

**MINUTES OF REGULAR ZONING BOARD OF ADJUSTMENT
MEETING HELD ON TUESDAY, AUGUST 14, 2018**

Vice Chairman Zapf called to order the regular meeting of the Board and announced the meeting was duly advertised in compliance with the Open Public Meetings Act by notice dated August 7th, 2018 sent to the Daily Record, Suburban Trends and posted on the bulletin board and website at borough hall. All stood for the Pledge of Allegiance.

**PRESENT: ERICKSON, FOREMAN, KUBISKY, WOLFSON, ZAPF, DUBOWSKY
 (Alt. #1) AND ZALEWSKI (ALT. #2)**

ALSO PRESENT: BOORADY, ENGINEER AND GREENE, COUNSEL

ABSENT: BRACCHITTA AND *BYRNE

Vice Chairman Zapf stated the first order of business is to approve the minutes from the July 10th, 2018 meeting. I have just a couple of small computer typos. Page 6 the very last line, the deteriorated foundation of the house.

Ms. Ward mentioned okay.

Vice Chairman Zapf stated on page 16, the fourth line up from the bottom, it quotes me as saying, is says inlet and it should be it says inlet.

Ms. Ward mentioned okay.

Vice Chairman Zapf stated the last one, when Craig was giving his presentation, page 25 the third paragraph up from the bottom, second line; it says, lease some of the spaces in the parking and it should be in the parking lot.

Ms. Ward mentioned oh okay.

Vice Chairman Zapf stated I think that was it.

Ms. Ward mentioned it is very hard to proof read your own stuff.

Vice Chairman Zapf stated oh I know you see what you want to see. Page 26 fourth paragraph down, second line up from the bottom, it says the Attorney's General office is bringing.

Ms. Ward mentioned I don't have the ing on it.

Vice Chairman Zapf stated other than that that's it.

Ms. Ward mentioned okay, I'll make the corrections.

Vice Chairman Zapf asked anybody else have any comments or corrections. Those were long minutes.

Ms. Ward mentioned not really sometimes I've had 80 pages.

Vice Chairman Zapf stated I remember reading those.

Ms. Ward mentioned let's do the vote on the minutes. The members that can vote on the minutes are Erickson, Foreman, Kubisky, Wolfson, Zapf, Dubowsky and Zalewski.

Vice Chairman Zapf made the motion to pass the minutes with the corrections.

Mr. Erickson seconds.

Roll call:

**Yes: Zapf, Erickson, Foreman, Kubisky, Wolfson, Dubowsky (Alt. #1) and Zalewski
 (Alt. #2)**

No: None

Abstain: None

*Chairman Byrne arrived at the meeting.

Chairman Byrne stated the next order of business is Variance Application #2018-3 by Norka B. Torres, on property known as Block 46, Lot 81.1 on the municipal tax map also known as 5 Hunter Road. This is a consideration of a resolution of memorialization.

Ms. Ward mentioned the members that can vote are Erickson, Foreman, Kubisky, Wolfson, Zapf and Dubowsky (Alt. #1).

**LINCOLN PARK BOARD OF ADJUSTMENT
RESOLUTION**

Variance Application #2018-03

WHEREAS, Norka B. Torres (the “Applicant”) has filed an application before the Lincoln Park Zoning Board of Adjustment (the “Board”) with regard to property known as 5 Hunter Road, Lincoln Park, New Jersey, also identified as Block 46, Lot 81.1 on the official tax maps (the “Property”); and

WHEREAS, all persons located within 200 feet of the Property have been notified according to law and a public hearing was held before the Board on July 10, 2018; and

WHEREAS, based on the hearing and a review of all the testimony and documents submitted in conjunction with the application, the Board makes the following findings of facts:

1. The Property is located in the R-15 zone. The Property is currently improved with a single family dwelling. The Applicant has requested approval to elevate the existing dwelling within the same foundation footprint currently existing. The Applicant also proposes to remove the existing one-story 8’ x 8’ entranceway along the southerly side of the dwelling and to install a new uncovered deck, which would wrap around to the easterly side of the dwelling where the deck should be covered.

2. The Applicant submitted to the Board for its review the following material:

- i. Standard Development Application Form (Section 17-82.1-A);
- ii. Checklist for General Information (Section 17-82.1-B);
- iii. Checklist for Variances (Section 17-82.1-D);
- iv. Two versions of a property survey of existing conditions, prepared by Morgan Engineering & Surveying, LLC, consisting of one page, dated June 4, 2018, bearing no revisions;
- v. Architectural plans, prepared by Cesar F. Padilla, RA, consisting of three sheets, dated January 20, 2018, bearing no revisions.

3. The Applicant has requested the following variances: (i) lot area (+/-14,984.64 square feet existing and proposed; 15,000 square feet required); (ii) lot frontage (+/-35 feet existing and proposed; 100 feet required); (iii) front yard setback for house (5.4 feet to southwesterly corner and 6.4 feet to

northwesterly corner; 40 feet required); (iv) front yard setback for deck (25 feet proposed, 40 feet required); (v) front yard setback for stairs (1 foot proposed, 40 feet required); (vi) front yard setback for HVAC/generator pad (38 feet proposed, 40 feet required); and (vii) enclosed parking space (0 spaces proposed, 1 space required). The variances for the lot area, lot frontage and front yard setback for the house are for pre-existing conditions that will continue unchanged. Although elevating the foundation does not create a further horizontal encroachment, a variance is required to permit the vertical expansion of the nonconforming front yard setback.

4. Steven Schepis, Esq. represented the Applicant at the hearing. Victor Torres, the Applicant's husband, and Cesar F. Padilla, a licensed architect, testified at the hearing. Mr. Torres testified that the dwelling's existing foundation is substandard and that excessive storm water is affecting the structure. According to Mr. Torres, the basement is "washing away." The dwelling is constructed on the side of a hill and there are numerous rock structures throughout the Property. The Applicant presented the Board with photographs of the Property and the dwelling for review (marked A-1 and A-2 into evidence). The photographs evidence the deteriorated condition of the dwelling's foundation as well as the rock structures in the rear of the Property. Mr. Torres and Mr. Padilla testified that while they considered relocating the dwelling, they concluded raising the foundation was the most practical approach because of the Property's difficult topography.

5. The Property has an unusual configuration in that most of the property line considered the front yard for zoning purposes is not adjacent to a street. Because of the location of the dwelling and the "front yard" for zoning purposes, several setback variances will result from the application. Also, during the course of the hearing the Applicant requested a parking variance. Mr. Torres testified that there currently is no garage or carport, that he does not want one, and that there is no practical location to build one. The Board concluded the circumstances warranted variance relief for this issue. Mr. Torres testified that a sump pump is not proposed, and he agreed to tie the roof leaders to the manhole in the front yard if feasible.

6. During the hearing, the Board Engineer reviewed his report dated July 9, 2018 and the Applicant agreed to the requirements set forth therein.

7. No members of the public testified during the public portion of the hearing.

8. The Board concluded after reviewing all of the testimony, exhibits submitted and documents included with the application, that by reason of the exceptional narrowness, slope and/or configuration of the Property, the strict enforcement of the provisions of the ordinances would result in exceptional and

undue hardship upon the Applicant. Further, the Board has concluded that this relief can be granted without substantial detriment to the public good and without substantial impairment to the intent and purpose of the zone plan and zoning ordinance.

9. The application is consistent with the intent and plan of the zoning ordinances of the Borough of Lincoln Park and will not adversely impact the neighborhood or surrounding properties.

NOW, THEREFORE, BE IT RESOLVED, that based upon the testimony and facts as found above, the Lincoln Park Zoning Board of Adjustment does hereby grant the application and the requested variances on the following terms and conditions:

1. This Resolution is subject to any comments offered by the Borough's Engineer and Construction Official on the application and the plans. The Applicant shall comply with any requirements imposed by the Borough's Engineer and Construction Official with respect to this application or the plans.

2. The Applicant shall comply with the comments set forth in the Board Engineer's report dated July 9, 2018, except as may be modified by this Resolution.

3. The Applicant shall revise the plans as set forth in the Board Engineer's report dated July 9, 2018 and as agreed to at the hearing. The revised plans shall be subject to the review and approval of the Board Engineer.

4. All construction work at the Property shall comply with the requirements set forth in the Board Engineer's report dated July 9, 2018.

5. With respect to item #8 in the Board Engineer's report dated July 9, 2018, the Applicant may request relief for this condition if it would be economically unfeasible to tie the roof leaders to the manhole in the front yard.

6. The Applicant is hereby notified of the following Borough Code that is incorporated into this Resolution:

Section 17-38. EXPIRATION OF VARIANCE:

Any variance from the terms of the Zoning Ordinance hereafter granted by the Board of Adjustment permitting the erection or alteration of any structure or structures, or permitting a specified use of any premises shall expire by limitation unless such construction or alteration shall have been actually commenced on each and every structure permitted by said variance, or unless such permitted use has actually been commenced within one year from the date of entry of the judgment or determination of the Board of Adjustment; except however, that the running of the period of limitation herein provided shall be tolled from the date of filing an appeal from the decision of the Board of Adjustment to the Governing Body, or to a court of competent jurisdiction, until the termination in any manner of such appeal or proceeding; except further in the case of a variance which also involves a subdivision or site plan approval, the variance shall extend for the full period of preliminary or final approval or any extensions thereof pursuant to the Act.

7. The Applicant shall submit eight (8) sets of the final approved revised plans to the Board.

8. Before a Certificate of Occupancy may be issued, the Applicant must submit four (4) copies of an as-built topographic survey as well as the Borough's Project Completion Report, signed and sealed by the Applicant's surveyor. Any remaining balance in the Applicant's escrow account will not be returned until the Project Completion Report has been properly submitted. The Applicant must submit to the Board Secretary a status report from the Borough Finance Officer confirming that all Borough fees for the Property and this application are current.

9. All other rules and regulations of any governmental agency having jurisdiction over the Property shall be complied with, including but not limited to the payment of all taxes, water and sewer charges and application fees and/or charges. No alteration of any construction plans submitted with this application and on file with the Board shall be permitted without the Board's prior written approval.

Mr. Zapf made the motion to adopt the resolution.

Mr. Foreman seconds.

Roll call:

Yes: Zapf, Foreman, Erickson, Kubisky, Wolfson, and Dubowsky (Alt. #1)

No: None

Abstain: None

Mr. Ward mentioned it's adopted.

Chairman Byrne stated the next order of business is Variance Application #2018-01 and Minor Site Plan Application #368 by Gino Battaglia, on property known as Block 42, Lot 1 on the municipal tax map also known as 51 Chapel Hill Road. This is a public hearing.

Mr. Schepis stated I'm here on behalf of Gino Battaglia and this is for a variance and a minor site plan in conjunction with an addition to an existing three-family dwelling.

Ms. Greene swore in Joseph Mianecki, Jr., the engineer.

Mr. Schepis stated the property that is the subject of this application is across from the municipal complex, 51 Chapel Hill Road. I have prepared a certification which I'd like to introduce and hand up because it says a lot more than I can say with words. I'll mark this Exhibit A-1 and I'll walk you through it briefly, and from there I'll lead into Mr. Mianecki's testimony.

It is entitled "Gino Battaglia Variance and Minor Site Plan Application, 51 Chapel Hill Road, Block 42, Lot 1, Borough of Lincoln Park Exhibits", so I'll mark it as A-1 with today's date, copies were provided to the board.

As you can see, Exhibit 1 is a photograph of the existing structure. On the left hand side of the structure there are four electric meters and Mr. Battaglia will tell you why there are four and it is a three unit building. The little photo is a picture of the front entrance and once you get behind that door then there are four doors. Unit 1 has a door, unit 2 has door, unit 3 has a door and then there is a door to the basement. The door with no number is the door to the basement.

Also I attached as Exhibit B is a prior resolution issued by this Board back in 2004 for Edward and Dorothy Engasser, Joan's parents. I do remember when I made that presentation and we did do the zoning history; and on page 2 of the resolution, the top paragraph, this Board

recognized its first zoning ordinance in Lincoln Park which was adopted in December of 1941. The reason I gave you that is that you have something to base it upon when zoning first came about in the Borough.

We do have the tax records that will be commented upon by the planner. Just to highlight it it references that it is a three-family dwelling built approximately in nineteen hundred. It references three apartment, there are two apartments on the first floor and one on the second. The two on the first floor are two bedroom apartments and the one on the second floor is a four-bedroom apartment.

Then also we have some permits that were previously issued by the Building Department. We have some alterations to a three-family house and the other was a two-car garage that was approved. Those are just for background and I'll have other witnesses commenting upon it.

What I find striking about this particular application, it is a nonconforming three family and three families are not permitted in any zone in the Borough. It is an R-15 single-family zone and it is presently a two-bedroom unit that is proposed to be expanded, and despite the fact that the unit is getting larger by square footage the number of bedrooms is proposed to be decreased from two bedrooms to one.

Mr. Battaglia and his wife who live up on Leatherstocking Path would like to relocate to the center of town, and the purpose of this application he will explain in more depth is to provide a place where he and his wife can live on one floor. The apartment is proposed to be modernized with a proposed addition to the rear with a walk-up garage from the lower level, and some other aesthetic improvements to the structure; residing, windows, etc.

So even though it is technically an expansion of the preexisting nonconforming use, the density, the number of bedrooms is proposed to be reduced in this particular unit from two to one. There is no proposed modifications to the other units. So that is the nature of the application and in conjunction with the use variance which brings us here, there is a variance request for additional impervious coverage than what is permitted.

They are proposing an additional 365 square feet of additional impervious coverage over what presently exists. There is also a variance with regard to the setback of the proposed addition as it relates to School Street. There is a required 40-foot setback from your zoning ordinance and we are already at like 12 feet and I think we are proposing 10, so as a result there is a deviation from the setback requirement.

School Street is a little unusual as it seems more like a common driveway for a couple of properties but it is a public road and it is recognized as such, so we will need a variance from that. Then there is also a separation between the garage and the front of the structure.

Mr. Miannecki will give you a good overview of what the project is. He'll show you what is there, what is proposed as it related to the property and then from there we will get into greater detail with Mr. Battaglia, Mr. Cutillo, the architect, and Ms. Petro, the planner.

Mr. Miannecki you've been sworn so why don't you tell us a little bit about what's on the property today; give us the lot area, the existing coverages, what exists there in the way of improvements, drainage patterns and what is proposed.

Mr. Miannecki testified I'm going to refer to my site and variance plan, sheet #2, it is unmarked and it is dated February 27th, 2018 and revised May 25th on this sheet. As Mr. Schepis pointed out, the property fronts on Chapel Hill Road and School Street and its address is 51 Chapel Hill Road and School Street is the side going in a northeast direction. Chapel Hill Road is two-way road and School Street is a one-way road in from Terrace Parkway and out to Chapel Hill Road.

There is an existing three-family home located in the middle of the property, fronting on Chapel Hill Road and it has a covered porch and there is a circular driveway from Chapel Hill Road into the site and out towards School Street. There is parking in three locations for the home; right in front of the dwelling facing Chapel Hill Road there is room for two or three cars, around back there is parking for another two cars and then there is another parking area here for another two cars, so you basically have anywhere from six to seven parking spaces to accommodate the

existing three-family use.

There is an existing covered deck on the back of the dwelling located here. The proposed addition is highlighted in the tan color which is going to be partially within that covered deck area where that covered deck will be cut back and attached to the side of the proposed addition.

There will be a garage underneath that will have access to the first floor of the dwelling unit so you'd have a covered space and then access into the building. We are proposing an eleven foot wide bituminous drive out to School Street to serve the garage right here. There is already an existing two-car garage located in the eastern third of the property located here and it has a graveled driveway out to School Street.

With regard to the increase in impervious coverage, we have an existing impervious coverage of about 44% and we are going up to approximately 46% so that is an increase in impervious coverage of 365 square feet which by stormwater standards is an extremely small amount of impervious coverage. That impervious coverage will be mitigated by the installation of a dry well.

I'm referring to the Drainage, Landscaping and Lighting Plan, sheet 2 of 2, bears the same dates as the previous plan that I referenced, and the dry well will be located behind the addition which will capture all the roof runoff from the 460 square foot addition. So there will be no negative affect with storm water, actually there will be mostly likely a slight reduction in storm water by the installation of the dry well.

Mr. Schepis stated you mentioned that School Street is one way coming out onto Chapel Hill correct?

Mr. Mianecky testified yes. Terrace Parkway is east of the site here and School Street runs here.

Mr. Schepis stated now in conjunction with this application, did you and the applicant look at ways in which one could possibly reduce the amount of impervious coverage to either keep it the same as it is today or perhaps even reduce it? If so, what thoughts were given and why were those thoughts rejected?

Mr. Mianecky testified given the fact that it is a three-family dwelling and you need two parking stalls essentially per unit, then we would also like to have a little bit of extra parking for a visitor or a UPS delivery, or something to that extent. We basically came to the conclusion that we can't reduce the driveway area or the parking area without substantially impacting the on-site parking which would drive them parking onto School Street which is not something we wanted to do. Basically this is the minimum amount of impervious coverage that we would need to accommodate a three-family dwelling.

Mr. Schepis asked to the best of your knowledge is there any permitted on-street parking on Chapel Hill.

Mr. Mianecky testified I don't believe there is. In my twenty-five years here I have never seen anybody parking on Chapel Hill Road. I don't think it is signed but I'm not sure. I looked and I didn't see any signs but I never saw anybody park on Chapel Hill.

Mr. Boorady mentioned except for the church.

Mr. Zapf stated except for the church but it is very rare. When I was a kid they were parked there but everybody is in the lot now unless we have a large event.

Mr. Mianecky mentioned other than school buses parking for the school it is very limited and in all honesty not really safe.

Chairman Byrne stated only in front of the church on Sundays.

Ms. Ward mentioned you can't park on Chapel Hill on either side up above.

Chairman Byrne stated I live right up the road and you are not allowed to park in front of my house.

Ms. Ward mentioned they let them park for church services and events for the church.

Mr. Miannecki testified I just assumed there was no parking because I haven't seen anybody parking there. You know access to the site is limited to Chapel Hill Road from each direction and if you miss Chapel Hill Road you wouldn't be able to go down School Street, you'd have to go all the way around to Terrace Parkway and then come back in because of the do not enter sign which Mr. Schepis pointed out to me before the hearing right here, so we really need the impervious coverage that we have.

Mr. Schepis asked is it fair to say the site functions properly now as far as being able to get in and park and get out.

Mr. Miannecki testified absolutely it is a three family today.

Mr. Schepis asked do you see any engineering concerns with regard to the function ability of the site as it exists today.

Mr. Miannecki testified no I don't.

Mr. Schepis asked and how about with the proposal.

Mr. Miannecki testified no I don't. It is actually, as you pointed out, a reduction in intensity, essentially you are losing a bedroom.

Mr. Schepis stated let's talk about the improvements you are proposing to the rear. I see you noted a driveway coming in off of School Street and then likewise it is accessing a garage under, what is in there presently?

Mr. Miannecki testified a combination of grass, sidewalks or part of the elevated covered porch.

Mr. Schepis asked is it fair to say, that the additional building coverage and impervious coverage represents that number that you stated earlier 365 square feet.

Mr. Miannecki testified yes.

Mr. Schepis asked and you are netting out areas that are like already walkways and pavement.

Mr. Miannecki testified that's netted out yes.

Mr. Schepis asked and the dry well system that you've proposed attenuates that additional storm water runoff from that additional coverage.

Mr. Miannecki testified yes it will

Mr. Schepis stated let's talk about the variances we are requesting. We know it is an impervious coverage variance and also we had requested a variance with regard to the setback to School Street. Can you tell us what the existing structure setback is as it exists today?

Mr. Miannecki testified the existing structure setback is 12.2 feet and we are proposing a 2 foot bump out on the garage so the proposed is 10 feet.

Mr. Schepis stated okay. Can you tell the members of the Board whether there is any other way to lay that out if you know in order to provide for a conforming setback of 40 feet?

Mr. Miannecki testified I'm not familiar with the internal layout I think that would be a question more for the architect.

Mr. Schepis stated okay. Now if it was set back in a conforming setback of 40 feet, where would that addition have to be located?

Mr. Miannecki testified it would have to be pushed all the way back here.

Mr. Schepis stated so it wouldn't be behind the unit on the left it would be behind the unit on the right

Mr. Mianecki testified yes.

Mr. Schepis stated there is also a variance that is being requested as it relates to a separation between an accessory structure and a principal structure are you aware of that?

Mr. Mianecki asked where is that. Are you talking about the setback for the garage?

Mr. Schepis stated yes the garage. Tell us what the ordinance requires and what is proposed?

Mr. Mianecki testified the ordinance requirement is that the front of the accessory garage must be a minimum of 35 feet back from the proposed front of the dwelling.

Mr. Schepis stated as it relates to School Street.

Mr. Mianecki testified yes School Street.

Mr. Schepis asked what would the existing setback be, the separation between the garage and the front of the house as it exists today in relation to School Street.

Mr. Mianecki testified as it exists today, the garage is set back from School Street 10.2 feet so it is actually 2 feet in front of the existing dwelling.

Mr. Schepis stated 25 feet is required and a negative 2 is existing.

Mr. Mianecki testified actually negative is existing right.

Mr. Schepis asked what is the proposal based upon.

Mr. Mianecki testified 12 so that would be a negative .2.

Mr. Schepis stated so it actually improves the deviation.

Mr. Mianecki testified slightly.

Mr. Schepis stated not that anybody would notice.

Mr. Mianecki testified right.

Mr. Schepis stated so we are asking for that variance, as well as impervious coverage, and of course the use.

Mr. Mianecki testified yes.

Mr. Schepis stated in conjunction with your submission there were a series of photographs that were provided to the Board together with a key map. I believe the Board members all received Mr. Mianecki's photos?

Ms. Ward mentioned they have them.

Mr. Mianecki testified I have 4 photos on the site plan.

Mr. Schepis stated why don't you walk us through the photos just so people can understand what it is. The photos are on the site plan so everybody has the site plan.

Mr. Mianecki testified photo #1 is on the Drainage, Lighting and Landscape Plan and it shows the front of the 3-family house facing Chapel Hill Road. It is substantially landscaped and a single set of stairs going up to the front door. There are 2 refuse and recycling areas on either side of the porch kind of tucked underneath the porch. I know each area is supposed to have its own area, so as you can see here there is a refuse/recycling area on the right side of the house

and this is facing the house if you are standing on Chapel Hill Road looking at the front. There is another one underneath the porch over on the other side right here.

Photo #2 is a close up showing the existing lighting that is out there. It shows the front porch, it shows again the refuse area on the side, and the front door and a porch light which designates the front or the main entrance to the house.

Photo #3 is a rear elevation. As you can see, there are covered porches and those will be essentially not quite cut in half, but those will be cut and naturally that is where the addition is going to be going in this area here, which would be on the right side looking at the house from the rear on the right. There is also a refuse and recycling area in the back also on either side of the porches right here and here.

Photo #4 is the side of the dwelling where the garage is going to be. The garage is going to be essentially on the left side of the house right here and bumped out to three feet and the driveway will be extended right into here. This is to give the Board an idea of what the house looks like today and what we will be doing to it.

Mr. Schepis stated I don't have any further questions for Mr. Mianecky so perhaps the Board members or professionals do? We do have to go through Mr. Boorady's memo so maybe we should do that now.

Chairman Byrne asked those pictures are the current pictures.

Mr. Mianecky testified these are the current photos.

Chairman Byrne mentioned I only asked because the ones in this report the landscaping is very different.

Mr. Mianecky testified the revision date is May 25th so these photos were probably taken that day or maybe a couple of days before.

Chairman Byrne stated all right but look at the plantings in the front that one Arborvitae looks like it had a tough winter so maybe it was taken down.

Mr. Mianecky testified it was a rough winter that big snowstorm is where everything got busted up.

Mr. Boorady stated evergreens got snapped in half.

Mr. Mianecky testified these were taken at the end of May the photos on the plans. Everything is green in the photo.

Chairman Byrne stated we can figure this out later. The other question I have for you is the existing garage, you are saying it is actually closer to the road than what you are proposing.

Mr. Mianecky testified the existing garage is 10.2 feet and we are proposing 10 feet for the addition.

Mr. Foreman asked looking at your rear elevation photograph, the addition is going to start as you look at the rear of the house it is going to be a little bit to the right of that right rear corner.

Mr. Mianecky testified it looks like it is going to be right here.

Mr. Foreman stated you said it was going to jut out a little bit right? So then it is going to go behind the house and eliminate a lot of the porches back here, both the upper and lower deck right?

Mr. Mianecky testified yeah the area of the porch that is going to be eliminated is approximately 12 x 12.

Mr. Foreman asked how big are the porches now.

Mr. Miannecki testified 12 x 30.

Mr. Foreman mentioned I understand the ground level is going to be the garage and this living space is going to be above the garage.

Mr. Miannecki testified yes. The garage is going to be right here. Mr. Cutillo is here and he'll guide you through all of that.

Mr. Boorady stated the architect's elevation plans gives you an idea of how much that deck is --

Mr. Miannecki testified being removed.

Mr. Boorady stated if any of it yeah.

Mr. Foreman mentioned I just wanted to get a general idea. It is fully occupied now right?

Mr. Miannecki testified I believe it is.

Mr. Schepis stated I think Mr. Battaglia and his wife are intending, depending on what the Board does, to move into the first floor apartment so I think that is actually vacant in their anticipation of renovating and moving in.

Mr. Foreman mentioned okay.

Chairman Byrne asked does anyone else have any questions.

Mr. Schepis stated we have Mr. Boorady's memo and perhaps we can go through that and address any technical items that would come Mr. Miannecki's way. The memo I have is dated August 2nd, 2018.

Mr. Boorady mentioned the technical comments start on page 3 in my letter dated August 2nd, 2018. I think everybody should have a copy. The first two pages summarize the documents that were submitted for determination of completeness, and the project summary you've already heard that from the applicant, so if you'd like we can move on to the technical comments.

Item #1 relates to the parking and it essentially calculates 7 parking spaces. There is no striping or stalls noted on the plan so it appears that at least 7 cars or more can fit on site. I don't know if the applicant has any more detailed information on how cars are parked or whether it is sufficient.

Mr. Miannecki testified we don't want to stripe the parking lot because it loses its residential characteristics.

Mr. Boorady stated no but at the same time I don't know if you did any kind of stall layout just to show that 7 cars, or however many cars you can fit there.

Mr. Miannecki testified I did not do a specific stall layout. The client is here so he can explain how it functions currently but it looks like there is room for at least 7 cars. I can show conceptual striping so you can see it.

Mr. Boorady mentioned I'm not asking for it to be striped but I just want to make sure you can fit 7 cars on site. Again, it looks like you can but I'm not so sure how it is oriented.

Mr. Miannecki testified okay.

Mr. Schepis stated I'll have Mr. Battaglia address that and he'll be able to tell you in his experience how they comfortably park on the property.

Mr. Miannecki testified every time I've been there there is never a car there.

Mr. Schepis stated there is an asphalt parking area up in the front. There is a concrete parking area on the right hand side and then towards the rear behind the house there is a concrete

parking area, and then there is a 2-car garage and there is also proposed 1 new garage. We will get a head count for you.

Mr. Boorady asked so it is the testimony of the engineer that there are at least 7 parking spaces on site.

Mr. Miannecki testified yes.

Mr. Boorady stated okay so there are no variances required for parking.

Mr. Miannecki testified correct. You know that includes the garages.

Mr. Boorady stated right. Item #2 relates to the gravel shoulder and I'm just wondering if it gets used for the subject property and maintained by the owner of the subject property, or the Borough I don't know?

Mr. Miannecki stated Mr. Battaglia can address that.

Mr. Boorady mentioned so Item #2 will be addressed by the applicant.

Mr. Miannecki testified yes.

Mr. Boorady stated Item #3.

Mr. Miannecki testified I spoke to the client before the meeting and he'll remove the gravel area between the existing drive and the proposed drive, and he'll also remove the concrete pad where they put the refuse out. The refuse pad that's out there now they'll get rid of that and the sidewalk that goes to it.

Mr. Boorady stated okay.

Mr. Schepis asked where are you going to put the trash then.

Mr. Miannecki testified they are just going to walk it out and put it out over here.

Mr. Schepis asked is that a good thing or is better to have a delineated pad. What do you think?

Mr. Miannecki testified it doesn't really matter as long as the cans are put out at night and brought in the next day.

Mrs. Kubisky stated I think you need a pad, where would they store their garbage until garbage day?

Mr. Miannecki testified that is stored up close to the house until garbage day. It is stored by the house in the cans with covers on and that would just be utilized when they put the garbage out on recycling and refuse pick up dates, they just put them out on that pad.

Mr. Schepis stated if it is helpful to remove it, we'll remove it. Gino doesn't have a preference, we can keep it or remove it.

Mr. Miannecki asked what do you prefer Tom?

Mr. Boorady stated as long as garbage isn't stored there 24/7 seven days a week I don't necessarily have an issue with it. You know if somebody else operated this site in the future, they might take the opportunity to store garbage there 24/7. Mr. Battaglia may not choose to do that which would be nice so that garbage isn't on the street, so it is up to the Board what your pleasure is. I wasn't asking for it to be removed but there was a gravel shoulder in front of it, they are going to put topsoil and seed so that the driveways wouldn't blend together so that nobody would park there.

Mr. Schepis mentioned if we are going to remove the gravel shoulder we should remove the concrete pad that makes sense. Gino says so long to the pad no problem. We'll lose the

concrete pad and lose the gravel shoulder.

Mr. Boorady stated okay so that takes care of Item #3.

Mr. Mianecki testified we want to keep the gravel shoulder on the other side of the driveway.

Mr. Boorady stated right to the west and Mr. Battaglia is going to speak to that.

Mr. Mianecki testified yes.

Mr. Boorady stated I just didn't want gravel between the driveways because if a car parks there and somebody is pulling out of the new garage, you might not be able to see the cars coming through so we are good.

Mr. Mianecki testified I get it.

Mr. Boorady stated Item #4 is for the architect. Item #5 perhaps the applicant is going to speak to.

Mr. Schepis mentioned oh yes, he's got the answer to that one.

Mr. Boorady stated okay. Item #6 I think is a general comment and I believe the Water & Sewer Department already made their comments and I don't think there were any comments.

Mr. Mianecki testified I didn't see the Water & Sewer Department comments.

Mr. Boorady asked Joan did we get comments from Water & Sewer

Ms. Ward stated I think the comments are there.

Mr. Boorady mentioned there weren't any issues.

Mr. Mianecki testified okay. If there are any issues, we'll address them.

Mr. Boorady stated I don't think there are any issues. All the services are there and they are going to remain there.

Mr. Mianecki testified there is no change.

Mr. Boorady stated Item #7 on page 4, just double check the dry well calculations.

Mr. Mianecki testified I still have in excess of what you calculated.

Mr. Boorady stated right. I think it was just the tank itself that was a little different.

Item #8 I don't see an LED light detail.

Mr. Mianecki testified I'll either add the detail to my plan or Mr. Cutillo will add it to his.

Mr. Boorady asked was it on the architectural plans.

Mr. Mianecki testified I just show the LED light over the door I don't show a detail for it though.

Mr. Boorady stated okay. We need a detail and it should be residential and aimed downward.

Mr. Mianecki testified I believe it is a motion detector.

Mr. Boorady stated as long as it doesn't aim across the street.

Mr. Mianecki testified I get it.

Mr. Boorady stated Item #9 I think it is kind of taken care of in that you are moving the concrete

pad and the sidewalk.

Mr. Mianecky testified yes.

Mr. Boorady stated revise the plans to address that.

Item #10 through 15 are just standard comments that the applicant would have to agree to. Those comments are typical for most applications.

Chairman Byrne asked Tom, the sidewalk and that pad any significance in the amount of impervious coverage.

Mr. Boorady stated it will reduce it a little bit.

Chairman Byrne mentioned not much.

Mr. Boorady stated anything helps to bring it into conformance so I guess that's a good thing. Actually it is outside of the right-of-way so it shouldn't be included, I take that back.

Chairman Byrne mentioned oh it is.

Mr. Boorady asked Joe, did you include the concrete pad, the gravel shoulder in your impervious coverage calculation.

Mr. Mianecky testified not if it was off the property.

Mr. Boorady stated that's not going to affect the impervious coverage.

Mr. Mianecky testified it will affect runoff and will aid in reducing runoff but it won't aid in reducing the deviation for the variance for it.

Mr. Boorady stated right, that 46% coverage will not change.

Chairman Byrne asked the downspouts on the structure where are they aimed now. Do they go --

Mr. Mianecky testified they all discharge at grade.

Chairman Byrne asked towards the back of the property.

Mr. Mianecky testified side and wherever it is perpendicular to the foundation.

Chairman Byrne asked do the side ones go out to School Street.

Mr. Mianecky testified yes.

Mr. Schepis stated it looks like the adjoining property immediately to the north is higher than our property.

Chairman Byrne stated yes it is it's a hill.

Mr. Boorady stated south.

Mr. Schepis mentioned I don't have anything else and I think Mr. Mianecky has addressed the memo.

Chairman Byrne asked does anyone on the Board have any questions.

Mr. Mianecky testified I'm not going anywhere.

Mr. Schepis mentioned the public may want to grill you.

Chairman Byrne asked does anyone from the public have any questions for Mr. Mianecki. Okay.

Mr. Schepis stated okay very good. Our next witness is Mr. Cutillo. Mr. Cutillo is a licensed architect and he prepared plans which are the subject of tonight's application. I will ask him to be sworn.

You know we didn't place Mr. Mianecki's credentials on the record but I'll ask the Board just to take judicial notice that he is a licensed professional engineer and he has testified before this Board for some hundred/hundred and fifty times.

Mr. Boorady stated many years.

Mr. Schepis thanked him. Likewise we offer Mr. Cutillo as a licensed architect and we'll take his swearing and we'll go from there.

Ms. Greene asked Mr. Cutillo to state his name and address for the record.

Mr. Cutillo stated James P. Cutillo, 593 Newark-Pompton Turnpike, Pompton Plains.

Ms. Green swore Mr. Cutillo in.

Mr. Schepis stated Mr. Cutillo's credentials remain the same since the last time he testified before this Board is that fair to say Mr. Cutillo?

Mr. Cutillo testified that is true.

Mr. Schepis stated and he was accepted by the Board as a licensed architect on more than a hundred occasions, so I'd like to offer him up in that capacity to provide architectural testimony with regard to this application.

Chairman Byrne stated we accept him.

Mr. Schepis asked Mr. Cutillo to tell the Board what's on property today and what assignment Mr. Battaglia handed you and how it is that you've endeavored to accomplish his goals.

Mr. Cutillo testified as you know it is a 3-family residence and the Battaglia's plan is to add a small addition to the rear of the structure on the School Street side. The drawings I have up here this evening are the same ones you have in your packet dated November 27th, 2017 and there are two pages A-1 and A-2. I'll flip to the second page first and show you the addition plans.

On the lowest level/street level we have a one-car garage that is facing School Street. From the garage there is a door that visitors can come in and go up the stairs to the next level, the first floor level. Also there is an interior door so that if you are parked in the garage, you can get inside the house without having to go back outside.

So you come in here and we have a small storage area. Below there you go up the stairs to the main living level and what is proposed is a bedroom that is larger than what the existing bedrooms are with its own private bathroom. The bathroom is much larger so it has the features of being more accessible.

What is not shown on this plan is what the existing apartment looks like. I do have another drawing and we can get into that as an exhibit. That would be the new bedroom and then currently there are two bedrooms which are adjacent right past the stairway and the Battaglia's plan is to remove the wall between the two bedrooms creating a larger open living area space. The new bedroom would be the only bedroom in the unit so it would be reduced from two bedrooms to one bedroom so that is their plan.

The outside, architecturally speaking, it is designed to blend in with the existing structure the best way we could. It has a nice façade with a roof overhang facing the School Street side. There are no windows in the garage and the bedroom is designed as what we call a low plate so the inside of the bedroom ceiling will slope up a little bit to create somewhat of a cathedral ceiling, like a tray ceiling we call it, and the reason we were doing that is so that we could spare

the space of that existing balcony.

The first floor balcony there is a set of stairs that goes up from the yard so the tenant that lives in that unit will still have access to that door and the front door as well. The balcony that accesses the upper level, the second floor that will remain more or less intact. It will be built into the roof slightly where the addition is so that they are not losing anything, and there is an existing door from that upper unit that goes out to access that balcony so we are not compromising anything for that unit.

Chairman Byrne asked from the interior where that porch is (inaudible – rustling of papers).

Mr. Cutillo asked are you looking at the --

Chairman Byrne stated the second page

Mr. Cutillo testified the floor plan.

Chairman Byrne stated where it says new hall so there is no window in that hallway there at the top of the stairs right?

Mr. Cutillo testified that's correct, there is no window or doorway there because that would be the private deck of the other unit.

Chairman Byrne stated okay.

Mr. Cutillo testified as far as the new work goes that is what I would have to offer up. The footprint is a 460 square feet but it is taking away part of the existing structure so it reduces it by some hundred and forty square feet so it is really not a full size, I think it is a three sixty five more accurately describes what is going on there. I have if you would like the existing floor plan. Mr. Schepis stated those were submitted. Mr. Battaglia had existing floor plans prepared so everybody should have them.

Mr. Cutillo testified okay you already have those. If you go to the second page of those, on the second page you can see the drawing of where the new work is and it matches identical to what I have drawn, and then you can see the existing unit it goes from the back to the front and there is a living room area, a very small bathroom, a kitchen and eating area, and where those existing two bedrooms are we are proposing to remove those walls and those closets creating one larger area.

Chairman Byrne asked so that would be all three interior walls.

Mr. Cutillo testified there is one demising wall between the two bedrooms and then the closet walls.

Chairman Byrne stated okay. Could you just clarify that from the existing interior the closet?

Mr. Cutillo testified the new addition part where the new bedroom is, to the left side of that drawing and that left side of that drawing matches identically to what I have drawn here on my drawings. As you go up the stairs and if you go to the right, you will be entering the kitchen, the existing kitchen.

Chairman Byrne stated so the walls that you want to remove are the ones that are shaded on this?

Mr. Cutillo testified that is correct, they have the hatched lines through them so it is the demising wall between the two bedrooms and both of the closets are to be completely removed.

Chairman Byrne mentioned the two doorways would stay.

Mr. Cutillo testified then the two doorways can stay.

Chairman Byrne stated okay I just needed that clarification. Does anyone have any questions?

Mr. Boorady stated I just have one comment in my report about the back balcony.

Mr. Cutillo testified Mr. Battaglia's goal was to lower this roof down as much as possible to avoid the actual walking surface of that deck. It will hit the new structure so there will be an intersection of the old deck and the new roof and that area will then have to be waterproofed so that the roof will create the envelope for the structure below it. So the actual size of that balcony will remain the same and then there is just a little bit of added structure that was needed there where I had shown a post to hold up that end of the deck that would be down below. We are removing part of the downstairs balcony.

Mr. Boorady asked will you be changing the pitch of the roof.

Mr. Cutillo testified in all honesty we are really as low as we possibly could be on the five on twelve pitch. I don't want to go any lower than that and Mr. Battaglia has asked for a lower plate height so the plate height starts at six feet. The windows pop up from that and then the actual finished height of the ceiling is eight feet which is standard, so it kind of has an angle up straight across and then an angle down, and then the windows kind of bump up like a dormer look. It is attractive and I think architecturally speaking it fits well with the style of the house.

Mr. Boorady stated in the new hallway the ceiling height will just be a little bit shorter.

Mr. Cutillo testified there is a six foot plate. If you go back to page two, that is designated on the drawing and then there is a dotted line where the eight foot height ends up to be. I mean there is plenty of headroom for walking that hallway. This hallway appears wide on the drawing but in reality you know you are probably going to have to put some furniture or something there because that's lower. For me I'm short so I wouldn't hit my head but it is at six feet and then it goes up from there.

Mr. Boorady stated as long as it doesn't end up closer to School Street because it is already set out a little bit.

Mr. Cutillo testified to answer a previous question, we tried to push the addition as far over as we could to the south but we could only go so far because of that existing structure and then we came forward, and in order to be able to have a decent enough space for garage we needed to come out the 23 feet because that only allows you 22 feet on the inside to have a standard size car in there.

Mr. Zapf stated that roof slants down towards the south and I'm sure you made some sort of arrangements so that the people who are renting the southern unit on the south side of the building don't wind up with a constant deluge of water and snow coming down in the wintertime because then you will have an ice condition on their ingress or egress.

Mr. Cutillo testified that's correct. So there is an actual overhang with a gutter on it and that existing deck/balcony is a few inches lower than the floor level so you step out onto it so that gutter line ends up to be higher than the six feet. The reason we have the seepage pit is so any new gutter that's along here actually will then be drained into that seepage pit. It doesn't show up on this drawing but it is right there, and you can just follow that line and then the leaders would come down and go into the seepage pit. It is not going to pour onto the deck it will be caught by the gutter and drained into the seepage pit.

Mr. Schepis asked one of the variance we are petitioning the Board for relates to the front yard setback of the structure as proposed in relationship to the property line on School Street. I believe presently there is a twelve-foot setback and we are proposing a ten-foot setback. I believe you just gave testimony and correct me if I'm wrong, that the deviation; in other words, is getting closer to School Street which is necessitated due to the requirement to provide a standard size depth to the garage.

Mr. Cutillo testified that's right. The actual standard size depth of the garage is twenty-four feet on the outside and this one is twenty- three feet and I still feel it is adequate. We weren't being overly generous with the size of the addition.

I would also like to point out and I don't know if it was mentioned before, but I'm not an engineer, but I do notice that the area from the property line on School Street to the paved area is something like twenty feet and that is quite a bit more than you would see anywhere else in town. A standard would be somewhere like eight to ten feet so it gives you the allusion that the building is setback further than the street than it really is.

Mr. Schepis stated all right good point.

Now the proposed addition that violates the setback or gets closer is it a one-story addition or one and half story?

Mr. Cutillo testified it is a two-story addition; the garage on the lowest level and then the bedroom above it. So the garage is at grade, very little slope and there is a drain that would then go to the seepage pit which is right off the side of the garage and these leaders would then connect into that seepage pit as well.

Mr. Schepis asked is it fair to say that this setback deviation that we are proposing is generated due to the location of the house as it exists today, and likewise the internal floor plan layout of this particular unit.

Mr. Cutillo testified yes that's true.

Mr. Schepis stated, in other words, you couldn't expand this unit without asking for this?

Mr. Cutillo testified if you pushed it back, you would be behind the other unit and then you would have a longer driveway creating more impervious coverage.

Mr. Schepis stated all right very good. I think we have addressed everything that Mr. Cutillo has for us so we will open him up to any questions.

Mr. Boorady asked was there any consideration for turning the addition instead of twenty-three feet going north and south and twenty feet going east and west.

Mr. Cutillo testified we did look at that Tom but the problem we were having was with how we were going to really get the stairway up there, and again that would have necessitated putting the stairway over here and I would have had to make like an L shaped and it was not just working for us. This is the most direct approach for them to get up from the garage and it has a little bit of storage area here which is beneficial in these type of units. By having the garage in from the side I would have had to make the second floor smaller to accompany that as well, but that would have necessitated considerable amount of more driveway because I would think at that point we would have to come in off of the existing driveway and then turn into the unit, so that is probably more than ten times the pavement that we have shown.

Mr. Boorady stated if you turn the edition then the garage faces east, then it is only a short distance to the concrete parking area.

Mr. Cutillo testified yeah but that's the parking and that is where the cars would be so something would have to be done. Again the internal layout wasn't working for them.

Mr. Boorady stated this is a two-car garage.

Mr. Cutillo testified it is a one-car garage, a foyer, a stairwell and a small storage room. It also allows when you are approaching from School Street, it allows you to have that entry door there which is important. If you turned it the other way, that door could not be there so again I think this is the best approach. Their plan is to park in the garage and go in internally; but visitors, delivery people, whatever --

Mr. Boorady asked will they be going through the front porch.

Mr. Cutillo stated yeah there is access but I don't know how all of that takes place but this gives you a direct approach. I think it looks better having a door on that side.

Mr. Zapf mentioned School Street was never really finished it was two rutted tracks. They built the white ranch house behind your client's home and then because it is one way they never completed it out to its full width. The only observation I would make is if the town ever came in for whatever reason and decided to make a two-way street and go to its full width, your client would only have a 12-foot driveway in front of the garage and there would not be room. As you said, it appears to be a lot more of a generous buffer between the side of the house and School Street as it is paved.

Mr. Cutillo testified that is very true and as I said it is really more of a visual thing. If you want to be technical about it, the property line, whether what is paved or not paved, so theoretically they wouldn't be allowed to park in that area even though somebody truly will.

Mr. Zapf stated having lived in this town my whole life I can't imagine that they would ever have the volume right there but I can never say never. If they went to a two-way street, then they would no longer have what looks like a longer driveway and be able to park there.

Mr. Cutillo testified right. If that were to happen, then maybe there is an alternate to gain another parking space somewhere else. Maybe that concrete area could be extended by another spot.

Ms. Ward mentioned I don't think they will ever make that a two way.

Chairman Byrne stated I was going to say the same thing.

Mr. Zapf mentioned I could say that but someone could go in and put a big condo complex.

Ms. Ward stated it has been a one way forever.

Mr. Zapf mentioned before that it was dirt.

Ms. Ward stated I know.

Mr. Cutillo testified I don't see that as being problematic.

Mr. Zapf stated as long as they are aware of it.

Mr. Boorady stated there is enough room, you have 46 feet or more from the garage to the other side of the edge of pavement, so you could have 20 feet plus and you'd have plenty of width for a two-way street there with 20-foot stalls on the driveway.

Mr. Cutillo testified what Tom is saying is if you just kept it as a ten foot right-of-way from the property line, you would still have enough room to park a car not on your property, it is only half on your property but it would still be there.

Chairman Byrne stated I doubt they would do that because people would cut through and avoid the light right there every time.

Mr. Zapf stated but you never know.

Chairman Byrne mentioned people do it now and it is one-way street. I don't have any questions, does anyone from the Board have questions? Anyone from the public have any questions? Okay.

Mr. Schepis stated okay our next witness is Mr. Battaglia. In conjunction with this application we have correspondence from Gary McNabb, Gary was the zoning officer for many years and it is a letter to the person whom Gino purchased this house from dated April 6th, 1994 and her name was Mrs. Betty Pace. It basically reads, Dear Mrs. Pace: Please be advised after researching the zoning files of the Borough of Lincoln Park it was found that the three-family use of the above address was existing before zoning was established. The use is a pre-existing nonconforming three family and continues as such. No expansion of this use shall be allowed without proper approvals.

Exhibit B on the submission that I handed up tonight was a resolution from this Board which

recognized that the first zoning ordinance was adopted in December of 1941. We also note from the tax assessor's record that this structure is taxed as three family; two 2 bedrooms and one 4 bedroom and the structure was built in nineteen hundred 41 years before zoning.

Ms. Ward mentioned at one time it was a school.

Mr. Schepis stated it was a school.

Ms. Ward mentioned my mother went to school there.

Mr. Zapf stated my father went there too.

Mr. Schepis stated how about that. We have Mr. Battaglia here and he has a wealth of information for you so why don't we have him sworn and we will take his testimony.

Ms. Greene swore in Mr. Battaglia. Please give us your full name and address.

Mr. Battaglia testified Gino Battaglia, 31 Leatherstocking Path in Lincoln Park.

Ms. Greene stated he is sworn.

Mr. Schepis asked Mr. Battaglia if he was the applicant in this matter correct.

Mr. Battaglia testified correct.

Mr. Schepis stated I note from the application that there was a deed noted as being June 30th, 1994 from a Mrs. Betty Pace to you individually making you the owner of this property is that fair to say?

Mr. Battaglia testified yes.

Mr. Schepis asked and you still own it.

Mr. Battaglia testified yes.

Mr. Schepis asked when you purchased it it was a three family.

Mr. Battaglia testified yes.

Mr. Schepis asked as far as you know it has been a three family for as long as you can remember.

Mr. Battaglia testified yes.

Mr. Schepis stated let's talk about what exists in the building as it exists today. You heard it described as a three-family unit and talked about where the units are located and how many bedrooms are in the unit.

Mr. Battaglia testified it is two units on the bottom floor with two bedrooms in each and a full bath. There are four bedrooms above with a kitchen and dining room.

Mr. Schepis stated now you heard me describe it, one unit is vacant right now and that's the one that you are intending on relocating to. Why don't you tell everybody in your own words what it is that motivates you to come here to this Board and petition them for relief? How it is that you want to make improvements to this building and what your goals are?

Mr. Battaglia testified my goal is to move down in town so that my wife who had a stroke last year cannot drive anymore, and I'm not getting any younger so I want to move in town where we can walk around and we don't have to have a car and we will have access to stores and whatever.

Mr. Schepis stated let's talk about the improvements to the structure. As we see, there is one

front door and I'm going to draw your attention to Exhibit A-1. You have a front porch and you have a door, what is behind the door?

Mr. Battaglia testified there are three doors, one for each unit and then there is a door going downstairs to the basement.

Mr. Schepis mentioned when I turn to the second page of this exhibit, there are photographs of 3 doors marked door #1, 2 and 3 and I assume that correlates to the units. The unit that you are looking to expand is it fair to say that is Unit #1?

Mr. Battaglia testified yes.

Mr. Schepis stated so you walk in and it is immediately to the left.

Mr. Battaglia testified yes.

Mr. Schepis stated the next photo is the unmarked door.

Mr. Battaglia testified that is going down to the basement.

Mr. Schepis asked what is in the basement.

Mr. Battaglia testified it is an open basement with a laundry room.

Mr. Schepis asked is that for the benefit of all the building occupants.

Mr. Battaglia testified yes all of the tenants.

Mr. Schepis stated then you have Unit #2. Unit #2 I assume is also on the first floor?

Mr. Battaglia testified yes.

Mr. Schepis asked Unit #3 there a set of stairs that takes you up I assume.

Mr. Battaglia testified yes.

Mr. Schepis stated and you described it earlier as a 4-bedroom unit.

Mr. Battaglia testified yes.

Mr. Schepis asked as it relates to the utilities, a question was posed by Mr. Boorady in his memo as to why there were 4 electric meters as depicted in the photograph on page 1 of the exhibit and there are only 3 units.

Mr. Battaglia testified one is for the laundry room which I pay the bill and the other three are for each unit.

Mr. Schepis asked and likewise are there three separate heating systems for the units.

Mr. Battaglia testified yes.

Mr. Schepis stated so they each have control of their own utilities and they pay their own utilities correct?

Mr. Battaglia testified yes.

Mr. Schepis stated I also note in the application that the premises are served with municipal water and sewer is that correct?

Mr. Battaglia testified yes.

Mr. Schepis stated so there is no septic system.

Mr. Battaglia testified no.

Mr. Schepis stated from what I gather from Mr. Mianecki's plan, the property is not located in a flood hazard area so you are outside of the flood zone.

Mr. Battaglia testified yes.

Mr. Schepis stated so it is municipal utilities and everybody pays their own electric and gas.

Mr. Battaglia testified I pay for the water.

Mr. Schepis stated so there is municipal water and sewer.

Mr. Battaglia testified yes.

Mr. Schepis stated let's talk about the internal layout of this unit as it exists today. You heard it described today as a 2-bedroom unit and you want to make the unit bigger and reduce the number of bedrooms from 2 to 1?

Mr. Battaglia testified the new portion will have a bedroom above the garage and the rest of the existing will be a dining room where the 2 bedrooms are now. I'll remove the partition and make that a big dining room. The kitchen is existing and the living room is where it is now.

Mr. Schepis stated so really what you are describing is a four-room unit.

Mr. Battaglia testified I am eliminating the 2 bedrooms that is there now and making a dining room.

Mr. Schepis stated so it is living room, dining room, kitchen and 1 bedroom; 4 rooms and a garage. Why can't you make it work for what is there now? Why do you have to come here now and ask the Board to give you relief in order to have a bigger unit?

Mr. Battaglia testified I want to be able to park and go inside, and with me getting older I want to have access from the garage to the unit.

Mr. Schepis stated okay and you need a little more space.

Mr. Battaglia testified a little more space and also a bigger bedroom.

Mr. Schepis stated let's talk about the improvements to the building you are proposing, any exterior enhancement to the structure?

Mr. Battaglia testified I am siding the entire house and putting all new windows on the house which I have already mentioned.

Mr. Schepis stated now I'm looking at the picture of the front porch, the front porch looks like it needs a little attention. What are you going to do there?

Mr. Battaglia testified we are going to paint it that's all. The rest of the structure will have new siding and new windows.

Mr. Schepis stated now you heard Mr. Mianecki give testimony with regard to the sufficiency of on-site parking and as I look at the site plan it looks like as you come in off of Chapel Hill there are some parking spaces immediately there on your left hand side. When I was there I noticed 3 vehicles parked is that sufficient for 3 vehicles?

Mr. Battaglia testified yes.

Mr. Schepis stated then as you circle around the house because it is kind of like a counter clockwise traffic pattern, and as you go around it looks like there is a concrete parking pad behind the building closer to the driveway and it looks like you can fit another 3 cars there.

Mr. Battaglia testified you can fit 3 and 3. The two concrete pads you can fit 3 cars and 3 cars.

Mr. Schepis stated okay. Then as you circle around back there there is another concrete pad that looks like it is sufficient for another three vehicles is that fair to say behind the house?

Mr. Battaglia testified yes, behind the house.

Mr. Schepis stated so you really have 3 outside parking areas; one is in the front, one is on the side and one is in the back correct?

Mr. Battaglia testified it would be 9 vehicles.

Mr. Schepis stated 9 vehicles. Do you find that is sufficient in order to accommodate all of the tenants?

Mr. Battaglia testified yes it seems sufficient.

Mr. Schepis asked you haven't had people fighting over parking.

Mr. Battaglia testified no.

Mr. Schepis asked is it also fair to say that there is no parking on Chapel Hill.

Mr. Battaglia testified no.

Mr. Schepis asked how about parking on School Street, is there sufficient width to park on School Street or are you going to lose a mirror.

Mr. Battaglia testified like you were discussing before that's why I put the gravel over there.

Mr. Schepis stated it was mentioned in Tom's memo that there is an expansion.

Mr. Battaglia testified I put it there because people have problems because they park the buses there. When people pick up their kids from the school, people cannot pass by so that is why I moved the gravel a little bit over so people can go through.

Mr. Schepis stated so it is like for bypass not for parking?

Mr. Battaglia testified no.

Mr. Schepis stated so as far as you know nobody parks on School Street?

Mr. Battaglia testified they do when they come and play baseball and things like that.

Mr. Schepis stated is it fair to say that the people that live in your building park only on the property?

Mr. Battaglia testified yes, they won't park over there. If I remove it that's a problem.

Mr. Schepis stated you heard the representation that was made that you would remove the walkway and the recycling refuse pad sitting over on School Street that's going to go.

Mr. Battaglia testified yes okay.

Mr. Schepis asked do you have anything that you want to add that I didn't ask.

Mr. Battaglia testified no.

Mr. Schepis stated I think he said all he has to say.

Chairman Byrne asked so what is the existing garage in the back used for.

Mr. Battaglia testified I have storage in it.

Mr. Zapf asked would they have the ability to park in there if one of your tenants came to you and said I want to rent one.

Mr. Battaglia testified they can park in there if they wanted to.

Mr. Zapf asked is that garage full of lawn mowers.

Mr. Battaglia testified they can park in there if they need to.

Chairman Byrne stated that is 10 parking spaces then.

Mr. Zapf stated it is a 2-car garage.

Chairman Byrne stated it is 11 spaces. What is in the backyard?

Mr. Battaglia testified it is all overgrown with some dead trees but I am planning to clean all of that up and put new trees in.

Chairman Byrne stated the one other thing I have a concern with, so you are going to take down those two walls; the walls and the 1 closet but that doesn't mean that the next person who rents that unit couldn't slap up a wall and make that a 3-bedroom apartment. I mean there is already 1 bathroom in there so that is a total of 2 full baths for a 1 bedroom. What assurances do we get that nobody is going to slap a wall back up there and make it into a 3 bedroom when he moves out?

Mr. Schepis stated certainly your resolution would have a limitation.

Chairman Byrne mentioned I think we should make sure that that is clear.

Mr. Zapf stated that needs to be very clear.

Chairman Byrne mentioned I like everything and I have no objections, but that does concern me because we've had in the past and I'm sure you remember people who have slapped up a wall down the road and did it.

Mr. Boorady asked does the applicant understand what that means, you are going from a 2 bedroom to a 1 bedroom and they would put a condition in the resolution that you can't change it back unless you come back to this Board.

Mr. Battaglia testified I'm planning to die over there so I don't care what they do after that.

Mr. Schepis stated not any time soon I hope.

Mr. Boorady stated I just want to make sure because you have 2 bedrooms now and you know that might be more valuable to somebody. You are agreeing to something and I just want to make sure you understand.

Mr. Battaglia testified I'm not doing it for the value I'm doing it for myself.

Mr. Boorady stated I just want to make sure you understand what you are signing up for.

Mr. Zapf mentioned Mr. Battaglia the point everyone is trying to make is that whatever we pass, if we give you permission to do this it doesn't go with you the owner it goes with the property in perpetuity, so 10 owners down the road can do something else so we are just trying to make sure that it stays the way you agreed to.

Mr. Battaglia testified then they can come back here to ask to do something else.

Chairman Byrne stated that doesn't mean they will.

Mr. Schepis asked so how would you like to have this memorialized.

Chairman Byrne stated I think it should be on the plan and in the resolution.

Mr. Boorady stated and in the deed. If you are going to do it, it has to be in the deed otherwise it will never get found.

Mr. Erickson stated Pat gave an example of someone coming in and making it 3 bedrooms, so are we saying that it has to remain a 1 bedroom or it can be restored back to a 2 bedroom.

Chairman Byrne stated no, they are adding an addition specifically to make it a 1 bedroom.

Mr. Boorady mentioned but really you are going to condition the whole property to allow the 4 bedrooms, the 2 bedroom and now the 1 bedroom so you are not just not going to restrict the 1 unit.

Chairman Byrne stated no. My next point is and I know this isn't part of the application, but if you look at the floor plan, I guess what is actually the living room, when you come up the stairs to the left that has a closet and I mean there is not much that you would have to do to make that a fifth bedroom. So I would also like to make sure that we specify that this is a 4-bedroom apartment and no more than 4 bedrooms.

Mr. Zapf stated that kind of leads into something I had a concern that I raised on a previous application that came before us. That is a very generous top floor space in there and even though you have a 4- bedroom unit it is maxed out as 3 as a pre-existing use already, but some people don't have a whole lot of scruples and they can go up and take that top floor which I guess is just attic space at this point and make more rooms.

Chairman Byrne mentioned all the way up.

Mr. Zapf stated there are lots of windows up there.

Chairman Byrne asked what's up there.

Mr. Battaglia testified it is just a hole in the ceiling.

Mr. Zapf stated you have a 4-bedroom unit there and there is plenty of room to put in a stairway, so whatever our approval is it would have to stay a 3-family unit and that top floor has to remain 4 bedrooms or less.

Mr. Boorady mentioned and the attic is not living floor space.

Chairman Byrne stated the attic is no living floor space, the 4 bedrooms remain a 4 bedrooms because it is very easy to make a 5th if you look at the floor plan, and his unit a 1 bedroom stays 1 bedroom.

Ms. Ward mentioned you just did that on the Merkaj case.

Mr. Schepis asked Gino do you understand what they are trying to express as far as the limitation.

Mr. Battaglia testified yes so nobody else can expand it to more bedrooms.

Mr. Schepis stated I would assume if somebody buys this from Gino and they want to reconvert it, they can come back before you for relief and you can say yes or no.

Chairman Byrne stated right.

Mr. Zapf stated but in the meantime they would understand that it is restricted.

Mr. Schepis mentioned as long as we have some ability that in the future if somebody wanted to petition for relief that they could.

Chairman Byrne stated yes.

Mr. Schepis mentioned fair enough. We are going to have to put together a deed and record this with the County Clerk's Office so whoever buys the property from you, or your estate they would have to know that this was it.

Chairman Byrne stated in a way it actually helps him because now when he sells it it's a 4 bedroom, 2 bedroom and 1 bedroom and we know it because we have a resolution and the deed.

Mr. Zapf mentioned you are not going to see too many 4-bedroom apartments around somewhere.

Chairman Byrne stated no.

Mr. Schepis mentioned as long as you are okay with it so be it.

Mr. Battaglia testified okay.

Chairman Byrne asked does anyone else have any questions.

Mr. Boorady asked did you draw these.

Mr. Battaglia testified yes.

Mr. Boorady stated it is a pretty good job it is a good draftsman job.

Chairman Byrne mentioned so nobody has any questions. Does anyone from the public have questions? All right.

Mr. Schepis stated okay very good. Gino you may stand down.

Our next witness is Mia Petro and Miss Petro is a licensed professional planner and a member of the Institute of Professional Planners. She is here this evening to discuss the variances requested and what the State Municipal Land Use Law requires of one seeking such relief. So I would ask that she be sworn in and place her credentials on the record.

Ms. Greene asked Ms. Petrou for her full name and address.

Ms. Petro stated Mia Alpos Petrou, on behalf of Kenneth Ochab Associates, LLC, 12-16 Fair Lawn Avenue, Fair Lawn, New Jersey.

Ms. Greene swore in Ms. Petrou.

Mr. Schepis asked Ms. Petrou to state her credentials on the record.

Ms. Petrou testified I am a licensed professional planner in the State of New Jersey and also a nationally certified by The American Institute of Certified Planners. I received my Master's Degree in Regional Planning from Rutgers University Bloustein School and I also received my Undergraduate Degree in Urban Studies at Rutgers College in 98.

Mr. Schepis stated I'd offer Ms. Petrou as a licensed professional planner to provide planning testimony.

Chairman Byrne stated no objection.

Mr. Schepis stated okay very good. Ms. Petrou in conjunction with this application, your office submitted a planning and variance report dated July 5th, 2018 is that correct? You had a hand in that and you have reviewed it and you are able to testify about the contents and likewise provide additional information to the Board this evening.

Ms. Petrou testified yes I am.

Mr. Boorady asked are you employed by Kenneth Ochab Associates.

Ms. Petrou testified yes.

Mr. Boorady stated you said on behalf so I just didn't know. Just for the record you didn't sign this report.

Ms. Petrou testified exactly. I did have a hand in preparing it and I did some of the research, and I did review the final product and I do concur with all of the findings within the report. I also have a little bit of additional information to add tonight.

Mr. Boorady stated great. You are the associate part of the practice right?

Ms. Petrou testified yes.

Mr. Boorady stated you did most of the work.

Ms. Schepis stated let's talk about what planning documents from the Borough that you've reviewed in preparation of your testimony this evening what did you look at?

Ms. Petrou testified I reviewed the ordinances of the Borough and also reviewed the Master Plan and Re-examination reports and the Downtown Revitalization Plan as part of that.

Mr. Schepis mentioned with regard to the application, did you review the application and the plans that were submitted?

Ms. Petrou testified yes, as well as the reviewed the correspondence.

Mr. Schepis asked and you are familiar with the site.

Ms. Petrou testified I am.

Mr. Schepis stated we know this property is located in an R-15 single-family zone, although there is an alternative for a two-family dwellings on lots that are 22,500 sq. ft. in size so you have the 1- and 2-family option. This is a 3 family and we've submitted documentation and I know you've looked at A-1, and likewise you heard me recite Mr. McNabb's letter from 1994.

Ms. Petrou testified yes.

Mr. Schepis stated so why don't you tell us what you know about the zoning and how it is that the Board can grant the relief that is required and satisfy the statutory criteria.

Ms. Petrou testified sure. The type of variance that we have this evening is for the expansion of a legal nonconforming use and that is an important term in the context of land use law being a legal nonconforming use. We do have evidence presented on the record that the subject property has existed as a 3-family dwelling in a manner which pre-dated the ordinance in 1941 and has in fact continued in operation as a 3-family dwelling pursuant to tax records that were submitted. By virtue of expanding this nonconforming use, we do require a d-2 use variance for the expansion.

There are some bulk variances associated with this application that are classified as c or bulk variances, but the real principles driving behind this application is the d-2. The criteria for granting such variances was established by case law; particularly Kohl vs. Fair Lawn and Burbridge vs. Mine Hill which took notice that the fact that the use on the site is already existing; therefore, the more stringent Medici criteria that you may hear about to permit a use that is not already permitted in the zone falls by the way side because again we have a use that is existing on the property, so the focus is really on the expansion of the use.

These cases also decided that special reasons should be shown that support the granting of the requested variances and these special reasons are rooted in promoting the intent and purposes of zoning and the Municipal Land Use Law.

The application also has to prove the negative criteria in the context of the impact. The proposed expansion to (inaudible) good in the neighborhood as well to the zone plan. In my opinion this proposal can satisfy special reasons required to approve the requested variance for the expansion.

Particularly one of the objectives of the MLUL is to promote the establishment of appropriate population densities and concentrations that will contribute to the well-being of persons, neighborhoods, communities and regions. It is important to note in this case that there is no increase to the number of dwelling units. There is an existing 3 family that is supposed to remain as a 3 family, however it will be with additional floor area.

This additional floor area doesn't equate to additional intensity of the use, in fact what we have here is a decrease in the intensity of use. We have an existing 2-bedroom unit that is now being converted back to a 1-bedroom unit, and when we think about intensity of the use when it comes to residential uses, the bedroom is really the unit that we measure in terms of how many people can be accommodated at the site, so certainly in my opinion this can be accommodated as a subject location.

In an appropriate location we have a location that is proximate to the downtown environment that is within walkable distance to the core of this community and downtown area of the Borough of Lincoln Park, and that is certainly a goal within the Master Plan to promote and revitalize these areas and the way to do that is to get residents there. This is providing for an upgrade of this particular property not only for this unit but also other improvements in the context of promoting a desirable visual environment another purpose of the MLUL.

You've heard Mr. Battaglia attest that he plans to upgrade the visual appearance of the structure; façade renovations, painting and so forth, as well as landscaping which would really improve the building. I did post some pictures up there which are just copies of the pictures already submitted in the report but it does look a little tired. It is a building that was constructed in nineteen hundred and there is significant investment that is being proposed to upgrade its appearance.

Additionally, in the context of providing adequate light and open space, the proposed addition itself is rather minimal in nature 468 sq. ft. It can be accommodated and the way that it is being accommodated in the context of providing for an enclosed parking space does also help promote that desirable visual environment by not having an open area but by screening the parking within the structure. That also leads into bulk variance that are being requested.

Ac variance can be one of two; the c-1 variance can be granted in cases where there are practical difficulties in the application of the zoning requirements to the particular characteristics of property in questions, and c-2 variances can be granted in cases where the benefits of granting the variances outweigh the detriments and thereby promote the purposes of zoning.

In relation to the impervious lot coverage, the proposed impervious lot coverage is 45.9% where 30% is the maximum level permitted. However, it is important to note that the existing impervious levels are approximately 44% and we are requesting a 1.9% or 365 net square foot increase to accommodate the proposed addition which in my opinion is de minimis and can be accommodated within the context of this particular site.

In looking at some of the intense and purposes behind impervious coverage regulations that promote adequate site drainage; for example, these purposes will not be impacted by the proposed impervious coverage at this location. Drainage improvements are proposed to address those.

In relation to the front yard setback a 40 foot setback is required, and we are dealing with a corner lot here which will required 40 foot setbacks from both Chapel Hill Road and School Street. School Street in my opinion is really more of a secondary roadway and it is not as heavily traveled. There are only the two adjoining structures to the east and really the only one that has direct frontage on it is the center one between the subject property and Terrace Parkway.

The existing setback of the home is 12 feet, and as you just heard Mr. Cutillo attest the 10 foot

setback that is being requested really is required to promote a functional addition and to allow for the accommodation of a vehicle in the garage, and because of the reconfiguration of the stairs to get a functional access point into that first level.

Still given the appearance with the additional area that exists between the property line and the edge of the School Street roadway, there is again the appearance of sufficient distance in that location. In my opinion it is really very important there is no impingement of any adjoining residences. The location of the addition is at the farthest point from both its southerly neighbor because it is on the opposite of the home and there is sufficient distance between the neighbors along School Street as well.

Across the street we have the school, Chapel Hill Academy, and it is a private K through 12 school, but that building itself is more oriented closer to Boonton Turnpike and there is a large open area so there will be no impact on light, air and open space as a result of the proposed addition.

And then finally we have the accessory building setback from the front property line and I consider this more of a technicality because we do have the existing garage there. The offset itself will be minimized, but the variance is requested as a result of the proposed addition setback so I would consider it at least subsumes by the overall variance request being considered.

Ultimately the negative criteria is satisfied by this application and there is no substantial impact to the surrounding neighbors as a result of this application. We comply with again all the setbacks to adjoining development where it exists to the south and to the east. The front yard setback is just a minor extension over what currently exists along School Street, as well as the impervious coverage that is being requested.

There is no substantial impairment to the intent and purpose of the zoning plan or the ordinance, Master Plan objective include providing for a wide range of and choice in residential living arrangements and serving the various housing needs of the community's population and that is exactly what this proposed addition is intended to do. Again any conclusion I concur with; all of the findings in the report and all of the Master Plan objectives as I stated earlier regarding proximity to downtown areas and business support by residences would be promoted by this application.

Mr. Schepis stated okay you did such a thorough job I have no questions.

Chairman Byrne asked so the d-2 is for expansion of a nonconforming 3-family residential use, I thought that was already approved in 1994.

Mr. Schepis stated by expanding the structure we need the variance. It is technical it is just one of those things and I'm sure counsel will advise you if we decided to bump it out 10 square feet it would still require a d-2. Any modification of a pre-existing nonconforming use is technical and even if we moved the lot line and made the lot 10 square feet smaller it would be considered an expansion and that's why we are here.

Chairman Byrne mentioned okay. Anyone have any questions for the planner? Anyone from the public have any questions? All right well thank you we appreciate it.

Mr. Schepis stated that completes our dance card for witnesses so the only thing I have is a couple of closing comments and I'll leave you to your deliberations.

Chairman Byrne mentioned go ahead with your comments Steve.

Mr. Schepis thanked everyone for their time and consideration and I know Gino and his wife appreciate it. You know it is one of those technical variances that even though it is technically an expansion of a preexisting nonconforming use it is not like this is a factory in a residential zone and we want to put up a 100 foot smoke stack and we need to expand it. You know there are those expansions that just jump out at you and there are the ones that are so subtle that nobody would probably even notice and that is really what this is.

This is a residential structure in a residentially development zone and as such even though it is technically a nonconforming use it is so compatible with the adjoining residential uses, and even though the overall appearance of the structure is such and I think it is important that you only have one front door so it gives itself the appearance that it is a single-family dwelling. It is not like it is a series of doors and you know it is multi-family, so I say because of that the structure itself has an appearance of a single family that keeps in style with the development in the area. This expansion to the rear would probably never be noticed by anybody coming down Chapel Hill Road and only to the rear, and even that it is only a modest addition of only 400 sq. ft.

You know there are applications where I ask the clients why do you want to do this because it is a lot of money to prepare the plans, make the application, pay everybody and you know Gino said something to me that think is really telling. He has been here in Lincoln Park for many, many, years and he's gotten older and his wife is older as well, but they want to be able to avail themselves to the center of town.

There are a lot of accommodations here in town; you can walk to the shopping, you can walk to the stores, you can get mozzarella around the corner and you can even walk to the train station. So it is very attractive and the fact that they are here in town and they want to get closer to the center of town in order to avail themselves of these accommodations, and I think that's something that is backed up in your Master Plan Re-examination reports and recent zoning amendments.

I mean the Borough Council recently modified the zoning ordinance to provide for high density residential development right here in the center of town. You have the location right next to Keri Funeral Home and there is also the Wexford Inn which was rezoned as well, because there is a recognition by the Governing Body and the Planning Board that in order for the center of town to be vibrant there needs to be a residential component within walking distance. Now while this is not envisioned in the Master Plan I think it actually does further the purposes of the Master Plan by having people being able to walk to the center of town and frequent the stores and also for the benefit of people.

Gino and his wife want to avail themselves of that so this minor accommodation being able to enhance the structure; they are reducing the structure from 2 bedrooms to 1 bedroom, a little bit more square foot, but when you think about it it's only 4 rooms so it is not like they are building the Taj Mahal, it is a small modest addition with 1 covered parking space in a garage. I think it is a very reasonable request and I think that it is something the Board can readily approve and it is compatible with what we see coming out of the Governing Body in the way of ordinance modification, and what we see coming out of the Planning Board with the Master Plan modifications. I believe with comfort you can grant the approval and allow Mr. Battaglia to enhance the structure and then be able to relocate his residence for both he and his wife in walking distance of the downtown. That is our proofs and we ask that you give us the approval and we agree to all of the conditions which was spread forth on the record. Thank you.

Chairman Byrne stated just to recap those conditions; deed restriction, 4-bedroom upstairs, 1 bedroom in the subject side, 2 bedrooms in the other and nothing in the attic. Okay anyone comments/questions/suggestions?

Mr. Zapf mentioned it seems like an improvement to me and relatively straightforward, I mean the addition is on the unit that is as far away from any other residents. I think because it is a corner property whether you are coming in the driveway or coming down Chapel Hill Road or on School Street, you can see all four sides of the building and just sensitivity to the style and the design and the neatness of it is just actually good. If they are clever enough as the owners say, they will have a new garage and take the other two-car garage and give each unit one, you'll have a covered space for each of the three apartments. Somebody gets the left hand side from the 4-bedroom apartment and somebody gets the right hand side of the garage from the 2-bedroom apartment and it kind of improves the building.

Right now it looks like a generous piece of property but I think they are well aware that at any point and time the town could come in and widen School Street and they are still within the ability to live in their unit. They are sensitive to the runoff and impervious coverage and everything else so I think it is a plus.

Chairman Byrne stated Tom, in your report you said the seepage pit might be small or not.

Mr. Boorady mentioned there might have been a calculation there but I think he can work it out.

Mr. Foreman stated I think it is going to be owner occupied and he is going to make it more aesthetically pleasing, and to have someone there to keep a constant eye on the maintenance it makes great sense.

Chairman Byrne mentioned it is more aesthetically pleasing now than it has been for years.

Mr. Zapf stated it has been the same color green for years right Joan?

Ms. Ward mentioned yes.

Chairman Byrne stated I think the property looks great and I don't really see how this would be a detriment to it or the neighborhood. Does anyone want to make a motion?

Mr. Zapf asked should we detail what they are asking for first and then just say it out loud.

Chairman Byrne stated sure.

Mr. Zapf asked Tom to rattle them off.

Mr. Boorady stated I think the engineer agreed to provide revised plans to address the comments in my report and any others that were discussed tonight. I don't think there is a need for revised architectural plans.

There was a condition that the property be deed restricted; limiting the number of units to 3, limiting the number of bedrooms to 4 in the upper unit, 2 bedrooms and 1 bedroom in the lower two units. There are no units in the basement and no living space in the attic. What other conditions were there?

Mr. Zapf stated the variance. The main variance is going to be the side yard or actually the front yard.

Chairman Byrne stated impervious coverage.

Mr. Zapf mentioned and removal of the gravel and cement.

Mr. Boorady stated that was in my report and they agreed to do that.

Ms. Ward ask what about central air conditioning anything on that.

Mr. Boorady stated no. I don't know if the units are air conditioned right now?

Mr. Zapf stated they have window units I think.

Mr. Boorady asked will they be air conditioned.

Mr. Zapf asked central air he means.

Mr. Battaglia testified I would put a unit in for my unit.

Mr. Boorady stated as long as the compressor can be put in a conforming location they don't need any approvals for that.

Mr. Schepis asked what would be conforming for that. Would that have to meet a 40 foot setback or no closer than the front of the building?

Chairman Byrne stated I think it would have to go behind the building.

Mr. Schepis stated I don't think it is a problem.

Ms. Ward asked are you going to address it now, or otherwise they would have to come back for a zoning permit. If you are addressing it now, then they wouldn't have to come back in the future.

Mr. Schepis stated let's address it.

Mr. Boorady stated the back of the garage might be closer to 40 feet from School Street so it might be close.

Mr. Schepis asked we should show that on a revised plan.

Chairman Byrne stated I would think so.

Mr. Schepis stated Jim maybe you can take a look at that and identify it.

Ms. Ward asked are they just doing HVAC or a generator too.

Mr. Schepis asked do you want a generator.

Mr. Boorady stated the air conditioning unit is part of a primary structure so I think 40 feet from School Street might be tough.

Mr. Miannecki testified right, the south side of the structure is only like 32 feet off of School Street.

Mr. Boorady asked could it go there if it needed.

Mr. Cutillo testified we would propose it to be behind the garage but it is still not 40 feet from the street.

Mr. Schepis asked how far would it be.

Mr. Cutillo testified 33 feet.

Mr. Miannecki testified 33 yeah.

Mr. Boorady mentioned that really is the only place for it unless it goes on the east side of the garage.

Mr. Cutillo testified but it is hidden from both streets.

Mr. Boorady stated I would have no engineering objection not to have the exact number but just to say that it would go behind or on the south side.

Mr. Schepis mentioned Joe has to revise the site plan.

Mr. Boorady mentioned they are not going to vote on a number tonight because you can't give us a number tonight right?

Mr. Miannecki testified 32 feet.

Mr. Boorady asked you are going to agree to the 32 feet.

Mr. Schepis stated why don't you give yourself a little leeway.

Mr. Boorady stated I would give yourself a little leeway. Just say it will be on the south side of the garage.

Mr. Schepis mentioned that works for me.

Mr. Zapf stated that works.

Mr. Schepis stated thanks for bringing that to our attention.

Mr. Boorady mentioned very good Joan.

Side conversations numerous people speaking inaudible.

Mr. Schepis stated okay very good.

Chairman Byrne mentioned so I think that was it.

Unidentified person asked about a generator.

Mr. Boorady stated you have a generator.

Chairman Byrne mentioned any mechanicals.

Mr. Zapf stated any mechanical equipment.

Chairman Byrne mentioned that way he has some leeway if he gets a generator or something we know where it is, then you don't have to come back, not that Joan minds you coming back.

Ms. Ward stated I don't think you want to just come for that.

Mr. Miannecki testified not for this.

Chairman Byrne stated like I said, I think this is a good plan and it is an improvement to the neighborhood which I happen to live in.

Mr. Zapf made the motion to grant the corrections, the commentary and the deed restriction, etc.

Mr. Erickson seconds.

Roll call:

Yes: Zapf, Erickson, Byrne, Foreman, Kubisky, Wolfson and Dubowsky (Alt. #1)

No: None

Abstain: None

Mr. Schepis thanked everyone, we appreciate your time and consideration.

Ms. Ward mentioned the resolution will be on the September 11th meeting.

Chairman Byrne asked any other business.

Ms. Ward mentioned it should be a short meeting next month. Just the resolution and minutes and I don't think the church project will be ready. We have another variance case but I don't know if they are going forward with it.

Mr. Zapf made the motion to adjourn.

Mrs. Kubisky seconds.

Meeting adjourned 8:55 P.M.

Respectfully submitted:

Jon Ward, Secretary

Patrick Byrne, Chairman