

CITY OF SOUTH AMBOY
PLANNING BOARD
REGULAR MEETING/MINUTES
August 26, 2020

Members present: Mary Szaro, Scott Kominkiewicz, Holly Hughes, George Baranowski, Jorge Gonzalez-Gomez, Janet Kern, Thomas Kelly, Steven Giarratano

Members absent: Brian McLaughlin, Mayor Fred A. Henry, Catherine Corey

Also present: Jason C. Valetutto, P.E., P.P., James E. Stahl, Esq.

Chairwoman Szaro called this meeting to order.

This Meeting of the City of South Amboy Planning/Zoning Board is being held in accordance with the Executive Orders of the Governor of New Jersey and regulations enacted pursuant to such Orders which authorize the conducting of this meeting by telephonic and/or video access by board members, applicants, professionals, and the public. It is requested that any person who wishes to be heard on any matter wait for the Chairwomen to announce that the matter is open for public comments. All persons will be given an opportunity to be heard.

Notice of this meeting has been provided under "The Open Public Meeting Act of New Jersey" by advertisement published in the Home News Tribune, on the City of South Amboy Planning/Zoning Board website, and by posting on the information board at City Hall.

Roll call was taken at this time.

Motion by Janet Kern, seconded by Jorge Gonzales-Gomez to accept the Minutes of the July 22, 2020 meeting. 7-0, 1 abstention.

Chairwoman Szaro then reviewed the evening's agenda.

Completeness Committee

Application # 403-20 - Center SA, LLC

The application for Center SA, LLC, Planning Board application #403-19, has been reviewed for completeness by AJV Engineering, Inc in a letter dated August 7, 2020. The Completeness Committee makes a motion recommending that the findings in AJV Engineering, Inc. letter be accepted. The application is deemed complete subject to the applicant complying in total with the planning board consultant's review letter, including but not limited to, payment of all fees. Upon compliance, a public hearing date will be assigned to the applicant. In the event the

applicant does not fully comply with the terms of the Board Consultant's review letter, it shall remain incomplete until all items have been addressed to our Board Consultant's approval and rescheduled for hearing.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of completeness for Application # 403-19, Center SA, LLC. Motion carried 2-0, 0 abstentions.

Application Hearing

Application # 410-20 - Krysztof Swiech

Please refer to the attached transcript.

Motion by Scott Kominkiewicz, seconded by Holly Hughes to approve the Site Plan portion of the application subject to all the testimony and all conditions outlined in the letters from AJV Engineering, Inc. dated July 10, 2020.

Application # 406-20 - Baljinder Singh

Following recent correspondence, in a letter from James E. Stahl, Esq. dated July 8, 2020, and a letter from Amy Russo Planning Board Secretary dated August 5, 2020, the applicant Baljinder Singh failed to submit the required documents and fees in a timely matter. Recommendation to dismiss this application without prejudice.

Motion by Holly Hughes, seconded by Jorge Gonzales-Gomez 8-0, 0 abstentions to dismiss without prejudice.

Correspondence

Application #408-20 – Brian Vallee, Ken Barton, & Charnie Stein

Mr. Salvatore Alfieri Esq., requested that the application be carried to September 23, 2020, meeting.

Motion by Janet Kern, seconded by Jorge Gonzales-Gomez. All in favor.

Motion by Janet Kern, seconded by George Baranowski to open the public portion of the meeting. With no public present to speak, Chairwoman Szaro asked for a motion to close the public meeting.

Motion by Holly Hughes, seconded by George Baranowski to close the public portion of the meeting.

Chairwoman Szaro announced that the next virtually scheduled meeting would be held on Wednesday, September 23, 2020, at 7:00 pm.

Motion by Janet Kern, seconded by George Baranowski, to adjourn. All in favor.

Respectfully submitted,

Amy Russo

Planning Board Secretary

Minutes Approved on September 23, 2020

Amended and Approved on November 19, 2020

CITY OF SOUTH AMBOY
PLANNING/ZONING BOARD
APPLICATION NO. 410-20

----- X
Applicant: Krysztof Swiech :
114 David Street : August 26, 2020
Block 39, Lot 9 : 7:10 p.m.
Bulk Variance :
Date deemed complete: 07/22/2020 :
----- X

MEETING CONDUCTED BY WAY OF GO TO MEETING

B E F O R E:

Chairwoman Mary Szaro
Vice Chair Scott Kominkiewicz
George Baranowski
Holly Hughes
Thomas Kelly
Janet Kern
Jorge Gonzalez, 1st Alternate
Steven Giarratano, 2nd Alternate

A L S O P R E S E N T:

Jason Valetutto, PP
Amy Russo, Board Secretary

PHYLLIS T. LEWIS
CERTIFIED COURT REPORTER
CERTIFIED REALTIME COURT REPORTER
(732) 735-4522

1 A P P E A R A N C E S:

2 BORRUS, GOLDIN, FOLEY,
3 VIGNUOLO, HYMAN & STAHL, PC
4 2875 US Highway 1
5 North Brunswick, New Jersey 08901
6 732-422-1000
7 BY: JAMES E. STAHL, ESQ.
8 Attorneys for the Board

9
10
11 THOMAS E. DOWNS, IV, ESQ.
12 415 Main Street
13 South Amboy, New Jersey 08879
14 732-679-5600
15 Attorney for the Applicant.
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I N D E X

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WITNESS

PAGE

John J. Louis Ploskonka

7

James W. Higgins

22

1 CHAIRWOMAN SZARO: Okay. The next
2 application is 410-20, Krystof Swiech. Just let me
3 see, if I didn't say that right, 114 David Street.

4 Mr. Downs, you have the floor.

5 THE REPORTER: Tom, you have your
6 microphone off.

7 CHAIRWOMAN SZARO: We can't hear you,
8 Tom. Put your -- Tom, you're on mute.

9 MR. DOWNS: I am. Here we go. Can you
10 hear me now?

11 CHAIRWOMAN SZARO: Yes, that is great.

12 MR. DOWNS: Okay, good.

13 This is an application for Mr. Swiech
14 who is a resident of Illinois, who is a builder out
15 there, to demolish the present house on the location
16 of 114 David Street, which was a Sandy Storm damage,
17 and he purchased at a tax sale, foreclosure sale
18 last year from the city.

19 He proposes to replace the building by
20 moving the building back a substantial distance, not
21 the full 25 feet off the street, but a substantial
22 distance, which will permit cars to have off-street
23 parking on the site, as well as underneath, because
24 it is in a flood plain, and it has to be elevated to
25 have a two-car garage at the ground floor, so he

1 will have four off-street parking places more or
2 less.

3 I am going to have Mr. John Ploskonka,
4 our engineer, discuss the flood plain layout plan
5 (audio breaks up) our planner as to the efficacy of
6 the planning perspective as to what is going on.

7 I do have in my office the real estate
8 agent who will be marketing the property, and this
9 property will be built and sold on the residential
10 market as a one-family home. And I also have the
11 Jersey representative of Mr. Swiech, Pawel Tyminsky,
12 who will be the building contractor of the building.

13 I will note according to Ms. Beata
14 Prusakowski and Mr. Tyminsky that the interior of
15 the building presently is five -- five bedrooms.
16 They're looking to put a four-bedroom home in its
17 place, which should be a de-intensification of the
18 present use of the property from what -- from what
19 they see from the inside. They haven't checked the
20 tax rolls to see what it is listed at, but from
21 their -- their indication, this is a house -- a
22 typical railroad flat down below the tracks, that as
23 the family gathered, this was the Leonard family
24 homestead like many, many years ago, and as the
25 family expanded, they just kept building to the back

1 of the yard.

2 So I think for the first person that we
3 would put on, I would ask Mr. Ploskonka, if he can
4 give you the engineering detail on the site and what
5 we are looking to do.

6 MR. STAHL: Tom, before you go any
7 further, Amy, we have received the affidavit of
8 mailing and the affidavit of publication with
9 regards to the required notice?

10 MS. RUSSO: Yes.

11 MR. STAHL: All right. Everything is
12 in order?

13 MS. RUSSO: Yes.

14 MR. STAHL: All right. Tom, go right
15 ahead.

16 MR. DOWNS: John, you are up.

17 MR. PLOSKONKA: To be sworn?

18 THE REPORTER: Okay. Could you --

19 CHAIRWOMAN SZARO: Do we have to
20 qualify Mr. Ploskonka?

21 I know you've been with us many a time,
22 but Jim?

23 MR. PLOSKONA: My name is John J. Louis
24 Ploskonka, P-l-o-s-k-o-n-k-a, professional engineer,
25 Manalapan, New Jersey. I've been in the (audio

1 breaks up) for 50 years. I have been throughout
2 South Amboy, Middlesex, Monmouth and Ocean County.

3 MR. STAHL: All right. Mr. Ploskonka,
4 before you're qualified, do you swear or affirm that
5 the testimony that you are about to give here is the
6 truth, the whole truth, and nothing but the truth,
7 so help you God?

8 THE WITNESS: I do.

9 J O H N J. L O U I S P L O S K O N K A,
10 having been duly sworn, testified as follows:

11 CHAIRWOMAN SZARO: Before you start,
12 does the Board have any concerns about --

13 MR. STAHL: All right --

14 (Audio breaks up)

15 CHAIRWOMAN SZARO: -- the (audio breaks
16 up) of Mr. Ploskonka?

17 Okay. Thank you.

18 MR. STAHL: All right.

19 Mr. Ploskonka will be qualified based
20 upon his experience before this Board as a New
21 Jersey licensed engineer and as an expert in site
22 engineering.

23 MR. DOWNS: I do have one -- one -- one
24 point of clarification, Chairman.

25 I received two review letters. One

1 from Jason, dated July 10, which I received
2 yesterday, and one from Angelo, dated August the
3 7th.

4 It is my understanding in speaking to
5 the Valetutto firm, that they are going to be
6 working off of Jason's review letter of July 10th.
7 I just want to clarify that at the present time.

8 CHAIRWOMAN SZARO: Thank you.

9 Jason, can you confirm that?

10 MR. J. VALETUTTO: Yes. We are using
11 the July 10th letter only. He can completely
12 disregard the August letter.

13 Also, one change has been -- I'll put
14 this out there for you guys -- one change from my
15 letter has been brought to our attention. There is
16 no longer a use variance on this application. It
17 has been proven through the Municipal Land Use Law
18 that the density on the single-family home in a
19 standalone property, which this is, does not count
20 as a use variance. However, because it is -- the
21 density is a line item in the town hall schedule, it
22 will be considered as a full variance.

23 MR. DOWNS: And I -- I agree with that.

24 John, can you describe the present --
25 what the present use on the property is?

1 THE WITNESS: Yes. There is an
2 existing single-family home right next to the road
3 on the property and off a couple of inches from the
4 left property line as you face the house from the
5 street. It is in bad shape. I was there. It is
6 going to be removed and replaced with a slightly
7 larger home that would be a single-family home on
8 the same property, and it would be a three-story
9 home as opposed to the two-story home. Because of
10 the flood elevation, we're going to have the first
11 floor about 9 feet above Elevation 11, which is the
12 flood elevation that's been determined on this site.

13 There are six bulk variances required.
14 Jason, that was going to be seven with the line item
15 use variance, and the other variances are the
16 minimum lot area, the minimum lot width, which are
17 preexisting because of the size on the 25 by a
18 hundred foot lot.

19 And then there is a minimum front yard
20 setback, which is now zero, would be made to be 18
21 feet to allow for cars to park in front as well as
22 cars in the -- the cars in the garage.

23 One side yard has been taken from a
24 couple of inches to five feet, and a combined lot --
25 combined side yards are 6.1, so there would be

1 another variance, because it should be 10. The
2 house is a little bit bigger.

3 So then we are making the variances a
4 little bit less with the side yard on the one side
5 and the -- the -- of a bulk variance on setback.

6 CHAIRWOMAN SZARO: So, Mr. Ploskonka,
7 is that a total of seven you said?

8 THE WITNESS: There are seven
9 variances. There is also a variance for the height,
10 which is three stories versus two and a half
11 stories, and there was one bulk variance that was
12 eliminated, which was the street parking. The
13 street parking is no longer a variance.

14 Jason, did that report that I looked at
15 and in looking at his comments, I basically can say
16 everything he has asked for, we are going to comply
17 with. So on his site plan Sheet 1 in his comments,
18 one through five, we will comply.

19 On Sheets 1 through 11, A through G, we
20 will comply.

21 And Tom made it a point before that the
22 house is for sale, not for rent, and it is going to
23 be on the real estate market.

24 I think that covers everything that was
25 in Jason's letter, and I would defer to Mr. Higgins

1 as the planner --

2 MR. DOWNS: Can I ask you one -- John,
3 can I ask you a question?

4 If there's -- if Jason refers to the
5 need -- to address the need to demolish the
6 property, can you elaborate on that a little bit?

7 THE WITNESS: The house is in extremely
8 bad condition because of Sandy, and in its current
9 condition, there is no way to save that house. You
10 got to start from scratch, and this would be a major
11 improvement on the street where you have the house.
12 The house is existing at ground level in the flood
13 zone, and the new house above ground level outside
14 the flood zone.

15 MR. DOWNS: Thank you.

16 MR. KELLY: Hey, Jason, what is the
17 ordinance change after Sandy?

18 (Audio breaks up) that the first floor
19 used for garage and storage purposes only was not to
20 be considered a story?

21 MR. J. VALETUTTO: I don't recall that
22 being changed, but I could be -- my memory could be
23 wrong.

24 MR. KELLY: You may have to look at
25 that because that may not be a variance.

1 THE WITNESS: Just to add to that, the
2 building height is 34.3 feet, where the building
3 height requirement is 35, so we are under the height
4 requirement, but we do have a three-story as
5 depicted with the basement area, with the garage
6 floor area.

7 CHAIRWOMAN SZARO: I'm sorry. Can I
8 just ask, I didn't recognize who was speaking.

9 THE WITNESS: John Ploskonka.

10 CHAIRWOMAN SZARO: No. Who else? Was
11 there somebody else?

12 MR. KELLY: Yeah, Tom Kelly.

13 (Audio interference)

14 CHAIRWOMAN SZARO: All right, Tom.
15 Don't worry. Thank you for joining.

16 MR. KELLY: Okay.

17 (Laughter)

18 THE REPORTER: I'm sorry. Who is
19 speaking anyway?

20 This is the court reporter. Who was
21 speaking?

22 MR. KELLY: Tom Kelly.

23 THE REPORTER: Tom Kelly.

24 MR. STAHL: At any rate that would be
25 helpful because we are (indiscernible) anyway, when

1 someone is going to speak, just say like, you know,
2 Kelly, and then recite what you have to. That's
3 mainly because of the court reporter. Except Mary,
4 she's in the middle, so everyone will know who is
5 talking, and when Tom Downs is talking, we know.

6 If someone were to jump in like Jason,
7 or Steve or someone, just say, you know, last name,
8 so we have it.

9 Thank you.

10 MR. DOWNS: Thank you.

11 MR. KELLY: I think, Jason, we are
12 going to have to research that because I thought
13 that the ordinance that permitted the reconstruction
14 like to like also addressed the fact that because
15 FEMA and the Uniform Construction Code got together,
16 it did not consider that a story because it is not
17 habitable, that it was not going to be considered
18 habitable according to our ordinance either.

19 MR. J. VALETUTTO: Okay.

20 MR. KELLY: So we can always -- we can
21 take a look at it.

22 MR. DOWNS: Does anyone have -- do any
23 members of the Board have questions for Mr.
24 Ploskonka?

25 MR. J. VALETUTTO: I just want to say

1 during the entire testimony, my screen was frozen,
2 and now I'm on my phone, so I didn't (audio breaks
3 up) that went on, other than they were saying that
4 there were seven bulk variances. I actually count
5 eight.

6 MR. STAHL: That's correct. I thought
7 there was six. Jim Stahl here. I thought there was
8 six variances, one, two, three, four, five, six.
9 One eliminated the street parking --

10 (Audio interference)

11 MR. STAHL: Stahl here.

12 John, why you don't just in one minute
13 give a recap to Jason including that you are
14 accepting all of the terms of his review letter?

15 MR. J. VALETUTTO: Valetutto here.

16 CHAIRWOMAN SZARO: Can I ask everyone
17 to put their -- if everyone puts their phones or
18 their computers on mute, please? It's getting a
19 little squeaky in the background.

20 THE WITNESS: Just to repeat, I have
21 six variances.

22 THE REPORTER: I'm sorry. Who is this
23 that's talking?

24 THE WITNESS: John Ploskonka, the
25 engineer, for the record.

1 I have six variances coming into
2 tonight's meeting, and there was a question of
3 whether or not the three-story was a variance or
4 not, and then Jason -- Jason added the fact that
5 there is a density variance, which would become a
6 bulk variance based on the layout of any ordinance.

7 So that takes us back to seven, if you
8 count the three-story building, and they are -- the
9 lot area is 5,000 required, as existing 20 by a
10 hundred. The lot width is 50 required. It's 25
11 feet. The front setback of the house that's there
12 is zero. We are going to have 18 feet, but 25 is
13 required.

14 The side yards for the house are
15 five -- five for side, and ten total, and we will
16 now go from four inches to seven, almost eight feet,
17 and the other one will be 6.7 instead of 10, so that
18 is a variance. And the lot coverage is 46.60 feet,
19 where 25 is allowed and the three stories.

20 So those are the six variances plus
21 Jason's for the line item for density.

22 CHAIRWOMAN SZARO: Thank you, Mr.
23 Ploskonka.

24 Jason, any other questions or --

25 MR. J. VALETUTTO: Yeah, because --

1 this is Valetutto.

2 On the plan, I see the side yard as
3 being labeled three feet, not five feet, so I
4 believe that is where the variance -- that's the
5 extra variance I call out that you are testifying
6 towards, unless there was a change to the plans that
7 I reviewed in accordance to this letter, its label
8 is three feet -- three foot side yard.

9 MR. J. VALETUTTO: The side yard -- the
10 existing side yard is only about four inches, and
11 the next side yard is now shown as 7.96 feet.

12 The plans I have, dated June 2nd (audio
13 breaks up) shows a side yard of three feet on one
14 side and (audio breaks up) 117 on the other side,
15 which I might pull down as --

16 THE WITNESS: You are correct, Jason.
17 (Audio breaks up) straight down one side, the 3.17,
18 a total of 6.17, too, so it is a variance for the 3
19 point -- and for total side yard, yes, you're
20 correct.

21 MR. J. VALETUTTO: So we have eight
22 variances, eight bulk variances total with the
23 possibility that the -- (audio breaks up) not be
24 considered a variance, so it could possibly be
25 seven.

1 MS. HUGHES: Jason, this is Holly
2 Hughes.

3 So I just did a code search for the
4 reconstruction standards after Sandy, and our code
5 does say that the maximum height of the new or
6 rebuilt structure shall be either code zoning height
7 restriction or the structures pre-storm height
8 increased by the additional height required to
9 comply with any federal or state first floor
10 elevations, whichever is greater.

11 So if it was 30 feet in height
12 pre-storm, and they are saying, you know, federal
13 standards, state standards say it has to be eight
14 feet, then it would be 38 total.

15 MR. J. VALETUTTO: Okay. That helps us
16 in regards to feet height, but not in regards to
17 story height under the city considers the garage
18 area, which is not living space as a floor.

19 MR. DOWNS: Tom Downs.

20 John, of the variances that we are
21 referring to, there is a number of them that are
22 preexisting as presently on site. Is that correct?

23 THE WITNESS: Yeah. The first two I
24 mentioned, the lot area and lot width are
25 preexisting. That is a sizable lot. You can't

1 choose that because you don't have anywhere to go
2 with expanding the lot with houses on both sides.

3 MR. DOWNS: Anyone else have any
4 questions for Mr. Ploskonka?

5 MR. KELLY: This is Tom Kelly here.

6 Mr. Ploskonka, we have a garage floor
7 proposed elevation of 10.57.

8 Hey, Tom, I'm sorry, Mr. Downs, are you
9 going to have the architect testify?

10 MR. DOWNS: No.

11 MR. KELLY: Okay. So I am going to
12 maybe propose this to Mr. Ploskonka. I'm not sure
13 if he knows.

14 So we have a proposed garage floor
15 elevation of 10.57. We have a required BFE or base
16 flood elevation of 11. So that is one, is the
17 requirement according to the regulation.

18 Is the mechanical room going to be
19 stepped up, or is it going to be at the garage
20 elevation of 10.57?

21 THE WITNESS: It should be (audio
22 breaks up).

23 MR. KELLY: And one other question real
24 quick would be the location of the condensing unit
25 that also needs to be 11 plus 1.

1 I'm sorry. Go ahead.

2 THE WITNESS: The answer would be that
3 the condensing unit and any controls would be raised
4 to 11.1.

5 MR. KELLY: It is not 11.1, sir. It's
6 11 plus one foot.

7 THE WITNESS: 11 -- yes, 11 plus 1 --

8 MR. KELLY: Yeah. So it would actually
9 be 12 foot, which means that the mechanical room as
10 it is proposed, if it's not elevated, is going to be
11 too low.

12 MR. DOWNS: To answer Mr. Kelly, I have
13 the builder, the builder here, Tom, that is going to
14 be building, and he indicates it will be 12 feet.

15 MR. KELLY: Okay. All right. So
16 everything --

17 MR. DOWNS: We will make that -- we
18 will make sure that that change is made in the
19 architectural plans.

20 MR. KELLY: Okay. I mean, everything
21 else will be code from flood venting, so on and so
22 forth, but we just need to make sure we know that
23 all of that needs to be up including the condensing
24 unit.

25 MR. DOWNS: Agreed.

1 CHAIRWOMAN SZARO: Jorge Gonzalez, did
2 you have a question?

3 MR. GONZALEZ: Yeah, Tom. I don't know
4 if this is what -- Jorge Gonzalez -- I don't know if
5 this is what you covered, Tom.

6 The flood vents on the side of the
7 house at the first level, like the other houses are
8 close to them, that is not depicted on the plans
9 correct, Tom?

10 MR. KELLY: No, that's -- you know
11 what? You are right, Tom.

12 What I was saying -- I'm sorry, this is
13 Tom Kelly. What I was saying is a lot of that stuff
14 was catching code review because flood venting, the
15 closets that are depicted in the foyer, they are all
16 issues, but we can grab that when we do plan review
17 for code compliance.

18 I just wanted to make sure that Mr.
19 Ploskonka was aware that it needed to be a plus 1,
20 so everything that is proposed on the garage flat
21 needs to come up at least -- you are at 10.07, so it
22 needs to go up a foot -- a foot, and one point 43,
23 three feet it needs to come up.

24 MR. GONZALEZ: Okay. Thank you.

25 I just did not see the pictures --

1 anything depicted with the flood vents on the side.

2 Thank you.

3 MR. KELLY: Yeah, there's not.

4 MR. GONZALEZ: But it is necessary.

5 MR. KELLY: Yes, sir.

6 MR. GONZALEZ: Thank you.

7 MR. DOWNS: Does anyone else have
8 questions for Mr. Ploskonka?

9 If not, I will move on to Mr. Higgins.

10 MR. J. VALETUTTO: I have -- this is
11 Valetutto.

12 I don't know if the test -- the two
13 testimony items in my report were touched upon when
14 I was -- will the owner reside in the home or will
15 the property be rental or for sale?

16 MR. DOWNS: They mentioned (audio
17 breaks up) we originally were on, that the property
18 is going to be for sale. It is not going to be
19 owner-occupied or rental. It is going to be put on
20 the open real estate market.

21 MR. J. VALETUTTO: Okay.

22 MR. DOWNS: Obviously the existing
23 structure, as Mr. Ploskonka indicated, will have to
24 be demolished because of the condition, because of
25 the Sandy damaged property.

1 Does that deal with your inquiry?

2 MR. J. VALETUTTO: Yeah. Just like I
3 said, I was frozen. I didn't hear any of that. I
4 just wanted to be sure --

5 MR. DOWNS: Okay. All right.

6 Thank you.

7 Anybody else for Mr. Ploskonka?

8 If not, thank you, John.

9 We will go on to Mr. Higgins.

10 Jim, open up. Turn your Mike on.

11 MR. STAHL: All right. Mr. Higgins,
12 raise your right hand.

13 In this matter do you swear the
14 testimony you are about to give is the truth, the
15 whole truth, and nothing but the truth, so help you
16 God?

17 CHAIRWOMAN SZARO: Mr. Higgins, you are
18 on mute. Mr. Higgins, you are on mute.

19 MR. STAHL: Audio, audio.

20 MR. HIGGINS: Yes.

21 CHAIRWOMAN SZARO: There you go.

22 J A M E S W. H I G G I N S, having been duly
23 sworn, testified as follows:

24 MR. STAHL: Please state your name and
25 spell your last name, sir.

1 THE WITNESS: James W. Higgins,
2 H-i-g-g-i-n-s.

3 MR. STAHL: Please give us your
4 professional background.

5 THE WITNESS: I am a licensed
6 professional planner in the state. I've been
7 licensed for over 40 years. I have testified as an
8 expert in the field of planning on a number of
9 occasions, as well as various throughout the State
10 of New Jersey.

11 I have been a planning consultant for
12 at least 12 New Jersey municipalities over the
13 years, and I have been accepted by the Superior
14 Court including the State Supreme Court as an expert
15 in the field of planning.

16 CHAIRWOMAN SZARO: Thank you, Mr.
17 Higgins.

18 Does the Board have any concerns on the
19 applicant's credibility (audio breaks up)?

20 Okay. Thank you, Mr. Higgins.

21 THE WITNESS: Okay. I'm going to
22 describe the site and describe the variances --

23 THE REPORTER: I'm sorry, Mr. Higgins.
24 Could you start over again, because there's some
25 kind of feedback going on?

1 This is the court reporter.

2 CHAIRWOMAN SZARO: Can everybody else
3 mute besides Mr. Higgins?

4 MR. DOWNS: And, Jim, swear Mr. Higgins
5 in. He hasn't been sworn yet.

6 MR. STAHL: He was.

7 THE WITNESS: Yeah, I was sworn.

8 MR. STAHL: Did we wake you?

9 MR. DOWNS: It's okay.

10 (Laughter)

11 THE WITNESS: Okay.

12 What I will do is rather than go
13 describe the site and all of the variances, they
14 have been described in detail by Mr. Ploskonka, so I
15 will go right into the reasons for the granting of
16 the variances that are being requested, and I think
17 there are both C(1) and C(2) reasons for the
18 granting of the variance.

19 The C(1) clearly details the -- deals
20 with the small size of the site, and the fact that
21 the site is undersized in terms of width and in
22 terms of area. The ordinance requires 5,000 square
23 feet and a 50 foot width, and the site is 25 foot in
24 width, and 2,500 square feet in area, and that small
25 size of the site drives the other variances

1 including the density variance. You can't build on
2 this lot a house without having a density that is
3 being requested because of the small size of the
4 site.

5 I think the variance for the undersized
6 nature of the site and for the density are basically
7 one in the same, just two different ways of
8 describing the same situation and the same variance.

9 The variances for the side yard
10 setbacks I think are also driven by the undersized
11 nature of the site, specifically the narrow width of
12 the site.

13 If you were to put a house on this site
14 that conformed with the five foot side yard setbacks
15 on either side and the ten foot total, you would
16 only have a 15-foot wide house, which is very narrow
17 and out of character with the area. So I think what
18 is being proposed here in terms of the setbacks is
19 in character with the area.

20 The very, very small existing side yard
21 setback of less than a foot has been eliminated, and
22 you have essentially three feet on each side, which
23 is a much better situation than currently exists
24 now.

25 And the front yard setback, by moving

1 the house back 18 feet or the existing setback in
2 the front of the lot is now zero feet. That allows
3 not only for the garage and where two cars could be
4 housed in the garage, but it also allows for a
5 driveway and cars to be parked in the driveway, so I
6 think that is a significant improvement.

7 And I think to move the house back 25
8 feet, which would conform with the ordinance,
9 wouldn't gain you anything, and it actually makes
10 you lose some of the rear yard.

11 The other houses on either side are all
12 set back, just about right on the front property
13 line, so this house would be set back further than
14 any other house in the immediate vicinity of the
15 site.

16 With regard to the variance for lot
17 coverage, again, that is driven by the fact that the
18 site is grossly undersized. It is 50 percent of
19 what is permitted by the -- what is required by the
20 ordinance.

21 In order to have a reasonably sized
22 house on the lot, you would need to have a house
23 that did exceed the ordinance requirement for
24 building coverage because that really is based on a
25 5,000 square foot lot, not on a 2500 square foot

1 lot.

2 If there is a variance for number of
3 stories that is necessary, it is my opinion that
4 that variance can be granted. I think it is
5 essential because of the flood elevation regulations
6 that are in place, you cannot build a two-story
7 house and have two habitable stories.

8 This allows you to have two habitable
9 stories above the first level of the house, which is
10 not habitable, and I think that is a safety
11 consideration and also a consideration to having a
12 house that is more in character with the area and a
13 house that is more livable than having a very small
14 house with either very small bedrooms or basically a
15 one-bedroom house, which again would not be
16 consistent with what is in the area.

17 So when I look at these, I think
18 they're C(1) and C(2) criteria that this application
19 fits. I think there is substantial benefits to the
20 granting of the variances, and I don't see any
21 substantial detriment. For those reasons, I think
22 the variances can be granted.

23 MR. STAHL: Ms. Chairwoman, may I ask a
24 couple of questions?

25 CHAIRWOMAN SZARO: Yes. But first, I

1 would like to just correct myself, because I meant
2 to say the "credentials" of Mr. Higgins. That may
3 not be "credibility," so, yes, please go ahead, Jim.

4 (Laughter)

5 MR. STAHL: Mr. Higgins, I don't know
6 whether Mr. Ploskonka related it, but how is the
7 size, a square footage of this house being
8 increased, the new house?

9 THE WITNESS: Yeah. I do have that in
10 my outline. Let me see if I can find it.

11 It is being increased by about 150
12 square feet I believe. Let me just see.

13 (Audio breaks up)

14 Yeah. The proposed building coverage
15 is 1,167 square feet, where as the existing is 945
16 square feet, so it is being -- the increase i the
17 building coverage is being increased by a little
18 over 200 square feet.

19 And what would be permitted by the
20 ordinance, if this was a 5,000 square foot lot would
21 be 1,250 square feet or approximately 90 square feet
22 more than what the applicant is proposing.

23 So this isn't a situation where the
24 applicant is getting greedy. I think he's trying to
25 put a house in that's consistent with what would be

1 permitted in the zone and trying to deal with the
2 undersized nature of the lot at the same time.

3 MR. STAHL: Thank you.

4 CHAIRWOMAN SZARO: Any other questions
5 for Mr. Higgins?

6 MR. KELLY: Mr. Higgins, this is Tom
7 Kelly. I'm sorry. I had the computer on mute.

8 Can you just speak to the -- and we are
9 going to have to get clarification, but the
10 two-story, three-story, the building as it exists
11 now is a two-story building, correct?

12 THE WITNESS: That is correct.

13 (Audio breaks up)

14 THE REPORTER: Mr. Higgins, your voice
15 is breaking up. Mr. Higgins?

16 THE WITNESS: My voice is breaking up?

17 THE REPORTER: Yes.

18 THE WITNESS: Okay. Is that better?

19 THE REPORTER: Yes.

20 THE WITNESS: Okay.

21 Yeah. The building is two stories now,
22 but it is two habitable stories, and the first floor
23 according to the current FEMA regulations would not
24 be habitable, so what's being proposed here is
25 essentially raising the building up, creating a non

1 habitable first level, and then two stories above
2 that that are habitable. So it is consistent -- in
3 terms of the habitable stories, it's consistent with
4 what exists there now and it's a --

5 MR. KELLY: I do totally understand
6 that. However, the BFE plus 1 is only a 12. Your
7 garage is at a 10.57, so really all we need to raise
8 this in order to be flood plain compliant is
9 basically 1.43.

10 (Audio breaks up)

11 THE WITNESS: But then you --

12 (Audio breaks up)

13 MR. STAHL: Stop. Hold it. Stop.
14 Hold it. It's Stahl here.

15 Tom, you are -- you are great, and we
16 miss you, but could you explain to the Board the
17 numbers you are using and what the bottom line is,
18 you know, 1.3, is it feet, is it percentage?

19 Just explain to the Board what Super
20 Storm Sandy and FEMA require in layman terms.

21 MR. KELLY: Oh, I'm sorry, Mr. Stahl.
22 Yes, I will.

23 MR. STAHL: Don't be sorry.

24 MR. KELLY: So the proposed -- the
25 proposed garage door elevation is proposed at

1 basically 10 and a half feet above sea level. The
2 FEMA guidelines require the base flood elevation,
3 which is the lowest floor plus 1, so what needs to
4 have to happen is the building has to be built at
5 basically 12 feet above sea level. They are
6 proposing the first habitable floor to be 19.7 feet
7 above sea level. So basically they are adding
8 another 7.7 feet above what is required, and that is
9 really what is putting it into the third story.

10 Correct, Mr. Valetutto?

11 MR. J. VALETUTTO: Well, you are
12 talking about height in feet. I don't think height
13 in feet is defined by -- or the height in stories is
14 defined by the feet, right?

15 MR. KELLY: No, but I'm --

16 MR. J. VALETUTTO: It is defined by
17 like you said habitable area. And is the garage
18 considered a habitable area? It is not a living
19 space. It is a house for a car.

20 MR. KELLY: It is not. Correct. It is
21 not habitable --

22 MR. J. VALETUTTO: Right.

23 MR. KELLY: -- and with the garage and
24 storage, that is one thing. However, and we need to
25 verify this, and that is why we may have to wait to

1 see what the ordinance was changed to.

2 If one of the variances is a third
3 story because the ordinance wasn't changed to
4 eliminate the habitable or non habitability of the
5 first floor level because of FEMA guidelines, then
6 the floor can't be used as habitable space because
7 it is below the base flood elevation. This home
8 really only needs to be raised a foot and a half.
9 It doesn't have to be raised 7 feet.

10 I understand why they are raising it,
11 to get the garage. But in all honesty, it really
12 only has to be raised above grade like a foot and a
13 half, two feet.

14 THE WITNESS: This is Jim Higgins.

15 I think I can address that for the
16 Board, and I don't disagree with Mr. Kelly, but I
17 think there are positive planning reasons for doing
18 what the applicant is doing because I think the
19 garage is a substantial benefit, and given the fact
20 that most of the other properties on this street
21 don't have off-street parking, and so the parking
22 all has to be on the street.

23 In this instance the applicant is
24 proposing to put a garage in, not only to have a
25 garage, but also to have a driveway that can also

1 accommodate vehicles, so it is a substantial benefit
2 in my opinion, and the fact that while, yes, there
3 are three stories, the height of the building does
4 not exceed what would otherwise be permitted by the
5 ordinance, whether that's 35 feet or 38 feet, it is
6 below 35 feet.

7 So in terms of having any negative
8 impacts, I don't think there are any negative
9 impacts from granting the application as proposed,
10 and I think there is a substantial benefit. So I
11 think that does fall under the C(2) category of
12 granting the variance.

13 MS. HUGHES: This is Holly Hughes.

14 I have a question, because I've, you
15 know, I have been on the Planning Board for a while,
16 but not immediately after Hurricane Sandy, and it
17 looks like the house directly next door towards the
18 water has been raised or is in the process of being
19 raised to a third floor, a three-story building.

20 THE WITNESS: This is Mr. Higgins.

21 And in my visiting the site, I
22 recognized that also. That house has been raised.

23 MS. HUGHES: So my question to the
24 Board, has that property been reviewed in a similar
25 manner that we are reviewing right now, because I am

1 just looking, and, you know, I am not on site, but
2 there doesn't seem to be that much of an elevation
3 change that we would have allowed a one-story
4 increase with the one, without these same
5 conversations taking place.

6 CHAIRWOMAN SZARO: I don't believe that
7 property came before us, Holly.

8 Tom, you are on mute.

9 MR. J. VALETUTTO: I don't recall, the
10 properties on either side may have been --

11 THE REPORTER: I'm sorry. Who is
12 speaking?

13 MR. J. VALETUTTO: -- probably could
14 build in the same footprint and get out of the FEMA
15 elevation, I don't know if Tom has any recollection
16 of that. But on the survey it shows both -- both
17 adjoining properties are existing three-story
18 dwellings.

19 MR. STAHL: Tom Downs, I think was
20 gesticulating. Did you have something to say?

21 MR. DOWNS: I was having a discussion
22 with my real estate agent. He was showing me a
23 picture of the house that this use referred to,
24 which shows that it is three stories, and it is at
25 the peak, the third story at the top.

1 MS. HUGHES: And in 2013, it was not.
2 It was a two-story building.

3 MR. KELLY: Hey, Jay -- hey, Jim?

4 I think we can move forward with this,
5 but I think what we really need to do is revisit the
6 ordinance and where the ordinance adoption stands
7 now, and I am referencing the ordinance that was
8 adopted by the Council directly after Super Storm
9 Sandy, because to the best of my recollection what
10 happened is the ordinance permitted homes to be
11 reconstructed -- reconstructed, sorry, like to like,
12 on the existing footprint as long as they were able
13 to be elevated to be flood plain compliant, and I
14 think we can look at that -- we can currently move
15 forward with the hearing, but I think we may have
16 to -- before we go to a vote, we may have to look at
17 that ordinance to see how it works in with this
18 application, because it may work in the applicant's
19 favor.

20 MR. STAHL: Well, again, I am just
21 trying to focus, Tom.

22 How -- I mean, in order for variances
23 with regard to, you know, density and the side
24 yards, front yards -- not front yards, but whatever,
25 what is that going to tell us?

1 What is the ordinance going to tell us
2 that will help us?

3 MR. KELLY: It may -- it may eliminate
4 one of the variances, and specifically the last line
5 item in the bulk variance list, it may not be
6 considered a story, if the ordinance was changed the
7 way that I believe it may have been changed, which
8 may eliminate another variance.

9 MS. HUGHES: Tom, this is Holly Hughes
10 again.

11 I read that. I looked it up online and
12 I read it out loud like 20 minutes ago.

13 I believe the way it is written reads
14 that whatever the, you know, compliance with FEMA,
15 federal, state regulation, you can increase the
16 height of the house. If it was 30 feet before
17 Sandy, it can be 30 feet plus whatever you need it
18 to be -- to be, you know -- if it is 8 feet that
19 they need to go up, then the house can be 38 feet
20 tall.

21 But the ordinance also talks about it
22 allowing to be moved off the footprint of the
23 existing house as long as it is decreasing the
24 amount of variances needed.

25 MR. KELLY: I think it also went on to

1 identify that the non habitable area downstairs was
2 not to be considered a story, because if it was only
3 the requirement to get a bulk FEMA guidelines or the
4 FEMA BFE, all we are looking at for this house is a
5 two foot increase above grade.

6 MR. STAHL: Madam Chairwoman, the Board
7 member's son has his hand up.

8 CHAIRWOMAN SZARO: I know.

9 Scott?

10 MR. KOMINKIEWICZ: Okay. For the sake
11 of the meeting and for the sake of the possible
12 approval, if we approve all of the variances, and if
13 it is deemed later that a variance was not
14 necessary, would that impact the approval of this
15 application or not?

16 MR. STAHL: I would take the position
17 that it does not. If you were adding a variance, it
18 would. But if you are deleting a variance, which
19 you already granted, then it has no impact, if
20 that's what (audio breaks up).

21 MR. KOMINKIEWICZ: Yeah.

22 So if I am not mistaken, then what we
23 are arguing about is should there be less variances,
24 unless I got that wrong.

25 MR. STAHL: Stahl, Stahl here.

1 Tom, what is your answer on that one?

2 MR. KELLY: Sorry, sorry. I was on
3 mute. I apologize.

4 Yeah, basically -- basically what it
5 is, is it comes down to: Does the ordinance relieve
6 them of this extra variance because the ordinance
7 permits the additional story so long as it is deemed
8 to be non habitable.

9 CHAIRWOMAN SZARO: If I may -- if I may
10 then, perhaps we can move forward with the thought
11 that in follow-up, if it is not needed, then it is
12 not needed?

13 MR. KELLY: Sure. I totally agree.
14 That was my point.

15 Thank you.

16 CHAIRWOMAN SZARO: Okay. Thank you,
17 all.

18 Any other questions? I think we are
19 still on Mr. Higgins.

20 MR. STAHL: I think it is back to Mr.
21 Downs.

22 MR. DOWNS: That is all -- I think that
23 is all I would need for testimony at this point
24 based upon the presentation so far.

25 Clearly this will be an increase in tax

1 ratable for the city. You are going to get rid of a
2 building that is decrepit is being kind to it, and
3 putting something more modern, and I think all and
4 all, it would be an asset to the town, and request
5 that you -- that you grant the variance as presented
6 to the Board.

7 CHAIRWOMAN SZARO: Thank you.

8 Are there any other questions or
9 comments from the Board before we open the meeting
10 up to the public?

11 Okay. At this time I would like to ask
12 for a motion to open the meeting up to the public.

13 MS. KERN: Motion.

14 CHAIRWOMAN SZARO: Thank you.

15 Do I have a second?

16 THE REPORTER: I'm sorry. Who said the
17 motion?

18 MR. KOMINKIEWICZ: Second.

19 CHAIRWOMAN SZARO: That was Janet Kern

20 THE REPORTER: And who was the second?

21 CHAIRWOMAN SZARO: We're working on
22 that.

23 MR. KOMINKIEWICZ: Second.

24 CHAIRWOMAN SZARO: Scott Kominkewicz.

25 THE REPORTER: Thank you.

1 CHAIRWOMAN SZARO: Okay. At this time
2 I would like to open it up.

3 Is there anybody from the public who
4 would like to speak on this application?

5 One more time, anyone from the public?

6 Okay. With that, do I have a motion to
7 close this session to the public?

8 MR. GONZALEZ: Jorge Gonzalez.

9 I will make a motion to close the
10 public.

11 MS. KERN: Second.

12 CHAIRWOMAN SZARO: Jorge Gonzalez, and
13 I saw Janet Kern as second.

14 CHAIRWOMAN SZARO: Okay. Thank you.

15 Mr. Downs, anything else before we take
16 a vote?

17 MR. DOWNS: Madam Chairman, I will
18 submit.

19 CHAIRWOMAN SZARO: Okay. Mr. Stahl,
20 or, Jason, can you help us out just to outline the
21 conditions, and I believe there are 8 variances?

22 MR. STAHL: Okay. I would ask that
23 Jason list all of the variances that he has that are
24 being requested, and then to highlight the one
25 variance that may not be a variance, so that we can

1 at least identify that before the Board, so then we
2 don't have to (audio breaks up).

3 MR. J. VALETUTTO: Okay.

4 CHAIRWOMAN SZARO: We have the public,
5 Jim.

6 MR. STAHL: Pardon me?

7 Oh, I did already. I'm sorry.

8 CHAIRWOMAN SZARO: That is okay.

9 Jason?

10 MR. J. VALETUTTO: Everything in
11 accordance to my July 10th, 2020 letter would need
12 to be complied with. And the variances that are
13 requested tonight would be for minimum lot area,
14 minimum lot width, minimum front yard setback,
15 minimum side yard setback, minimum total side yard
16 setback, maximum lot coverage, maximum lot height in
17 stories and maximum dwelling units per acre.

18 And the variance that is in question is
19 maximum height in stories, whether the city
20 ordinance will hold out the garage levels not being
21 considered a story.

22 So as of right now the Board would be
23 looking at eight variances, but it's possible it is
24 seven variances. But if the Board so grants the
25 application with eight variances (audio breaks up).

1 THE REPORTER: If it grants it with
2 seven variances, what?

3 MR. J. VALETUTTO: If the application
4 was -- if there was a reduction in the variances
5 from 8 to 7 variances, the Board already granted for
6 8 variances, so it would not change the approval --
7 their approval regardless.

8 THE REPORTER: Thanks.

9 CHAIRWOMAN SZARO: Okay. Thank you,
10 all.

11 Thank you, Jason.

12 With that, do I have a motion to
13 approve the application for 410-20 with the
14 conditions and variances outlined?

15 MR. KOMINKIEWICZ: I move that
16 Application 410-20 be approved with all applicable
17 and stated variances granted.

18 CHAIRWOMAN SZARO: Thank you.

19 That was Scott Kominkiewicz.

20 And do I have a second?

21 MS. HUGHES: This is Holly Hughes.

22 I will second.

23 CHAIRWOMAN SZARO: Thank you.

24 MR. STAHL: And if I may communicate to
25 those, Madam Chairwoman, just to be consistent with

1 practice, I am assuming that the Board is adopting
2 this resolution and approving it based on (a) the
3 condition of the property, (b) the proposed
4 enhancement of the property, and (c) the testimony
5 of Mr. Higgins that spoke about the hardships
6 involved in connection with the undersized lot, the
7 fact that there was no way to ameliorate those
8 hardships, and the increase in area was
9 approximately 100 square feet, and that it will
10 actually be esthetically more pleasing. It will be
11 a better tax ratable, although we really don't
12 consider it, and that it will reduce the setback in
13 the front yard, which will allow parking in the
14 driveway and will otherwise be a substantial benefit
15 to the community, if the Board grants the approval,
16 and that there were no detriments, that being
17 negative impacts in terms of property values or
18 other impairments to the intent and purpose of the
19 zone plan.

20 And those would be the criteria that
21 the Board has to consider in deciding whether the
22 application is granted or not granted, and basically
23 based also on the fact that the applicant is
24 entitled to rebuild on the property at least the
25 size of the previous structure that was there.

1 CHAIRWOMAN SZARO: Thank you, Mr.

2 Stahl.

3 Could I have a roll call, Amy?

4 MS. RUSSO: Steven Giarratano?

5 MR. GIARRATANO: Yes.

6 MS. RUSSO: Jorge Gonzalez?

7 MR. GONZALEZ: Yes.

8 MS. RUSSO: Holly Hughes?

9 MS. HUGHES: Yes.

10 MS. RUSSO: Janet Kern?

11 MS. KERN: Yes.

12 MS. RUSSO: George Baranowski?

13 MR. BARANOWSKI: Yes.

14 MS. RUSSO: Thomas Kelly?

15 MR. KELLY: Yes.

16 MS. RUSSO: Scott Kominkiewicz?

17 MR. KOMINKIEWICZ: Yes.

18 MS. RUSSO: Chairwoman Szaro?

19 CHAIRWOMAN SZARO: Yes.

20 Okay. Thank you, all.

21 MR. DOWNS: Thank you, ladies and

22 gentlemen, and have a good evening. I am not good

23 at this.

24 (Laughter)

25 CHAIRWOMAN SZARO: We are all getting a

1 little bit better every day, Tom.

2 Okay. Thank you, all.

3 MR. DOWNS: Have a good evening.

4 MR. STAHL: You, too, Tom.

5 (The matter concluded)

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I, PHYLLIS T. LEWIS, a Certified Court Reporter, Certified Realtime Court Reporter, and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the proceedings as taken stenographically by and before me at the time, place and date hereinbefore set forth via Go-To-Meeting.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel to any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

s/Phyllis T. Lewis, CCR, CRCR

- - - - -
PHYLLIS T. LEWIS, C.C.R. XI01333 C.R.C.R. 30XR15300
Notary Public of the State of New Jersey
My commission expires 11/5/2020.
This transcript was prepared in accordance with
NJAC 13:43-5.9.