



CITY OF NEW BRUNSWICK  
ZONING BOARD OF ADJUSTMENTS  
JULY 27, 2020  
MINUTES

Meeting Location:  
Teleconferencing  
City Hall, Third Floor  
78 Bayard Street  
7:00 PM

I. ROLL CALL

✓	John Cox (Chairperson)
✓	Nancy Coppola (Vice Chairperson)
✓	John Zimmerman
✓	Michael Belvin
✓	Ivan Adorno
✓	Karla Castenada
	Sue McElligot
	Beverly Sanchez (Alt. #1)
✓	Charlotte McNair (Alt #2)
	Evelyn Azcona (Alt #3)
✓	Chris Sumano (Alt #4)

II. PUBLIC ANNOUNCEMENT

**Dan Dominguez (Director, Department of Planning, Community and Economic Development):** Please be advised that the notice requirements of the Open Public Meetings Act has been complied with and satisfied, and that the annual notice which gave sufficient notice of the time, place and conduct of all public meetings of the Zoning Board of the City of New Brunswick has been filed with the City Clerk and it has been placed on the appropriate bulletin board and posted in the back vestibule of City Hall, visible to the public and through the windows of the lobby to City Hall in New Brunswick, New Jersey and has been transmitted to the official newspaper for the City of New Brunswick, namely the Home News Tribune. Additionally, a change of location notice of the time, place and manner of conducting this meeting has been made by the Board Secretary as required by law. New Jersey Governor Phil Murphy has issued executive orders limiting the size of public gatherings of individuals until further notice. Furthermore, the CDC has issued guidelines to limit gatherings of groups. The city's Zoning Board intends to meet on a regular schedule, will meet using the guidelines of the Open Public Meetings Act by utilizing teleconferencing system. Public participation at public meetings has been revised, and the public may participate through a conference call-in system. The public is encouraged to call in to the conference system through the phone numbers and access code transmitted in the change of location notice to the Home News Tribune and Star Ledger and posted in the back vestibule of City Hall, visible to the public through the window. Board professionals will also be available via conference call during the meeting. All parties on the conference call will have the opportunity to hear the Zoning Board meeting. During the portions of the meeting that are not open for public comment, all calls from the public will be muted and the Board will not be able to hear any public comments through the conference call system. During the public comment periods, those on the

conference call in lines who have an interest in addressing the Board will be organized by last name and then called upon to speak. After all organized members of the public speak, the process will happen again until all the public has had an opportunity to speak once and for no more than five minutes in any given public meeting portion. The timer will time at the completion of each five-minute period and I'll notify you that your time has expired. public needing assistance accessing the call number should call city hall at 732-745-5007.

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARD’S JUNE 22, 2020 MEETING

Motion to Approve  
 I. John Zimmerman  
 II. John Cox

	Yes	No
John Cox (Chairperson)	✓	
Nancy Coppola (Vice Chairperson)		
John Zimmerman	✓	
Michael Belvin	✓	
Ivan Adorno		
Karla Castenada	✓	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)	✓	
Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)	✓	

MINUTES OF THE BOARD’S JUNE 29, 2020 MEETING

Motion to Approve  
 I. Chris Sumano  
 II. John Cox

	Yes	No
John Cox (Chairperson)	✓	
Nancy Coppola (Vice Chairperson)	✓	
John Zimmerman	✓	
Michael Belvin	✓	
Ivan Adorno		
Karla Castenada	✓	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)	✓	

Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)	✓	

V. RESOLUTIONS OF MEMORIALIZATION

A. VELMA-HOMES, LLC / 54 RICHARDSON STREET / BLOCK 86, LOT 27.01 (ZB-2020-08)

Motion to Approve

I. John Zimmerman

II. Nancy Coppola

	Yes	No
John Cox (Chairperson)	✓	
Nancy Coppola (Vice Chairperson)	✓	
John Zimmerman	✓	
Michael Belvin	✓	
Ivan Adorno		
Karla Castenada	✓	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)		
Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)		

B. OLEGARIO & FELIX PEREZ / 153 JOYCE KILMER AVENUE / BLOCK 241, LOTS 3 & 4 (ZB-2019-04)

Motion to Approve

I. Nancy Coppola (Vice Chairperson)

II. Karla Castenada

	Yes	No
John Cox (Chairperson)	✓	
Nancy Coppola (Vice Chairperson)	✓	
John Zimmerman	✓	
Michael Belvin	✓	
Ivan Adorno		
Karla Castenada	✓	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)		

Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)		

VI. DISCUSSION ITEMS

A. CHANGES TO RULES REGARDING PUBLIC COMMENT AND INTERACTION

**Aravind Aithal (Board Attorney):** The Board members will be receiving shortly draft model rules that were proposed several years ago. I don't believe that the Board acted on those model rules. However, we intend to have those model rules for consideration at the next meeting if the Chair wishes to put it on the agenda. Among the rule proposals that are being considered, in addition to the model rules as proposed in the Municipal Land Use Law, would be a model rule that would permit the Chair, which the Chair already has the authority to do, but regarding overseeing the decorum of people that are witnesses or that appear before the Board live either telephonically or via this medium, that if there is any loud...

**Mr. Aithal:** Mr. Chairman, this is Aravind Aithal again. I was disconnected. If I may continue at the point that I was disconnected.

**Mr. Dominguez:** Hold on, Aravind. Can everyone but Aravind, please mute themselves. It would be very appreciated. All right, Aravind, please continue.

**Mr. Aithal:** Thank you. I was indicating that the only additional rule change that would be proposed in addition to the model rules, as proposed by the Municipal Land Use Law for the Zoning Board, would be overseeing the civility of individuals that have appeared before this Board either as witnesses or as members of the public. So that no abusive language, misconduct, threats, and so forth, which would be at the discretion of the Chair. Upon the first instance of someone using such language or conduct, the Chair would have the prerogative to ask that individual to cease and upon the second instance would have the opportunity to mute that person and ask them not to speak in live quorum and have them come back at the end of the public portion of the members of the public. Upon the third instance if they continued is to have them removed from the meeting.

**John Cox (Board Chairperson):** Is that all, Aravind?

**Mr. Aithal:** In addition to the regular model rules and there will be a copy that will be circulated and also available for the public prior to the next meeting.

**Mr. Cox:** Thank you very much, Aravind. Anything else?

**Mr. Dominguez:** No.

VII. PUBLIC HEARINGS

A. WORLD'S BEST TEMPS, INC. / 255 FRENCH STREET / BLOCK 425, LOT 2.03 (ZB-2020-04)

Preliminary and final site plan application with a "d(6)" height and bulk variances to construct a new six-story mixed-use building with ground floor retail and 53 residential units. Zoning district C-2A. (Peter U. Lanfrit, Esq.)

**Mr. Cox:** This will be held to until the next meeting. Aravind, does the applicant have to re-notice? Or will this be the notice for the August meeting?

**Mr. Aithal:** I have had communication with the attorney and based on my review of the notice that was put out, I believe that the applicant will have to re-notice for the next meeting.

**Mr. Cox:** Okay. Thank you very much.

- B. PECES CORP / 159-161 THROOP AVENUE / BLOCK 217, LOT 1.01 (ZB-2019-05)**  
Preliminary and final site plan application with use, FAR and bulk variances for the construction of a four-unit multifamily residential building. Zoning district R-5A. (Peter U. Lanfrit, Esq.)

**Peter U. Lanfrit, Esq. (Applicant's Attorney):** Good evening, Mr. Chairman, and members of the Board. Before I start, I just want to try to confirm that Mr. Johnson, who is my architect, has been able to log in, so that he can present his testimony. He was having some issues earlier on this evening. Is Mr. Johnson around?

**Larry C. Johnson (Applicant's Architect):** Yes, I am, Peter. And my phone has a mention on it that says that the sign in number, 408 418 9388, cannot receive video calls at this time.

**Mr. Lanfrit:** So, you have no access to video?

**Mr. Johnson:** That is correct.

**Mr. Aithal:** Mr. Lanfrit, if I may interrupt just one moment.

**Mr. Lanfrit:** Sure.

**Mr. Aithal:** This is Aravind Aithal. Mr. Chairman, I have had the opportunity to review the notices for this application and it does appear that all is in order and the Board does have jurisdiction to hear this application. Mr. Chairman, if you may inquire as to whether any member of the Board believe that they may have a reason to be conflicted from this application. I would certainly be happy to go through that with the Board members to determine if there is a conflict. And finally, Mr. Chairman, if we can just have on the record the individuals that are here as professionals on behalf of the Board for this application. Just identify themselves so that the members of the public are aware of the professionals that are here for this application.

**Mr. Cox:** Thank you, Aravind. Is there any member of the Board that has a conflict with this application? Please state your name and possible conflict.

**Ivan Adorno (Board Member):** Excuse me. This is Ivan. I just was able to get on the phone.

**Mr. Dominguez:** Do I just make a note that Ivan has joined us or do I do the roll again?

**Mr. Aithal:** No, a note should be made that he has joined the meeting prior to this application, so there will be eight members present.

Mr. Cox: Thank you, Aravind. Is there any member of the Board that may have a conflict with this application? Please state your name and potential conflict. Hearing none, do you want to call out roll call of the professionals?

Mr. Dominguez: Certainly, Todd Bletcher from Bignell Planning, are you here? Todd Bletcher from Bignell Planning, are you here?

Todd Bletcher (Board Planner, Bignell Planning Consultants): Yes, I'm here.

Mr. Dominguez: Okay. Thank you. Charlie Carley from D&R Raritan Engineering, are you here?

Charlie Carley (Board Engineer, D&R Engineering): Yes, I am.

Mr. Dominguez: Thank you. And Aravind Aithal, you are here, presumably, still?

Mr. Aithal: Still present. Thank you.

Mr. Dominguez: Okay. I think that covers all of our professionals. Board Secretary is here. Peter, the floor is yours.

Mr. Lanfrit: Mr. Dominguez, can you put up the exhibits? I am just trying to figure out, since Mr. Johnson does not have video capability, whether I can try to talk him through his exhibits on the telephone without having them available. Which I hope I can do, but I would like you to put the exhibits up.

Mr. Dominguez: I sure can try. It is the first time anyone has asked me to do that, so just give me a second.

Mr. Johnson: I do have my drawings in front of me, Peter.

Mr. Lanfrit: Okay.

Mr. Dominguez: Can you all see my screen?

Mr. Lanfrit: Yes.

Mr. Dominguez: Okay, then just tell me where to go when we get there, I guess.

Mr. Lanfrit: All right. Good evening, Mr. Chairman and members of the Board. Peter Lanfrit appearing on behalf of the applicant. This is an application to construct a four-unit dwelling on Block 217, Lot 1.01 at the address of 159-161 Throop Avenue. It is at the intersection of Throop and Comstock. There are some density variances, FAR variances, and certain bulk variances that we will be seeking in conjunction with this application. This evening, I intend to call four witnesses. I intend to call the applicant, who is the owner of the property in question. I then intend to call my site engineer. Then I will call Mr. Johnson, who is the architect that will go over the building, followed by the site engineer, Mr. Young, and then Mr. O'Brien, who is our professional planner that will opine on the variances that we are seeking. That is hopefully the course of action that we will take. I will call Manny first.

*Emanuel Lopez is sworn in*

Mr. Lanfrit: Manny, you are the owner of the property in question?

Emanuel Lopez (Applicant): Yes, sir.

Mr. Lanfrit: Okay and it is actually owned by Peces, is that correct?

Mr. Lopez: Yes, sir.

Mr. Lanfrit: And you are one of the principals of that company?

Mr. Lopez: That is correct.

Mr. Lanfrit: And how many principals are there in the company?

Mr. Lopez: There are two. Me and my father.

Mr. Lanfrit: Okay, when did you purchase this property?

Mr. Lopez: 2015.

Mr. Lanfrit: Okay, and when you purchased the property what was on the property?

Mr. Lopez: It was an abandoned building. It was mixed use before, with a bar on the bottom and they had an apartment on top, but it was already abandoned.

Mr. Lanfrit: Okay, and what was the condition of the building when you purchased the property?

Mr. Lopez: Completely torn down. It was pretty much just standing there, but the property was in no good standing at all.

Mr. Lanfrit: Okay, and when you observed that, did you in fact get a demolition permit and demolish the property?

Mr. Lopez: Yes sir.

Mr. Lanfrit: Okay, and the property today sits there vacant?

Mr. Lopez: That is correct.

Mr. Lanfrit: Okay. When we started this process and we submitted our first application back in March of 2019, 15 months ago, it was your intent to reconstruct a mixed-use building on that property, was it not?

Mr. Lopez: That is correct.

Mr. Lanfrit: Okay, and then as a result of the TAC meetings we had, and I believe that there were at least three of them in discussion with city professionals, the plan was modified numerous times and we decided to eliminate any request for a commercial development on the property and are now proposing to construct four apartments on the property, is that correct?

Mr. Lopez: That is correct.

Mr. Lanfrit: Okay. Thank you. I have no further questions for this witness.

Mr. Lopez: Thank you.

Mr. Cox: Does any member of the Board have any questions for this witness? Seeing none, please move on to your next witness.

*Laurence C. Johnson, AIA is sworn in*

Mr. Lanfrit: Mr. Dominguez, if you could bring up the architectural drawings just so that I can refer to them in the order that they are.

Mr. Cox: First we just need to accept Mr. Johnson as an expert witness.

Mr. Lanfrit: I was going to qualify him, but go ahead.

Mr. Cox: Mr. Johnson, since the last time that you appeared before this Board have your qualifications changed in anyway?

Mr. Johnson: I'm sorry, I could not hear who was talking.

Mr. Cox: Mr. Johnson, the Board Chair. I am just asking if your qualifications changed at all since the last time that you appeared before this Board?

Mr. Johnson: No, they haven't.

Mr. Cox: We will accept you as an expert architect.

Mr. Lanfrit: Thank you, Mr. Chairman. Mr. Johnson, you prepared the architectural plans that are the subject of this application?

Mr. Johnson: Yes, I did.

Mr. Lanfrit: Okay, and you heard my comments earlier that when we started this process, we started it as a mixed use building, and as a result of numerous meetings that we had with city officials, the project was revamped, revitalized, and submitted as four apartments, is that correct?

Mr. Johnson: That is correct.

Mr. Lanfrit: Okay, and in conjunction with that, you submitted a set of drawings that consisted of 12 pages, A-1 through A-12, is that correct?

Mr. Johnson: Yes.

Mr. Lanfrit: Can you indicate, first of all, what the building will look like and the materials that will be used to construct the building?

Mr. Johnson: Yes. The building has a foundation that the first floor is brick on all four sides. Then there is a separation band of non-weathering material. Then there is a Hardie board siding on the other four sides of the second floor. Then it has a pitched roof, which

will then have shingles on a eight by twelve roof to make it look more like a residential building that is fairly common within the neighborhood.

**Mr. Lanfrit:** Okay, and can you tell the Board where the orientation of the building is, that is where are the entrances to the residential units?

**Mr. Johnson:** Yes. The building sits on the corner of Throop Avenue and Comstock Street. And we have put the entrances to the building on Comstock Street so that they will be more accessible to the accessible parking in the lot, which is also on Comstock Street. There is a ramp and an entrance that enters the four units facing Comstock Street.

**Mr. Lanfrit:** All four entrances will be on Comstock?

**Mr. Johnson:** Yes. They are bordered with a five-foot porch that is covered with a roof. And the two outward units are handicap units and they are one-bedroom. Then there are two doors that have their own separate entrance into each second-floor unit. So, there is no public hallway or anything like that in the building.

**Mr. Lanfrit:** Okay, and I think Mr. Dominguez has helped us along the way and has flipped to what is A-2 of your plans, which is the first floor of the building. And you indicated that there are two units on the first floor.

**Mr. Johnson:** That is correct.

**Mr. Lanfrit:** Okay, and both of those units are handicap accessible?

**Mr. Johnson:** That is correct.

**Mr. Lanfrit:** And are they one- or two-bedroom units?

**Mr. Johnson:** They are one-bedroom units.

**Mr. Lanfrit:** In addition to the one bedroom, what do each of the units contain?

**Mr. Johnson:** They have a kitchen/ dining area that is accessible. Everything in the kitchen is accessible by wheelchair. They have an accessible bath. They have an accessible bedroom with doors that are all 3-foot-wide, and they have a walk-in closet, and a utility room that is not accessible from the inside of the building. But the utilities are accessible from the space in between the two buildings that is accessible from the parking area. And there is a set of stairs that compensates for the grade change. Okay, and what is approximate size of each of these units. Each unit is just under 1,000 square feet. The building footprint is about 1,980 and each unit takes up about half of that.

**Mr. Lanfrit:** Okay, and on the second floor we have also two apartments, do we not? And perhaps for the public, Mr. Dominguez...

**Mr. Dominguez:** A-5.

**Mr. Lanfrit:** Thank you, Mr. Dominguez. If we can describe... I'm sorry A-5 is for the first-floor plan, if we can go to...

**Mr. Dominguez:** A-6.

**Mr. Lanfrit:** Okay can you describe the second-floor units, Mr. Johnson?

**Mr. Johnson:** Yes, the second floor has two bedroom units. They have a stairway that comes up from the first floor and then it turns and goes into the public area, kitchen/living/dining area. And then there are two bedrooms, I am trying to orient myself in terms of north, east, south, and west, but closer to where the two buildings meet there are two bedrooms on each end of the building.

**Mr. Lanfrit:** And for orientation purposes, they would be to the rear of the building?

**Mr. Johnson:** Well, from the front entrance, yes, to the rear of the building.

**Mr. Lanfrit:** And you indicated that there is a living room/kitchen/dining room and a common area in each of those?

**Mr. Johnson:** Yes.

**Mr. Lanfrit:** Is there also attic space?

**Mr. Johnson:** Yes, there is attic space that is accessible through a pull-down ladder for light storage, out of season Christmas decorations and things like that. No heavy storage would be permitted there.

**Mr. Lanfrit:** And it would not be habitable space, is that correct?

**Mr. Johnson:** That is correct. It is not habitable space. We are planning to have an HVAC unit in the attic for each unit with a fire separation between the two units. The units are separated with a fire wall.

**Mr. Lanfrit:** Okay, can you indicate how utilities will be servicing the units?

**Mr. Johnson:** Yes, each unit will have its own electrical subpanel. They will have their own HVAC unit. They will have their own water heaters. Each apartment will have its own utilities.

**Mr. Lanfrit:** Okay, and you indicated that the HVAC unit for the apartments upstairs will be in the attic, is that correct?

**Mr. Johnson:** That is correct.

**Mr. Lanfrit:** Where would the HVAC units be for the ground floor units?

**Mr. Johnson:** For the ground floor, they will be in the rear of the building. Each one will have electric and there will be a room for sprinklers. So, the building will be 100% sprinklered.

**Mr. Lanfrit:** Okay, but the HVAC units for the lower units, will be contained within the building?

**Mr. Johnson:** Yes, they will be. They will just not be accessible from inside the apartment. The landlord will have access to the utilities from the rear stairway.

**Mr. Lanfrit:** Okay, but there will be no utility pad or HVAC pad outside of the building, freestanding of the building, is that correct?

**Mr. Johnson:** There will be air conditioning condensers, which are 10 feet from the property line and fenced in adjacent to the handicap space in the parking lot.

**Mr. Lanfrit:** Will this building need any transformers?

**Mr. Johnson:** Not according to any of the calculations that we have done so far.

**Mr. Lanfrit:** Okay. Thank you. Now, in one of the staff reports it indicated that the height of the building was 31 feet. Can you explain the roof and the roof pitch, how the height is measured, and why it is 31 feet?

**Mr. Johnson:** Yes, we started out with a 30 foot height from Throop Avenue, which is the highest elevation, but we have to measure the height of the building from the average height of the building from grade. And as the grade slopes down to the parking lot, the building gets higher in the back, so the average between those two is a foot higher than the 30 feet.

**Mr. Lanfrit:** Okay, but the building as you are looking at it from Throop Avenue is at the 30 foot height, which is the zone requirement?

**Mr. Johnson:** That is correct.

**Mr. Lanfrit:** Okay, and it is only because of the grade change that as you get further down Comstock that you have an average grade of 31 feet.

**Mr. Johnson:** That is correct.

**Mr. Lanfrit:** If the Board or the professionals...

**Mr. Johnson:** The porch is leveled with the Throop Avenue elevation, but I am not sure that has a real bearing on it.

**Mr. Lanfrit:** Okay, If the Board were to request that you lower the line of the roofline or roof pitch by one foot, can it be done and what would it do to the building aesthetically?

**Mr. Johnson:** Typically, it can be done. Aesthetically, it will make it look like it is a little bit squatted. But the other roof pitches in the neighborhood are pretty much 8 on 12, except for where there are flat roofs. But if it were requested by the Board, we certainly can make an adjustment, but it would not have the same aesthetic that it has now.

**Mr. Lanfrit:** Thank you. I have no further questions, Mr. Johnson.

**Mr. Cox:** Does any member of the Board have any questions for this witness?

**Mr. Lanfrit:** Mr. Chairman, I just had a request from my court reporter, if any of the Board members that have questions if they could identify themselves, because he has no way of knowing who is asking the question.

**Mr. Cox:** Will do.

Nancy Coppola (Vice Chairperson): This is Nancy Coppola. I do have a question.

Mr. Cox: Please go ahead, Nancy.

Ms. Coppola: So, on the picture that we are looking at now, there is a window, is that an attic window at the top area?

Mr. Johnson: Absolutely, we are just putting natural light in the attic space so that you don't need to have a service light all the time that you go up to service the units.

Ms. Coppola: Okay, thank you.

Mr. Cox: Does any member of the Board have any questions for this witness? Seeing none, please move on to your next witness.

Mr. Lanfrit: I am sorry, I did not hear that.

Mr. Cox: Please move on to your next witness.

*Noel Young, PE is sworn in*

Mr. Lanfrit: Mr. Young, what is your occupation?

Noel Young, PE (Applicant's Engineer): Professional engineer and civil engineer.

Mr. Lanfrit: And are you licensed in the state of New Jersey?

Mr. Young: Yes, I am.

Mr. Lanfrit: Can you briefly give the Board the benefit of your qualifications and background?

Mr. Young: I have a Bachelor of Science in Civil Engineering and Environmental Engineering about 30 years ago. I have been a licensed PE in New Jersey since 1991. And I have been in front of this Board for a number of times already.

Mr. Lanfrit: I would offer Mr. Young as a licensed engineer, Mr. Chairman.

Mr. Cox: We will accept him as an expert.

Mr. Lanfrit: Thank you very much. Mr. Young, you prepared the site plan that is the subject of this application?

Mr. Young: Yes.

Mr. Lanfrit: And can you describe the subject property, its location, and if you are familiar with some of the surrounding land uses around it?

Mr. Young: Yes. The site is located in the northwest corner of Throop Avenue and Comstock Street. The lot area is approximately 5,000 square feet. Approximately. At the top along Throop Street is a two-family house adjacent to it. On the other side on Comstock Street is a one family house. And across that is a church.

**Mr. Lanfrit:** Okay, Mr. Young, when you first got involved in this project, had the original buildings already been demolished or were the original buildings still on the property?

**Mr. Young:** They had already been demolished.

**Mr. Lanfrit:** Okay, were you able to historically determine where the buildings were located and the coverages that were on the property when those buildings were in place?

**Mr. Young:** Yes, I was given a survey map. There are two buildings there side by side. The previous building had zero front setback frontage along Comstock and Throop Avenue. At the back of the building, there is an area where they park, but there is not defined drainage, there is no defined parking spaces, it is basically people just park there.

**Mr. Lanfrit:** Okay, I would like to take you through the zone... Well, first of all, describe the building that we are constructing.

**Mr. Young:** Okay, the proposed building, the four unit residential, is actually a little bit smaller than the previous building. That is why we are now providing a three-foot setback along Throop, five-foot setback along Comstock Street, and five foot setback from the side lot line. Because of this, we're able to put some plantings in front of the building because of the reduction in building size in comparison to the old one.

**Mr. Lanfrit:** Okay, and in addition to building the building and we will go into the detail, we are also building a parking lot accessing to the building from Comstock Street, is that correct?

**Mr. Young:** That is correct.

**Mr. Lanfrit:** In reviewing the records, what was the building coverage of the building that was demolished?

**Mr. Young:** The building coverage according to the records is around, you're talking about coverage percentage, you are talking about around 50% to 51%.

**Mr. Lanfrit:** And the building we are proposing, what is the coverage of the building?

**Mr. Young:** It is around 36%. So, we are reducing it.

**Mr. Lanfrit:** Okay, and the impervious coverage when the previous building and parking existed, what was the impervious coverage?

**Mr. Young:** The existing impervious coverage is 76% and the proposed is 78.8%. That is a slight increase of 2.8%.

**Mr. Lanfrit:** Okay, and is that to accommodate the parking within the rear of the property.

**Mr. Young:** It would be correct.

**Mr. Lanfrit:** Okay, and can you indicate to the Board how access to the parking area will work and how many parking spaces we are proposing?

**Mr. Young:** The driveway along Comstock Street, there are five parking spaces of which one is a handicap space. The handicap is located as close to the building on one side. And

we provided a handicap walkway going into the ramp. There is a ramp adjacent to the building. So basically, there is parking space leading to that walkway then to the ramp. So, it can go directly to the door. To the entrance door.

**Mr. Lanfrit:** Okay, and is that parking lot proposed to be illuminated?

**Mr. Young:** Yes, we are proposing to put two area lights. One is wall-mounted to the building. The other one is pole mounted to the other side. So, there are two of them. We illuminated the entire parking area.

**Mr. Lanfrit:** Okay, and based on the lighting that we proposed, we will there be any light spillage on to any of the adjoining properties?

**Mr. Young:** Okay. Hold on. No, the foot candle, the 0.25 foot candle show that there is no over spilling on to the adjacent property.

**Mr. Lanfrit:** Okay, and now as part of this application, you had mentioned that there was an opportunity to provide some landscaping. And perhaps if we can get to the landscaping and lighting plan that was prepared by Mr. Young. For those people tuning in, we can review the sheet, which would be on Page 4 of 5.

**Mr. Young:** Okay.

**Mr. Lanfrit:** Hang on, Mr. Young.

**Mr. Dominguez:** On which sheet?

**Mr. Lanfrit:** It would be Sheet 4 of 5 of his plans. And it is entitled Landscaping and Lighting Plan, if you have it.

**Mr. Dominguez:** Okay Sheet 4 of 5?

**Mr. Lanfrit:** Perfect. Okay, Mr. Young, can you see it on the screen?

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay, so I think that your testimony should end for the Board members and members of the public that may be viewing in. The lighting and landscaping plan as shown on the screen.

**Mr. Young:** Okay, we are proposing four street trees, shade trees. Two along Throop Avenue and then two on Comstock. On site, we are proposing around 3 to 6 buffer or screening trees which are evergreen. So, the total proposed tree is 30 and also, we are proposing to provide shrubs. Evergreen shrubs to cover the landscaping area. Also, the landscaping adjacent to Comstock, and also, we are revising shrubs with the building foundation to put planters along Throop Street and also along the side lot line. So, in total, we are proposing 33. And what is required is around 7. There is no existing tree on-site except for one, which we are removing. So, we are proposing more than enough.

**Mr. Lanfrit:** Are we proposing any fencing around the property?

**Mr. Young:** Yes, there is fencing along the side lot line. Along Comstock. I forgot the name of the lot line. And also, along the side lot line to the back of the parking lot between the existing building on the adjacent lot.

**Mr. Lanfrit:** And what kind of fencing are we proposing?

**Mr. Young:** A 6-foot high, wood fence.

**Mr. Lanfrit:** And board-on-board?

**Mr. Young:** Yes, board-on-board.

**Mr. Lanfrit:** How will trash be handled at this facility?

**Mr. Young:** Okay, adjacent to the parking there is a seven by eight trash enclosure. Inside the trash closure, we are providing eight bins. Two trash bins for each tenant. Where they all go out to the curb during pick-up days.

**Mr. Lanfrit:** And how did you determine that eight trash bins were the right number that we needed to service these units?

**Mr. Young:** Okay, there is calculation submitted before in the copy sheet with regard to the expected solid waste volume. And then we calculated that eight bins is adequate.

**Mr. Lanfrit:** Then behind where the Board members are looking at the site plan, behind the eight bins, there is the air conditioning condensers that were testified to by Mr. Johnson?

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay, and as you indicated between the air conditioning units and the adjoining properties there will be a fence and there will also be landscaping to screen those air conditioning condensers, is that correct?

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay. Have you had an opportunity to review certain staff reports that were generated in conjunction with this application? Specifically...

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay. Let me start with the Department of Engineering, dated June 11, 2020, which references a prior report of March 9<sup>th</sup>, 2020. Either in these revised plans that you have already submitted or in the future, can we comply with all the comment requests contained herein?

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay. Speaking of that, again, can you indicate to the Board, are we providing any stormwater management on this site that was not previously addressed with the old building?

**Mr. Young:** Yes. In drawing number 3, we are proposing a 24 inch, separated plastic pipe. It is DPE that is connected to the existing storm line along Comstock Street. There is a restriction to make the flow less than what is the existing flow.

**Mr. Lanfrit:** Okay. You also had opportunity to review the report of D&R produced by Mr. Carley?

**Mr. Young:** Yes.

**Mr. Lanfrit:** And that is dated June 16, 2020.

**Mr. Young:** Yes.

**Mr. Lanfrit:** And if you go through that report, many of things that were requested of Mr. Carley, have already been addressed as he has indicated in his report that there are a few other notes or minor revisions that still remain outstanding. Those we can comply with, can we not?

**Mr. Young:** Yes. We can comply.

**Mr. Lanfrit:** Okay, I will now direct you to the report of Bignell Planning Consultants, dated June 10, 2020. I will like to go through that and spend a few minutes on that report. We are deficient in parking, are we not?

**Mr. Young:** Yes.

**Mr. Lanfrit:** Okay, and Mr. O'Brien will deal with that subject. With respect to the location of the driveway, as Mr. Bletcher or Mr. Bignell, point out is a violation, can you indicate where the driveway entrance is and why you indicated it in that particular location?

**Mr. Young:** First of all, that is where the existing entrance was previously. That is the area where they parked before. At the same time, this location of the driveway is basically set so that it will allow us to have five parking spaces. So, if we move it farther away from the property line, it will reduce the number of parking. So, it is basically set on that particular location.

**Mr. Lanfrit:** And on the adjacent property, there is not driveway adjacent to our driveway? Only the building is adjacent to our driveway, is that correct?

**Mr. Young:** That is correct.

**Mr. Lanfrit:** So, there are no competing driveways or related issued that you need to be concerned of from having two driveways in close proximity to one another, correct?

**Mr. Young:** That is correct.

**Mr. Lanfrit:** The parking area setback, can you address where the violations are and why they are?

**Mr. Young:** Okay, the parking setback I believe should be five feet and we have only 3 and we have 3 along the side lot line. So, that is one of the violations. We tried to, if you look at the dimensioning, it is basically where I cannot move it any more other than the way it

is now because of the positioning. I tried to put it as much as possible, it is, I think its allowed, the required is five feet.

**Mr. Lanfrit:** Okay, and if you were to comply with five feet, would you end up losing a parking space?

**Mr. Young:** I will lose the last one because we were required to provide some landscaping between the trash compactor and the parking. And if I move this, I will lose the space to put the landscaping.

**Mr. Lanfrit:** And where we have the violation of three and a half feet, in that three and a half feet area there is landscaping and a fence, is there not?

**Mr. Young:** That is correct.

**Mr. Lanfrit:** And on item 8, the tree removal replacement, we have now in our revised plans complied with the number of replacement trees that are necessary, is that correct?

**Mr. Young:** That is correct.

**Mr. Lanfrit:** Lastly, I am going to take you through the site plan comments that don't apply to planning or planning testimony. Have we submitted an application to Middlesex County Planning Board and Freehold Soil Conservation?

**Mr. Young:** Freehold Soil Conservation is not applicable for this site because the lot area is less than 5,000 square feet. So, it should be in excess of 5,000 feet because you record to have a permit for Freehold Soil Conservation.

**Mr. Lanfrit:** And for the record, Mr. Chairman, I have in my possession, I think it was sent to Mr. Dominguez, a letter dated June 4, 2019 from Middlesex County indicating that this application is exempt from their review. And I think that I have addressed all of Mr. Bignell's comments. So, I have no further questions of Mr. Young.

**Mr. Cox:** Does any member of the Board have any questions for this witness?

**Ms. Coppola:** Hi, this is Nancy Coppola again. It probably does not belong to Mr. Young, but because he mentioned the trash receptacles, is there someone that is going to bring those trash receptacles out to the curb on trash day?

**Mr. Lanfrit:** The landlord would be responsible to ensure that they be taken out on trash day. That is his responsibility.

**Ms. Coppola:** Thank you.

**Mr. Cox:** Does any member of the Board have any questions for this witness? Seeing none, please move on to your next witness.

*Kevin O'Brien is sworn in*

**Mr. Cox:** Mr. Lanfrit, Mr. O'Brien has been before the Board. Have your credentials changed in any way since you last appeared before this Board?

**Mr. Lanfrit:** Mr. O'Brien, did you hear the question?

**Kevin O'Brien, PP (Applicant's Planner):** No, sorry, I just heard gargle.

**Mr. Cox:** Sorry, Mr. O'Brien since you have been before this Board numerous times, have your credentials changed in any way since you last appeared before this Board?

**Mr. O'Brien:** Thank you, Mr. Chair. My credentials are the same. I can only say that I have gotten better in the last few months.

**Mr. Lanfrit:** Mr. O'Brien, you are familiar with the subject property and the surrounding land uses around the subject property, are you not?

**Mr. O'Brien:** I am, sir. Yes.

**Mr. Lanfrit:** And are you also familiar with the zoning ordinance of the City of New Brunswick, the Master Plan of the City of New Brunswick, and obviously the Municipal Land Use Law?

**Mr. O'Brien:** Yes.

**Mr. Lanfrit:** Can you first describe the subject property and the surrounding land uses, and perhaps if it assists you, if we can take the first page of the site plan that was prepared by Mr. Young, which has the key map and may assist Mr. O'Brien in referencing things.

**Mr. O'Brien:** The area surrounding the property of both Throop and Comstock are an interesting mix of multi-family, one- and two-family, a couple of churches, and a school farther up Comstock.

**Mr. Lanfrit:** And can you indicate to the Board why we are here this evening?

**Mr. O'Brien:** We are seeking a "d(4)" Floor Area Ratio variance, front and side setback, building coverage, building height, impervious coverage, and there are pre-existing conditions of lot area and lot width.

**Mr. Lanfrit:** With respect to the pre-existing conditions of lot area and lot width, the surrounding lots around the subject property are fully developed and there is no additional land that can be acquired to make our lot larger, is that correct?

**Mr. O'Brien:** Not without making them less conforming and in fact most of them are non-conforming now.

**Mr. Lanfrit:** Okay, are there any unique aspects to this application, Mr. O'Brien?

**Mr. O'Brien:** Yes, this site previously had a bar on the first floor and a second floor residence. As times passed, those of us of a certain age recall neighborhoods offering gathering places for folks to meet, and those days were left behind with the advent of cable TV and residential air conditioning. Today, a bar would be out of place in this neighborhood of residences, the churches and a school. And I cannot imagine that a 2 AM closing time would be welcome among any of the neighbors. The mixed use building dated from 1906 will be replaced by a building that will meet all current safety and fire codes, including sprinklering the entire building. The new building will have several sustainable features and be much safer as required by the building code. The applicant is proposing a four unit building with two handicap accessible apartments. This provides an opportunity

for handicap residents to live in this neighborhood where most of the buildings appear to be pre-war and do not have any accessible features.

The architectural plans show a residence with a peak roof and a porch that fits in with the porches and residences along Comstock going toward the north. The setback from Throop and Comstock is similar to the other buildings on this block. The proposed home is in a neighborhood of many types of uses: single- and two-families, mixed apartment buildings, the churches and the school. Of the ten residences on this block of Throop, five appear to be one- or two-family, and the other five appear to be multi-family. None of the residences along Throop appear to be conforming in lot area or lot width. The proposed height of 30 feet conforms with the height ordinance on Throop, but due to the grade sloping towards the north, the elevation at the north end of the property averages to 31 feet. Although the building height as seen from the street, that roofline is uniform. The existing lot area and lot width are similar to the other properties on Throop and Comstock. Many properties along this block have only 25 foot lot width, including four of the five properties on Throop itself. The other property has 50 feet just like the subject property and here 8,000 square feet are required.

Stormwater measures are provided, as you've heard from the site engineer, unlike every other home on the street, which of course is rather dated. So, this is going to be unique amongst the homes in providing stormwater management. Only two of the ten residential buildings on Throop, that's Throop between Delavan and Comstock, provide off-street parking. The applicant proposed five spaces, including one ADA space, where eight spaces are required. Permit parking is allowed on Throop and Comstock has opened parking on this block. Providing this many off-street parking spaces is out of character and a luxury, I believe, for this neighborhood. In terms of getting around, if someone only had one vehicle and needed public transportation, there are bus routes on both Remsen and Commercial, and the train station is about two-thirds of a mile away. The applicant requests a "d(4)" Floor Area Ratio variance, and out of the ten residents on Throop, six appear to have more than 1.0 FAR, where 0.35 is allowed, and the applicant proposes 0.72, this is at the low end.

**Mr. Lanfrit:** Mr. O'Brien, does the master plan of the City of New Brunswick say anything about this type of an application?

**Mr. O'Brien:** Yes, Page 19 of the 2012 Re-Examination discusses housing and it says, "need for workforce housing." Workforce housing is defined as housing affordable to households whose income is between 80% and 120% of the median income for the housing region.

**Mr. Lanfrit:** Does the Municipal Land Use Law provide any support or guidance to the Board with regard to making their decision on this particular application?

**Mr. O'Brien:** Yes, there are several items listed in the purposes of zoning which is found in the Municipal Land Use Law in Section 40:55D-2. The first one is 'a' for alpha to encourage municipal action to encourage appropriate use and development of all lands in this state in a manner that will promote the public health, safety, morals, and general welfare. Item g, to provide sufficient spacing of appropriate locations for a variety of residential uses. And i, to promote a desirable visual environment. And I believe that this application supports those goals in the Municipal Land Use Law by providing for a conforming modern residential building with update safety measures in a mixed use neighborhood.

**Mr. Lanfrit:** Will the granting of this variance, in your opinion, have any negative impact on the neighborhood or surrounding area?

**Mr. O'Brien:** I cannot identify any negative impacts. The use is compatible with the neighborhood. The non-conforming bulk standards that are provided are actually larger than those provided by most of the properties on Throop and I believe this application will be a positive for the neighborhood by providing much needed housing and off-street parking.

**Mr. Lanfrit:** Okay, and do you have any concern at all about the deficiency in the number of parking spaces given what is in the neighborhood and the surrounding area, and given the fact that this is an urban setting?

**Mr. O'Brien:** Most of the buildings on Throop, many of the buildings on Comstock, do not have any parking whatsoever. So being able to provide five off-street parking spaces, I think is a huge plus for this particular building. And you've got two one-bedrooms in the first floor, they may be lived in by one person or they may be lived in by two, really not sure, but an awful lot of people that live in an area such as New Brunswick get by with one car each, even if there is a couple. And the folks that do have two cars, well they need to figure out what they have to do. But they are in a much better situation than in any of the surrounding properties.

**Mr. Lanfrit:** Finally, Mr. O'Brien have you reached a conclusion regarding this application?

**Mr. O'Brien:** Yes, the Board is familiar with the criteria for reviewing a typical use variance for a non-permitted use. The applicant has to meet the three prongs of special reasons, reconciliation with the master plan and the zoning ordinance, and that the application has no negative impact upon the neighborhood. This application meets those tests. But in judging an application for a "d(4)" Floor Area Ratio use variance, the primary focus of the Board is a little bit different. Here the book called NJ Zoning and Land Use Administration, commonly called the Cox book, has a passage that describes how to view this. And it states on Page 752 of the 2020 Edition, the applicant seeking a "d(4)" FAR variance must show that the site can accommodate the problems associated with a floor area larger than that permitted by the ordinance. So, when you take a look at the site and how this building fits on the site with an FAR of only 0.72, where many of the buildings are over 1.0. This building fits properly on this lot. It provides more setback than any of the surrounding buildings. The building will be in character with the one- and two-family homes in the neighborhood by providing a porch and a pitch roof. It does not look like an apartment building, like some of the other buildings on Throop. In addition to that, the bulk variances can be granted under a "c(1)" hardship argument because this is an undersized lot. It also meets the "c(2)" standards of the land use law in that this is a better alternative to a conforming building and a building would really not fit within the very small building envelope. And then I would state that the application has met the negative criteria and shown that there are no detriments. That the benefit of granting this application outweighs any detriment. I believe that this application provides needed housing, removes an eyesore, provides a residential building that is compatible with the neighborhood, and I would conclude that this application can be granted without substantial detriment to the public good, without substantial impairment to the zone plan and zone ordinance.

**Mr. Lanfrit:** Thank you, Mr. O'Brien. Mr. Chairman, I have no further questions for Mr. O'Brien.

Mr. Cox: Does any member of the Board have any questions for this witness? I will ask one more time if any member of the Board or professionals have any questions for Mr. O'Brien at this time. Seeing none.

Mr. O'Brien: Thank you, Mr. Chairman.

Mr. Cox: Mr. Lanfrit, do you have any other witnesses?

Mr. Lanfrit: That is my presentation, Mr. Chairman.

Mr. Dominguez: At this time, we are preparing to open the meeting to public comment on this specific hearing for 5 minutes per person. In order to ensure that the Zoning Board can hear from the public and so that the public can hear public comment, I will organize the speakers by order of last name. In a moment, I will unmute the public call-in, at that time I will ask for those with the last name starting with the letter A provide me with your last name, first name, and home address. I will confirm that the information is correct and then move on to the next person ordered alphabetically from A to Z. Upon completion of asking for all last names from A to Z, I will ask one more time for anyone that may want to be placed on the initial list of speakers. We will then move through the list of speakers by calling the person by name and permitting them five minutes to speak. Once we complete the list, we will check once again if anyone else would like to submit public comment. After asking three times, I will then close the public comment portion. Please be mindful that your voice is being telephonically transmitted, and to speak slowly and clearly for the benefit of all. I would ask that you please remain silent when I initially unmute the phone, so that we can all hear each other and then begin the speaking registration process. The phone is now unmuted.

Mr. Dominguez: I will now ask that members of the public that would like to speak on this specific hearing with the last name starting with A, please spell your last name and home address.

*Mr. Dominguez reads through the alphabet once. Mr. G. Pelaez is placed on the initial list of speakers.*

Mr. Dominguez: Any other member of the public that would like to speak in regards to this project? Last call, anyone else that may want to comment on this particular project?

*Mr. G. Pelaez is sworn in*

G. Pelaez: I just wanted to ask if the property of 140 Comstock Street is included?

Mr. Cox: What number on Comstock?

Mr. Pelaez: 140.

Mr. Lanfrit: What was the question? I couldn't hear it. Can you please repeat it?

Mr. Pelaez: If the property of 140 Comstock Street is included?

Mr. Lanfrit: No.

Mr. Pelaez: Thank you.

Mr. Cox: Do you have any other question?

Mr. Dominguez: Is that all, Mr. Pelaez?

Mr. Pelaez: Yes, what properties are included?

Mr. Lanfrit: It is 159 and 161 Throop Avenue. It is identified on the tax map as Block 217, Lot 1.01. It is at the corner of Throop and Comstock.

Mr. Pelaez: Okay. Thank you. That is all. Thank you very much.

Mr. Cox: Thank you.

Mr. Dominguez: Any other member of the public that would like to speak in regards to this project? Last call, anyone else that may want to comment on this particular project?

Mr. Cox: At this time, the public portion of the hearing is now closed. Mr. Lanfrit, do you any closing items to add?

Mr. Lanfrit: Just very briefly, Mr. Chairman, and members of the Board. As I indicated earlier, this process started in March of 2019, and I would like to take a little bit of time to give credit to Mr. Carley and Mr. Bletcher and also other members of the township staff who we worked with to get to the Board this evening. In what I think is a plan for a building that is appropriate for the neighborhood and appropriate for the zone, although we do need certain variances.

So, we had numerous meetings with staff, like we said earlier we were originally going to replicate sort of what was there which was a mixed use building. We were discouraged to do so. My client took that advice. I think what the Board has before them is a collaboration of a lot of work between our professionals and the city professionals, and I think that it creates a new building in an older neighborhood. Sometimes in my experience, when we start introducing new product into older neighborhoods, it's sort of an impetus to force even further improvements in the neighborhood for property owners to improve their properties. So, I think that from the testimony of Mr. O'Brien as to the basis of the variances, the testimony of Mr. Young, and Mr. Johnson, I think that what we have before the Board this evening is a structure that fits in the neighborhood and is an enhancement to the neighborhood. And I would respectfully request that the Board approve this site plan application with all of the appropriate variances. We will comply with all the staff reports that we have not already complied with. I thank you for your time and attention.

Mr. Cox: Thank you. Are there any comments or discussions by the Board members? Any comments or discussions by the Board members?

Ms. Coppola: Hi, this is Nancy. It is really hard to hear you.

Mr. Cox: Hold on one second. Is there any comments or discussions by the Board members?

Ms. Coppola: That is much better. No, but I agree. I think that it is a good project and I think that it will fit nicely on Throop Avenue.

Mr. Cox: Thanks, Nancy. Any other Board members have any comments? Katie, can we have the conditions of approval.

Katie Thielman-Puniello, Principal Planner; Department of Planning, Community and Economic Development, reads the condition of approval into the record

Motion to Approve  
 I. Nancy Coppola  
 II. Chris Sumano

	Yes	No
John Cox (Chairperson)	✓	
Nancy Coppola (Vice Chairperson)	✓	
John Zimmerman	✓	
Michael Belvin	✓	
Ivan Adorno	✓	
Karla Castenada	✓	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)	✓	
Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)	✓	

Mr. Cox: Congratulations.

Mr. Lanfrit: Thank you very much.

**VIII. OTHER MATTERS OF INTEREST TO THE PUBLIC**

Mr. Cox: At this time are there any other matters of interest to the public?

Mr. Dominguez: At this time, we are preparing to open the meeting to general public comment for 5 minutes per person. In order to ensure that the Zoning Board can hear from the public and so that the public can hear public comment, I will organize the speakers by order of last name. In a moment, I will unmute the public call-in, at that time I will ask for those with the last name starting with the letter A provide me with your last name, first name, and home address. I will confirm that the information is correct and then move on to the next person ordered alphabetically from A to Z. Upon completion of asking for all last names from A to Z, I will ask one more time for anyone that may want to be placed on the initial list of speakers. We will then move through the list of speakers by calling the person by name and permitting them five minutes to speak. Once we complete the list, we will check once again if anyone else would like to submit public comment. After asking three times, I will then close the public comment portion. Please be mindful that your voice is being telephonically transmitted, and to speak slowly and clearly for the benefit of all. I would ask that you please remain silent when I initially unmute the phone, so that we can all hear each other and then begin the speaking registration process. The phone is now unmuted.

Mr. Dominguez: I will now ask that members of the public that would like to speak on this specific hearing with the last name starting with A, please spell your full name and home address.

*Mr. Dominguez goes through the alphabet once*

Mr. Domínguez: Any other member of the public that wish to add themselves to the list of initial speakers? Anyone else? Are there any other members of the public that wish to speak? Any other members? Chairman Cox, I am seeing no speakers for general public comment.

IX. DISCUSSION ITEMS

X. ADJOURNMENT

Mr. Cox: Can I get a motion to adjourn?

Motion to Adjourn

- I. Nancy Coppola
- II. John Zimmerman