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INCORPORATED VILLAGE OF FREEPORT  
ZONING BOARD

MUNICIPAL BUILDING  
46 North Ocean Avenue  
Freeport, NY 11520

March 16, 2023  
6:00 p.m.

M E M B E R S :

ROSA RHODEN	CHAIRPERSON
JENNIFER L. CAREY	DEPUTY CHAIR
BEN JACKSON	MEMBER
ANTHONY J. MINEO	MEMBER
CHARLES HAWKINS	MEMBER

\* \* \*

ROBIN CANTELLI	SECRETARY
JENNIFER UNGAR	DEPUTY VILLAGE ATTORNEY

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March 16, 2023

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-----EXHIBITS-----

BOARD'S FOR I.D. PAGE

1 Affidavit of Publication 5

2 Affidavit of Posting 5

APPLICATION 2023-1

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 6

A Photographs 20

B Zoning map 20

\* \* \* \*

APPLICATION 2023-2

BOARD'S FOR I.D. PAGE

1 Affidavit of Mailing 59

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March 16, 2023

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-----I N D E X-----

APPLICATION#	ADDRESS	PAGE
2023-1	74 Broadway	6 - 59
2023-2	307 Guy Lombardo Avenue	59 - 86

1  
2 CHAIRPERSON RHODEN: Good evening,  
3 everyone. I'd like to open up the Zoning  
4 Board of Appeals meeting for March 16, 2023.  
5 If everyone would please join me for the  
6 Pledge of Allegiance.

7 (Pledge of Allegiance was recited.)

8 CHAIRPERSON RHODEN: Can I please  
9 have a motion to enter into executive session  
10 to consult with counsel, please.

11 MEMBER JACKSON: So moved.

12 MEMBER HAWKINS: Second.

13 THE SECRETARY: All in favor.

14 MEMBER JACKSON: Aye.

15 MEMBER HAWKINS: Aye.

16 CHAIRPERSON RHODEN: Aye.

17 THE SECRETARY: Any opposed?

18 (No response was heard.)

19 (WHEREUPON, the Board entered into  
20 executive session from 6:09 p.m. to  
21 6:39 p.m., after which the following  
22 transpired:)

23 CHAIRPERSON RHODEN: Good evening,  
24 everyone. If everyone would join me for the  
25 Pledge of Allegiance.

(Pledge of Allegiance recited.)

CHAIRPERSON RHODEN: Can I please have a motion to approve the minutes from the February 16th meeting?

MEMBER MINEO: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER MINEO: Aye.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Do we have an Affidavits of Publication or Posting to be entered into the record as exhibits?

THE SECRETARY: I have one Affidavit of Publication and one Affidavit of Posting for this individual public hearing.

(WHEREUPON, the above-referred to documents were marked as Board's Exhibits 1 and 2, for identification, as of this date.)

CHAIRPERSON RHODEN: Do we have any request for adjournment this evening?

1  
2 THE SECRETARY: We do not, Madame  
3 Chair.

4 CHAIRPERSON RHODEN: Can we please  
5 call the first application on tonight's  
6 calendar?

7 THE SECRETARY: The first application  
8 is Application 2023-1 - 74 Broadway,  
9 Business B, Section 55, Block 234, Lot 48.  
10 El Balcon Properties Corp. New four story,  
11 2,334 square foot apartment building with  
12 three two-bedroom units and six one-bedroom  
13 units with parking under building (at grade).  
14 Variances: Village Ordinance 210-6(A),  
15 210-80(A) - Permitted Uses, 210-47(A) -  
16 Building Height, 210-48 - Lot Area;  
17 apartments, 210-49(C) and (D) - Lot Coverage;  
18 open space, 210-51(A) and (B) - Required  
19 Yards, 210-54 - Front Yards of apartment  
20 buildings.

21 I have one Affidavit of Mailing to be  
22 entered into the record as a board exhibit.  
23 This will be Board Exhibit Number 1 for this  
24 individual public hearing.

25 (WHEREUPON, the above-referred to

1  
2 document was marked as Board's Exhibit 1, for  
3 identification, as of this date.)

4 M A R I A M I R O,  
5 having been first duly sworn by a Notary  
6 Public of the State of New York, was  
7 examined and testified as follows:

8 COURT REPORTER: Please state your  
9 name and address for the record.

10 MS. MIRA: My name is Maria J. Miro  
11 from Maria J. Miro Design and Drafting,  
12 located at 1002 Merrick Avenue, North  
13 Merrick, New York 11566.

14 Good evening, Madame Chair, Members  
15 of the Board. Good to see everyone. I'm  
16 here tonight to represent El Balcon  
17 Properties, located at 41 Madison Avenue in  
18 Hempstead, New York. The owner, Roberto  
19 Delgado, is here with me this evening, and  
20 also Barry Nelson.

21 Roberto from El Balcon has been doing  
22 business in the Village for over 20 years;  
23 mainly new build construction. Tonight we  
24 are respectfully asking the Board to grant us  
25 relief and allow El Balcon to construct an

1  
2 apartment building located at the existing  
3 lot of Number 74 Broadway Avenue, Freeport,  
4 New York, Section 55, Block 234, Lot 48.

5 The proposed building is being  
6 constructed within a Business B zone and will  
7 consist of three two-bedroom units and six  
8 one-bedroom units; so, it's a total of nine  
9 apartments. The parking will be provided at  
10 grade level under the proposed building, and  
11 18 parking spaces will be provided. The  
12 required number of parking spaces is 15.

13 Village Ordinance 210-47(A) is with  
14 regard to the building height. The height of  
15 the building in a Business zone, used as a  
16 business is 50 feet. The apartment building  
17 triggered a variance because the apartment  
18 building will be used as residential and the  
19 proposed plan will have a height of 41.4  
20 inches with a six foot bulkheaded extension.  
21 The height of the proposed build is still  
22 lower than the adjacent property owner.  
23 There is a building next door that is higher.

24 Village Ordinance 210-48 - Lot Area,  
25 apartments. The proposed plan indicates that

1 we have 6,666 square feet of lot area. We  
2 are proposing an open space and recreation at  
3 the roof location of this building. We can  
4 provide a garden and open recreation on the  
5 roof. I would also like to add that we would  
6 like to add more greenery and shrubs in the  
7 front of the building. It's not really shown  
8 on this rendering, but we discussed it and  
9 want to bring in more greenery to enhance the  
10 look of the project.  
11

12 The new apartment building will fit  
13 the general character of the neighborhood and  
14 will have no adverse effect on the community;  
15 it will enhance the community and provide  
16 housing to the residents in Freeport.

17 I'm going to step aside and ask  
18 Mr. Nelson to come up, unless anyone has any  
19 questions for me.

20 CHAIRPERSON RHODEN: I do have just  
21 one question. I know you said the building  
22 next to it is higher. Do you know about how  
23 much, how much higher?

24 R O B E R T O D E L G A D O,  
25 having been first duly sworn by a Notary

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Public of the State of New York, was  
examined and testified as follows:

COURT REPORTER: Please state your  
name and address for the record.

MR. DELGADO: Roberto Delgado. 2125  
Brody Lane, Bellmore, New York 11710.

I don't know exactly what it is. It  
is about, I'd say, 12 feet higher than the  
building next to it. The building across the  
street is about, I'd say, 20 feet higher than  
the one I propose.

DEPUTY CHAIR CAREY: To follow up on  
her question. The Tudor style building to  
the right in the rendering, even though it  
looks like it only has three stories, it's  
higher than your four story building?

MR. DELGADO: Yes. It's four stories  
too. It's higher. It's an old, old  
building. It's, I can say, between 8 and 12  
feet higher than the one we propose.  
Remember, the crown, what I use, it was that  
part where you can see the roof is part of  
the third floor, the fourth floor. The  
reason we design it that way is because you

1  
2 already have a similar building in the  
3 Village, and the people really have a nice  
4 talk about that one. You guys building one  
5 on East Merrick Road, on the north side of  
6 Merrick Road, right before you get to the  
7 parkway. The new building is kind of similar  
8 than that one. Plus, I provide parking.  
9 Even the house next to mine, the proposed  
10 building, is about 34 feet high. We only  
11 about --

12 CHAIRPERSON RHODEN: 41 and change.

13 MR. DELGADO: Yeah. We only about  
14 eight feet higher than the house.

15 DEPUTY CHAIR CAREY: Thank you.

16 MEMBER HAWKINS: You said the top is  
17 the third floor and on top of there you want  
18 to put a recreation area?

19 MR. DELGADO: Yes. If you see there,  
20 it's going to be about -- I'm allowed to go  
21 48 inches high -- 56 inches high from the  
22 bottom of the roof, and then -- I had a  
23 previous meeting with the Village and the  
24 Building Department, with the attorney, and  
25 also that was suggested by them, saying the

1  
2 recreation room is good to do, if I can  
3 provide that. Even if it's more expensive to  
4 construct, I will agree to do that. I  
5 provide the rooftop as a recreation room,  
6 recreation area.

7 MEMBER HAWKINS: How many spots are  
8 you making available underneath, how many  
9 parking spots?

10 MR. DELGADO: 18. We only need 15 by  
11 code. We need two for every two-bedroom  
12 apartment and one and a half for one-bedroom  
13 apartment. I did my diligence. I really did  
14 my diligence to get it to you guys. I went  
15 and sit down with the attorney, we open to  
16 talk to me, and we go over all the variances  
17 we need.

18 On the height, he explained to me. I  
19 was not understanding, quite understanding  
20 what he told me, and the lawyer, the attorney  
21 from the Village also, she explained to me  
22 very well. We are Business zone. We can go  
23 about, I think, 50 feet high. But because I  
24 propose to go apartment, I had to comply with  
25 the apartments. So, that's why -- not even

1  
2 comply, because it's really complying. It's  
3 to get a use. That's what the variance is  
4 for, for use, because it's in a business.  
5 And then I really don't want to have a  
6 business, because that area we have a lot of  
7 little businesses over there.

8 I've been watching the area a long  
9 time. I bought the property five years ago  
10 and I decided to go residential and make it  
11 the residential, make it nice like, you know,  
12 make it one-bedroom apartment with a laundry  
13 room. Mr. Nelson will explain more what's  
14 going to be with laundry room inside.  
15 Everything is going to be in the building.  
16 It's going to be gated. It's going to be  
17 really up there, you know, all the energy  
18 efficiency. The building completed, the  
19 whole thing is going to be energy efficient,  
20 it's going to be elevator. And then you  
21 know, two-bedroom apartment. I proposed 12.  
22 But when I come in with the size and  
23 everything and the Building Department --  
24 again, we sit down and say -- I decide to go  
25 nine, because I want to provide parking for

1  
2 everyone. Over there, it's a little hard to  
3 park. Even close to the train station,  
4 that's what I'm looking for. I looking for  
5 people can take the train, leave the car at  
6 home, walk to the train station, go to work,  
7 come back and get into the building. And you  
8 don't have to go out for laundry, even for  
9 exercise. She's the one that bring to me the  
10 idea to do a rooftop. And then with the  
11 rooftop, we can have a track, exercise,  
12 provide a tent with people to hang out and  
13 also play Rummy.

14 MEMBER HAWKINS: That part on the  
15 left side, is that the elevator?

16 MR. DELGADO: No. This is all we go  
17 for variance, for side yard, because this is  
18 the stairs. We provide stairs on both sides  
19 and one elevator. The elevator is inside the  
20 building. But the stairs going to be -- the  
21 platform for the stairs is going to be  
22 sticking out six feet. That's why we -- the  
23 building itself is ten feet. This is the  
24 only part we go for side yard, you know what  
25 I mean? And this one with the stairs going

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down on and both sides, because now the building have to have two sets of stairs to egress.

MEMBER HAWKINS: I think you said in the plan 5.6 feet for the side yard setback.

MR. DELGADO: And just that area. That eight feet, eight feet wide and those on both side. The rest I'm fine.

MEMBER HAWKINS: How far is that from the neighbor's actual house?

THE WITNESS: This far. You have five plus 12 is 17.

MEMBER HAWKINS: 17.

MR. DELGADO: Yeah. From the other side, you have ten from the building. It's about 16. 16 feet.

DEPUTY CHAIR CAREY: I have a question. My question is, one of the things that this code requires is that a residential building be built on a 15,000 square foot lot. That's in a residence area. This is a residence area at this particular time; although, zoning codes change over time.

My question to you is, I know you

1  
2 said you developed other properties. Have  
3 you ever done one on such a small lot? This  
4 is only 6,600 square feet, right? It's a  
5 little larger. Also, the size of the  
6 apartments are supposed to be 990 square  
7 feet. What were the average size of the  
8 apartments going be for the one-bedroom and  
9 two-bedroom?

10 MS. UNGAR: If I may interject, it's  
11 the density that will require one apartment  
12 to every 990 square feet of property.

13 DEPUTY CHAIR CAREY: Thank you for  
14 the clarification.

15 MS. UNGAR: 600 square foot minimum  
16 apartment.

17 MR. DELGADO: This is State Code. We  
18 only -- remember one thing. It's Business  
19 zoned over there. I only do 33 percent of  
20 the lot coverage. I have 33 percent of the  
21 lot coverage in that particular proposal.  
22 Every single one over there, every single lot  
23 has about 75 percent of the lot coverage.  
24 That building has, I can say, 85 percent lot  
25 coverage. I'm providing, I only got 33

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percent lot coverage.

And then -- again, it's legal because I'm in a Business zone. Because I propose it to you the residential, the Building Department had to provide with a code for apartment, even it's not -- we're not changing zoning or nothing, it's just use. Technically, maybe you can correct me, the variance we go for is use. If I put a little store in the bottom, then I don't have to comply with any of those lot coverage, side yard, nothing like that.

DEPUTY CHAIR CAREY: I understand.

MR. DELGADO: You can correct me if I'm wrong.

DEPUTY CHAIR CAREY: Thank you.

MEMBER HAWKINS: Have you spoken to the neighbor next door to the east of that building?

MR. DELGADO: Yes, I spoke to her. He got -- he was -- he's allowed. I put a fence. We discussed the lot line and we agree to everything. I show him.

DEPUTY CHAIR CAREY: One other

1  
2 question. Only 33 percent of the lot, which  
3 is gated, and then the rest of it is being  
4 used for parking. I noticed a two foot berm  
5 with plantings around the exterior of the  
6 perimeter?

7 MR. DELGADO: It's 4.10. Almost five  
8 feet.

9 DEPUTY CHAIR CAREY: Right. There's  
10 two foot and a three foot. Two little spots.  
11 There's going to be five feet between the  
12 edge of the property and the first parking  
13 spot?

14 MR. DELGADO: Yes.

15 DEPUTY CHAIR CAREY: That's all  
16 greenery?

17 MR. DELGADO: No, the minimal is  
18 three.

19 MR. NELSON: Talking about the  
20 landscaping.

21 DEPUTY CHAIR CAREY: The landscaping.

22 MR. DELGADO: Yeah, landscaping.

23 MEMBER HAWKINS: Do you have cutouts  
24 for people to go in and out of the driveway,  
25 people going in and out of the building?

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MR. DELGADO: Yes.

MEMBER HAWKINS: Curb cuts. Where are they located?

MR. DELGADO: Right in the front, in the center of the building. You see the center of the building? It's going to be the area where they can go in and out on the site plan.

MR. NELSON: On the site plan A-101.

DEPUTY CHAIR CAREY: You will be driving under the building?

MR. DELGADO: Yes.

DEPUTY CHAIR CAREY: You have that open space. Now I see it in the rendering.

B A R R Y N E L S O N,  
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. NELSON: Barry Nelson. 220 Pettit Avenue, Bellmore, New York 11710.

I'm handing in an original and a copy

1  
2 of the photographs taken last week of the  
3 subject property and the surrounding uses  
4 that you'll find on Broadway and on  
5 Commercial Avenue in the vicinity of the  
6 subject property.

7 I'm also handing in a partial copy of  
8 the official zoning map from the Village just  
9 to go over the area zoning.

10 (WHEREUPON, the above-referred to  
11 documents were marked as Applicant's Exhibits  
12 A and B, for identification, as of this  
13 date.)

14 MR. NELSON: So, if we just look at  
15 the zoning map, the map from the Village, I  
16 just have a partial copy of the area. The  
17 subject property is slightly unique in the  
18 block, a triangle block. It's really the  
19 only block, North Commercial Street, that's a  
20 Business B district. I highlighted that area  
21 in pink.

22 I highlighted the blue area in the  
23 residential apartment district and the blocks  
24 from Harding Place on the west to Mount  
25 Avenue or North Columbus. Those blocks are

1  
2 all resident apartment district. On the  
3 north side of Broadway, they vary  
4 approximately 110, 115 feet zigzag, but  
5 that's a residential district, Residential B.

6 So, what the applicant is looking at,  
7 what he has gone over substantially, is to  
8 take a parcel of land that I don't believe  
9 there's ever been improvements on that  
10 property. Maybe years and years ago. But as  
11 long as I have been testifying in this  
12 Village, I don't remember anything being on  
13 that parcel. It's vacant. It's been vacant.  
14 Two tax lots, Lots 48 and 50, Section 55,  
15 Block 234 on the Nassau County Land and Tax  
16 Maps.

17 The block that it's located within is  
18 also uniquely developed properties in that  
19 block. To the west of the subject property,  
20 which I believe is known as 45 -- I'm sorry,  
21 56 Broadway is a building that was earlier  
22 mentioned, a Tudor style apartment building  
23 that was built in 1931. It's three and a  
24 half, maybe four stories, depending on where  
25 you look at it, the front or the back. It

1 almost runs from the front to the rear on  
2 Commercial Avenue. It has 27 units and it's  
3 on approximately 15,000 square feet. It  
4 provides side parking. It provides, other  
5 than maybe in the rear yard, outside  
6 recreational area, but it's just grass open  
7 to the Commercial Avenue corridor for  
8 commercial uses.  
9

10 On the corner of the triangle of  
11 Broadway and Commercial Avenue is an auto  
12 repair center. To the east of the subject  
13 property, Number 78, is a one-family house.  
14 84, which would be the second development, is  
15 a mixed use apartments over retail and will  
16 continue to the end of the street just past  
17 84 -- I'm sorry. 78 is a single-family  
18 house, 84 will be the mixed use, then you  
19 have a warehouse at 86. That warehouse is  
20 set in the back and they have all storage of  
21 vehicles, commercial vehicles, in the front  
22 of it, and then continuing to the east we  
23 have retail stores.

24 Further east is a property that runs  
25 from Broadway to Mount Avenue -- Mount

1  
2 Street. It's known as 23 Mount Street. It's  
3 a mixed use property with storage vehicles on  
4 the Mount Street area. Then you have the  
5 mixed use at the triangle of Broadway and  
6 Mount Street that's known as 96 to 100. It's  
7 got three apartments on the second floor,  
8 three retail on the first floor.

9 Interestingly, none of these  
10 properties provide any on-site parking. The  
11 applicant is providing compliance in parking;  
12 15 is required and 18 is provided. One of  
13 the reasons why it's a four-story building is  
14 at grade level there's all on-site parking to  
15 support the facility that he's proposing,  
16 then you have three levels above the grade  
17 level parking.

18 Across the street you'll have Number  
19 45 Broadway, which is an apartment building.  
20 It has parking underneath and then parking on  
21 the north side just around the block, which  
22 would be off Harding Place. That's a  
23 building that has, I believe, 63 apartments  
24 on about 40,000 square feet.

25 And we'll continue all the way down

1  
2 Broadway in the residential district. Not  
3 residential apartment, residential district.  
4 I identified it on the zoning map in the  
5 highlighted color of light pink that will  
6 show the zoning. The zoning is the second  
7 page of that tax map -- zoning map, would  
8 have the identification legend for each  
9 zoning district. So, you do have apartments  
10 further down in that residential district  
11 that will include some parking and strictly  
12 apartment buildings. And I provided  
13 photographs of most of those uses.

14 So, what the applicant is proposing  
15 is, while it's a use variance, it does blend  
16 in with the character of the neighborhood, as  
17 far as apartment buildings. Right next, on  
18 the west, there's a 27-unit apartment  
19 building, across the street is a five-story  
20 apartment building with 63-units. So, as far  
21 as the general character of the neighborhood,  
22 and you'll see just beyond the residential  
23 zone and just east of Mount Avenue, is all  
24 residential apartment district. It's my  
25 opinion that proposal, as far as the area

1  
2 character, this blends in well with the uses  
3 and development.

4 If the applicant was required to  
5 build pursuant to the Business B District,  
6 it's almost impossible to develop that site  
7 and provide on-site parking. He would have  
8 to build a similar building with offices on  
9 the second, third and fourth levels, if he  
10 was to go up. Office buildings on stilts at  
11 this location does not make sense.

12 I did a study of numerous available  
13 buildings for sale in the area, as well as  
14 office space. I don't believe you could  
15 provide retail. In fact, I went down the  
16 street as of just tonight and there's no  
17 available parking. There's permitted parking  
18 on both sides of Broadway, there's only  
19 limited parking on Commercial, none on the  
20 north side. So, that development, that site  
21 to be developed has to provide parking for  
22 its own use. And I believe a more onerous  
23 grant would be granting a relief of parking  
24 for any development on that site, because  
25 there's no parking available, because most of

1  
2 the apartment buildings provide minimal, if  
3 any, on-site parking. This will comply.

4 The proposed development was secondly  
5 denied for an apartment building within a  
6 residential apartment district.

7 While Section 6A of the Code  
8 specifically says it should be denied for the  
9 specific zoning that it's within the Business  
10 B. But I'm not going to argue that and go  
11 along with the variances that are being  
12 requested as far as area variances, setbacks,  
13 etcetera. If you look at the building just  
14 to the west, I believe that building has less  
15 than a ten foot front yard setback, and  
16 similarly in the back and side yard that  
17 would probably require a variance, if it was  
18 built today.

19 The buildings to the east of the  
20 one-family house are all forward and they  
21 provide a minimum, at best, a ten foot front  
22 yard setback. So, those area variances that  
23 are being requested is not out of character  
24 for the south side of Broadway.

25 As far as the redevelopment of the

1  
2 site as proposed, I did an analysis as far as  
3 economics. Before I get into that, what the  
4 applicant is proposing is nine apartments,  
5 three two-bedrooms. And they do have the  
6 size of the apartments on your plans that  
7 should be before you, A-102, and that will  
8 show you the layout of each apartment. The  
9 two-bedroom apartments are approximately 830  
10 square feet. The one-bedroom apartments are  
11 605 square feet each.

12 As the applicant made reference to  
13 earlier, each apartment will have its own  
14 washer and dryer laundry facility within the  
15 building -- within the units. Stairwells  
16 would be on the east and the west side with  
17 an elevator on the easterly side -- no, I'm  
18 sorry, westerly side. West side, right. At  
19 street level, you'll enter the lobby on the  
20 east side or the west side, and there will be  
21 a locker/storage area on the west side.  
22 Probably in the past there wasn't a concern,  
23 but now for deliveries, that would include  
24 Amazon and stuff, they will be able to leave  
25 the packages within a locked storage facility

1  
2 area at grade level under the building; and  
3 that would be, I believe, on the westerly  
4 side. No, easterly side.

5 So, each level would have one  
6 two-bedroom and two one-bedrooms; and that  
7 will be the same for the third and fourth  
8 floors. The building will be in full  
9 compliance of the fire marshal requirements:  
10 Sprinkled. It will be an energy efficient  
11 building, as the applicant indicated earlier.  
12 There will be an outdoor rec area on the roof  
13 with the parapet walls raised up to provide  
14 security for the exterior of the building.

15 The one-bedrooms, in my opinion,  
16 would rent for -- all apartments will be  
17 rented at market rates. One-bedrooms, I  
18 estimate now at \$2,000 per. Two-bedrooms at  
19 \$2,350 per. Based on those rents it would  
20 gross approximately \$228,600. Real estate  
21 taxes, insurance, maintenance is about 38  
22 percent of the gross, would yield a net  
23 operating income of \$135,000 at the end of  
24 the year. It's my estimate that the building  
25 that is proposed would cost approximately

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2 \$1.5 million to \$1.6 million construction.  
3 Land cost I estimated about \$200,000. The  
4 applicant would be able to, on an all cash  
5 investment, would yield, that's carrying the  
6 building with all cash, would yield about  
7 eight percent return on his money. But in  
8 this instance, the applicant could finance  
9 approximately \$1 million to \$1.1 million at  
10 about 65, 68 percent of the cash investment,  
11 pay the mortgage at seven and a quarter --  
12 hopefully those rates will come down soon,  
13 but I don't think so right now. Pay the  
14 mortgage and still have an eight percent  
15 return on his investment, and that would be  
16 \$500,000, plus \$200,000 for the land, about  
17 \$700,000. So, this is a reasonable request  
18 before the Board.

19 If the applicant was to develop it  
20 with a commercial use, office space, he would  
21 need to get at least \$30 to \$33 per square  
22 foot for office space. In my opinion, there  
23 are numerous around on Merrick Road, on  
24 Sunrise Highway, on Main Street, North Main  
25 Street, South Main Street. I have testified

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2 within the last month or two on South Main  
3 Street, as far as the economics for office  
4 space on the second and third floors, they're  
5 going for \$20 a square foot. There is no  
6 reasonable development currently zoned for  
7 this site.

8           Again, it's a unique site. It's  
9 approximately 6,666 square feet. It needs to  
10 provide parking on its own site. The fact  
11 the retail stores down the road, 80 through  
12 84, half of them are vacant. And the ones  
13 that are occupied now are currently, the  
14 businesses, the hair salon and restaurant,  
15 are currently on the market for sale.

16           In the evening, when you expect it or  
17 even on the weekends you expect it to be  
18 little more busy on the retail. There's no  
19 parking available on the street; and those  
20 sites don't provide on-site parking. It's  
21 hard to make a reasonable return, a business  
22 go at it, on Broadway. It would also further  
23 take away from the downtown business  
24 district, which this property is located  
25 within walking distance south of Sunrise

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Highway and on Brooklyn Avenue as well.

In my opinion, before this Board is a reasonable request not out of character for the immediate area, and it does lend itself to good quality housing for the Village.

DEPUTY CHAIR CAREY: I have a question.

MR. NELSON: Yes.

DEPUTY CHAIR CAREY: I love the map with the colors. So, I'm going to ask you a question about those colors. The orange residential sections that are surrounded by a sea of blue, which is apartments, allowable apartments?

MR. NELSON: Yes.

DEPUTY CHAIR CAREY: In your opinion as an expert who does this all the time, I know this code is many, many years old. Why put apartments around residential? Is it because those residents might have been there already from the 20's or 30's? It seems unusual to have the whole area surrounded by blue and that little strip of orange.

MR. NELSON: On Broadway, it would

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have come down to Broadway. But I think I can't answer that one.

DEPUTY CHAIR CAREY: You see a lot. Thank you.

MR. NELSON: I couldn't answer that.

DEPUTY CHAIR CAREY: We'll consult with counsel.

MEMBER HAWKINS: What's the distance from the railroad to the proposed apartment building?

MR. NELSON: If you look at the zoning map, it's -- you mean the proposed building?

MEMBER HAWKINS: Yes.

MR. NELSON: If you walk around the block, Freeport Plaza is right there. You've got Commercial and come down Henry Street. It's right there. It's within a block and a half, at best.

DEPUTY CHAIR CAREY: I can testify that I park sometimes north of the train station. I would say a quarter, .2 miles to walk from that building to the train station.

MR. NELSON: That's fair. It's less

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than half a mile.

DEPUTY CHAIR CAREY: In your opinion, as a person who does this all the time, I know you are trying to be more green on Long Island everywhere. So, having this building close to the train, something for the future, is that something you took into account to try to do to this particular property?

MR. DELGADO: I thinking about the rentals. It's hard now for a young couple to buy a house. And if you provide nice building where they start off, in two, three years they'll be able to afford a house.

DEPUTY CHAIR CAREY: Are you going to provide bike storage in the building, bicycle storage?

MR. DELGADO: We can do that. We have a room.

DEPUTY CHAIR CAREY: Just another idea for the people who are trying to be green. Thank you.

MEMBER HAWKINS: What are you planning to have available on the rooftop? Is it just open space?

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MR. DELGADO: That's something we have to discuss with the architect and also myself. A friend of mine live in one with the rooftop. I'm going to check it out and see what we can do. Definitely I want to do like an area where they can exercise, because I can put a rug and a tarp and then do that. That's one area I want definitely for sure. The rest, I want to see what is the best way to do that.

MEMBER HAWKINS: There's no basement? There is a basement?

MR. DELGADO: There is only going to be basement on the area, the low area basement, because I plan to go underground. Electrical and everything is underground. No wire hanging. Electrical, cable, internet, everything underground.

DEPUTY CHAIR CAREY: No mechanical equipment for heating and cooling. Are the individual apartments going to have their own heating and cooling?

MR. DELGADO: What was the question?

DEPUTY CHAIR CAREY: Will there be

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heating and cooling in the basement as well  
or the individual units will have their own  
control?

MR. DELGADO: It's funny you say  
that, because I spoke to somebody and they  
say we should not do mechanical room anymore.  
We don't need no more. Every unit is going  
to be inside, small unit now in a little  
closet, noncombustible, the whole nine yards.  
We're not going to have that big boiler, that  
big thing. There's no need to have a  
mechanical room anymore for that kind of use.

MEMBER HAWKINS: As far as waste,  
garbage cans, dumpsters?

MR. DELGADO: No, we're going to have  
a dumpster. One in the front, on the side,  
the south side. It's going to be handicap  
parking and the dumpster.

MEMBER HAWKINS: A dumpster?

MR. DELGADO: Yeah.

MEMBER HAWKINS: How do they get  
access to the dumpster?

MR. DELGADO: They come down, put it  
in the garbage can.

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MEMBER HAWKINS: As far as the truck.

MR. DELGADO: It's right in front.

The truck coming, private company coming, and pick it up. We do our own garbage. The Village don't have to do that.

DEPUTY CHAIR CAREY: Is that the storage opposite the elevator on this drawing? Is that the storage you were talking about?

MR. DELGADO: It's the storage, yes.

MEMBER HAWKINS: This is unrelated.

Did you do the property located on Pennsylvania Avenue?

MR. DELGADO: Yes, I do development.

MEMBER HAWKINS: I thought I saw your trucks.

MR. DELGADO: Also, there is another thing I want to bring to the Board. This one is done by me; you know what I'm saying? And the guy that I'm building with is -- for good or bad, if I'm bad, the Village be screwed. But I'm only one. I have a plumbing license, I'm contractor, GC. I do my own building. I'm not going to hire somebody from so and so

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2 to build the building. Also, I own the  
3 building too. I want to run the building. I  
4 only want to run the building.

5 MEMBER HAWKINS: Will there be a  
6 superintendent living in the building?

7 MR. DELGADO: No. No need to. I  
8 live over there. I'll be in Freeport every  
9 day. This is one thing I want to mention  
10 too. The way it's presented to the Board,  
11 like Barry, he can explain better. He did  
12 very well, a good job. We really tried. The  
13 first thing when I got the property five  
14 years ago, I say If I do something here, I  
15 have to provide parking, because there's no  
16 way to do parking.

17 When I spoke to the Village attorney,  
18 always they say close to train station. And  
19 also, the attorney told me about they want to  
20 improve the area. As you guys know, that  
21 area has been outside, upside down for quite  
22 a bit. If I provide that kind of building  
23 with security cameras and all the stuff, it's  
24 going to improve the area. It's not going to  
25 be people hanging out, not going to be that

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kind of stuff.

And I really wish what I presented to you, as a professional, I'm really pleased with what I bring, what I come in with. The Village, the Building Department, really helpful to talk to me, and I'm really pleased with the project I present.

MEMBER HAWKINS: If the building you built on Pennsylvania is a testament of your work, you did a good job. The building you did on Pennsylvania Avenue, you did a very good job.

MR. DELGADO: Thank you. There's a building too going on North Greenwich Avenue, going to Hempstead, right past the cemetery. There's a building on the right side.

MEMBER MINEO: Nassau Road.

MR. DELGADO: Nassau Road. Greenwich over there in Hempstead. I'm doing that building too. It's similar to this one. A little bigger.

MR. NELSON: Thank you.

CHAIRPERSON RHODEN: Thank you. Do we have anyone who would like to speak for or

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against this application this evening?

Did you fill out a form? Are you referring to the next application or this? I'm referring to this application.

THE AUDIENCE: This one. My dad needs a translator.

THE SECRETARY: Ramon Rodriguez.

R A M O N R O D R I G U E Z, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. RODRIGUEZ: Ramon Rodriguez. 78 Broadway, Freeport. My daughter wants to be sworn in as well.

K A R E N G U A N D I Q U E, having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MS. GUANDIQUE: Karen Guandique. G-U-A-N-D-I-Q-U-E. 78 Broadway, Freeport.

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2           So this pretty much, with the  
3           construction going on, it has blocked the  
4           visibility of us pulling out of the driveway,  
5           you know, seeing any pedestrians walking by  
6           or even just the cars coming and, you know,  
7           the parking too. That lot that he's going to  
8           build, I understand it's underground, but the  
9           driveway is going to take away also from  
10          parking. He's going to take more space from  
11          us for parking, because I live there and I  
12          park outdoors and I always have a hard time  
13          finding parking.

14                 CHAIRPERSON RHODEN: I'm sorry, you  
15          live in the house next door?

16                 MS. GUANDIQUE: Yeah. We're the  
17          neighbors.

18                 CHAIRPERSON RHODEN: Are you saying  
19          that you can no longer park in front of that  
20          specific building, if it gets built? So, you  
21          won't be able to park in front of that  
22          building anymore? Is that what you're  
23          referring to?

24                 MS. GUANDIQUE: I mean, that's also a  
25          trouble. But also just pulling out from the

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driveway, it blocks the visibility.

DEPUTY CHAIR CAREY: I think you have a sign on your fence that says, "Please don't block the driveway." Is that your house?

THE WITNESS: Yes.

DEPUTY CHAIR CAREY: People block your driveway a lot?

MR. RODRIGUEZ: Yeah. At the time, no matter what, people block. The storage is right close to my house and the people, they don't care, they park, they block my driveway every time. I try to call the police. It's a lot, the parking. The parking is hard over there.

DEPUTY CHAIR CAREY: No one started construction on this project yet. You're talking about other construction going on in the area or are you talking about the one right next door? They haven't started anything on it, have you?

MS. GUANDIQUE: No, they have a fence and they had a lining; so, that was blocking our visibility. I think that was recently that was a problem for us pulling out of our

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driveway.

MEMBER HAWKINS: Did you ask him to remove it?

MR. RODRIGUEZ: No. I had to speak to the mayor. Nobody wants to listen. I tried to come over here to the Building Department. I asked is this legal. I don't know. Somebody told me, yes, it's legal. I come over to see the mayor, the mayor say it's not, it's illegal. They call somebody up to move it right away, because my wife almost hit over there, the kids running over there.

CHAIRPERSON RHODEN: So, they removed that. Now you can come out of your driveway, right? I just want to make sure. You can take a look at it. It's right there. This is what the rendering is looking like.

MR. RODRIGUEZ: No.

CHAIRPERSON RHODEN: Sir, hold on. I want you to look at the rendering, just because you want to have an idea what it's going to look like. I thought that the owner had spoken to you about what was happening.

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One of the Board members asked if he had spoken to you of what was going to be built there.

He is looking to build an apartment building and this is what it's going to look like. So, we want you to look at it and see that. I don't know what you had imagined is going to take place, but this building is providing parking more than what the building actually would need. In other words, they only need 15 parking spaces, and they're saying they're going to provide 18 parking spaces.

DEPUTY CHAIR CAREY: So, no one in their building will be in the street. But I don't know, are the curb cuts already there on that property, that vacant lot? Are there curb cuts on the street where people can't park in front, or everyone can because nothing is on that property?

CHAIRPERSON RHODEN: No curb cuts.

MS. GUANDIQUE: There is nothing there.

MR. RODRIGUEZ: The people from 45 or

1  
2 84, the building, all the premises they have  
3 a bunch of people there, a bunch of cars too.  
4 That's why they all use Broadway for a  
5 parking lot. Sometimes it's hard for  
6 parking, you know.

7 CHAIRPERSON RHODEN: I understand  
8 what you're saying. But I think that because  
9 there's going to be curb cuts for this  
10 specific building, the way that I'm looking  
11 at it, you won't really be able to park  
12 there, line up those cars there in that way.

13 MS. GUANDIQUE: Right.

14 CHAIRPERSON RHODEN: I'm just giving  
15 you a visual for you to see what that will  
16 look like.

17 DEPUTY CHAIR CAREY: Your house is in  
18 that orange line of residential, which seems  
19 to be the whole street. It seems like the  
20 Tudor building adjacent to that --  
21 Mr. Nelson, correct me if I'm wrong -- falls  
22 into the residential building, like the  
23 building zone. It must have been given a  
24 variance at another time. That Tudor  
25 building is built in the orange district.

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Does that mean it must have been given a variance at one time.

MS. UNGAR: Or it predated the Code.

DEPUTY CHAIR CAREY: Now you are surrounded by other apartment buildings. How does that affect you?

MS. GUANDIQUE: Well, I mean, technically, that lot has been empty for years; so, it never really affected us. You know, I don't know how it's going to be now. I feel like that block is already overcrowded. Now we're going to have more people and it will be even more overcrowded.

MEMBER HAWKINS: The good thing is he is providing parking.

CHAIRPERSON RHODEN: That's the main.

DEPUTY CHAIR CAREY: I would like to ask the designer. I see the columns that are in the front of the building, which give an eye line for the driveway, leaving their driving. That's the neighbors leaving their driveway. There's only the columns. You talked about putting more greenery there. There are things where you don't want to have

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the greenery blocking the vision of the building next door. You would take that into consideration?

MR. DELGADO: This is not going to block the view, because it's open. The bottom floor is open.

DEPUTY CHAIR CAREY: How far back from the property line is that white column?

MR. DELGADO: What?

DEPUTY CHAIR CAREY: The column. How far back from the property line?

MR. DELGADO: 20 feet. It's back from the house.

DEPUTY CHAIR CAREY: Behind the house.

MR. DELGADO: The house will have 12 feet. The perimeter is going to be 20 feet from the street.

MS. GUANDIQUE: So, between the building and our driveway, what is going to block that; is it going to be open space, is he going to put up another fence?

MR. DELGADO: Can I answer?

CHAIRPERSON RHODEN: One minute. Let

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her finish asking all the questions and then come back and answer all the questions that you have.

Go ahead. He'll answer those questions.

MS. GUANDIQUE: Yeah, I just want to make sure the fencing.

CHAIRPERSON RHODEN: Well, I don't think that he was -- they're not enclosing anything originally. I'll let him respond to that. What was said was they'll put shrubbery. So, you wouldn't have a fence there in your area. You know, if you decided you don't want shrubbery, you want to put a fence in between, that's really going to be your call. You can have that conversation with him about that and say you would prefer. I would think the shrubbery would be nice look to it.

MS. UNGAR: I also wanted to add that landscaping stuff is something that Site Plan weighs in on. Either way, the Village Code has rules about fence heights and shrubbery heights at curbside, that close to the curb.

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2 So, for example, fence heights in a front  
3 yard can't exceed four feet, they have to be  
4 open in nature specifically for that purpose  
5 you described of being able to see as backing  
6 out of the driveway for example.

7 So, they would not be able to get  
8 permission to build a fence or do shrubbery  
9 or landscaping that causes obstruction,  
10 because that is something that is already  
11 contemplated.

12 CHAIRPERSON RHODEN: They will go to  
13 Site Plan. So, after it goes from here, they  
14 go to Site Plan, and Site Plan kind of gives  
15 the guidance in terms of how the aesthetics  
16 is going to look.

17 MS. GUANDIQUE: How would that impact  
18 the traffic? It's already a busy street,  
19 even driving down. Adding more people, more  
20 cars, how is that going to really affect the  
21 traffic as well, because it's a pretty busy  
22 street?

23 MEMBER MINEO: I think that we have  
24 to put this in prospective. We're not here  
25 to determine traffic on the street, we're

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2 here to determine whether the use is  
3 permitted in general. In general, the owner  
4 can also elect to establish commercial space,  
5 which has been indicated previously, wherein  
6 the owner can put in commercial storefronts  
7 and build the building significantly larger  
8 than what they are proposing and then, on top  
9 of that, can go up higher so that there is  
10 retail space or commercial space. Then that  
11 argument would still be held in the same  
12 regard, right? You would be arguing that the  
13 block in general will be overrun with  
14 traffic. Either way, we have to weigh out  
15 that whole process with this Board. We have  
16 to see what makes sense with respect to the  
17 proposal that is being put forth before this  
18 Board.

19 So, we can argue the traffic would be  
20 a general problem always in any instance,  
21 right? But we want to just make sure that  
22 everybody is kind of on the same page with  
23 respect to how the proposal that's before us  
24 is considered to be residential apartments as  
25 opposed to commercial storefronts, which

1  
2 could be considerably larger than what he is  
3 proposing right now.

4 MS. GUANDIQUE: Okay.

5 MEMBER HAWKINS: I think what he is  
6 anticipating, what he told us before, is the  
7 people that live there, because it's in close  
8 proximity to the Long Island Railroad, that  
9 they will commute by railroad instead of  
10 driving in and out all times of the day. So,  
11 if they do have vehicles, they will be parked  
12 underneath and then hopefully they'll be  
13 walking to the railroad station to take the  
14 railroad and go.

15 He was saying before, if it was  
16 commercial, we would be looking at the same  
17 problem with people pulling up to go to the  
18 commercial establishment, parking in the  
19 driveway or blocking your driveway. With  
20 this, he is allowing parking spots for the  
21 residents.

22 How long have you lived there?

23 MS. GUANDIQUE: 20 plus years.

24 MR. RODRIGUEZ: I have 36 years.

25 MEMBER HAWKINS: Anymore concerns?

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MR. RODRIGUEZ: No.

MS. GUANDIQUE: We're done.

CHAIRPERSON RHODEN: Thank you so much. He's going to answer the questions that you have.

MR. DELGADO: The fence. We have a fence, a construction fence. I got a permit for a construction fence. I put it on the side. The Building Code say when you do construction site, you have to be above six feet high to block, so the people cannot see inside. The Building Department notice by me that was the green stuff on it. I take it out, now they can see. That fence is allowed to be there because of construction. When construction is over, we take the fence and make the bushes in between the two properties, up to the front of the building.

Their house is about 12 feet from the curb, from the sidewalk. The proposed building is 22 feet. 10 feet and 12 feet back. They not going to be -- they be able to see. Not blocking area for them. You concern the curb cut. The curb cut in the

1  
2 middle of the property. It's going to be  
3 between the curb cut and my curb cut is about  
4 three cars. You could fit three cars there.  
5 It's not blocking at all. On the edge of the  
6 building, on the edge of the parking lot,  
7 only the building will be a gate, a four  
8 gate, remote control gate that will open when  
9 people coming in and coming out. It's going  
10 to be a gate, security gate.

11 Also, the garbage is going to be a  
12 container, closed container, and people will  
13 pick it up. They pick it up every once in a  
14 while.

15 DEPUTY CHAIR CAREY: So, there will  
16 be a security gate for people coming in and  
17 out. Will there be a fence around the entire  
18 property at the end or not?

19 MR. DELGADO: Fence. There's going  
20 to be a fence in the back, a four feet fence  
21 with the bushes.

22 DEPUTY CHAIR CAREY: It won't be an  
23 open metal fence?

24 MR. DELGADO: No open.

25 DEPUTY CHAIR CAREY: Something that's

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open and shrubbery will be added to make sure it's in compliance.

MR. DELGADO: That's going to be Planning, Site Plan Review Board. And we come to Site Plan Review Board, make decision according to what they looking for.

DEPUTY CHAIR CAREY: From their driveway/property line to your first car, you said it's five feet, two feet?

MR. DELGADO: No, it's far. It's five feet.

DEPUTY CHAIR CAREY: That's a nice variance. Thank you.

CHAIRPERSON RHODEN: Thank you.

Do we have anyone else who would like to speak for or against this application this evening?

THE SECRETARY: We do not, Madame Chair.

THE AUDIENCE: Can I ask a question?

CHAIRPERSON RHODEN: You have to be sworn in. Fill out a form.

MS. MIRO: I just wanted to add something, because right now he's doing a

1  
2 beautiful building. Had he used it for  
3 business use, like we discussed, I think that  
4 would only increase the density of that  
5 property of the parking problem. So, I think  
6 he contained the parking within the site.  
7 So, I hope I answered their question for the  
8 people who were just here.

9 CHAIRPERSON RHODEN: Thank you.

10 THE SECRETARY: Steven Bach.

11 S T E V E N B A C H,

12 having been first duly sworn by a Notary  
13 Public of the State of New York, was  
14 examined and testified as follows:

15 COURT REPORTER: Please state your  
16 name and address for the record.

17 MR. BACH: Steven Bach. 305 Hewlett  
18 Avenue, Merrick, New York.

19 I had heard for many years that the  
20 property was wanting to be two-family homes  
21 and it kept getting rejected. So, when I  
22 read the letter saying apartment building,  
23 which looks beautiful, I couldn't believe it.  
24 I said why reject two-family homes and have  
25 an apartment building? That's my only

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question. Simple.

DEPUTY CHAIR CAREY: I don't believe we're aware of that.

MR. BACH: Nobody heard this before?

MS. UNGAR: Do you know of any specific --

MR. BACH: I heard from the original land owner who sold it a couple of years ago, quite a few years ago. I heard two or three different times, from different sources, that they keep rejecting a two-family home. I keep saying I wonder why. It's perfect. And then the apartment building. I said I'm surprised they rejected. I guess you have a history of whether it's been rejected or not.

MS. UNGAR: So, when you say rejected, the question I have is that two-family homes are not permitted under the Code. If someone comes to the Building Department and says, "Hi, I want to build a two-family home." The Building Department will say, "That's not permitted under the Code. You have to go to Zoning Board for a zoning variance."

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Do you know if that ever happened or have --

MR. BACH: I didn't do any research. I'm just asking a simple question. If an apartment building on the property is allowed, wouldn't a two-family home be allowed on the same property, so I have knowledge for the future?

MS. UNGAR: If a property owner came to the Village with a proposal for a two-family home, they would have to come to the Zoning Board, the same way the applicant did tonight. So, I don't know if anyone ever got that far in the plans. All I can say is I have been here for nine years, and I know that this property has not come before this Board in the last nine years. Some of the Board members have been here longer.

There have been very few, if any, applications specifically to construct a new two-family home in the recent time. So, I don't know if an applicant gets turned off if they hear they have to come. I can't speak to what might have happened. All I can say

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is, in the last nine years, for example, no one has come to this Board seeking a two-family house on this lot.

MR. BACH: I heard it a number of times.

MS. UNGAR: I can only speak for the last nine years.

MR. BACH: So, a two-family would be allowed?

MS. UNGAR: A two-family home, if someone came to the Zoning Board with a proposal and made a presentation to the Board, it all depends on what was presented, how it's presented. I can't speak to that.

MR. BACH: Thank you.

CHAIRPERSON RHODEN: Thank you. Do we have anyone else who would like to speak for or against this application this evening?

THE SECRETARY: Madame Chair, we do not.

CHAIRPERSON RHODEN: At this time, I'd like to close to further evidence and testimony pending receipt of the Nassau County Planning Commission recommendation.

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DEPUTY CHAIR CAREY: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER MINEO: Aye.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: I'd like a  
motion to reserve decision, please.

MEMBER MINEO: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER MINEO: Aye.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

MS. UNGAR: I just want to make a  
note that this hearing is closed pending  
receipt of the Nassau County Planning  
Commission recommendation. So, if anything

1  
2 were to come up from the Nassau County  
3 Planning Commission recommendation that  
4 needed to be discussed further, we would  
5 re-open the hearing.

6 MR. DELGADO: I know. Thank you very  
7 much. I appreciate your time.

8 CHAIRPERSON RHODEN: Can we call the  
9 next application on tonight's calendar  
10 please?

11 THE SECRETARY: The next application  
12 is 2023-2 - 307 Guy Lombardo Avenue,  
13 Business B, Section 62, Block 80, Lot 6.  
14 Jude Derivois. Use building for church  
15 assembly. Variances: Village Ordinance  
16 210-6(A), 210-172(3) - required parking  
17 spaces.

18 I have one Affidavit of Mailing to be  
19 entered into the record as a Board exhibit.  
20 This will be Board's Exhibit Number 1 for  
21 this individual hearing.

22 (WHEREUPON, the above-referred to  
23 document was marked as Board's Exhibit 1, for  
24 identification, as of this date.)

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having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

M I C H A E L B A I L E Y,  
having been first duly sworn by a Notary Public of the State of New York, was examined and testified as follows:

COURT REPORTER: Please state your name and address for the record.

MR. REID: Jeffrey Reid. Address is 244 Fifth Avenue, Suite 2644, New York, New York 10006.

COURT REPORTER: Name and address.

MR. BAILEY: Michael Bailey. 4 Ashley Court, Islip Terrace 11752.

MR. REID: Good evening. We're here on behalf of the tenant and premises of 307 Guy Lombardo Avenue, Zone B, Section 62, Block 80, Lot 6. The tenant had asked us to file for a permit, assembly permit. He has been at the location for three years. There are five parking spaces directly out front of the property that they have been using as a church. On the north of the same lot, there

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are six additional spaces.

After presenting to the planning examiner, the planning examiner had asked for us to show the maximum seating for the space, and that was 95. So, we did present as requested, and that triggered a need for significantly more parking. The requirement is one parking space for every three seats. However, the congregation is a 30 member congregation; meaning, that ten spaces would be required. As I mentioned a minute ago, there are five out front and six additional, a total of 11 provided and 10 required. That's it for now.

CHAIRPERSON RHODEN: You're done presenting?

MR. BAILEY: Based on the 210-6(A), it talked of conformity. It's a strip mall. And when the space was rented to the tenant, the landlord should have at least informed the tenant of that conformity, what usage can be used in the space, because the tenant wasn't aware, and he rented the space for worship service. The Village Code mentioned

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conformity.

Also, in terms of Section 210-172(3), there's an exception in the Code, whereby discotheque, cabaret, restaurant, bar, etcetera. Based upon my experience and knowledge, those places carry a much higher capacity of crowd. And I think that the parking, off-street parking, should be granted to the church.

Also, they are willing to split their services, morning service and afternoon service, to accommodate the parking space that they're allowed to have, the fact that there's an exception. Because what happened was, when the drawings were submitted, the planning examiner wanted to see the maximum capacity of the space. That's what triggered all of this variances. But in retrospect, there's not 95 congregant in the church, it's only 30.

The fact that there's certain exception, I think the Board should look at the exception, because a discotheque, a cabaret, a bar or restaurant carry much more

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2 capacity and there's no parking required,  
3 they all park in the street. I have seen a  
4 couple of churches in the Village that they  
5 cannot park and they park on the street.  
6 We're saying that we're looking to that issue  
7 and there is a variance, in terms of parking.  
8 That's what triggered the situation.

9 CHAIRPERSON RHODEN: I have some  
10 questions. So, the representative who you  
11 are representing, right, they own this  
12 property?

13 MR. BAILEY: No leasing.

14 CHAIRPERSON RHODEN: They are renting  
15 the property.

16 MR. BAILEY: They rent the property.

17 CHAIRPERSON RHODEN: You said they  
18 are renting for how many years?

19 MR. BAILEY: Three years.

20 CHAIRPERSON RHODEN: So, how big is  
21 their congregation?

22 MR. BAILEY: Thirty.

23 CHAIRPERSON RHODEN: It's how many?

24 MR. BAILEY: Square feet?

25 CHAIRPERSON RHODEN: No, no. How big

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is your assembly? How many people come there?

MR. BAILEY: Thirty.

CHAIRPERSON RHODEN: Thirty, right?

MR. BAILEY: Yes.

CHAIRPERSON RHODEN: It doesn't seem, based on your address, that you live in Freeport, right? You're not Freeport residents?

MR. BAILEY: No.

CHAIRPERSON RHODEN: We are all Freeport residents. We know the area very well. We know what the traffic looks like in that area. Just so that you're aware.

So, you state you have a membership of 30. What are you looking to grow that to? What's your plan? What do you think in five years that congregation will look like?

MR. BAILEY: No, he didn't share it with us. But based -- I'm saying, in three years, when I spoke to pastor, he said the congregation has not increased over three years, that's been constant. He's willing to split his service to two services, in the

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morning and midday or afternoon.

DEPUTY CHAIR CAREY: Are either of you gentlemen part of the congregation? Have you seen at least 30 people, or you know what he has told you.

MR. REID: I'm the guy that filed the application with the town, in terms of -- I forgot my train of thought.

DEPUTY CHAIR CAREY: I do that all the time.

MR. REID: The tenant has been clear. He will remain compliant with the train work of the public assembly permit. However it's capped per number of persons per service, he will remain compliant with that number.

MEMBER HAWKINS: What time is service now?

MR. BAILEY: In the morning, like 10:00.

MEMBER HAWKINS: 10:00.

CHAIRPERSON RHODEN: Sundays only?

MR. BAILEY: Sometimes midweek on Wednesday prayer service. As a matter of fact, we went there one night. Like I said,

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there were, like, ten congregants of the church.

MEMBER HAWKINS: Wednesday night. What time was that?

MR. BAILEY: 7:30. Ten congregants.

CHAIRPERSON RHODEN: On Sunday, you said 10:00 a.m.?

MR. BAILEY: Yes.

CHAIRPERSON RHODEN: How long does it go?

MR. BAILEY: Until 12:00.

CHAIRPERSON RHODEN: Only one service, 10:00 to 12:00. That's it?

MR. REID: And they have after service refreshments that could probably go another hour and a half.

DEPUTY CHAIR CAREY: Any other day of the week, besides Wednesday and Sunday?

MR. BAILEY: No. I drove by one afternoon, just to check. I happened to be in the neighborhood, I drove by, it was all dark. Just Wednesday and Sunday.

MEMBER MINEO: Does the congregation offer any after school activities, daycare or

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anything else along those lines?

MR. BAILEY: No.

MEMBER MINEO: Does the congregation have a bus service or other type of vans or anything along those lines to transport the congregants?

MR. BAILEY: No. It's a small church.

MEMBER MINEO: My question for the vans is to see if they had van service that would cut down on the necessity for additional parking, because most of the congregants perhaps are coming --

MR. BAILEY: That is something I could work with the pastor, in terms of. That's a nice situation.

MEMBER MINEO: But they don't have those resources.

MR. REID: No.

MR. BAILEY: What triggered this meeting here, when the plan examiner state that this is capacity for the space and would require all the capacity, the need to have an amount of parking space per one, per three.

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2 MS. UNGAR: I have a question though.  
3 I've seen the drawings. It looks as though  
4 there is seating for 150 inside. Or is that  
5 just an abstract drawing with the seating?

6 MR. REID: The drawing specifically  
7 calls out the number of seated persons  
8 allowed: 95. So, he asked for,  
9 specifically, that number. The seating as  
10 shown is not reflective of that number 95.

11 DEPUTY CHAIR CAREY: I'm confused,  
12 because it says here, that plan you  
13 submitted, from our review, indicates you  
14 have seating capacity for 345, but then it's  
15 150. Am I not getting something?

16 MEMBER HAWKINS: In the drawings.

17 DEPUTY CHAIR CAREY: Why is there a  
18 disconnect of 345 and then 150 and the 30?

19 MS. UNGAR: The way the Code is, the  
20 maximum number of people. The Board has the  
21 flexibility to adjust it down. It has  
22 to come to the Board in the initial stage of  
23 the largest maximum number of people that  
24 could come in there. It can be then adjusted  
25 or can further reflect what the actual is.

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DEPUTY CHAIR CAREY: Based on square footage, 5,000 square feet?

MS. UNGAR: Yes. Are there ever any weddings or larger functions held there?

MR. BAILEY: No.

MR. REID: Those weren't discussed. The specifics were around the worship service. But I understand the nature of your question.

MEMBER HAWKINS: I know you two gentlemen do not live in Freeport. Do the other congregants live in Freeport?

MR. REID: Yes.

MEMBER HAWKINS: Any of them walking?

MR. REID: Based on what was shared, they do have the need for the parking. They didn't really express anyone is in walking distance. They did say they have the need for parking.

DEPUTY CHAIR CAREY: How many chairs are there? You had to have been there, you made the drawings.

MR. REID: Yeah. They're non-fixed chairs. So, it's very sparse. It's sparse

1  
2 for 30 congregants, and it's set up for organ  
3 music, pulpit. So, it's a vary large space  
4 for the head count.

5 DEPUTY CHAIR CAREY: I see the pastor  
6 has an office, a platform, and a closet.  
7 That's all open space?

8 MR. REID: Open space.

9 MEMBER HAWKINS: There are two  
10 storefronts there. The church takes up both  
11 storefronts?

12 MR. BAILEY: Yes.

13 DEPUTY CHAIR CAREY: No wall was  
14 taken down.

15 MR. BAILEY: Open space.

16 MEMBER MINEO: Did the pastor  
17 indicate at any point in time he would be  
18 interested in expanding, not necessarily the  
19 congregation, but utilizing the space for  
20 other sources of revenue perhaps; for  
21 instance, parties or, again, weddings, as we  
22 stated previously, things of that nature?

23 MR. REID: So, what he had expressed  
24 is that he will remain compliant with what  
25 the department allows, as for the permit. He

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understands that if he deviates from that there will be repercussions. He is aware he needs to remain compliant with whatever the permit says.

CHAIRPERSON RHODEN: I'm sorry. When you presented, you said you had 11 parking spaces.

MR. REID: Yes.

CHAIRPERSON RHODEN: Where is that? Your application says five.

MR. REID: Right on the west side, those parking spaces directly outside of the storefront immediately in front of the storefront. On the north side of the building within the lot there is six additional spaces.

MR. BAILEY: The same owner owns that lot. One owner owns the lot.

DEPUTY CHAIR CAREY: Are you talking about --

MR. BAILEY: The deli is on the side. The deli have access.

DEPUTY CHAIR CAREY: You have access to six of the spots?

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MR. BAILEY: Yes.

DEPUTY CHAIR CAREY: That lot goes around the back?

MR. BAILEY: Right.

CHAIRPERSON RHODEN: Will the owner be able to --

MS. UNGAR: I'm a little confused. We're trying to understand where the parking in the back is.

MR. BAILEY: It's the side. The deli, there's parking.

DEPUTY CHAIR CAREY: The deli is shorter. Your building is 100 feet long, the deli is not 100 feet long, it's shorter. That's why there's spaces back there?

MR. BAILEY: Right.

MS. UNGAR: Are you talking about -- how do you access the parking?

DEPUTY CHAIR CAREY: To the north side of the building.

MR. BAILEY: North.

MS. UNGAR: Isn't that parking required for that deli?

MR. REID: Deli, when I last checked,

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don't have a requirement.

MS. UNGAR: Are you talking about the parking behind the building? You're saying parking behind the building?

MR. REID: Parking on the north side of the building. So, the store is on front for the church, on the west side, and additional parking on is on the north.

MEMBER MINEO: In the pastor's lease -- I feel bad because I'm referring to pastor as pastor. What's his name?

MR. REID: Jude Derivois.

MEMBER MINEO: The current lease the pastor has with the owner, does it indicate in his lease that he has unfettered access to the spots on the north side of the building as well as the spots --

MR. BAILEY: He did mention that the owner gave him access to those parking spots also. He did mention that.

MEMBER MINEO: They're not prohibited?

MR. BAILEY: Not to my knowledge.

MS. UNGAR: My concern is getting

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2 access to these spots. If the owner is  
3 giving access to those, there might not be  
4 enough spots for that business to operate, if  
5 they're letting the church use those spaces,  
6 because that deli, Guy Lombardo Food Market,  
7 would need parking spaces of its own.

8 MR. REID: So, our understanding is  
9 there is no requirement for parking for the  
10 deli. But it's clear there is a requirement  
11 for seated persons within the church space.

12 MS. UNGAR: The deli might not be a  
13 place of public assembly, but it still would  
14 have a square footage required based on the  
15 size of the building. For a basic commercial  
16 space, it's one parking space for every 400  
17 square feet of space, plus two for each  
18 business.

19 MR. BAILEY: Section 210 speaks about  
20 exception. Section 210-172-3 talking about  
21 exceptions.

22 MS. UNGAR: Then you go to 172-4,  
23 restaurants, discotheques, cabarets, bars  
24 have at least one parking space for every  
25 three authorized occupants. There are 12

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2 different subsections that cover every type  
3 of parking situation throughout the Village.

4           What I am saying though is, for  
5 commercial spaces, they would need one  
6 parking space for every 400 square feet.  
7 Public assembly, like churches, restaurants,  
8 etcetera, are counted for differently.  
9 Commercial spaces still need parking as well.

10           DEPUTY CHAIR CAREY: I'm looking at  
11 the photograph. I don't know what the deli  
12 requirements are. There are many parking  
13 spots in the back of the building. We can  
14 ask to do some kind of count.

15           MS. UNGAR: Just some kind of  
16 proposal plan, something to show what spaces  
17 are proposed to be offered up and that they  
18 are acceptable. The concern for this Board  
19 is -- all the Board has is the site plan that  
20 shows five spaces. There's nothing else  
21 showing the other spaces that are available,  
22 and also something giving authorization for  
23 those spaces to be used, both from the owner  
24 of the property and also a calculation to  
25 make sure they wouldn't be running afoul

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2 their own parking requirement. It may be  
3 that there are ample spaces and it isn't an  
4 issue. But without any documentation showing  
5 any of it.

6 MR. BAILEY: Okay.

7 MEMBER MINEO: Where the property is  
8 generally delineated, between the store and  
9 the adjacent building you are talking about,  
10 and whether or not that's a separate parcel  
11 or included in your analysis of the spots you  
12 are going to be utilizing.

13 MR. BAILEY: We looked at the parcel  
14 for the church. The parking lot goes like  
15 this, and the deli property goes the other  
16 direction. So, it's best not to lease, say,  
17 open space.

18 MEMBER MINEO: The problem is nothing  
19 is delineated in the plans you submitted.

20 DEPUTY CHAIR CAREY: Last time I  
21 parked back there was before that building  
22 was built. Does that building have a rear  
23 access? I can't see a rear access on the  
24 building.

25 MR. BAILEY: Yes.

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DEPUTY CHAIR CAREY: You can go to that parking lot in the back?

MR. BAILEY: Yeah.

MEMBER HAWKINS: I don't know if you mentioned it before. What is your relationship to the pastor and the church?

MR. BAILEY: Engineers.

DEPUTY CHAIR CAREY: You work for DelMar?

MR. REID: Mellon.

CHAIRPERSON RHODEN: So, we're requesting -- we would need some clarification, in terms of the parking that is being allotted to you as part of your rental, so that we know where you're getting the 11 parking spaces you presented today. Even though your application says five, you presented today you have six. So, we need to have that information, so that we're all clear on that.

MR. BAILEY: Also, on the further north side, there is a little section it's not striped, but they can park parallel. Can I also capture that parking also? It's not

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striped.

CHAIRPERSON RHODEN: This is a rental space, right, that you rent. The owner of the building needs to identify that, and you need to show us where the parking is going to happen within that, so that we are understanding of what their parking situation is. I don't know if it's the owner of the deli or who it is. If the deli has, we need to understand how many parking spaces the deli is required to have, how many parking spaces are available left and available for you.

MS. UNGAR: Also, any parking spaces -- you were talking about capturing that space. The answer is we don't know. They have to be legal spaces. Someone has to map out whether the extra space that you're speaking off would meet the standards of the size of the parking space for adequate space and for turning around and that type of thing. That's not really something the Board can directly answer without a little more detail. Like I said, this site plan only

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2 shows this specific plot. It would be  
3 helpful to expand that to include what you're  
4 planning too.

5 MR. BAILEY: Of course. For  
6 arbitrary sake, if the pastor says he'll  
7 provide a bus to pick up at some location his  
8 congregants and take them to the church, and  
9 after church take them back, take all that  
10 traffic, can I -- dropping them off. Can I  
11 also present in terms of proof to do that?

12 MS. UNGAR: Absolutely it can be.  
13 One thing I will say that this Board has had  
14 churches that have presented before.  
15 Frequently, the pastor does try to attend the  
16 hearing, because usually they are the one  
17 best to speak to the needs of their  
18 congregation. It's not strictly necessary,  
19 but you don't always know the exact answers  
20 to the questions. Because it wasn't  
21 something that came up in the context of your  
22 work with the pastor and the church, you  
23 might not have a clear answer that the Board  
24 might be looking for.

25 MR. BAILEY: So, what we'll do, when

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we present the next go around, we'll ask the pastor to attend, so at least any questions of the church he can answer that.

CHAIRPERSON RHODEN: Right. And make sure you get -- you're clear from the owner of the building of what parking spots are available to you for your use, and make sure it's outlined properly so that we understand. He can tell you, you can use six of his parking spaces, but he might need those for his deli. We don't know.

DEPUTY CHAIR CAREY: The tenants usually give us a letter from the landlord. The landlord is responsible for showing you that. I'm sure you will work that out.

MR. BAILEY: You don't need a photograph of the site?

DEPUTY CHAIR CAREY: It helps. If you get a letter, show us.

MR. BAILEY: We'll show the site.

CHAIRPERSON RHODEN: We don't have any additional questions. Do you have additional questions for us?

MR. BAILEY: So, will you inform us

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of the next meeting date?

CHAIRPERSON RHODEN: So, we will -- right now we're going to adjourn and we're going to request adjournment so that you may be able to provide the additional information requested this evening and, also, hopefully the pastor will be able to attend. You will be notified.

MR. BAILEY: Okay.

MS. UNGAR: The Board would be able to accommodate you for the next meeting, if that's what you want. But because it has to get published, we need a definite answer pretty quickly. If we schedule you and you have to adjourn, there is a fee. We don't want to put you on for next month if you're not ready for next month.

MR. BAILEY: Do we know the date of next month?

MS. UNGAR: The third Thursday of every month.

CHAIRPERSON RHODEN: I think it's the 20th.

MS. UNGAR: April 20th. Five weeks

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from today.

DEPUTY CHAIR CAREY: When would they have to get the information to you?

CHAIRPERSON RHODEN: If you prefer, you don't have to go on next month, you can got on the following month.

MS. UNGAR: There is not a lot of information that has to be provided to us, it just has to be ready for that time because we have to publish it again. I think the publication is getting finalized by next week.

MR. BAILEY: Could we make it May?

CHAIRPERSON RHODEN: Jen, they prefer May.

MS. UNGAR: You would prefer May?

MR. REID: Yes.

MS. UNGAR: The May date would be Thursday, May 18th.

MR. REID: Same time, right?

MS. UNGAR: Correct.

MR. REID: Thank you.

CHAIRPERSON RHODEN: Thank you. Do we have anyone who would like to speak for or

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against this application this evening?

THE SECRETARY: Ralph Colucci.

R A L P H C O L U C C I,  
having been first duly sworn by a Notary  
Public of the State of New York, was  
examined and testified as follows:

COURT REPORTER: Please state your  
name and address for the record.

MR. COLUCCI: Ralph Colucci. 2393  
Fox Avenue, Baldwin.

I'll be brief. I got the letter in  
the mail. I wanted to see what was going on.  
My family owns the yellow house across the  
street, 306 Guy Lombardo, two-family house.  
I got the letter. We are concerned about the  
parking. It's a church. Is there parking?  
Like you said, there are only four parking  
spots in the front, and one is handicap.  
Where is everybody going to park? But I  
guess you answered most of my questions.  
Thank you for that.

The only thing is, if I could be  
notified the next time they come before the  
Board so I would know what's going on.

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CHAIRPERSON RHODEN: You will be notified.

MS. UNGAR: If you received notification for this one, you will be notified for the next one.

DEPUTY CHAIR CAREY: Can I ask a question? You live in the house immediately to the north with all the trees?

MR. COLUCCI: Right across the street, in between Boston Market and that little strip mall.

DEPUTY CHAIR CAREY: Oh, yes. I always forget that house is there.

MR. COLUCCI: You know what it's like over there, you live in Freeport. It's a zoo over there.

MS. UNGAR: As they stated in their application, the church has been in existence for three years.

MR. COLUCCI: Yeah.

MS. UNGAR: Has Sunday morning --

MR. COLUCCI: It hasn't been, as far as I know. My brother lives there. He couldn't make it here tonight, he had to

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2 work. As far as I know, there haven't been  
3 many issues. When you see a church, like  
4 they say, it's only 30 people and seats 150,  
5 you said. That's the concern is that all of  
6 a sudden they'll be, like, you know, people  
7 parking all over the place.

8 MS. UNGAR: Just so you know, in  
9 terms of the zoning board granting variances,  
10 zoning boards aren't authorized to grant  
11 variances larger than what is to meet the  
12 requirement. If they're saying accommodation  
13 is 30, the zoning board is never going to  
14 grant approval for 300; it wouldn't happen.  
15 That's larger than what they need to meet  
16 their objectives.

17 MR. COLUCCI: What happens then if  
18 all of a sudden their congregation went to 50  
19 people there? How would we resolve that?

20 MS. UNGAR: The way the zoning  
21 decisions get granted is if they're setting  
22 some type of cap that usually allows for some  
23 growth of a ten year growth plan. This  
24 church hasn't grown in three years, for  
25 example. Then if it goes beyond, you have to

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return; to the zoning board for further review. In which case, you would receive notification some time in the future if it came back to zoning.

MR. COLUCCI: Okay. Thank you for your time. I appreciate it.

CHAIRPERSON RHODEN: Thank you. Do we have anyone else who would like to speak for or against this application this evening?

THE SECRETARY: We do not, Madame Chairperson.

CHAIRPERSON RHODEN: Can I please have a motion to adjourn?

MEMBER MINEO: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER MINEO: Aye.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(No response was heard.)

CHAIRPERSON RHODEN: Can I please have a motion to close the legislative

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session.

MEMBER MINEO: So moved.

MEMBER HAWKINS: Second.

THE SECRETARY: All in favor.

MEMBER MINEO: Aye.

MEMBER HAWKINS: Aye.

DEPUTY CHAIR CAREY: Aye.

CHAIRPERSON RHODEN: Aye.

THE SECRETARY: Any opposed?

(Time Ended: 8:22 p.m.)

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March 16, 2023

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C E R T I F I C A T E

I, BETHANNE MENNONNA, a Notary Public within and for the State of New York do hereby certify that the foregoing is a true and accurate transcript of the proceedings, as taken stenographically by myself to the best of my ability, at the time and place aforementioned.

IN WITNESS WHEREOF, I have hereunto set my hand this 25th day of March, 2023.



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BETHANNE MENNONNA