



CITY OF NEW BRUNSWICK
ZONING BOARD OF ADJUSTMENT
NOVEMBER 23, 2020
MINUTES

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

I. ROLL CALL

X	John Cox (Chairperson)
X	Nancy Coppola (Vice Chairperson)
X	John Zimmerman
X	Michael Belvin
X	Ivan Adorno
X	Karla Castaneda
X	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 & Board Secretary): 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 and Star Ledger. 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 and is also posted in the back vestibule of City Hall visible to the public through the windows in the lobby of City Hall, New Brunswick, New Jersey and has been transmitted to the official newspaper for the City of New Brunswick, namely the Home News Tribune and Star Ledger.

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 the guidelines of the Open Public Meetings Act by utilizing teleconferencing and video systems. Public participation at public meetings has been revised, and the public may participate through a

conference call or video system. The public is encouraged to call in to the call in system through the phone numbers and access code transmitted in the above 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, I will first read public comments issued to the Board, then 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 in number should call the Planning Department at 732-745-5050.

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARD'S OCTOBER 26, 2020 MEETING

Motion to Approve

I. John Cox

II. John Zimmerman

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

V. RESOLUTIONS OF MEMORIALIZATION

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

Motion to Approve

I. Nancy Coppola

II. Ivan Adorno

	Yes	No

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

B. JOSEPH J. CATANESE / 351 SOMERSET STREET / BLOCK 140, LOT 4.01 (ZB- 2020-13)

Motion to Approve

- I. John Zimmerman
- II. Karla Castaneda

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

C. NINA AND JASON HOFF / 130 REDMOND STREET / BLOCK 151, LOT 39.01 (ZB-2019-03)

Motion to Approve

- I. John Cox
- II. Nancy Coppola

	Yes	No
John Cox (Chairperson)	X	
Nancy Coppola (Vice Chairperson)	X	

John Zimmerman	X	
Michael Belvin		
Ivan Adorno	X	
Karla Castaneda	X	
Sue McElligot		
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)		
Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)		

VI. PUBLIC HEARINGS

- A. **L.K. MANAGEMENT, LLC / 17 HARVEY STREET / BLOCK 29, LOT 12.01 (ZB-2020-11)**
Preliminary and final site plan application with “d” variances for use and FAR and “c” variances to construct a new three-story, three unit residential building with four off-street parking spaces. (*James F. Clarkin III, Esq.*)

John Cox (Board Chairperson): Mr. Clarkin, before you get started, I just wanted to ask, board members, if anybody has a conflict with this application, please speak up now.

Karla Castaneda (Board Member): My in-laws own a property on Harvey street I think I have to recuse myself.

Mr. Cox: All right. Thank you. Hey Dan, with that, do we have we still have seven board members?

Mr. Dominguez: No, we only have six unless Beverly Sanchez, Charlotte McNair, Evelyn Azcona, or Christian Sumano, if any of them are out there and did not announce themselves or you didn't get them through feedback or whatever at - during roll call. If they are in attendance, they can announce themselves now. But my understanding is that unless they do, that we only have six with Karla’s recusing.

Aravind Aithal (Board Attorney): Mr. Chairman, this is Aravind Aithal, Board Attorney. Mr. Clarkin, it would appear that we only have six members, would you want to put on your case today and then make a decision as to whether you'd like a vote?

James Clarkin (Applicant’s Attorney): We’ll go forward with six board members will make a decision whether to go for a vote.

Mr. Cox: Okay. Please go ahead.

Mr. Clarkin: Good evening. Formalities, good evening Mr. Chairman, board members, professional staff, attorney James Clarkin from the firm Clarkin and Vignuolo for the applicant. As the Chairman noted when he identified the application, we are was seeking

use and FAR variances, as well as the side yard setback and a variance for the required number of parking spaces in order to erect a three-family structure on this property. What is currently there now is in one-family dwelling and a detached garage, both of which are in very deteriorated condition. The interiors have been gutted and vandalized. We've had a problem with homeless people living there. And we are seeking, at this point, to continue in a boarded up condition until we can get it demolished. A three-story structure is proposed with one residential unit on each floor. Besides being an eyesore and uninhabitable, the existing structure is non-conforming both as to its front yard setback and one side yard setback. There are also violations for maximum lot coverage and the setback of the detached garage. You have a number of non-conformities that could be eliminated by the granting of the application. Along the way through this process, the applicant has revised his plans and worked with the staff to eliminate some of the variances that were in our initial submission. We have downsized the structure so that it is now in conformance with the maximum permitted coverage. We also reduced the height of the structure to eliminate any height variance. And by downsizing the structure we have reduced the extent to which we are requesting the side yard setback variance. We do have four proposed parking stalls, where six are required. The property is located in one of your R-5A zones, which includes single- and two-family uses. The introduction of the third residential unit is what puts us in the use variance situation. We think that when you look at this application on an overall basis, it's not only a win for the applicant, but also for the city and we continue the positive transformation of the city's housing stock. We have one witness this evening, Mr. Valetutto, who is our engineer and our planner. Mr. Chairman, unless anybody has any additional questions, I will go forward with the witness.

Mr. Cox: Please call your first witness.

Mr. Angelo J. Valetutto, sworn

Mr. Clarkin: Mr. Valetutto, you have been recognized as an expert in the fields of engineering and planning by the Board in the past, correct?

Angelo Valetutto (Applicant's Engineer and Planner): Yes, sir. In fact, last month on the case for J. Catanese, Joe Catanese's application.

Mr. Clarkin: Okay. Since then have your credentials changed in any way?

Mr. Valetutto: Not in a negative way.

Mr. Clarkin: Mr. Chairman, I would offer him up as an expert in both.

Mr. Cox: We will accept him as an expert in both fields.

Mr. Clarkin: Mr. Valetutto, have you visited the site, toured the neighborhood? And are you familiar with both?

Mr. Valetutto: Yes, sir. I am.

Mr. Clarkin: Please describe the neighborhood for the Board, please.

Mr. Valetutto: Well, it's one block long and it's primarily residential. And with regard to our property, we're one of only two 50 foot wide lots in the street. The rest are 25 foot lots.

Mr. Clarkin: And there's commercial both at the intersection with French Street and Somerset Street?

Mr. Valetutto: Yes, sir. That is correct. Those are the two main thoroughfares that abut this particular street.

Mr. Clarkin: And there's also a homeless shelter almost directly across the street.

Mr. Valetutto: That's correct.

Mr. Clarkin: Please describe for the Board what's on the property today

Mr. Valetutto: Well, as you indicated, it is a deteriorated two-story dwelling. It's gutted and boarded up. In fact, last time I was out there, there were a couple of homeless people sleeping on the front open porch. The dwelling is non-conforming, as you indicated, for front yard and side yard setbacks. There's also a non-conforming detached garage, and the lot coverage is in excess of what the zone permits.

Mr. Clarkin: Let's move along and please describe in some detail how the applicant proposes to redevelop this property.

Mr. Valetutto: Yes, sir. As you indicated in your opening statements, we're proposing a three-story dwelling for three residential units. Each unit will have two bedrooms and two baths. There'll be four on-site parking spaces that have been identified in Mr. Bignell's report as being in tandem, one in front of the other. Side by side. There'll be a driveway curb cut that will access the parking spaces. We have the building setbacks that are in more conformance with the zone, we have a conforming height and lot coverage, the utilities will be brought in will replenish the ones that are there, so as to ensure that they meet the appropriateness for the three-family use. We're putting in new curbing and sidewalks along the frontage, we're providing residential lighting. We're having landscaping and street trees, the landscaping being around the facade of the building, and in the back so as to go around the trash cans. We propose to handle the trash being generated. We are removing the two trees and replacing trees and the trash and recycling, as indicated, is through trash cans.

Mr. Clarkin: Anything else you'd like to add anything in particular, that stands out with how this property is going to be developed?

Mr. Valetutto: No, it's pretty straightforward. And I think I must echo your comments earlier that the application as before the Board this evening, was greatly enhanced through the comments of the board at TAC and their professionals.

Mr. Clarkin: Have you had an opportunity to review the Delaware Raritan engineering report dated November 20 of this year?

Mr. Valetutto: Yes, sir, I have and a majority of the comments in the updated report by Mr. Carley have been addressed by this office. There are however, just one or two comments that need some testifying. The first thing is Item 3.3, that the applicant will be foregoing the permits for residential permits to this application, should it be approved. We will comply with the design layout, the various comments that he has in terms of architectural, and other comments that he has within his Section 4 - 1, 2 and 3 - with regard to 4.4, provisions for package delivery and shared vehicle services, obviously, for purposes of package deliveries, it doesn't matter whether it's Amazon, UPS or the mail, they're going to park in front, just bring it right to the front door and drop it off. With regard to the shared vehicle services, there is sufficient ability for parking in the front. But we'd like to add that with the parking spaces that we have, that we're providing off-site, that provides an opportunity for any shared vehicle service to pull in there to pick up the tenant to take them where they need to be taken.

Mr. Clarkin: I'm going to jump in and do 4.5. After speaking with the applicant, we would agree with Mr. Carley's suggestion to fence in the rear yard. And we will also take a look at making the rear yard more accessible than it currently is today. Also 4.8, if we do go with the vinyl siding, we would go with the 0.4 inch thickness. I'm going to hit 12.3, that requested whether a generator was proposed, and the answer is not. And so, I would ask Mr. Valetutto, between items 4.7 all the way up to 12, is there anything in there that the applicant cannot satisfy?

Mr. Valetutto: None whatsoever. We would certainly offer as a condition of approval that we would satisfy all of the comments that you've just identified right through to the end in Mr. Carley's report.

Mr. Clarkin: All right. And, Mr. Chairman, we also have a memorandum from the Department of Engineering dated August 10 of 2020. There were two comments, one was conform with curb and sidewalk to the city standards, which would of course do, and Item 2, water and sewer connection need to be renewed, and we would do that as well. That takes us to the Bignell planning report, which is dated November 18, this year. Mr. Chairman, as we customarily do, we can move to the plan review comments in paragraph nine, on page four, which respect to Item A, we would obtain all the necessary governmental approvals. I will note for the record that we have already applied to the Middlesex County Planning Board. With regard to Items B and C, I believe that we're past the point of trying to reduce the number of units. Rather, the approach we took with the staff was to downsize the structure and make it more in conformance with some of the ordinance standards. Mr. Valetutto, can you handle Items D and C?

Mr. Valetutto: Yes, sir. Essentially, Item D, we will agree. And it's a comment pretty much or suggestion, recommendation, that we replace inch for inch the trees that we're taking down. And we will comply with that. With regard to the issue of fencing or driveway screening be proposed, I've looked at it and I don't believe that we can put any fencing up

and still be able to have a driveway that can accommodate the parking spaces. I believe that the waiver for those two items will be far outweighed by virtue of having the off-street parking, which, my recollection, as I think there may be only one other property that even has off-street parking. So, that's certainly a commodity as was identified earlier in Mr. Carley's report. In terms of the paved driveway, we can put some on the sides but I prefer not to do it on the back end because that would interfere with the runoff pattern. And if we are approved, we'll agree to put curbing or Belgium block on the left and the right side, but leave the back end open for purposes of a flow of runoff. And then the last one, which we certainly agree with, their support with regard to traffic and environmental report, and they have no objection to granting those waivers.

Mr. Clarkin: Mr. Valetutto, I'd like you to take off your engineer's hat and put on your planning hat. Can you give the Board your opinion as a licensed professional planner, whether this property is suitable for the proposed three-story use?

Mr. Valetutto: In my, in my opinion, with the exception of the one side yard setback, the proposed structure can meet all of the bulk standards in the R-A building zone. So therefore, the size and shape of the lot forms the basis for the particular suitability finding. Also, the lot has a greater width than many of the lots on Harvey Street between French and Somerset Streets. In fact, as we've indicated earlier, there's only one other residential lot that has the same 50 foot width that we enjoy. And only one other property, as I stated earlier, on the block that has any off street parking, or on-site parking. Therefore, my opinion, I use the word that is used on a regular basis, that is unique by those particular standards. This application, in my opinion, is a good opportunity for the city to eliminate a major eyesore and not only redevelop the property, but also give the area a shot in the arm, to a street where just about most of the homes are in what we would call average condition. There were in my inspections to other homes in the area that have been newly refurbished. I believe that if this application is approved, it will continue moving the street into the right direction, and hopefully encourage others to provide for improvements to their buildings.

Mr. Clarkin: Let's take a look at the Municipal Land Use Law for a moment. You see any goals and objectives of the Municipal Land Use Law that would be furthered by granting these variances?

Mr. Valetutto: Yes, sir, in my opinion I do, letter A, because we'll be promoting the public health, safety and general welfare by demolishing an unsafe and unhabitable structure. We will also further purpose letter E. Because in my opinion, this is an appropriate population density, a density which is certainly within the city's comfort zone based on the other approvals that I am familiar with within the city. We'll also promote purpose G because we have sufficient space in an appropriate location for the three-family use. And finally, purpose I, because we'll be creating a desirable visual environment with the new structure, the new trees, landscaping and the off-street parking.

Mr. Clarkin: I want to turn to the negative criteria. The first prong, do you see whether there would be any detriment to the public good by granting these variances?

Mr. Valetutto: No sir. In my opinion, I do not. I do believe as we've been testifying that this site can handle and accommodate our proposed three-family use, there is just one side yard setback variance, but if you look at the other homes in the street, we are certainly consistent with the other side yard setbacks and in many cases, we provide a greater side yard setback. Therefore, we are not negatively impacting light, air or open space. Although we are short two parking spaces, the location of this property near French Street and with other available bus and train transportation, it is my opinion that the four parking spaces we have will be certainly sufficient. And as identified in Mr. Carley's report, the age of the Uber and the Lyft are something that will also enhance the fact that - would support our position with the four off-street spaces.

Mr. Clarkin: Do you see whether there will be any impairment to the city's zone plan and zoning ordinance by granting these variances?

Mr. Valetutto: No, sir. In my opinion, I do not based on my observation and participation before this Board, the city has never shied away from the density and in fact, in effect, achieving the modernization of the city housing stock by allowing greater density in those instances where the ordinance permits it, and allows by this Board to approve it.

Mr. Clarkin: Now, since this is a use variance, and we're not inherently beneficial, we have a reconciliation requirement and enhanced standard of proof to show, is that correct?

Mr. Valetutto: Yes, sir. That is correct.

Mr. Clarkin: Can we reconcile the granting of the three-family use with the fact that the zone doesn't allow it?

Mr. Valetutto: Yes, sir, my opinion, we do meet the enhanced standard of proof. In short, the city's changing demographics, and the ever increasing need for modernizing housing stock would be recognized by the Medici case, as a way of reconciling the granting of the use variance before this Board.

Mr. Clarkin: With respect to the FAR variance, would be your opinion that it was subsumed within the use variance?

Mr. Valetutto: Yes, sir, it would, for the testimony provided earlier with regard to the advancements of the Municipal Land Use Law.

Mr. Clarkin: And with respect to the side yard setback and the parking variances, can they be granted under the flexible "c(2)" analysis?

Mr. Valetutto: Yes, sir, with all the testimony we've done over the last few minutes.

Mr. Clarkin: And your ultimate conclusion would be that the benefits to the city substantially outweigh the detriments?

Mr. Valetutto: They do.

Mr. Clarkin: Mr. Chairman, that concludes his direct testimony. He's available for questions by you and the Board members, and certainly by your professionals, if there's any aspects in their professional reports that were not addressed or to their satisfaction.

Mr. Cox: Any member of the Board have any questions or comments for this witness? Is there any professional that has any comments or questions for this witness?

Charlie Carley (Board Engineer): Mr. Chairman, this is Charlie Carley. And listening to Mr. Valetutto's testimony related, or he testified relative to my Friday, November 20, 2020 second review, but followed up from our August 19, 2020 first review, and one of the things I take away from this project is they do provide a pretty big back yard garden area for the folks that will live in the house, it's almost like suburban living. It's a three-family but it's a big backyard and so that I think will do the tenants some good. Other than that, Mr. Valetutto has been so agreeable to my report, I think I'll invite them to the ice cream at Thomas Sweets tomorrow. Thank you.

Todd Bletcher (Board Planner): Mr. Cox, this is Todd Bletcher the Board Planner. I just had, not a specific question for Mr. Valetutto, but just a question, generally, for Mr. Clarkin. Is there going to be an architect who's going to testify? Or are you just going to rely on the drawings that are submitted?

Mr. Clarkin: We're just going to rely on the drawings that were submitted.

Mr. Bletcher: Okay. So that's fine. So, Mr. Chairman, I've had to take a chance to take quite a detailed look at those drawings, I always try very hard to make sure that the buildings that the city gets out of these types of projects, particularly multifamily housing, are just good looking, attractive buildings with high quality materials and high quality design, because they're going to be there for a long time. I do have quite a bit of concern with the appearance of the building that's proposed on the architectural plans. I don't have any specific requests to change the layout of the space, but I think the facade, the front facade, and particularly the side facades are really going to need a lot of improvement, if not a wholesale redesign. So, I wanted to see if Mr. Clarkin would be amenable to that, and we're certainly hoping to work with his architect to just make sure that the building gets, you know, gets built in a way that's attractive and something that the neighborhood can be proud of.

Mr. Clarkin: Have I ever said no to you? Not tonight. We will work with you.

Mr. Bletcher: Thank you. That's all I have, Mr. Cox.

Mr. Clarkin: Chairman, that concludes the applicant's direct case. I would reserve the right for summation after we hear from the public.

Mr. Dominguez: At this time, we're going to open the meeting to public comment on this application for five minutes per person in order to assure that the Zoning Board can hear from the interested public, and that the public can hear public comments, I will organize speakers in order by last name, and I will unmute the public call in and at that time, I will ask those with the last name, starting with A to provide me your last name, first name and home address, I will confirm that the information is correct and then move on to the next person alphabetically from A to Z. Upon completion of asking for all last names from A to Z, we'll ask one more time for anyone who would like 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 once again check to see if anyone else would like to 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'll ask that you please remain silent when I initially unmute the phones so we can hear each other and then begin the speaker registration process. Additionally, if you are on the telephone, rather than on a computer, you'll need to use *6 to unmute yourself. And now I will ask any member of the public who would like to comment on this specific application with last name starting with A please state your name, full name and home address.

Mr. Dominguez reads through alphabet. There were no members of the public interested in speaking on this application.

Mr. Dominguez: Is there anyone who would like to speak on this specific application and did not make it on this list of speakers who would like to? Anyone at all? So, Chair, seeing none.

Mr. Cox: We'll close the public portion of this meeting. Mr. Clarkin, did you have anything else you'd like to say?

Mr. Clarkin: I don't feel the need to make a summation. I will request a vote, notwithstanding that we only have six board members, recognizing that five affirmative votes are required.

Mr. Cox: Any member of the Board have any discussion on this? Katie, if there were a positive recommendation to approve this application, do you have any -

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

Mr. Dominguez: I guess I'll float this to Aravind and Todd. Do you want a specific way to word the work together to deal with the with the aesthetics into the resolution?

Mr. Bletcher: I don't have any problem with Mr. Aithal and Mr. Clarkin working out that language.

Mr. Clarkin: I'm sure we can do that.

Mr. Dominguez: Do we want to read something into the record to that effect?

Mr. Aithal: Mr. Chairman, I think one of the conditions of approval was for the applicant to work with the city staff to ensure that exterior design of the building, Katie had mentioned the front and side, but we should just include the exterior of the building with the recommendation.

Mr. Cox: Board members?

Motion to Approve

I. Nancy Coppola

II. John Zimmerman

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

B. 318 PAUL ROBESON BOULEVARD LLC / 318 PAUL ROBESON BOULEVARD / BLOCK 275, LOT 20.01 (ZB-2020-12)

Preliminary and final site plan application with a "d(2)" variance for the expansion of a preexisting, non-conforming use and bulk variances to renovate and partially reconstruct an existing 5,208 square foot commercial building. A covered storage area will be added to the north side of the building. Zoning district R-6 Multifamily Residential. (*Sandy Galacio, Esq.*)

Mr. Cox: I'd just like to ask, once again, is there any member of the Board that has a conflict with this application? Please state your name and the conflict.

Mr. Dominguez: Chairman Cox, before we get started, this is Dan Dominguez, Board Secretary, I'm just trying to see if Karla has rejoined us for this hearing, since she probably does not have a conflict for this one.

Ms. Castaneda: I'm here.

Mr. Dominguez: Thank you, Karla. Just making sure, so we have a full compliment of seven members here. All right, thank you.

Mr. Cox: The applicant can come forward, Mr. Galacio?

Sandy Galacio (Applicant's Attorney): Yes, thank you. My name is Sandy Galacio from the law firm of Windels Marx Lane and Mittendorf, the attorney for the applicant 318 Paul Robeson Boulevard LLC. We're here tonight for the, as you said, a preliminary and final site plan approval d(2) variance for the expansion of a pre-existing legal non-conforming use and a number of bulk variances for a property that is located in the R-6 Multifamily Residential zone. This is a pre-existing commercial property and my client is proposing to relocate his electric, plumbing, heating and cooling service business from North Brunswick to this location. The applicant will be making significant improvements to the existing property. The applicant already received some building permits that did not require this approval yet, for some of the improvements. But in order to continue and do the major renovation, we need this approval tonight. I have four witnesses to present tonight. Phil Dalton, who is the owner of the applicant in the service business that will be relocating here, Joseph Hyland, who is our architect, Brent Papi, who is our engineer, and Charles Heydt, who will be giving our planning testimony. We submitted two exhibits to the Board prior to this hearing, and Mr. Hyland and Mr. Papi will be using those exhibits, respectively. I can present my first witness, which would be Mr. Dalton to have him be sworn in.

Mr. Philip Dalton, Sworn

Mr. Galacio: Thank you, Mr. Dalton. I'm just going to ask you some questions about the operations that are proposed at the site. Most of these questions were posed by the Board's professionals in their comment letters. So, we'll get right to it. You're the owner of the applicant. 318 Paul Robeson Boulevard LLC, correct?

Mr. Dalton: Yes, I am.

Mr. Galacio: And you're also the owner of Dalton Electric, Plumbing, Heating, and Cooling. Is that correct?

Mr. Dalton: That's correct.

Mr. Galacio: Okay. And can you just, in a couple sentences, describe your proposed operations at the site?

Mr. Dalton: Well, like I said, previously, we're a service company for electrical, plumbing, heating, cooling. Normally, what happens in the course of a day is our technicians show up to work. Obviously, they would park in the lot, they would come in, they would (inaudible) for the day. From there, they would get service trucks, load the service trucks with whatever they need for the day, and then they would go along onto their service route.

Mr. Galacio: How many employees do you propose locating here?

Mr. Dalton: Six total, myself, Kevin, and then four technicians.

Mr. Galacio: So, two people will be in the office and four people would be on the road, is that correct?

Mr. Dalton: That's correct. But, you know, most of the time I'm on the road myself. And when needed, Kevin comes out of the office he goes on the road.

Mr. Galacio: Thank you. And could you just briefly describe your proposed use of the office area?

Mr. Dalton: The proposed use of the office area would be just that, for office purposes, I mean, you know, when the guys come in, in the morning, we usually talk about the jobs beforehand, what needs to get done, we would have a cup of coffee, what have you, go over all of that and go over your dispatches for the day. You know, Kevin is there, he answers phones, things like that, billing goes on. And just normal office stuff.

Mr. Galacio: Okay, and then there's a garage bay door area of the building, the main floor of the building, can you describe what use is going to take place in that area.

Mr. Dalton: And that area is going to be where the service trucks will be parked. I like to back those in to those doors because on the back wall of the shop should be all of a storage for, you know, your bread and butter materials and what have you. Tools will be down in the end. I want to cage and lock off that end room there, you know, where you keep the expensive tools, so you will get loaded up for the day for your dispatches, and then pull out from there. Each truck you know, all those doors are electrically operated. So, each truck would have its own bay. So, you know, if there's a truck that does heating or cooling or plumbing and electric, you know, those materials for those trucks would be situated with that truck in that bay. It's a little bit more of an (inaudible) operation that what I'm currently running.

Mr. Galacio: A little bit more of a what operation? Sorry.

Mr. Dalton: It's a little more efficient than what I'm currently running where we're at right now, there's one garage door and if the guy that pulled in first the night before wants to leave, I got to back all the other trucks out to get him out, you know, so this is a much better setup.

Mr. Galacio: Okay, great. There is a new outside storage component that's being built in the North Ward Street side. Can you describe what will be stored in that location?

Mr. Dalton: What I would store over there is stuff that doesn't necessarily need to have the prime storage inside the building. But this would be things like my man lift, my fork truck, hydraulic trailers, you know, bigger items like that that don't necessarily need the

inside storage, but you don't want them in the weather either. So, rather than tarp them and you know deal with that mess throughout the winter (inaudible) pull it in under a dry canopy.

Mr. Galacio: Thank you. And how many service vans will be located here?

Mr. Dalton: I have four service trucks. Those four service trucks, one bucket truck. The bucket truck would be parked under that canopy also.

Mr. Galacio: And then do you have delivery vehicles visit the site to make deliveries at all?

Mr. Dalton: No, normally we'll pick up what we want at the supply house, or if we're going to a larger job, that stuff gets delivered to the job site. I mean, once in a while UPS comes in but other than that...

Mr. Galacio: When your workers who are going out in the vans arrive at the site, where will they be parking?

Mr. Dalton: They'll be parking in the lot, straight across opposite to the garage doors. So, they'll be straight across Paul Robeson Boulevard.

Mr. Galacio: And you said at night the vans will be parked inside the buildings, inside the bays?

Mr. Dalton: Yes. I want the vans backed in and locked up.

Mr. Galacio: Then do you normally have visitors or customers come to the site at all?

Mr. Dalton: No, no, we don't have any visitors. We don't sell wholesale or anything like that, all of our work is done out of customers' premises.

Mr. Galacio: Okay, and then there's no retail sale of products from the location.

Mr. Dalton: No.

Mr. Galacio: And then there was a question about at the existing barbed wire on the fencing at the site.

Mr. Dalton: The existing barbed wire is a catch-22, obviously, somebody might get hurt, but for all intents and purposes, that's the reason for the barbed wire. But you know, if said be, and the barbed wire has to come down, the barbed wire has to come down. I mean, I would like to keep it for security purposes, you know, but, you know, other people might see it otherwise. You know, don't forget all of those trees that we have, 65 of those green giant arborvitaes surrounding the property. That fence and barbed wire is going to get encompassed within those trees and you won't see it anymore. So, within, you know, five to six years, you won't even see that building from the street.

Mr. Galacio: All right, thank you, sir. If there's any questions for the Board, if you want to do the questioning now. Mr. Dominguez?

Mr. Cox: Does the Board have any questions for this witness? Seeing no member of the Board has any questions, move on to your next witness please.

Mr. Galacio: My next witness is the architect Joseph Hyland.

Mr. Joseph Hyland, sworn

Mr. Galacio: Mr. Hyland, you're a licensed architect in New Jersey, correct?

Joseph Hyland (Applicant's Architect): That's correct. And I've given testimony before this board and zoning and planning boards in East Brunswick, Jamesburg, South River, Sayreville, Warren Township, and Rumson, New Jersey.

Mr. Galacio: I offer Mr. Hyland as an expert in the field of architecture.

Mr. Cox: We accept him as an expert in the field of architecture.

Mr. Galacio: Thank you. Mr. Hyland, can you give an overview of the proposed improvements at the property?

Mr. Hyland: Yes, I will. I prepared the drawings. For a description of the project, we are keeping part of the building, removing a part, and there will be new construction. The walls that are hollow or white are the (inaudible). The walls that are shaded or hatched are the new walls and the dotted lines are those walls that will be removed. The existing structure at 318 Paul Robeson Boulevard is actually three one-story structures built at different times that have been connected. The largest housed the old Maltese Ironworks fabrication shop. The cinderblock structure remains with new overhead doors added to the front elevation and a new gable roof that replaces the flat roof. The structure is labeled as the garage in the first floor plan drawing, one of sheet A-1. The vehicles and some parts will be stored in the garage that was just mentioned. This is the largest part of the project it's 4,188 gross square feet in area and it's in the center of the floor plan. The second structure is an addition constructed to extend the workshop, a portion of the structure along Lawrence Street will be removed, as it is over the property line. There are dotted lines on the upper right of the drawing, which shows the extent as it is today. The rear wall and the floor will remain. This will then be connected to the new structure. This structure is in the area with the rooms labeled tool storage and file storage and part of the training room. This is on the right side of the floor plan. The third structure is the offices for the Ironworks. This is a mixed cinder block and wood frame construction and it's in very poor condition. It is in the area where the office is to be located. This structure will be removed and replaced with the new structure on a larger footprint as indicated. The new construction is the areas of the hatched walls on the floor plan. This is indicated in the first floor plan on the front right side of the plan. There is an entry porch, a lobby, reception office, training room, current file storage, a lunch room, and an accessible bathroom. This area is 1,662 gross square feet in area. (inaudible) is an attic be used for

dead file storage. This is accessed via a staircase on the rear of the building. Two skylights are added for natural light. To the far left in the plan, as was mentioned, is a new covered porch to protect the equipment, the forklift, manlift, etc. It needs protection from the weather, but does not need to be indoors. The porch is open on three sides. The fourth side is the existing garage. The exterior of the building is finished with tan stucco over the existing cinder block. The new construction is a pale yellow vinyl lap, siding and shingles. There is a manufactured stone base, mixed color river rock. There is a rendered exhibit, I believe it is labeled as Exhibit A-1, and it shows the color of the finishes. The building is 25 feet-4 inches to the ridge. The outdoor equipment storage area is 23 feet-2 inches. There is a 25 square foot wall-mounted sign in the gable end of the front elevation. The details are in drawing seven. In regard to the D&R engineering report, plan report Item 4.2, there will be surveillance cameras on the property. The floor level windows will have a security film. There will be access control and the property will be well lit, as noted in the engineering drawings. On Item 4.5, I will add the location of the electric, gas and water meters. Item 4.6, I will include the grade of vinyl siding. This concludes my testimony. And I'm available for any questions.

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

Mr. Galacio: Our next witness for tonight is Brent Papi, the engineer.

Mr. Brent Papi, sworn

Brent Papi (Applicant's Engineer): Okay, I'm speaking to our exhibit, which is Sheet two of five, entitled Site Plan, prepared by East Point Engineering -

Mr. Galacio: I want to get you qualified, Mr. Papi, first before -

Mr. Papi: I'm sorry about that. I have a Bachelor's of Science in Civil Engineering from Rutgers College of Engineering. I'm a licensed professional engineer in the state of New Jersey. I'm a certified municipal engineer. I'm the Planning Board engineer for the Borough of Spring Lake Heights. I've been practicing for over 20 years and have been here before this Board and various other boards throughout the state.

Mr. Galacio: I offer Mr. Papi as an expert in engineering.

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

Mr. Galacio: Thank you. Please continue Mr. Papi.

Mr. Papi: Yes, sir. Thank you. So, as I was saying, I'm speaking to the exhibit that we have provided, which is entitled Site Plan. It depicts the proposed improvements, color rendering at one to 20 scale. The exhibit references the boundary and topographic survey prepared by Brunswick Survey for the project site, which is known as Block 275, Lot 20.01. The site has frontage on three streets, which include Paul Robeson Boulevard, North Ward Street and Lawrence Street. The site is located within the R-6 Multifamily Residential

zoning district. It's bordered by an industrial building to the rear and a single-family dwelling and auto repair garage across Lawrence Street and residences across Paul Robeson Boulevard and North Ward Street. The property is 200 foot by 100 foot, with a total area of 20,000 square feet. The lot is presently developed with a one-story garage building facing Paul Robeson Boulevard. The building has six overhead doors and a small office on one side, as Joe described. The existing footprint is 5,208 square feet. The site has access via driveway from Paul Robeson Boulevard and Lawrence Street, which is currently gated. The lots is mostly gravel, with areas of concrete pavement. The street frontages are lined with arborvitae for screening on all sides and a six foot chain link fence, as previously discussed. The applicant is proposing to renovate and partially reconstruct the existing commercial building. Portions of the existing structure will be demolished and the office section will be reconstructed to eliminate an encroachment in to the city right-of-way. A covered storage area of 1,016 square feet will be added to the north side of the building on the North Ward side. The gravel lot will accommodate six parking spaces for the applicant's employees, were five spaces are required per zoning, one space per every 400 square feet of office. The employees will utilize company vans during the day, the main vehicle access will be from Paul Robeson Boulevard and Lawrence will remain for emergency vehicles only. Shade trees are proposed along each street frontage. Arborvitae along the building façade, facing Lawrence Street. Building-mounted lights are proposed at the front of the garage and the office to meet the required light levels and they will be on a timer to turn on and off as per the ordinance requirements. The applicant has also agreed to install curbing around Paul Robeson Boulevard, it will be replaced, and sidewalk ramps will be installed along all street frontages by the request of the City Engineer. The existing impervious lot coverage will be actually reduced from 18,398 square feet to 18,264 square feet, which is a reduction of 134 square feet, and roof runoff will continue to be directed into a pipe that connects to the existing storm inlet at Lawrence Street. Existing public water and sewer at Lawrence Street will continue to serve the building. Refuse and recycling will continue to be picked up via small dumpster located within the gravel area, near the covered overhang and this area is screened by natural vegetation and fencing and a shallow retaining wall along that side of the property. I'm going to describe some of the variances that the applicant is seeking. The first is a "d(2)" use variance for the expansion of the non-conforming use, where the R-6 zone requires a residential use and the applicant is proposing commercial office use. Detailed land use testimony will be provided by the planner. Front yard setback at Lawrence Street, where 10 foot is required and 4.3 foot is proposed to the office. The existing building is currently over the lot line by 0.9 feet. So, this is an improvement. This will match the building frontage of the neighboring commercial building to the rear of the lot on 17.01. The applicant is seeking a rear yard setback variance, where 40 foot is required and 0.3 feet exists, there's no change from existing to the proposed. Building coverage, where the max allowable is 20% is permitted and 34.89 is proposed. Existing building has exceeded the allowable 26.3% and the proposed overhang and the renovation will increase it by 8.6%. Impervious surfaces, where 50% is permitted and we're proposing 91.3. The existing impervious coverage, as I mentioned before, is exceeding the allowable, it's at 91.9% and as I said before, we're proposing a reduction in coverage by 0.6%, which is 134 square feet. We're also requesting design waivers for parking within the front yard setback, and we're also requesting a waiver for a TV inspection of the city sanitary sewer, due to the fact that the city is proposing a reconstruction project, we were told, within the portion of Lawrence Street.

So, we were asking for a waiver to TV test that sewer. We're also going to comply with all the city engineering and planning comments in the reports that were provided. We have no objection, most of the comments we've already discussed at TAC and we responded to. We're agreeing to provide ADA parking space, one space at the closest parking stall nearest to the office entry. We'll have a signage and a big area and a walkway to the front doorway, and we're also in possession of approval from the Monmouth County Planning Board and we have a pending application with the soil conservation district.

Mr. Galacio: Middlesex County Planning Board.

Mr. Papi: Yes, Middlesex County Planning Board, my bad.

Mr. Galacio: Any questions from the Board?

Mr. Cox: Any member of the Board have any questions for this witness? Any staff or professional have any questions for this witness?

Mr. Carley: Just a general comment, Mr. Chair. This is Charlie Carley. As Mr. Pappy testified, the applicant has had benefit of TAC in September. We issued our second review today, after our September 23 review and the latest iterations of the plans have made really good progress. In terms of addressing those concerns that we've had, and Mr. Papi's testimony supplements that. Right now, the meat and potatoes of our most recent report has to do with the administration of the project, if the Board were to look favorably upon it.

Mr. Bletcher: This is Todd Bletcher, if I may. I just wanted to really briefly just reiterate everything that Mr. Carley just said, everything in my report has been addressed. Just one comment on the barbed wire. We'd like to see, it's a residential neighborhood, so we'd really like to see the barbed wire removed. If the applicant wants some sort of enhanced security feature or something, you know, we're certainly okay with like an 8 foot high fence instead of a 6 foot high fence or something like that, if we can just get the, you know the barbed wire just, you know, we don't we don't want to proliferate that in a residential neighborhood.

Mr. Galacio: I think that would be acceptable.

John Zimmerman (Board Member): This is John Zimmerman. I rode by the property today and really, to say it's in a residential area would be a stretch, it's more commercial. It's behind Rainey's Auto Body Shop and there's a lot of other businesses there, so, I mean, I feel that if the Board makes the decision or the principals involved see fit, to permit the applicant leave that barbed wire up there. I mean, I know that tools are expensive and with this economy and people out of work and anybody could be looking to make a quick buck by breaking in, and, you know, selling tools and so on ourselves. If that if it's okay, I'd like to see the barbed wire be allowed to stay.

Nancy Coppola (Board Member): Hi, John. This is Nancy. Since we're talking about this, for security, so is there lighting on the property that could be, to make sure that, you know,

if anybody's going to be by the property that there would be lighting, and also is there an alarm system at the property for safety purposes?

Mr. Papi: I can speak to the - there are several existing light fixtures on the building, but we're proposing all new light fixtures that will be on a timer. And we'd like to keep maybe one or two of them on for safety at night. As far as the security system, I'll let Joe or the applicant answer that.

Mr. Dalton: As far as the security goes, I do plan to put cameras up there. Also, the front electric gate, there's a sliding electric gate on Paul Robeson Boulevard. Whenever that opens and closes, I would get alert on that. But, I mean, for security purposes, you have to realize the person is not coming in through the gate. You know, they're going over the fence to get stuff and like I said before, these trees that I put up there are fast growing green giant arborvitaes, which is going, you're not even going to see that fence or that barbed wire. I don't know if anyone else besides John drove over through the property, but if you go out there now, with the barbed wire, it's not, it doesn't look like a prison or something, like you may be thinking, it blends in, if you drove by, it's all black. The fence is black, the barbed wire - but to get back to your point, yeah, there's going to be some lighting. Hopefully, we hope for the best. But, you know, just realize there's expensive equipment there, they're going to keep copper pipes, there's going to be wires and a lot of money in tools.

Mr. Cox: Is there going to be an alarm could come on the building itself? So, if a window is broken or a door is kicked in, the alarm -

Mr. Dalton: Yes, there's going to be a security system on the on the structure itself.

Mr. Galacio: Thank you. I want to present our planner, Charles Heydt.

Mr. Charles Heydt, sworn

Mr. Galacio: Can you just provide your credentials briefly for the Board.

Charles Heydt (Applicant's Planner): Yes, good evening Board members. I have appeared before this Board in the past. I am a licensed professional planner in the state of New Jersey. I'm also a member of the American Institute of Certified Planners. I have a master's in city planning. I've appeared before many other municipalities, including South Brunswick, East Brunswick and also in other counties throughout the state.

Mr. Galacio: I offer Mr. Heydt as an expert in planning.

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

Mr. Galacio: Mr. Heydt, could you please provide your testimony on how the application meets the positive and negative criteria for the "d(2)" use variance and the bulk variances?

Mr. Heydt: Yes, I'd be happy to. I did want to reiterate that, based on my site visit, while

we're in the R-6, most of the existing land uses on this block, approximately about 75% of other uses on this block, are either commercial or industrial related. Most of them are on Lawrence, to the south of a block, and then there's the automotive repair on the eastern edge of the block. The residential homes are in the R-5A, which are located along Ward. Just to reiterate that one comment earlier. And then part of my review to look at the zoning ordinance, the master plan, we are in the R-6, this is an existing, commercial/industrial use. Much of the existing structure, as an historic photo was shared with me, does remain with its basic footprint. So, we are kind of working off the footprint in the existing conditions. Given that we're requesting a "d(2)" expansion of a non-conforming use variance, it's important to be aware, the general test comes from the Burbridge case, are there conditions or design aspects that reduce the impacts of the non-conforming use? And I think we've achieved that test. I think the plans prepared by Mr. Hyland and Mr. Papi certainly transform this project into a more residential appearance. There's a peaked roof, there's a combination of materials, and there's even the river rock stone that will present on the border that you find in many residential homes. It is a commercial property. There were prior approvals for the garage doors that Mr. Dalton did receive 2019, so we'll still function as a commercial property, but obviously, the appearance will be more in keeping with the residential characteristics. With respect to the improvements on site, the older portions of the structure, some of which are encroaching into the public right-of-way are being removed, being replaced with newer structures, as well as on the north side of the building with the proposed overhang, which will be attached to the principal structure, but will also serve as further screening and protection for some of the outdoor equipment. There is also a trash container that will be located just off of that overhang. So, with respect to the use, some of the other aspects in terms of the improvements being proposed on this lot, really are along the perimeter, the fence, the barbed wire, the fence there is existing. What is being proposed and already installed is the row of arborvitae trees, which will grow to a height of greater than 10 feet. We are also, through the TAC process, installing the sidewalks, which are shown on the plans, I think will certainly complete the walkability. There are no sidewalks on the site, so it will certainly add to pedestrians in the area, circulating streets along the property frontage. So, it's really part of the improvements of the site. I think they do meet the test of mitigating the impacts of the non-conforming use. The Burbridge case dealt with an auto dealership, a business that had equipment in the front yard and installed landscaping and transferred that location to the rear. They were not able to transfer the location to the rear, because of the existing facility is located in the rear portion and the property also having frontage on three public rights-of-way. But I think the improvements on the right-of-way to help mitigate the aesthetic impacts.

That's it for the positive criteria on the "d(2)" expansion of a non-conforming use. There are a number of other variances and design waivers we do need. Mr. Papi did discuss many of them with respect to the bulk requirements. So, we covered the impervious surface coverage. He covered the building coverage, which are being increased, but they're not substantially outside of what's existing on the site, given what we're proposing. With respect to the other variances, they're mostly related to other aspects of the site, not the principal structure. So, first and foremost, the proposed parking in the front yard, this is an existing condition, we are locating the parking spaces along Robeson within the property. There'll be accessible through the main drive area, but favoring the one side along

the road, so they're not in any sort of circulation areas. The other variances related to the accessory uses, and I'll cover them to make sure the Board is aware of the relief needed. The maximum permitted accessory structure is 15 feet, where the overhang is 23.2. The fence height is required to be four feet, where six feet is existing and that's proposed to remain. No accessory structures in the front yard obviously, with the property situated at three frontages and the building along the rear yard, the only place to locate an accessory structure is within one of those front yards. So, we do need relief from that. I believe there's also the no outdoor storage. So, I think that covers what our intentions are for locating outdoor equipment. And in terms of screening that, there is the existing fence and the residential property immediately adjacent to this outdoor area already has, a portion of it is a wall, a concrete wall, because the driveway on the property ramps up. So that's about a three to four foot wall. And on top of that there's already an existing six foot fence with slots to screen any visual impacts or views from the adjacent residential property. So, it's well screened from the adjacent property. That's really the same issue with one of the other variances. The foundation plantings, foundation plantings are proximate to the foundation of the building. This is a commercial facility, so you get a lot of high traffic areas with all the equipment coming in and out during business hours. The thought process here was that that arborvitae is a substantial landscape buffer, and it will be thick and it will grow to create a perimeter screen around the whole lot. So, effectively you wouldn't be able to see the foundation paintings from a distance or driving by. I believe that's all. I should mention the signage. In the R-6, the maximum is 18. Typically, in commercial zones in the city, 10% is the maximum permitted, what we're proposing is 25, square feet, so we're over that 18 square foot threshold for maximum sign area, but that's about 3% of the overall facade area, so you can kind of gauge that as to how it relates to the overall building facade. I think it's appropriate, obviously will give some indication of the building identification and the use, so it's needed. I think it's appropriately sized. That's all the variances that I wanted to cover. The last one, the front yard setback. So, this I mentioned, the existing structure along Lawrence encroaches into the right-of-way, that's being mitigated or removed, that condition. And there will be a four foot setback from the property line. And, obviously, the sidewalk will be installed there. So, that's an improvement. We still need relief. The requirement is 10 feet and were proposing about 4 feet. I think we discussed the barbed wire fencing, so the Board might consider that in deliberations. It's a residential area, but I think their intentions for having it serve as security and there are some benefits to that aspect.

With respect to the negative criteria, so you kind of have a rationale of all the positive criteria, all the benefits. With respect to the negative criteria, I don't believe that there's any substantial detriment to the public welfare. I understand the safety issues of barbed wire. I'll leave that for the Board, I think that's easy for you to deal with. But with respect to all the other bulk variances being requested, these are all part and parcel of existing use, improving the existing structure, and also addressing the appearance of that building and mitigating the impacts of a commercial use in a residential zone, so I don't, I don't think from an aesthetic standpoint, or a use standpoint, there's any substantial impact to the general welfare. Most obviously, the traffic. Most of the traffic will be on the Paul Robeson right-of-way, which is the existing mail curb cut. And this property does maintain the full block width from Ward to Lawrence, so there's no vehicular impacts with respect to that. The second prong of the negative criteria, no substantial impairment to the zone plan or

the zoning ordinance, we're an existing non-conforming use. Most of the other – actually, I will go as far to say all the other commercial properties on this block are also in the R-6. So, I just wanted to reiterate my opening comment. This is a unique block in the sense that a lot of the existing land uses don't actually coincide with the zoning for it, it's a unique condition, you often don't see it, but here we are. So, I don't think there's an impairment, because it's an existing condition and we're actually trying to implement a lot of zoning regulations to mitigate the impacts. That's really it, sorry if I took a little time, but I just want to make sure I covered everything.

Mr. Cox: Are there any questions or comments from any Board member or professional staff?

Mr. Bletcher: Mr. Chairman, this is Todd Bletcher, I just have just a couple quick comments, but I just wanted to make sure I let the Board members go first if they had any. I just, you know, I don't take issue with anything that Mr. Heydt just provided his testimony, except for one thing and I don't mean to belabor it, but it's just, it's just not appropriate in a residential zone. This is the R-6 zone, it's not appropriate use to put to put barbed wire surrounding anywhere in a residential type zone, especially when we're trying to clean up these older properties. I looked it up in the city ordinance it's, it's just bear with me here for a second here was - here it is. It's 17.03.070, fences, it specifically says that barbed wire, razor wire, concertina wire or any similar materials that are dangerous to animals or persons are prohibited, so I'm just gonna really strongly encourage the applicant here. And maybe you could just be specific, Mr. Galacio, in what you're, you know, what exactly you're proposing but if you're looking for an enhanced security, which I totally understand, enhanced security should be, you know, more lighting, better lighting, more security cameras, motion detectors. You know, higher fence. But, you know, I really just, I don't think it's appropriate to do that, the barbed wire. I'm also just concerned if you know it especially if it's going to be hidden in the, in the landscaping there, I think that creates an even more dangerous situation, so I totally get it that, you know, we're concerned about security. But you know, we want to make sure that we, you know, we get the right kind of security, not just, you know, not just, you know, having barbed wire out there so, that's all. I'll leave up to the Board but I definitely think it's something you should have a back and forth for discussion on.

Mr. Zimmerman: John, this is John Zimmerman again. Mr. Dalton, how long has that fence been around your property with the barbed wire on it?

Mr. Dalton: Back in '84 when I was an electrician for different gentleman, I used to go there for electric motor repair and, you know, pick up parts. It was there then. So, prior to that, I'm not sure, but quite some time and I never, not that I know of, I never had a complaint or anything, nobody ever said, I mean I got a lot of comments on the construction of the building thus far. The neighbors like it though but no one has ever commented on the fence.

Mr. Zimmerman: Yeah, that was my question. I was wondering if any of the neighbors had complained in the last 20 years, or 30 years, that the barbed wire was obtrusive to their neighborhood.

Mr. Dalton: Yeah, I mean, I really can't testify to that, I don't know. I know it's been there for quite some time, since I've been going there as a young electrician. But, like I said, it blends in, but, you know, if it comes down to it, push comes to shove, if the barbed wires got to go, the barbed wires got to go. I mean, Mr. Bletcher, you mentioned the higher fence, quite frankly I think a higher fence is gonna look a little more unsightly than the barbed wire, but as long as, you know, you guys are allowing me to leave on certain lights and stuff throughout the night. You know, we'll have to take from there, because if it becomes a situation then I'm going to have to address it. You know, security. You know, I've even, you know, as I've been over there (inaudible) some construction to the existing building, you know, police officers come by and tell me, you know, that's not gonna do it. Cameras aren't gonna do it, lighting's not gonna do it, they're telling me the only thing that's going to do it is guard dogs, but quite frankly, I don't want to put guard dogs there. But, you know, it's not the best neighborhoods. But, you know, hopefully things (inaudible). Like I said, if push comes to shove, if the barbed wires go to go, the barbed wires got to go. What am I gonna do?

Mr. Cox: Hey Todd, with that statute you read, for the barbed wire and razor wire and all that. When was that passed, as far as it being prohibited?

Mr. Bletcher: I can tell you that part of the ordinance that I wrote was back sometime around 2006. So, I don't know. I don't know what exactly the text of the ordinance was before that, I mean this could have been a section that we just didn't change, right, like it could have been already in effect we looked at it we said, let's just leave it alone. So, I couldn't tell you, but I know that the current ordinance that you're dealing with came about at some time in 2006.

Mr. Aithal: Mr. Chairman, this is the Board Attorney, Aravind Aithal. As Mr. Bletcher was indicating, the barbed wire is not permitted in any zone in the city of New Brunswick. So, I'm not sure when that barbed wire was installed, but it's currently in violation. In terms of whether the Board can approve barbed wire to be located there, I'm not sure that would be something the Board would be empowered to do, certainly it's part of the approval process, and I think that's what Mr. Bletcher was trying to get at. If there was a higher fence that the Board or the applicant wanted to put up, that would require a variance. That variance was not noticed, meaning there was no notice put out to the general public, that they would require a fence height variance. However, if it's the recommendation of the Board, and I just looked at the notice that Mr. Galacio has drafted, that is sent out to the public, in public newspapers, there is language that permits this Board on its own recommendation, to suggest that a variance for a fence exceeding the permitted height is something that they would desire, something that they will approve, and that language was covered in the notice to the public because it does indicate that such other variances that the Board, as it is deliberating, feels... There's also some - I just want to clarify this point, there was some discussion, I believe some outdoor storage of equipment. And I'm not sure if Board members have any questions about the outdoor storage. As I've heard, and I apologize if I misheard it, that could be an issue as well. Thank you.

Mr. Cox: Any other comments or questions?

Ms. Coppola: Yes, so this is Nancy again, so Arvind, thank you for bringing that up, because I don't recall but maybe I missed it. What kind of equipment was going to be stored outside? Was that mentioned?

Mr. Galacio: Yes, yes, there was testimony on that. There's a manlift, and a forklift and a bucket truck. And I think that there's -

Mr. Dalton: There's equipment that has - like integral operating things, like on a on a manlift, you know, there's electrical operations, hydraulic pumps and things like that that you don't necessarily want to put out in the weather. I really not rather put it in the lot and tarp it and have to deal with that wind and everything else trying to deal with that. So, the manlift, there's a fork truck, I have a hydraulic trailer, bucket truck. All of these things that I would like to keep in out of the weather, but, like I said, it doesn't necessarily, those items don't necessarily need to be in the prime parking space, inside and locked up.

Mr. Aithal: Mr. Chairman, this is Aravind Aithal. Mr. Dalton, I'm not sure if I'm clear on this, so that equipment, the manlift, the forklift, the bucket truck. Are you indicating that those items cannot be placed inside, because that's prime space inside?

Mr. Dalton: They can be placed inside if you want to put them inside but, like I said, I mean, you're limited to the inside space, they don't necessarily need to be in that prime parking space of being inside the garage door.

Mr. Aithal: If I could just inquire of Mr. Bletcher if the outdoor storage is permitted?

Mr. Bletcher: I think, even though it's outdoor storage it's really under a roof, so I didn't, in my report, consider it outside storage the way someone would store, you know, pallets or something like that. Since it's under the roof, I consider it sort of in the building, even though there's, that part of the building is like an open air type building, no walls. There's nothing that says that those, those walls couldn't be you know fenced in, so it was like sort of an open air sort of fence structure with a gate or something like that for added level of security, you know, fencing on the back and sides and then a fence gate locked along the front just to have an extra, you know, it'd be open, it would be building, but it would just be another place to have additional security.

Mr. Aithal: I missed the part where it was underneath the roof, if the applicant wanted to put additional fencing for security - an additional or enhanced security they're looking for, but they wouldn't be required to.

Mr. Bletcher: I'm just gonna double check or maybe Mr. Papi is still, can confirm that, or Mr. Hyland. Yeah, it's called proposed overhang equipment storage, so it's a roof

Mr. Papi: It's a covered equipment storage area, 1,016 square feet with a concrete slab underneath.

Mr. Bletcher: So, the cover is, is it like a tarp cover or is it actual a part of the roof?

Mr. Papi: It's a structural cover, it's gonna have columns on the end, Joe can describe it, it's got, it's open on three sides and the backside is up against the main building.

Mr. Galacio: You could pull up exhibit A-1, you'll see it on there.

Mr. Hyland: The roof is the same as the main building, it is an asphalt shingle roof. It stepped down from the main building, it has a gable roof. It's shown on the elevations.

Mr. Heydt: Just to add, this is the area where the adjacent property has that ramp driveway. It's a little bit of a greater separation because there's a concrete wall, and then the fence on top of that I referenced in my testimony.

Mr. Papi: It actually also has decorative columns. And the same type of stone continues at the base of the columns.

Mr. Galacio: The outside storage area is the area on the left this rendering, which is Exhibit A-1, although it's labeled as A-2.

Ms. Coppola: So, I just have another question. So, is that visible to the public? Or is it going to be kind of guarded from the trees and all the planting that you're doing as well?

Mr. Papi: Currently, the entire property is surrounded by arborvitae and a six foot high fence. So right now, there's an existing landscape buffer on the North Ward Street, Paul Robeson Boulevard and Lawrence Street. The only open area is where the gated entryways are for vehicles to exit. And on the backside, there's an existing retaining wall, as well as existing fencing with vinyl slats inside the fencing to add additional screening. So, within from the outside looking in, you're looking at landscaping, you're at arborvitae, you're looking at a fence before you see the building façade and, as the applicant testified, that will continue to mature in the course of years to come, the trees are going to grow up to 10 feet tall and become wider at the base and group closer together. So really, you'd have to enter the property to see the enclosure itself.

Ms. Coppola: So that I guess my reason I asked that is because I understand that the owner is concerned about, you know, safety, and his property being vandalized, equipment being stolen, I just wanted to get a clearer picture. So, thank you for you.

Mr. Cox: Any other questions or comments at this time? Any other witnesses?

Mr. Galacio: Mr. Heydt was my final witness.

Mr. Dominguez: Mr. Chair, would you like me to open for public comment? Okay, at this time, we are preparing to open the meeting to public comment on this application for five minutes per person. In order to assure that the Zoning Board of Adjustment can hear from the interested public and that the public can hear public comments, I will organize the speakers in order by last name, and in a moment I will unmute the public call-in and at that time, I will ask those with the last name starting with A to provide me your last name,

first name and home address. I will confirm that the information is correct, then move on to the next person 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 who may want to be placed on an initial list of speakers. I will then move through the list of speakers by calling a person by name and permitting them five minutes to speak. Once we complete the list, we will once again check to see if anyone else would like to 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 will ask that you please remain silent while folks are being unmuted, that's *6 for everyone who is on the phone when you need to unmute yourself, I will ask that you please remain silent so we can hear each other and begin the registration process. I'll ask any member of the public who would like to comment on this specific hearing with last name starting with the letter A please state your full name and address.

Mr. Dominguez reads through alphabet. There were no members of the public interested in speaking on this application.

Mr. Cox: I'm gonna close the public portion of the meeting. Do we have Board discussion?

Mr. Galacio: Before you get into that, if I may, if the applicant is willing to remove the barbed wire, as long as the Board could grant a variance for the eight foot, he would not put it in right away. But only after there's an incident, where there's a theft, he would like to have the option to increase it to the eight feet. If that's acceptable to the Board, that may forestall some of the discussion.

Ms. Coppola: So, Mr. Galacio, you read my mind, because that's what I was going to ask. Because since the ordinance says that we have we cannot have the barbed wire there, I was going to ask the Board to at least agree to allow the applicant to put a larger fence and lighting and other security measures that he might feel fit in order to project his property.

Mr. Galacio: That's acceptable to the applicant. Thank you.

Mr. Cox: I agree. Add some more lighting and you can leave it on the longer hours even if he had to leave it on overnight to protect the property. I do believe that the barbed wire should be taken down. I know people do things that are criminal activities, but we can't have somebody getting hurt that way, by doing that. Other comments or discussion? Katie, could you please state the conditions for the approval of this application?

Katie Thielman-Puniello (Principal Planner, Department of Planning, Community and Economic Development): I'm sorry, let me just make sure I have the phrasing right before we get started. So, the barbed wire will be removed from the fencing on the property and the applicant has the option to increase the height of the perimeter fencing to eight feet high. Is that satisfactory?

Mr. Aithal: I'll add some additional language upon recommendation of the Board. They didn't ask for that variance. This is a variance that the Board has authorized.

Ms. Thielman-Puniello: Okay, sounds good. So, Aravind will kind of add a little bit when he drafts the resolution.

Mr. Cox: Would we have to authorize the condition that the applicant would be allowed to have lights stay on 24 hours a day?

Mr. Aithal: I don't believe that that's a variance condition, but I will put down that that is a condition of the approval, that will permit the applicant to leave the lights on 24 hours. I would just caution, in terms of light spillage, they would still need to meet the city ordinance and not have the lights go over the property.

Ms. Coppola: I'm sorry, this is Nancy. But Aravind, if he chose to put like motion lights in for certain areas there, would that be acceptable?

Mr. Aithal: If the Board wishes to have them put in motion lights, that's certainly something that Mr. Galacio could speak to his client about. It's a little difficult in a virtual meeting, to see if that's a condition they, they would agree to.

Mr. Galacio: I can do that quickly. Let me just jump off.

Mr. Cox: Even if they are motion lights, they would still have to make sure the spillage of light does not go off the property, correct?

Mr. Aithal: That's correct.

Mr. Dominguez: Just throwing it out there. I think that with the perimeter arborvitae and the scale on which that grows I think that they're probably safe on that front, in terms of light spillage. But we'll see what they come back...

Mr. Bletcher: I think you would term it to be something like you know, interior security lighting or, you know, security level lighting on the interior of the site. It's not the perimeter. It's where all the expensive stuff is.

Mr. Galacio: Yes, I've spoken with my client, the motion lighting is fine.

Ms. Thielman-Puniello reads the conditions of approval into the record.

Motion to Approve

I. Nancy Coppola

II. John Zimmerman

	Yes	No
John Cox (Chairperson)	X	
Nancy Coppola (Vice Chairperson)	X	
John Zimmerman	X	
Michael Belvin	X	

Ivan Adorno	X	
Karla Castaneda	X	
Sue McElligot	X	
Beverly Sanchez (Alt. #1)		
Charlotte McNair (Alt #2)		
Evelyn Azcona (Alt #3)		
Chris Sumano (Alt #4)		

VII. DISCUSSION ITEMS

A. CHANGES TO BOARD RULES REGARDING PUBLIC COMMENT AND INTERACTION

Carried to December meeting

VIII. OTHER MATTERS OF INTEREST TO THE PUBLIC

Mr. Dominguez: At this time, we're preparing to open the meeting to general public comment for five minutes per person. In order to assure that the Zoning Board can hear from the interested public, and that the public can hear public comments, I will organize the speakers in order by last name. In a moment I will unmute the public call-in. Actually, you will have to unmute yourselves if you are on that phone, that's *6. At that time, I will ask for those with the last name starting with A to provide me your last name, first name and home address. I will confirm that the information is correct, and move alphabetically from A to Z. Upon the completion of asking for all last names from A to Z, I will ask one more time for anyone who would like 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 once again check to see if anybody else would like to comment. After asking three times, I will 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. Please remain silent while people are unmuting themselves so we can all hear each other and begin the registration process. I will ask that any member of the public who would like to comment on general public comment with the last name starting with A, please state your full name and home address.

Mr. Dominguez reads through the alphabet once. Mr. Charlie Kratovil (Syudam Street, New Brunswick, NJ) is placed on the list of speakers.

Mr. Charlie Kratovil, sworn

Mr. Charlie Kratovil: Just wanted to speak to the Board and specifically to you, Mr. Dominguez, about the website for the City. I know that in this new environment you've been diligently posting the relevant documents for each application to the City's website. I think that's a great thing, I just get disappointed when they're taken down so quickly the next day, and I just wanted to suggest that maybe it would be wise to leave them on the site a little longer, at least until such time as a resolution of memorialization is passed. Would that be something that you would consider?

Mr. Dominguez: We'll take into consideration. We do have some limitations on space for the website and we don't want to tax the servers and whatnot, but we'll look into it.

IX. ADJOURNMENT