

1 M I N U T E S
2 OF THE MEETING
3 OF THE
4 ZONING BOARD OF APPEALS
5 INCORPORATED VILLAGE OF MALVERNE

6 March 13, 2025

7 7:00 p.m.

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10 PRESENT:

11 BENJAMIN TRUNCALE, JR., CHAIRMAN

12 BRUCE MAWHIRTER, MEMBER

13 MICHELLE SALOGUB, MEMBER

14 JOHN TULLEY, MEMBER

15 NICHOLAS FEIHEL, MEMBER

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18 Also Present:

19 Kevin Walsh - Village Attorney

20 Mary Kate Schnaars - Building Department Clerk

21 Louis Santora - Building Superintendant

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1 CHAIRMAN TRUNCALE: Good evening,
2 everybody.

3 Please rise for the Pledge of
4 Allegiance.

5 (Whereupon, the Pledge of Allegiance
6 was recited.)

7 CHAIRMAN TRUNCALE: Good evening,
8 everybody, and welcome to the March 13th
9 meeting of the Malverne Zoning Board of
10 Appeals.

11 We originally had three matters on the
12 calendar for this evening. The first matter of
13 Corey Polshansky, 180 Scarcliffe Drive is not
14 going to be heard this evening, it will be
15 heard, I believe, in April.

16 Mary Kate, we have an April date,
17 what's the date?

18 MS. SCHNAARS: April 12th, I believe.

19 CHAIRMAN TRUNCALE: Is it April 12th?
20 So that matter is going to be on April 12th, it
21 will be noticed.

22 MS. SCHNAARS: The 10th.

23 CHAIRMAN TRUNCALE: There will be a
24 legal notice and mailings for that particular
25 hearing.

1 CHAIRMAN TRUNCALE: The next matter to
2 be heard this evening is that of the
3 application of WFC Properties LLC, William
4 Campbell, 2 Utterby Road, Malverne, New York.

5 Please step up. State your name and
6 address for the application.

7 MR. CAMPBELL: William Campbell.

8 CHAIRMAN TRUNCALE: Do you want to make
9 an announcement on this one?

10 MEMBER FEIHEL: Yes. Mr. Chairman, I
11 have to recuse myself.

12 CHAIRMAN TRUNCALE: You cannot
13 participate in the questioning.

14 MEMBER FEIHEL: Understood.

15 CHAIRMAN TRUNCALE: Or in the vote
16 ultimately on the merits.

17 State your name and address for the
18 record, sir.

19 MR. CAMPBELL: William Campbell, 2
20 Utterby Road, Malverne.

21 I am applying for a variance in the
22 zoning of the building to go from a Residential
23 D to -- which does not allow the practice owner
24 to have an apartment rented upstairs or have
25 anybody else live in the property other than

1 somebody that's related to the practice owner.
2 And I am applying for a variance to allow me to
3 rent the upstairs to a person that's not of the
4 family.

5 CHAIRMAN TRUNCALE: So you are the
6 occupant now?

7 MR. CAMPBELL: Yes -- well, no, no.
8 I'm sorry. I am the owner of the building, I
9 am the dentist, owner of the practice, my son
10 lives upstairs now.

11 CHAIRMAN TRUNCALE: Okay. How long
12 have you been at this location?

13 MR. CAMPBELL: I guess almost 40 years.
14 My father was there before me.

15 CHAIRMAN TRUNCALE: And so the
16 application that's before us tonight is to seek
17 relief from this Board to allow a person who is
18 not related to the practice live in the
19 apartment?

20 MR. CAMPBELL: Right.

21 CHAIRMAN TRUNCALE: You are going to be
22 selling the practice and that's what
23 necessitated this application?

24 MR. CAMPBELL: Yeah.

25 CHAIRMAN TRUNCALE: Is there anybody on

1 the Board that has any questions with regard to
2 this application?

3 MR. WALSH: So your son is going to
4 continue to live upstairs but you are selling
5 the practice?

6 MR. CAMPBELL: Really depends on who
7 buys the practice. If somebody buys the
8 practice and the building, then that's the
9 whole point, they would decide who lives
10 upstairs.

11 MR. WALSH: So you don't know. There
12 may be the person who would buy your building
13 and your practice, they may want to live
14 upstairs too.

15 MR. CAMPBELL: Oh, yes.

16 MR. WALSH: You are trying to get this
17 limitation removed, this condition?

18 MR. CAMPBELL: Right.

19 MR. WALSH: For your buyer that you
20 don't know who they are yet?

21 CHAIRMAN TRUNCALE: It seems somewhat
22 premature to me.

23 MR. WALSH: I'm just asking.

24 MR. CAMPBELL: No, there are a couple
25 of people that are interested. But this is

1 what they are concerned about, and they wanted
2 it in writing that they could rent it to anyone
3 if they were allowed. It's very hard to sell
4 the practice otherwise in the building.

5 MEMBER TULLEY: The point is though, if
6 he sold it, the son stayed there, the son
7 becomes a tenant anyway. Even if they don't
8 want to keep the son as a tenant, true?

9 MR. WALSH: Well, it is true. But they
10 could buy it and want to use it. So
11 normally --

12 CHAIRMAN TRUNCALE: Isn't the whole
13 purpose of the law to have somebody who works
14 in the building live in the building? That's
15 not what even the case is here based on what we
16 have. It's his son, but it's not the actual
17 practitioner.

18 MR. WALSH: Yeah.

19 Let me just say, a lot of times you see
20 in a case like this, you would end up going to
21 contract with somebody, it would be conditioned
22 upon -- because that was the condition of their
23 offer that this condition was lifted, and then
24 you would come back to them before this Board
25 and the Board would at least know, okay, who

1 are you, what's your situation, and things like
2 that. A lot of times that can help. And I am
3 not telling the Board it can't act on this, but
4 I'm indicating that on one level it seems
5 premature.

6 MR. CAMPBELL: The only thing I am
7 having a problem with anybody even, you know,
8 being interested unless that stipulation is
9 made.

10 CHAIRMAN TRUNCALE: Anybody have any
11 other questions?

12 MEMBER SALOGUB: No.

13 CHAIRMAN TRUNCALE: Is there anybody in
14 the public who wishes to be heard on this
15 particular application either in favor or
16 against?

17 (Whereupon, there was no response.)

18 CHAIRMAN TRUNCALE: That being said, is
19 there anybody on the Board that would like to
20 make a motion here?

21 MEMBER TULLEY: I will make the motion
22 to allow the change from a -- was it type D,
23 Class D?

24 MR. CAMPBELL: Yeah.

25 MEMBER TULLEY: Right, to what's the

1 change to?

2 CHAIRMAN TRUNCALE: I don't think we
3 are changing the class.

4 MR. WALSH: It's lifting the condition.

5 MEMBER TULLEY: I will move to lift the
6 restrictions related to the tenant.

7 CHAIRMAN TRUNCALE: Is there a second?

8 MEMBER SALOGUB: Second.

9 CHAIRMAN TRUNCALE: Michelle.

10 All those in favor?

11 (Chorus of aye.)

12 CHAIRMAN TRUNCALE: Okay.

13 MR. CAMPBELL: Thank you.

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1 CHAIRMAN TRUNCALE: The next
2 application to be considered by the Board this
3 evening, is that of Malverne Properties, LLC,
4 Peter Rossi, address 61 Church Street, Malverne
5 New York, continued hearing from August 8,
6 2024.

7 Is there anybody here that wishes to be
8 heard on the application?

9 MR. WAGNER: Good evening,
10 Mr. Chairman.

11 CHAIRMAN TRUNCALE: Good evening,
12 counsel.

13 MR. WAGNER: If I may, can I set up the
14 easel?

15 CHAIRMAN TRUNCALE: Absolutely.

16 MR. WAGNER: Thank you. Where should I
17 put it?

18 CHAIRMAN TRUNCALE: I would like you to
19 put it somewhere where maybe the public can
20 see.

21 MS. SCHNAARS: In this corner here and
22 I will move the table.

23 CHAIRMAN TRUNCALE: Easier there?

24 MR. WAGNER: Sure.

25 CHAIRMAN TRUNCALE: We understand that

1 there are people that wish to be heard tonight.
2 Just the parameters of that, there was a
3 sign-in sheet, I believe most people, if not
4 everybody that wanted to be heard, is signed
5 in.

6 MS. SCHNAARS: Yeah, the sheet was on
7 the table.

8 CHAIRMAN TRUNCALE: Okay. And you will
9 be limited to a three-minute comment period,
10 and anybody who wishes to be heard after that,
11 you know, we will get to you.

12 Are you ready?

13 MR. WAGNER: Yes, sir.

14 CHAIRMAN TRUNCALE: So when last we met
15 there was some homework and some tasks that
16 were thrown back at you, so the floor is yours.

17 MR. WAGNER: Thank you.

18 Good evening, Mr. Chairman, members of
19 the Board. For the record, my name is
20 Christopher Wagner, of the Law Firm Humes &
21 Wagner, 147 Forest Avenue, Locust Valley, New
22 York.

23 As the Chairman points out, this is a
24 continued hearing. We represent Malverne
25 Properties, the owner of 61 Church Street.

1 Here with me is the managing member of 61
2 Church Street, Mr. Peter Rossi.

3 At the conclusion of our presentation
4 in August, several things were asked of us of
5 the Board, we took those requests and
6 directives seriously, and spent the last few
7 months following up on those issues before
8 requesting an opportunity to come back before
9 you.

10 Before providing a quick summary if you
11 would like on our August presentation, I would
12 like to briefly discuss what is new, what was
13 asked of us, and what we have submitted since
14 the last hearing.

15 CHAIRMAN TRUNCALE: Sounds like a good
16 place to start.

17 MR. WAGNER: Thank you.

18 So as per the Board's request, we filed
19 the revised site plan to address some questions
20 that were raised relative to drainage, relative
21 to the patios which have been eliminated,
22 relative to the front entry steps and walkway.

23 Last month we met with the
24 superintendent to discuss these issues, and
25 while our opinions do not necessarily tie to

1 the variance request in and of themselves, it's
2 my understanding that the Building Department
3 currently does not have any comments or issues
4 at this time.

5 As per the Board's request we filed an
6 amended Environmental Assessment Form to
7 supplement the original submission to the
8 extent there was some outstanding information.

9 And also as per the Board's request,
10 perhaps most importantly, we were asked to
11 provide additional parking inventory. As you
12 may recall in August the initial parking
13 inventory that we supplied to you was stretched
14 for a period of about six weeks. There were
15 some concerns, three concerns as I recall, one
16 regarding the time of the year, summer months,
17 and might they not be an accurate
18 representation; also that perhaps it wasn't the
19 longest of sample sizes, and folks were, you
20 know, away or, you know, so we wanted to
21 provide some additional data relative to back
22 to school, back to work for a longer period of
23 time; and also with respect to daytime parking,
24 not just overnight, which we kind of spent most
25 of our time on initially.

1 So what was submitted previously, and I
2 hope was circulated to you all as an exhibit,
3 was the additional six-month inventory and
4 survey results from the daytime and the
5 overnight and, you know, spent six months
6 reviewing that.

7 And I don't know if I need to mark that
8 as an exhibit now or that's already considered
9 part of the records, Mr. Chairman?

10 CHAIRMAN TRUNCALE: You should mark it
11 please.

12 MR. WALSH: Who did the report?

13 MR. WAGNER: My client.

14 MR. WALSH: So this report that we are
15 looking at, I am looking at, this was done by
16 the applicant?

17 MR. WAGNER: Yes.

18 MR. WALSH: Not an outside?

19 MR. WAGNER: By the applicant.

20 MR. WALSH: Okay.

21 MR. WAGNER: Correct.

22 So we have originals in addition to the
23 electronic submission.

24 Should I hand those up now?

25 CHAIRMAN TRUNCALE: Yes, please.

1 I don't remember where we left off with
2 exhibits. So what we can do is we can just
3 label it with tonight's date and start again
4 with A.

5 MR. WAGNER: This is a hard copy, one
6 hard copy of everything that was submitted. We
7 have the overnight parking survey, so if you
8 call that Exhibit A, did you say?

9 CHAIRMAN TRUNCALE: We are going to
10 call it today's date 3/13-A.

11 (Whereupon, Applicant's Exhibit 3/13-A
12 was marked and received into the record.)

13 MR. WAGNER: Then we have the daytime
14 parking inventory, 3/13-B.

15 CHAIRMAN TRUNCALE: Yup.

16 (Whereupon, Applicant's Exhibit 3/13-B
17 was marked and received into the record.)

18 MR. WAGNER: In these materials, as you
19 can see, there are numerous dates, times, both
20 during the day and overnight, as well as
21 pictures to substantiate the findings that are
22 date stamped, time stamped to substantiate the
23 findings. I am pleased to report on the
24 results of that data which show an abundance of
25 daytime and overnight parking availability in

1 the existing Village parking lots.

2 Additionally we submitted another
3 exhibit earlier today, if I could mark for the
4 record, and that was Board of Trustee
5 resolution from February, which I can't find a
6 copy of presently. It was submitted
7 electronically, which designated the lot with
8 the old police building, as a motion was made
9 by Trustee Lang, seconded by Deputy Mayor
10 Edwards and carried designated parking lot at
11 one Britton Circle for Village use to be
12 designated as Lot 5A for daytime and overnight
13 parking by permit.

14 If I can mark that.

15 CHAIRMAN TRUNCALE: C.

16 (Whereupon, Applicant's Exhibit 3/13-C
17 was marked and received into the record.)

18 MR. WAGNER: I can report on that
19 parking further, or I could start with a brief
20 refresh of recollection of our prior
21 presentation from August? I am guided by you,
22 Mr. Chairman.

23 CHAIRMAN TRUNCALE: Let's start with
24 the summary of where we were and then you can
25 jump into what you just submitted.

1 MR. WAGNER: Okay. Thank you.

2 So our substantive plans have not
3 changed, and as such, neither is the Village's
4 denial letter or our requests for variances.

5 So as mentioned, we are here seeking a
6 number of variances that were outlined
7 originally in the May 3, 2024 letter of denial
8 in connection with my client's project to
9 demolish the old dilapidated building at the
10 property, and the construction of a
11 three-story, 12-unit multi-family dwelling.

12 If we are fortunate to secure the
13 approvals from your Board, our next step is the
14 Board of Trustees to secure a special
15 exception, and hopefully site plan and
16 architectural review.

17 My client, as mentioned, has a long
18 path ahead of him, but he is proud of this
19 project and he's committed to this project and
20 we sincerely view it as a significant
21 improvement to the Village, to the Business
22 District and to Church Street.

23 CHAIRMAN TRUNCALE: Mr. Wagner, if I
24 may interrupt you for a moment, just so the
25 record is unequivocally clear. Can you

1 explain, for the record and for those in
2 attendance, what you mean by why you are here
3 versus where you are going if you need to go to
4 other Boards and the relief you need in other
5 Boards?

6 MR. WAGNER: Yes. So there are a
7 number of variances that we are here to try and
8 secure approval from you. And just before I go
9 through those variances item by item, quickly I
10 will say that this building, this property has
11 never really had much of an identity, little to
12 any functional aesthetic value, and that's
13 where my client comes in, he wants to give this
14 property an identity, to give it both a
15 functional and aesthetic value. He is a
16 30-year resident of the Village, he is a
17 current resident of the Village, he has strong
18 ties to the Villages, he lives here, he is not
19 going anywhere.

20 So with respect to the letter of
21 denial. There are a number of variances that
22 we discussed last hearing which I will briefly
23 touch upon now. Starting off with item number
24 one to track your denial letter with respect to
25 lot area or dwelling unit. Our application

1 proposes a lot area per dwelling unit of
2 500 square feet, when 1,980 square feet per
3 dwelling is the minimum allowable. Basically
4 that's a function of our lot size, our lot size
5 is 6,000 square feet, we are proposing 12
6 units, so that rounds us out at the 500 square
7 feet per unit.

8 I'd also like to get into -- before I
9 get into the rationale, I would like to loop in
10 floor area ratio, because it's also driven by
11 the product of our lot size.

12 Our application proposes a floor area
13 ratio of 1.87, when 1.4 is the maximum
14 allowable. So these items are related in a
15 product of our 6,000 square feet lot size. In
16 order for this project, this beautification of
17 this property to be financially feasible for my
18 client, we are requesting these variances. Our
19 apartment size ranges from studios of
20 500 square feet to 780 square feet for the two
21 bedrooms. As a multi-family dwelling, which is
22 a permitted use, subject to the special
23 exception to the Board of Trustees, within the
24 Village's Business District, we are higher
25 density by nature.

1 There are other similar buildings
2 within the area, including 47 Church, just a
3 few doors down, which is also a 12-unit
4 multi-family dwelling, so I would submit we are
5 not out of character for the community.

6 And the number and the size of our
7 units comes down to my client's vision, which
8 is to provide for our target demographic. Who
9 is our target demographic? Folks who are just
10 starting off and don't have money to buy a
11 house yet in Malverne, but perhaps they are
12 working in the City and they want to live
13 somewhere close to the train, somewhere close
14 to shops and restaurants, and utilize
15 everything that Malverne has to offer.

16 Also our target demographic is folks
17 who have lived in Malverne for quite some time,
18 can't quite keep up or don't want to keep up
19 with the commitments of a home and would like
20 to downsize but still stay in the Village close
21 to friends and family.

22 So in order to attract that target
23 demographic, we presented, I would say, a high
24 end upscale building. We are going to have
25 high scale market luxury market rents. And in

1 order to attract that we have to have units of
2 a certain size, of a certain character. And we
3 believe that this use is superior to any
4 as-of-right use within the Business District
5 and provides a very useful need within the
6 Village and will be well received.

7 Moving onto item number two on the
8 denial letter, maximum story height. Our
9 application proposes a building story height of
10 three, when two and a half stories is the
11 maximum allowable, so we are a half story over
12 the maximum permitted. We submit that this is
13 a di minimus deficiency. We further submit
14 that one can't really work within the context
15 of a half story, and this additional half story
16 makes this more financially feasible for my
17 client.

18 Saying that, even with this additional
19 half story, only a very small portion of our
20 building exceeds the Village's maximum
21 permitted height of 35 feet, very small
22 portion.

23 With respect to item three on the
24 denial letter, maximum building height, our
25 application proposes a building height at its

1 highest of 36.25 feet, when 35 feet is the
2 maximum allowable. So we are talking
3 15 inches, 15 inches that we are over, only one
4 very specific area, and it's a decorative
5 piece, it provides balance to make it
6 aesthetically pleasing, aesthetically charming,
7 not just a flat building. Top of the roof is
8 29 feet. So, again, just a small area that
9 helps provide a residential look in the heart
10 of this Village.

11 With respect to minimum front yard
12 setback, our application proposes a front yard
13 setback of 8.08 feet, when 10 is the minimum
14 allowable. Our first floor will be at 10 feet,
15 our first floor will comply; it's a di minimus
16 intrusion of the second floor. And in the
17 northeast corner of the building it's a little
18 cantilever which will help provide dimension to
19 the building, it avoids the flat front box
20 look. And, again, our footprint complies with
21 the front yard setback.

22 The minimum rear yard setback, item
23 number five on the denial, our application
24 proposes a rear setback at 3.3, when 15 is the
25 minimum allowable. Our nearest point is indeed

1 3.3 feet, but that's only a small portion. The
2 balance of our rear yard setback is at 5 feet.
3 We submit that given who our rear yard neighbor
4 is, the Long Island Rail Road, no one is really
5 adversely impacted, passing trains are
6 certainly not harmed by this deficiency. Plus
7 there's no change in the character of the
8 community as most of the buildings to the south
9 have little, if any, rear yard setback. And,
10 in fact, the building at 47 Church Street, upon
11 information and belief is at zero. So we are
12 actually in line with the existing character of
13 the neighborhood.

14 So that leaves us to item number seven,
15 last item, off-street parking. As discussed
16 last time, and just briefly mentioned now,
17 given our target demographic of empty nesters,
18 young professionals and the apartment
19 configuration of one studio, nine one-bedrooms
20 and two two-bedrooms, we expect there to be
21 significantly less than the 19 cars that were
22 cited in the denial letter, especially
23 considering the proximity to the train, but 19
24 is what the code requires, so that's what we
25 have to comply with.

1 As mentioned and submitted into
2 evidence at our last hearing, we have an
3 agreement with Jerry Tarpinian, owner of Towne
4 Service Station to rent nine parking spaces.
5 We had conversations with him with respect to
6 additional spots, but at this time he was not
7 inclined to make that commitment, but he is
8 committed to providing my client with nine
9 spots which would be in the lease.

10 CHAIRMAN TRUNCALE: How recent is that?
11 Have you followed up with him since August, is
12 that still?

13 MR. WAGNER: Yes.

14 CHAIRMAN TRUNCALE: Okay.

15 MR. WAGNER: But he is committed to
16 that nine, and we do have that in writing, that
17 was submitted as an exhibit back in August. So
18 that provides nine of the 19 that we are
19 deficient.

20 In addition to the parking survey that
21 was previously submitted in August and covered
22 a 45-day period, my client has performed an
23 additional parking survey over a period of
24 six months.

25 To counselor's point, the applicant did

1 this. The applicant was the boots on the
2 ground, and I would say that's superior than
3 any expert who came in on one or two days. The
4 span of time in which this data was comprised,
5 formulated and submitted is to me the best type
6 of expert piece of survey that we can get.
7 And, again, we have pictures that are date and
8 time stamped to substantiate those results.

9 So the current results of the most
10 recent parking inventory, the daytime parking
11 survey was conducted from August through
12 February 25th, and we looked at Field 1, Field
13 2, Field 3, Field 5, Field 6. In Field 1 there
14 was an average of six spaces available on any
15 given day; Field 2, there was an average of
16 eight spaces available on any given day; Field
17 3, an average of 76 spaces available on any
18 given day, 76; Field 5, an average of 23 spaces
19 available; Field 6, an average of 28 spaces
20 available. So in total, daytime parking from
21 August through February 25th, on average, 141
22 available parking spaces. This information was
23 conducted at various points of the day,
24 morning, afternoon, late afternoon.

25 With respect to the overnight parking

1 survey, that was conducted from August through
2 March 2nd. So, again, period of six months.
3 We focused on Field 1 and Field 5. Field 1,
4 there was an average of ten spaces available;
5 Field 5, there was an average of 17 spaces
6 available. In total, an average of 27
7 available parking spaces for the overnight.

8 I would note that that is actually
9 consistent with our initial parking inventory
10 that was submitted, which showed an average of
11 29 spots. So to the Board's point, a little
12 more overnight during the school year, but
13 average, only lost two spaces there.

14 And finally with the new lot across the
15 street at the old police building, which we
16 believe will have at least 16 spaces available
17 for daytime and overnight parking.

18 So all in, our data shows that there is
19 an abundance of Village parking to compensate
20 for our 19 spot deficiency. Nine from Jerry,
21 141 -- nine from Jerry any time, 141 on average
22 daytime parking spaces from the Village's
23 existing lots, 27 on average overnight spaces
24 from the Village's existing lots, and now
25 perhaps even a better source than any business

1 owner, there is another municipal lot which is
2 going to have at least 16 spaces for daytime or
3 overnight.

4 We respectfully submit that the future
5 residents of our potential multi-family
6 dwelling will have more than enough parking
7 spaces to utilize.

8 Before I conclude, and of course answer
9 any questions you might have, I just wanted to
10 address two issues. At the last hearing there
11 were some concerns about what we are, about
12 what we are proposing, a multi-family dwelling.
13 So I would just want to state for the record,
14 and as this Board well knows, we are located in
15 the Business District, this building, this
16 subject parcel is located within the Business
17 District.

18 Several Villages in the area have sound
19 planning, Village maps, comprehensive plans,
20 and these things are not just arrived at, you
21 know, out of thin air, they are the product of
22 good planning, and implementation of good
23 zoning, in which you have residential areas and
24 you have business areas.

25 So, again, within the business area,

1 which we are located, a multi-family dwelling
2 is a permitted use subject to special permit
3 from the Board of Trustees. So we are not
4 seeking to build something that is expressly
5 prohibited, nor are we seeking to build a
6 multi-family dwelling on say Wright Avenue, in
7 the middle of a Residential District. We are
8 seeking something that is permitted, subject to
9 special exception, within the Business
10 District.

11 And we would submit that this, these
12 photos, this need that we will help with the
13 Village and the aesthetics of our building, all
14 in make us a far superior use than, say, a
15 general contractor using that lot on a daily
16 basis, or a hotel, something that's actually
17 permitted as-of-right, or other uses that like
18 us would require special exception from the
19 Board of Trustees but are permitted within the
20 Business District, a used car lot, or a gas
21 station. We are trying to help provide
22 something that the Village is lacking, and
23 doing it in a aesthetically pleasing and
24 beautiful manner.

25 Second thing, I suspect that we are

1 going to hear from an attorney from 47 Church
2 Street. And I would submit that we are looking
3 to provide similar housing that they presently
4 provide and have for quite some time. Ours is
5 probably a little more updated in keeping with
6 modern design, but that's exactly what we are
7 looking to do. And from what I understand this
8 use at 47 Church has worked well. It is the
9 highest form of flattery. It's very similar to
10 what they are and what we are looking to do.
11 We are requesting 12 units, they have 12 units,
12 our front yard setback is nearly identical, our
13 rear setback is actually better than theirs,
14 and like them we have zero on-site parking.

15 So in prior conversations with their
16 attorney, capable, nice man, he asked about
17 reducing our size and scope, eight to
18 ten units, or something like that, but that's
19 just not financially feasible for my client in
20 terms of what he is looking to provide and the
21 manner in which he is trying to provide it.

22 So in summary, you know, we are happy
23 to go through the five factors, and happy to
24 answer any questions that the Board has, but we
25 would submit that, you know, when you weigh the

1 benefit to the applicant, if you grant these
2 variances versus a detriment to the local
3 community, I would say there is no detriment,
4 it's an improvement. You look at that existing
5 building and you look at what my client's
6 proposed and what he is looking to offer and
7 provide there is not a detriment, it's an
8 improvement, it's an improvement for that
9 property, it's an improvement for Church
10 Street, and it's an improvement, I submit, for
11 the Village as a whole.

12 I'm happy to answer any questions that
13 the Board may have.

14 CHAIRMAN TRUNCALE: Anybody have
15 questions at this time?

16 MEMBER SALOGUB: The nine spots that
17 Jerry has contracted with you, how long is that
18 contract for?

19 MR. WAGNER: It's one year subject to
20 renewals.

21 MEMBER SALOGUB: Okay.

22 MEMBER FEIHEL: Do we know the distance
23 from the subject property to, say, field --
24 Parking Field 1 and Parking Field 5?

25 MR. WAGNER: I do have that if you give

1 me a minute.

2 MEMBER FEIHEL: Yeah, of course.

3 MEMBER TULLEY: Do you have it for 5A
4 also?

5 MR. WAGNER: So the service station
6 from the subject property .11 mile. Field 1,
7 which we would submit is a little bit further,
8 .25, but that would be, you know, for anybody
9 whose got a second car, my client would have a
10 lease with his tenants which would have at
11 least nine of those parking spaces with Jerry,
12 and the tenant would pay the landlord directly
13 and the landlord would pay Jerry directly.
14 Field 5, .04 mile, and of course we have 5A
15 which is directly across the street, Field 6
16 which is even closer.

17 MEMBER FEIHEL: Thank you.

18 CHAIRMAN TRUNCALE: Anybody else on the
19 Board at this time wish to ask a question?

20 (Whereupon, there was no response.)

21 CHAIRMAN TRUNCALE: We have the sign-in
22 sheet for people from the public who wish to be
23 heard.

24 MR. WAGNER: Mr. Chairman, of course I
25 would just request the ability to speak

1 after --

2 CHAIRMAN TRUNCALE: Absolutely.

3 MR. WAGNER: -- to rebut.

4 CHAIRMAN TRUNCALE: I am going to ask
5 anybody who speaks that you direct your
6 questions or your comments to the Board, and
7 then we will give the applicant an opportunity
8 to take notes and answer any questions once we
9 are done.

10 Counselor, do you think it's easier to
11 have the speaker make their comment and give
12 the applicant an opportunity to speak so that
13 it's right after?

14 MR. WALSH: My suggestion is Mr. Wagner
15 can take notes. If he misses any we can remind
16 him, but at the end he can sum up and respond.

17 CHAIRMAN TRUNCALE: So the first person
18 that signed in, I think, it's John --

19 MR. VANINGEN: Vaningen.

20 CHAIRMAN TRUNCALE: Just keep in mind,
21 sir, you have three minutes.

22 State your name and address for the
23 record.

24 MR. VANINGEN: John Vaningen, 10 Maldan
25 Street.

1 Point of clarification, the parking lot
2 that is adjacent to the police station, that is
3 now designated as a separate parking lot for
4 the Village?

5 CHAIRMAN TRUNCALE: Yes, my
6 understanding is it's based upon the action of
7 the Board of Trustees it's permitted parking
8 available for purchase.

9 MR. VANINGEN: And is there a
10 relationship between the proposal for the
11 housing and the park that's adjacent to the
12 property?

13 CHAIRMAN TRUNCALE: Not that I know of
14 at this time.

15 MR. VANINGEN: So the pocket park will
16 remain a separate piece of --

17 CHAIRMAN TRUNCALE: Pocket park, you
18 mean the children's?

19 MR. VANINGEN: Yes.

20 CHAIRMAN TRUNCALE: Okay. It's a park,
21 yes.

22 MR. VANINGEN: That will remain as such
23 and adjacent to this development?

24 CHAIRMAN TRUNCALE: For all intents and
25 purposes at this time that's my understanding,

1 yes.

2 MR. VANINGEN: And lastly, the police
3 property, not including the parking lot, that
4 has plans for development, do we know the
5 status of that?

6 CHAIRMAN TRUNCALE: I can't answer that
7 question, I don't know.

8 MR. VANINGEN: So as far as you know
9 there is no application to develop that piece
10 of property?

11 CHAIRMAN TRUNCALE: I have an
12 application before me tonight for this
13 particular lot, I don't have an application.

14 Counsel.

15 MR. WALSH: Not before the Zoning
16 Board. The Zoning Board has no applications
17 for anything else around here.

18 MR. VANINGEN: Okay, thank you.

19 CHAIRMAN TRUNCALE: Next person is Mark
20 Davella.

21 MR. LITT: Actually, Mr. Chairman, my
22 name is Mr. Robert Litt. Mr. Davella is my
23 expert I brought today. I think I am the third
24 one on the list.

25 I'm going to try today to at least ask

1 and answer any questions and resolve some
2 concerns.

3 CHAIRMAN TRUNCALE: You are speaking
4 for Mr. Davella?

5 MR. LITT: Well, actually I am speaking
6 on behalf of my client Malverne Owners, LLC,
7 Mr. Davella is my expert who will be speaking
8 right after me, if that's okay.

9 CHAIRMAN TRUNCALE: Okay.

10 MR. LITT: Davella is my client as
11 well, I am hoping that I will be able to bring
12 forth a lot of the concerns right now that many
13 of the residents have. Try not to be
14 repetitive and move things along.

15 CHAIRMAN TRUNCALE: I'd ask that you
16 respect the three minutes.

17 MR. LITT: I will do that as best as
18 possible. I'll keep my comments short and to
19 the point because I understand we have other
20 things to do tonight and we don't want to drag
21 this out to 11:00.

22 CHAIRMAN TRUNCALE: Floor is yours,
23 sir.

24 MR. LITT: Thank you.

25 Good evening, members of the Board. My

1 name is Robert Litt, I am counsel for Malverne
2 Owners, LLC, the owner of 47-55 Church Street,
3 which is located in the immediate vicinity of
4 the subject property.

5 It goes without saying this application
6 should be denied in its entirety. There are
7 seven separate variances here that we are
8 dealing with, and we are going to demonstrate
9 that none of those particular requirements are
10 met here whatsoever, and they need variances
11 for these, and that's why we have zoning codes.

12 In particular, they don't -- they want
13 to build 12 units where only three units are
14 legally permitted, the proposal exceeds the
15 maximum height in number of stories, does not
16 comply with the front and rear yard setbacks,
17 and exceeds the maximum square footage
18 allowance allowed, and most of all has no
19 parking on-site whatsoever.

20 Now I am going to focus in on three of
21 the main points here, parking. When you'd be
22 adding these 12 residences, quote unquote,
23 where are they going to park?

24 I know counsel, he's been kind, we've
25 been in conversations, he's trying to put

1 together a plan with parking down the block
2 with another business owner for, you know,
3 one year renewables, we don't know what's going
4 to happen with that.

5 There's zoning rules and requirements
6 that require certain parking. Yes, there's
7 going to be parking available in the
8 municipality, may be available, may not
9 available, but there is a parking requirement
10 that's not met here.

11 The side yard requirements, parts of it
12 are so small that if there is some sort of
13 emergency, even though the railroad is behind
14 the property here, how the fire trucks can get
15 access to the rear, there's a safety issue.

16 I do know there is going to be a local
17 resident, Mr. McDaniels, a first responder, who
18 will be mentioning this further, so I'm not
19 going to go in detail, I will let him discuss
20 this concern we have regarding setbacks.

21 Last, they are doing three stories
22 where only two and a half is permitted in the
23 Village. There is no other buildings in there
24 except one other building that was preexisting
25 to the code.

1 And this is very important to
2 understand that, because if we open this can of
3 worms here and permit all of these seven
4 exceptions, my client's down the block, why
5 can't he do that? And why can't the next
6 applicant come and do the same thing? So there
7 are rules and requirements that the Board here
8 is there to serve and protect.

9 Now, obviously the applicant is
10 concerned that he is saying that he is not
11 going to be able to build this and make it
12 profitable to himself. He paid \$267,000 for
13 this property, he can build this and put units
14 in and be successful, it's not impossible, and
15 stay within the confines of the local variances
16 and the local zoning requirements. He can be
17 profitable on this property. We want to him
18 build something that's great there, we are not
19 here to hurt him, that's why I was in contact
20 with counsel, so let's figure out something
21 that makes sense but not violating the zoning
22 codes.

23 Now obviously I think my three minutes
24 are almost up, and I don't want to go beyond
25 that to respect the wishes of the Chairman and

1 Board members. But I'm going to defer over to
2 my expert Mr. Davella, who is an appraiser,
3 he'll talk briefly about his qualifications,
4 but he did prepare a report which I'm going to
5 provide copies to the Board and have that
6 submitted into evidence. I don't know what
7 evidence number that would be, maybe Opposition
8 Evidence 1-A.

9 CHAIRMAN TRUNCALE: That's fine.

10 MR. LITT: I am going to hand it up.

11 CHAIRMAN TRUNCALE: Let's call it Opp
12 1.

13 MR. LITT: Opp 1.

14 I don't know how many copies you'd
15 like, I brought a bunch here. I will give you
16 as many as I got, and I'll keep one for myself.

17 (Whereupon, Opp 1 was marked and
18 received into the record.)

19 MR. LITT: Again I will right now at
20 this point refer to Mr. Davella to speak
21 briefly, and thereafter the owner -- I'm
22 sorry -- the manager who manages 47-55 Church
23 Street, and I hope pronounce his last name
24 Yiannis Sismanoglou --

25 CHAIRMAN TRUNCALE: Excuse me one

1 second, Mr. Litt.

2 MR. LITT: -- will also speak briefly.

3 Thank you very much, I appreciate that,
4 Mr. Chairman and the Board.

5 Obviously if anybody has questions to
6 us we would appreciate that.

7 CHAIRMAN TRUNCALE: Okay, thank you,
8 sir.

9 MR. LITT: Thank you.

10 Mr. Davella please.

11 CHAIRMAN TRUNCALE: Please state your
12 name and address for the record, sir?

13 MR. DAVELLA: Mark Davella, 11 Buchanan
14 Street, Freeport, New York 11520.

15 Mr. Chairman and the Board, prior to my
16 three minutes I would like to self qualify
17 myself in front of this Board since I haven't
18 been qualified here before.

19 My qualifications as an expert witness
20 is that I have been a commercial realtor for
21 the past 20 years on Long Island; I'm a
22 contract assessor in three separate
23 municipalities, Freeport, East Rockaway and
24 East Williston; I'm a certified appraiser; a
25 member of the New York State Assessors'

1 Association; a member of CIBS, the Commercial
2 Industrial Broker Society; a member of the
3 Freeport Industrial Association. Additionally,
4 I'm accepted in Supreme Court as an expert
5 witness on real estate matters; I defend over
6 2,500 cases annually for the municipalities; I
7 have a special license that allows me to
8 present real estate cases for assessment review
9 in Supreme Court of New York, as well as the
10 norms of giving testimony for appraisals in
11 civil matters. I've testified as an expert in
12 many villages, the townships of Hempstead,
13 Oyster Bay, Babylon, Islip, Smithtown and
14 Brookhaven.

15 I ask that the Board would accept me
16 based on this criteria as an expert witness.

17 CHAIRMAN TRUNCALE: Yes, sir.

18 MR. DAVELLA: Thank you.

19 Mr. Litt has opined on many reasons why
20 the application should be denied, I concur on
21 all of them.

22 The document that I am presenting and
23 leaving with you speaks for itself, it touches
24 on the criteria that the Zoning Board must
25 consider when granting and denying

1 applications. Will the properties be devalued
2 or lose value due to this application in nearby
3 settings? And the answer to that is yes. All
4 such Residential B properties along Church,
5 Webber, Crimson, Tulip, Northwood, Nassau and
6 Linmouth would be negatively affected by
7 looking at this building all of a sudden,
8 having this within a line of sight to their
9 value.

10 Two, will the application, if approved,
11 change the character of the neighborhood? Most
12 definitely, yes. I don't know of any
13 three-story or two-and-a-half-story building
14 that's been approved since the issuance of
15 c/o's. The only three-story building that I
16 found in my historical review of this Village
17 was the three-story building down the street
18 which predates a certificate of occupancy. So,
19 in fact, it would change the character of the
20 neighborhood.

21 Three, would the application, if
22 approved, create a nuisance? Definitely.
23 There is no parking allocated on this
24 applicant's property. There's one legal
25 metered spot in front of the subject property,

1 which would be a gift of public funds and can't
2 be considered for the purpose of a variance as
3 per state law.

4 What happens to the neighborhood when
5 you have the ten to 12 new permitted vehicles
6 at this location daily, how do they park and
7 without being a nuisance? We've heard
8 testimony that there is an agreement on an
9 annual basis for nine cars at Joe's lot down
10 the street --

11 CHAIRMAN TRUNCALE: Jerry.

12 MR. DAVELLA: Or being able to use
13 somewhere else, it becomes a nuisance.

14 Where are the trash receptacles on the
15 site plan, where are they housed? I don't see
16 anything. If they are put into either one of
17 the side yards first responders cannot maneuver
18 either one of those side yards. A 5 yard
19 dumpster, which would be acceptable for
20 12 units is 4 and a half feet wide by 90 inches
21 long by 48 inches high. How is anybody wearing
22 fire equipment supposed to get around that with
23 a 5 foot setback?

24 And in the rear with a 39 inch rear
25 setback and train tracks, if you have to fight

1 a fire or an emergency response from the rear
2 over the train tracks, are we going to have a
3 hook and ladder that's available to shoot
4 across and be able to extinguish a fire?
5 Because that's the only way to get behind.

6 Will the application, if approved,
7 jeopardize the safety and welfare of others as
8 I have just defined with the placement of trash
9 receptacles? Absolutely. Everybody's life
10 that's in that building and neighboring would
11 be in jeopardy should an emergency break out.
12 Something that's blocking either one of the
13 side yards, garbage receptacle, bicycles,
14 mopeds, scooter, whatever, would impede the
15 ability to maneuver around the property
16 properly.

17 And lastly, will the application, if
18 approved, create a financial hardship? And as
19 Mr. Litt opined to, and as per my research
20 shows, \$267,000 was the purchase price for this
21 property. Rule of development when developing
22 a property is that 25 to 30 cents on a dollar
23 should be used as the rule for what the dirt
24 cost in a redevelopment.

25 So a single family home in the Village

1 of Malverne is \$750,000 to \$900,000 for
2 something that's moderate. So based on that, a
3 single family home can provide a substantial or
4 a satisfactory financial return, which I also
5 included in my presentation that you have that
6 you can look at later, and that's pretty much
7 it.

8 I take it I've run out of time.

9 CHAIRMAN TRUNCALE: Yes, sir.

10 MR. DAVELLA: I appreciate your time.

11 CHAIRMAN TRUNCALE: If we have time we
12 will let you come back and finish after we hear
13 from everybody else.

14 MR. DAVELLA: Thank you.

15 MR. LITT: At this point I'd like to
16 bring Yiannis up here please.

17 Thank you, Mr. Chairman.

18 MR. SISMANOGLU: Hello, everyone. My
19 name is Yiannis Sismanoglou, I represent
20 Malverne Owner, LLC.

21 First off I want to say, Mary Kate,
22 thank you very much for your updates on the
23 date, I really appreciate it, I'm sure everyone
24 else does in this room.

25 I am going to be brief with my

1 presentation. My property at 47 Church Street,
2 53 and 55, there is an opportunity something
3 similar for me, but this is something that I
4 haven't ever explored or considered because
5 I've been following the code; as such, never
6 gave it any thought, nor will I because I want
7 to follow the rules, nor do I want to disturb
8 the community.

9 This is not really something I am
10 looking to go on further on, just want to relay
11 that I have been having thought about going
12 about this route for that same approach for
13 that same reason. That's all.

14 CHAIRMAN TRUNCALE: Thank you.

15 MR. LITT: Thank you again,
16 Mr. Chairman, I appreciate you accommodating
17 us.

18 CHAIRMAN TRUNCALE: Barbara Reynolds.

19 MS. REYNOLDS: Yes.

20 CHAIRMAN TRUNCALE: State your name and
21 address for the record please.

22 MS. REYNOLDS: My name is Barbara
23 Reynolds, I live at 47 Church Street, Apartment
24 1E.

25 For the months of mid August and

1 September I monitored the parking lot out here
2 at 6:30 in the morning and 8:30 in the morning,
3 it averaged between three and five spots a day,
4 on the weekends there was no spots.

5 As a matter of fact one Saturday
6 morning I was leaving at 7:00, a lady came to
7 me and said, where can I park? I'm, like, I
8 don't know. I want to park here. I said, you
9 really need a permit to park here. She said,
10 oh, I have one. She said, as a matter of fact
11 I work for the Village, I work in the stores in
12 the Village. So there is people that are
13 employees of the Village that park here too.

14 I mean there is 32 units that way on
15 Church Street. We have 14 and there's three
16 people that rent, that's 49 people with cars.
17 Are there 49 spaces out there? No. People are
18 parking all over the place.

19 The school, the day care, they park
20 here, it's crazy in the afternoon between 3:00
21 and 4:00 because they are packed coming in and
22 parking all over the place.

23 And this is really on a personal note,
24 you have tenants, like I live on Church Street,
25 Philip International was kind to us, they got

1 us to park here, but if you are parking all
2 over the place, you know what it is to carry
3 groceries from here all the way over where you
4 are living, very, very hard. I am 80 years old
5 and it's hard. I mean two packs of soda and a
6 gallon of milk, it's not easy. I mean if I had
7 to park down by Jerry's and walk all the way up
8 here with groceries, not an easy thing to do.
9 Not an easy thing.

10 That's it.

11 CHAIRMAN TRUNCALE: Thank you.

12 MEMBER TULLEY: Thank you.

13 MS. REYNOLDS: You are welcome. Have a
14 great night.

15 CHAIRMAN TRUNCALE: You too.

16 MEMBER TULLEY: You too.

17 CHAIRMAN TRUNCALE: Jim McDaniels.

18 MR. McDANIELS: If I might, before I
19 start, just two points of order. The first
20 one, you know, a little troubling to me because
21 I know him a long time, but based on our first
22 meeting I have to request of the Chairman that
23 Mr. Tulley recuse himself from these
24 proceedings because of statements he made on
25 three separate occasions in the first meeting

1 we had.

2 CHAIRMAN TRUNCALE: And what would that
3 be, sir? You know what, I will take it under
4 advisement.

5 If you have something substantive to
6 bring to the record, I am happy to hear that
7 and entertain your comments.

8 MR. McDANIELS: It had to do with him
9 mentioning about how the prices of homes in
10 this Village are high now, so as actually one
11 of the experts said, you know, this would lower
12 the prices. The second thing he mentioned had
13 to do with he has a daughter now living at home
14 and she may need to get an apartment and this
15 would be a great place for her to stay. And
16 the third one was he said he would look to sell
17 his house. I could read it verbatim from the
18 transcript but he would look to sell his house
19 in the future and move into an apartment here.
20 So I just don't think it's an appropriate thing
21 to make those judgment statements prior to
22 hearing from everybody.

23 CHAIRMAN TRUNCALE: First of all, we
24 were in the course of hearing an application,
25 number one.

1 MR. McDANIELS: Right.

2 CHAIRMAN TRUNCALE: Number two, the
3 applicant had already presented his portion of
4 the case; and number three, as a sitting member
5 of a Zoning Board, he can opine an opinion and
6 synthesize the information that he has before
7 him.

8 As to speaking about whether or not a
9 multi-dwelling is an appropriate use, that
10 issue is not properly before this Board. We
11 are not the Board that are the arbiters of
12 whether or not a multi-dwelling on that
13 property is an appropriate use. It's a
14 specially permitted use. That means that
15 somewhere in the past our Village forefathers
16 or somebody thereafter determined and made a
17 legislative judgment call and adopted a law
18 that said multi-dwelling is appropriate via a
19 special permit before the Board of Trustees, we
20 are not the Board of Trustees.

21 MR. McDANIELS: Do you have the code
22 for that?

23 CHAIRMAN TRUNCALE: Not handy.

24 MR. McDANIELS: Okay.

25 CHAIRMAN TRUNCALE: But it does state

1 it. And actually I can defer to our --

2 MR. SANTORA: It's in the denial
3 letter.

4 CHAIRMAN TRUNCALE: -- esteemed
5 Building Department.

6 What section of the code talks to the
7 special permit?

8 MR. McDANIELS: Not the special permit.
9 The multi-dwelling in a Business.

10 CHAIRMAN TRUNCALE: Yeah, that is
11 multi-dwelling.

12 MS. SCHNAARS: 600-2.6.

13 CHAIRMAN TRUNCALE: If I may for a
14 moment, counselor, you picked a good time to
15 walk out.

16 Mr. McDaniels has asked a sitting
17 member of our Board to recuse himself based
18 upon comments made at the last application. I
19 said we are here to take substantive comments
20 about the actual application that's before us.

21 I also pointed out that Mr. Tulley, as
22 a sitting member of this Board, has the ability
23 to give his opinion when he hears an
24 application and opine about whether or not it
25 might be a good fit or a bad fit. But I did

1 say that properly the use is not before this
2 Board, it's before the legislative Board, which
3 is the Board of Trustees, pursuant to code
4 requiring a special permit, but I would ask for
5 your advice with regard to that request.

6 MR. WALSH: I think the gentleman
7 should put his -- he can pose his question on
8 the record. I think the answer will be we will
9 take it under advisement and there will be a
10 decision made at some point.

11 MR. McDANIELS: Again, Jack, this is
12 nothing personal.

13 MEMBER TULLEY: None taken.

14 MR. McDANIELS: John, I know you as
15 Jack.

16 MEMBER TULLEY: Jack is fine.

17 CHAIRMAN TRUNCALE: It's going to be
18 John probably now.

19 MR. McDANIELS: It will be, you are
20 right.

21 So in going over the building code, and
22 I will start now, just to address --

23 CHAIRMAN TRUNCALE: We will start the
24 three minutes now, okay?

25 MR. McDANIELS: Yes. Well, that was

1 actually -- I'm sorry, before we start the
2 three minutes. That was my second thing, why
3 are we being limited to three minutes this
4 time?

5 CHAIRMAN TRUNCALE: We are trying to
6 get through everybody.

7 MR. McDANIELS: Okay. It's obvious I
8 am not going to be able to.

9 CHAIRMAN TRUNCALE: You are going to do
10 three minutes.

11 MR. McDANIELS: Right.

12 CHAIRMAN TRUNCALE: Then we are going
13 to go back to see, and then if we have more
14 time we will allow you to come up and finish
15 your comments.

16 MR. McDANIELS: So in the zoning code
17 as stated previously, you know, this should not
18 create a -- should not change the character of
19 the neighborhood, all right. Also it says that
20 the alleged hardship has not been self-created.
21 So in purchasing this building and attempting
22 to propose this, he is self-creating his own
23 financial problem here with this permit.

24 There are two current apartment
25 buildings, a lot of people -- the Philips

1 International building at 47 when that was
2 being built there was opposition, Jerry gave a
3 letter for that also and nobody used it from
4 that building. That wasn't these individuals,
5 wasn't Philips, it happened to be the Brown
6 Derby owner at the time which ironically
7 happened to be the police chief's wife and she
8 was able to get a variance to put that building
9 up, her and her brother Bob. So to go and add
10 another apartment building on the block is
11 just, you know, overbearing for the residents
12 in the neighborhood.

13 I don't want to kill the parking issue,
14 you know, you've heard enough, there really is
15 no parking no matter what they want to say.
16 Even with the Village adding the 12 spots that
17 are there right now in the old police lot,
18 there is some room in the back, but they are
19 not going to fit, you know, many cars back
20 there. There is really only 12 spots.

21 Quality of life. Quality of life will
22 definitely change. You know I don't think kids
23 going into the park, parents going into the
24 park want people sitting on a balcony overhead
25 watching them.

1 You are adding more cars to the
2 neighborhood. We are getting killed over here.
3 I talked to the Mayor, he is, like, well, we
4 can handle that. How are you going to handle
5 that? Dance studio, speech therapy place,
6 candle place, Pilates place, that little lot
7 that they have in that building, cars overflow.
8 So we are going to have a big problem in this
9 area.

10 Another thing I wanted to bring up was
11 the fact that Mr. Wagner mentioned in the first
12 meeting, he mentioned a few times about
13 financial feasibility. Financial feasibility
14 shouldn't be a consideration for the Board
15 considering a variance. That's something that
16 the applicant has taken on himself that he is
17 looking to make this a profitable project for
18 him.

19 I know I am getting close, right, Mary
20 Kate?

21 MS. SCHNAARS: Pretty much, yes.
22 Two seconds.

23 MR. McDANIELS: I'm going to step away.

24 I moved here from the City, it's going
25 to be 29 years. The reason I did that was to

1 get away from apartment buildings and, you
2 know, I just don't think that adding another
3 one, and then we are going to see another one
4 after that and another one after that, you are
5 going to see more applicants, I don't think
6 it's a right thing here for Malverne.

7 CHAIRMAN TRUNCALE: Thank you.

8 MR. McDANIELS: Thank you.

9 CHAIRMAN TRUNCALE: I have another
10 person that's signed in Mr. Lo or Miss Lo,
11 Maricel.

12 Please step up.

13 MS. LO: Hello, my name --

14 CHAIRMAN TRUNCALE: Name and address
15 for the record please.

16 MS. LO: My name is Maricel Lo, and I
17 live at 15 Park Boulevard, Malverne.

18 CHAIRMAN TRUNCALE: You have to talk a
19 little louder so everybody can hear you. I'm
20 sorry.

21 MS. LO: My name is Maricel Lo, I live
22 at 15 Park Boulevard, Malverne, New York 11565.

23 I have no issues.

24 CHAIRMAN TRUNCALE: No issues?

25 MS. LO: Yes.

1 CHAIRMAN TRUNCALE: Thank you.

2 Is there anybody that hasn't spoken yet
3 that hasn't signed in that wishes to be heard?
4 Okay, please step up and state your name and
5 address for the record, sir.

6 MR. SCHNEIDER: My name is Steve
7 Schneider, my office is at 124 Cedarhurst
8 Avenue, Cedarhurst, New York.

9 I am one of the owners of -- the
10 principal owner of the buildings at 22 to 40
11 Church Street.

12 First of all, we never got proper
13 notice in the original hearing. I will say
14 that the Village has been very good about
15 notifying us of the subsequent hearings, but I
16 do think the fact that we didn't get notice is
17 still a defect in the whole proceedings and
18 grounds for being dismissed.

19 Secondly, as you may know --

20 CHAIRMAN TRUNCALE: Yeah, I don't think
21 you are in the radius, sir, that's probably why
22 you didn't get notice.

23 MR. SCHNEIDER: We are not? We are
24 within a mile of the --

25 CHAIRMAN TRUNCALE: It's 300 feet.

1 MR. SCHNEIDER: In July of 2021 we
2 applied to convert several commercial spaces in
3 our building, and we wanted to add six
4 apartments. We were doing that without
5 violating five different zoning variances and
6 we were within our rights to do that and we
7 were blocked from doing that, really by the
8 Village Board and the Mayor at the time. Just
9 a matter of fundamental fairness, I don't see
10 why this applicant should be allowed to build a
11 12-unit building, violate five different zoning
12 ordinances, when we were not permitted to
13 build -- to just convert existing space into
14 apartments.

15 The third thing, which probably is the
16 main issue, is that there is really not enough
17 parking. Parking is very tight.

18 And as far as these spots at Jerry's
19 lot, from what I understand, he is only willing
20 to give nine spots, he may not be even willing
21 to give that, and it's only for a year. And if
22 Jerry gives spots from his lot, we have tenants
23 in our building who park there, so you are not
24 really solving any problem, you are just
25 extending the lack of parking. In other words,

1 the Village doesn't really have enough parking
2 to accommodate these 12 different apartments.

3 The idea that these are going to be
4 young people and not going to have cars, that's
5 just ridiculous, everybody has cars today, or
6 most people.

7 And the idea that they did their own
8 traffic study, there are companies that are
9 professional companies that do traffic studies,
10 and anyone making a zoning or variance
11 application usually engages the service of some
12 company. The applicant is not skilled in doing
13 this, doesn't usually do it themselves.

14 And then the last point I just would
15 like to highlight is that, in other words, to
16 get a zoning variance and use variance there
17 has to be hardship.

18 CHAIRMAN TRUNCALE: We are not
19 considering a use variance.

20 MR. SCHNEIDER: This is not a use?

21 CHAIRMAN TRUNCALE: These are area
22 variances, just for the record.

23 MR. SCHNEIDER: Okay, fine. I would
24 say any hardship though would be self-imposed.

25 CHAIRMAN TRUNCALE: Understood. The

1 use, as I stated, goes to the Board of
2 Trustees.

3 MR. SCHNEIDER: Okay, thank you.

4 CHAIRMAN TRUNCALE: Thank you.

5 Is there anybody here that hasn't
6 signed in and wishes to be heard? I didn't
7 call on you yet. I'm joking. Come on up.

8 State your name and address for the
9 record please.

10 MS. SCHURE: Ariel Schure, 35 Utterby.

11 I think I am in your target
12 demographic. I would never live in a 500
13 square foot apartment.

14 There is no parking, I live there.
15 They are completely correct there are people
16 that park in Jerry's lot that live in these
17 apartments already that would be displaced, you
18 would just be perpetrating a parking issue and
19 issues that exist.

20 CHAIRMAN TRUNCALE: Thank you.

21 Anybody else? You, sir, in the back.

22 Please state your name and address for
23 the record.

24 MR. PEARLSTEIN: My name is Matt
25 Pearlstein, I live at 58 Webber.

1 I just have a couple of concerns that
2 I've heard so far tonight. First of all, I
3 know that the parking has been talked about to
4 death, but it was mentioned about the police
5 spots and the old lot. And I find that
6 concerning as the fact is we don't know what's
7 happening to that area as of yet. It's still
8 not undecided, so to rely on spots there seems
9 a little bit of a bad situation to me.

10 I also don't like the fact that it was
11 brought up earlier as well that there is a
12 concern about where the garbage will be kept
13 and maintained. I feel like proximity to a
14 children's park right there, there is really
15 nowhere to keep that garbage. That would not
16 pose a risk to the children that are playing
17 there?

18 I also just believe that this is more
19 important to be heard as rather than a singular
20 case, as setting a precedent for going forward
21 as stated by many other people if we allow
22 these variances to be moved with, we will then
23 be setting a precedent that will be drawing a
24 line almost to stop other people from being
25 able to do these same things. And I feel like

1 although this might just be allowing this one
2 specific property at the moment, that's going
3 to set a precedent that these other properties
4 can do the same, and before we know it we will
5 wind up with tons of three-story buildings,
6 tons of cars that have nowhere to park and it's
7 just going to become a bit of a slippery slope
8 for everyone that lives in this town.

9 CHAIRMAN TRUNCALE: Thank you.

10 Anybody else?

11 (Whereupon, there was no response.)

12 CHAIRMAN TRUNCALE: I am going to allow
13 your expert, if he would like another few
14 minutes to finish. I think I cut him off. He
15 maybe had one or two more points.

16 MR. LITT: Yes.

17 Actually I wanted to make one more
18 quick comment and then the expert can finish up
19 if you don't mind, Mr. Chairman. I will be
20 very brief.

21 The gentleman who has the commercial
22 property did bring up a very good point, that
23 there was a self-serving traffic survey that
24 was done by the applicant. Obviously we
25 would've liked to have seen whatever survey

1 and, you know, reports that were prepared now
2 to have an opportunity to respond to it and
3 maybe have our own traffic expert put into
4 play. But obviously it's self-serving.

5 I was also going to ask counsel, was
6 there any appraisal done by an appraiser at all
7 at this point that had any comments, thoughts
8 regarding the valuation?

9 CHAIRMAN TRUNCALE: Please step up.

10 MR. WALSH: Are you ready to relinquish
11 your spot?

12 MR. LITT: Yes.

13 MR. WALSH: Can I ask a question --

14 MR. LITT: I apologize.

15 MR. WALSH: -- counsel, for you.

16 Because I can't help, and I know that
17 Mr. Wagner may ask you this, but it's occurred
18 to me you represent 47 Church?

19 MR. LITT: Yes, absolutely correct.

20 MR. WALSH: It looks like the building
21 filed for that property is in the record here
22 and it will be put in the record here for
23 anyone's review. Is it not true that however
24 you got that building or however it was
25 created, it's remarkably similar to this

1 application in many, many respects?

2 MR. LITT: Yes.

3 MR. WALSH: That is true?

4 MR. LITT: I understand that, I wasn't
5 part of that application many years ago, my
6 client wasn't either, it was a prior owner.
7 Obviously he was not familiar with what
8 occurred here at the hearing or what was done
9 at that time. Obviously he is not
10 three stories.

11 CHAIRMAN TRUNCALE: And may I ask you a
12 question, I believe your lot, is it smaller?

13 MR. LITT: Is the lot smaller? Is your
14 lot smaller than his? I don't know the answer.

15 CHAIRMAN TRUNCALE: Mr. Santora?

16 MR. LITT: Good questions.

17 MR. WALSH: Doesn't mean your testimony
18 doesn't mean anything, you stated your client's
19 case very well.

20 MR. LITT: Thank you.

21 MR. WALSH: I wanted to make sure the
22 Board kind of understands that.

23 MR. LITT: Absolutely. Absolutely.
24 Thank you.

25 I am going to let my expert speak, he

1 is not going to speak very long. We want to
2 move this along.

3 MR. DAVELLA: Thank you, Mr. Chairman.

4 CHAIRMAN TRUNCALE: Please restate your
5 name.

6 MR. DAVELLA: Mark Davella.

7 With regards to counselor's last
8 question with regards to 47 Church, I
9 investigated the building records at that
10 location, from what I understand it was at one
11 time a restaurant on that first floor and it
12 was the exact size of the existing building
13 footprint that was used, and then it was raised
14 up to a second floor, and a special use and
15 area variance was given to add the second
16 floor, but only the second floor, so it is not
17 like this project at all.

18 Moreover, I think that the residents of
19 the Village have spoken clearly as to the
20 different matters. This room is 35 tiles
21 across, and in order to get a 500 square foot
22 apartment of what the applicant is proposing,
23 it ends somewhere right around here at the
24 first pew. So that is the size of one of the
25 dwelling units that we are talking about. That

1 is entirely too small for two people to live
2 in.

3 With regards to the other commercial
4 gentleman, we found out that Jerry may be
5 double or triple dealing on his parking spots,
6 so there is no effective parking. The parking
7 survey that was done is, in fact, self-serving
8 and he should provide an expert parking report
9 as far as what the availability truly is in the
10 Village.

11 In addition to that, we are asking for,
12 or the applicant is asking for a 23 percent
13 variance on the FAR, but a 50 percent variance
14 on what the minimum square footage is on the
15 units.

16 This application doesn't fit the
17 demographic, the character of the neighborhood,
18 or any of the other criteria, and it's not a
19 financial hardship for him to reduce size or do
20 something else with his venue.

21 CHAIRMAN TRUNCALE: Can I ask you a
22 question?

23 MR. DAVELLA: Go ahead.

24 CHAIRMAN TRUNCALE: What are the mix of
25 apartments at your client's building as far as

1 square footage out of curiosity?

2 MR. DAVELLA: I do not know that. I
3 wasn't given that in the building records when
4 it was handed over to me. I believe that he's
5 got --

6 CHAIRMAN TRUNCALE: There are 12 units
7 there though, right?

8 MR. DAVELLA: I was told that there
9 was, in fact, 12 units. And I believe that
10 he's got 10,000 square feet, 5,000 over 5,000
11 square feet. He's also open, open ingress and
12 egress on two full sides.

13 CHAIRMAN TRUNCALE: No, I know. But
14 I'm curious, and it would be relevant to the
15 conversation as you stand here representing
16 that building, what the demographics are with
17 regard to the mix.

18 MR. DAVELLA: It's two stories.

19 CHAIRMAN TRUNCALE: I understand that.

20 But you are saying -- you are making an
21 argument, and I am very much willing and
22 anxious to hear the argument, and you are
23 saying 500 square feet is too small, this is
24 too small. I would love to know, for the
25 purposes of knowing, comparing apples to

1 apples, what the makeup of your building is as
2 far as unit sizes, studios, one bedroom, two
3 bedroom? It's relevant to the conversation.

4 MR. LITT: We have the super here from
5 the building who could probably answer that
6 question.

7 MR. WALSH: Sir, you understand that
8 the -- you are testifying as to the size of
9 these units, yet you are representing someone
10 whose building is two stories, same number of
11 units, smaller lot, and the question is
12 properly framed or asked, okay, what are the
13 sizes of those units?

14 MR. DAVELLA: The size of the units as
15 I understand is about 800 square feet from what
16 I understand.

17 CHAIRMAN TRUNCALE: So if you have the
18 super here, let's have the super.

19 State your name and address for the
20 record, sir.

21 MR. BRADY: Kevin Brady, 90 Church
22 Street, Malverne, New York. I'm the super of
23 47 Church Street.

24 Currently the apartment has six
25 apartments on the first floor, with main egress

1 to the front and back, and it has
2 six apartments on the second floor.

3 CHAIRMAN TRUNCALE: Are they all
4 identical in size?

5 MR. BRADY: No, there is six
6 two-bedrooms on -- yeah, the two-bedrooms are,
7 yes, and the one-bedrooms are, yes. There's
8 six two-bedrooms on the first floor, there's
9 three and three, so there's 12 apartments in
10 the building. So let me clarify it, the first
11 floor has three one-bedroom apartments, and
12 three two-bedroom apartments, and same thing on
13 the second floor.

14 The way the apartments are laid out,
15 they are all laid out a little bit differently,
16 some of them have galley kitchens, the bedrooms
17 are about 10 by 10, 10 by 12, depends upon if
18 it's a one or two-bedroom. The living room is
19 probably 20 feet by 12 feet, hallways, very
20 open, very airy.

21 CHAIRMAN TRUNCALE: So on average,
22 Mr. Brady, you would say the one-bedrooms are
23 approximately how many square feet? I am not
24 going to hold you to it.

25 MR. BRADY: They are 800 to 900 square

1 feet maybe approximately.

2 Windows all over the place, except for
3 one side doesn't have windows where their
4 apartments are going, the railroad side has
5 been soundproofed from what I understand when
6 it was built, I was here when it was built, I
7 was here with the zoning when it was built.

8 And I just want to talk one question
9 about parking, and I didn't expect to talk
10 tonight. I live across the street, it's nice
11 that they were out there all hours of the night
12 checking the parking lots because I saw them.

13 Currently there are five cars that used
14 to be in this lot that are now over in Lot 5,
15 which is the railroad parking lot. There is
16 six cars for Mr. Schneider's building that used
17 to be in this lot that are now over in Parking
18 Field 5. Why that happened? I don't know.
19 They are not giving tickets in those lots,
20 that's why this lot has been empty. Today they
21 started giving tickets out in Lot 5 to move the
22 cars back over here.

23 So to do a traffic study or to sit here
24 and drive around 10:00, 11:00 at night taking
25 pictures out of your car, it should be done

1 professionally.

2 I have pictures of Jerry's gas station,
3 totally full all hours of the day, all hours of
4 the night. Where are they going to get nine
5 spots from? Are they kicking cars out? Where
6 are those cars going? I'd be more than happy
7 to give you the pictures, I'll submit them to
8 you. I took them from the day before he
9 adjourned it from the last time during the day
10 I have it, his lot is totally full. I don't
11 know where he is getting these nine spots from
12 unless he's doing tier parking.

13 Like I said last time, you know, all
14 you folks live in Malverne, drive by and see
15 for yourself, he has commercial lots in there,
16 he has commercial vans, Snap-on vans. And take
17 into consideration, I don't mean to say
18 anything about Jerry, but what happens if he
19 sells the place in six months? And it just so
20 happens that now the police department lot
21 opened up, you figure it out.

22 CHAIRMAN TRUNCALE: Thank you.

23 MR. DAVELLA: So in continuing on with
24 the parking, from what I understand, the police
25 station isn't going to be a designated parking

1 area for everyone to become a municipal lot,
2 the Village may decide to sell it off and let a
3 development come in there.

4 I don't think that it's out of the
5 character of the Village to scale this project
6 down and limit it to two stories, like all of
7 the other buildings in the Village and
8 everything within the line of sight.

9 Again, as per my testimony, the only
10 three-story building in the Village predates a
11 certificate of occupancy. I think the
12 residents are right in sounding off saying that
13 this is out of character for the neighborhood
14 and it causes them financial harm. While
15 there's no financial harm to cut the project
16 back and the developer can still do a reduced
17 project.

18 And with that I am going to yield.

19 CHAIRMAN TRUNCALE: Okay. Anybody else
20 that has not spoken that wishes to speak?

21 Mr. McDaniels, I did promise you one
22 last shot. Go ahead.

23 MR. McDANIELS: Ask anybody that hasn't
24 spoken. I want to go off of his comments.

25 CHAIRMAN TRUNCALE: Anybody else, this

1 is your last chance if you haven't spoken, this
2 is your opportunity?

3 (Whereupon, there was no response.)

4 CHAIRMAN TRUNCALE: Okay, Mr.
5 McDaniels.

6 MR. McDANIELS: Thank you.

7 CHAIRMAN TRUNCALE: Just state your
8 name and address again.

9 MR. McDANIELS: Jim McDaniels, 70
10 Church Street.

11 I forget his name, I'm sorry, he walks
12 past my house twice a day with the dogs or dog
13 now.

14 So he mentioned, or you mentioned to
15 one of his statements the use variance, and
16 that that's not here, it's the Board of
17 Trustees.

18 CHAIRMAN TRUNCALE: That's not what I
19 said.

20 MR. McDANIELS: Oh, I'm sorry.

21 CHAIRMAN TRUNCALE: Just a quick
22 procedural and Zoning 101.

23 Use variance is when the code does not
24 enumerate a use and thus it is a prohibited
25 use, you seek a use variance. This is

1 enumerated as a specially permitted use, which
2 means, by its nature, the legislative body of
3 the Village has at one point recognized this
4 use as fitting in that zone but wanted to have
5 some jurisdiction over it, so they label it as
6 special permit use and they must appear before
7 the legislative, body which is the Board of
8 Trustees.

9 What we are here for tonight is known
10 as an area variance which it means you need
11 20 feet and you are seeking 15 feet, that's
12 called an area variance.

13 And, again, you know, over and over
14 again, and this is just to say our job is not
15 an easy one as the Board of Zoning Appeals. If
16 we did exactly what everybody is asking us to
17 do in the sense that everybody keeps saying the
18 code says this and the code says that and the
19 code should carry the day, we'd be out of
20 business, number one, there would be no Zoning
21 Board, number one; number two, I would venture
22 a guess anybody here that has a residence that
23 needed to put in a swimming pool or they needed
24 to build something, those are all things we
25 consider, those are area variances. People

1 come to us residential, single family, multi,
2 everybody, if we did not listen to the
3 application asking us to vary the code, the
4 people who needed to do a dormer for their
5 third child, the people who needed to extend
6 their home because they are having an aged
7 parent move in, we wouldn't be able to consider
8 that, so that's the job we are tasked with.
9 It's not an easy one, but if we didn't do that
10 then all those things people sought to do after
11 they bought their home, would never be able to
12 be even entertained, so that's Zoning 101.

13 Now I welcome your comments.

14 MR. McDANIELS: I do appreciate that.

15 So in this particular matter it wasn't
16 one of those issues with it was owned and owned
17 for years and we are going to have an elderly
18 parent move in. This was simply just a money
19 grab project.

20 That being said, I do hope that the
21 Board will consider all the residents. There
22 are a lot of residents that couldn't be here
23 between little league evaluations and working,
24 more people did want to speak on this in
25 opposition.

1 I just want to say I hope that the
2 Board does the right thing and denies this
3 application tonight.

4 Thank you.

5 CHAIRMAN TRUNCALE: Thank you, sir.

6 Okay, we are going to close it to
7 public comment at this point.

8 I am going to invite Mr. Wagner back up
9 to respond to some of the issues and questions
10 presented, and then you can give a summation,
11 sir.

12 MR. WAGNER: Thank you, Mr. Chairman.

13 With respect to the team of experts --

14 CHAIRMAN TRUNCALE: One caveat, we may
15 have some more questions for you after you
16 present.

17 MR. WAGNER: We will welcome that
18 opportunity.

19 With respect to the team of experts
20 from 47 Church, I just -- I guess I just have a
21 hard time trying to really understand the
22 rationale. Is it because it's a competition
23 thing, they are trying to corner the market? I
24 am not quite sure. They are an apartment which
25 is a permitted use subject to special exception

1 by the Board of Trustees, and they have
2 12 units, we are looking to do the exact same
3 thing. We are 15 inches short of the Village's
4 height requirement, 15 inches in one location,
5 our roof is 29 feet.

6 So, you know, they discuss a lot
7 about --

8 CHAIRMAN TRUNCALE: Since we are
9 talking about it and it's happening in real
10 time. As far as your proposed building versus
11 the existing building at 47, what's the height
12 disparity of what you are proposing versus what
13 exists there?

14 MR. WAGNER: I don't have the answer to
15 that question. I don't know if they know or if
16 they are prepared to --

17 MR. LITT: 15 feet. I apologize.

18 MR. WAGNER: That doesn't sound right
19 to me.

20 CHAIRMAN TRUNCALE: 15 feet seems like
21 a lot.

22 MR. WAGNER: Yes, it does.

23 And so in any event, I did pull the
24 file for that property and it was interesting
25 reading all the transcripts from the hearings

1 associated with that.

2 CHAIRMAN TRUNCALE: Hold on.

3 Mr. Santora, do you know what the
4 height of that is?

5 MR. SANTORA: Not offhand I don't have
6 that information.

7 MR. WALSH: The building file is in the
8 record though, I put it in so you can look at
9 it.

10 CHAIRMAN TRUNCALE: Okay.

11 MR. WAGNER: Thank you, counsel.

12 Reading the transcripts, there was
13 overwhelming support at the time in which the
14 approvals were given for that property as it
15 converted from Brown Derby into what it is
16 presently. And variances were sought and
17 obtained similar to what we are here
18 requesting. People came and spoke in favor of
19 how it's going to actually do exactly what we
20 are looking to do, provide additional housing
21 for people. So I don't really understand the
22 financial harm in the Business District.

23 And with respect to the size of our
24 units, we have -- our average size of our unit
25 is 713 square feet, we have units that range

1 from 493 one, 713, 703, 725, 725, 788 and 758
2 in terms of square footage of our apartments.

3 Our proposal is not built out to the
4 extent that 47 Church Street is, they
5 encapsulate the whole lot, and they are a
6 smaller lot, they are 5,500, we're 6,000. We
7 are maintaining side yards, there is no side
8 yard setback request here, there is a front
9 yard and only for the second story, the
10 footprint complies, there is a rear yard but
11 there is still ample space on the east side --
12 there is 11 feet on the northeast side, we have
13 6 feet on the other, and then we have ranging,
14 you know, 8 or so feet in the rear.

15 With respect to -- I don't really
16 understand the emergency access argument that
17 they have made or how we are different in any
18 way from any other building within the Village.
19 We will have to comply with the New York State
20 Building Code if we get our approvals, we will
21 have to comply with the Village Code if we get
22 our approvals with respect to where trash can
23 be maintained and where things can be stored
24 and where they can't, and we are happy to do
25 that.

1 Mr. Rossi lives in this Village,
2 Mr. Rossi doesn't live elsewhere, not Philips
3 International some big conglomerate, it's one
4 guy, managing member who lives in the Village
5 who is attempting to build something that we
6 think would be a benefit to the Village.

7 Again the variances for the property
8 for 47 Church are very similar to what we are
9 looking to do, their unit sizes, they said 800,
10 900 square feet, I don't know, I haven't been
11 in there but, you know, our average is over
12 700.

13 Someone made an issue about that
14 someone said that they were trying to find
15 parking and a couple of folks said they have
16 witnessed deficiency in parking. I would
17 submit that our reports speak for themselves.
18 It's not a traffic report, we don't have to get
19 an expert, it's a parking report, it's a
20 parking survey, it's a parking inventory
21 conducted by boots on the ground, someone who
22 is there every single day and every single
23 night on the days noted in the report, took
24 pictures, time stamped to substantiate these
25 things.

1 With respect to the self-created
2 hardship, I will just address that briefly, but
3 that's one factor amongst the five. And when
4 you conduct the balancing test that shall not
5 be determinative, one could argue every area
6 variance in some way is self-created. But,
7 again, it's not determinative when you are
8 balancing that balancing test.

9 Someone said about balconies, there is
10 no balconies here, there is no balconies. And
11 the patios, terraces have been eliminated. So
12 I don't know where that came from.

13 Mr. Schneider talked about not getting
14 notice. I don't believe he is in the radius.
15 We had one hearing in August, I don't think he
16 would have gotten notice for that because he is
17 not in the radius.

18 We are not seeking use variances as
19 Mr. Chairman eloquently pointed out. These are
20 not use variances, they are area variances.

21 And Mr. Schneider uses parking at
22 Jerry's.

23 With respect to Jerry's, the
24 conversation that my clients had in connection
25 with his commitment, written commitment, to

1 provide nine spots when needed, he's got junk
2 cars there, so the conversation that he had
3 with my clients is that those junk cars will be
4 removed, he is financially motivated to collect
5 on those nine spots, there will be a rent
6 associated with that.

7 So in closing, Mr. Chairman -- again,
8 happy to answer any questions -- I would submit
9 that the comments submitted by the team of
10 experts for 47 Church are a little disingenuous
11 because we are exactly what they are, what they
12 have, and we are looking to provide an
13 additional service, an additional supply of
14 housing within the Village. And we would hope
15 that you would look favorably on our
16 application.

17 And then just quickly, if I could, I
18 would like to touch upon the balancing test.
19 Will an undesirable change be produced in the
20 character of the neighborhood? No. We are in
21 the Business District, there is no undesirable
22 change, it's actually in line with permitted
23 uses, subject to special exception. It's an
24 improvement from what sits there presently.
25 That's an improvement, we submit, from what

1 could be used there as a GC or plumbing with
2 vans coming in and out every day.

3 There is no alternative feasible method
4 for the applicant to pursue other than these
5 area variances to pursue this project.

6 With respect to substantiality, given
7 the totality of the circumstances and the
8 existing character of the neighborhood, we
9 would submit that as a whole our variances are
10 not substantial.

11 These proposed variances will not have
12 an adverse impact on the physical environmental
13 conditions in the neighborhood. Again, we
14 would submit this would be an improvement.

15 And I've already touched on the
16 self-created aspect.

17 Again, we submit on balance when you
18 weigh, when you go through the balancing test,
19 which is this Board's charge, as you well know,
20 that there is a benefit to the community by
21 providing housing for empty nesters and young
22 professionals, that there's a benefit from
23 knocking down an old dilapidated building in a
24 central location in the Village and replacing
25 it with a beautifully designed 12-unit

1 family-dwelling.

2 So, again, we respectfully request that
3 the Board look favorably upon our application
4 and grant our variances.

5 CHAIRMAN TRUNCALE: Thank you.

6 I am just going to ask the Board one
7 last time if there are any follow-up questions?

8 MEMBER MAWHIRTER: If I can speak a
9 little bit to the parking situation.

10 Just going through the studies that you
11 provided, I did note that during the daytime
12 parking survey, averages can be deceiving. I
13 know you spoke to the average number of spaces
14 available. But I did note that there were 43
15 instances of where there were fewer than
16 five -- there were five or fewer spaces
17 available, and I don't know if they were in the
18 same lot, different lots, but my concern is
19 that people have to -- they are going to try to
20 park to the closest spot to the building,
21 particularly if you are a young mother with a
22 child, or bringing in groceries, or whatever
23 the case may be.

24 MR. WAGNER: Sure.

25 MEMBER MAWHIRTER: If those spaces

1 aren't available they are going to drive around
2 and hunt for spaces. So I guess my question
3 is, was there any study done that looked at if
4 there were fewer than five spaces in more than
5 one lot simultaneously? In other words, they
6 may not have readily available parking within a
7 reasonable walking distance.

8 MR. WAGNER: Right. So the question I
9 guess I would just start off by saying that at
10 the time in which this inventory was done, we
11 did not even have the ability to inventory the
12 new lot across the street, which we are not
13 quite sure if that's going to have 14 or 16
14 spaces. So, you know, looking at the data from
15 the daytime parking, Field 1, average of six;
16 Field 2, average of 8; Field 3, average of 76
17 spaces available; Field 5, 23 spaces available;
18 Field 6, average of 28 spaces available. But
19 in connection with your specific question the
20 answer would be no.

21 MEMEBER MAWHIRTER: Again, averages can
22 be deceiving because you are looking at the
23 full timeline of the study, but not any
24 specific or synchronized timeline. So I do
25 have a concern with that.

1 Also with the new lot being created,
2 none of these spaces are reserved, they are all
3 first come, first serve, subject to having a
4 permit to park there. You can't really count
5 on that opening of 15 more spaces. So that's
6 just my concern about the parking.

7 Mr. Chairman, can I question on the
8 Environmental Form?

9 CHAIRMAN TRUNCALE: Absolutely.

10 MEMEBER MAWHIRTER: So one of the
11 questions I believe I had asked at the previous
12 hearing was on page two where it asks whether
13 there are other government entities where
14 permits or approvals need to be sought, and I
15 had asked about the railroad because of your
16 proximity to that. Was any inquiry made into
17 that?

18 MR. WAGNER: I conducted some research,
19 and I'm unaware of any requirement or any
20 approval from the Long Island Rail Road.

21 Just with respect to the parking, I
22 certainly understand where you are coming from,
23 but I guess I would just bring us back to our
24 deficiency and our deficiency is 19, and that
25 19 becomes ten with our agreement with the shop

1 down the street.

2 And we would hope and we feel confident
3 that the residents of our building would have
4 ample inventory of parking in these various
5 lots to avail themselves of.

6 MEMEBER MAWHIRTER: The other question
7 I had on the EAF was on page five where you --
8 where it discusses water and sanitary. I noted
9 on the revised document that was submitted
10 where it discusses, will the proposed action
11 generate liquid waste? And the box is checked
12 yes, but I don't see a value entered there,
13 where previously you noted 360 gallons a day.

14 MR. WAGNER: Yeah, I'm sorry, so that
15 was an omission on the carryover from draft one
16 to draft two. So that should -- we're happy to
17 submit a supplemental to address that omission,
18 and we certainly can do that.

19 MEMBER MAWHIRTER: And then if you go
20 back up to where it discusses the demand for
21 water, you had 900 gallons, I believe you still
22 have that same -- you have the same value. But
23 I'm just trying to understand how can the
24 sanitary flow be significantly less than what
25 the water demand might be? If you can have

1 someone look into that value. You have 900
2 gallons per day for water and only 360 for
3 sanitary.

4 MR. WAGNER: So that was an estimate
5 that we had obtained from my client who does
6 building and development, and based upon the
7 number of fixtures and estimated use.

8 MR. WALSH: So you are aware that you
9 will need a water availability letter, assuming
10 you get that far; if this application gets that
11 far you can demonstrate that.

12 MR. WAGNER: We are more than happy to
13 obtain that if we get to that point, yes, sir.

14 MEMBER MAWHIRTER: Same with the letter
15 of availability?

16 MR. WAGNER: Yes.

17 A host of building code compliance
18 issues that we welcome the opportunity to
19 comply with if we get there.

20 MEMBER MAWHIRTER: Any of those
21 calculations would be based on current County
22 flow rates.

23 MR. WAGNER: Yes.

24 MEMBER MAWHIRTER: I think that was it.

25 MR. WAGNER: Thank you.

1 MR. WALSH: Mr. Wagner, I don't know
2 the answer to this, but I thought it might be
3 that you need an elevator in the building. I
4 assume the architect would have put an elevator
5 in there if you need it for a new construction
6 two-story residential or three-story
7 residential building?

8 MR. WAGNER: That's correct.

9 MR. ROSSI: It's not required.

10 MR. WAGNER: It's not a requirement.

11 MR. WALSH: Again, it will be stopped
12 if it gets to that point. It would be stopped
13 at that point, but I just want to make sure you
14 thought of it.

15 MR. WAGNER: Thank you.

16 CHAIRMAN TRUNCALE: Anybody else on the
17 Board have a question at this point?

18 (Whereupon, there was no response.)

19 CHAIRMAN TRUNCALE: Counselor?

20 MR. WALSH: Well, you need a SEQRA
21 resolution.

22 CHAIRMAN TRUNCALE: Is there a motion
23 to designate the action an unlisted action with
24 a negative declaration?

25 MEMBER MAWHIRTER: Can they do that

1 without having the supplemental?

2 MR. WALSH: On the water?

3 MEMBER MAWHIRTER: On the EAF.

4 MR. WALSH: They submitted it. There's
5 some questions you may need answers to. On the
6 overall question on SEQRA is it an unlisted
7 action, and do you think ultimately there is an
8 environmental rationale for requiring a lot
9 more information? And I think someone wants to
10 make a motion, you guys will decide. It's
11 always a tough one because there is inevitably
12 some questions that are environmentally
13 considered by the Building Department, by other
14 people with jurisdiction, yet you can't act
15 without a determination. So you've asked some
16 good questions, and they are important in
17 getting in the record, I don't know that it
18 would prevent you from making the SEQRA
19 determination one way or the other, so you can
20 then move this on to some other decisions.

21 CHAIRMAN TRUNCALE: Is there a motion?
22 Anybody on the Board make a motion?

23 MEMBER FEIHEL: I'll make a motion.

24 CHAIRMAN TRUNCALE: Is there a second?

25 MEMBER MAWHIRTER: Second.

1 CHAIRMAN TRUNCALE: All those in favor?

2 (Chorus of ayes.)

3 MR. WALSH: So it's been determined to
4 be an unlisted action and a negative
5 declaration on the environment.

6 CHAIRMAN TRUNCALE: Yes.

7 At this time I would like to ask for a
8 motion to close the hearing and reserve
9 decision.

10 Is there a motion?

11 MEMBER MAWHIRTER: I'll make that
12 motion.

13 CHAIRMAN TRUNCALE: Is there a second?

14 MEMBER SALOGUB: Second.

15 CHAIRMAN TRUNCALE: All those in favor?

16 (Chorus of ayes.)

17 CHAIRMAN TRUNCALE: Thank you.

18 MR. WALSH: Just so the public knows,
19 the decision can only be made at a public
20 meeting. The public meeting will be posted, it
21 will be a public decision.

22 CHAIRMAN TRUNCALE: Can I have a motion
23 to close the meeting?

24 MEMBER TULLEY: I make a motion.

25 CHAIRMAN TRUNCALE: Second?

1 MEMBER MAWHIRTER: Second.

2 CHAIRMAN TRUNCALE: All those in favor?

3 (Chorus of ayes.)

4 (Whereupon, the Zoning Board of Appeals
5 hearing was concluded and stood adjourned.)

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C E R T I F I C A T I O N

I, Mary Kate Waldron, Court Reporter, within and for the State of New York, do hereby certify that I have reported the proceedings, that it is a true and accurate transcription of my stenographic notes.

I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of March, 2025.

MARY KATE WALDRON

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