

**CITY OF SOUTH AMBOY**  
**PLANNING BOARD**  
**REGULAR MEETING/MINUTES**  
**March 24, 2021**

Members present: Mary Szaro, Scott Kominkiewicz, Mayor Fred A. Henry, Councilman Tom Reilly, Thomas Kelly, George Baranowski, Janet Kern, Holly Hughes, Catherine Corey, Jorge Gonzales-Gomez, Gary Forshner, William DeMasi

Members absent: All Members Present

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

Chairwoman Szaro called this meeting to order.

Adequate 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. Electronic notice has been provided via the agenda on the City Website and the agenda posted on the bulletin board at City Hall.

Roll call was taken at this time.

Motion by Jorge Gonzales-Gomez, seconded by Janet Kern to accept the Minutes of the February 24, 2021 meeting. Motion carried: 9-0, 1 abstention.

Chairwoman Szaro then reviewed the evening’s agenda.

**Announcement of Application Carried**

Brian Vallee, Ken Barton & Charnie Stein – PB Application # 408-20  
167 N. Broadway / Block 47, Lot 16

Motion by Gary Forshner, second by Janet Kern to accept the request made by Mr. Salvatore Alfieri Esq, to carry the application to the May 26, 2021 meeting with no further notice required. All in favor

**Completeness**

Metaline Products Company, LLC – PB Application # 391-18A  
101 N. Feltus Street

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated March 19, 2021, regarding Application #391-18A, Metaline Products Company, LLC recommending **Conditionally Completeness**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Conditionally Complete** for Application #391-18A, Metaline, LLC  
Motion carried: 3-0, 0 abstentions.

**HBD South Amboy, LLC – PB Application # 416-21**

139 Rosewell Street Block 161.02 Lot 21 & 22

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated March 23, 2021, regarding Application #416-21, HBD South Amboy, LLC recommending **Conditionally Complete**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Conditionally Complete** for Application #416-21 HBD South Amboy LLC.

Motion carried: 3-0, 0 abstentions.

**Manhattan Beach Phase I Urban Renewal, LLC – PB Application # 417-21**

Rosewell Street Block 161.02 Lots 21, 23, 24, & 24.01

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated March 1, 2021, regarding Application #417-21, Manhattan Beach Phase I Urban Renewal, LLC recommending **Conditionally Complete**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Conditionally Complete** for Application #417-21, Manhattan Beach Phase I Urban Renewal, LLC. Motion carried: 3-0, 0 abstentions.

**Public Hearing**

**Helen-S Remodeling, LLC. – Application # 415-20**

415 Main Street / Block 69 Lot 1

Please refer to the attached transcript

Motion by Gary Forshner seconded by Holly Hughes.

This application to be continued, the submission of redesigned plans must be submitted by April 16, 2021, to be heard at the next regularly scheduled meeting on April 28, 2021, with no further notice required. Chairwoman Szaro asked for a motion to open this portion of the meeting to the public. Motion by Jorge Gonzales-Gomez, seconded by George Baranowski. With no members of the public that wish to speak, Chairwoman Szaro asked for a motion to close this portion of the meeting. Motion by Janet Kern, seconded by George Baranowski.

**Brian McGuinness – Application # 414-20**

116-118 David Street / Block 10 Lot 39

Chairwoman Szaro asked for a motion to open this portion of the meeting to the public. Motion by Scott Kominkiewicz, seconded by George Baranowski. With no members of the public that wish to speak, Chairwoman Szaro asked for a motion to close this portion of the meeting. Motion by Janet Kern, seconded by George Forshner.

Motion by Jorge Gonzales-Gomez, seconded by Gary Forshner to approve the Site Plan portion of the application subject to all the testimony and all conditions outlined in the letter from AJV Engineering, Inc. dated March 16, 2021.

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

Chairwoman Szaro announced that the next virtually scheduled meeting would be held on Wednesday, April 28, 2021, at 7:00 pm.

Chairwoman Szaro called this meeting to adjourn. All in favor.

Respectfully submitted,

Amy Russo  
Planning Board Secretary  
Minutes Approved on March 24, 2021

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LAND USE BOARD  
CITY OF SOUTH AMBOY  
COUNTY OF MIDDLESEX  
STATE OF NEW JERSEY

In the Matter of )  
The Application of: ) Transcript of  
HELEN-S REMODELING, LLC) proceedings  
#415-20 )  
415 Main Street )  
Block 69, Lot 1 )  
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Wednesday, March 24, 2021  
Remote Proceedings Via  
GoToMeeting Videoconference

PLANNING BOARD

- MARY SZARO, Chairwoman
- SCOTT KOMINKIEWICZ
- FRED A. HENRY, Mayor
- THOMAS B. REILLY
- THOMAS KELLY
- GEORGE BARANOWSKI
- HOLLY HUGHES
- CATHERINE COREY
- JANET KERN
- JORGE GONZALES-GOMEZ
- GARY FORSHNER
- BILL DeMASI
  
- AMY RUSSO, Secretary
- JASON VALETUTTO, Engineer/Planner

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DEBORAH A. MASTERTON  
Certified Court Reporter  
29 Hilltop Boulevard  
East Brunswick, New Jersey 08816  
732-690-2411  
dmasterton@comcast.net

1           A p p e a r a n c e s :

2                               JAMES E. STAHL, ESQUIRE,  
3                               Attorney for the BOARD

4                               THOMAS E. DOWNS, IV, P.A.,  
5                               Attorney for the APPLICANT

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<u>WITNESS</u>	<u>PAGE</u>
ANDRZEJ PLOCHOCKI DIRECT EXAMINATION BY MR. DOWNS	8
THOMAS E. DOWNS SWORN	12
JAMES W. HIGGINS SWORN	31

I N D E X T O E X H I B I T S

<u>EXHIBIT NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
None	Marked	

1           THE CHAIRWOMAN: The first application  
2 up, and if I just may say, Mr. Downs has both of  
3 these applications, so what we hope to do is  
4 certainly get the first one in, but depending on the  
5 time if we start the second one and I would like to  
6 end by 10 p.m. this evening, but we'll see how,  
7 again, a good break in time, but just to put that  
8 out there now, but maybe we can get them both in.

9           So our first application is 415-20,  
10 Helen-S Remodeling, LLC. The address is 415 Main  
11 Street. Mr. Downs.

12           (Off-the-record discussion)

13           MR. STAHL: Are we doing Helen-S first,  
14 Mr. Downs?

15           MR. DOWNS: I guess that would be the  
16 easiest to do. It's on here. I got my clients  
17 here, and they're in the office with me.

18           MR. STAHL: All right, and this is a C  
19 variance, no D variance. So both the mayor and  
20 Mr. Reilly are eligible to vote this evening as  
21 regular members with a nine-member planning board  
22 function.

23           I would remind everyone that my court --  
24 our court reporter did call me. She's one of our  
25 regulars. Please remember even though your face or

1 your initials may be on the screen to please just  
2 identify yourself when you start to speak or in the  
3 event you are raising questions or comments. For  
4 example, you know, Downs speaking or Gonzales or  
5 something of that nature.

6 Ms. Russo, is the application -- does  
7 the board have jurisdiction by reason of proper  
8 notice and publication?

9 MS. RUSSO: Yes, I received everything.

10 MR. STAHL: Thank you. All right,  
11 Mr. Downs.

12 MR. DOWNS: This is an application of  
13 Helen-S Remodeling, and I have two (audio  
14 disruption) my office, literally my office for them  
15 to have -- to make this their home.

16 This building was built in 1929, some  
17 37 years prior to the zoning code coming into effect  
18 in 1956. There is no exterior renovations to the  
19 property -- the house. The property is where it is.  
20 This has been the subject of --

21 (Audio disruption. Court reporter asks  
22 for clarification)

23 MR. STAHL: Tom.

24 MR. DOWNS: It's muting itself. I just  
25 realized that it's muting itself on me.

1           Okay. This is my client's application  
2 to move into my -- what is now my office to be their  
3 primary residence. The building was built in 1929.  
4 South Amboy zoning code was enacted -- first zoning  
5 code was enacted in 1956. The building predates the  
6 zoning code by 27 years -- 37 years -- excuse me.

7           Bottom line is is there's no exterior  
8 renovations to the property. The only thing that's  
9 changing is that they're going to -- it's not going  
10 to become an office. It's going to go back to the  
11 original use, which was that of a single-family  
12 home.

13           The -- my clients will testify that  
14 there's four bedrooms. They're going to remain four  
15 bedrooms. There's four rooms upstairs, there's four  
16 rooms downstairs, and then there's an attic, which  
17 is finished, which has been finished forever. But  
18 the bottom line is is that it's basically bringing  
19 this house back to what it was, which was a  
20 one-family home.

21           I have Jim Higgins is my planner. He  
22 will testify as to the efficacy of what we're trying  
23 to do. And I have my clients. If you want, I'll  
24 put my clients on the stand so they can tell you  
25 what's going to happen, what they're going to do.

1 You ready for that, Mr. Stahl?

2 MR. STAHL: Yes, yes.

3 MR. DOWNS: All right, Mr. Plochocki is  
4 going to testify. I'm going to turn it over so that  
5 you can see him. This is Andrzej Plochocki. I can  
6 butcher a name as well as anybody. He's Andrzej,  
7 but he goes by Andy. You want to swear, Mr. Stahl.

8 MR. STAHL: Yes. Please raise your  
9 right hand, sir. Sir, can you hear me, sir?

10

11 A N D R Z E J P L O C H O C K I, sworn.

12 DIRECT EXAMINATION BY MR. DOWNS:

13 THE WITNESS: Yes.

14 MR. DOWNS: We can hear you. Can you  
15 hear him?

16 MR. STAHL: My mic is -- everything is  
17 on. I did not --

18 COURT REPORTER: He needs to get closer  
19 to the microphone.

20 THE WITNESS: Yes, I do.

21 MR. STAHL: Please state your name and  
22 spell your last name.

23 THE WITNESS: Plochocki.

24 Q. Spell.

25 MR. STAHL: Spell the last name for the

1 court reporter, please.

2 THE WITNESS: Okay. P-l-o-c-h-o-c-k-i,  
3 Plochocki.

4 MR. STAHL: Thank you.

5 Q. Mr. Plochocki, you're the owner -- you  
6 are the principal of Helen-S Home Remodeling; is  
7 that correct?

8 A. Yes, it's correct.

9 Q. And you want to move into this  
10 building -- the building at 415 Main Street to be  
11 your primary residence; is that correct?

12 A. Yes, yes, correct.

13 Q. Okay. What do you -- how many bedrooms  
14 are you going to have here?

15 A. Just the four bedrooms like original  
16 house.

17 Q. And you're going to have the kitchen,  
18 which was the original kitchen?

19 A. Yes.

20 Q. Dining room, living room, and an  
21 additional room, which is downstairs; is that  
22 correct?

23 A. Yes.

24 Q. Do you plan on making any exterior  
25 renovations to the property?

1           A.       No.

2           Q.       Is there any -- any -- what's the word I  
3           want to use. Is there any other -- anything else  
4           you're going to do to the outside other than fence  
5           it? You have a dog; is that correct?

6           A.       Yes, I got a big dog and that's why I  
7           have the fence.

8           Q.       You have a fence for the protection of  
9           for (audio disruption) the fence will protect dog  
10          from escaping the property; is that correct?

11          A.       Yes.

12          Q.       Okay, and there's a parking lot outside;  
13          is that correct?

14          A.       Yes, correct.

15          Q.       And you wish to leave it just like it  
16          is?

17          A.       I wish to leave this because I got every  
18          weekend big family coming, my grandkids coming,  
19          kids, you know. I need the parking space.

20          Q.       Okay. I have no other questions of him,  
21          Mr. Stahl, as to what is happening. I think I'll  
22          have Mr. Higgins address the --

23                   MR. STAHL: The board may have some  
24          questions. I just want to ask a couple. Who is the  
25          present owner of the property?

1           MR. DOWNS: The name is -- Helen-S Home  
2           Improvements is the applicant and is the name of the  
3           property. Mr. Plochocki and his wife are the  
4           principals.

5           MR. STAHL: All right. How long has  
6           it -- how long has either you two or Helen-S owned  
7           the property?

8           MR. DOWNS: December 2017 -- 2018,  
9           December 29 to be exact.

10          MR. STAHL: Is that correct, sir?

11          THE WITNESS: Yes, correct.

12          MR. STAHL: Tom, I'm just trying to  
13          get -- because you -- who is going to give us -- is  
14          it going to be Mr. Higgins? I mean, you testified,  
15          but I think for the record, the board wants to know  
16          how long it was used as a single-family, when it was  
17          converted to an office. I think that would help the  
18          board. Does Mr. Higgins have that information?

19          MR. DOWNS: Quite frankly, Jim, I have  
20          that information. I can testify to that because my  
21          cousin is the one -- Tom Sheehan is my cousin, as I  
22          think you all know, and I represented him when he  
23          purchased the building back in 1983. If you want to  
24          swear me in to do that, I'd be more than happy.

25          MR. STAHL: I'd like to get -- I mean, I

1 have no problem with your representation as an  
2 attorney, but for the record, I think you should be  
3 sworn to give the background. I mean, we attorneys  
4 do some -- often testify, but since you're going to  
5 be a primary witness, why don't you raise your hand.

6

7 T H O M A S E . D O W N S , sworn.

8 MR. STAHL: And please state your full  
9 name, spell your last name, and make sure you put  
10 the Roman numeral IV in there.

11 MR. DOWNS: Thomas E. Downs, IV,  
12 D-o-w-n-s.

13 MR. STAHL: Thank you, Mr. Downs. Now,  
14 I'm not trying to run your show, but why don't you  
15 just repeat what you have provided to the board in  
16 terms of the history of the building.

17 MR. DOWNS: Okay. The history of the  
18 building is, in 1929 my great grandfather, Thomas  
19 Senior, built this building and eventually sold it  
20 to a gentleman by the name of Cap Delaney, who was a  
21 tugboat captain in the area and ran the local pool  
22 hall way back in the day after he retired from the  
23 tugboat. Mr. Delaney passed away, and then his wife  
24 passed away, and Tom Sheehan, my cousin, purchased  
25 the building and made it an office, his office. He

1 was the main applicant at the time, and he made the  
2 applicant before the zoning board of adjustment, and  
3 the parking lot that you see on the outside, the  
4 signage and all that information, that's -- what you  
5 see is that's what was granted back in 1983. I  
6 represented him when he purchased the property a  
7 couple months before that, and it's been an office  
8 from that day to this. When he retired in 2008, I  
9 moved in here, and I've been here from November 2008  
10 until today.

11 MR. STAHL: Thank you.

12 MR. DOWNS: So that's the background of  
13 the building. Any questions?

14 MR. STAHL: All right, Madam Chairwoman,  
15 I just wanted to get that on the record.

16 THE CHAIRWOMAN: Thank you.

17 MR. DOWNS: Okay? Now my next --

18 THE CHAIRWOMAN: Are there any  
19 questions --

20 MR. DOWNS: Any questions of Mr. --

21 THE CHAIRWOMAN: Any questions from the  
22 board? Jason?

23 MR. FORSHNER: I have a couple  
24 questions.

25 THE CHAIRWOMAN: Okay. Hold on, Gary.

1 Jason.

2 MR. VALETUTTO: I was just going to say  
3 that I heard testimony about a fence going up, and  
4 there has been no -- there's no fence as part of  
5 this application. We didn't receive plans showing  
6 where a fence will be located and the heights of the  
7 fence. If your -- if your client wishes to proceed  
8 to get a zoning permit for a fence, the zoning  
9 officer can only grant a maximum of 4-feet-high  
10 fence within front yards of properties, and this  
11 property has three front yards. So the whole  
12 purpose of the fencing I heard was to keep a dog  
13 inside so your --

14 MR. DOWNS: The fencing, Mr. Valetutto,  
15 on Augusta Street, which is the rear yard, which is  
16 a front yard, as you correctly indicate, it is a  
17 4-foot fence. The side yard, there is a fence along  
18 the side yard between the building on Augusta  
19 Street, and it goes to the back of -- pretty much to  
20 the back of the building, hits the fence line of the  
21 neighbor. The fence on the other side is behind a  
22 hedgerow, which is approximately 12 feet tall, so  
23 it's --

24 MR. VALETUTTO: I think you're  
25 misunderstanding me. You're talking about existing

1 fencing. I thought he was talking about proposed  
2 fencing and wanting to fence in his property.

3 MR. DOWNS: It's there already. It's  
4 exists. It's not on the survey. It was put up  
5 there for the survey.

6 MR. VALETUTTO: So there is no proposed  
7 fencing going up.

8 MR. DOWNS: It's already there.

9 MR. VALETUTTO: Just answer the  
10 question.

11 MR. DOWNS: Okay. I did.

12 MR. KELLY: Do we know when the fence --

13 MR. VALETUTTO: Thank you, Mr. Downs.

14 THE CHAIRWOMAN: Anything else, Jason?

15 MR. VALETUTTO: I just wanted to be sure  
16 because, like I said, the plans we received do not  
17 show existing fencing, and they're talking about  
18 fencing as if it's going to be a proposed fence, and  
19 I as zoning officer wouldn't be able to give them  
20 anything greater than 4 feet within a front yard,  
21 and since it's for a dog, and we all know that -- I  
22 don't know how large the dog is, if it's a large dog  
23 and it can jump over a 4-foot fence, that could be a  
24 problem. So if they're looking to propose larger  
25 fencing, it would have to be part of this approval,

1 and it's not something the zoning officer can grant.  
2 So I just want it to be a thousand percent clear for  
3 the sake of Mr. Downs' client so there's no  
4 surprises down the road to make sure that they're  
5 advised properly.

6 THE CHAIRWOMAN: Mr. Downs, would your  
7 client like to speak on that?

8 MR. DOWNS: Yeah, I'm going to suggest  
9 that we amend the application to include the fence.

10 MR. KELLY: Mr. Downs, this is Tom  
11 Kelly. Do we know when the fence was installed?

12 MR. DOWNS: The fence has been installed  
13 within the last year.

14 MR. KELLY: And it was installed with a  
15 zoning permit?

16 MR. DOWNS: I don't -- I can't answer  
17 that question, my friend.

18 Did you have a permit to put the fence  
19 up.

20 MR. PLOCHOCKI: No.

21 MR. DOWNS: The answer is no, Mr. Kelly,  
22 according to my client.

23 MR. KELLY: Okay, so it's either --  
24 we're going to either -- either going to need then  
25 to amend the application or --

1 MR. DOWNS: That's what I propose to do.

2 MR. KELLY: Okay. Okay. Perfect.

3 Thank you.

4 MR. DOWNS: Thank you.

5 MR. VALETUTTO: All right then, Mary, if  
6 the application is going to be amended, I suggest  
7 that Mr. Downs either puts up a plan on his screen  
8 and shows the board where this fence is located,  
9 because you're going to be voting blindly on a  
10 fence. That's not fair to you or the board members.

11 MR. STAHL: Let's focus -- if I may,  
12 Madam Chairwoman. Tom, in order to amend the  
13 application, we have to -- you have to please  
14 identify what type of a fence, where it's going to  
15 be, and its height and its construction, because  
16 right now is there a fence or is there not a fence?

17 MR. DOWNS: The fence is in place. It  
18 absolutely is.

19 MR. STAHL: And how high is it?

20 MR. DOWNS: Four feet at Augusta Street,  
21 and it's 6 feet along the side yard and along the  
22 hedgerow, and --

23 MR. STAHL: What type -- and what's the  
24 construction, plastic?

25 MR. DOWNS: It's plastic, plastic.

1 MR. STAHL: Mr. Kelly, do we need -- he  
2 would need a variance or waiver to get to 6 feet?

3 MR. KELLY: Yeah, because, as  
4 Mr. Valetutto stated, this property has almost three  
5 front yards.

6 THE CHAIRWOMAN: So, Mr. Downs, I  
7 thought you said there was three sides. You said a  
8 4-foot, a 6-foot, and was there a third?

9 MR. DOWNS: It's 4 foot, Miss Szaro, is  
10 along Augusta Street, and it's got a gate, and then  
11 it goes along the hedgerow -- he's telling me it's  
12 5 feet, but I think it's closer to 6, and then it  
13 ends at the hedgerow, and it connects to the back of  
14 the building at the back of the building near the  
15 back door on the Augusta Street lower -- on the side  
16 that faces Augusta Street where it pushes the side  
17 yard, the fence goes along the property line to the  
18 fence line of the back yard fence of the person on  
19 Augusta Street. So it matches up to that line and  
20 then connects to the building. So it just basically  
21 encases the building. It's well beyond the 25-foot  
22 -- any setback line off the street. It's well --  
23 it's a good 10 to 15 feet off of the porch that's --

24 THE CHAIRWOMAN: Three sides there's  
25 4 feet and two 6 feet?

1                   MR. DOWNS:  It's 4 feet -- there's one  
2                   4-foot side.  That's on Augusta Street.  The others  
3                   are 6.

4                   THE CHAIRWOMAN:  Thank you.

5                   MR. VALETUTTO:  Now, Mr. Downs, 6 feet  
6                   is not allowed within a front yard, so 25 feet is  
7                   the front yard setback in an RA zone, so 25 feet  
8                   back of Augusta Street, if there's fencing within  
9                   that line, it can't be 6 feet unless you're asking  
10                  for a variance from the board.

11                  MR. DOWNS:  Augusta Street is 4 feet,  
12                  Mr. Valetutto.

13                  MR. VALETUTTO:  I understand along  
14                  Augusta Street's property line it is 4 feet, but you  
15                  are testifying once you get off of Augusta Street  
16                  it's going to change into a 6-foot fence.  That  
17                  6-foot fence is going to connect into that 4-foot  
18                  fence within the front yard of Augusta Street.

19                  MR. DOWNS:  It's not.  It's behind --  
20                  it's well beyond the 25-foot setback line.  It's  
21                  well beyond that.

22                  THE CHAIRWOMAN:  I think we need to see  
23                  what is actually there.

24                  MR. VALETUTTO:  That's why we need to  
25                  see this on plans, Tom.

1           MR. STAHL: Well, let me ask you this  
2 before the board -- is there any way, Jason, that  
3 you are comfortable with the amendment to the  
4 application subject to resolution compliance and a  
5 set of plans that show the fence and conformed to  
6 the testimony of the applicant and Mr. Downs?

7           MR. VALETUTTO: Well, Jim, the board  
8 needs to fully understand where exactly this fence  
9 is and where exactly the heights of these fences  
10 are, and I don't believe -- if I can't understand  
11 Mr. Downs's testimony, I don't understand how the  
12 board is going to be able to understand what they're  
13 voting upon. It really needs to be put on plans to  
14 show exactly where this fence is located because,  
15 like I said, I don't think Mr. Downs is  
16 understanding, anything within a front yard, the  
17 maximum I'm allowed to give as zoning officer is  
18 4 feet, so they would need a variance from the  
19 board, and if that --

20           MR. STAHL: Let me ask you this  
21 question.

22           MR. VALETUTTO: -- variance has to be  
23 put in the resolution. If we don't know if it is or  
24 isn't a variance --

25           MR. STAHL: Let me ask this question.

1 Let me ask this question. Let's assume that the  
2 application is concluded tonight except for the  
3 detail with regard to the fence. Assume further  
4 that the board then says that we will withhold a  
5 vote on the application until the April meeting, at  
6 which time the application would have been  
7 supplemented with a plan showing the detail of the  
8 fence. The board can then consider that at the  
9 beginning of the meeting as a continued hearing and  
10 then can either vote yes or no rather than spend a  
11 lot of time tonight on something that is not clear  
12 to the board. Is that something that the board  
13 would consider? It's just like carrying the  
14 application, and I think the board will know by the  
15 end of the day -- I mean the end of the meeting  
16 whether it's, you know, if there's any issue. Madam  
17 Chairwoman.

18 THE CHAIRWOMAN: I think that's a  
19 great --

20 (Audio disruption)

21 MR. STAHL: Okay.

22 THE CHAIRWOMAN: Jason, I'm sorry, I  
23 didn't hear you.

24 MR. VALETUTTO: I just said that I can  
25 support what Jim said. It's your decision.

1 MR. KELLY: Game plan, Mr. Stahl.

2 MR. STAHL: Mr. Downs, are you good with  
3 that?

4 THE CHAIRWOMAN: Can I just ask before  
5 that, from the board, do we have any objections?

6 MR. KOMINKIEWICZ: I don't have an  
7 objection, Mary, but I have a question. I'm  
8 familiar with the property, and it is situated in an  
9 unusual way. I'm just curious how Augusta Street  
10 counts as a front yard. I would consider the front  
11 yard along Main Street and the Augusta Street side  
12 of the house to be the back yard of the property.  
13 I'm just curious if I'm missing something I don't  
14 know about as far as what determines a front yard.

15 MR. VALETUTTO: Scott, by law, a front  
16 yard is anything that frontages onto a city  
17 right-of-way. Main Street is a city right-of-way.  
18 That's a street. So that entire front -- that  
19 property line is a front yard. Feltus Street is a  
20 city right-of-way. That property line is a front  
21 yard. Augusta Street's a city right-of-way. That  
22 is front yard. So this property is bound by three  
23 frontages, so even if you use Augusta Street as a  
24 quote/unquote rear yard, in the eyes of the law and  
25 the eyes of the city, it's a front yard.

1 MR. KOMINKIEWICZ: Okay. That's what I  
2 need to know. Thank you.

3 MR. FORSHNER: And I just add no  
4 objection to what's been proposed here, but I just  
5 wonder if the applicant has the ability to take a  
6 plan, mark it up by hand, scan it in, and share with  
7 us this evening so we can get done tonight. If not,  
8 then I would certainly defer to the recommendation  
9 of Mr. Stahl and the rest of the professionals, the  
10 board, about, you know, addressing that at the next  
11 meeting.

12 THE CHAIRWOMAN: Mr. Downs, there's no  
13 objections and there's some suggestions. What would  
14 you like to do?

15 MR. DOWNS: If I can mark -- I don't  
16 think I can mark up the plan and scan it tonight, as  
17 much as we would love to. We can continue this.  
18 We'll submit that. You can continue the hearing  
19 until next month.

20 THE CHAIRWOMAN: So we'll continue on  
21 with everything but hold the vote until the April 28  
22 meeting.

23 MR. DOWNS: Yes. That's should dovetail  
24 with the other application that I'm going to be  
25 going --

1           MR. STAHL: That's what I thought, Tom,  
2 that could be no harm, no foul by carrying and just  
3 making sure the record is clear. It's not as if you  
4 had something imminent within the next 30 days; am I  
5 correct?

6           MR. DOWNS: That's correct.

7           MR. STAHL: We want to work with you I  
8 think.

9           MR. DOWNS: Thank you. Okay. Now I'm  
10 going to -- if any other questions of my -- of the  
11 applicant or myself, and if not, I will --

12           MR. FORSHNER: I do, and I just want to  
13 make sure that I'm clear with regard to the nature  
14 of the application. Understanding it's an office  
15 now. You're looking to convert it to a  
16 single-family home, and the reason that we're here  
17 is because the preexisting conditions that create  
18 variances for the single-family home. Is that a  
19 fair summary of the application?

20           MR. DOWNS: Mr. Valetutto's  
21 interpretation, I know that. I don't agree with it,  
22 but that's beside the point.

23           MR. VALETUTTO: Mr. Valetutto is correct  
24 because the change in use, he has to satisfy those  
25 existing variances. Yes, they're existing

1 variances, but he still has to reapply for them.  
2 It's the change of use that creates that. It's  
3 (audio disruption) the zone.

4 MR. FORSHNER: And as far as  
5 improvements being proposed, everything there is  
6 existing; there's no additional improvements that  
7 are being proposed?

8 MR. DOWNS: No, Mr. Forshner, the only  
9 improvements are going to happen is he's going to --  
10 he's upgrading the kitchen to be the modern kitchen,  
11 and that's all going to be subject to building  
12 permits (audio disruption; court reporter ask for  
13 clarification) my office does not have a stove.  
14 There's a place where the stove lies. He's putting  
15 a stove in. He's upgraded --

16 THE CHAIRWOMAN: Can I ask you to just  
17 maybe get a little closer or lean forward so we can  
18 hear you better. You're good. Thank you.

19 Gary, are you finished? I know Jorge  
20 Gonzales is up next.

21 MR. FORSHNER: Yeah, I was just going to  
22 say that the kitchen is not what's in our purview.  
23 Apparently from the perspective of the board, the  
24 only thing we're looking as is the existing  
25 improvements. Thank you, Mr. Downs.

1 THE CHAIRWOMAN: Thank you.

2 Mr. Gonzales.

3 MR. GONZALES-GOMEZ: Yes, hi, Mary.  
4 Thank you. Jason or Tom Kelly, does the handicapped  
5 ramp in front of the house on Main Street, does that  
6 impact anything with the approval tonight?

7 MR. KELLY: No, it doesn't. The  
8 single-family would not require any handicap  
9 accessibility, so if the applicant opts to leave it,  
10 it would be their (audio disruption)

11 MR. GONZALES-GOMEZ: Okay. Thank you.

12 MR. KELLY: However, Mr. Downs testified  
13 that there's no -- not going to be any renovation  
14 work other than the kitchen proposed.

15 You have to bear in mind, Mr. Downs, and  
16 this will be handled through construction permits,  
17 but this is a change of use now going back to a  
18 residence. (Audio disruption) egress.

19 MR. DOWNS: You're breaking up, Mr.  
20 Kelly.

21 MR. KELLY: Emergency escape windows,  
22 all that's going to have to be done by your client  
23 before he can occupy the home.

24 MR. STAHL: If I may, Madam Chairwoman,  
25 may I say something?

1 THE CHAIRWOMAN: Just one minute. Tom  
2 Kelly, are you finished?

3 MR. KELLY: Yeah, go ahead, Mr. Stahl.  
4 I'm sorry, Madam Chairwoman. Go ahead.

5 THE CHAIRWOMAN: That's okay. Mr.  
6 Stahl, go ahead.

7 MR. STAHL: I just want to clarify for  
8 the board that this use was changed from a  
9 residential use to an office use by action of a  
10 prior board; therefore, the current use is an office  
11 use, and I'm not aware of any ability to just say I  
12 give up the office use and I want to go back to a  
13 prior use of a residence. It should be -- it should  
14 not be complicated for the board, but the applicant  
15 wants to say I want to go back to what it was, and  
16 that being a home, so I'm giving up the office, and  
17 I'm giving up the variances I obtained, and now I  
18 want to change the use. So, I mean, that's really  
19 what's happening here, and the extent there's a C  
20 variance, I think that's an existing variance that  
21 may carry over from the original house, but  
22 Mr. Valetutto will be able to help us with that.

23 THE CHAIRWOMAN: Jason.

24 MR. VALETUTTO: Yeah, Jim, both the bulk  
25 variances are existing variances, but they have to

1 be -- I believe the applicant has to request those  
2 variances from the board by virtue of that change in  
3 use. Yes, they're going to an approved use in the  
4 RA zone, but just because they're going to approved  
5 use doesn't mean that you necessarily get to step  
6 over the rules that are associated with that.

7 MR. STAHL: (Audio distortion)

8 MR. VALETUTTO: Now, like I said, like I  
9 said, they're existing. The property, the shape of  
10 the property is the shape of the property so you're  
11 never going to change the depth variance, and the  
12 building is the building. There's no way for you to  
13 move the building so that front yard bulk variance  
14 is always going to be there regardless if they get  
15 the approval or not.

16 THE CHAIRWOMAN: Thank you, Jason. Any  
17 other questions from any of the board members?

18 MR. KELLY: Madam Chairman, Tom Kelly  
19 here. I just have one thing that I guess I'd like  
20 to hear the applicant discuss. Clearly, there was a  
21 parking lot installed for this business. We have  
22 two curb cuts, which means we have two access and --  
23 ingress and egress points, one onto Main Street, one  
24 onto Augusta Street. I'd like to hear the applicant  
25 discuss how many parking stalls there are and why

1 they feel they have a need for two curb cuts and so  
2 many parking spaces to remain for the residence.

3 MR. DOWNS: Mr. Kelly, first of all,  
4 those two curb cuts have been there since forever.  
5 They preceded Mr. Sheehan's purchase of the  
6 building. That's been there since -- I recollect  
7 them as a child. So that's always been. That's  
8 always been there. Where the first aid is next  
9 door, we used to play baseball there when we were  
10 kids, but that's neither here nor there, but that  
11 curb cut has always been there on Main Street, and  
12 the Augusta Street curb cut's been there. That's  
13 how Mr. Delaney came in and out of his house.

14 As far as the -- there's six parking  
15 spaces that are presently in existence in the  
16 parking lot, and as Mr. -- as the applicant said,  
17 he's got a large family, and the parking would be  
18 very -- would be useful for him to have his family  
19 park when they have the family gatherings, which is  
20 usually on a weekly or biweekly basis.

21 THE CHAIRWOMAN: Thank you.

22 MR. KELLY: Thank you, Mr. Downs. Just  
23 one other quick question. The commercial sign is  
24 going to be -- also going to be removed, correct?

25 MR. DOWNS: I would like to have kept it

1           there, but Mr. Valetutto's review letter tells I  
2           have to move it. It will go with me to my new  
3           office.

4                       MR. KELLY: Thank you.

5                       MR. DOWNS: I have Mr. Higgins to  
6           testify as to the planning perspective efficacy if  
7           you're finished with all the questions for the  
8           applicant.

9                       MR. VALETUTTO: Mary, I still have --

10                      THE CHAIRWOMAN: Yes, I would just --  
11           before we move on, I know this -- the session is not  
12           open to the public yet, but, Mr. Wu, did you hold up  
13           some kind of a sign that we needed to see or --  
14           okay.

15                      MR. DeMASI: He's saying he can't hear  
16           anybody.

17                      THE CHAIRWOMAN: Oh.

18                      MR. DeMASI: It may be on his end. It  
19           most likely is. I tried messaging him to check his  
20           audio settings.

21                      THE CHAIRWOMAN: Then if he can't hear  
22           me, I will just move on, but I just did want to  
23           recognize him.

24                      So, Mr. Downs, you'd like to call your  
25           expert?

1 MR. DOWNS: James Higgins.

2 MR. STAHL: Mr. Higgins, please raise  
3 your right hand.

4

5 J A M E S W. H I G G I N S, sworn.

6 DIRECT EXAMINATION BY MR. DOWNS:

7 MR. STAHL: Please state your name,  
8 spelling your last name.

9 THE WITNESS: James W. Higgins,  
10 H-i-g-g-i-n-s. I am a licensed planner in the State  
11 of New Jersey. I have testified as an expert in the  
12 field of planning before this board on a number of  
13 occasions in the past.

14 MR. STAHL: Madam Chairwoman, it's the  
15 board's decision whether or not to accept  
16 Mr. Higgins as an expert in the field of  
17 professional planning. He has been before this  
18 board. I have no recollection as to how many times.

19 THE CHAIRWOMAN: If I could just ask the  
20 board just to -- are there any concerns or  
21 objections to Mr. Higgins credentials?

22 A BOARD MEMBER: None here.

23 THE CHAIRWOMAN: Okay. Thank you. No  
24 objections, Mr. Higgins.

25 MR. STAHL: All right Mr. Downs.

1 MR. DOWNS: Thank you.

2 Q. Mr. Higgins, did you do a land use  
3 inventory in the area?

4 A. No, I did not do a land use inventory of  
5 the area because there's really no issue in terms of  
6 the use, itself, in terms of a use variance. What I  
7 did do is I looked at the application. I'm very  
8 familiar with the site. I visited that site on  
9 numerous occasions when Mr. Sheehan was in the  
10 office. My daughter actually worked for Mr. Sheehan  
11 in that building. So I'm very familiar with the  
12 building. I visited it as part of looking at it for  
13 this application. I looked at the zoning, and I'm  
14 aware of the history of the site.

15 The site was originally a residence. It  
16 was then converted to an office by virtue of  
17 variance. So it's a -- the office use is a  
18 permitted use on the site. While it's not a  
19 principal permitted use in the zone, it is permitted  
20 by variance on the site, and it's a very simple  
21 application with the exception of the fence, that  
22 the applicant is proposing to take a use that is not  
23 permitted in the zone -- while, again, while it's  
24 permitted on the site, it is not permitted on the  
25 zone. It's not a use that was contemplated

1 originally for this site by the zoning ordinance --  
2 and convert that use to a use that is the primary  
3 principal permitted use in the zone. So it's a  
4 situation where the applicant is taking a site and  
5 making it much more conforming than the current use  
6 of the site in terms of its relationship to your  
7 zoning ordinance.

8           There are two very minor variances that  
9 are existing conditions that qualify as a C-1  
10 hardship in my opinion because one of them is due to  
11 the shape of the lot. The depth of the lot is  
12 approximately 3 feet less than the hundred feet  
13 required by your ordinance, and the setback of the  
14 building. The building is set sort of at an angle  
15 to Main Street so one corner of the building is set  
16 back 20 feet where 25 feet is required, and that  
17 actually is about 17 square feet of the building  
18 that extends into the front -- required front yard,  
19 and again, there's no practical way to eliminate  
20 that variance. But also, I think granting these  
21 variances also qualifies under the C-2 because  
22 you're taking a use that would not otherwise be  
23 permitted in the zone and you're converting this  
24 property to a use that is the primary principal  
25 permitted use in the zone.

1           So when I look at this, I think  
2 definitely qualifies either as a C-1 or a C-2, and  
3 there is no substantial detriment. The building has  
4 been there since I believe it's 1929 on the site in  
5 that configuration without any substantial detriment  
6 to surrounding areas.

7           Q.     Else you'd like to add, sir?

8           A.     Well, I did look at Jason's report, and  
9 I fully understand, and in most instances, I would  
10 agree with a lot of the comments in his report where  
11 when you get a property before the board and  
12 somebody is trying to make improvements to that  
13 property where you're trying to do as much as you  
14 can to get things done that you would like to see  
15 done on that property. For example, he mentioned  
16 replacing curbing, and he mentions possible  
17 reconfiguration of the driveway access and reducing  
18 the number of parking spaces.

19           My concern here is that you have an  
20 applicant that is actually trying to upgrade the use  
21 of the property substantially, bring it back into  
22 fully conforming with your ordinance with the RA  
23 zone in terms of the use, and I think (audio  
24 distortion) upgrade in terms of the zoning to try  
25 and (audio disruption) costly measures that really

1 they're not anticipating doing and really aren't  
2 directly related to the variances that are being  
3 requested. So I think the board might want to look  
4 at that and give consideration, but I really think  
5 it's not a signal you want to send to the general  
6 public.

7 MR. DOWNS: As an aside, Miss Szaro,  
8 the --

9 MR. STAHL: Is that Jorge? Jorge.  
10 Who's talking? Is that Dr. --

11 THE CHAIRWOMAN: That's Tom.

12 MR. DOWNS: Tom Downs.

13 THE CHAIRWOMAN: Tom Downs.

14 MR. STAHL: Oh, okay. Please tell to  
15 remember to please identify yourself when you're  
16 talking.

17 MR. DOWNS: I'm sorry, Jim. Just in the  
18 -- prior to the past winter, the city has rehabbed  
19 pretty much the entire area of Feltus Street. They  
20 put in the new curb cuts, they -- the city  
21 beautification project. They did all the  
22 handicapped curb cuts on Feltus Street and Augusta  
23 Street and Main Street, that section of the  
24 property, so that was all done by the town. They  
25 went up and down all the streets, Pine Avenue,

1 Feltus Street, all over the place and did that. So  
2 those improvements have been done already in that  
3 area, but it is a substantial expense that my client  
4 certainly didn't anticipate in just trying to move  
5 into an existing building.

6 That's all I have.

7 THE CHAIRWOMAN: Any questions for --  
8 from the board for Mr. Higgins? Jason.

9 MR. VALETUTTO: I don't know if this is  
10 for Mr. Higgins or Mr. Downs, but in regards to my  
11 March 17, 2021, report, I know you're -- Mr. Higgins  
12 was talking about the curbing comment, number 4,  
13 that the sidewalk and the curbing is not up to city  
14 code. By virtue of your coming to this board for an  
15 application, I believe the board and the city has a  
16 right that you bring that up to current standards,  
17 and the current standard is a 6-inch curb, and those  
18 curbs are substantially lower than 6 inches. That's  
19 the reason for the comment. I don't recall ever  
20 appearing before any towns where they have  
21 overlooked bringing up your property to code if  
22 you're coming before the board with an application.  
23 So, I mean, that's the board -- the board's  
24 judgment, but I don't think that the board has to  
25 allow you to continue with curbing and sidewalk that

1 doesn't meet current standards, current safety  
2 standards.

3           Comment 5 with the parking lot, you  
4 testified that the owner would like to keep the  
5 parking lot and those spaces. I don't know, Jim, if  
6 my comment about if they do keep it that we can have  
7 them deed restrict the property because we don't  
8 want this to be something where they sell the  
9 property down the line and now somebody is renting  
10 out these spaces to someone to park or use for  
11 storage or whatever. It has to be that that parking  
12 lot has to remain for the use for vehicles for the  
13 property owner. I mean, it's already -- it's  
14 already a reach. They have a four-bedroom unit.  
15 The requirement for parking in RSIS is two spaces,  
16 and they have six spaces, which is well above the  
17 standard, and I don't recall ever seeing a  
18 single-family home that had an actual parking lot.  
19 So, I mean, I just want to protect the city that  
20 those spaces don't become something that's rented  
21 to, whether it's commuters or someone in the area,  
22 and there's no outside storage in those spaces.

23           MR. STAHL: Well, the application is for  
24 a single-family dwelling. The dwelling, itself,  
25 cannot be rented to more than one family since that

1 would make it a multifamily unit. The parking lot  
2 is an existing condition. We could -- the board  
3 could require that the parking lot is to be used  
4 only for residential purposes. I don't know -- I  
5 don't see someone using it for other than  
6 residential purposes. If you were going to use it  
7 for storage, that's an ancillary nonpermitted use  
8 because you're renting it for nonresidential use. I  
9 mean, we can think about this between now and next  
10 month and have Mr. Downs think about it, but, you  
11 know, the lot is there, and, I mean, you couldn't  
12 rent it out for commuter parking. That would be a  
13 business and, you know, for profit. So, you know,  
14 I'm not -- I just don't see an issue with regard to  
15 that, and I don't know what kind of deed restriction  
16 would be appropriate. You know, it's a lot. What  
17 if you want to put a basketball court there or  
18 something for his kids or grandkids. So, you know,  
19 I would leave it alone unless the board feels  
20 strongly about it.

21 MR. VALETUTTO: Okay. And then  
22 comment 6 -- comment number 6 on the report about  
23 the stairs in the front on Main Street. I don't  
24 know if Tom Kelly can weigh in if they require  
25 handrails or anything of that nature for safety. Is

1           that a current code or anything?

2                   MR. KELLY:  Do you know how many steps  
3           there are or how many risers there are?

4                   MR. VALETUTTO:  There's two sets of --  
5           two sets of stairs, and each of them have three  
6           risers.

7                   MR. KELLY:  So it would not require  
8           handrails then.  You only need handrails when you  
9           get to the fourth step.

10                  MR. VALETUTTO:  Okay.  Does -- is a step  
11           including the step onto the porch, or no, because  
12           that might be a fourth riser.

13                  MR. KELLY:  It does.  If you pick your  
14           feet up four times, you need handrails.

15                  MR. VALETUTTO:  Okay, then I think  
16           that's something that needs to be looked at for  
17           probably not right this second but for next meeting  
18           if we're coming back.  The one that touches the  
19           porch might be a four -- might be a four.

20                  MR. KELLY:  Well, what will happen,  
21           Jase, is, assuming that they receive an approval,  
22           the building is going to need permits because it's  
23           going to be according to Uniform Construction Code a  
24           change of use.

25                  MR. VALETUTTO:  Okay.

1 MR. KELLY: So things of that nature are  
2 going to be a product of the change of use, so the  
3 architectural plans that's going to be submitted by  
4 the applicant at time of permitting should include  
5 all of the rehabilitation code change of use  
6 upgrades.

7 MR. VALETUTTO: Okay. I wasn't sure  
8 because of this is exterior of the building. I  
9 thought that the code and all that that you would be  
10 reviewing is only internal. That's why I wanted to  
11 put it on the record now since these are actually on  
12 the property, not inside the building, itself.

13 MR. KELLY: Nope, it's all part of  
14 ingress and egress to the structure, so that could  
15 be on the architectural plans when it's submitted  
16 for permit.

17 MR. VALETUTTO: Okay.

18 MR. STAHL: If I may, Madam Chairwoman.  
19 Jim Stahl speaking. Tom Downs, do you agree --  
20 because actually Mr. Valetutto or I have forgot to  
21 ask you this. Do you on behalf of the applicant  
22 acknowledge receipt of the March 17, 2021, review  
23 letter?

24 MR. DOWNS: Yes, Mr. Stahl.

25 MR. STAHL: Thank you, Mr. Downs.

1 THE CHAIRWOMAN: Any other questions  
2 from the board?

3 MR. FORSHNER: I have at the appropriate  
4 time a housekeeping matter and some comments, but I  
5 have no questions at this time.

6 THE CHAIRWOMAN: Well, I'm going to -- I  
7 was going to suggest I will open it up to the  
8 public, and then maybe, Mr. Downs, we want to pause  
9 there and request that we carry. So, Gary, this  
10 might be the time.

11 MR. FORSHNER: So a couple of things.  
12 One is, Mr. Stahl, I forgot to mention this earlier  
13 that you and I discussed it, but, Mr. Downs and I  
14 serve as --

15 THE CHAIRWOMAN: I'm sorry, hold on,  
16 Gary. If I could just ask everyone to mute. We've  
17 got a lot of echoes. Go ahead. Sorry.

18 MR. FORSHNER: So, Mr. Stahl, you and I  
19 had discussed this before. Mr. Downs and I serve as  
20 co-counsel to a common client. I don't believe it's  
21 a conflict of interest, but out of the utmost of  
22 caution, I did want to disclose that, put that on  
23 the record and make sure that you and no one else  
24 has any issue with regard to my participation in  
25 this application.

1           MR. STAHL: Mr. Forshner's analysis, as  
2 an attorney and as Mr. Downs as an attorney,  
3 typically, there is no conflict in the judicial  
4 setting or this setting. If Mr. Downs was a -- had  
5 a personal interest in the property, that might  
6 change it, but we're not going to reach that right  
7 now, but as lawyers, it's like if Mr. Forshner was  
8 an architect and Mr. Downs was an architect  
9 professionally significant contact, all that  
10 Mr. Forshner has to do is to put it on the record so  
11 that there's no affair to disclose.

12           MR. FORSHNER: And then, Mary, whatever  
13 time you deem appropriate when we're done with that  
14 issue -- I'm sorry, Jim, did you have something  
15 more?

16           MR. STAHL: No.

17           MR. FORSHNER: Okay. And then, Mary, I  
18 was just going to make some comments and my own  
19 personal observations on the application whatever  
20 time you think appropriate.

21           THE CHAIRWOMAN: Well, I suggest you do  
22 those now if it's anything that Mr. Downs and his  
23 client might need to consider before next month, so  
24 if you would do that, and then we'll open up to the  
25 public.

1           MR. FORSHNER: Sure. So here were my  
2 observations with regard to the issues that were  
3 open. With regard to the parking, an applicant  
4 always has a right to do an oversized driveway that  
5 has additional parking. I don't have an issue with  
6 it here. I agree with Mr. Stahl that just like any  
7 house that has more parking than is required, they  
8 can't use it for any commercial purposes. They can  
9 only use it for as part of a single-family  
10 residence. I don't have a problem with the parking  
11 as exists. The property is exactly the way it's  
12 going to be with the exception of internal revisions  
13 and those comments and observations by  
14 Mr. Valetutto.

15           I do agree with regard to updating the  
16 curbing and the sidewalk. The sign from my  
17 perspective obviously needs to be removed. You  
18 know, one would hope for Mr. Downs' sake that that  
19 gets moved to a new location that he's proposing,  
20 but as far as single-family home, if it's going to  
21 be occupied as such, it shouldn't be with a sign.

22           Deed restriction, I'm not offended by  
23 the notion of it, but I don't know that that's  
24 really necessary.

25           And I think those are really the only

1 issues that I thought were open for discussion.

2 THE CHAIRWOMAN: Thank you. Anybody  
3 else? Then let me just say that on a lighter note,  
4 we usually don't have to entertain too much parking  
5 on this board, do we? But with that, I would like  
6 to ask for a motion to open this hearing up to the  
7 public.

8 MR. STAHL: If I may, Madam Chairwoman,  
9 and I know I interrupt on occasion. We're going to  
10 have to reopen it again next month because the board  
11 would then be considering additional information,  
12 that being the revised plan. I have no problem with  
13 opening it up twice, there's no prohibition, but I  
14 just want you to -- everyone to understand, the  
15 public and the board, that we open it up today,  
16 that's fine, but we will have to open up again  
17 because we just cannot (audio disruption) next  
18 occasion on new evidence that the public has not had  
19 an opportunity to comment on.

20 THE CHAIRWOMAN: And I don't think we  
21 will need to do it twice, but is there any way to  
22 see if anyone here tonight is here to speak on this  
23 or --

24 MR. STAHL: Well, I think we should open  
25 it up because I don't know whether Mr. Higgins is

1 planning to be here at the next meeting. That's his  
2 business and Mr. Downs'. So I would just suggest we  
3 open it up now so that everyone has an opportunity  
4 to talk on what they have heard to date.

5 THE CHAIRWOMAN: Sounds good. Do I have  
6 a motion to open the meeting up to the public.

7 MR. FORSHNER: So moved.

8 THE CHAIRWOMAN: Second?

9 MS. KERN: Second.

10 THE CHAIRWOMAN: Thank you. I think  
11 that was Janet.

12 MS. KERN: Yes.

13 THE CHAIRWOMAN: Would anyone from the  
14 public like to speak on this application?

15 MR. STAHL: Unmute yourself and just  
16 indicate your name if you are -- want to speak.

17 THE CHAIRWOMAN: Okay. One more time.  
18 Would anybody like to speak on this application?  
19 Okay. With that, do I have a motion to close.

20 MS. KERN: Motion to close.

21 THE CHAIRWOMAN: Second.

22 MS. RUSSO: Who was the second? I'm  
23 sorry.

24 THE CHAIRWOMAN: That was Janet I think.  
25 And the second. Is that Holly?

1 MS. RUSSO: Jorge is raising his hand,  
2 also.

3 THE CHAIRWOMAN: Okay. So then with  
4 that, I will move ahead with a request to -- for a  
5 motion to continue this application at our April 28  
6 meeting.

7 MR. STAHL: Mr. Downs, if you answer  
8 that.

9 MR. DOWNS: I have no objection to  
10 carrying to the April meeting.

11 MR. STAHL: With no further notice?

12 MR. DOWNS: No further notice  
13 absolutely.

14 MR. STAHL: I'm sorry, Gary, I  
15 interrupted you.

16 MR. FORSHNER: No, I was just going to  
17 move that we carry it.

18 THE CHAIRWOMAN: I'm sorry. So Gary was  
19 the first, and do I have a second?

20 MS. HUGHES: I'll make a motion to  
21 second, yeah.

22 THE CHAIRWOMAN: Thank you. Roll call  
23 Amy.

24 MS. RUSSO: Chairwoman Mary Szaro.

25 THE CHAIRWOMAN: Yes.

1 MS. RUSSO: Scott Kominkiewicz.  
2 MR. KOMINKIEWICZ: Yes.  
3 MS. RUSSO: Mayor Fred Henry.  
4 THE CHAIRWOMAN: I think he left.  
5 MS. RUSSO: Okay. Tom Reilly.  
6 MR. REILLY: Yes.  
7 MAYOR HENRY: I'm sorry. I had it on  
8 mute. This is Mayor Fred Henry. Yes.  
9 MS. RUSSO: Tom Kelly.  
10 MR. KELLY: Yes.  
11 MS. RUSSO: George Baranowski.  
12 MR. BARANOWSKI: Yes.  
13 MS. RUSSO: Janet Kern.  
14 MS. KERN: Yes.  
15 MS. RUSSO: Holly Hughes.  
16 MS. HUGHES: Yes.  
17 MS. RUSSO: Catherine Corey.  
18 MS. COREY: Yes.  
19 MS. RUSSO: Jorge Gonzales.  
20 MR. FORSHNER: Jorge, you're muted.  
21 MR. GONZALES-GOMEZ: Yes.  
22 MS. RUSSO: Gary Forshner.  
23 MR. FORSHNER: Yes.  
24 MS. RUSSO: And William DeMasi.  
25 MR. DeMASI: Yes.

1 MS. RUSSO: Roll call complete.

2 THE CHAIRWOMAN: Okay. Thank you.

3 Mr. Downs, we'll pick this up next month.

4 MR. DOWNS: Thank you, Miss Szaro.

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LAND USE BOARD  
CITY OF SOUTH AMBOY  
COUNTY OF MIDDLESEX  
STATE OF NEW JERSEY

In the Matter of )  
The Application of: )  
HELEN-S REMODELING, LLC) )  
#415-20 )  
415 Main Street )  
Block 69, Lot 1 )  
-----

CERTIFICATE

I, DEBORAH A. MASTERTON, a Certified Court Reporter of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the proceedings in the above entitled matter at the time and place aforesaid.

DATE: March 29, 2021

\_\_\_\_\_  
License No. XI001655

**CITY OF SOUTH AMBOY PLANNING BOARD**

**RESOLUTION PB# 8 - 21  
APPLICATION Number 415-20  
Helen-S Home Remodeling LLC**

**RESOLUTION GRANTING BULK VARIANCE APPROVAL**

**Block 69, Lot 1  
415 Main Street  
City of South Amboy  
RA ZONE**

**WHEREAS**, pursuant to the applicable provisions of the City of South Amboy Land Use Ordinance, the within application has been submitted to the City of South Amboy Planning Board (the "Board") by Thomas E. Downs IV, Esq. on behalf of Helen-S Home Remodeling LLC (the "Applicant") for Bulk Variance approval, in Block 69, Lot 1 on the Tax Map of the City of South Amboy in the RA Zone and located at 415 Main Street.

**WHEREAS**, the application reviewed by the Board consisted of those plans and documents as identified in the Reports prepared by Jason C. Valetutto, P.E., P.P., the consultant to the Planning Board, dated March 17, 2021 and April 16, 2021, as further identified as follows:

1. Signed and sealed Survey titled "Property Survey Of Block 69, Lot(s): 1, Purchaser Information: Helen-S Home Remodeling LLC, 415 Main Street, City of South Amboy, Middlesex County, New Jersey", prepared by Martin A. Grant Surveying, Inc., dated 11/16/2017, consisting of one page.
2. Marked up copy of Survey titled "Property Survey of Block 69, Lot(s) 1, Purchaser Information: Helen-S Home Remodeling LLC 415 Main Street, City of South Amboy, Middlesex County, New Jersey , Prepared by Martin A. Grant Surveying, Inc. dated 11/16/2017, consisting of one page.

**WHEREAS**, the application was certified as complete and public hearings with respect to the Application were held by the Board on March 24, 2021 and April 28, 2021 via remote access per public notice and personal notice pursuant to NJSA 40:55D-12; and

**WHEREAS**, as part of the application and based upon the plans submitted and reviewed by the consultant to the Planning Board, the Applicant required Bulk Variances from the zoning requirements as set forth in the ordinance:

	<b>Requirement</b>	<b>Proposed</b>
Minimum Lot Depth	100.00 ft.	98.5 ft.
Minimum Front Yard	25 ft.	20 ft.
Maximum Fence Height Front Yard	4 ft.	6 ft.

**WHEREAS**, at the public hearings, the following Reports were entered into the record:

<b><u>DESCRIPTION</u></b>	<b><u>DATE OF REPORT</u></b>
Planning Report AJV Engineering, Inc.	March 17, 2021
Planning Report AJV Engineering, Inc.	April 16, 2021

**WHEREAS**, The Board, after carefully considering the evidence presented to it by or on behalf of the Applicant, and upon the advice and recommendations of the advisory municipal personnel, and consultants (including, without limitation, those set forth in the aforesaid Planning Report), makes the following findings of facts:

**FINDINGS OF FACT**

**Hearing March 24, 2021**

The Applicant was represented by Thomas E. Downs, IV, Esq.,

1. Mr. Downs acknowledged receipt of the AJV Engineering, Inc. planning report of March 17, 2021.
2. Mr. Downs introduced Andrzej Plochocki, the Applicant, who was sworn in and testified as follows:
  - a. He along with his wife are principals in Helen-S Home Remodeling, who owns 415 Main Street, which is to be their primary residence.
  - b. The dwelling will have four bedrooms, kitchen, etc. as did the original dwelling.
  - c. No renovations will be made to the exterior of the dwelling.
  - d. There is an existing parking lot which was used when the original dwelling was converted to an office.
3. Mr. Downs, who was uniquely qualified to testify on the history of the dwelling, was sworn in and testified as follows:
  - a. The dwelling was constructed in 1929 by his great grandfather and sold to a tugboat captain in the area as a residence.

- b. Upon the passing of that owner, the dwelling was sold to Mr. Tom Sheehan and made it into an office in 1983 with approvals from the City Zoning Board of Adjustment.
  - c. When Mr. Sheehan retired in 2008, Mr. Downs moved in and used the building as his office.
  - d. There then followed a colloquy between Mr. Downs and Jason Valetutto, Board Consultant and Planner, concerning an issue of a fence.
  - e. Mr. Downs reported that there is a four foot fence along Augusta Street and a six foot fences behind a hedgerow.
  - f. The fence did not appear on any survey submitted.
  - g. Mr. Downs suggested an amendment to the application to include the fence.
  - h. The six foot fence requires a Bulk Variance as it is in the front yard.
  - i. Mr. Downs confirmed that no exterior improvements are proposed.
4. Mr. Downs introduced James Higgins as a Licensed Planner in the State of New Jersey who provided his qualifications and was accepted by the Board as a Professional Planner. Mr. Higgins was sworn in and testified as follows:
- a. He inspected the plans and the application submitted on behalf of the Applicant.
  - b. He visited the site on a number of occasions, reviewed the zoning, and was very familiar with site.
  - c. The dwelling was originally a residence and then converted to an office by virtue of a variance.
  - d. The Applicant is attempting to take a use which is not permitted in the zone and convert it to a permitted use (residence).
  - e. The Applicant is making the site more conforming than the current use.
  - f. There are two minor variances that are existing conditions and qualify as a C-1 hardship due to the shape of the lot.
  - g. The depth of the lot is approximately 3 feet less than the 100 foot minimum and the dwelling is an angle to Main Street.

- h. The set back is twenty feet where twenty five feet is required. Granting of the variances qualify under the C-2 variance again due to converting a nonconforming use into a primary principal residence.
- i. There is no substantial detriment to the surrounding areas.
- j. The Applicant's case having been completed for the evening, subject to continuation on April 28 2021, by a Motion made, seconded, and approved, the matter was then opened to the public. No one from the public requested an opportunity to speak. Public portion was closed.

**Hearing April 28, 2021**

- 1. Mr. Downs opened the continued hearing amending the application to include the fence and fence height.
- 2. Mr. Downs acknowledged receipt of the AJV Engineering, Inc. planning report of April 16, 2021.
- 3. Mr. Downs recalled the applicant Mr. Plochocki who resumed and testified as follows:
  - a. He marked up a survey to show where the fence was located on the property.
  - b. The six foot fence is on the Main Street and Feltus Street side of the property and approximately 25 feet back from the setback line of the corner of the house.
  - c. He wants a board on board fence to be able to separate his dog from his neighbor's dog.
  - d. He has no objection to fixing the sidewalk on Augusta Street.
  - e. He agreed to satisfy all of the conditions in the Planning Report AJV Engineering, Inc. as further contained in the transcript of the hearing.
  - f. A gate will be installed at one of the driveway entrances to prevent vehicles from driving through the lot.
  - g. The fence along Augusta Street will be increased to 6 ft high and will be moved further back onto the property to insure it is not located within the City right-of-way.

The Applicant's case having been completed by a Motion made, seconded, and approved

the matter was opened to the public.

Mr. Andrew Horzega of 120 South Rosewell Avenue was sworn and testified as follows:

- a. He questioned the limitation on fence height of six feet. Mr. Kelly advised him that the problem was that the fence was in the front yard and therefore needs a variance from the permitted height of four feet.

The matter upon motion made and second and approved was closed to the public.

### CONCLUSIONS

The Board makes the following findings and conclusions:

1. The dwelling was constructed in 1929 and sold to a tugboat captain in the area as a residence.
2. Upon the passing of that owner, the dwelling was sold to Mr. Tom Sheehan, and made it into an office in 1983 with approvals from the City Zoning Board of Adjustment.
3. When Mr. Sheehan retired in 2008, Mr. Downs moved in and used the dwelling as his office
4. The six foot fence along Augusta Street requires a bulk variance as it is in the front yard.
5. The applicant is attempting to take a use which is not permitted in the zone and convert it to a permitted use (residence)
6. The Applicant is making the site more conforming then the current use.
7. There are two minor variances that are existing conditions.
8. The depth of the lot is approximately 3 feet less that the 100 foot minimum and the dwelling is an angle to Main Street.
9. The set back is twenty feet where twenty five feet is required. Granting of the variances qualify under the C-2 variance again due to converting a nonconforming use into a primary principal residence.
10. A 6 ft high fence will be installed within the front yard of Augusta Street.
11. A gate will be installed at one of the driveway entrances.
12. There is no substantial detriment to the surrounding areas.

13. The structure has been returned to a permitted use with and as such neither this action nor the existing variances present a substantial detriment to the health safety or welfare of the community or negatively impact the zone plan or zoning ordinances of the City.
14. The Applicant will apply for a Zoning Permit to insure the location of the fence and the driveway gate do not occur within the City right-of-way.

**NOW, THEREFORE, BE IT RESOLVED** that the City of South Amboy Planning Board hereby **grants** Application #415-20 for Bulk Variances for a former dwelling converted to an office and now returned to its original permitted use as a single-family dwelling from the requirements for Minimum Lot Depth, Minimum Front Yard and Maximum Fence Height in a Front Yard on Block 39, Lot 10 on the Tax Map of the City of South Amboy in the RA Zone at 415 Main Street conditioned on the follow;

1. Compliance with recommendations set forth in the Planning Reports dated March 17, 2021 and April 16, 2021.
2. Compliance with the requirements of all applicable ordinances, statutes, codes, regulations and/or administrative directives.
3. Compliance with each and all other applicable approvals, if any, required by law or statute or regulation to perfect Bulk Variance Approval.
4. Compliance with all representations and agreements made by or on behalf of the Applicant at the hearings held on March 24, 2021 and April 28, 2021.
5. All other matters set forth above, and/or incorporated herein.
6. Payment of all outstanding unpaid taxes, and other municipal charges and assessments.
7. Payment of all sums now and/or hereafter due for application fees and/or escrows.
8. Prior to the commencement of any site work, all professional escrow fees due the Board Planning Consultant and Planning Board Attorney shall be paid in full.

**THIS IS TO CERTIFY** that the foregoing is a true copy of the Resolution adopted by the Planning Board of the City of South Amboy at its public meeting held on May 26, 2021.

	Aye	Nay	Abstain
Chairwomen Mary Szaro	X		
Vice Chairman Scott Kominkiewicz	X		
Tom Kelly			
Mayor Henry	X		
Councilman Tom Reilly			
Janet Kern	X		
Holly Hughes	X		
Dr. Jorge Gonzalez-Gomez	X		
George Baranowski			
<b>Alternates</b>			
Gary Forshner			
William DeMasi	X		

  
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 Amy Russo, Planning Board Secretary