 MR. GOLDMAN: Yes, yes.

8 And his concerns were articulated to the
9 Schwartz family which were, one, that he would
10 want the placement of the one basket away from
11 him, and that's been agreed to. He would want to
12 be certain that there is a portion of land sort of
13 tucked in that needs to be maintained and kept
14 clean, and the Schwartz have indicated that as
15 well. There is some concern about a possible
16 impact on drainage. In that context, if you could
17 just note your appearance for the record, please.

18 MR. NEWBERY: Sure. John Newbery from
19 DH Murray Architecture.

20 MR. GOLDMAN: In that context, the
21 architectural firm has prepared a drainage study
22 which we're submitting to the Building Department
23 and the Board.

24 CHAIRMAN KEILSON: Have they seen it as of
25 yet?

1 MR. RYDER: I have not seen it, no.

2 MR. GOLDMAN: And we've made representations
3 to the neighbor that while this -- obviously,
4 anything that's done would be done in compliance
5 and in conformity with whatever would be requested
6 by the Building Department. In the event that
7 something goes awry, the Schwartz family -- and it
8 would be attributable to this particular project,
9 the Schwartz family would make good on that as
10 well.

11 There was a fourth -- what was the fourth --
12 oh, and it won't be a full court.

13 CHAIRMAN KEILSON: Do we need boring tests?

14 MR. GOLDMAN: Boring tests have been done.
15 They're being done. They haven't been completed
16 but they've been ordered.

17 CHAIRMAN KEILSON: Whatever decision will be
18 made subject to.

19 MR. GOLDMAN: Correct. Subject to an
20 approval of this particular drainage plan, but
21 also whatever would be revealed by the boring
22 test.

23 It should also be noted that whatever is
24 being done here would not be visible pretty much
25 to just about anybody, neither any neighbors, as

1 well as the street along the path of the home.

2 MEMBER SCHRECK: Will there be any lights?

3 MR. GOLDMAN: No, there will be no lights.

4 That was a representation made, and also, I'm not
5 certain that we're permitted.

6 CHAIRMAN KEILSON: That will be on the record
7 as well.

8 MR. GOLDMAN: Yes.

9 CHAIRMAN KEILSON: Mr. Gottlieb, any
10 questions?

11 MEMBER GOTTLIEB: No.

12 CHAIRMAN KEILSON: Any questions?

13 MEMBER HENNER: No.

14 CHAIRMAN KEILSON: I think taking into
15 consideration, obviously, the size of the
16 property, vis-à-vis what's being proposed and it's
17 a pre-existing situation which is being moved, so
18 the only concern I think the 6.1 percent overage
19 is really de minimis in light of the size of the
20 property. So the concern we would have is in the
21 front yard and we've been down that road, right?
22 And I think in this case the fact that they're
23 20 foot off, you know, the property lines are very
24 significant, and if indeed we can accommodate all
25 the concerns of the neighbor -- and does a

1 neighbor want to speak?

2 MR. GOLDMAN: The only thing I would ask that
3 the neighbor if he's endorsing all these
4 commitments and indicating his acquiescence to the
5 project based on those commitments.

6 CHAIRMAN KEILSON: Only if he wants to come
7 forward.

8 MR. GOLDMAN: Do you want to come forward?
9 No one is shy in our Village.

10 CHAIRMAN KEILSON: Please identify yourself
11 for the record.

12 MR. MADOWICZ: Lenny Madowicz, 22 Waverly
13 Place. I'm fine with everything. My major
14 concern again, as voiced by Mr. Goldman, is if
15 there's a problem with the drainage, and I think
16 they said they would take care of all costs
17 involved if there was some issue because I've
18 never had a problem in any part of my --

19 CHAIRMAN KEILSON: That's wonderful to hear.

20 MR. MADOWICZ: -- any part of my side yard,
21 backyard with any water at all. If there is a
22 problem, it would be as a result of this. I don't
23 want to have to go down the road to prove it. If
24 it's acceptable to the Schwartzes and Mr. Goldman.

25 MR. GOLDMAN: The Schwartz accept and

1 appreciate that. We're doing everything in
2 deference anyway to the Building Department that's
3 protecting the interest not only of this
4 particular neighbor but all of the Village.

5 CHAIRMAN KEILSON: Absolutely. So we're
6 discussing it and we'll take a vote, but we'll
7 make it subject to a number of things such as the
8 water drainage plans being submitted.

9 MR. RYDER: Boring tests.

10 CHAIRMAN KEILSON: The commitment that there
11 will never be a full court basketball court.

12 MEMBER WILLIAMS: Lights.

13 CHAIRMAN KEILSON: No lights. Anything else
14 that we may have overlooked?

15 MR. RYDER: Boring tests.

16 CHAIRMAN KEILSON: Boring tests being
17 submitted.

18 The basket on the inner side. Mr. Ryder,
19 you're going to inspect that basket.

20 MR. RYDER: Can you clarify that for me?

21 CHAIRMAN KEILSON: Which direction.

22 MR. GOLDMAN: Away from. So in other words,
23 I am now going to demonstrate an athletic gesture,
24 which is a first. But it's away from the
25 neighbor's property. Rather than shooting toward

1 his house which is a distance anyway, it's toward
2 our house.

3 MEMBER HENNER: Towards Broadway.

4 MR. GOLDMAN: Yes.

5 CHAIRMAN KEILSON: North.

6 MR. GOLDMAN: And also, you forgot the
7 commitment to maintain that portion of the
8 property and keep it clean by all parties.

9 CHAIRMAN KELISON: Absolutely, correct.

10 MR. RYDER: Two years?

11 MR. GOLDMAN: I'm sorry?

12 MR. RYDER: I'm sorry. I'm jumping. I'm
13 taking Mr. Chairman's steam.

14 MEMBER WILLIAMS: We didn't vote yet.

15 MR. PANTELIS: This is a Type II action on
16 SEQRA. No further SEQRA review is required.

17 CHAIRMAN KEILSON: Fine, that's wonderful to
18 hear. All right, taking into account all the
19 statutory criteria, I think we'll take a vote at
20 this point. Mr. Gottlieb.

21 MEMBER GOTTLIEB: I'll vote for.

22 CHAIRMAN KEILSON: Mrs. Williams.

23 MEMBER WILLIAMS: For.

24 CHAIRMAN KEILSON: Mr. Schreck.

25 MEMBER SCHRECK: For.

1 CHAIRMAN KEILSON: Mr. Henner.

2 MEMBER HENNER: For.

3 CHAIRMAN KEILSON: And I vote for.

4 MEMBER WILLIAMS: Now you can say it, Mike.
5 Two years.

6 CHAIRMAN KEILSON: Two years.

7 MR. RYDER: Two years for the variance, two
8 years for the building permit.

9 MR. GOLDMAN: Yes. Does this have to go to
10 the Board of Building Design?

11 MR. RYDER: It does, Mr. Goldman, due to the
12 fact of the one-story rear addition.

13 MR. GOLDMAN: Oh, right.

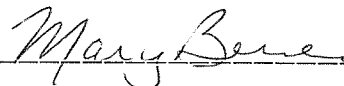
14 (Whereupon, the hearing concluded at
15 8:25 p.m.)

16 *****

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

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MARY BENCI, 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 September 5, 2012
7 8:35 p.m.

8 APPLICATION: Respler
9 69 Harborview West
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: Ladies and gentlemen, we
2 have two matters remaining and both of them are
3 probably time-consuming. So I'll -- I think you
4 have to be patient. We'll do our best to
5 expedite. We're going to do Respler first. So
6 will they or their representative -- Mr. Goldman,
7 you're on Respler?

8 MR. GOLDMAN: Yes.

9 CHAIRMAN KEILSON: Okay, Mr. Goldman, you're
10 on.

11 MR. GOLDMAN: Please. Mr. Chairman, one, on
12 behalf of the Resplers, I want to thank the Board.
13 This is -- the Board always extends its patience
14 and consideration in every single matter. This
15 matter has been on over a period of years and most
16 particularly and most recently it's been an
17 intensive review.

18 This is unique and I'm hesitating as to how
19 to present it because it's essentially unique to I
20 believe the Board and to me as well.

21 There are essentially two concerns that are
22 raised here, I believe, and I submit one is the
23 concern of the Board in terms of the details and
24 how this came about and the computations and the
25 figures and the presentation, et cetera. And

1 that's a legitimate concern, obviously.

2 The second, whole second column, if you will,
3 are the concerns of neighbors, that even if all
4 the numbers fell into place, at the end of the day
5 the final product is such that perhaps it would
6 give great concerns to the neighbors who are
7 perhaps less concerned with the details and the
8 numbers, if you will, and more concerned about the
9 ultimate result.

10 What I'd like to do, if I may, is address the
11 two issues separately, and of course they join,
12 but nevertheless they're two different almost
13 universes of concern.

14 The Board's concern is that when you look at
15 the numbers it's kind of unique, to say the most.
16 And the way the numbers are currently presented,
17 they certainly are. What I would suggest to the
18 Board is that this is not a tale of two cities,
19 but almost a tale of two Building Departments, and
20 this particular Board now is faced with the
21 dilemma of confronting ancient history which has
22 now come back to become current history, or for
23 that matter a current problem.

24 What I'd suggest to the Board, most
25 respectfully, is that what happened here and

1 that's why it's almost so difficult to sort of
2 figure it all out is that the Board of Zoning and
3 Appeals, the prior Board, some of whom are members
4 here, but it was constituted somewhat differently
5 and also within a different mindset, if you will,
6 heard these applications, heard this application
7 years ago. When that decision was rendered by the
8 Board, it was rendered without the Board
9 necessarily appreciating, not through any fault of
10 any party, that the status of the deck that was
11 being granted was going to be an elevated deck.
12 As a result of that, a variance was granted. In
13 that time frame, the applicant then addressed the
14 issue that it's now an elevated deck. There was
15 every indicia that it was elevated. There were
16 stairs, there were all sorts of overt indicia.
17 But in terms of -- and I'm confused now as to what
18 was -- whether it was the site plan or another
19 plan or whatever would have given the indicia that
20 this was an elevated deck, was not apparently that
21 apparent to that Board. Through no
22 misrepresentation, I would suggest, though I was
23 not the attorney for the applicant at the time,
24 but nevertheless that's what was granted.

25 Now, that's when the Building Department, the

1 then Building Department --

2 MEMBER WILLIAMS: What year was this?

3 MR. GOLDMAN: This was -- I'm getting my
4 years confused. I think it was 2008. In 2008, it
5 now became a question of here's an elevated deck.
6 What goes under it? Now, it could be soil, it
7 could be grass, it could be a whole lot of stuff.
8 But that stuff that was to be placed underneath
9 that deck was left to the determination of the
10 then Building Department. And in consultation
11 with the then Building Department it was concluded
12 that instead of stuff and instead of grass, why
13 not put a pool, leaving the deck where it is, but
14 leaving a pool to go underneath it and thereby
15 enclosing that pool.

16 Now, as a result of that and those actions,
17 throughout the time nobody violated any laws,
18 nobody built anything without permits or
19 permission, without observation. And it was built
20 and expenses were taken to in fact design a pool
21 that would go under the deck and be enclosed.

22 MEMBER WILLIAMS: Question. One second.

23 MR. GOLDMAN: Please.

24 MEMBER WILLIAMS: So an application was made
25 for the pool?

1 MR. GOLDMAN: An application was made at some
2 point for the pool, for a pool.

3 MEMBER WILLIAMS: At what time?

4 MR. GOLDMAN: And it was a question -- when
5 was the pool?

6 MR. CAPOBIANCO: 2007 or eight.

7 MR. GOLDMAN: Mr. Respler, wait.
8 Mr. Respler, why don't you come here, if you don't
9 mind.

10 MEMBER WILLIAMS: 2008 was the deck, 2007 was
11 the pool?

12 MR. RESPLER: 2008. It started in March and
13 then --

14 CHAIRMAN KEILSON: Mr. Respler, you have to
15 come forward and identify yourself, just like
16 everybody else.

17 MR. GOLDMAN: Right, I apologize.
18 Mr. Respler, just stand right here. If you have a
19 question we'll answer it, and I'm taking advantage
20 to save time rather than me groping.

21 MEMBER WILLIAMS: He doesn't have to go over
22 it again. 2008 came, we got the variance and at
23 which point we realized -- we realized that the
24 deck was raised and at which time we came back for
25 another permit for a pool? We came back for a

1 permit for a pool?

2 MR. CAPOBIANCO: To clarify.

3 MR. PANTELIS: Can I ask you all to -- and
4 I'm sure the reporter is going to have some
5 difficulties, if we're going to have multiple
6 people speaking you will have to identify yourself
7 each time so this can be done in an orderly
8 fashion.

9 MR. GOLDMAN: Correct. And I apologize.
10 There's designers, there's architects, and it's
11 over a period of time.

12 MEMBER WILLIAMS: The question so far is
13 simple. One thing is the permit and the second
14 thing is you have a discussion. There was a
15 suggestion for the pool. So you must have come
16 back for permission to do the pool.

17 MR. GIBNEY: Maybe I can help. Rich Gibney,
18 landscape architect. I started the project with
19 Mr. Respler in 2007. We started the design. At
20 the time we had talked about several things. The
21 house walked out at a higher elevation, gradually
22 went down to the bulkhead. The walkout of the
23 house was approximately six inches below the first
24 floor. As we looked at the design, we ended up
25 getting this approved here (indicating). And

1 you'll probably see it from there. It's a nice
2 simple rendition of it. This was a combination of
3 -- we had originally had a circular driveway, we
4 had all of this paved in brick, and we had the
5 swimming pool. The Board turned us down and said
6 you have too much lot coverage.

7 MEMBER WILLIAMS: In 2008?

8 MR. GIBNEY: This is in 2008.

9 MR. RESPLER: In March.

10 MR. GIBNEY: This was in March. In April we
11 came back --

12 MEMBER WILLIAMS: We did have a suggestion
13 for the pool, but it was turned down.

14 MR. GIBNEY: Yeah, we came back --

15 MR. RYDER: Excuse me. You have your years
16 crossed. In 2007, you came for a --

17 MR. GIBNEY: No -- okay, go ahead, go ahead.

18 MR. RYDER: In 2007, you came in front of
19 this Board for a variance for the building for
20 additions and alterations.

21 MR. GIBNEY: That's John.

22 MR. CAPOBIANCO: That's correct.

23 MR. RYDER: In 2008, you came in front of
24 this Board. I think that's what Mrs. Williams is
25 asking.

1 MR. GIBNEY: This is where I am now.

2 MR. RYDER: And you came before the Board for
3 a pool.

4 MR. GIBNEY: For lot coverage, yeah. We came
5 for pool setback variance, rear setback variance,
6 and one side variance.

7 MR. RYDER: 2008.

8 MR. GIBNEY: 2008.

9 MEMBER WILLIAMS: This was a second variance
10 after having been granted a building variance.

11 MR. GIBNEY: That is correct. And I was not
12 involved in the building variance.

13 Now, we were accepted for the pool with this
14 setback and this setback; however, the Board
15 didn't like the amount of coverage. So we reduced
16 the driveway and we added all lawn in the rear.
17 Okay, this was the point that this pool was at the
18 upper level, almost at first-floor level, about
19 eight feet above the boardwalk. We were going to
20 do what's called a disappearing edge pool. So
21 from this house you would see this water going
22 into the water, if you will, if you're familiar
23 with negative edge pools. That was the concept.
24 The owner saw the house here, a pool here, with
25 the wall that goes down to grade and said what if

1 we were to dig out underneath and have a basement
2 room.

3 MEMBER WILLIAMS: I just want to understand.
4 So at that point you were turned down, you did not
5 yet come back? That's what we are up to now?

6 MR. GIBNEY: Okay, I'm sorry, let me finish.
7 We came back with this plan now you're seeing now.
8 This is the -- we took all the brick off. We put
9 the lawn here. We put more lawn here, and this
10 was approved in 2008.

11 MEMBER WILLIAMS: The second time you were
12 turned down for the pool, and the third time they
13 came back for approval for the pool.

14 MR. GIBNEY: Correct, in June.

15 MR. RESPLER: March we weren't disapproved.

16 MEMBER WILLIAMS: Let me --

17 CHAIRMAN KEILSON: I'm not sure how material
18 all this is.

19 MR. GIBNEY: I'll go through it one more
20 time. In March, John got the variance -- in 2007,
21 John got the variance for the house. We came in
22 March with our presentation; it was too much
23 coverage. We weren't refused; we were adjourned
24 to come back with a change. Okay, it was not
25 refused. So we came back with this change and

1 were approved in June of 2008, okay. This was the
2 plan that we expected. This was the point that
3 the owner said to himself what if we were to dig
4 out to the pool and have a glass wall into the
5 pool from the basement. So he was just being
6 creative and thinking of different ideas. This
7 was the point where John came into the picture and
8 said rather than have the pool in the upper area,
9 why not bring the pool down, a story down, and
10 have it accessible from the basement instead of
11 having the basement go into the wall of the pool.

12 MR. CAPOBIANCO: Can I interject?

13 CHAIRMAN KEILSON: What you just added, was
14 that approved in 2008?

15 MR. GIBNEY: No.

16 CHAIRMAN KEILSON: Then how is it relevant?

17 MR. GIBNEY: Well, because they put -- they
18 did put the pool down to the basement.

19 CHAIRMAN KEILSON: I don't care what they
20 did. Was it approved in 2008?

21 MR. GOLDMAN: Now, just let me interrupt.
22 That's the issue. When I say it's a tale of two
23 Boards and two Building Departments, it did not
24 come -- much of this did not come back to the
25 Board, and the Board -- there is no in fact record

1 of this at a Board of Zoning and Appeals because
2 this was done apparently -- again, through the
3 definition or the thinking of the Building
4 Department then, this was deemed to be within the
5 purview of the Building Department, not a matter
6 that would be brought before the Board of Zoning
7 and Appeals, and it was in consultation with the
8 then Building Department that this all came about.
9 That's why I must tell you, I share everybody
10 else's frustration in trying to find a record of
11 this in your Board of Zoning and Appeals minutes
12 because it isn't there. Because, again --

13 MR. GIBNEY: If I might add one thing, when
14 the decision was made to put the pool from the
15 upper level to the lower level it became an
16 architectural and engineering consultation, and
17 the Village did not ask for a new site plan. They
18 approved of the pool in the basement, that's
19 correct, that following fall, but no revised site
20 plan was requested.

21 MR. CAPOBIANCO: Can I speak? John
22 Capobianco. The reason why the pool -- because
23 there was a question about privacy being up at the
24 high level at the pool. The privacy of the --

25 MR. GIBNEY: This is what it would have

1 looked like.

2 CHAIRMAN KEILSON: John, John, please, this
3 is extraneous right now. Why you did it is
4 extraneous, whether it was for the privacy or the
5 like.

6 In 2008, the Board approved something.

7 MR. CAPOBIANCO: Right.

8 CHAIRMAN KEILSON: Thereafter -- let me
9 finish. Thereafter, the Building Department felt
10 something was within their purview, which may not
11 have been within their purview, okay. And since
12 it wasn't acted upon from our perspective, unless
13 you tell me otherwise, okay, we're sitting here
14 today with an approval of something in 2008, and
15 nothing acted upon thereafter.

16 MR. GOLDMAN: By this Board.

17 CHAIRMAN KEILSON: Well, even as far as the
18 Building Department.

19 MR. GOLDMAN: Oh, that's the point. This was
20 all done with the approval of the Building
21 Department. Now, if I might and I don't ever ask
22 not to be interrupted, but what I'm simply
23 suggesting here is that what has happened here is
24 that everything was done in compliance and in
25 conformity with numbers and permissions and rights

1 and extensions, if you will, of the then Building
2 Department.

3 Now, Mr. Ryder was imposed upon by me and my
4 client. I understand that right this moment using
5 his definitions and his interpretations this is
6 500 percent, 10 million percent over. But I've
7 asked him and I've imposed upon him, if those
8 numbers were being used, if the thinking was there
9 anything inherently wrong, illegal, improper,
10 actionable, done by the then Building Department?
11 If there were, that's a different story. But
12 based on a legitimate interpretation by the then
13 Building Department, I believe this was a
14 legitimate interpretation, that they were acting
15 within their purview, that may be changed by now,
16 but there's been nothing wrong done. Now, even
17 the numbers --

18 CHAIRMAN KEILSON: Was construction done
19 pursuant to that?

20 MR. GOLDMAN: Construction was done.
21 Construction was done pursuant to that. Permits
22 were granted. Inspections were done.

23 MR. PANTELIS: Well, that's a good point
24 though. First of all, I think we really would --
25 I think we'd like to be clear as to what was done

1 and to verify and demonstrate that there were
2 either modifications to the permits which were
3 issued, or plans which were stamped and approved
4 which indicated at least there was some arguable
5 authority that they acted under. Rather than --
6 rather than at this point saying that we got all
7 these permissions.

8 MR. CAPOBIANCO: The issue was the pool at
9 the high level. When you're standing on the high
10 level created no privacy. So they wanted to put a
11 bubble and enclose the pool with a bubble, and
12 that obviously wasn't a favorable option by the
13 Building Department that we enclose the pool with
14 a bubble. So the Building Department --

15 MR. PANTELIS: Because of coverage.

16 MR. CAPOBIANCO: Not because of coverage, but
17 because of its bulk and its size would cause a
18 massive, you know, structure on top of this high
19 deck. So the option was suggested to go
20 underneath the deck with a pool, which would be
21 then enclosed and the privacy issue of being out
22 on the pool wouldn't be an issue, but it was the
23 height was kept the same but there was a structure
24 approved to go underneath.

25 At that time he counted that structure as a

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1 surface coverage structure. That was not building
2 coverage. It was counted as surface coverage.
3 Today, obviously, it wouldn't be, but back then it
4 was counted as surface coverage because we were
5 below a terrace which was unroofed and didn't have
6 a roof on it and so it didn't count for building
7 coverage, and that's how we basically got the
8 Building Department to agree on the approval of
9 the pool in the basement and the structure to be
10 the size that it was which was no higher than
11 where it was before.

12 CHAIRMAN KEILSON: Let me ask you a question
13 just for clarification. On the building coverage
14 the previously granted was 3,195 square feet.
15 Today, we're talking about 4,914. Are you saying
16 that the 3,195 of 2008 is really 4,914? Or is
17 there something additional being done?

18 MR. GOLDMAN: If I might, we've tried to work
19 this out, and I don't know whether you have the
20 sheet as we've presented it. Under the current
21 calculations as the Building Department correctly
22 does it now, it would be 4,914, exactly what
23 Mr. Chairman is saying. But if you use the old
24 interpretation as it was -- as that's the context
25 in which we're operating, then it would be 3,155

1 that we're proposing. And it was granted --

2 MR. PANTELIS: I don't see that on the sheet
3 at all.

4 CHAIRMAN KEILSON: Even before that, the
5 Building Department has had ample opportunity over
6 the last several months to review it. Is there
7 anything to what he is saying? Was there a basis
8 that in 2008 3,195 now translates into 4,914?

9 MR. GOLDMAN: No -- oh, yeah.

10 CHAIRMAN KEILSON: I mean, have they shown
11 anything to suggest that this metamorphosis has
12 happened because of an interpretation and so too
13 on surface coverage it went from 4,495 to 65 --
14 5,340, excuse me. 5,340 has morphed into 6,529?

15 MR. RYDER: I can't speak for the 2008
16 interpretation on the prior superintendent of
17 buildings. Calculations that show for 2012 of
18 4,914 total building coverage, and I'll stay on
19 building coverage, that's how I interpret the
20 structures that are proposed to be built on that
21 site.

22 MR. GOLDMAN: That is correct. That's why
23 we've indicated that under the current -- the
24 current Building Department --

25 CHAIRMAN KEILSON: You keep on using a

1 qualifier. I don't have a basis for us to accept
2 that it was --

3 MR. GOLDMAN: We discussed that. Maybe John
4 can explain it better, but if I just can throw the
5 number at you. The number, using the way it was
6 done back then it's -- now it's 4,914. But using
7 the language, if you will, it's 3,000 -- it would
8 have been what I'm asking for now 3,155. And I
9 leave it to Mr. Capobianco to explain how one
10 would have gotten to that conclusion back if we
11 turn back the clock.

12 MR. CAPOBIANCO: The 3,195 which is on the
13 approved plans stamped by the Building Department
14 in 2010 indicated it was granted June 11th, 2007
15 because the area in the back which was elevated
16 was not considered at that time building coverage.
17 So it was considered surface coverage.

18 CHAIRMAN KEILSON: We're not getting into the
19 detail yet. So you're saying those plans as
20 presented then, 31 --

21 MR. CAPOBIANCO: 95.

22 CHAIRMAN KEILSON: Today, Mr. Ryder looks at
23 the same plans and says it's 4,914?

24 MR. CAPOBIANCO: That's correct.

25 MR. GOLDMAN: That is correct.

1 MEMBER WILLIAMS: Identical plans.

2 MR. CAPOBIANCO: That's correct. Because the
3 structure -- and the same thing happened to me on
4 another project a while ago on Muriel, where we
5 built a pool underneath the terrace which we
6 didn't count for building coverage, but today, and
7 I don't disagree, that structure would have been
8 counted as building coverage even if it didn't
9 have a roof over it. So I don't disagree with
10 that. But back when these interpretations were
11 done they were considered only surface coverage,
12 not building coverage, so that's how this was
13 approved with a 3,195 building coverage grant.
14 But like I said, the surface coverage was on here
15 also of 5,094.

16 MEMBER GOTTLIEB: Mr. Goldman, I'm trying to
17 understand the nature of this application. Are
18 you asking us to reapprove an application that was
19 previously approved back in 2007 or 2008? Or are
20 we looking at a new application today?

21 MEMBER WILLIAMS: It was 2010.

22 CHAIRMAN KEILSON: No, 2007, 2008.

23 MR. GOLDMAN: I'm asking you to reapprove
24 that, noting that for various reasons there are
25 certain subtle differences, and to that extent

1 though, for example, we're walking in here using
2 Mr. Ryder's current 2012 analysis, if you will,
3 then it looks like, oh my God, from the permitted
4 code we're at an increase of 105 percent. Based
5 on our -- in the context in which we're talking,
6 it's a negative of minus 1.3 percent. Because the
7 difference is from -- in other words, from that
8 which was permitted back then it would be 32
9 percent, but from what was granted for various
10 reasons that we can discuss, it's not -- it's less
11 than from what was granted.

12 MEMBER WILLIAMS: I have a silly question.
13 You know the phrase take the money and run? Why
14 didn't you build right away when you got this
15 sweetheart deal?

16 MR. GOLDMAN: Without going into the personal
17 details, I've indicated in our petition that there
18 were various reasons. This was a project, and I
19 think I did put it in, that was somewhat ambitious
20 in trying to do something unique, a modular home,
21 environmentally friendly, green, et cetera,
22 et cetera. There was a builder or contractor that
23 was involved; he went bust and just walked away.
24 There were financial considerations that I would
25 prefer not to give greater detail, but there were

1 financial considerations that also inhibited the
2 project, and personal. Nevertheless, to the
3 extent that one could, part of the reason that
4 there is emergency to this is that this
5 monstrosity as it stands now, an uncompleted
6 building, is not doing anybody any good. So but
7 that explains the delay. It wasn't through, you
8 know, dilatory tactics. Plus, you can see all the
9 effort that was made.

10 CHAIRMAN KEILSON: Are there any changes from
11 the 2008 approval that are part of this document?

12 MR. GOLDMAN: If I can address those.

13 MR. GIBNEY: I'm going to show you the two
14 side by side.

15 CHAIRMAN KEILSON: Can you just recite it
16 first.

17 MR. GIBNEY: I will. The site plan --

18 CHAIRMAN KEILSON: Just recite. Are there
19 any substantive changes from that which was
20 approved?

21 MR. GIBNEY: Lot coverage as interpreted back
22 then we had 55,340 square feet of surface
23 coverage, and that remains the same. And I can
24 show you how that happened.

25 CHAIRMAN KEILSON: No, I didn't ask, again.

1 MR. GIBNEY: That was the only part we were
2 involved in for site planning was the lot coverage
3 based on open space versus non-open space, if you
4 will.

5 CHAIRMAN KEILSON: How about the
6 encroachments? Any change in the encroachments?

7 MR. GOLDMAN: Certainly not in the height.

8 MR. GIBNEY: No, the pool is in the same
9 location.

10 CHAIRMAN KEILSON: Any change in the
11 encroachments? It's a simple question.

12 MR. RESPLER: No.

13 MR. GIBNEY: No.

14 MR. CAPOBIANCO: The encroachments are
15 absolutely the same.

16 CHAIRMAN KEILSON: We went down the sheet.
17 It was identical to that which was approved
18 previously.

19 MR. CAPOBIANCO: That's correct, which a
20 permit was approved for.

21 MR. RESPLER: The only area that was lowered
22 -- there was an area that was lowered because my
23 neighbor had a concern about the barbecue area.

24 CHAIRMAN KEILSON: You're going into detail.
25 What changed?

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1 MR. RESPLER: The side yard was the same,
2 except we lowered the height.

3 MR. GOLDMAN: It was -- if it was a dramatic
4 change, it was a betterment to the situation.

5 MR. PANTELIS: You were going to explain.

6 MR. GIBNEY: I can give an example. On the
7 approved plan we had a barbecue that was about two
8 feet from the property line. The barbecue is now
9 approximately eight feet from the property line.
10 On the approved plan we had a swimming pool up on
11 the upper surface; it's now all open space. The
12 upper surface is not a use area as an open lawn.

13 MR. PANTELIS: The pool is underneath?

14 MR. GIBNEY: The pool is underneath now.
15 This is a site view from a helicopter, if you
16 will. So the site looks like a more open space
17 plan. Because we added so much open space in the
18 rear, we put a leg on the driveway to make it
19 safer. Getting in and off that street is
20 difficult, backing out. But the lot coverage
21 remains 5,340 that we were granted.

22 MR. GOLDMAN: It should be noted too that
23 Mr. Capobianco has a comparison of the various
24 lots along the line even in the worst scenario.

25 Do you have that, John?

1 MR. CAPOBIANCO: Yeah. Well, what we did is
2 we took the latest map that was offered to us, and
3 what we've done is just basically calculated based
4 on an aerial view of the total building area and
5 surface coverage area of the houses that are, you
6 know, running along that waterfront. And we came
7 up with very similar areas and a couple that were
8 higher.

9 CHAIRMAN KEILSON: I'd like to move on to
10 what I consider to be a key question. There's a
11 suggestion here that the Building Department erred
12 in the previous 2007, 2008 situations, okay. And
13 if there's an error on the Building Department's
14 part, okay, I will probably need counsel on that
15 in terms of whether we are tied to that error.
16 Are we in any way estopped from going with what
17 the current Building Department determines it to
18 be?

19 MR. GOLDMAN: I don't mean to interrupt and I
20 certainly wouldn't interrupt counsel, but the way
21 the question is framed we're not suggesting that
22 there was an error here that one could
23 demonstrably point to and say, you know what,
24 somebody said two and two is five and that's an
25 error.

1 CHAIRMAN KEILSON: Well, we'll have to get
2 that from the Building Department, right?

3 MR. GOLDMAN: Well, I've spoken with
4 Mr. Ryder.

5 CHAIRMAN KEILSON: Mr. Ryder is here; he can
6 speak for himself.

7 MR. GOLDMAN: Then I would respectfully ask
8 him whether this was an error or whether this was
9 an interpretation.

10 MR. PANTELIS: Well, I would --

11 MR. GOLDMAN: I don't presume to ask him
12 questions.

13 MR. PANTELIS: I would rather not have
14 questions directed to Mr. Ryder.

15 MR. GOLDMAN: I apologize.

16 MR. PANTELIS: Especially since it was not
17 his determination.

18 CHAIRMAN KEILSON: Right.

19 MR. PANTELIS: With respect to -- it appears
20 very clear, and Mr. Goldman you can agree or
21 disagree, you are not at this point challenging
22 the interpretation of the Building Department
23 which now deems this to be coverage?

24 MR. GOLDMAN: Well, I would to the extent
25 with all due -- no.

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1 MR. PANTELIS: Just at this point you really
2 have to be clear. Are you appealing that
3 determination or not?

4 MR. GOLDMAN: The current?

5 MR. PANTELIS: Right, the current
6 determination.

7 MR. GOLDMAN: With all due respect to
8 Mr. Ryder, I would suggest that there's a
9 difference of opinion, and that while Mr. Ryder's
10 opinion because he's the man behind the desk now
11 and is controlling now, I would respectfully
12 suggest that no one is saying that somebody made a
13 mistake. It's simply, you know, what was
14 appropriate in the fashion, if you will, was no
15 longer the fashion.

16 MR. PANTELIS: What I'm really asking is are
17 you asking this Board to overrule the
18 interpretation that's now been made by the
19 Building Department about whether or not this
20 proposed setup with the pool below and surface
21 over is coverage or not?

22 MR. GOLDMAN: What I am asking this Board to
23 do is to adapt that which an earlier Board
24 rendered. Not necessarily overruling the current
25 one, because it's not the current one that we're

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1 here to discuss, if you will. It's whether it can
2 adapt, not adapt -- adopt, whether it can adopt
3 the other one.

4 MR. PANTELIS: I think, Mr. Goldman, you
5 understand the interpretations better than that.
6 We can't twist it. It's either you're appealing
7 the determination because you feel the Building
8 Department is in error in making a erroneous
9 interpretation of the code; or you are saying,
10 well, we might agree with his interpretation now,
11 but we're standing on the fact that we were issued
12 a permit in 2000 and -- is it eight?

13 MR. CAPOBIANCO: Eight.

14 MR. RESPLER: Ten.

15 MR. PANTELIS: Ten. I'm sorry, that's right.

16 MR. CAPOBIANCO: The plans are stamped 2010.

17 MR. PANTELIS: The plans are stamped 2010.

18 You were issued that particular permit and
19 pursuant to that permit you did some construction
20 which I understand, even though you haven't made
21 it clear, is to the extent of a foundation.

22 MR. GOLDMAN: Well --

23 MR. RESPLER: Hundreds of thousands --

24 MR. PANTELIS: Not dollars and cents yet. If
25 you intend to make a dollars-and-cents

1 presentation, which would not have been a bad idea
2 if that was, you know, the scope of where your
3 case is going, the question is are you, you know,
4 saying that we built a foundation and we've
5 acquired to some degree some vested rights?

6 MR. GOLDMAN: That is correct. But I won't
7 be disrespectful to the point of asking the
8 Building Department or this Board to indicate that
9 the interpretation is automatically incorrect.
10 It's inappropriate to apply it in this case. To
11 the extent that -- in other words, if somebody is
12 going to -- if I'm going to come back here in an
13 hour with yet another application and it's a
14 current one, his interpretation would be correct
15 for that current one, and I won't try to presume
16 to try to set a precedent here that it's not
17 correct and that somebody should now try to use
18 the 2008 interpretation to contradict him. I
19 won't do that.

20 What I'm simply suggesting though in the
21 interest of fairness is that someone who had it
22 applied to them in 2008, had acted upon it, should
23 be permitted to continue to fulfill that in 2008,
24 not to try to force on this Board or on the
25 Building Department a debate now over whether

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1 anybody can come forward and say I don't like the
2 '12 interpretation. I consider myself a
3 responsible person, and Mr. Respler would not want
4 me to do that.

5 MR. PANTELIS: Yeah, but I suggest you're
6 putting yourself in a legal dilemma at this point.
7 Either you are challenging that interpretation and
8 asking this Board to say that the Building
9 Department is wrong, or you have to say I want to
10 act on what I might argue to be vested rights.
11 Notwithstanding the fact that you've got a permit,
12 you did some work and then you stopped and the
13 permit expired. That's a different dilemma which
14 you've got to figure out as well.

15 MR. GOLDMAN: It expired while we were doing
16 the work. Put in that position clearly to protect
17 the interests of my client, I would have to ask
18 this Board to overrule Mr. Ryder's interpretation
19 as it applies in this case currently.

20 CHAIRMAN KEILSON: Mr. Capobianco.

21 MR. CAPOBIANCO: I want to point out there
22 was one other case on Muriel which was the case of
23 a residence that we built a terrace and a pool
24 under which also was interpreted at the same, you
25 know, time frame as being surface coverage not

1 building coverage, but then it was pointed out
2 later on that because of the structure that was
3 out of ground that this could also be construed at
4 that time as building coverage, but it was granted
5 and approved as surface coverage there as well.

6 MR. PANTELIS: Did that come before this
7 Board or was it just a --

8 MR. CAPOBIANCO: That was an as of right. So
9 we were able to build it as of right. But if the
10 area was considered at that time building
11 coverage, it would not have been as of right. So
12 that was one of the things that was another gray
13 area that was very similar to the time frame when
14 this was done. So I'm not saying today, if it
15 were today, I would probably agree with the
16 Building Department that it is building coverage.

17 CHAIRMAN KEILSON: Okay. I'm sure there's
18 more you want to present, but before we get to
19 that I think let's allow --

20 MR. GOLDMAN: I was going to address the
21 neighbor issues, but I'll --

22 CHAIRMAN KEILSON: Let's allow the neighbor
23 to address the neighbor issue. He's represented
24 by counsel.

25 MR. GOLDMAN: Well, let's first hear the

1 opposition.

2 MR. SOD: Good evening, ladies and gentlemen.
3 As you all know, my name is Paul Sod. I represent
4 Mr. Grama who is the adjacent homeowner to the
5 east of the Respler property. In addition to my
6 client, there are three other neighbors who are
7 present in the courtroom. You have Mrs. Rapp who
8 is the immediate property to the west of this
9 property. We have Mrs. Rose, who is the second
10 house away to the west. And we have Mr. Pincow,
11 the second property to the east of the Respler
12 residence. All are here in opposition, very
13 fervent opposition to this plan and to this
14 application.

15 I will ask Mr. -- with the Court's consent, I
16 would like Mr. Grama to address you later. He has
17 some personal transactions here that are quite
18 relevant.

19 CHAIRMAN KEILSON: Okay.

20 MR. SOD: I have a packet of documents I'd
21 like to hand up to the Board now. I'd like to
22 walk the Board through them. It's six copies here
23 (handing).

24 Okay. The first packet, the first document
25 I've given in this packet is a copy of the actual

1 approval given by the prior Board June 6, 2008.
2 The second bullet point there says, quote:
3 Surface coverage to be reduced to 5,340 square
4 feet as shown on submitted drawings, close quote.
5 There's no dispute about that. We don't come here
6 today disputing that. That's what was given
7 surface coverage. A simple glance at the letter
8 shows no approval was given for building coverage
9 beyond the 3,195 feet that was consented to in
10 2007. That's an important point. Mr. Grama
11 consented in 2007 to the building of 3,100 square
12 feet. At no point in time from then forward has
13 there been an application for additional building
14 coverage.

15 That's the first.

16 CHAIRMAN KEILSON: Mr. Sod, Mr. Goldman is
17 contending that that's what they're doing.
18 They're building 3,100 square feet or proposed to
19 building 3,100 square feet and that the
20 interpretation by Mr. Ryder he's asking us to
21 overrule the new interpretation that it's 4,900
22 square feet.

23 MR. SOD: Fine, I understand. Let me direct
24 your attention to the photographs that are at the
25 back of this packet and specifically to -- I'll

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1 walk you through the photographs. Tell me when
2 you're all there. Photograph number one is a view
3 from the Respler property prior to construction
4 looking to the east at Mr. Grama's property, a
5 nice open backyard and you see the structures in
6 Mr. Grama's backyard. You see the deck there. If
7 I could focus your attention on the chimney, the
8 air-conditioning unit to the left of the
9 photograph. And you see at the end of the second
10 deck there's a little light that's mounted on the
11 top of the deck. It should be, I hope, clear
12 enough in the pictures I've shown you.

13 Photograph number two now shows the extent of
14 the construction at least on the east side of the
15 property where Mr. Grama -- right next to
16 Mr. Grama's house. You can note there the light
17 that I pointed out to you a minute ago. You see
18 how far -- unfortunately, you can't see how close
19 they are to each other, but we know from the plans
20 submitted they are less than five feet apart. We
21 see this giant wall that's been built over there.
22 Now, while Mr. Goldman argued that the Court --
23 the Board should overrule Mr. Ryder's
24 interpretation and say this is really not a
25 building. I seriously question how. I compliment

1 Mr. Goldman's ability to say that with a straight
2 face. Look at this wall. It's eight, ten feet
3 tall. How can he not say that it's a building?
4 He said that's surface. If that's surface, I'd
5 like for him to define exactly what a building
6 is.

7 Mr. Respler suggested in his comments when he
8 responded to all the questions, he said that he
9 did act and there was work that was done.
10 Mr. Goldman said it also. As you can see from the
11 photographs which we're going to walk through, the
12 only construction done was there was a foundation
13 that was poured and some side walls were built.
14 While Mr. Respler is very quick to shout out he
15 spend hundreds of thousands of dollars, I don't
16 know if the Board heard it, and we know that is
17 his position, I would seriously question whether
18 that is a credible statement. The work that was
19 done in the backyard here it was, again, just a
20 foundation and a few walls which we're going to
21 walk through in the photographs. How much could
22 that have cost? Some tens of thousands of dollars
23 perhaps, but I cannot imagine that a man with
24 Mr. Respler's aptitude in business would have
25 spent hundreds of thousands of dollars for this

1 work in the back of the house.

2 Photograph number three is a similar view to
3 number two. Again, it shows looking to the east
4 of the Grama property showing this non-building,
5 non-structure as Mr. Goldman called it just
6 surface coverage.

7 Photograph number four is another view, this
8 time looking to the northeast towards Mr. Grama's
9 house. It again shows more detail on the walls.
10 The far right margin of that photograph shows it
11 matches the far right of photos number three and
12 number four. You can see how the wall again goes
13 higher, it goes lower in some places.

14 In the first photograph I directed your
15 attention to the chimney and the air conditioning
16 in Mr. Grama's house. You can see them in photo
17 one and you can see them in photo four and get an
18 idea of the extent of this wall. There's no
19 elevation that was submitted of what -- no
20 elevation drawing submitted for what exists
21 currently, and there was no elevation submitted in
22 2008 when the zoning application was approved.

23 That really is the crux of the problem here
24 is that at no point in time was an elevation
25 submitted. We're just made to guess and this

1 Board is made to guess what is going to be there
2 on the surface coverage. Surface to my mind means
3 surface. Is it a three-foot deck off the ground?
4 Fine, I think most can agree that's close to
5 surface and not actually surface. It's hard to
6 conceive how even the prior Building Department
7 called this to be surface, but nevertheless,
8 that's apparently what happened. I wasn't present
9 at that time. Mr. Goldman's recitation of what
10 probably happened sounds plausible. That probably
11 is what happened, that a variance was given for
12 surface coverage and the Building Department
13 flying on its own called this structure to be
14 surface coverage, which baffles me how that could
15 have happened, but that's evidently what happened.

16 Photograph number six is a view from
17 Mr. Grama's deck looking to the west towards
18 Mrs. Rapp's house. Again, if I could ask you to
19 compare photograph -- better yet, let's look at
20 photograph number seven. Photograph number seven
21 is again from Mr. Grama's deck showing the view of
22 the non-structure to the immediate west of his
23 house. If you look in this photograph number
24 seven, there are two uprights showing on the deck.
25 If I could ask you, I should have asked you to

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1 focus on photograph number one that there is a
2 surface structure, canopy structure on the top
3 level of Mr. Grama's deck. The uprights in this
4 canopy structure on the upper part of Mr. Grama's
5 deck on photo number one is the same uprights that
6 are shown in photograph number seven. So we can
7 see clearly how this really is a building. This
8 is not a surface structure at all. And at no
9 point in time was an application ever made for
10 additional building coverage beyond the 3,195.
11 I'd like to --

12 CHAIRMAN KEILSON: Again, I have to emphasize
13 Mr. Goldman's contention is that the 3,195 is
14 interpreted today as 4,914, that in fact there is
15 no change in the number. Nothing has changed from
16 the relief that they sought in 2007/2008 and was
17 filed by the building permit in 2010. That's the
18 contention.

19 MR. SOD: I understand. As Mrs. Williams
20 pointed out, why didn't he take the money and run.
21 He had a permit. He could have built it then; he
22 didn't. It all expired now.

23 CHAIRMAN KEILSON: We understand
24 circumstances arise and people don't necessarily
25 build immediately. We have had many occasions

1 because of issues with the contractor or financial
2 reverses that things were put off. So I can
3 understand, you know, that had he built there
4 would have been no future interpretation. But we
5 have to deal with the reality of the situation at
6 this point.

7 MR. SOD: Well, the reality of the situation
8 is you have a foundation and one wall on the
9 eastern side, Mr. Grama's side, that's built.
10 Again, it does not appear that he's invested,
11 Mr. Respler has invested oodles and oodles of
12 money in that backyard. That entire project
13 probably has cost him a lot. He's had property
14 taxes for five years, he's paid taxes on it, he
15 has other contractors here. It's hard to imagine
16 how the reality, the quote-unquote facts on the
17 ground really give him much vested rights because
18 there's just not a lot there. Meanwhile, we would
19 contend that there's very serious opposition that
20 should be considered by the Board.

21 Before I go to the -- before introducing my
22 client and the other homeowners, I'd like to --
23 give me one second. I'd like to -- there were
24 just two other comments that were brought up in
25 Mr. Goldman's presentation. Side setbacks were

1 the same. I think, Mr. Chairman, you asked this
2 question. The initial presentation to the Board
3 in 2008 did not include any side yard changes.
4 However, in 2007 and that's -- I presented a copy
5 of the spreadsheet which is from the files of the
6 Building Department here showed that 15 and 10.15
7 feet were granted for side-yard setbacks. Yet,
8 the plans which Mr. Capobianco has drawn and the
9 petition submitted requests that there be no more
10 -- be permission to do 2.9 feet to the east as
11 Mr. Grama's side, and 5.9 feet to the west. I do
12 not understand how they could stand up here before
13 this Board and say that there is no difference.
14 They're not the same, not at all. Fifteen and
15 10.5 or 2.9 and 5.9?

16 The second point I'd like to bring up before
17 I introduce Mr. Grama -- one second.
18 Mr. Capobianco tried to offer before the Board a
19 case on Muriel which he said was comparable which
20 he said apparently and I'm not questioning his
21 credibility, but that there was a comparable
22 situation on a house on Muriel where the prior
23 Building Department made one interpretation and
24 the current is different, but the Board sided with
25 Muriel. There are so many reasons why that's not

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1 a comparable situation. Number one, we don't have
2 any number. Number two, we don't have a date. We
3 have no specification whatsoever. For all we
4 know, it may have been a de minimis thing. Ten
5 percent, something small, rather than this
6 substantial 106 percent increase over the building
7 coverage, beyond the building coverage that was
8 given with consent of my client.

9 I'd like to introduce Mr. Grama to address
10 the Board, and he will tell you about the
11 transaction.

12 MR. GRAMA: I'd like you to read the letter
13 that I wrote to the Zoning Board.

14 CHAIRMAN KEILSON: Your name and address.

15 MR. GRAMA: Oh, my name is Nathan Grama,
16 G-R-A-M-A, address 73 Harborview West, Lawrence.

17 I presented a letter to the Board. I wish
18 you would read this letter before I continue. It
19 will take a second, a couple of seconds to read
20 it.

21 MR. SOD: Does the Board have it? Or else I
22 can read it into the record.

23 MR. PANTELIS: Is it part of the package?

24 MR. SOD: No, it's not part of my package.

25 It was submitted by Mr. Grama. With permission,

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1 I'll read it into the record. Zoning Board of
2 Appeals. This was written by Mr. Grama. It was
3 submitted -- when did you submit it to the
4 Building Department?

5 MR. GRAMA: Never. I never submitted it.
6 Just now.

7 MR. SOD: I'm sorry, my misunderstanding.
8 Here is the letter. Quote:

9 "My wife and I have resided at 73 Harborview
10 West for the past 42 years. We share the
11 waterfront and panoramic views of the inlet and
12 Reynold's Channel with wonderful, respectful
13 neighbors. Each member of our immediate community
14 fully appreciates our good fortune of owning
15 waterfront property and its refreshing breezes,
16 bountiful sunshine, and beautiful vistas. We also
17 know that the value of our individual property is
18 directly linked to maintaining open, unobstructed
19 access to the water.

20 "During the past two years, we have had to
21 endure a hideous eyesore abutting out property to
22 the west." Again, that's the property -- thank
23 you. "Each day we face six-foot-high
24 green-painted plywood panels, half-falling down
25 and splintered everywhere, pools of filthy,

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1 stagnant water captured in a large, concrete pit,
2 and unsightly rubble strewn about the entire
3 neighboring property. The site more closely
4 resembles a war-torn battlefield than an upscale
5 suburban community. Our peace and quiet enjoyment
6 of our home has been profoundly disturbed.

7 "Adding insult to injury, most recently we
8 are confronted by the construction of a concrete
9 wall built at the very edge of our neighbor's
10 property line that towers over our outside deck,
11 cutting off our sunlight, blocking our cooling
12 offshore breezes and blocking the spectacular
13 sunsets that we have enjoyed with family and
14 friends for the past 42 years.

15 "These intrusions are plain and simply an
16 affront to any and all sensibilities.

17 "Most recently, we learned that this
18 ubiquitous, concrete structure rising above and at
19 the edge of our property line is only the basement
20 wall for an additional structure contemplated by
21 our neighbor. We are aghast. If this proposed
22 construction is permitted, it will dwarf our
23 property, causing irreparable harm to the value of
24 our property and the entitled peace and quiet
25 enjoyment of our home. This should not and cannot

1 be taken from us. We come here tonight asking
2 only that we be permitted to keep what has been
3 ours for the past 42 years as taxpayers and
4 residents of the community.

5 "Our neighbor, on the other hand, who has yet
6 to reside in our community, is asking that you
7 enrich his property at our expense. He requests
8 that you grant him a variance from the zoning laws
9 to construct an edifice that is too big for his
10 property and that will extend beyond the normal
11 setbacks from the property lines. He asks for an
12 exception to the zoning laws solely and
13 exclusively to benefit him and with no regard as
14 to how the variance, if granted, will impact us
15 and others in our enclave. If zoning laws are
16 enacted to protect the communal good, then those
17 laws are not being served in this instance since
18 only our neighbor stands to benefit, and his
19 benefit is at the expense and to the detriment of
20 others. There are no issues presented here of
21 safety or need to grant a variance. Our neighbor
22 is acting purely out of self-interest.

23 "When Mr. Respler purchased the property and
24 tore down the pre-existing house, he and his
25 family spent time at our house and we permitted

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1 them access to our dock so that they could escape
2 the blistering summer heat and enjoy the
3 waterfront. Mr. Respler excitedly shared in broad
4 terms his vision for the building of his home.
5 From his representations, there is no way that we
6 could have known of the magnitude of his plan and
7 the devastating negative ramifications that it
8 will have upon our property from aesthetic and
9 financial perspectives.

10 "The choice here is clear. If a decision is
11 made to grant the variance to Mr. Respler, we will
12 suffer and incur a significant loss. If
13 Mr. Respler is required to scale back plans and
14 limited to building a structure within existing
15 guidelines, we may both enjoy our properties. It
16 is our right as residents in this community for 42
17 years versus self-enrichment. This is the choice.
18 We trust that the Board will act reasonably and
19 equitably. Thank you for your time."

20 I compliment you, Mr. Grama, on your good
21 writing.

22 MR. PANTELIS: Just, first of all, are we
23 going to submit a copy of that as an exhibit? May
24 we also have -- do you have an additional copy?
25 I'd like a copy for the reporter because it would

1 be a miracle if she was able to take it all down.

2 CHAIRMAN KEILSON: I think, Mr. Sod, one of
3 the things you have to take into consideration is
4 assuming that Mr. Goldman's presentation is that
5 in essence nothing has changed from the earlier
6 requests for variances and therefore there was
7 notice to the neighbor at the time.

8 MR. SOD: I'd like to address that now.

9 CHAIRMAN KEILSON: Let me finish. There were
10 public hearings and, therefore, Mr. Grama would
11 have had adequate opportunity to come down,
12 evaluate the plans, see how it impacted on his
13 property, so if indeed nothing has changed,
14 nothing has changed. If he wakes up one morning
15 and realizes that, unfortunately, he has remorse
16 over what he may have gone along with, then, you
17 know, that's another situation.

18 MR. GRAMA: That's not true. We never got a
19 notice, not myself or the person on the other
20 side.

21 CHAIRMAN KEILSON: Mr. Grama, we're talking
22 about something 2007/2008. How can you --

23 MR. GRAMA: 2007. I have the letter on 2007,
24 I signed it. I signed it.

25 CHAIRMAN KEILSON: The letter?

1 MR. GRAMA: For the approval.

2 MR. SOD: Let me -- first of all, as
3 Mr. Goldman pointed out, it wasn't clear that
4 there was going to be a structure built when the
5 hearings were held. As Mr. Ryder said to me --
6 and if I'm stepping over bounds I shouldn't be
7 stepping by saying that, then please correct me,
8 Mr. Pantelis. Mr. Ryder said earlier to my
9 comment that there were no elevation studies
10 submitted back then. There was no way to know
11 from coming to the hearings whether or not there
12 was going to be this eight-foot, ten, twelve-foot,
13 whatever it is structure being built around it.
14 There was just no way. This was taking place in
15 the Building Department. After the variance was
16 granted for 5,340 square feet of surface coverage,
17 the Building Department made a judgment call which
18 is being called into account. There is no way
19 Mr. Grama could have known.

20 Now, I would like to ask Mr. Grama to explain
21 what Mr. Respler told him about the construction
22 that he was going to do at the back of his house.

23 MR. GRAMA: Mr. Respler came to me and said
24 to me is it okay if I build a house three, three
25 and a half feet past your house? I said, fine.

1 He showed me exactly where it's going to be. He
2 said the house is going to be higher, three, three
3 and a half feet higher. I said fine, that doesn't
4 disturb me.

5 Now, we go into my house, into my living
6 room, into my den where you see where the picture
7 is, you know, the glass windows are. And we
8 looked out the window and there was nothing
9 blocking the view. I said that is beautiful, just
10 keep it that way. Then he said to me, I'm going
11 to have a pool in the ground, in-ground pool, and
12 I'm going to have a deck to line up with your
13 deck, exactly with your side of your deck, and
14 we're going to build like a bridge across it, you
15 know, so we could get together. We could have fun
16 together. And then, all of a sudden, then all of
17 a sudden I came in, I saw this big, you know,
18 structure. So I'm just telling you one thing.
19 You remember Ronald Reagan told Gorbachev, "Tear
20 the walls down." He said, "Tear the walls down,"
21 he said. Hold it. I say the same thing to the
22 Board. Please, it's going to hurt me. It's only
23 two walls you got to knock down. Those got to
24 come down those walls.

25 CHAIRMAN KEILSON: Thank you very much.

1 MR. GRAMA: Thank you.

2 MR. SOD: I'd like to -- are there any other
3 homeowners who want to address the Board?

4 MS. ROSE: I would like to ask a question.

5 CHAIRMAN KEILSON: Please step forward and
6 give your name.

7 MS. ROSE: My name is Harriet Rose. I live
8 77 Harborview West and I've lived there for 45
9 years. I would just like to know, the pool, what
10 is the setback from the bulkhead that the pool is
11 at?

12 CHAIRMAN KEILSON: All right, is that the
13 only question you have?

14 MR. CAPOBIANCO: From the property line --

15 MS. ROSE: No, from the bulkhead.

16 CHAIRMAN KEILSON: Are there any comments you
17 want or just a question?

18 MS. ROSE: It's a question.

19 CHAIRMAN KEILSON: Is that the only question?

20 MS. ROSE: Well, right now that's the only
21 question.

22 CHAIRMAN KEILSON: Okay. Please take your
23 seat and we'll get that answered.

24 Does anybody else want to comment?

25 MR. SOD: Any other comments?

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1 MS. PINCOW: We were --

2 MR. PANTELIS: Your name and address.

3 MS. PINCOW: Galina Pincow. I'm a resident
4 owner, 61 Harborview West. And we've lived at
5 this residence since 1983. Several years ago I
6 was in front of this committee because we were
7 looking for a variance. We were building the
8 backyard, actually extending the backyard of our
9 house. And we had submitted our application
10 several times, and we were cut by a third on our
11 project only because the deck in the back of our
12 house exceeded nine inches over what the then
13 Board decided to be proper and appropriate for our
14 development. So I would like to say that it's
15 kind of strange to my husband and I that you are
16 even considering a structure of this size in our
17 neighborhood when everyone down the waterfront
18 properties has never really built anything of this
19 size. That's number one.

20 Number two, just like my neighbor next to me,
21 I had -- you know, I walk down the street quite
22 often, and what we're facing is a boarded-up
23 property which is now accumulating garbage and has
24 a very bad odor. And this has been going on for
25 several years and it really doesn't feel like

1 Harborview West any longer. So I'd like you to
2 consider that too. So if anything is going to be
3 resolved, it should be resolved fast so that our
4 neighborhood goes back to what it used to be.

5 CHAIRMAN KEILSON: Thank you very much.

6 MR. SOD: I have nothing further. Does the
7 Board have any questions of me or Mr. Grama at
8 this time?

9 MR. GRAMA: One more thing I want to say. I
10 don't mean to --

11 CHAIRMAN KEILSON: Mr. Grama, hold it for a
12 while because I'm sure there will be more things
13 you want to add later.

14 MR. GRAMA: Quickly.

15 CHAIRMAN KEILSON: Hold it, hold it, hold it.

16 What I'd like to do is take a few minutes to
17 go into executive session with counsel. Let's
18 hope we'll keep it to ten minutes, and then we'll
19 be back, okay.

20 (Whereupon, a recess was taken.)

21 CHAIRMAN KEILSON: Okay, we're reconvening.
22 We're back on the record. What I'd like to do now
23 is I really would like to ask Mr. Ryder to share
24 with us the underpinnings for his interpretation
25 as far as the code relief which was encompassed in

1 the rejection letter, the denial letter, so we can
2 get an appreciation of what exactly is going on
3 here. So Mr. Ryder, if you could.

4 MR. RYDER: I can do that. In my plan
5 examination of the filing of the new variance
6 application, due to the expiration and the
7 re-filing, the rear deck balcony terrace, what the
8 applicant would like to call it, my interpretation
9 was that being that it was enclosed on the rear
10 and the two sides, that it then became an addition
11 which triggered building coverage and surface
12 coverage to go up and for the side-yard setbacks
13 to increase as well as the rear-yard setback,
14 Mr. Chairman.

15 CHAIRMAN KEILSON: Now, you're saying that
16 that interpretation impacted on every one of these
17 variance requests, these new variance requests?

18 MR. RYDER: Every one, yes.

19 CHAIRMAN KEILSON: Side yards. What happened
20 with the height? Because they had felt that they
21 didn't require a height variance the first time
22 around.

23 MR. RYDER: The height is interpretation by
24 Building Department and applicant the mean grade,
25 and some people take it as the average grade. So

1 they didn't take the proper measurements around
2 the perimeter of the foundation which then
3 increased the height from 30 feet to I believe 31.

4 MR. PANTELIS: Are you talking about the
5 principal structure of the house itself?

6 MR. RYDER: Principal structure.

7 CHAIRMAN KEILSON: Okay, thank you very much.

8 Mr. Goldman, if you want to continue. I
9 interrupted your presentation.

10 MR. GOLDMAN: No. I appreciate the efforts
11 on the Board and the time that's being devoted to
12 this, as does the Respler family. I would note
13 that there are certain issues here that based on
14 the photographs, obviously, the photographs are,
15 one, of an item that's under construction.
16 Whatever is going to be done when it's completed,
17 assuming it's granted and it's done the way we
18 requested it, no matter how it will be done there
19 will be foliage, there will be trees, there will
20 be all sorts of things. It's not just going to be
21 an ugly item.

22 I would also note too that the photographs,
23 and I would ask Mr. Gibney to help out here to
24 save time rather than my trying to do it. We have
25 a whole series of photographs taken from different

1 angles, different positions. I should note in
2 just my own layman's point of view that the
3 neighbor has --

4 MR. GRAMA: Wait a minute. I can't hear you.
5 Ralph is rolling his paper up.

6 MR. GOLDMAN: It's part of our strategy.

7 MR. SOD: I thought so.

8 MR. GOLDMAN: And your strategy is to get me
9 to forget what I was going to say. Clever.

10 The neighbor's deck is not on ground either.
11 That deck is on top of eight feet, that is also
12 high up, and with that thought to see these
13 pictures, these photos in that context. We're
14 only talking at best a foot higher because of the
15 elevation of the property. It may not be true,
16 but it's something that can be measured to
17 ascertain whether it is true. Nevertheless, I
18 will defer to the architects and more
19 significantly at the moment to the landscape
20 designer to put these photographs in context,
21 please.

22 MR. PANTELIS: What photographs are you
23 referring to now?

24 MR. GIBNEY: We have some of Mr. Sod's
25 photographs here. We also have some photographs

1 I've taken on the site. And this one is one of
2 the ones that he had which was actually my
3 photograph but it's a repeat.

4 MR. PANTELIS: I think we've got to get some
5 order in terms of whether these are going to be
6 marked as exhibits. They have to be identified,
7 or else no one is going to be able to determine
8 them.

9 MR. GOLDMAN: Has Mr. Sod's photos gone into
10 evidence?

11 MR. PANTELIS: Yes, the package he submitted
12 went into evidence as Opponent's Exhibit A, or 1,
13 whatever we choose to call it.

14 MR. GOLDMAN: If we may, can I impose on you
15 for that packet and I'll have Mr. Gibney respond?

16 MR. PANTELIS: No, we're not going to mark
17 his packet.

18 MR. GOLDMAN: No, no, no, I'm not going to
19 mark his packet, but I'll refer to it. He will be
20 able to say Exhibit 1 from the opponent. I'm
21 responding to it with our photo and do it that
22 way.

23 MR. SOD: I'll tell you which photo. The
24 photo number one --

25 CHAIRMAN KEILSON: Wait a moment. The hour

1 is late and I'm not sure we want to rebut each
2 photograph, you know, with circumstances. Is
3 there anything else you wanted to present?

4 MR. GOLDMAN: Let's do it this way.
5 Mr. Gibney, just let's --

6 MR. GIBNEY: This is actually a photo I took
7 when we started the project. It was actually
8 Mr. Sod's photo number one. This is a view from
9 Mr. Respler's house to Mr. Grama's house before
10 construction. The deck has regular access doors
11 underneath showing that it's at overhead height.
12 And this was what Mr. Respler was looking at. If
13 you'll notice the trees on Mr. Respler's property
14 at the time and I have a better view from
15 Mr. Grama's property of the same deck. This is a
16 view from Mr. Grama across the Respler property at
17 the same time. And this shows the large trees
18 that were on the property when in full leaf would
19 obscure views. It was not an open view at the
20 time. These are very large mature trees, a large
21 beech and I believe -- I forget what the other
22 tree was.

23 Now, what I wanted to show and this I thought
24 was interesting, this is also one of Mr. Sod's
25 photographs, if I'm not mistaken. Now, of course,

1 the green plywood is going to go away when the
2 project is built. If you look past Mr. Respler's
3 property, you see foliage on the neighboring
4 property which obscures views to the sunset and to
5 the bay and that still does. It's still beyond
6 the walls that are proposed. So that view really
7 doesn't really change with regard to views on the
8 water and the sunset.

9 CHAIRMAN KEILSON: Okay.

10 MR. GIBNEY: And we also had a view and I'll
11 show you Mr. -- now, this picture was taken --

12 MR. GOLDMAN: Our --

13 MR. GIBNEY: No, this is Mr. Sod's picture
14 from Mr. Respler's basement.

15 MR. SOD: My photo number five.

16 MR. GIBNEY: Photo number five. Now, this is
17 Mr. -- well, it is Mr. Respler's basement level.
18 This is at a level consistent with the bulkhead
19 and the basement, looking up at a basement wall
20 which was a retaining wall when it was first
21 designed. If you turn around, that's your view,
22 okay, the same -- that picture was taken from this
23 location right here (indicating). Looking at the
24 wall that really blocks Mr. Respler's view to
25 Mr. Grama's deck, okay.

1 What I did was I took a photo from the
2 neighbor's property relatively consistent with the
3 height of Mr. Respler's first-floor walls, and if
4 you look across you will see the height of
5 Mr. Grama's deck in relationship to Mr. Respler's
6 walls. You can see the tops.

7 CHAIRMAN KEILSON: Okay.

8 MR. GIBNEY: Okay. This was another photo of
9 that (handing).

10 MEMBER GOTTLIEB: While you have that --
11 excuse me. Just going back to that one picture
12 for a moment, what is the height difference
13 between the top of that concrete wall and
14 Mr. Grama's deck?

15 MR. GIBNEY: It's approximately one and a
16 half feet, one and a half to two feet.

17 MR. GRAMA: It's going to be more. It's
18 going to be higher.

19 MR. GIBNEY: I don't have the exact number,
20 but it's more than a foot; it's about one and a
21 half to two feet.

22 Then I went next to the neighbor. The
23 next-door neighbor's housekeeper gave me
24 permission because I wanted to get a picture just
25 from the neighbor's patio and deck looking over,

1 and I believe -- and this is not an issue tonight,
2 it hasn't been brought up, this is a big issue.
3 But the neighbor's view is also unaffected. This
4 is Mr. Respler's wall. Their view has been
5 obscured by their own foliage. Then I have one
6 from lower, and then I have one from her upper
7 deck. Again, Mr. Respler's wall is
8 inconsequential to the view.

9 MR. GOLDMAN: Now, if I could just interrupt.
10 So now what we're talking about is what the people
11 are going to see. You recall when I introduced
12 this, I said that the Board has issues which we'd
13 like to address, which I hope we have, but that
14 the neighbors have issues. And ultimately, at the
15 end of the day the question is you heard the
16 letter. What's the view? What's the impact of
17 the sun? What's the impact of the air and wind,
18 et cetera? And what we've done is even though we
19 didn't gain complete access to the properties, we
20 took the photo that was provided to us of
21 Mr. Grama's deck, to the best that we had it.
22 Where is that? Not this one.

23 MR. GIBNEY: Which one?

24 MR. GOLDMAN: One second, excuse me.

25 MR. GIBNEY: Just back to some environmental

1 issues that we looked at, I have an approved site
2 plan in context to the neighborhood, and I have
3 the proposed site plan in context to the
4 neighborhood (indicating). This is Mr. Grama's
5 property, built out to the bulkhead. Two houses
6 down built out to the bulkhead. Three houses down
7 built out to the bulkhead, and on and on down the
8 street. Most of these houses are built out to the
9 bulkhead with pools. Most have circular driveways
10 or close to circular driveways.

11 What we did was we showed the open space --
12 I'm sorry. The open space on this eliminated the
13 pool.

14 CHAIRMAN KEILSON: Do you know the history of
15 the properties? Did they require variances?

16 MR. GIBNEY: No, I don't. I'm going by
17 neighborhood character.

18 MR. GOLDMAN: No, but in terms of
19 neighborhood character.

20 CHAIRMAN KEILSON: I understand.

21 MR. GIBNEY: Now, we had heard there was some
22 talk of wind and sunset, so we actually took this
23 off the NOAA site.

24 MR. GOLDMAN: It's in the letter.

25 MR. GIBNEY: NOAA. This is basically from

1 the NOAA site and this shows sunsets at different
2 times of the year and where the views go from
3 Mr. Grama's property. The one that does come
4 across Mr. Respler's property hits the neighbor's
5 trees and shrubs long before the sun sets, and
6 that's not going to change unless the neighbor
7 cuts down some trees. If anything, Mr. Respler's
8 house and property will shelter Mr. Grama's
9 property from northwest winds.

10 MR. GRAMA: I don't need no shelter.

11 MR. GIBNEY: And summer winds are not
12 affected.

13 Let me go back a second because I have
14 another couple of pictures. Just to remind you
15 that the approved plan has retaining walls that
16 were needed to provide the pool at the upper
17 grade. This was allowed as retaining walls. What
18 happened was those now became -- those became
19 retaining walls to hold the pool underneath and
20 this was in the approved plans and elevations.

21 MR. GOLDMAN: And I would just ask Mr. Ryder
22 to note that, that there are the approved plans.
23 I think there was some inquiry as to whether the
24 -- what do you call them again?

25 MR. CAPOBIANCO: Elevations. But they were

1 here and that's what it showed on the side over
2 here.

3 CHAIRMAN KEILSON: Were they presented at the
4 hearing at the time? Were they part of the
5 package that was submitted?

6 MR. GOLDMAN: I mean, to the extent that they
7 exist and to the extent that they were stamped by
8 the Building Department as opposed to us.

9 CHAIRMAN KEILSON: But the neighbors, in
10 terms of the neighbors' objections, if they never
11 saw it at the hearing they couldn't possibly
12 evaluate what the impact would be.

13 MR. GIBNEY: And I'll bring up one other item
14 that on both drawings, the proposed and now the
15 earlier one, show approximately sixteen steps from
16 the upper level to the bulkhead. Meaning that
17 there's about an eight-foot drop from the upper
18 level to the bulkhead.

19 MR. RESPLER: Also, Rich, there was a
20 foundational wall.

21 CHAIRMAN KEILSON: No cross-conversation,
22 please.

23 MR. GIBNEY: Okay. What I want to do is I
24 want to show you, this is a picture that Mr. Sod
25 gave of the view from Mr. Grama. What we did is

1 we put together a photo simulation of what was
2 approved, and this is what was approved, the pool
3 on the upper deck, the railings, the height
4 showing you what's distant water views.

5 MR. GOLDMAN: And what's the distance between
6 the two properties, please?

7 MR. GIBNEY: The houses are approximately
8 18 feet, 18 to 20 feet. So this was the view that
9 he was going to get if he took the money and ran
10 and built his property. And here's what we're
11 looking at now with the proposal with the same
12 projections, but without the activity and without
13 the pool on the upper deck, and the barbecue is
14 now instead of two feet from the property line
15 it's approximately eight feet from the property
16 line. The pool that was allowed to be one foot
17 ten inches from the property line is approximately
18 seven feet in from the property line now.

19 MR. CAPOBIANCO: The bulkhead. Oh, from the
20 side?

21 MR. GIBNEY: From the rear. So the pool is
22 in down at the lower level nevertheless, and the
23 upper level here are the two comparisons of what
24 was approved and what we are looking for.

25 MR. PANTELIS: Could you go back to the two

1 site plans again.

2 MR. GIBNEY: Yes. This is our proposal now.

3 MR. PANTELIS: When you look at the original
4 site plan, we're looking at it and that's with the
5 pool visible at the rear of the property, and this
6 one, what, if anything, was under this area which
7 I'll call the pool area after the building is --
8 after we had the footprint of the building at the
9 time of the original approval?

10 MR. GIBNEY: First of all, the question never
11 came up. In my mind this could have been anything
12 from --

13 MR. PANTELIS: Not what it could have been.
14 Was there a plan that showed that to be an
15 excavated area, whether it was enclosed,
16 unenclosed or finished or not?

17 MR. GIBNEY: Not at the time.

18 MR. PANTELIS: So there was not a basement
19 there?

20 MR. GIBNEY: Correct.

21 MR. PANTELIS: Now, if we look at this plan
22 with the large green area without the pool, what
23 do we have at that location?

24 MR. GIBNEY: We have a continuation of the
25 basement out to this area.

1 MR. PANTELIS: So you have a continuation of
2 the basement?

3 MR. GIBNEY: Of the existing basement.

4 MR. PANTELIS: And so that in effect connects
5 to the house?

6 MR. GIBNEY: Yes.

7 MR. PANTELIS: And it's an integral part of
8 the house?

9 MR. GIBNEY: It would be. And just to give
10 you the evolution of that, the idea came from
11 putting the pool here and digging the basement to
12 the pool.

13 MR. RESPLER: There's a wall between the
14 house and the pool. It's a separation between the
15 two, and then the poolroom takes over after that.

16 MR. PANTELIS: But can you access this from
17 the house without going above ground?

18 MR. RESPLER: There's a slider that you can
19 walk through.

20 MR. PANTELIS: So there is a connection?

21 MR. RESPLER: Yes.

22 MR. GOLDMAN: I would also note quickly on
23 the rendering you'll see that there are railings.
24 Those were being deliberately selected and
25 procured in order to make certain that there

1 wouldn't be thick railings but that they'd be --
2 you'd be able to see through. So that, once
3 again, even though you can have the height as the
4 way I'm standing here against this railing.

5 MR. GIBNEY: If I can make one point on the
6 excavation that was just mentioned. Excuse me.

7 CHAIRMAN KEILSON: Please, please.

8 MR. GIBNEY: It wasn't excavated. Actually,
9 the level out of the first floor was consistent
10 with the first floor and dropped down to the
11 bulkhead. The area would have had to be filled
12 for the approved plan. It would not have been
13 excavated for the approved plan.

14 MR. PANTELIS: In the original plan?

15 MR. GIBNEY: Yeah. In the approved plan, the
16 pool would have been built up at a high level.
17 This would have to be filled. It was not
18 excavated to this point.

19 MR. PANTELIS: Right. But it wasn't the
20 basement.

21 MR. GIBNEY: That's correct.

22 CHAIRMAN KEILSON: Okay.

23 MR. GOLDMAN: And one last thing. While it
24 may be obvious, it wasn't obvious to me until I
25 went out to the site. When they get to the

1 bulkhead or the deck, whatever it is that's
2 reaching out actually onto the water, the view is
3 totally unobstructed. So when someone is actually
4 standing in the front, there is nothing there, and
5 the wall, et cetera.

6 Now, Mr. Respler has also made a commitment
7 that irrespective of what's happening there will
8 have to be some height to the area in order to
9 have the higher deck. He would do whatever it
10 takes. It's not a big ugly, you know, concrete
11 slab the way it's being presented, and that there
12 would be trees or whatever it may be. Even to the
13 point of trees going all the way up, right up to
14 the deck itself.

15 MR. PANTELIS: Mr. Goldman, actually, then to
16 help you in terms of framing this, you've
17 indicated you're appealing the determination that
18 the Building Department has made that this is
19 additional coverage and all these additional
20 variances. In the alternative, if the Board were
21 to decide otherwise, are you asking us to grant
22 those variances?

23 MR. GOLDMAN: Yes.

24 CHAIRMAN KEILSON: Thank you very much.

25 MR. GOLDMAN: If I could just -- the one

1 thing, we've heard from neighbors. I would just
2 ask the indulgence of the Board for the applicant
3 himself, please.

4 CHAIRMAN KEILSON: Please.

5 MR. RESPLER: First of all, there are claims
6 that I took personal affront to about how much
7 money I've spent and that I lied about how much
8 money I spent.

9 CHAIRMAN KEILSON: I don't think anybody said
10 that.

11 MR. RESPLER: I have a cancelled check.

12 CHAIRMAN KEILSON: Mr. Respler, I don't think
13 anybody suggested that.

14 MR. RESPLER: I've spent well over half a
15 million dollars. I spent \$150,000 just on
16 engineering costs.

17 CHAIRMAN KEILSON: Mr. Respler, you have to
18 address the Board or you can sit down.

19 MR. RESPLER: As you know, a picture can be
20 construed any way you want to shoot them. Math is
21 math and the heights between the two are a
22 two-foot difference, but our properties themselves
23 before we started were at a foot and a half to
24 two-foot difference. We're at a much higher
25 elevation. And we had railroad ties between our

1 two homes because our property was higher and it
2 needed some sort of a -- not a retaining wall, but
3 some sort of retaining logs around the side to not
4 fall into the neighbor's property. That's the way
5 it was built. Our basement originally was a full
6 eight-foot ceiling. Most of the basements on the
7 block were only seven-foot ceilings. The original
8 owner that bought this house paid extra to raise
9 this property's elevation and that's the reason
10 why we're a little higher than our neighbor's
11 deck. It wasn't done because I was trying to be
12 haughty, or -- it's just the nature of the
13 property itself is a higher property.

14 There was talk about side setbacks. From the
15 plans and the views, as you see, we didn't change
16 any of the side setbacks than what was approved in
17 the 2008 drawings. You know, the neighbors are
18 claiming that my house and the deck and the
19 combination were way too big, but I'll tell you
20 that they showed you on the drawings it's
21 consistent with everyone else. Not everyone,
22 because everyone didn't renovate their home, but
23 it's consistent with the people that did renovate
24 their homes and did make their homes bigger and
25 did make their decks bigger. It's consistent with

1 what they've done. And the surface coverage is
2 more than the surface coverage that we're asking
3 for over here.

4 You know -- whatever. You know, I feel bad
5 that Mr. Grama is upset about this, and I was
6 looking forward to having -- and I hope we still
7 will have a very close relationship, and you know,
8 we shook hands when we came in.

9 CHAIRMAN KEILSON: It appears to be a very
10 close relationship.

11 MR. RESPLER: And the fact of what Mr. Grama
12 said about joining the decks, I was serious about
13 it, if the Board would approve it, and we could
14 still do it now if the Board would approve it. I
15 don't know if Mr. Grama would have objection to
16 that. But, you know, we did review these plans
17 together, and Mr. Grama did come here in 2008 --

18 MR. GRAMA: Seven.

19 MR. RESPLER: Eight. It's on the record in
20 2008 to help me get my approvals. So I mean, for
21 Mr. Grama to say that he didn't get notice and he
22 didn't understand, you know, he was here in front
23 of this Board and spoke to you.

24 So I told you, everyone down the waterfront,
25 a lot of people did build their decks all the way

1 to the water, so between the decks and the home
2 the surface coverage is the same as mine that I'm
3 asking for. It's not like we're asking for a
4 dinosaur.

5 CHAIRMAN KEILSON: We've asked the Building
6 Department to look into it, if you want to point
7 out the houses.

8 MR. RESPLER: And the last thing is the
9 height about the home. The last thing about the
10 height of the home, we have on our drawings from
11 the 2007 approval we do have the height at the
12 peak. It's the elevation drawing that shows where
13 our home is going to be elevation height-wise, and
14 that did not change. What changed was the
15 interpretation and I don't understand it myself.
16 To mean grade, adjacent grade, this grade, that
17 grade. So now they're saying, well, you know,
18 from the street level to that it's now not 30
19 feet, it's 31.7, or whatever that is, but we did
20 show where we will be, plus 32 or 35, whatever it
21 is on the plan we showed where the height on the
22 apex of the roof will be and that did not change.
23 That's exactly where we're going to build it.
24 It's not an inch higher.

25 MR. GOLDMAN: He's also very tall.

1 CHAIRMAN KEILSON: I don't think his height
2 changed though.

3 MR. RESPLER: I thank the Board.

4 MR. PANTELIS: Thank you.

5 CHAIRMAN KEILSON: Thank you.

6 Thank you, Mr. Goldman.

7 MR. SOD: May I address the Board?

8 CHAIRMAN KEILSON: Let's close with that,
9 please.

10 MR. SOD: Mr. Chairman, Mr. Goldman made some
11 comments about the photographs not being accurate
12 because it shows the property under construction
13 and that, therefore, perhaps there's something
14 about the walls depicted on my client's side of
15 the property and it won't be accurate. If
16 anything, it's because it's under construction it
17 shows it would be higher than depicted in the
18 photos. What they have now is cinderblocks, with
19 rebar, metal rebars poking up through the top.
20 But clearly something has to go on top of the
21 cinderblock. It's going to go higher than shown
22 here.

23 Number two, I think Mr. Goldman perhaps I
24 think made some reference to the fact that my
25 client has a deck that's high and multi-tiered, a

1 very nice deck. That was with permission. I hope
2 he's one of the ones with permission. So the
3 Board is obligated, of course, to follow the
4 mandate to make sure that the laws are followed,
5 as I'm sure the Board will.

6 Mrs. Rose wanted to address the Board before
7 going into executive session. She wanted to just
8 address the issue about the bulkhead and how close
9 this pool will come to the bulkhead, whether or
10 not there's sufficient support for the bulkhead.
11 I would like to -- she's not my client, but I know
12 that she would like to address the Board. I don't
13 know if the Board would like to hear from her, but
14 that was a concern she has.

15 MR. PANTELIS: I think we're under the
16 presumption that all structures will have to meet
17 Building Department standards. It's not a
18 question of safety. The safety is not a question.

19 MR. RESPLER: I can answer that.

20 CHAIRMAN KEILSON: No.

21 MR. SOD: Finally, the number of photos that
22 were submitted were spoken about by the
23 proponents, and I wonder whether it will be clear
24 on the record. I wonder if -- they really have
25 not been subject to any test if they're accurate

1 or valid.

2 CHAIRMAN KEILSON: I think we have the import
3 of all the photos.

4 MR. GRAMA: Let me say a couple of things.

5 MR. PANTELIS: No, sir, you know, you do have
6 an attorney, and you testified before.

7 CHAIRMAN KEILSON: I think we've covered all
8 the points.

9 MR. GRAMA: Just one more thing I just want
10 to say.

11 CHAIRMAN KEILSON: Mr. Grama, that's it, sit
12 down.

13 MR. SOD: Thank you very much.

14 CHAIRMAN KEILSON: Sit down, sit down there.

15 Mr. Pantelis, I have to take into
16 consideration the four years that the neighbors
17 have gone through a very difficult period. It's
18 something that I've heard about almost on a weekly
19 basis. And I note for the last several months we
20 were trying to bring it to some sort of resolution
21 before this Board. And I'm not describing the
22 level or the like to anybody. Do you want to lead
23 off? So I'll lead off.

24 MR. GOLDMAN: Mr. Chairman, I don't mean to
25 interrupt, just so the record is clear, I'm asking

1 the Board to use the criteria in which I didn't
2 articulate on the record that when you balance
3 the --

4 CHAIRMAN KEILSON: We definitely used the
5 criteria.

6 MR. GOLDMAN: And I would make that as part
7 of my application.

8 MR. SOD: Very brief, if I may, a new point
9 that I have not raised before. Mr. Goldman today
10 asked the Board to overrule the Building
11 Department's determination that this rear
12 structure is 4,194 feet of building coverage and
13 to go instead with the prior interpretation.
14 That's not in either the petition or the amended
15 petition. If he would have wanted that, he should
16 have brought that sort of petition here. He did
17 not bring that now, or maybe an Article 78
18 proceeding would have been appropriate, but before
19 this Board he asked for a variance. That's all he
20 asked for. Thank you.

21 CHAIRMAN KEILSON: Thank you, Mr. Sod.

22 MR. PANTELIS: But I would think from a legal
23 standpoint that the amendment of his application
24 to include that is not inappropriate and it's
25 something the Board can consider.

1 CHAIRMAN KEILSON: Okay. We've heard a lot
2 of testimony tonight, and I think at the least
3 before -- at least my view on the decision will
4 really rely on the support or attitude towards the
5 interpretation by the current Building Department.

6 And I think that from my perspective, the
7 interpretation by Mr. Ryder overrides, and
8 therefore, I would have to go along with what his
9 interpretation presently is. I believe it's
10 accurate. I don't know what occurred years ago,
11 and I'm certainly not going to try to reconstruct.
12 So from my perspective the code relief that
13 applies is what the rejection letter had which in
14 terms of its denial, and in approaching each of
15 those categories we are faced with numbers that
16 are staggering, numbers that are unprecedented in
17 the Village. Certainly, in the ten years I've
18 served on the Board there is nothing that comes
19 anywhere near the type of request that we have
20 tonight.

21 Simply put, something like building coverage
22 which is 105 percent over permitted and 46 percent
23 over the previous variances. We have a surface
24 area coverage request excess of -- what do we have
25 here -- 63 percent over permitted and 26 percent

1 over previous variance granted. The side yards
2 also have egregious encroachments. We have height
3 which is above anything that we're permitting
4 these days in the Village; it's in excess of the
5 30 feet. The mean grade is the mean grade. I
6 haven't faced a reinterpretation of that one as of
7 yet. We have a new flood zone issue that arose in
8 the intervening years which has also not really
9 been addressed tonight. And so my assessment, and
10 since Mr. Goldman urged me to use the criteria,
11 I'm going to use the criteria, and let's go one by
12 one.

13 Will an undesirable change be produced in the
14 character of the neighborhood or nearby
15 properties? I think there's no question in light
16 of the overbuilding that's being contemplated
17 that's going to be the case.

18 Can the benefit sought by the applicant be
19 achieved by some method other than the variance?
20 Obviously, that's the case. They can just -- they
21 can retool or do whatever they want to do in a
22 more acceptable form.

23 Is the requested area variance substantial?
24 This is substantial. It doesn't do justice to
25 what's being requested.

1 Will the proposed variances have an adverse
2 effect on the physical or environmental conditions
3 of the neighborhood? Absolutely, 100 percent.
4 This overbuilding which we're -- certainly, the
5 current tenor of the Board is to try to limit,
6 this is probably the worst example that we've seen
7 before us in certainly the ten years I'm on the
8 Board.

9 Lastly, is the alleged difficulty for the
10 applicant self-created? No question about it.

11 So when we have the balancing coming out in
12 favor of -- you know, you're balancing whether
13 it's in favor of the applicant versus what the
14 impact is on the environment and the Village,
15 there's no question that this cries out for a
16 declination, and that's how I will vote tonight.

17 Anybody else on the Board? Mr. Gottlieb,
18 would you like to comment?

19 MEMBER GOTTLIEB: I don't wish to comment. I
20 think you've pretty much covered everything I was
21 going to say. If you're ready for a vote,
22 otherwise, I'll just --

23 CHAIRMAN KEILSON: No, if you want to add any
24 comments, I think it would be well worthwhile.

25 MEMBER GOTTLIEB: In the past when this

1 particular application has come up, I have voted
2 against it because I thought it was just too much.
3 This application seems to have exacerbated the
4 prior application in terms of the relief
5 requirement, honestly without ever hearing one
6 particular need this evening.

7 CHAIRMAN KEILSON: Mrs. Williams.

8 MEMBER WILLIAMS: I feel the same.

9 CHAIRMAN KEILSON: Okay. Mr. Schreck, do you
10 want to comment?

11 MEMBER SCHRECK: I agree. I haven't heard
12 the word need. I don't know why all of this was
13 necessary. And you say it was granted previously,
14 but I think it would have behooved somebody to say
15 what the need is for such an edifice, and I
16 haven't heard it at all, and I am also forced to
17 vote no on this application.

18 CHAIRMAN KEILSON: Mr. Henner.

19 MEMBER HENNER: I agree.

20 CHAIRMAN KEILSON: We'll formally vote.
21 Mr. Gottlieb.

22 MEMBER GOTTLIEB: Against.

23 CHAIRMAN KEILSON: Mrs. Williams.

24 MEMBER WILLIAMS: No.

25 CHAIRMAN KEILSON: Mr. Schreck.

1 MEMBER SCHRECK: No.

2 CHAIRMAN KEILSON: Mr. Henner.

3 MEMBER HENNER: Against.

4 CHAIRMAN KEILSON: And I also vote no. And
5 we're going to ask counsel to please prepare a
6 formal findings of fact.

7 MR. PANTELIS: I'll prepare a formal decision
8 and findings of fact.

9 (Whereupon, the hearing concluded at
10 10:19 p.m.)

11 *****

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

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MARY BENCI, 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 September 5, 2012
7 10:20 p.m.

8 APPLICATION: Levy
9 270 Ocean Avenue
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 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

Levy - 9/5/12

1 CHAIRMAN KEILSON: At this point, the Levy
2 application.

3 MR. GOLDMAN: Mr. Chairman, good evening,
4 members of the Board. We're here to discuss the
5 matter of Levy. Essentially -- I just have to
6 refresh my recollection, and I apologize. I don't
7 want to do disservice to the client by confusing.

8 This matter to my mind at least is a
9 continuation of an application that was presented
10 I believe almost a year ago, if not within that
11 time frame.

12 CHAIRMAN KEILSON: June 16th.

13 MR. GOLDMAN: Correct. So at that point too,
14 I think that what has happened is that there was a
15 lack of clarification. There was a lack of a
16 cogent -- I like to think I'm going to do better
17 than that, but that there was a lack of a cogent
18 presentation as to what is truly being sought here
19 in terms of the numbers.

20 Ultimately, what's being sought here is the
21 request for a basketball court, and more
22 significantly an additional portion of a garage.
23 Actually, a full garage that would be able to
24 house vehicles. The purpose of it in terms of
25 need is that --

Levy - 9/5/12

1 CHAIRMAN KEILSON: Can I just -- I'm sorry.
2 I have to ask a pithy question.

3 MR. GOLDMAN: Yes, and If I can, I would call
4 upon the architect on the matter as well,
5 Mr. Domanico.

6 CHAIRMAN KEILSON: In terms of the surface
7 area coverage overage, is that solely
8 attributable to the basketball court, or was there
9 other construction that went on that was not
10 captured previously?

11 MR. DOMANICO: Is this in comparison to the
12 prior application?

13 CHAIRMAN KEILSON: No.

14 MR. DOMANICO: Or just in general? We're
15 adding an addition.

16 CHAIRMAN KEILSON: I don't think we should go
17 back to the prior application simply because there
18 was so much confusion that accompanied it. I
19 think we're best off ignoring it and just
20 addressing tonight's application.

21 MR. GOLDMAN: Right. I think that what has
22 occurred here is that there was a portion of a
23 basketball -- some kind of a basketball court,
24 something that would pass for a basketball court,
25 and to that extent that was expanded. That was a

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1 portion of what we're talking about here tonight.

2 MR. DOMANICO: Correct.

3 MR. GOLDMAN: As well as there were
4 miscellaneous portions too that were done, I
5 believe cobblestones, or whatever that were put
6 in.

7 MR. DOMANICO: I was hired within the last
8 few months to prepare accurate drawings to submit
9 to this Board. We had an undated survey which my
10 site plan was based on. Based on that
11 information, you have the correct lot coverage,
12 the correct surface coverage, and our proposed
13 building coverage which includes the addition of
14 the one-car garage, and slightly enlarging the
15 parking area just in front of that space.

16 CHAIRMAN KEILSON: So when the code relief
17 chart shows a request for overage of 26 percent,
18 it's a proposed versus a permitted as opposed to
19 what's existing.

20 MR. DOMANICO: No, some of it is existing
21 because it includes the --

22 CHAIRMAN KEILSON: Overage, overage. The
23 question relates to proposed versus permitted.

24 MR. DOMANICO: Proposed versus permitted,
25 correct.

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1 CHAIRMAN KEILSON: Because there was work
2 undertaken that had not been permitted.

3 MR. GOLDMAN: Correct.

4 CHAIRMAN KEILSON: So too on surface area
5 coverage. In preparing proposed versus permitted
6 as opposed to existing.

7 MR. GOLDMAN: Can I just see which chart, the
8 code relief chart that you're using because we've
9 had several, and I just want to be certain that
10 I'm -- is there an extra copy?

11 MEMBER WILLIAMS: 6/6/2012.

12 MR. GOLDMAN: I have one that isn't dated.

13 MR. RYDER: The one that was in your
14 petition.

15 MR. GOLDMAN: It came after. That's what I
16 mean. Just to save time.

17 CHAIRMAN KEILSON: So once again, what I'm
18 saying is that the request on the building area
19 coverage which represents an excess of 26 percent
20 of proposed over permitted.

21 MR. GOLDMAN: Correct.

22 CHAIRMAN KEILSON: And likewise on surface
23 area coverage it's 36 percent excess as comparing
24 proposed over permitted, and in each case the
25 existing we're ignoring for the moment just

1 happens to be there.

2 MR. GOLDMAN: Correct.

3 CHAIRMAN KEILSON: Fine.

4 MEMBER GOTTLIEB: Before that's answered, can
5 I ask a further clarification. Does permitted
6 mean permitted by code, or does permitted mean
7 permitted per the last variance approval?

8 MR. DOMANICO: Permitted by code.

9 MEMBER GOTTLIEB: So somewhere in here there
10 were variances granted, 2007 approximately.

11 MR. GOLDMAN: Correct.

12 MEMBER WILLIAMS: Or work was done without a
13 variance.

14 MEMBER GOTTLIEB: But even what was
15 permitted, rather permitted per variance.

16 MR. GOLDMAN: Existing includes what was
17 granted and miscellaneous items that were probably
18 not permitted.

19 MEMBER GOTTLIEB: Okay.

20 MR. GOLDMAN: Which we can address those
21 items.

22 MEMBER GOTTLIEB: So what we don't have here
23 is what was granted previously by variance. We
24 have per code what is permitted. Existing is
25 whatever is there now.

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1 MR. GOLDMAN: Correct. So we updated that.

2 MEMBER GOTTLIEB: Okay, thank you.

3 CHAIRMAN KEILSON: Very good.

4 MR. GOLDMAN: Now, the necessity in terms of
5 the basketball court is being used, and apparently
6 from the point of view of detriment to the
7 community, et cetera, we submit that while it's
8 there and should have been permitted, there is a
9 whole long litany of reasons why in terms of the
10 construction and debris, et cetera.

11 Notwithstanding that, Mr. Levy wants to be
12 forthright with the Board and indicate that the
13 completion of the court was done without a permit.

14 CHAIRMAN KEILSON: What year?

15 MR. GOLDMAN: When was that, Mr. Levy? Five
16 years ago. And in the interim it's been used by,
17 you know, the neighborhood youths and the
18 neighbors, et cetera. And to the extent that it
19 has not proven to be a detriment, it's certainly
20 the size of this land which we'll address in a
21 moment, it hasn't been a burden on the property in
22 terms of impacting on the environment, impacting
23 noise, et cetera.

24 SPEAKER: Who determines that?

25 CHAIRMAN KEILSON: Please, please.

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1 SPEAKER: Oh, we get to ask that later.

2 CHAIRMAN KEILSON: You will get a chance
3 tonight. We brought our pajamas.

4 MR. GOLDMAN: I'm not certain if there was
5 any complaints brought to the Village, to the
6 Building Department. I know of none. Perhaps
7 there were. Perhaps there were complaints.
8 Perhaps there were citations. I know of none, and
9 nor has any been reported to us in the course of
10 the five years.

11 The property certainly can sustain it and has
12 for the five years. The more -- the other issue
13 that's before you, of course, as well, is the
14 garage. The original petition, which I did not
15 bring, it sought to sort of not necessarily
16 address that in the way in which I've chosen
17 having spoken more candidly with Mr. Levy and
18 Mrs. Levy. There was issues of safety that
19 remains from the point of view of access to a
20 garage as opposed to just leaving in a lot.

21 But essentially what we're talking about here
22 now is that the Levies, or Mr. Levy in particular
23 is a collector of antique and historic vehicles.
24 If he collected art, he would secure that in a
25 secure place in his home for his benefit and that

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1 of his family, and he would expect and no one
2 would hesitate the right to grant him the right to
3 protect it in a proper way both in terms of
4 maintenance and from protection of theft or
5 whatever it may be.

6 In this case it's a different kind of item;
7 it's vehicles. Each of the garages, the current
8 garages have bays and lifts. So that this is not
9 a question of, well, if I have six cars and I
10 wanted -- three cars, I'll have three garages, if
11 I have six cars, I want six garages, if I have
12 twelve cars, I want twelve garages. Every effort
13 has been made to provide for them. In this
14 particular case there are two more vehicles, and
15 we hesitated -- you know, I don't know if one
16 believes in the evil eye or if one believes in
17 touting -- you know, we talked about finances in
18 another context in another hearing tonight. But
19 one of the vehicles we're talking about is valued
20 at \$140,000, another one at \$145,000, one at 60,
21 one at 80.

22 So essentially what is being proposed here is
23 to provide for a person's protection and security
24 of their property. How that's being done and
25 where, that I will have the architect indicate to

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1 you, but it is not a two-story garage. It's being
2 built adjoining what is already there. It will be
3 secure from -- it will be invisible to just about
4 from any other perspective other than if you're
5 entering onto the property and walking right up to
6 it, which the garage is currently there. Mr. Levy
7 is prepared to provide even further screening or
8 whatever may be required for it.

9 So from that point of view -- one second, and
10 at the very beginning back in even the earlier
11 petition that didn't make reference to the value
12 of the property that we're seeking to secure, it
13 still simply said alleviate safety concerns as
14 well as accommodate the number of cars the family
15 has. It didn't make reference to the fact that
16 it's an investment that's being protected. The
17 real issue here is whether there's any detriment,
18 certainly as to the garage in terms of where it
19 would be located, et cetera. And to that extent
20 it's just adjoining the other building, the
21 current building, and would not in any way form
22 any detriment whether from an environmental point
23 of view, from a quality point of view, et cetera.
24 It's almost -- it is invisible.

25 Now, the real issue that may be of some

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1 concern is how much green grass is left even with
2 the current basketball court and with the garage,
3 whether we're as people we're concerned divesting
4 the community of an environmental asset, and I
5 leave that to the architect to give those figures
6 as well.

7 Note too, that from the point of view of the
8 -- one of the vehicles there is a history of
9 vandalism to the car, it's just been pointed out,
10 and to confirm that there's even a police report.
11 These kind of vehicles, it's a hobby like anything
12 else. I guess if you left the Mona Lisa out it
13 would be vandalized. This kind of thing sort of
14 lends itself because they're such unique vehicles.
15 So from that point of view in terms of necessity
16 and in the balancing test of any detriment to
17 anyone, certainly as to the garage there is no
18 detriment as to certainly compared to the benefit
19 that would accrue to the homeowner.

20 MEMBER SCHRECK: Mr. Goldman, you mentioned
21 necessity. What's the necessity of having to
22 store the vehicles on this property here? Why
23 couldn't he store them elsewhere?

24 MR. GOLDMAN: Well, because the truth of the
25 matter is that he wants to have access to them.

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1 There are people who my grandmother kept a diamond
2 ring in the vault, so she never wore it. So
3 there's a question of a lifestyle and a continuing
4 use of these vehicles are taken out. They're not
5 just stored. It's not like Jay Leno has hundreds
6 of vehicles. But the bottom line here is that
7 they're used and there are clubs, there are
8 activities. This is a question of, you know, as I
9 say, like anything else this is a difficult
10 situation because to the extent that we can
11 readily appreciate a desire for, oh, I need a
12 variance because I have a swimming pool, or I need
13 a variance because I want to have a bigger dining
14 room because I entertain. You may not, I do;
15 hence, I need the variance. Here, this is a
16 particular lifestyle that if it doesn't compromise
17 anyone else's.

18 Now, as to the issue of the basketball court,
19 we recognize the fact that it's late and there's
20 no point in beating around the bush in terms of
21 that as an issue that may more dramatically impact
22 neighbors and quality of life, et cetera. And
23 Mr. Levy is prepared to compromise -- now,
24 compromise sounds like he's in a position to
25 bargain with you. He's not suggesting that. But

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1 in terms of making some accommodation, certainly
2 to restore it to where it was when he purchased
3 the property, where indeed without going with
4 those photographs and the debris and all the
5 things that filled the transcript that all of us
6 have read, but to the extent that equity demands
7 clean hands --

8 MR. PANTELIS: Half court.

9 MR. GOLDMAN: -- half court would be -- would
10 be what was there and what would be appropriate.
11 And since half court seems to be the way we
12 started the evening, half court might be the way
13 to end it. And I won't play on it so there's no
14 risk of EMTs having to be called, so but that
15 would essentially be it. But in terms of the size
16 of the lot and its ability to accommodate it, and
17 anything I may have left out I defer to the
18 architect.

19 MR. DOMANICO: Obviously, you have the
20 numbers. It's not quite an acre, it's 34,800.
21 The denial says 805. On the survey I actually
22 found a survey, it says it's 899. So it's a
23 little bit larger than what was in the denial.

24 I was asked to provide the information on the
25 landscape area and grass area on my chart on the

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1 front. It's a little bit over 18,000 square feet
2 of, you know, unpaved, unbuilt upon area. That
3 also does not include the pool. That's actually
4 just landscaping grass area. Not including the
5 right of way which is at least -- it averages
6 about ten feet around his property which runs
7 about 300 and I think it's 80 feet, which probably
8 works out to about -- less the driveway space,
9 it's about 3,500 square feet of additional space
10 that's not built upon. Even though that's Village
11 right of way, it's maintained by Mr. Levy.

12 MR. GOLDMAN: I also neglected to mention
13 that where the garage would be located is, one,
14 there is no further extension of the building
15 lines, it doesn't impose in that fashion. And to
16 the extent that I believe it would back up onto
17 someone else's garage that's there, nobody's
18 house. The house that would be closest to that
19 is --

20 MR. DOMANICO: Correct. When I originally
21 took on this project, the original design was
22 further in front of the adjacent garage. I
23 suggested we put it in line with the adjacent
24 garage. This way we're staying in character with
25 the neighborhood. We're replicating the existing

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1 facade so it will look exactly the same as it is
2 now. We were including with that extending the
3 dormer which is to the neighbor's side which sets
4 a height -- a setback ratio variance. In speaking
5 with Mr. Levy, that was something, I believe, we
6 would be willing to, you know, take off and just
7 create just a gable and with the doghouse on the
8 entrance side.

9 CHAIRMAN KEILSON: So basically, you give up
10 the basketball court, the garage, and we'll be
11 down to no variance.

12 MR. GOLDMAN: That would be correct.

13 MEMBER HENNER: He's not giving up the
14 garage.

15 MR. GOLDMAN: I understand.

16 MEMBER HENNER: He will play you one on one
17 for the garage. How's that?

18 MR. GOLDMAN: I can't do that. I would have
19 to get a ringer, in all honesty.

20 What I would suggest too, and I apologize
21 that I didn't do the numbers, maybe Mr. Ryder can
22 do it, but once that basketball court is reduced
23 to a half court, obviously, the coverage is also
24 reduced accordingly as well.

25 CHAIRMAN KEILSON: Significantly.

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1 MR. GOLDMAN: Significantly.

2 MR. DOMANICO: It's currently 40 by 65.

3 That's the size of the basketball court.

4 MEMBER GOTTLIEB: Going back to the garage
5 for a minute. You just talked about -- I thought
6 I understood where you proposed to put in the
7 garage. And then you said you would put it so it
8 doesn't project any further. Are you talking
9 about putting it tandem or are you talking about
10 putting it towards the street?

11 MR. DOMANICO: It's moving towards the
12 street, but it's in line with the adjacent garage
13 of the neighbor's property.

14 MEMBER GOTTLIEB: So you're saying that the
15 front-yard setback would be fourteen and a half
16 feet?

17 MR. DOMANICO: Fourteen and a half feet.

18 MEMBER GOTTLIEB: And that gives you how wide
19 of a garage?

20 MR. DOMANICO: We're adding I believe it's a
21 thirteen-foot bay.

22 MEMBER GOTTLIEB: And you're saying that it
23 doesn't protrude any further than the property to
24 the --

25 MEMBER HENNER: Can you go over that again?

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1 Did you say thirteen foot?

2 MR. GOLDMAN: Let's repeat it so there's --

3 MEMBER HENNER: It looked like nine and a
4 quarter.

5 MR. DOMANICO: I'm sorry. It's nine foot
6 three is the addition.

7 MR. GOLDMAN: Nine foot three is the
8 addition.

9 MEMBER GOTTLIEB: What is fourteen five?

10 MR. DOMANICO: Well, that's the -- that's the
11 -- what's left over after. After we add nine foot
12 three, the remaining setback will be 14.5.

13 MR. PANTELIS: What is the setback of the
14 adjacent garage that we spoke about?

15 MR. DOMANICO: Well, I worked off the survey
16 and we just went exactly in line. I'm assuming
17 that it's close to that same 14, 14.5 feet.

18 MR. PANTELIS: Right.

19 MEMBER GOTTLIEB: A standard garage width is
20 twelve feet?

21 MR. DOMANICO: Well, what we're doing is
22 we're changing the garage door to make that a
23 double door so we could put two cars side by side.

24 MEMBER GOTTLIEB: How many cars do you
25 currently fit in the two-car garage?

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1 MR. DOMANICO: In the two-car existing, four.

2 MEMBER GOTTLIEB: So two above -- one above
3 each other?

4 MR. GOLDMAN: Right.

5 CHAIRMAN KEILSON: I'd like to hear from the
6 neighbors, if you don't mind. I assume these are
7 all neighbors. Is there anyone in the audience
8 who would like to --

9 MR. GOLDMAN: Mr. Ryder, just let me return
10 (handing).

11 MR. RYDER: Thank you.

12 CHAIRMAN KEILSON: We apologize for holding
13 you so late.

14 MS. SOSNOWIK: My name is Susan Sosnowik. My
15 husband is Michael Sosnowik. We live at
16 233 Narragansett Avenue. We live directly behind
17 the Levys, or are the backyard neighbors.

18 I have had nothing but trouble since the
19 Levys have moved into the house. Their pool house
20 is illegal; it actually overhangs the fence. We
21 had a backyard fence. One day, without asking us
22 at all, they took it down and replaced it. I went
23 out halfway through when my fence was halfway --
24 we have a pool that was -- that was covered by the
25 tall part of the fence, and then our backyard had

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1 a four foot, or a three-and-a-half-foot fence,
2 whatever that was, and one day they just decided
3 they were going to take it all out and replace it
4 with a nice, new, tall fence so nobody could see
5 what they do in their backyard.

6 Since then they took what used to be --

7 CHAIRMAN KEILSON: How long ago was that?

8 MS. SOSNOWIK: This was --

9 CHAIRMAN KEILSON: Approximately.

10 MS. SOSNOWIK: Five years, five years, six
11 years, something like that. When this all
12 happened, I complained. I was up in this Building
13 Department screaming all the time, and nobody was
14 willing to help me, okay. I came up, they said as
15 far as the pool house went, the day that they put
16 that down, the first frame in, I couldn't
17 understand how they could build it right on top of
18 my fence. Because I had asked at one point to
19 build an enclosure, a screen enclosure around my
20 swimming pool, and they told me I couldn't be
21 closer than fifteen feet. I have the minutes from
22 the variance hearing. I don't have anything that
23 says that he got a variance that he could put that
24 pool house right on the fence that.

25 That basketball court was a driveway for two

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1 hearses. The Prioleaus who lived there before,
2 Ronald Prioleau was a funeral director, that's
3 where he parked his two hearses; it was a
4 driveway. His son did play basketball on it, so
5 there was one basketball hoop, just like I have on
6 my driveway, which was not a basketball court.

7 I have huge, huge, horrible sodium lights on
8 the top of his house that light up the entire back
9 of my house. It's like a downtown Brooklyn
10 playground in the back of my house now. I had to
11 get blackout shades for the entire house in the
12 back, and if you want to come over I'll show you
13 now; you can come upstairs and see. And I think
14 that's what he intends to do now on the basketball
15 court, because he certainly didn't care about the
16 pavement part of it. I think he just wants to put
17 up lighting.

18 If you give him this permission to do this,
19 there is no reason to believe that he'll actually
20 do what he says he's going to do. He will, as
21 soon as you give him permission, do what he feels
22 like doing because he feels like the rules don't
23 apply to him. That's why that pool house is
24 there. You go look through all of your files; you
25 will never find that he got permission to do that.

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1 CHAIRMAN KEILSON: Hold on one second. Do
2 you know anything about the pool house?

3 MR. CASTRO: I have to check.

4 MS. SOSNOWIK: I have -- I have --

5 CHAIRMAN KEILSON: Hold it, hold it, hold it,
6 hold it. Is it appropriate where it is?

7 MS. SOSNOWIK: It overhangs --

8 MR. PANTELIS: Well, not according to the
9 survey it doesn't overhang.

10 MS. SOSNOWIK: Isn't it supposed to be at
11 least fifteen feet?

12 MR. PANTELIS: When you use the word
13 overhang, you are implying it overhangs onto your
14 property.

15 MS. SOSNOWIK: The overhang of the thing,
16 isn't it 1.4 inches or something? It doesn't
17 matter. The overhang is not the really important
18 part.

19 CHAIRMAN KEILSON: Is the pool house
20 appropriate?

21 MR. RYDER: Where it presently sits today,
22 no, it would not be appropriate, definitely would
23 need a variance.

24 MS. SOSNOWIK: It should be torn down. The
25 very first day that they framed it I came up

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1 here --

2 CHAIRMAN KEILSON: Hold it, hold it, hold it,
3 hold it.

4 MR. RYDER: There's a possibility that it was
5 legal nonconforming and that it was rehabbed or
6 rebuilt, I'm assuming because if there's no record
7 on that.

8 MEMBER GOTTLIEB: If there was a shed
9 there --

10 MS. SOSNOWIK: I have the original survey
11 that they used at the first hearing. There was no
12 pool anywhere near that area, and there was no
13 pool house anywhere near that area. There was a
14 shed, a tool shed that was there, which they now
15 have in the far corner of their property
16 (handing). I mean, it's a new one, but it's in
17 the far corner behind my pool.

18 I have asked them to change the angle of the
19 sodium lights. Nothing. Nothing. Absolutely no
20 request of mine has been taken seriously, and
21 nobody was ever available in the Building
22 Department whenever I came to complain; they were
23 on vacation or something else.

24 MEMBER SCHRECK: How long have you been
25 living there, Miss Sosnowik?

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1 MS. SOSNOWIK: I've been there since 1998.

2 MEMBER GOTTLIEB: Was that formerly the
3 Kleins' house?

4 MS. SOSNOWIK: Yeah, we bought the Kleins'
5 house.

6 MEMBER GOTTLIEB: And behind you was Burke,
7 formerly this was the Burke's house?

8 MS. SOSNOWIK: I don't know if it was Burke.
9 When we lived there it was Prioleau,
10 P-R-I-O-L-E-A-U.

11 MEMBER GOTTLIEB: It certainly doesn't
12 diminish your comments.

13 MS. SOSNOWIK: Okay, that's all. I think
14 that -- I don't know what will happen here. I
15 know that that property is already too close to
16 the Palermos' property where he wants to build
17 this, and they have loud parties till 1:00 in the
18 morning. We have had to call the police. There
19 is garbage strewn about, cars parked all over
20 everywhere back there. They don't have any
21 respect for the neighbors. They have changed -- I
22 was much, much better off when the Prioleaus lived
23 there.

24 CHAIRMAN KEILSON: With the hearses.

25 MS. SOSNOWIK: Exactly, much better off. It

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1 was peaceful, it was quiet, there was light. Now
2 there is also these huge Leyland cypresses planted
3 all along that thing which they didn't plant,
4 because they don't do that anymore. They put it
5 against the fence, and then they piled dirt on it,
6 and now it's been five or six years, the fence is
7 collapsing under the weight. Now should I have to
8 repair that? He put the fence in, it's not mine.
9 He should have put another fence and reinforced it
10 if that's how he wanted to plant his trees.

11 Thank you very much.

12 CHAIRMAN KEILSON: Thank you.

13 MR. PALERMO: Good evening. I don't want to
14 take too much time of the Board because it is late
15 and you guys must be tired.

16 CHAIRMAN KEILSON: Your name and address.

17 MR. PALERMO: My name is Joe Palermo. I'm
18 here with my wife Maria. We live at 280 Ocean
19 Avenue. We are east of his property, Mr. Levy's
20 property. Now, I own this property for
21 approximately twenty years. I've lived there. I
22 have two pre-existing nonconforming structures on
23 the property which, you know, fortunately or
24 unfortunately allow me to have my garage, which
25 it's not just a garage, it's a carriage house. My

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1 dad lived up there for a number of years.

2 Mr. Levy moved into the neighborhood in an
3 extremely invasive manner. They knocked down the
4 existing house that the Perlows owned. They put
5 the property -- he put his building up on the
6 exact property line of the original structure.
7 When I saw the foundation go in, I walked up to
8 him and, please, I don't mean to belabor this, but
9 I walked up to the gentleman and I said, what are
10 you doing? This doesn't make sense. You've got a
11 40-foot setback here that you're supposed to have.
12 He says, well, we got a variance. I said, you got
13 a variance? I never was notified. And I'm not
14 using that as an excuse, but I wasn't notified.

15 This particular notification I received on
16 Saturday. So this is my first opportunity to
17 address this.

18 As we went on, Mr. Perlow determined that
19 there was a hedge that separated my side yard with
20 his construction project. I said, that's my
21 hedge. He says, no, that's my hedge. I woke up
22 the next day, no hedge.

23 He then changed towards the end of the
24 project the topography which raised up his
25 property. Just like the lady said here, he filled

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1 in dirt and made mounds which has affected -- he
2 didn't take into consideration there's any
3 drainage issues because my side yard is constantly
4 flooded when it rains. Brought this to his
5 attention, he totally ignored it.

6 There was a giant linden tree that separated;
7 it was over 150 years old, it separated the
8 properties, joined both properties. My fence made
9 a big deviation to go around it. When he built
10 the house it was so close to the setback, to the
11 line, the property line, he started hacking up the
12 tree. It's okay. He's hacking up limbs on his
13 side, but I still enjoyed this gigantic tree. Go
14 away on vacation, come back, no tree. I call up
15 the Village; we don't have any tree ordinances in
16 this Village. I said who protects us? Is this
17 gentleman allowed to ride roughshod over a
18 community based on his interpretation of how the
19 world should be according to him?

20 This thing with the cars, I congratulate you,
21 you're able to buy a lot of expensive cars. But
22 if you decided to collect a dozen more, you can't
23 put a building to house these cars. That's not
24 the community's headache. I mean, you have to
25 agree with -- somewhere there's got to be somebody

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1 right.

2 CHAIRMAN KEILSON: Address us, please.

3 MR. PALERMO: Somebody's got to be right.

4 You know, it's just out of control. He destroyed
5 my fence when he tore down the tree. I went over
6 there, I knocked on his door, his wife came out.
7 I said -- he wasn't there. I stopped talking to
8 him. My wife was -- his wife come out and said
9 what do you want me to do? We took it down;
10 slammed the door in my face. I went back home.

11 Now, we're talking about this. My dad
12 couldn't stay anymore in this apartment because
13 all his HVAC systems and a generator are there.
14 That's what happened. If you go there tonight,
15 you will see he maintains a pile of debris which
16 is leaning up against my new fence that I put in
17 and probably in time will rot that fence out.

18 When he built his house in the beginning, his
19 bulldozers ripped off some of the siding in the
20 back of my house. I addressed it. He put four
21 pieces of siding and said that's all I'm doing.
22 Any gentleman would have re-sided the back of the
23 garage.

24 When does it stop? When does the Village
25 become a Village and take care of the other

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1 residents? It can't always be someone's personal
2 agenda. We can't live like this. And this has
3 nothing to do with our community the way it's
4 changing. I welcome change. It doesn't change
5 anything for me. I have a beautiful home. I want
6 to enjoy it. But to have an invasive, pervasive
7 neighbor is getting a little tiring. And I hope
8 that this Board maintains the posture that this
9 thing can't go -- and on top of that when he
10 finishes the structure he's going to have maybe
11 twenty feet, fifteen feet from the road. There's
12 supposed to be a 65-foot setback from the frontage
13 of any property, and then he's got all that
14 free-range property on the other side.

15 The basketball court, again, it seems to be a
16 fixture that everybody is putting in full-size
17 basketball courts. I'm only addressing what's
18 affecting me, but guys, you've got to go with a
19 little common sense. It just can't go on like
20 this anymore. And maybe I'm being a little too
21 passionate about it, but it's got to stop. We
22 have to maintain conditions that we bought into.
23 I know things change, but they shouldn't change
24 with the total disregard of neighbors.

25 CHAIRMAN KEILSON: Thank you.

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1 MR. PALERMO: Thank you.

2 MS. PALERMO: Hi, I'm Maria Palermo. I
3 reside at 280 Ocean Avenue. I'm the wife. I just
4 want to address the extension of the garage to the
5 -- closer to the street level. How far from the
6 street will the garage extend at this point? Was
7 it --

8 MR. PANTELIS: What are we talking about,
9 nine something?

10 MS. PALERMO: So he's literally going to
11 extend the garage nine or so feet from the street.
12 He said it will have no effect on our carriage
13 house. He will extend beyond the lines of where
14 my carriage house is because the garage as it
15 stands right now is -- his garage backs my
16 carriage house. Completely blocked out all the
17 windows because his home is much higher than the
18 home that was there previously. We have the
19 surveys also that you can take a look at. But
20 that's fine. He's -- you know, I have no problem
21 with that.

22 The extension of the garage though is going
23 to continue to flood the area because it's so
24 highly elevated. He said we're only flooded when
25 it rains; that's not true. We have a very large

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1 practically a sink hole that's forming on behind
2 his hedges which is now where he's going to extend
3 the garage which will, I mean, totally block out
4 the carriage house. It's not even visible, as
5 Mr. Goldman had said, this is going to be
6 invisible. It's not. You will pass by. You will
7 see this huge garage coming out with my carriage
8 house dwarfed. That, you know, Mr. Levy has shown
9 that he doesn't abide by any rules except what
10 works for him. So that's really all I wanted to
11 say.

12 CHAIRMAN KEILSON: Thank you very much.

13 MEMBER HENNER: Can I ask you a question? I
14 went to see the property this morning.

15 MS. PALERMO: Yes.

16 MEMBER HENNER: I was kind of surprised to
17 see the carriage house was like on the property
18 line.

19 MS. PALERMO: Yes, it's a hundred and some
20 odd years old.

21 MEMBER HENNER: Whatever. I was surprised to
22 see it because I know there are the setback rules.

23 MS. PALERMO: That's correct. It's
24 preexisting.

25 MEMBER HENNER: All I'm saying is I was

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1 surprised. I didn't say you built it.

2 MR. PALERMO: It was built a hundred years
3 ago. We had no control over it.

4 MEMBER HENNER: But the carriage house goes
5 further towards Ocean Avenue than the present
6 garage does.

7 MR. PALERMO: Please, please.

8 MR. PANTELIS: Sir, sir.

9 MEMBER HENNER: Mr. Palermo, I see there's a
10 picture here and I saw it myself that the carriage
11 house is closer to Ocean Avenue than the existing
12 garage. Am I mistaken about that?

13 MR. PALERMO: No, you're correct. And I
14 started by saying that I --

15 MEMBER HENNER: I was just trying to make a
16 point because I think you said that it was
17 blocking the carriage house now, and it seemed to
18 be -- and that it's going to be too close to Ocean
19 Avenue, and it appeared to me both visually when I
20 was there and in this picture that your carriage
21 house goes close --

22 MS. PALERMO: They're about even now.

23 MEMBER HENNER: They're not even even right
24 now. The carriage house is closer to Ocean
25 Avenue. Okay, that's all I wanted to ask.

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1 MEMBER GOTTLIEB: Excuse me. Mrs. Palermo,
2 does anyone live in the carriage house now?

3 MS. PALERMO: At the moment, no. My
4 father-in-law lived there.

5 CHAIRMAN KEILSON: Mr. Palermo, please.

6 MS. PALERMO: At the moment, no. We found
7 him another place to stay. It's just too dark up
8 there, it's too noisy, and we moved him out maybe
9 about four years ago.

10 MEMBER GOTTLIEB: Thank you.

11 CHAIRMAN KEILSON: Thank you very much.
12 Anyone else?

13 MS. FRANK: Good evening. My name is
14 Leslie Frank. I live 209 Causeway in Lawrence. I
15 am a neighbor across the street on Causeway from
16 Mr. Levy. His basketball court is where it was
17 mentioned where the hearses used to be parked.
18 There are a lot of children that play basketball
19 into the night during the day, weekends. We have
20 to call the police. There's been garbage. They
21 have done vandalism as they leave the house, and
22 I'm not saying it's any of your children, but
23 there are children that put garbage on our fence
24 and then kick bottles down. My next-door
25 neighbor, who couldn't be here tonight, who would

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1 be willing to come and tell you, has also had to
2 call the police. And it is an inconvenience to
3 all our lives who want to have the nice, quiet
4 life of Lawrence, and that's all. I oppose what
5 he wants to do.

6 CHAIRMAN KEILSON: Thank you very much. All
7 right, anyone else?

8 MS. LAND: Grace Land, Lawrence, Ocean
9 Avenue. I live right next-door to Leslie, and I
10 do hear the kids playing a lot of basketball which
11 can be noisy. I'm glad they're having a good
12 time. I would hate to see this court extended to
13 a full-sized court because then whatever we have
14 would be double, and we do like our peace and
15 quiet which is what this neighborhood should be.

16 And I don't know if it's their children or
17 some of the kids that are playing, but you do find
18 soda cans and all kind of stuff at the tail of the
19 weekend, and we being an adult family it's not
20 coming from our own home area.

21 So I would appreciate if in some way that
22 this could be curtailed or just softened down and
23 the kids have a garbage can. If it's kids who are
24 playing at your place, let them dump their debris
25 in your own barrel. That's all.

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1 CHAIRMAN KEILSON: Thank you very much.

2 MR. FRANK: Robert Frank, 209 Causeway. And
3 I have -- other than I agree with some of the
4 things that go on in the neighborhood, that will
5 only grow if you let this thing happen. We
6 haven't been notified of any of the things that I
7 heard about tonight. And I just wanted to bring
8 to everyone's attention that whatever the system
9 is to notify the neighbors in adjoining homes, if
10 that's how close it is, it's got to be done in a
11 different fashion.

12 CHAIRMAN KEILSON: Okay.

13 MR. FRANK: Please.

14 CHAIRMAN KEILSON: Thank you very much.

15 Mr. Goldman, you're back on.

16 MR. PANTELIS: Sir, did you say you didn't
17 get notice?

18 MR. FRANK: I didn't get any notice.

19 MS. PALERMO: Neither did I.

20 MR. FRANK: And I have never gotten notices
21 on numerous issues that have happened in the
22 neighborhood that I found out afterwards.

23 MS. LAND: Truly, anything that's been
24 discussed here this evening, and most of it is
25 happening back in back Lawrence other than

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1 Lawrence Bay Park, there was not one notice on any
2 of them.

3 CHAIRMAN KEILSON: Please.

4 MR. PANTELIS: Thank you.

5 MR. GOLDMAN: We have proof that it was
6 mailed pursuant to -- and I see the names here on
7 the list. The Village doesn't require certified.
8 We sent it first-class mail.

9 MR. FRANK: It's a loophole.

10 CHAIRMAN KEILSON: Please.

11 MR. GOLDMAN: The issues that have been
12 raised are issues in terms of neighborliness.

13 CHAIRMAN KEILSON: What do you know about the
14 pool house?

15 MR. GOLDMAN: The pool house -- the
16 references that have been made, this predates the
17 Levys owning the property. There's the prior
18 owner who I think was Jungreis.

19 MR. LEVY: Correct.

20 MR. GOLDMAN: Correct, who bought it on a
21 foreclosure.

22 MR. LEVY: From Prioleau.

23 MR. GOLDMAN: From Prioleau. So much of
24 what's being discussed predates the Levys.

25 MEMBER WILLIAMS: That's not what these

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1 people are saying.

2 MR. PANTELIS: That's not the testimony.

3 That's not the testimony.

4 CHAIRMAN KEILSON: Let's stay on the pool
5 house.

6 MR. GOLDMAN: In terms of the pool house, the
7 pool house was built by the Levys, but apparently,
8 according to Mr. Levy, unless I'm misinformed,
9 there were permits granted for it. There were
10 permits, and as he's indicating, a C of O for the
11 pool house. So to the extent that people are
12 unhappy and to the extent that we can as long as
13 it's out here now, after five years, ten years,
14 whatever it may be, we can address that and maybe
15 it's fortuitous that it's a public hearing, and if
16 we haven't been the best neighbors, and certainly
17 this kind of outpouring on that level, but in
18 terms of the criteria for granting what's being
19 requested now, it was indicated right at the
20 inception to the extent that the kids sometimes
21 are beyond control and a full court basketball
22 court is probably twice as bad as a half court
23 basketball court, that would be an accommodation.

24 CHAIRMAN KEILSON: We've asked the Building
25 Department to check if there are permits.

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1 MR. GOLDMAN: Okay. Some of the issues that
2 were raised on the property itself in terms of
3 flooding, there is an extensive -- you can stand
4 up.

5 MR. LEVY: That's okay. You're doing a great
6 job.

7 MR. GOLDMAN: There are extensive provisions
8 for it, whether it's pumps or whatever it may be.

9 MR. LEVY: Drainage?

10 MR. GOLDMAN: Yeah.

11 CHAIRMAN KEILSON: Identify yourself.

12 MR. LEVY: Sol Levy, 270 Ocean, Lawrence.
13 There are no drainage issues. I have septics all
14 around the property. I had a boring test done
15 before I built, 38 feet to water, and I can prove
16 it, and every single septic tank and dry well is
17 dry. Take a flashlight and stick it in there,
18 they're all full of sand and fully dry. I have no
19 drainage issues whatsoever. But unfortunately,
20 people around us do, the lower, the closer to the
21 water. My house, I'm sure Palermo's house,
22 doesn't have any pumps. I have never had any
23 flooding issues.

24 MS. PALERMO: We don't have any house
25 flooding issues.

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1 MR. LEVY: Thank you. So that's what I mean.
2 No drainage issues whatsoever.

3 CHAIRMAN KEILSON: What do you make of your
4 neighbor issues?

5 MR. LEVY: My neighbor issues?

6 CHAIRMAN KEILSON: I mean, we've never had
7 such an outpouring from a group of neighbors about
8 any one neighbor.

9 MR. GOLDMAN: We're not here to compete with
10 who is the worst neighbor. We're trying to be the
11 better neighbor.

12 CHAIRMAN KEILSON: It does go to the impact
13 of the neighborhood.

14 MR. GOLDMAN: I hear that.

15 CHAIRMAN KEILSON: What more can go to the
16 impact of the neighborhood than a neighbor who is
17 doing these things either --

18 MR. LEVY: Are the neighbors unhappy as to
19 what they look at every day when they drive by my
20 house? I don't know. I don't understand what
21 that means.

22 MR. GOLDMAN: Stop.

23 MR. LEVY: Okay, I'm sorry.

24 MR. GOLDMAN: What was conceded, if you read
25 a great many of the minutes that are here, is that

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1 this thing was a dump before. There were
2 raccoons. The tree that's being mourned over
3 apparently was hollow with raccoons in it. The
4 house has been rehabilitated. The property is
5 certainly a beautiful property. Now, to the
6 extent that sometimes, or apparently more than
7 sometimes one is not as good a neighbor as one
8 ought to be, if there's a question of a greater
9 supervision of visiting kids, I'm advised that
10 there is a garbage pail, there's a water fountain.
11 There are certain homes that maybe to their credit
12 become the center for teens, then everybody
13 wonders teens are off someplace else.

14 MR. LEVY: Not just teens. I have an
15 eight-year-old.

16 MR. GOLDMAN: And there's little kids. It's
17 twelve, thirteen boys when they whisper creates a
18 racket.

19 MR. LEVY: And the Mayor's grandson included.

20 MR. GOLDMAN: Well, it doesn't matter whose
21 grandson it is. To the extent that whether it's
22 somebody's grandson who is disturbing the
23 neighbors, perhaps there ought to be greater
24 supervision. But in terms of the impact of the
25 particular variance that's being sought,

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1 particularly as it applies to the garage, you've
2 heard where this garage is going. In terms of any
3 detriment, it may -- what this is not -- I'm not
4 saying it's an excuse, but what it has brought out
5 that in making this application we're now
6 addressing every issue that ever existed, and I'm
7 not minimizing them. I'm not saying that these
8 are excuses that are made up. But they don't
9 necessarily have to be addressed or solved by this
10 Board using the criteria of the Village Law, not
11 the Village Code, the Village Law of Section 7.
12 To the extent that if there hasn't been
13 enforcement that's, you know what, I'm not an
14 apologist for Mr. Levy. Nor can you be an
15 apologist for himself if he was doing the wrong
16 thing. But there are other vehicles to correct
17 those abuses than necessarily this Board. This
18 Board --

19 CHAIRMAN KEILSON: Why should this Board
20 countenance serial violations by an individual?
21 At the last hearing, as you know, there was an
22 admission that work was done without permission.
23 Okay. So we have a certain type of attitude that
24 seems to be prevalent and seems to be manifested
25 by your client that he does as he pleases, all

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1 right. It echoes throughout everything that was
2 presented tonight. And his testimony at the last
3 hearing bears that out. And his testimony at the
4 last hearing was very clearly he needed the garage
5 for the safety of his daughter. I hear no mention
6 tonight about the safety of his daughter. So my
7 question to you is was that disingenuous?

8 MR. GOLDMAN: I thought we addressed the
9 issue to the point in terms of safety. Safety of
10 the daughter was an issue that was raised
11 primarily by Mrs. Levy to the extent that the
12 petition itself contained and it did state within
13 the petition, the petition -- yeah, the petition
14 of 5/24/11, alleviate safety concerns as well as
15 accommodate the number of cars the family now has.
16 It just became a question of emphasis, and to be
17 honest, given the tenor of the people and given
18 the atmosphere to sort of say, you know what, this
19 is my hobby. This is what I am. This is what I
20 have. This is what I can accumulate. This is
21 what you can be resentful of or jealous of if
22 you're the wrong kind of people, and I'm not
23 ascribing such motives to anyone here. I'm not --
24 I'm not ascribing that to the people to the extent
25 that I'm not being discourteous or rude to

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1 anybody.

2 What I'm simply suggesting is that it's not
3 impossible that one would be reluctant to reveal
4 those kinds of financial details about oneself,
5 not because of the people that at least have the
6 courage to be here and the civil responsibility to
7 be here, but the people who aren't here. Okay.
8 So to that extent to suddenly reveal that I have a
9 hobby, and it ain't stamps and it ain't swimming
10 and it ain't cycling, but it's a collection of
11 vehicles that total almost in excess of a quarter
12 of a million dollars or a half a million dollars,
13 one might be reluctant, but nevertheless that's
14 the basis for it as well.

15 CHAIRMAN KEILSON: Please, please.

16 MR. GOLDMAN: Now, the truth is now what
17 we've heard is the neighbors that are opposed. We
18 have here letters from neighbors that are
19 supportive of it as well. And to the extent that
20 the neighbors most directly impacted, which is
21 Mrs. Genack, we've spoken with her and she had
22 several concerns that she wants to be certain are
23 addressed.

24 CHAIRMAN KEILSON: Where is Genack?

25 MR. LEVY: Right across the street.

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1 MR. GOLDMAN: Directly across the street.

2 CHAIRMAN KEILSON: She's more impacted than
3 Palermo and Sosnowik?

4 MR. GOLDMAN: Well, Palermo is impacted to
5 the extent that this is built behind, it's behind,
6 and it borders on what may be a pre-existing
7 nonconforming use, but it's nevertheless there.
8 Certainly, there hasn't been, unless I misheard,
9 and if I did I apologize, the gentleman who lived
10 in that house hasn't been there for fours years.

11 MR. PALERMO: He had to leave.

12 CHAIRMAN KEILSON: Mr. Palermo, please don't
13 respond.

14 MR. GOLDMAN: I'm not going to get into
15 personal discussion, and I'm not.

16 CHAIRMAN KEILSON: Good.

17 MR. GOLDMAN: But the person straight across
18 from the point of view of the community seeing
19 this, it's the person across the street.

20 CHAIRMAN KEILSON: In terms of the basketball
21 court, Sosnowik, Frank and Land are certainly the
22 most affected.

23 MR. GOLDMAN: I understand that. To that
24 extent --

25 MEMBER GOTTLIEB: I think it's disingenuous

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1 not to mention the relationship between the
2 supporting neighbors, if they happen to be very
3 good friends, very close friends.

4 MR. GOLDMAN: Well, that isn't disingenuous
5 to the extent that they --

6 MEMBER GOTTLIEB: It would be disingenuous
7 not to mention it.

8 MR. GOLDMAN: Well, one, I have no way of --
9 this is the first time ever that anybody has
10 questioned when neighbors come in, to the extent
11 that my neighbors are in fact my very, very good
12 friends, and they're my very, very good friends
13 because they've been my neighbors for so long.
14 Nevertheless, 239 Ocean Avenue is supportive and
15 281 Ocean Avenue.

16 CHAIRMAN KEILSON: 239 is where?

17 MEMBER SCHRECK: Who are those people?

18 MR. GOLDMAN: Rudensky and Mandel. 281 Ocean
19 is Mandel, and 239. And Genack wants to make
20 certain that there won't be lights, as I
21 understand, which there won't be.

22 CHAIRMAN KEILSON: Please continue.

23 MR. GOLDMAN: I would submit the two letters
24 of support (handing).

25 CHAIRMAN KEILSON: Please do. Mr. Pantelis,

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1 there's two letters of support.

2 MR. PANTELIS: Oh, I'm sorry.

3 MR. GOLDMAN: Now, notice too that in terms
4 of the surrounding area, the property is bordered
5 by -- I forget what kind of trees.

6 MR. LEVY: Leyland cypresses.

7 MR. GOLDMAN: Humongous trees.

8 CHAIRMAN KEILSON: Please. Continue,
9 Mr. Goldman, if you want to.

10 MR. GOLDMAN: I'm just making notes.
11 Obviously, there would be a commitment of no
12 lighting. To the extent that there are lights now
13 that are disturbing the neighbors, you know, as I
14 say, I can't speak for my client but I would, then
15 that will be corrected. That the Village hasn't
16 corrected it, as I say supposedly police are at
17 the scene, et cetera. But we're here tonight.
18 I'm not certain, I hear murmuring behind my
19 shoulder.

20 One can only do two things. One can either
21 argue or one can agree. To the extent that we're
22 agreeing about the half court basketball. To the
23 extent that we're agreeing about the lighting. To
24 the extent that we're agreeing to try to alleviate
25 the problem. At some point it's disappointing to

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1 get what one wants, but we're trying to make every
2 accommodation so that this family too can enjoy
3 the use of their land. And, certainly, again,
4 notwithstanding the complaints of the neighbors,
5 they have done nothing but improve the property
6 compared to what it was. It certainly was an
7 eyesore and to some extent a hazard.

8 CHAIRMAN KEILSON: Please, please, neighbors.

9 MR. GOLDMAN: You know, we can only go with
10 what we know. I'm not going to fight behind me,
11 Mr. Chairman. I'm addressing the Board.

12 CHAIRMAN KEILSON: Correct. That's the way
13 it should be.

14 MR. GOLDMAN: And to the extent that the
15 detriment in terms certainly of the garage, the
16 basketball court having been extended --

17 MEMBER WILLIAMS: Finish the sentence.

18 MR. GOLDMAN: To the extent that the
19 basketball court was extended to become a full
20 court was wrong.

21 MEMBER WILLIAMS: Without permission.

22 MR. GOLDMAN: Correct, was wrong, and it's
23 being addressed. And to the extent now was it
24 revealed or there was some discussion the last
25 time in terms of the source of it, and it was

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1 flippantly handled, and that's the truth. But
2 that's -- then there's no point in contrition.
3 This is a season of contrition. So to the extent
4 of that there's correction being offered, and to
5 that extent there's a statement of being a good
6 neighbor.

7 MEMBER SCHRECK: What about the paving around
8 the pool, wasn't that also done without
9 permission?

10 MR. GOLDMAN: Gentlemen, the paving around
11 the pool? I'm not certain if it was perceived.
12 This might make your lives a tad easier.
13 Mr. Ryder, the building permit.

14 MR. LEVY: This is the pool cabana and
15 structure. This is the permit (indicating).

16 MEMBER WILLIAMS: Mr. Goldman, just to
17 clarify that you and I have worked together many,
18 many, many years. The thing is we learned -- what
19 I've learned over the years is that when someone
20 -- when someone does something that disturbs the
21 neighbors that's against the law, that's done
22 without permits, it gets people really upset, it
23 kind of sets a certain tone, and then when you try
24 to scale back and do it right, you can't blame
25 people for being cautious or wary and concerned.

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1 It's a normal reaction. To come in with plans,
2 we've had this many times where people come in
3 with plans that are ridiculous, the neighbors come
4 and they complain, and the neighbors tone down the
5 plans and then they want to know why the neighbors
6 are being very, very cautious, concerned, wary.
7 This is a similar situation, okay. So let's just
8 give them credit for that.

9 MR. GOLDMAN: Mr. Chairman, if I could just
10 have a minute.

11 CHAIRMAN KEILSON: We're off the record for a
12 moment.

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

15 CHAIRMAN KEILSON: Back on the record.

16 MR. GOLDMAN: I must tell you something. I
17 think Mrs. Williams has a valid point, and I think
18 that to the extent that I'm proposing an idea to
19 the Board. Instead of promises of good
20 neighborliness, why don't -- and asking you to
21 grant a variance which is to some extent one could
22 argue it's an indulgence, although I would argue
23 there's a need here, but nevertheless it's going
24 beyond what's there. Instead of promises, why
25 don't I respectfully ask that this matter be

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1 adjourned tonight, and that in the course of the
2 next month or six weeks or whatever it takes, if
3 people are sincere that they'd rather solve a
4 problem than simply complain about it, then what
5 Mr. Levy is prepared to do is we'll ask for the
6 minutes, we'll address every single one of the
7 issues that was raised in terms of the
8 neighborliness and in terms of coming back here
9 not as the perfect neighbor, because we haven't
10 been so far and it's hard to erase bad feelings,
11 but in terms of coming back and saying, hey,
12 assuming there was trash by the fence, I didn't
13 think there was, but if you say there was, is it
14 still there, is it corrected? Is the noise
15 abated? Are the lights addressed? And to that
16 extent saying there may have been -- I don't want
17 to cast aspersions on anybody -- but
18 misunderstandings, instead of saying to you I'll
19 make you a promise -- you know, I'll be glad to
20 pay you for a hamburger next Tuesday for a
21 hamburger tonight. Rather than do it that way,
22 simply say, you know what, I'm coming to you to
23 ask you to extend it to me as a neighbor. I've
24 tried to prove myself to you.

25 MEMBER WILLIAMS: That doesn't necessarily

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1 mean the vote will come -- go one way or the
2 other.

3 MR. GOLDMAN: No, I'm not indicating -- no,
4 nor is that a bargain that I'm exchanging your
5 variance for my being a human being.

6 MEMBER WILLIAMS: I just want to make sure.
7 If they all write letters that doesn't mean I have
8 to vote a certain way.

9 MR. GOLDMAN: No, no, no, no, I'm not
10 suggesting that. And maybe to the extent that at
11 the moment at his expense even if you don't grant
12 him a whole basketball court, but as a token of
13 his good faith and hope in the future he cuts it
14 back now, not as a condition of a variance, he
15 does that, we sit down in a normal way. Well,
16 people are shaking their heads in advance. I
17 don't get it. To the --

18 MEMBER WILLIAMS: He created a very extreme
19 lack of trust.

20 MR. GOLDMAN: Correct. And that's why I'm
21 more than happy, if they'll trust me, to get a
22 note from each of them as to what their grievances
23 are. I can't correct everything. On the other
24 hand, Mr. Levy is not moving away, nor do we want
25 these folks to move away. So to the extent that

1 we can accommodate everybody and move on from
2 here, and then if the variance isn't granted at
3 least we'll have been good neighbors.

4 MS. SOSNOWIK: My name is Susan Sosnowik. I
5 would need --

6 CHAIRMAN KEILSON: One moment, one moment.
7 Okay, Mrs. Sosnowik.

8 MS. SOSNOWIK: I would need the definition of
9 this half basketball court. Does it include more
10 lighting? Does it mean that people would be
11 playing ball late into the night? That I will not
12 approve. I don't care if you make it a quarter of
13 a basketball court.

14 MR. GOLDMAN: So clearly, we'll talk about
15 it, but certainly no lights, and certainly -- I
16 don't know what the noise statute is of the
17 Village anymore. I used to know these things off
18 the top of my head. But to the extent whatever is
19 amenable to everybody else would be that way too.
20 And then what does one want if we can't make
21 corrections and if we can't improve, then what is
22 one supposed to do? To the extent that even if
23 you deny the variance he will still be there.

24 CHAIRMAN KEILSON: Mr. Palermo.

25 MR. PALERMO: By definition of delaying this

1 procedure further than we have already continued
2 at this time, the hour is late and to me,
3 personally, Mr. Levy has proven to be devious and
4 incredulous about fixing anything, changing
5 anything. He is by definition a very
6 strong-headed young man who simply wants what he
7 wants. I can appreciate that. I've been there.
8 You know what I mean? But this guy doesn't even
9 care. He doesn't care who he has to steamroll
10 over. We have -- this is by definition a hot
11 Board, let's have a decision.

12 CHAIRMAN KEILSON: Mr. Palermo, thank you.

13 MR. PANTELIS: All right.

14 MR. GOLDMAN: I would -- I would suggest that
15 if the Board is being influenced by what was, I
16 would respectfully ask for the opportunity, and I
17 trust Mr. Palermo, you know, to say that someone's
18 devious, that's why I'm not making a promise. I'm
19 trying to come back here with a -- with a produced
20 result, and if that isn't, then these folks will
21 have been correct. If it doesn't happen that way,
22 then they will have gotten themselves a neighbor.
23 I may not, as per Mrs. Williams, have gotten a
24 variance, but what's the downside to them getting
25 a good neighbor?

1 MR. PANTELIS: I mean, just so the record is
2 clear, and I think you realize having been counsel
3 to the Board, that the Board is not going to make
4 a decision just based on whether necessarily
5 you're a good neighbor or bad neighbor, but on the
6 merits of the variances that are being requested.
7 So that's certainly within the Board's discretion.

8 MR. GOLDMAN: Correct. But I believe the
9 Chairman has quite correctly pointed out that to
10 the extent that that's an influence, you know, I'm
11 not sure what the downside is. It can't get any
12 worse, and we're the ones who would have to come
13 back. If we can't keep a promise, then you'll be
14 confirmed.

15 MR. PALERMO: And if we don't have the
16 ability to come back?

17 MR. GOLDMAN: Then what can I say? You know,
18 this is like you can only try to accommodate
19 people.

20 MEMBER WILLIAMS: Why should the way we vote
21 affect him being a good neighbor?

22 MR. GOLDMAN: It shouldn't. That's why I'm
23 not -- that is why, to be honest with you, if you
24 voted to grant it subject to him doing all those
25 things you would be 100 percent right. This is

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1 simply a question of I'm asking for an
2 adjournment, and to the extent that whatever
3 influence the neighbors do have, and it's not
4 incorrect that they should, this we can --

5 MS. PALERMO: If we can just address the
6 need, if it's necessary.

7 CHAIRMAN KEILSON: I don't think it's
8 necessarily the point. I think we covered that.
9 I don't want to cut it short, but it is 11:20.

10 MS. PALERMO: No, no, no, I just wanted to
11 make sure you think about that, and the flooding.

12 MR. GOLDMAN: Well, the flooding is
13 demonstrated one way or the other, and if I have
14 to ask for an adjournment for that I would ask for
15 that as well.

16 MR. PANTELIS: The flooding issue is not
17 relevant to this application either way.

18 MR. GOLDMAN: Well, I have confirmed that,
19 otherwise I would address it.

20 MS. SOSNOWIK: Excuse me. I'm sorry to jump
21 in. My name is Susan Sosnowik. The flooding is
22 relevant. They're not talking about the flooding
23 of their home. They're talking about the flooding
24 of their property because -- and it happens in my
25 backyard too. Because he raised the level, they

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1 came in and they graded --

2 MR. PANTELIS: Ma'am, we're not dealing with
3 grading at this particular point.

4 MS. SOSNOWIK: It is to them because it's
5 right next to their property this property.

6 MR. PANTELIS: Ma'am, it's really not a
7 relevant issue to this hearing.

8 CHAIRMAN KEILSON: It's important for the
9 Building Department to act on, okay, and I'll be
10 happy to, you know, participate in following up in
11 that regard, but it's not within our purview
12 tonight.

13 MS. SOSNOWIK: Okay, sorry.

14 CHAIRMAN KEILSON: Who would like to open
15 discussion?

16 MR. GOLDMAN: My application is for an
17 adjournment, Mr. Chairman.

18 CHAIRMAN KEILSON: Mr. Goldman is making an
19 application --

20 MR. GOLDMAN: A continuation -- well,
21 actually for an adjournment.

22 CHAIRMAN KEILSON: -- for a continuation.
23 I, for one, want to vote tonight.

24 MEMBER SCHRECK: I would like to vote as
25 well.

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1 CHAIRMAN KEILSON: Mr. Henner.

2 MR. HENNER: I would go along with an
3 adjournment.

4 CHAIRMAN KEILSON: Mrs. Williams.

5 MEMBER WILLIAMS: I would vote.

6 CHAIRMAN KEILSON: Mr. Gottlieb.

7 MEMBER GOTTLIEB: Inasmuch as I'd like to
8 resolve neighborly issues, I don't think that even
9 if the neighbors were not here tonight in
10 opposition, I would have problems with this
11 application being approved. I'd just assume vote
12 tonight and not have to come back.

13 MEMBER WILLIAMS: I'd like to believe that
14 Mr. Levy is a decent enough man, and whatever we
15 vote he will still try to make nice with his
16 neighbors, not just because of the vote.

17 MR. GOLDMAN: That is true as well. But I
18 would stress the issue that I can't help but feel,
19 with all due deference to the Board, that the
20 vehemence with which the opposition has been, and
21 notice too that if you can differentiate between
22 going to the issue here, this particular,
23 specifically the garage in terms of a detriment
24 compared to the benefit, I would ask you to
25 address that issue.

1 CHAIRMAN KEILSON: We're going to. I am
2 going to. I don't think by any criteria it should
3 be allowed. I don't think there should be any
4 garages for purposes of warehousing cars.

5 MR. GOLDMAN: But --

6 CHAIRMAN KEILSON: Let me finish. Let me
7 finish.

8 MR. GOLDMAN: It's not warehousing cars.
9 It's preserving.

10 CHAIRMAN KEILSON: Mr. Goldman.

11 MR. GOLDMAN: I apologize.

12 MEMBER WILLIAMS: If I had thoroughbred
13 horses, could I put a stable in my back yard?
14 They're worth a lot of money. There's got to be
15 a --

16 CHAIRMAN KEILSON: I see no basis for the
17 garage. I think it fails on all criteria, and
18 I'll go into each one as we move along.

19 As far as the basketball court and the
20 overages, I can't support it. Again, it fails on
21 all criteria. We have a situation where we have
22 many violations and some of the discussion tonight
23 certainly bears on how it impacts on the
24 neighborhood. And I don't think you can say
25 otherwise. And in weighing the benefit to the

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1 applicant versus the health, safety and welfare of
2 the neighborhood, I mean people have to call the
3 police because of goings on in somebody's --

4 MR. LEVY: I've never had the police at the
5 house. That's a lie.

6 MS. SOSNOWIK: You aren't there. You let the
7 parties go on and you're not there.

8 MR. LEVY: I'm always there.

9 CHAIRMAN KEILSON: I think in evaluating all
10 of the criteria as to whether an undesirable
11 change will be produced in the character of the
12 neighborhood, I think it's absolutely the case.

13 Can the benefit sought by the applicant be
14 achieved by some other method other than a
15 variance? As far as the cars, I don't think
16 belongs on the property so I don't think it's
17 appropriate.

18 As far as whether it's substantial, certainly
19 the overages are substantial by any measurement
20 that we've ever had.

21 Will it have an adverse effect on the
22 physical and environmental conditions of the
23 neighborhood? No question about it.

24 Is the alleged difficulty self-created? No
25 question about it.

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1 So in evaluating the criteria I think it
2 certainly fails, and I would vote no.

3 Mr. Gottlieb.

4 MEMBER GOTTLIEB: Are you looking for the
5 vote? I vote no on this. I have no further
6 comments.

7 CHAIRMAN KEILSON: Mrs. Williams.

8 MEMBER WILLIAMS: I vote no. And by the way,
9 irrelevantly of the neighbors.

10 MEMBER HENNER: I can't hear you.

11 MEMBER WILLIAMS: My issues are irrelevant of
12 the neighbors' issues before, and I agree with the
13 Chairman.

14 CHAIRMAN KEILSON: Okay. Mr. Schreck.

15 MEMBER SCHRECK: I vote no on the merits.

16 CHAIRMAN KEILSON: Okay, Mr. Henner.

17 MEMBER HENNER: On the merits I would have
18 voted yes. I thought a case could have been made.
19 I don't think there was -- I think that the
20 neighbors to the extent that their concerns were
21 legitimate really kind of drowned out any kind of
22 possibility to make -- to make a legitimate claim
23 tonight for the variance. And I also think that
24 the Levies, and I have no idea whether anything
25 you're saying is true or not. On the other hand,

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1 it seems that tonight was used as a vehicle for
2 none of these things really addressed the
3 variance, they all addressed personal gripes,
4 legitimate or not, against the Levies, and tonight
5 was used as an opportunity to vent them. And if
6 that's the case, that's the case, bad night. But
7 I would have voted yes. So four/one, I guess.

8 CHAIRMAN KEILSON: Okay.

9 MR. GOLDMAN: Thank you.

10 CHAIRMAN KEILSON: Now, the Building
11 Department has to address the overages.

12 MR. LEVY: Did they find the permits?

13 MR. GOLDMAN: He's not talking about that.

14 MR. PANTELIS: You'll get a notice on that,
15 Mr. Levy.

16 MS. SOSNOWIK: Can I just get the survey
17 back, that original old survey.

18 MR. RYDER: Thank you (handing).

19 MS. SOSNOWIK: Thank you.

20 (Whereupon, the hearing concluded at
21 11:27 p.m.)

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

4
5 Mary Benci

6 MARY BENCI, RPR
7 Court Reporter
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