

BOROUGH OF GARWOOD PLANNING BOARD  
COUNTY OF UNION - STATE OF NEW JERSEY

REGULAR MEETING FOR:

242 SECOND AVENUE  
B 205 L 26 R/A ZONE  
CASE NO. PB20-03

TRANSCRIPT OF PROCEEDINGS  
PUBLIC HEARING (REMOTE)

WEDNESDAY, MARCH 24, 2021

B E F O R E :

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STEVEN BARCAN  
RUSSELL GRAHAM, Councilman  
KENNETH CAPOBIANCO  
RICHARD McCORMACK  
STEPHANIE BIANCO  
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TRANSCRIPT of the stenographic notes of the proceedings in the above-entitled matter, as taken by and before FRANCESCA DIBELLA, a Certified Court Reporter, Registered Professional Reporter, Certified LiveNote Reporter, Certified Realtime Reporter, Certified Broadcast Captioner, and Notary Public of the State of New Jersey, held virtually, commencing at 7:30 in the evening.

A P P E A R A N C E S :

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THE CHAIR: We will not be hearing the case for 78 North Avenue, which is the Crossroads case tonight. We will be rescheduling that for April 28, but because of what we believe to be a lengthy application for 242 2nd Avenue tonight, it was agreed upon to reschedule this application for the 28th without further notice to the public.

Has everyone had an opportunity to read the minutes of the February 24th meeting?

We'll move on to our case, which is a continuation of PB20-03. That is 242 2nd Avenue, Lot 205, Lot 26, and it's in an RA zone. The Applicant, I see, is here.

With that, I will open it up.

MR. KOODRAY: Excellent. Thank you, Mr. Chairman, and good evening, members of the Board. For the record, Joshua Koodray, appearing from the Hehl offices of Javerbaum Wurgaft on behalf of the Applicant, Paul Martin.

I just want to confirm before I begin that everyone can hear me okay. I'm trying a little bit of a makeshift setup this evening in the office, so I just want to make sure the audio is coming through okay.

THE CHAIR: Very good.

MR. KOODRAY: Well, it's great to see everybody

1 and it's certainly been a while since we were last before  
 2 the Board on December 9, 2020 where we began this case,  
 3 Mr. Chairman, with your indulgence, I'd sort of  
 4 like to give, unfortunately, but since we're the only show  
 5 I guess in town tonight, I would like to give a little bit  
 6 of a recap from the last hearing, some of the testimony  
 7 that we heard, an overview of the application, and then  
 8 what happened after we adjourned from the December meeting  
 9 to today, and then we can get into it, if that's okay.

10 THE CHAIR: Sure.

11 MR. KOODRAY: Okay. Great.

12 So as I mentioned, the last time we were before  
 13 the Board was on December 9, 2020.

14 Just as a brief recap, the property, the subject  
 15 property for this application is located at 242 2nd  
 16 Avenue, Block 205, Lot 26. The lot consists of  
 17 approximately 75 square feet and it's approved with a  
 18 one-family dwelling; that, according to the tax records,  
 19 was constructed in approximately 1915. Mr. Chairman did  
 20 mention at the outset of the meetings that the property is  
 21 located in the residence A single-family residential zone  
 22 district, which obviously does not permit two-family  
 23 dwellings.

24 We're before the Board this evening seeking D-1  
 25 use variance relief to legalize the conversion of this

1 understand that, you know, technically we did look into  
 2 the term mother/daughter not being utilized in Land Use  
 3 Law or Zoning Ordinance, but we did want to point out that  
 4 the Garwood Zoning Ordinance does recognize senior citizen  
 5 accessible apartments, and that's Section 106-105 as a use  
 6 that's akin to a mother/daughter I would say, so the  
 7 concept is not totally novel and it's codified within your  
 8 ordinance, so I don't want to belabor too much on that,  
 9 but, Mr. O'Brien, our planner, will touch a little bit  
 10 more on that during his testimony.

11 We also do want to note that we are able to  
 12 provide Code-compliant parking for this use as one space  
 13 per unit. We do require variance relief, as I mentioned,  
 14 for the use as two-family dwellings are not permitted in  
 15 the RA zone. We also require a variance for a minimum  
 16 garage size for a two-family, which is required. You're  
 17 supposed to have a 20 by 22, or 440 square foot, garage.  
 18 What we're proposing that's existing on the property is  
 19 slightly undersized at 18 feet by 19 feet.

20 We also require a variance for the number of  
 21 garage parking spaces. You're required to provide for the  
 22 ordinance one per unit, and we are proposing one car space  
 23 and the garage. The parking layout plan has been revised  
 24 to eliminate the parking within the front yard setback  
 25 variance and our architect, Mr. Meeks, will discuss that

1 home to a two-family dwelling. As the Board heard last  
 2 time, there were minor interior alterations that were done  
 3 at the property to effectuate this conversion, and we will  
 4 make clear again that the work was done without the proper  
 5 permits or zoning approvals which is the reason for the  
 6 application and why we're back before the Board this  
 7 evening.

8 No expansion of the building footprint is  
 9 proposed. We're not proposing to increase the habitable  
 10 area. It really is just essentially a reconfiguration of  
 11 the interior space to formalize the separation and create  
 12 two dwelling units.

13 So we argued last time, and you will hear from  
 14 our experts again this evening, we feel the home is  
 15 particularly well suited to be converted from a one- to a  
 16 two-family. Again, we recognize that this is a  
 17 single-family home, but it was previously utilized by a  
 18 prior owner as a mother/daughter setup. I know there was  
 19 a lot of back and forth about that, but I want to make  
 20 clear again. We realize it's a single-family home that  
 21 was utilized as a mother/daughter and Mr. Martin testified  
 22 previously that the home was used by the prior owner's  
 23 daughter and a caretaker as a live-in unit, so each floor  
 24 has its own kitchen, bathroom, living and sleeping areas,  
 25 washer and dryer facilities and storage areas. So we

1 during his testimony this evening.

2 There are some preexisting nonconforming  
 3 conditions that we're not exacerbating, and just to be  
 4 brief that's for minimum front yard setback, minimum side  
 5 yard setback, and maximum building height. Again, those  
 6 conditions are not being worsened by this application or  
 7 being impacted at all, and Mr. O'Brien will touch on those  
 8 variances during his testimony.

9 So during the first hearing we heard testimony  
 10 from the Applicant and property owner, Paul Martin. We  
 11 also heard testimony from our project architect,  
 12 Mr. Ronald Meeks.

13 I'm sure the Board remembers this well and  
 14 obviously it had the opportunity, if they so wish to  
 15 review the transcript, but just very briefly, some key  
 16 points from the testimony that we heard during the last  
 17 hearing, Mr. Martin in testified that he moved to Garwood  
 18 in 2005 during a transitional period in his life. He  
 19 purchased 246 2nd Avenue , which is the property next door  
 20 to the subject property where he still resides today. He  
 21 purchased 246 from the DeFabio family who also owned the  
 22 subject property at the time. They, over the years,  
 23 formed a friendly relationship and when Ms. DeFabio passed  
 24 away in 2018, that's when Mr. Martin purchased 242, the  
 25 subject property.

1 So as I mentioned in my opening, Mr. Martin did  
 2 perform interior modifications to the property to create a  
 3 formal separation between what we're calling the mother  
 4 and daughter units to create a two-family dwelling and he  
 5 did conduct that work without permits. He began renting  
 6 the property as a two-family in March of 2020 and there's  
 7 a couple living on the first floor and then a small  
 8 family -- husband, wife, daughter -- living on the second  
 9 floor. Mr. Martin testified that he never received  
 10 complaints from his neighbors about the tenants, but he  
 11 did ultimately receive a zoning violation for the  
 12 unpermitted two-family use, and that's when this  
 13 application followed.

14 Mr. Meeks testified and he was qualified and  
 15 accepted by the Board as a professional architect. He  
 16 mentioned his experience in designing residential homes,  
 17 including two-family dwellings. He did provide an  
 18 overview of the existing conditions and modifications and  
 19 when I say existing conditions, it was really focused on  
 20 the work that had been done and really did that to  
 21 highlight the relative ease by which this one-family home  
 22 could be converted to a two because of that mother/  
 23 daughter arrangement.

24 So since the December 9, 2020 hearing, we did our  
 25 homework and we tried to answer as many questions as we

1 participating, correct?

2 COUNCILMAN GRAHAM: Yes, I do.

3 MR. FRASER: So I think you can watch, if that's  
 4 what you want to do. You're de facto a member of the  
 5 audience, but I want to be clear you're not sitting on the  
 6 virtual dais here and you're not going to be participating  
 7 as a board member, correct?

8 COUNCILMAN GRAHAM: That's correct.

9 THE CHAIR: I noticed on the transcript because I  
 10 read it through the order and I noticed that the court  
 11 stenographer, or reporter, incorrectly stated that it was  
 12 Rich who could not vote on this application tonight and  
 13 you made the correct -- that Russ cannot -- cannot vote on  
 14 this application tonight, so just as a note for that  
 15 transcript.

16 THE RECORDING SECRETARY: Actually, Mr. Chair,  
 17 though, that is correct, because that was December and  
 18 Mr. McCormack was still a sitting councilman at the time.

19 THE CHAIR: Okay. All right.

20 THE BOARD SECRETARY: So that is correct.

21 MR. FRASER: And that goes to --

22 Okay. Thank you, Adele. And that goes to the  
 23 second point where I was about to go, which is let's have  
 24 a little bit of a -- I don't know if you want to say roll  
 25 call or let's go around the horn and see who was not here

1 could that were posed from the Board. We did identify  
 2 several properties in the RA zone that we suspected were  
 3 two-family uses. So after we identified those properties,  
 4 we submitted what I will call a comprehensive OPRA  
 5 request, and I will read the language if you don't mind  
 6 just so everyone is aware of what we specifically saw,  
 7 what records we specifically saw.

8 MR. FRASER: Can I interrupt for a second,  
 9 please?

10 MR. KOODRAY: Sure, yes.

11 MR. FRASER: Given that this is a continuation  
 12 application, I think we should just preliminarily review  
 13 the issue of what Board members --

14 MR. KOODRAY: Sure.

15 MR. FRASER: -- were here and were not here,  
 16 whether anybody who was not here previously read the  
 17 transcript and we should address the fact that this is, in  
 18 fact, a D variance so that Councilman Graham will not be  
 19 participating. I do see him on my screen, but I haven't  
 20 had a chance to address that point yet. And also, I just  
 21 want to confirm do we have a court reporter with us? We  
 22 should.

23 THE CHAIR REPORTER: Yes, you do. Hello.

24 MR. FRASER: Ross, I see you on my screen, but  
 25 this is a D variance. You understand you're not

1 last time and has read the transcript. And then it's an  
 2 interesting question about Mr. McCormack, and I will throw  
 3 this over to you Mr. Koodray, it seems to me that that if  
 4 Mr. McCormack was a, you know, I forget whatever class you  
 5 would call it, but if he was the council person who was on  
 6 the Board last time, but was unable to participate because  
 7 it was (Zoom distortion).

8 THE RECORDING SECRETARY: Don, if I could just  
 9 interrupt because you don't even really need to consider  
 10 that. Your seven voting members would be Mr. Capobianco,  
 11 Steven Greet, Ms. Villagio, Mr. Nierstadt, Mr. Tarantino,  
 12 Mr. Napolitano and Mr. Vena. All seven members were  
 13 present on the December meeting, so that's your seven  
 14 voting members.

15 MR. FRASER: That's my kind of answer. I don't  
 16 have to even consider it. All right. So Adele, in her  
 17 fashion, has obviated the time that I was going to waste  
 18 for everybody, so I back off and I turn the floor back to  
 19 you, Josh.

20 MR. KOODRAY: All right. Great. Thank you,  
 21 Adele. I appreciate that.

22 So I guess just to back up, I guess that's where  
 23 I was, right? So since the December 9, 2020 hearing  
 24 adjourned, we and really Mr. Martin identified several  
 25 properties in the RA zone that we suspected were

1 two-family and he will talk a little bit more about how he  
 2 identified those properties, but based on that list we  
 3 submitted a comprehensive OPRA request and I would just  
 4 read the language. I know it's been submitted with the  
 5 OPRA responses that we provided, but we requested all open  
 6 and/or closed permits planning board and/or zoning board  
 7 applications, approvals, resolutions of approval and/or  
 8 denial, certificates of occupancy, tax records and/or  
 9 assessments, and any other documentation evidencing the  
 10 use of, and then there were over 60 properties listed in  
 11 that request, so I would just like to pause and take a  
 12 moment to publicly thank Christina and her office for all  
 13 the help over these couple of months getting those records  
 14 and it was certainly an arduous task and she probably was  
 15 sick of me by after the first couple of weeks going back  
 16 and forth, but I just want to thank her for all of that.  
 17 And, Adele, thank you too, for constantly coordinating all  
 18 this stuff so I appreciate that.

19 MR. BARCAN: Dave, I just have a question on this  
 20 one. So I think it would help us understand the OPRA  
 21 response and the other exhibit. Tell us, what did you  
 22 request documentation on? I mean what was the -- we're on  
 23 the 200 block of 2nd Avenue. That's where the property  
 24 is.

25 MR. KOODRAY: Sure.

1 records were submitted in hard copy form to Adele, one set  
 2 of those, as well as electronic sorted in a shared Dropbox  
 3 that we provided. All of the OPRA responses in total were  
 4 also provided within that Dropbox link, so all the  
 5 responses that we received were uploaded to Dropbox.

6 MR. BARCAN: I have one other question. I mean,  
 7 I have walked this neighborhood and I have notes that show  
 8 what's -- what could have some characteristics of  
 9 two-family. Whether it is two family, I don't know. And  
 10 then I have notes on what's conforming because it doesn't  
 11 look like it has no characteristics of a two-family, so  
 12 your submissions do not include any information, what I  
 13 will call the conforming lodge, the single-family  
 14 properties.

15 MR. KOODRAY: Well, if we didn't anticipate -- we  
 16 didn't visually -- if the visual inspection didn't reveal  
 17 an indicia of a two-family use, we didn't request records  
 18 for that. So it's a conforming home within a one-family  
 19 home, I would stipulate it's a conforming home within the  
 20 one-family zone. But Mr. Martin did do, I would say, a  
 21 comprehensive survey and all those photographs as backup  
 22 are included in the PowerPoint presentation which I hope  
 23 everyone's received. I know it's on the website.

24 MR. FRASER: (Zoom distortion) Josh?

25 MR. KOODRAY: Don, I'm sorry. I didn't hear you.

1 MR. BARCAN: And there's a hundred block and a  
 2 300 block, but you're all the way up to Fourth.

3 MR. KOODRAY: Well, that's still within -- we  
 4 requested, and Mr. Martin will talk a little bit about the  
 5 visual survey that he conducted, and those photographs are  
 6 actually depicted in the PowerPoint presentation, so we  
 7 focus on properties that are in the RA zone and if they  
 8 exhibited two-family characteristics, we requested records  
 9 for those properties.

10 MR. BARCAN: So when you say in the RA zone, are  
 11 you talking in the RA zone from Second up to the town  
 12 boundaries?

13 MR. KOODRAY: The entirety of the RA zone,  
 14 correct.

15 MR. BARCAN: Yeah. Because I think there's RA  
 16 zone on the south side of town. You didn't include that?

17 MR. KOODRAY: I don't believe so, but I would  
 18 have to refer to the map again.

19 MS. VILLAGIO: No, I don't think you do.

20 MR. KOODRAY: And we did supply a link with our  
 21 submission letters. So what we tried to do, Mr. Barcan,  
 22 is to distill some of the information we produced what we  
 23 called the OPRA response spreadsheet, right? So that is a  
 24 summary, thumbnail sketch basically, of all the responses.  
 25 There are responses that are highlighted in bold and those

1 MR. FRASER: You're going to run through this and  
 2 you're going to present this PowerPoint presentation to  
 3 us?

4 MR. KOODRAY: Yes.

5 MR. FRASER: Yeah, okay.

6 MR. KOODRAY: That's the intention.

7 MR. FRASER: So even if somebody hasn't -- even  
 8 if somebody hasn't seen it, they are going to see it now?

9 MR. KOODRAY: Yes. But just to answer  
 10 Mr. Barcan's questions, those photographs that we  
 11 submitted.

12 MR. VINEGRA: Before we go too far into the  
 13 PowerPoint presentation I went over their spreadsheet and  
 14 I found numerous errors on this.

15 MR. FRASER: I'm just going to make this  
 16 suggestion that the Applicant should proceed with his  
 17 application. He should make his preparation, and I will  
 18 suggest to the Board that maybe we can hold our questions,  
 19 comments, or objections until the Applicant had his say.

20 MS. VILLAGIO: That's a good idea.

21 MR. VINEGRA: But, Don, before the Applicant  
 22 gives his presentation of Mr. Martin, I want to hear  
 23 Mr. Martin's qualifications and see if he knows the  
 24 difference between qualified homes, certificate of  
 25 nonconformities, preexisting nonconformities. Before we

1 hear his presentation, I want to make sure he can be  
2 considered an expert witness.

3 MR. FRASER: I respectfully disagree. He can  
4 testify as a lay witness and to the extent that he's  
5 giving something that we consider to be expert testimony  
6 we can discount, but he can testify as certainly as to his  
7 own personal observations and what he did, but we do not  
8 have to credit his conclusions if there's something that--

9 MR. VINEGRA: Okay.

10 (Voices overlap)

11 MR. FRASER: An expert. Let's see what they say.  
12 Let's see what they say.

13 MR. VINEGRA: Okay.

14 MR. FRASER: Josh, you can proceed.

15 MR. KOODRAY: I did try to explain to the best of  
16 my ability the purpose of our supplemental submission on  
17 March 16th. And as I said, Mr. Martin will explain the  
18 photographs that are contained in his PowerPoint back  
19 there and he can talk about his personal observations,  
20 which I would agree with Mr. Fraser are not subject for  
21 expert testimony.

22 I just for the record do also want to acknowledge  
23 that we did previously receive Harbor Consultant's letter,  
24 which Mr. Vinegra authored, which is dated 12/3/2020, and  
25 that is the only review letter on this application.

1 Go ahead, Mr. Koodray.

2 MR. KOODRAY: Great. Thank you.

3 DIRECT EXAMINATION

4 BY MR. KOODRAY (Cont'd):

5 Q. So Mr. Martin, as you can see, I think it's going  
6 to be a hot topic to sort of discuss the PowerPoint  
7 presentation that we prepared this evening.

8 A. Sure.

9 Q. Just really quickly, right, so during your prior  
10 testimony that you indicated that you made alterations to  
11 the property and you were under the impression, at least  
12 had a reasonable belief in your mind, that two-family uses  
13 were permitted in your neighborhood, in your zone?

14 A. That's correct, yes.

15 Q. And then really part of the purpose for the  
16 survey was to substantiate that, correct? I mean, you  
17 wanted to show the Board the other properties that you  
18 viewed as being two family within the same zone which your  
19 house is constituted?

20 A. That was the intent, yes.

21 Q. And as I indicated early on, you did prepare the  
22 photo survey that I've been speaking about yourself,  
23 correct?

24 A. That's correct, yes.

25 Q. And that's the -- what I'm referring to as the

1 So as far as witnesses go this evening, since I  
2 think I've probably spoken enough at this point, I'd like  
3 to, the plan is to recall Mr. Paul Martin first. Then I  
4 would like to recall briefly our architect, Mr. Ronald  
5 Meeks to talk because I felt there was a little bit of  
6 confusion as to what was actually done, so we tried to  
7 beef up our presentation in that regard to illustrate the  
8 modifications that were actually proposed and he can also  
9 talk to the modified parking layout plan.

10 And then for new witnesses, we have our real  
11 estate expert Mr. Joseph Signorella of Caldwell Banker  
12 Residential Brokerage and then our professional planner  
13 Mr. Kevin O'Brien, so that would be the order of testimony  
14 this evening.

15 MR. FRASER: That's why I felt we weren't going  
16 to reach Crossroads.

17 MR. KOODRAY: Well, maybe.

18 MR. FRASER: Call a witness, Josh.

19 MR. KOODRAY: All right. Fair enough.

20 So, Paul, I believe you're on.

21 THE APPLICANT: Yes, I am. And can you hear me?  
22 Can everybody hear me?

23 MR. KOODRAY: Mr. Fraser, Mr. Martin was  
24 previously sworn.

25 MR. FRASER: Mr. Martin, you're still under oath.

1 PowerPoint presentation, right?

2 A. Right. I took the photos that I had taken from  
3 the iCloud and put them in the PowerPoint.

4 MR. FRASER: I have a preliminary question  
5 (Voices overlap) about this thing because you just asked a  
6 question that raises my eyebrow. Is this PowerPoint  
7 presentation being presented to show the reasonableness of  
8 Mr. --

9 MR. KOODRAY: No.

10 MR. FRASER: Excuse me.

11 -- of Mr. Martin's belief and why he acted the  
12 way he did or is it being presented to constitute evidence  
13 of why this Board should approve it?

14 MR. KOODRAY: Perfect.

15 THE APPLICANT: I think Josh frozen.

16 MR. FRASER: Yeah.

17 MR. KOODRAY: Sorry. I had an internet flip for  
18 a second here, Mr. Fraser. Can you just repeat that?

19 MR. FRASER: Sure. Sure. My question was,  
20 because I just heard something that raised my eyebrows.

21 MR. KOODRAY: Okay.

22 MR. FRASER: His preparation about to be  
23 submitted justify Mr. Martin's belief that he somehow was  
24 allowed to do this or is it being submitted to establish  
25 that the Board should be approving (background Zoom

1 noise)--

2 MR. KOODRAY: It's not to justify his actions.  
3 There was testimony --

4 MR. FRASER: That's what it sounded like. Okay.

5 MR. KOODRAY: No, I didn't mean to phrase it like  
6 that, but there was testimony previously that he was under  
7 the impression and it's certainly not trying to as the mia  
8 culpa to say I did this because of X, Y, and Z. No. The  
9 purpose is to establish the other two-family  
10 characteristics essentially that are in the neighborhood  
11 and the zone.

12 MR. FRASER: Okay, because I just don't think  
13 that the basis of his impression is particularly relevant.

14 MR. KOODRAY: I would not disagree with that. I  
15 just wanted to clear up because that was the testimony  
16 prior.

17 BY MR. KOODRAY:

18 Q. So Mr. Martin you heard me describe basically  
19 (background Zoom noise) the process which formulated our  
20 OPRA request, so if you could just briefly explain to the  
21 Board how you conducted the photo survey, what you looked  
22 for, and then we can move on there from.

23 THE CHAIR REPORTER: I'm sorry to interrupt, but  
24 someone is banging papers or making noise and it's a  
25 little difficult to hear, so can you repeat your question.

1 let me try to revert back.

2 A. Okay. You can rehabilitate me.

3 Q. Sure. So Paul, if you walked past the house --

4 A. Yes.

5 Q. -- doing your canvas, did you walk, did you ride  
6 in your car, did you take your bicycle when you started  
7 doing this survey?

8 A. Okay. After I got the summons, I said, Well,  
9 look at all these two-family houses, I'm going to find out  
10 how many there are on my street and that's what I did. I  
11 went up and down the street and I made a little map and I  
12 indicated on my map which houses had two-family  
13 characteristics based on the fact that they -- you know,  
14 initially it was just that they had two mailboxes and then  
15 I got over time I got a little bit more sophisticated and  
16 I said, Well, I'm going to start looking for power meters,  
17 for doorbells, for, you know, gas meters, that sort of  
18 thing to make sure that there are actually, it was  
19 actually converted or it had -- it had two separate  
20 apartments based on the utilities.

21 Q. Based on your visual observation, correct?

22 A. That is correct. I obviously wasn't going to ask  
23 the homeowner. I just went up and down the street and  
24 occasionally one of the people, you know, asked me what I  
25 was doing and I said I was taking a survey and then I

1 Q. So Mr. Martin, you heard me explain that we  
2 utilized your photo survey to formulate a list for our  
3 OPRA request, correct?

4 A. That is correct, yes.

5 Q. Can you explain to the Board essentially how you  
6 conducted this survey, what did you look for, and really  
7 why did you take the pictures that are included in the  
8 PowerPoint?

9 A. Okay. So would it be appropriate at this point  
10 to share my screen to bring up the PowerPoint?

11 Q. I'd like you first just to talk about your  
12 process and then we can bring it up.

13 A. Okay. All right. Sure. Having lived in this  
14 neighborhood for a number of years and seeing on my side  
15 of the street, the north side of 2nd Avenue, as well as  
16 on the south side not knowing what the zoning was for each  
17 area or for any of the areas but seeing the prolific  
18 presence of two-family houses, I figured it's okay to do  
19 this conversion.

20 Q. Paul, again, that's --

21 A. Am I not answering the question?

22 (Voices overlap)

23 MR. FRASER: This is exactly my point,  
24 Mr. Koodray.

25 Q. That was not the road I was trying to go down, so

1 fully explained to them why I was taking the survey with  
2 regard to the summons.

3 MR. KOODRAY: So I would ask the Board at this  
4 point, are there any questions for Mr. Martin on his, I  
5 guess we'll call it methodology, for documenting these  
6 properties which, from a visual perspective, he deemed to  
7 have two-family characteristics before we move on to the  
8 PowerPoint? I'd like to just clear that up first, if  
9 possible?

10 MR. BARCAN: Could he repeat that then because I  
11 just want to hear it again?

12 MR. KOODRAY: Sure.

13 MR. BARCAN: Okay. So after I got the summons I  
14 went around my neighborhood and I looked for houses that  
15 had two mailboxes and then I decided, Well, I'm going to  
16 go not only on my street, but I'm going to go on 3rd  
17 Avenue because I knew there were a lot of two-family  
18 houses there as well and then just over time I continued  
19 to expand it and I looked at the zoning map north of North  
20 Avenue and I said I'm going to look at every house in this  
21 single-family zone to determine whether or not it has two  
22 mailboxes, two meters, two power meters, two electric  
23 meters, two gas meters and that sort of thing, and two  
24 doors. Many of them have A single door and a number of  
25 them have two doors.

1 BY MR. KOODRAY:

2 Q. And then we took that list that you created, that  
3 you formulated based on your visual observations and  
4 that's the list we submitted for OPRA records, correct?

5 A. That's correct, yes.

6 MR. KOODRAY: So Mr. Barcan, did that answer your  
7 question? Clarify?

8 MR. BARCAN: Yes, that's fine. Yes. Yes.

9 A. There's a caveat to the OPRA list. I mean, we  
10 did initially include every property that I visually,  
11 observed, you know, figured might be a two-family and I  
12 drew back some of those records because they were outside  
13 of the -- well outside of the scope. I mean 4th Avenue,  
14 some of them and that sort of thing so we don't have  
15 records for every single house that I visually observed as  
16 a two-family, but all of those houses that I observed and  
17 took pictures of are in the PowerPoint.

18 MR. KOODRAY: Fair enough. If there are no  
19 further questions on that, I think maybe it would make  
20 sense now to bring up the slide deck?

21 MR. FRASER: Briefly.

22 THE APPLICANT: I'm going to share my screen.

23 MR. KOODRAY: Hold on one second. I think  
24 Mr. Fraser had a question for you.

25 MR. FRASER: I just wanted to clarify and recap.

1 this map accordingly.

2 Q. Now, Paul, just before you begin, you noted you  
3 have properties noted -- go back to that first slide if  
4 you could?

5 A. Yes.

6 Q. You have properties noted, I guess we'll call it  
7 to the southern side of 2nd Avenue and the eastern side of  
8 Oak and that yellowish band, that's the two-family zone.  
9 Those properties were not included in this photo survey,  
10 correct?

11 A. That's correct, yes.

12 Q. I just wanted to clarify that.

13 A. Good point.

14 Q. Okay. You can proceed.

15 A. So the slide deck is going to show Garwood zone  
16 block 101 through 108 and 201 through 206. The  
17 multifamily usage was determined visually by the number of  
18 entrances, the number of doorbells, the number of  
19 mailboxes, power meters, and gas meters. And when I  
20 didn't have visual certainty, meaning that these things,  
21 you know, in total didn't indicate that they were  
22 two-family units, I didn't count them. I did not include  
23 those pictures.

24 So here, this is the first set that I will show.  
25 It's block 101 through 108 and the total count of two

1 Now I'm on screen share. Can I still be heard?

2 Clarify and recap what we're about to do then or  
3 see is Mr. Martins has made, Mr. Martin, excuse me, has  
4 made personal observations of houses that had two  
5 mailboxes, two doorbells, two doors, and/or two meters.  
6 He made a list of those that he suspected might be two  
7 families and he made an OPRA request pertaining to records  
8 of those houses. Is that a fair summary, Mr. Koodray?

9 MR. KOODRAY: I would say that's a fair summary,  
10 Mr. Fraser.

11 MR. FRASER: Okay. And now we're going to see  
12 the results of those OPRA requests which the Applicant is  
13 then going to argue means that some of those houses are  
14 two-family, right?

15 MR. KOODRAY: Well, I'm not going to rely solely  
16 on. There are records that back up some of that, but  
17 essentially there's two-family characteristics that were  
18 observed, records were requested, and that's where we're  
19 going.

20 MR. FRASER: Fine. All right. Then I think you  
21 should show your screen share. Go ahead.

22 A. Can everybody see my screen with the zoning map?  
23 So I'm going to go through the PowerPoint. So this zoning  
24 map, the properties with the lots with the numbers on them  
25 were the houses that I observed and I entered them into

1 families is 20 out of 157 lots, so that's 13 percent and I  
2 also looking at the tax records, you know, on the Garwood  
3 website, I determined that 52 percent of those were  
4 Garwood resident-owned. There's a multifamily apartment  
5 dwelling in block 108 and that's the big lot. I don't  
6 know if you can see my cursor moving right where the 108  
7 is, that's labeled 320. That's on 2nd Avenue. That's the  
8 senior housing. So I also quantified which houses had the  
9 highest count of two-family house and lots 107 and lots  
10 108 were the ones that had the highest amount.

11 MR. FRASER: Am I on mute? Hold on.

12 MR. KOODRAY: No, we got you, Don.

13 MR. FRASER: Okay. So I think this now goes back  
14 to Mr. Vinegra's prior point. Is Mr. Martins (sic)  
15 qualified to say that these are two families? I don't  
16 know how he's qualified to say that. I think he's  
17 qualified to say I observed on these houses two doorbells  
18 or two doors or two meters, two mailboxes, but I think he  
19 is not qualified to opine that they are two families  
20 unless you want to somehow qualify to render that opinion,  
21 Mr. Koodray.

22 MR. KOODRAY: No. I think what we should right  
23 now is rely on the two-family characteristics. There are  
24 properties which we will get to that have been confirmed  
25 as two families, and that's through OPRA response records

1 so I don't think Mr. Martin needs to be qualified as an  
2 expert to essentially read a certificate of nonconformity  
3 resolution or some other CCO.

4 MR. FRASER: I agree with that, but isn't he  
5 conflating it all together, Mr. Koodray.

6 MR. KOODRAY: I think the term two-family  
7 residence is being used in its broadest sense right now so  
8 I would like to clarify that the presentation deck is  
9 being utilized to show homes that Mr. Martin personally  
10 observed as a resident of Garwood, someone who's lived in  
11 that neighborhood for a number of years at this point to  
12 have physical characteristics that he visually inspected  
13 himself of a two-family home. If that's a fair way to --

14 MR. FRASER: I think he's qualified to testify  
15 that he saw two doors, two doorbells, two mailboxes, two  
16 meters, but he is not qualified under he's got one where  
17 he's got a document that says it, how is he qualified to  
18 say it's a two-family?

19 MR. KOODRAY: Well, based on the visual  
20 inspection, I would agree --

21 MR. FRASER: You could have a one family -- you  
22 could have a one family that has two meters. You could  
23 have a one family that had two door bells.

24 MR. KOODRAY: You could.

25 MR. FRASER: He can't just say that's a

1 neighborhood and seeing, particularly 540, with two doors  
2 and it looked like it was fairly newly done and I said,  
3 Well, I got to look up here two. Obviously two doors, two  
4 mailboxes.

5 And then looking a little further to the  
6 northwest, right towards the Westfield line I noticed  
7 these two houses, this has two mailboxes. 546 also has  
8 two mailboxes.

9 Q. And then Mr. Martin just if you could, before you  
10 get too into it, just as a housekeeping matter,  
11 approximately when did you take these photographs?

12 A. So after I got the summons starting in June I  
13 took them over, you know, I took them over a number of  
14 months because I refined my technique as I went along.

15 Q. So beginning in June 2020; is that right?

16 A. That's correct, yes. And you know, I didn't want  
17 to be obtrusive. I didn't want to bother people so I  
18 wasn't going to go looking through the bushes to see if  
19 there were two power meters. To me, in many instances  
20 having two mailboxes even with a single door was  
21 sufficient.

22 Q. Mr. Martin, we already stipulated, hearkening  
23 back to my colloquy with Mr. Fraser, that this is truly  
24 just based on, at this point, right, your visual  
25 observations so what I would do is because there are

1 two-family based on the fact that it's got two doorbells.

2 MR. KOODRAY: But I would say, Mr. Fraser, he can  
3 say that there's indicia of a two-family use based on  
4 those physical characteristics. That's what I would --  
5 MR. FRASER: If that -- if that's what he wants  
6 to say, that's fine. He was saying a little more than  
7 that.

8 MR. KOODRAY: Okay.

9 MS. BIANCO: I have a question.

10 BY MR. KOODRAY:

11 Q. So, Mr. Martin, you understand the distinction,  
12 correct?

13 A. Yes, I do. And to be honest with you, I was  
14 using the term loosely, not as an expert, but fully and  
15 only as Mr. Koodray has indicated based on the visual  
16 observations that I had made. It's not a conclusory  
17 statement.

18 MR. KOODRAY: And if there are records that  
19 indicate that there is a two-family use, we will highlight  
20 those as the presentation goes on.

21 MR. FRASER: Okay.

22 A. So starting with block 101, without the map it's  
23 kind of hard to figure out where these houses are, but  
24 this is in the northwest corner as it were of the Garwood  
25 town line, borough line, and I was just riding through the

1 several slides here, what I would recommend and certainly  
2 anyone from the Board can ask me questions about specific  
3 properties, but just highlight the visual characteristics  
4 that you viewed on each property and then we could move  
5 through the presentation deck.

6 A. Okay. Very good. Thank you. Sorry for the  
7 delay.

8 Q. No.

9 A. So here, this is on Maple. There's one house  
10 with two doors and on the north side of the house is two  
11 power meters. Here, this is the small cul-de-sac block on  
12 4th Avenue, to the westmost area part of the 4th Avenue.  
13 There's two doors. There's a single mailbox, but two  
14 doors indicating to me that it had the characteristics of  
15 more than one, more than being is a single-family.

16 And here we're heading a little further south now  
17 on to the --

18 MR. FRASER: All right. For the record -- excuse  
19 me. For the record, just saying heres and changing pages,  
20 that's never going to work for the record.

21 THE APPLICANT: I'm sorry.

22 THE CHAIR: I'm just going to suggest -- let's  
23 just either use block and lot numbers or the addresses and  
24 then -- you're doing it just fine, Mr. Martin, but as we  
25 skip each page if we just say here's this and here's that,



1 that's not going to read well.

2 So you just testified 213 Maple Street and 317  
3 4th Avenue. You identified the two doors on 213 Maple  
4 Street and the power meters. You identified the two doors  
5 on 317 4th Avenue and now why don't you go to the next.

6 MR. KOODRAY: Can I just make one suggestion,  
7 Mr. Fraser, because I think the pages in our packet are  
8 actually numbered, correct, Paul, and then the address as  
9 Mr. Fraser indicated just so everything is clear.

10 THE APPLICANT: Okay. Sure.

11 MR. CAPOBIANCO: Can I say something a second?

12 THE CHAIR: Go ahead.

13 MR. CAPOBIANCO: So 317 4th Avenue, that's not  
14 two doors. That's a single double opening door into the  
15 property, so that's not two separate doors for a first and  
16 second floor. It doesn't look at all to me to be that.  
17 It's just a large double opening front door.

18 (Voices overlap)

19 MR. FRASER: But that goes, Ken, excuse me, to  
20 the credibility of the witness and his conclusions. I see  
21 what you're saying let him make his testimony and then  
22 we'll ask him questions.

23 THE CHAIR: Right, let's go through this.

24 MS. VILLAGIO: I have questions myself, but I'm  
25 going to wait.

1 Moving on to slide No. 9, 454/456, this is a unit  
2 with two doors and two mailboxes, Block 107, Lots 19 and  
3 20.

4 Also on Block 107, lots 17 and 18 at 450/452 2nd  
5 Avenue, I observed two doors and two mailboxes.

6 Slide 10, 444/446 2nd Avenue, Block 107, Lot 16,  
7 two doors I observed. 440 2nd Avenue, Block 107, Lot 15,  
8 I observed two doors -- I mean, two mailboxes. I'm sorry.

9 428 2nd Avenue, Block 107, Lot 12, I observed  
10 three mailboxes there.

11 Slide No. 11, on 210 Walnut Street, Block 108,  
12 Lot 23, I observed two doors and two mailboxes. 307 3rd  
13 Avenue, Block 108, Lot 19, I observed two doors and one of  
14 them had a mailbox.

15 Slide number 12, 358 2nd Avenue, Block 108, Lot  
16 21, I observed two doors and two power meters. 356 2nd  
17 Avenue, Block 108, Lot 20, I observed two doors, two  
18 mailboxes and two power meters.

19 Also on 358 I observed two mailboxes. 352 2nd  
20 Avenue, Block 108, Lot 19, I observed single door and two  
21 mailboxes.

22 Slide 15, 419 Oak Street, Block 201, Lot 7, I  
23 observed -- you can see in the far left of that photo two  
24 power meters and the reason why the photo is spread like  
25 it is is to include 439 in -- 419 in the single photo with

1 MS. BIANCO: I have questions.

2 MR. FRASER: But let him get his testimony out  
3 and then to the extent you want to challenge any of the  
4 statements, there'll be opportunities.

5 THE CHAIR: And while we're at a pause here, let  
6 me just make a broad announcement again about 78 North  
7 Avenue not being heard tonight. It will not be heard  
8 until April 28. If anybody from the public is waiting for  
9 this Applicant to be over with, we will not be hearing 78  
10 North Avenue tonight. Thank you.

11 MR. FRASER: So everybody understands, 78 North  
12 Avenue is Crossroads.

13 THE CHAIR: Thank you, Don.

14 If you like, carry on, please.

15 A. So that was Slide 6 that we just looked at.

16 Slide 7 has 448 3rd Avenue, Block 104, Lot 33. I  
17 observed two mailboxes and two power meters.

18 412 and 414 is a unit with two separate doors on  
19 3rd Avenue, Block 104, Lot 23. I observed two doors and  
20 two mailboxes.

21 Slide 8 includes 443 3rd Avenue, Block 107, Lot  
22 6. I observed two mailboxes and two power meters.

23 429 3rd Avenue, Block 107, Lot 8, I observed two  
24 power meters and two -- I think that's two, yeah, two  
25 power meters.

1 both the house number and the indicia of multifamily use  
2 or two-family use or whatever use.

3 So then 99 Oak Street across the street, Block  
4 202, Lot 1, I observed two power meters and a single door  
5 and two mailboxes.

6 422 Oak Street, Block 202, Lot 20, this is Slide  
7 16, I observed two mailboxes, single door. 416 Oak  
8 Street, Block 202, Lot 19, I observed --

9 MR. NIERSTADT: Mr. Chairman?

10 THE CHAIR: Yes.

11 MR. NIERSTADT: The information that I picked up  
12 from borough hall, it appears to me you skipped two pages.

13 THE APPLICANT: Oh, yeah, I did because this  
14 shows the zoning map and this was my representation of  
15 which blocks had the highest percentage amongst the units  
16 of what I'm calling two-family indicia.

17 MR. NIERSTADT: The reason I asked the question  
18 is because obviously this is the second area. Obviously  
19 the previous map showed the area to the east of Cedar  
20 Street. I apologize. West of Cedar Street. Now we're  
21 looking east of Cedar Street and I did have one question  
22 on that chart. Could you pull that chart back up?

23 THE APPLICANT: This one?

24 MR. NIERSTADT: Can you explain to me number one  
25 and number three on there. Number one it says 37 lots out

1 of 143 and then number three has 62 lots out of 190. Can  
2 you explain to me the difference in 143 and 190.

3 THE APPLICANT: So you will see the superscripts  
4 they are indicating -- so going back to the map, so Block  
5 206 right here, you can see my cursor moving?

6 MR. NIERSTADT: Yes.

7 THE APPLICANT: So in this statistical  
8 representation or this graph representation the 206 block  
9 has been included and so to count the entire block,  
10 although the two-family zone is irrelevant so it -- there  
11 was no indented misrepresentation here with regard to --

12 (Phone ringing)

13 THE APPLICANT: And I'm hearing an echo.

14 MR. NIERSTADT: Not my phone.

15 THE APPLICANT: Could someone go to mute here?

16 MR. NIERSTADT: I think Steve Barcan got it. Go  
17 ahead.

18 THE APPLICANT: All right. So there was no  
19 attempted misrepresentation by including this two-family  
20 zone here. So if you look at the 37 lots --

21 MR. NIERSTADT: Can I rephrase the question?

22 THE APPLICANT: Yeah.

23 MR. NIERSTADT: So are you saying to me -- go  
24 back to the zone map.

25 THE APPLICANT: Right.

1 presentation, but we would stipulate, Mr. Nierstadt, that  
2 we would strike that statistic.

3 MR. NIERSTADT: Okay. Thank you very much. I  
4 appreciate that. That really threw me off.

5 THE APPLICANT: Sorry. I didn't go over this  
6 slide because Mr. Fraser indicated that -- I didn't want  
7 to get into -- I'm not pretending to be an expert.

8 MR. KOODRAY: Mr. Martin, it's okay. You already  
9 answered Mr. Nierstadt's question.

10 MR. NIERSTADT: Mr. Martin, I am not in any way,  
11 shape, or form going there. I think it's at leave for you  
12 to know we do read what you submit. I did read this and I  
13 went through it and I said I don't get that, so I  
14 appreciate it. I'm just going to take out number three.  
15 I'm going to assume, then, if you look at number four, on  
16 that same chart, okay, that 33 percent, that 33 percent  
17 two-family use, 33 percent of what?

18 THE APPLICANT: I indicated here that the 38 --  
19 so the two represents the inclusion of the two-family  
20 zone. The one only refers to the single-family zone.

21 MR. NIERSTADT: Okay. And so what does number  
22 four refer to?

23 THE APPLICANT: That includes this whole area in  
24 the 207. Hold on a second.

25 MR. NIERSTADT: Now I understand.

1 MR. NIERSTADT: You're trying not to include, as  
2 your attorney indicated earlier --

3 THE APPLICANT: Yes.

4 MR. NIERSTADT: -- properties that are actually  
5 within the two family zone, correct?

6 THE APPLICANT: Could you rephrase that?

7 MR. NIERSTADT: Understood. Understood. No  
8 problem. Let me cut to the chase. What's the difference  
9 between the total of 190 and the difference of 143, what  
10 did you take out?

11 THE APPLICANT: So 62 lots out of 190 -- okay, so  
12 37 lots and 143, that excludes the two-family zone. So  
13 it's the number to think about is in one and two, so 37  
14 lots out of 143, those are numbers that are in the  
15 single-family zone. If you drop out the lots that are in  
16 the two-family zone, that's leaving 143.

17 MR. NIERSTADT: MR. Martin, can we just cross out  
18 number three then; that is not applicable? Include the  
19 two family zone in number three, right?

20 THE APPLICANT: Yes.

21 MR. NIERSTADT: So can we just cross it out and  
22 not even look at that?

23 THE APPLICANT: Yeah, we'll just leave it like  
24 this.

25 MR. KOODRAY: Paul, there's no need to modify the

1 THE APPLICANT: 205 and -- okay.

2 MR. NIERSTADT: I now understand what you did and  
3 I appreciate that.

4 MR. FRASER: I'm going to -- I'm going to -- I'm  
5 going to make a suggestion. It seems to me, Mr. Koodray,  
6 that this document is changing. And that's not a  
7 criticism at all. But I appreciate that Mr. Martin in  
8 response to the question is editing the document as we go  
9 along. I don't think that's a good thing.

10 THE APPLICANT: No, I won't make any edits. I  
11 won't make any edits.

12 MR. FRASER: I'm just saying because I'm looking  
13 at the document now that I see the 37 lots out of 143, but  
14 the whole part about the 190 that Mr. Nierstadt was asking  
15 about is not on the screen now. It's been taken out of  
16 the document.

17 THE APPLICANT: No.

18 MR. NIERSTADT: No, it's still on the screen.  
19 Wait a second.

20 MR. FRASER: No, it's not.

21 MR. NIERSTADT: You are correct. I apologize.  
22 You are correct.

23 MR. FRASER: Paul, I'm going to suggest,  
24 Mr. Koodray, that we should leave in the record and on the  
25 screen the document that's in there. Mr. Nierstadt's

1 question goes really to the question of well, should we be  
2 discounting or viewing this is irrelevant the part about  
3 190 and the part about 33 percent, but let's leave the  
4 document as it is. Would you agree with me?

5 MR. KOODRAY: I agree. It was a fair question by  
6 Mr. Nierstadt. I think Mr. Martin answered it and then  
7 please, let's not edit the document.

8 MR. FRASER: That's all I'm saying. Let's not  
9 edit the document.

10 MR. KOODRAY: I agree.

11 THE APPLICANT: I apologize.

12 MR. KOODRAY: No, Paul, it's okay.

13 MR. FRASER: Mr. Martin, for a lay person, you  
14 are being very clear. Like I understand completely what  
15 you are saying. I understand completely what you did, but  
16 let's not change the document.

17 THE APPLICANT: Okay. So the only reason I  
18 included this here was to say that this section of 205 is  
19 forming the same kind of buffer zone as this section is  
20 206.

21 MR. FRASER: All right. Now, there, Mr. Koodray,  
22 that sounds like expert testimony. If he's going to opine  
23 as to the characteristics of a buffer zone --

24 MR. KOODRAY: Mr. Fraser.

25 MR. FRASER: -- I think he has to be qualified.

1 included where I observed a single door and two mailboxes.

2 Slide 19 shows 252 3rd Avenue, Block 202, Lot 33,  
3 where I observed two power meters and a single door.

4 244 3rd Avenue, Block 203, Lot 30, I observed a  
5 single door and two doorbells and two mailboxes.

6 Slide 20 shows 232 3rd Avenue, Block 203, Lot 28  
7 where I observed a single door and two gas meters. It  
8 also shows 230 3rd Avenue, Block 203, Lot 27, where I  
9 observed single door, two mailboxes and two doorbells.

10 Slide 21 includes 226/228 3rd Avenue, Block 203,  
11 Lot 26 where I observed two mailboxes. It also includes  
12 99 4th Avenue, Block 204, Lot 2, where I observed two  
13 power meters and two doorbells and a single door. It also  
14 includes 67 4th Avenue, Block 204, Lot 8, where I observed  
15 two power meters and two doors.

16 Slide 22 shows 92 3rd Avenue, Block 204, Lot 29,  
17 where I observed two single door, single mailbox and two  
18 power meters.

19 52 3rd Avenue is also on Slide 2, Block 204, Lot  
20 25 where I observed two mailboxes, single door and two  
21 power meters.

22 Slide 23 shows 20 3rd Avenue, Block 204, Lot 19,  
23 where I observed two mailboxes and two power meters. It  
24 also includes 18 3rd Avenue, Block 204, Lot 18, where I  
25 observed single door, two doorbells, two mailboxes and two

1 MR. KOODRAY: I have a professional planner who  
2 can testify --

3 MR. FRASER: Right.

4 MR. KOODRAY: -- to the buffer zone  
5 characteristics and the like.

6 So Paul, I know what you're trying to do, you're  
7 trying to answer the questions to the best of your  
8 ability, but if Mr. Nierstadt is satisfied with your  
9 answer and we're all clear now moving forward, I suggest  
10 we just continue with the presentation as to your visual  
11 observations.

12 THE APPLICANT: Thank you, Mr. Koodray, for  
13 circling me back around. Okay. Thank you. So I left off  
14 on Slide 16 and I'm going to Slide 17.

15 So Slide 17 shows 81 5th Avenue, Block 202, Lot  
16 4, who I observed two mailboxes and one door, 73 5th  
17 Avenue, Block 202, Lot 6. I observed two mailboxes and  
18 two doorbells and a single door.

19 70 4th Avenue, Block 202, Lot 13, I observed two  
20 mailboxes, two doorbells, and a single door.

21 Slide 18 shows 237 4th Avenue. It's shown as 239  
22 4th Avenue in the tax records. That's Block 202, Lot 10.

23 Also shown is 221 4th Avenue, Block 2003, Lot 13  
24 where I observed two mailboxes and a single door.

25 217 4th Avenue, Block 203, Lot 15 is also

1 power meters.

2 Slide 23 also includes 16A and 16B 3rd Avenue,  
3 Block 204, Lot 17 where I observed two doors, two  
4 mailboxes and a doorbell for each door.

5 Slide 24 shows 206 Cedar Street, Block 205, Lot 1  
6 where I observed two mailboxes and a single door.

7 It includes also 259 3rd Avenue, Block 205, Lot 2  
8 where I offered two doors and two mailboxes. It includes  
9 249 3rd Avenue, Block 205, Lot 4, where I observed two  
10 mailboxes and two doorbells.

11 Slide 25 shows 235 3rd Avenue, Block 205, Lot 6  
12 where I observed two doors and four mailboxes.

13 229 3rd Avenue is also shown, Block 205, Lot 7  
14 which includes single door, two doorbells, and two  
15 mailboxes.

16 Slide 26 shows 225 3rd Avenue, Block 205, Lot 9  
17 where there's two mailboxes and a single door and what  
18 looks like two doorbells.

19 It also includes 223 3rd Avenue, Block 205, Lot  
20 10. I observed two doorbells, single door, and two power  
21 meters.

22 Slide 27 shows 217 3rd Avenue, Block 205, Lot 12,  
23 single door and two power meters. Included is house  
24 number 209 3rd Avenue, Block 205, Lot 14, where it's two  
25 doors, two mailboxes, and two power meters.

1 Slide 28 shows three properties, 270 2nd Avenue,  
2 Block 205, Lot 33, with two doorbells and two mailboxes.  
3 It also shows 258 2nd Avenue, Block 205, where I observed  
4 two mailboxes and two doorbells. It includes 256 2nd  
5 Avenue, Block 205, Lot 31 with two doorbells, a single  
6 mailbox, and two power meters.

7 Slide 29 shows 252 2nd Avenue, Block 205, Lot 29,  
8 two mailboxes and two doorbells.

9 It includes 248 2nd Avenue, Block 205, Lot 28  
10 where I observed a single door, two doorbells and two  
11 mailboxes. It also includes 242 2nd Avenue, Block 205,  
12 lot 26 which is the subject property which includes two  
13 mailboxes and a single door.

14 Slide 30 shows 236 2nd Avenue, Block 205, Lot 23  
15 with two mailboxes and a single door. It includes also  
16 224/226 2nd Avenue where I observed two mailboxes and  
17 actually three mailboxes and two doors. It includes 218  
18 2nd Avenue, Lot 205, Lot 18 with two mailboxes and two  
19 power meters.

20 Slide 31 shows 83 3rd Avenue, Block 206, Lot 4,  
21 with two mailboxes and a single door. It includes 55 3rd  
22 Avenue, Block 206, Lot 10 where I observed two power  
23 meters and a single door, single mailbox. It includes 49  
24 3rd Avenue, Block 206, Lot 11, where I observed two power  
25 meters -- yeah, two power meters and a single door.

1 Avenue, some on 2nd Avenue, half of the RB zone and into  
2 the single family zone.

3 So I looked at your spreadsheet that you sent us  
4 and there's approximately more than half of them were --  
5 switched, so what I'm basically saying is when they were  
6 built it was okay but now it's not.

7 THE CHAIR: Kathy, I have a question for you, and  
8 that is that was part of the master plan that we did back  
9 in 2011, correct?

10 MS. VILLAGIO: Nine, yes.

11 THE CHAIR: 2009.

12 MS. VILLAGIO: In 2009.

13 THE CHAIR: As part of that development, that you  
14 were an integral part of, that whole procedure and process  
15 was open to the public for months to get input and to get  
16 reflection on what our public, our townspeople, would like  
17 it see in an adjusted master plan, correct?

18 MS. VILLAGIO: Yes.

19 THE CHAIR: Okay. So the bottom line, Mr. -- I'm  
20 sorry. You had said that you moved into Garwood in 2005?

21 THE APPLICANT: Yes, sir, that's correct.

22 THE CHAIR: Okay. All right. I just wanted to  
23 make that clear. Thank you.

24 MR. KOODRAY: And I do think --

25 MALE VOICE: I have a question.

1 Slide 31 has 41 3rd Avenue, Block 206, Lot 13,  
2 where I observed two mailboxes, two doorbells, two power  
3 meters, and a single door.

4 It includes 39 3rd Avenue, Block 206, Lot 14,  
5 where I observed two doors.

6 It includes 17 3rd Avenue, Block 206, Lot 18  
7 where it includes two power meters and a single door.

8 Slide 33 shows, if you can hear my cat, I  
9 apologize, so slide 33 shows 15 3rd Avenue, Block 206, Lot  
10 19 with two power meters and a single door. It also shows  
11 219 Gallows hill Road, Block 206, Lot 23 with two doors  
12 and that's it.

13 THE CHAIR: Thank you.

14 MS. VILLAGIO: I have a question after Steve.

15 THE CHAIR: Go ahead.

16 MS. VILLAGIO: Thank you, Mr. Martin, for your  
17 work in this, but I noticed that one of the properties  
18 that you indicated that shows that it may be a two-family  
19 is my next door neighbor and it definitely is not a  
20 two-family.

21 But the point that I will make is that a number  
22 of these properties were in the RB zone in 2010, but then  
23 when we had a new zoning map, which was dated October 4 of  
24 2011, we switched those zones which made those, which took  
25 into consideration the two families that were on 3rd

1 MR. KOODRAY: Just briefly if I can. Sorry. I  
2 just wanted to thank Ms. Villagio for the statement and  
3 Mr. O'Brien would be able to address that comment when he  
4 testifies, so I just wanted to put that on the record.

5 MS. VILLAGIO: Okay.

6 MR. FRASER: Yeah, I was actually going to agree  
7 with that, Mr. Koodray. I mean, right now Mr. Martin is  
8 providing factual testimony. Ms. Villagio's point is  
9 right on the mark, but that seems really to be something  
10 that would be addressed more to the Applicant's planner.  
11 The Applicant has provided --

12 MS. VILLAGIO: I'm sorry.

13 MR. FRASER: No, no, not at all, Kathy, but the  
14 Applicant has provided factual testimony of what he  
15 observed, but he's not the planner. So I'm going to  
16 suggest, Mr. Koodray, that you proceed with any other  
17 fact-based testimony you want to elicit from Mr. Martin  
18 and then when that's concluded, we can cross-examine  
19 Mr. Martin as appropriate and then do your next witness.

20 MR. KOODRAY: Perfect. Thank you, Mr. Fraser.

21 BY MR. KOODRAY:

22 Q. So Mr. Martin, thank you for taking us through  
23 that and I understand it was a little tedious to do that,  
24 but I think it was important to at least get your  
25 observations on the record, so thank you for that. And I

1 thank the Board for its patience and indulgence. I  
 2 understand it's a bit of a long haul in that, so okay.  
 3 Those were your visual observations, correct?  
 4 A. Yes.  
 5 Q. And then --  
 6 A. Can I stop sharing my screen now?  
 7 Q. Unless the Board would like to see the images?  
 8 A. Very good.  
 9 Q. So those were your visual observations. I would  
 10 like to highlight a few of the properties, if we could.  
 11 So did you submit as part of the OPRA request that we  
 12 prepared, did we seek records for 550 4th Avenue, which is  
 13 Block 101, Lot 2?  
 14 A. Yes, we did.  
 15 Q. And can you say just, still testifying as a  
 16 layman, on your review of the records, what did they show?  
 17 A. I don't have the records in front of me, but I  
 18 could go to those.  
 19 Q. If you want to bring up the spreadsheet it might  
 20 help as a reference tool.  
 21 A. Okay.  
 22 MR. FRASER: Josh, you can also lead.  
 23 MR. KOODRAY: If you give me the indulgence, I  
 24 would.  
 25 MR. FRASER: This is not a court of law. Go

1 Q. So 546 4th Avenue, Block 101, Lot 3, we don't  
 2 have a certificate of nonconformity, correct, Mr. Martin?  
 3 A. That is correct.  
 4 Q. But you do recall seeing permit 101-3 and permit  
 5 106-224 which note two-family uses?  
 6 A. Yes, I do recall that.  
 7 Q. For 540 4th Avenue, Block 101, Lot 4, do you  
 8 recall reviewing certificate of nonconformity issued for  
 9 planning board application 10-7?  
 10 A. Yes, I do.  
 11 Q. And that would be a legal two-family dwelling  
 12 based on that document, is that your understanding?  
 13 A. That's my understanding, yes.  
 14 Q. Do you recall reviewing the response for 448 3rd  
 15 Avenue -- Block 104, Lot 33?  
 16 A. Yes.  
 17 Q. Do you recall seeing permit 08-058 which notes a  
 18 two-family use?  
 19 A. Yes, I do.  
 20 MR. FRASER: Josh, do you want to just make a  
 21 proffer here?  
 22 MR. KOODRAY: I would, if you would indulge me,  
 23 Mr. Fraser.  
 24 I'm going to read the following block and lot  
 25 numbers to indicate whether or not there was a responsive

1 ahead.  
 2 MR. KOODRAY: I appreciate it, Mr. Fraser.  
 3 Q. So 550 4th Avenue, Block 101, Lot 2, the OPRA  
 4 response produced a certificate of nonconformity  
 5 application. Do you recall seeing that?  
 6 A. Yes, I do.  
 7 Q. And for 546 4th Avenue, Block 101, Lot 3, do you  
 8 recall seeing permits specifically permit 101-3 and permit  
 9 106-224 that note the two-family use on that one?  
 10 A. Yes, I did. I do recall that. Could you be sure  
 11 to include the distinction between 540 and 546 where the  
 12 permit --  
 13 Q. I didn't got 540 yet, but let me just back up to  
 14 clarify. So 550 4th Avenue, which is Block 101, Lot 2, do  
 15 you recall seeing as part of the OPRA request a  
 16 certificate of nonconformity and planning board  
 17 application 17-04?  
 18 A. That is correct, I do recall that.  
 19 Q. And the status, and I'm certainly no expert, but  
 20 I would say based on that, Mr. Fraser, we would submit  
 21 that would be a legal two-family dwelling, based on that  
 22 document?  
 23 MR. FRASER: The whole point of a certificate of  
 24 nonconformity.  
 25 MR. KOODRAY: Thank you.

1 record that we feel establishes the use of that property  
 2 as a two-family in one way or another. If that's  
 3 acceptable, Mr. Fraser.  
 4 MR. FRASER: Well, make the proffer. Let's hear  
 5 it.  
 6 MR. KOODRAY: OPRA response for 428 2nd Avenue,  
 7 Block 107, Lot 12, has a zoning board approval to  
 8 construct a two-car garage that notes the use of the home  
 9 as an existing two-family.  
 10 MR. BARCAN: Where is this?  
 11 MR. KOODRAY: Application No. 9304.  
 12 MR. FRASER: Josh, you're representing as an  
 13 attorney that you've reviewed the OPRA response and that's  
 14 what came back?  
 15 MR. KOODRAY: Correct.  
 16 MR. FRASER: Okay.  
 17 THE CHAIR: Mr. Fraser, just to let you know,  
 18 some of us have that document in front of us and so far  
 19 everything you're saying is on this document.  
 20 MR. FRASER: I mean, I have no doubt that  
 21 Mr. Koodray is going to --  
 22 THE CHAIR: No, no, I didn't mean that. I just  
 23 wanted to let you know it's a full page document with all  
 24 these addresses.  
 25 MR. FRASER: Right, but the point is I don't

1 think we need Mr. Martin to personally read back into the  
2 record what the OPRA response is for what's probably going  
3 to be another 30 houses. That's crazy.

4 MR. KOODRAY: Well, it's 26, but if you would  
5 indulge me, Mr. Fraser, it's 8:50, I certainly understand  
6 that, but I want to get that into the record and at least  
7 clarify so if we can't expedite it, I can read the  
8 relevant properties that we feel have a legal document,  
9 we'll call it, associated with their use.

10 MR. FRASER: How about you submit that in  
11 writing, Josh?

12 MR. KOODRAY: We haven't submitted the list, but  
13 I have submitted the entire OPRA, correct.

14 MR. FRASER: You have not submitted the list?

15 MR. KOODRAY: I have not submitted the list of 26  
16 out of 58 properties, but I can highlight them and they  
17 are all included in the spreadsheet.

18 MR. FRASER: Proceed how you wish, but I'm going  
19 to suggest that some of it could be done in a summary  
20 fashion. I mean, you've made the point. Your client is  
21 going to testify. You want to get to your expert.

22 MR. KOODRAY: Sure.

23 MR. FRASER: And if we do it this way you're not  
24 going to get to your expert.

25 MR. KOODRAY: Okay. Then I will -- I'm going to

1 39 3rd Avenue, Block 206, Lot 14.

2 20 3rd Avenue, Block 204, Lot 19.

3 18 3rd Avenue, Block 204, Lot 18.

4 17 3rd Avenue, Block 206, Lot 18.

5 And that concludes the list.

6 So Mr. Fraser, again, just to be clear, those  
7 properties have some document associated with them,  
8 whether it be a planning board resolution, a zoning board  
9 resolution or a permit that notes a two-family use, so I  
10 will just indicate that and it's all reflected on the  
11 spreadsheet and the backup record that we submitted.

12 MR. FRASER: So then my only question about that  
13 would be are those all presently legal two-families?

14 MR. KOODRAY: Based on the records which we were  
15 tasked to request from the Board, that's what we could  
16 tell but Mr. Martin's visual observations and the OPRA  
17 responses that came back to our requests, that's what we  
18 have.

19 MR. VINEGRA: I'm going to have to dispute that.  
20 I don't see evidence at all for 21 lots in this zone being  
21 legal two-families. I do see the evidence for seven. Not  
22 for 21. Just because a construction department issues a  
23 permit and notes on the permit two-family use, the  
24 Construction Department of the City of Cranford does not  
25 look into the particular use. They will give you a permit

1 do this, Mr. Fraser, I'm just going to note the block and  
2 lots for the record and then we can indicate that the  
3 responses are included in the spreadsheet and also the  
4 hard copy backup data that we provided.

5 MR. FRASER: That seems like a reasonable way to  
6 proceed.

7 MR. KOODRAY: Fair. Thank you.

8 So it's 352 2nd Avenue -- just to continue -- 352  
9 2nd Avenue, Block 108, Lot 19.

10 307 3rd Avenue, Block 108, Lot 10.

11 258 2nd Avenue, Block 205, Lot 31.

12 252 3rd Avenue, Block 203, Lot 33.

13 244 3rd Avenue, Block 203, Lot 30.

14 230 3rd Avenue, Block 203, Lot 27.

15 226-228 3rd Avenue, Block 203, Lot 26.

16 218 2nd Avenue, Block 205, Lot 18.

17 217-219 3rd Avenue, Block 205, Lot 12.

18 213 Maple Street, Block 106, Lot 6.

19 210 Walnut Street Block 108, Lot 23.

20 206 Cedar Street, Block 205, Lot 1.

21 92 3rd Avenue, which is Block 204, Lot 29.

22 83 3rd Avenue, Block 206, Lot 4.

23 54 3rd Avenue, which is Block 204, Lot 26.

24 52 3rd Avenue, Block 204, Lot 25.

25 49 3rd Avenue, Block 206, Lot 11.

1 for a hot water heater and it says two family. It does  
2 not substantiate that it's a two family. So just because  
3 you get a permit for a hot water heater or a meter from a  
4 construction department does not substantiate the  
5 conformity of that structure.

6 MR. KOODRAY: And Mr. Vinegra, can I just ask one  
7 question, Mr. Fraser?

8 MALE VOICE: Go ahead.

9 MR. KOODRAY: After like a hot water heater,  
10 utility meter was installed on a property, would that be  
11 inspected by the Cranford Building Department after it's  
12 completed?

13 MR. VINEGRA: Yes, yeah.

14 MR. KOODRAY: And then --

15 MR. VINEGRA: It's inspected by --

16 MR. KOODRAY: I'm asking you if it wasn't a  
17 two-family, meaning the permit was incorrect, would that  
18 be corrected in the record?

19 MR. VINEGRA: No. What they do, I can call  
20 public service today, tomorrow morning, and get a second  
21 meter put on my house. I don't need to prove anything. I  
22 can then go -- I can go to Cranford Construction  
23 Department and pull out a separate permit for electrical  
24 sub panel with a separate meter. They will issue the  
25 permit. The person who signs the permit is the electrical

1 inspector. He is not an expert in land use. He just  
2 notes how the structure is being utilized. He doesn't  
3 know the difference of an illegal two family or illegal 10  
4 family. He will just note on the permit two-family  
5 utilization. They don't substantiate.

6 We have taken measures over the last couple of  
7 years now to make sure that permit is signed by a zoning  
8 officer. In the past, it was not signed by a zoning  
9 officer.

10 MR. KOODRAY: Just to clarify, all the permits  
11 that I cited weren't signed by a zoning officer, in your  
12 opinion?

13 MR. VINEGRA: You just put up 21 lots. I didn't  
14 double-check.

15 MR. KOODRAY: Well, you just said almost all of  
16 them weren't, so I just wanted to --

17 MR. VINEGRA: Okay. Also in your evidence you  
18 have apartment buildings you're listing as two-families  
19 and they are multifamily apartments.

20 MR. KOODRAY: It's multifamilies, I would agree  
21 with that.

22 MR. VINEGRA: Okay. So you're listing them as  
23 two families.

24 THE APPLICANT: They were not included in this  
25 analysis.

1 MR. FRASER: Yes, the question is, Mr. Koodray,  
2 are you done with your examination of Mr. Martin?

3 MR. KOODRAY: There were just a couple of points  
4 that I wanted to clean up from the prior testimony after  
5 reviewing the transcript. Very brief.

6 MR. FRASER: All right.

7 BY MR. KOODRAY:

8 Q. So Mr. Martin, if you could, can you just confirm  
9 for the Board that your home is not being currently taxed  
10 as a two-family dwelling?

11 A. 242 is not presently being taxed as a two-family  
12 dwelling.

13 Q. And then we did seek, as many of the Board  
14 members asked questions, rather, records regarding any  
15 addition that may or may not have been done to the subject  
16 property. And that response came up with no relevant  
17 records; is that accurate?

18 A. That is correct, yes.

19 Q. During the testimony at the prior hearing you  
20 indicated that you would be open to a condition if the  
21 Board were to approve this application regarding parking  
22 restrictions. Do you remember that?

23 A. Yes, I do.

24 Q. Okay. And specifically, a condition related to  
25 the garage being utilized only for car parking; is that

1 MR. KOODRAY: Paul.

2 MR. FRASER: Excuse me.

3 THE APPLICANT: I'm sorry.

4 MR. FRASER: We're delving into argument here and  
5 what we're really --

6 MR. VINEGRA: Well, I'm just saying the testimony  
7 is, again, that there's 21 lots with substantiated  
8 construction.

9 MR. FRASER: I'm not saying you're wrong. I'm  
10 not saying you're wrong, but we're delving into an  
11 argument here on essentially the credibility of the  
12 witness's testimony, and it's completely appropriate for  
13 you in your position to provide contrary opinion --

14 MR. VINEGRA: That's it.

15 MR. FRASER: -- but I think at this point the  
16 Applicant should be able to conclude his witness, his  
17 testimony. Then if there are questions of this witness,  
18 people can question the witness and certainly before  
19 anything is voted on everybody should get their say. But  
20 he should be able to finish his case and finish his  
21 questioning of the witness before we delve into argument.

22 MR. VINEGRA: I just wanted to clarify a couple  
23 of things.

24 THE CHAIR: Okay. So let's carry on. Do we have  
25 anything further from our Applicant here at this time?

1 still accurate?

2 A. Yes, that's correct.

3 Q. And then just if you can, we did talk about it  
4 during our prep meeting, so I did want to discuss it.  
5 There was questions about whether or not there are  
6 separate utility services and just to clarify, there are  
7 not currently for the property, correct?

8 A. That's correct, there are not.

9 Q. But if the Board were to grant your application,  
10 that's an upgrade that you would like to actually do on  
11 the property; is that accurate?

12 A. That is correct, yes.

13 Q. And that's something you would be comfortable  
14 with as a condition of approval if the application were to  
15 be granted by the Board?

16 A. Absolutely.

17 Q. Okay. And you understand, Mr. Martin, right,  
18 none of this work was done with a permit so that means  
19 that the Building Department is going to have to receive,  
20 if the application were granted, receive construction  
21 drawings which would be subject to the review and approval  
22 of the appropriate officials?

23 A. That is correct, yeah, I am entirely open to  
24 that.

25 Q. Got it. And if there were any deficiencies noted

1 in that inspection you would have to be mandated to bring  
2 that up to code. You understand that?

3 A. Right, yes, I would.

4 MR. KOODRAY: That's all I have. Thank you.

5 MR. NIERSTADT: Mr. Chairman, before we leave, I  
6 don't have a question of Mr. Martin, I just want to echo  
7 what Kathy said earlier. I recognize this is a tremendous  
8 amount of work and I really appreciate you doing it. And  
9 I don't know if anybody else, but I think I'm going to be  
10 look at this for, you know, for some future, shall I say  
11 violation, studies. Thank you for doing all the work that  
12 you did.

13 THE APPLICANT: Right. I just want to emphasize  
14 that it wasn't my intent to implicate anybody else.

15 MR. NIERSTADT: Understood.

16 THE CHAIR: I just have some clarification.  
17 You bought the house that you are living in, in  
18 2005, which you had made reference to earlier. Did you  
19 live there in 2005 until currently?

20 THE APPLICANT: Yes, sir.

21 THE CHAIR: So you were actually present in  
22 Garwood for that entire time?

23 THE APPLICANT: Yes. For what entire -- yes,  
24 from 2005 to.

25 THE CHAIR: Until current.

1 and your validation, but you did a lot of work, a  
2 tremendous amount of work. And when you bought the house  
3 that was next door, you didn't feel that you needed to do  
4 anything specific because you thought it was automatically  
5 a two family so you just assumed that?

6 THE APPLICANT: Yeah, so when it came to doing  
7 some of those things, you know, I, my understanding was  
8 that alterations, certain alterations could be made to  
9 your house that you wouldn't need to get a permit for.  
10 And so I didn't think that I needed to get a permit for  
11 those things. I was wrong, clearly, and, you know, the  
12 motivation for doing this work and doing this analysis was  
13 driven by self interest. I mean, if I had had a  
14 two-family back in 2010 or earlier when the zoning laws  
15 were being changed, zoning ordinances were being changed  
16 to restrict use to a single-family use in this zone, I  
17 certainly would have been ready to comment, but not being  
18 not having any interest or any skin in the game, as it  
19 were, there was no need for me to get involved in any of  
20 that.

21 THE CHAIR: I understand, but when you were doing  
22 an investment on another house, home, especially when  
23 you're living right next door, I would think, especially  
24 if you want it make it a two-family, you would want to  
25 delve into the, you know, requirements and the ordinances

1 THE APPLICANT: Until the present, yes.

2 THE CHAIR: Okay. So when we were making some  
3 changes and it was presented to the public on changing to  
4 the zoning, were you aware or did you participate or did  
5 you -- did you think about it at all? Out of curiosity.

6 THE APPLICANT: It never entered my mind and I'm  
7 not on social media and, you know, as far as what the town  
8 was doing with ordinance and other things, I had no  
9 awareness of that and no interest really quite honestly  
10 and I never would have thought of looking to that and  
11 providing some opinion because I had no concern over it  
12 for any reason.

13 THE CHAIR: So it was only when you became  
14 concerned about something that you, you, you found  
15 particular about a house next door that you bought --

16 THE APPLICANT: Well, yeah, I was -- go ahead,  
17 sir.

18 THE CHAIR: -- that it became interesting?

19 THE APPLICANT: That's when, that's when I  
20 started learning a lot more about land use and town  
21 ordinances for sure.

22 THE CHAIR: And my question would be then because  
23 you really did, I mean you did a very in depth analysis of  
24 all these houses throughout Garwood that, you know, that  
25 obviously it's your opinion on that based on your pictures

1 that allow to do that or not. It's just -- I'm just  
2 asking a question. That's all.

3 THE APPLICANT: Right. Chairman Greet, I totally  
4 agree with you. I was -- I should have been more  
5 interested in learning about that stuff for sure.

6 THE CHAIR: Okay. Thank you.

7 MR. BARCAN: I have a question, just so I  
8 understand this. The zoning change that happened in 2009  
9 that Kathy was talking about, did that change this  
10 property from two-family to single? Is that what she  
11 said? Is that what happened?

12 MR. VINEGRA: Yes, it did.

13 MR. NIERSTADT: Steve?

14 THE CHAIR: Yeah.

15 MR. NIERSTADT: I'm sitting here with the master  
16 plan and everything else in front of me. I'm kind of  
17 taking Don's cue and waiting for the expert to get on, and  
18 I will be getting into all that with him at that time, but  
19 the answer is what Vic said. Yes, it did.

20 THE CHAIR: Very good.

21 MR. FRASER: I'm going to suggest we can cut out  
22 the screen sharing so we can have bigger pictures. I like  
23 that idea.

24 THE CHAIR: And also I want to make reference one  
25 more time. We are not going to be hearing, for the



1 general public's knowledge, we're not going to be hearing  
2 78 North Ave., that's Crossroads, tonight. It's going to  
3 be heard on April 28 in case anybody is on waiting for  
4 that application to come on tonight. It's not going to be  
5 happening. It will be presented on April 28.

6 MS. BIANCO: I have a question.

7 THE CHAIR: Oh, yeah, sure.

8 MS. BIANCO: I would like to ask the applicant,  
9 when you purchased the property, was it appraised?

10 THE APPLICANT: Yes, there was -- oh --

11 MS. BIANCO: For the lender?

12 THE APPLICANT: Yes, it was.

13 MS. BIANCO: Okay. Because that appraisal would  
14 either indicate whether it was a single-family or  
15 multifamily. Do you have the appraisal? Do you know what  
16 form it is? Whether it's 1004? Whether it's a 1025  
17 because as an appraiser they would have to determine  
18 whether it was a single family or a multi for the lender  
19 so at the time of purchase you had some indication and at  
20 times --

21 THE APPLICANT: It was a single-family.

22 MR. KOODRAY: I don't want to interject and  
23 Mr. Martin can certainly answer the question, but there's  
24 no dispute that the property was purchased and is a  
25 single-family. The application that we're seeking

1 whether you asked him. The question was did your  
2 architect tell you hey, you're going to need permits for  
3 this stuff?

4 THE APPLICANT: He may have and I probably  
5 responded to him like I mentioned to you guys, that, you  
6 know, the renovations that were being made wouldn't have  
7 required permits. We did discuss load-bearing walls and  
8 the wall that we put in that I put in for, the separation  
9 and the stairwell, that was not a load-bearing wall and we  
10 weren't removing anything to -- we were just adding the  
11 interior wall.

12 MR. KOODRAY: If I can really quickly?

13 Mr. Martin, you do acknowledge that permits, you  
14 now understand, correct, that permits were required for  
15 the work that was done inside the house?

16 THE APPLICANT: I understand that, yes.

17 MR. KOODRAY: And do you recall, and I am sure  
18 the Board does as well, but there was prior testimony to  
19 the original version of the architectural plan which  
20 utilized, I'd say, an obsolete version of the zone map. I  
21 think we went through a little bit of that at the last  
22 hearing.

23 THE APPLICANT: Yes.

24 MR. KOODRAY: And I'd be happy to have Mr. Meeks  
25 speak to that again when he testifies to that.

1 requires a use variance because of that conversion and  
2 it's not permitted, so we acknowledge that.

3 MS. BIANCO: No, I understand that. I was just  
4 curious as to when he purchased the property, when he  
5 received the appraisal, was it a single-family or was it a  
6 multifamily. That's all I want to know.

7 THE APPLICANT: It was single family.

8 MS. BIANCO: Okay. Thank you.

9 THE CHAIR: Anyone else from the Board have any  
10 questions of this witness?

11 MR. TARANTINO: Yeah, Chairman, I had a question  
12 for Mr. Martin.

13 At what point did you hire an architect? Was it  
14 before the renovation or after?

15 THE APPLICANT: I'm trying to remember. It was  
16 right -- it was just before I was going to do the  
17 renovations meaning putting up a wall, putting up a  
18 door, installing a door, that sort of thing.

19 MR. TARANTINO: Did he consult you at that time  
20 that you needed permits for this work?

21 THE APPLICANT: I didn't ask him about that. I  
22 can't recall. That's almost a year and half ago. I  
23 honestly don't recall.

24 MR. FRASER: But hold on. Let's be clear. The  
25 question was a little different. The question was not

1 Mr. Tarantino, if you have other questions, we certainly  
2 want to get an answer on that.

3 THE CHAIR: Any one else of the board?

4 MR. CAPOBIANCO: Is the house currently occupied?

5 THE APPLICANT: Yes.

6 MR. CAPOBIANCO: By how many people?

7 THE APPLICANT: The upstairs tenant with a  
8 daughter and mother and father in the upstairs.

9 Downstairs tenant, there was some differences  
10 between them and they broke up and the lease was over  
11 March 15 so currently the first floor is unoccupied.

12 MR. CAPOBIANCO: And were all these people living  
13 there prior to the renovations that you made or were they  
14 made after?

15 THE APPLICANT: After the renovations were made.

16 MR. CAPOBIANCO: Thank you.

17 MR. FRASER: Let me ask you this question. If  
18 the downstairs apartment is presently vacant, is it your  
19 intention to get that apartment occupied prior to any  
20 approval if approval were to be granted of this board?

21 THE APPLICANT: Absolutely not.

22 MR. FRASER: Thank you.

23 THE CHAIR: Anyone else? Yeah, Steve.

24 MR. BARCAN: I just have a question as to how he  
25 sees the relevancy of all these places that we've been

1 describing for the last few hours. So to get variance  
2 here you need to show special reasons. You need to  
3 satisfy the negative criteria and do land uses -- number  
4 of two-family homes, number of one-family homes, all those  
5 blocks, which of those elements of proof does all this  
6 testimony go to?

7 MR. KOODRAY: Mr. Barcan, I'd be happy to discuss  
8 that with you and certainly I would love to have a  
9 discussion about that with you, but I don't want to frame  
10 Mr. O'Brien's testimony in any way so I don't want to  
11 restrict him in that manner, so I would defer that to our  
12 planner. He will certainly cover all the elements that  
13 are required --

14 MR. BARCAN: I'm sure he will. I'm trying to  
15 understand the theory of your case, if I can put it that  
16 way.

17 MR. KOODRAY: I would say again, without caging  
18 in my planner, without any position or another, I think  
19 that's probably going to be my answer. The theory of the  
20 case is the nature and character of the neighborhood has  
21 been characterized in one way or another by Mr. Martin's  
22 testimony. It's certainly up to the Board to judge that  
23 testimony, that evidence he's collected. But as far as  
24 the proofs go, I don't want to speak for Mr. O'Brien, so I  
25 defer to him.

1 want to make sure.

2 THE CHAIR: Sure.

3 MR. COLLINS: No, I don't have a question for  
4 Paul. I got a general comment, not for Paul, though.

5 THE CHAIR: Okay.

6 MR. FRASER: So now is not the time then.

7 THE CHAIR: Now is not the time, correct. This  
8 is only specific questions of a witness.

9 MR. COLLINS: Yeah, I know, I know.

10 MR. FRASER: Okay. Mr. Koodray, your next  
11 witness.

12 MR. KOODRAY: Sorry about that. I just wanted to  
13 recall.

14 I'd like to call, or re-call rather, Mr. Ronald  
15 Meeks.

16 MR. FRASER: Mr. Meeks, you understand you're  
17 still under oath?

18 MR. MEEKS: Yes.

19 MR. FRASER: Mr. Koodray.

20 DIRECT EXAMINATION

21 BY MR. KOODRAY:

22 Q. Mr. Meeks, good to see you. I know there was  
23 testimony at the prior meeting regarding what work on the  
24 interior may or may not have been done, so we submitted, I  
25 think as part of the slide deck, photographs of the

1 THE CHAIR: Andrew, I'm going to ask if there's  
2 anyone on from the general public that you can see.

3 MR. WIECEK: There are members of the public.  
4 Would you look me to unmute them?

5 THE CHAIR: Yeah. At this time, I'm go to open  
6 it up to the general public for specific questions of this  
7 witness only, and it's not comments, it's not whether you  
8 like it or not. It's specific questions of Mr. Martin.

9 So with that, I will open it up to the general  
10 public.

11 MR. WIECEK: The lines are unmuted.

12 THE CHAIR: Any one from the general public would  
13 like to weigh in?

14 MR. FRASER: Andrew, I do see one general public.  
15 It says (indiscernible) that looks muted.

16 MR. WIECEK: I tried to unmute them, but they  
17 have it locked on their end.

18 MR. FRASER: Oh, it's on their end. Okay.

19 THE CHAIR: Okay. With that, I don't see  
20 anybody -- hear anyone coming in. So is that somebody?  
21 No. So I will close this portion of the meeting and let's  
22 carry on with the next witness.

23 MR. KOODRAY: I just want to confirm, though, is  
24 Michael Collins. I'm sorry, is he trying it make a  
25 comment because I see someone that popped up now. I just

1 interior along with sort of I will call it a markup of  
2 your plan.

3 So would you mind taking Board through that? I  
4 just wanted to clear up that part of the transcript.

5 A. Yes. I believe Paul is going to bring that up  
6 for me.

7 THE APPLICANT: Yes, I will do that, and I'm  
8 going to share my screen. Can you see my screen?

9 A. Yes. So we're looking at the floor plans and  
10 portions of the site plan.

11 But regarding the floor plans, the dark heavy  
12 lines represent new construction and the parallel lines  
13 represent existing conditions. So starting -- and I don't  
14 know if you can see my cursor.

15 Q. So, Ron, we won't be able to see your cursor, but  
16 I will ask Paul to do is Paul, when Ron takes the Board  
17 through the floor plan, can you get two, I guess, screens  
18 up that will show the photographs to give a visual  
19 perspective as to what he's showing on the plan? I think  
20 that might be helpful. I just want to make sure everyone  
21 on same page here?

22 THE APPLICANT: Yeah, just give me one second to  
23 work that up. Allow me to putz around with this for a  
24 moment, please. Okay. How does that look, Ron?

25 A. Yes. Okay. So looking at the first floor view

1 and just beyond or part of the foyer is an arrow pointing  
2 to a new door that was constructed separating the  
3 staircase with a partition and the partition that the door  
4 is in and I believe we're looking at it from the interior  
5 basically from the kitchen.

6 Q. Now, Mr. Meeks, just one second. I'm sorry.  
7 Just a little housekeeping, right. You didn't take these  
8 photos, correct?

9 A. I did not.

10 MR. KOODRAY: So Mr. Fraser, Mr. Martin took  
11 these photos. If you want, I would just like him to  
12 indicate, you know, the source of those, just for the  
13 record?

14 MR. FRASER: The Applicant represents that  
15 Mr. Martin took the photos that Mr. Meeks is relying on,  
16 right?

17 MR. KOODRAY: Yes.

18 MR. FRASER: All right. Go ahead, Mr. Meeks.

19 MR. KOODRAY: Thank you, Mr. Fraser.

20 A. So the door we're looking at is the new door  
21 identified on the first floor and the view from the  
22 kitchen looking towards the front of the house is where  
23 the new door is now located and that railing on the  
24 staircase has been enclosed. So that was the extent of  
25 the construction on the first floor.

1 THE APPLICANT: Yeah, I'm waiting for you to tell  
2 me what to do.

3 A. At the top of the stairs of the second floor, on  
4 the right hand side, there's the entry door into the  
5 second floor unit which is a new door and where the coats  
6 are hanging a door was enclosed and at the top of the hand  
7 rail a new partition encloses the former hallway. Also,  
8 shown on the second floor view at the top of the stairs.

9 What is the next slide, Paul?

10 THE APPLICANT: Okay. So this shows the kitchen  
11 with the laundry unit.

12 MR. MEEKS: Okay. So the laundry unit is  
13 slightly left of center in the left side photograph  
14 showing a stackable washer/dryer and same with the right  
15 side photograph and we'll go to the front bathroom.

16 THE APPLICANT: Okay. Well, do you want to go  
17 through the middle room here where we installed the door?

18 MR. MEEKS: That's fine, but that's the next  
19 photograph, yes. So that's the before and after.

20 THE APPLICANT: Correct.

21 MR. MEEKS: The right side is the after and the  
22 left side photograph is the before. And then I don't  
23 think we can see. Can we see the former door?

24 THE APPLICANT: Can you see what?

25 MR. MEEKS: The former door that was enclosed at

1 THE APPLICANT: So this view shows the front  
2 entrance before the door was installed. This view shows  
3 it after the door was installed.

4 MR. MEEKS: That's correct.

5 THE APPLICANT: So just to be clear in the  
6 previous --

7 MR. KOODRAY: Paul, I'm sorry.

8 THE APPLICANT: What?

9 MR. KOODRAY: I just want to so the transcript is  
10 clear, right, Mr. Meeks is testifying now. If there's a  
11 clarifying question, I think we can kick it back to you  
12 but let's just have Ron unless he needs you to clarify.  
13 Okay?

14 THE APPLICANT: All right. I'm sorry. Thank  
15 you.

16 A. So the photograph on the left represents the  
17 prior conditions to the construction of and installation  
18 of the door and the partition going up the stairs  
19 enclosing the old hand rail.

20 So moving on to the second floor, let's go to the  
21 top of the stairs on the second floor. Currently we're  
22 looking down at the front entrance foyer area with the new  
23 partition and new hand rail and the same holds true on the  
24 left side of the photograph.

25 And at the top of the stairs, Paul.

1 the top of the stairs.

2 THE APPLICANT: No.

3 MR. MEEKS: Okay. We don't have a photograph of  
4 that, but I believe the right photograph represents the  
5 entry into what was the existing second floor bathroom.

6 THE APPLICANT: Correct.

7 MR. MEEKS: Or half bath originally.

8 THE APPLICANT: Yes.

9 MR. MEEKS: And then a closet for that front  
10 bedroom was borrowed from the former hallway adjacent to  
11 the stairs and a new door was installed into that space.

12 THE APPLICANT: That's right here.

13 MR. MEEKS: There's the door into the half bath.

14 THE APPLICANT: This door of the bedroom.

15 MR. MEEKS: Yes, that's the photograph on the  
16 left, and the one on the right represents looking into the  
17 half bath and the closet for the bedroom created in the  
18 front.

19 And that was the extent of the construction in  
20 the house.

21 MR. KOODRAY: I appreciate that, Mr. Meeks and  
22 with the assistance of Mr. Martin there. I appreciate  
23 that. Hopefully that clarified some of the -- I just  
24 wanted to clean that up, Mr. Chairman, because it seemed  
25 like there was a little bit of confusion. I hope we

1 didn't create more.

2 BY MR. KOODRAY:

3 Q. Mr. Meeks, just two final quick questions for  
4 you. You showed the revised parking layout plan --

5 A. Yes.

6 Q. -- on the PowerPoint.

7 Can you just speak to that very briefly?

8 A. Yes, we'll switch over to that, Paul.

9 Okay. So the partial site plan that is on the  
10 left of the screen shows what I did originally of  
11 indicating that six cars could park in the driveway, but  
12 when you take into account the requirement of a front yard  
13 setback for parking of 25 feet, that eliminated four of  
14 the cars. Only two cars are required, one per unit so far  
15 as parking goes. So we do show one in the garage and in  
16 this case there is room, because I measured it today, for  
17 two cars side by side at the -- in front of the garage  
18 door so they do fit within the nine foot by 18 foot  
19 requirements for a parking space.

20 Q. And that's to accommodate, as you mentioned, the  
21 25-foot front yard setback, correct?

22 A. That's correct.

23 Q. So then, in your opinion, that's three  
24 code-compliant parking spaces for this?

25 A. Yes.

1 case?

2 MR. MEEKS: I have no recollections of that  
3 conversation from 2019 specifically.

4 MR. KOODRAY: But Mr. Meeks, you do understand  
5 and you would acknowledge as an architect that permits are  
6 required for this type of work, right?

7 MR. MEEKS: Yes, that's correct.

8 MR. KOODRAY: Thank you.

9 MR. FRASER: Do you know why permits were not  
10 applied for, Mr. Meeks?

11 MR. MEEKS: I do not.

12 MR. FRASER: Did you know that permits were not  
13 applied for?

14 MR. MEEKS: Not until recently.

15 MR. FRASER: Thank you.

16 THE CHAIR: Anyone else from the Board?

17 MR. NIERSTADT: Yes, Mr. Chairman.

18 Mr. Meeks, can the garage be, I don't know,  
19 rehabilitated, renovated so that you can indeed have two  
20 cars in there?

21 MR. MEEKS: No, you could not. It's too close to  
22 the side property line or would be --

23 MR. NIERSTADT: No, no, no, I don't mean that.  
24 The measurements that I saw on the papers were that the  
25 garage, and correct me if I am wrong, 19 by 18. I

1 Q. So Mr. Meeks, I know I have gone over this a  
2 bunch of times already but I just want to make sure it's  
3 all clear for the record, the plans submitted to the Board  
4 are not construction drawings?

5 A. That's correct.

6 Q. So if Mr. Martin obtains an approval,  
7 construction drawings have to be prepared and then  
8 ultimately submitted and approved by the appropriate  
9 officials?

10 A. Yes.

11 Q. And then Mr. Martin testified earlier that if the  
12 application were approved, he would desire to eventually  
13 install separate utilities for the units. In your  
14 opinion, as an architect, is that something that can  
15 actually be done on this property?

16 A. Yes, it could be.

17 MR. KOODRAY: Those are all the questions I have.

18 THE CHAIR: Okay. Thank you.

19 MR. FRASER: I have a question, Mr. Meeks. So it  
20 was being asked of Mr. Martin before, but when you took  
21 this project on, did you tell Mr. Martin that permits  
22 would be required?

23 MR. MEEKS: I usually advise my clients to get  
24 permits.

25 MR. FRASER: Not usually. Did you do it in this

1 understand that that doesn't satisfy code requirement, but  
2 can the existing garage be renovated on the interior in  
3 order to allow two cars to be inside it?

4 MR. MEEKS: No, the garage is not wide enough to  
5 accomplish that.

6 MR. NIERSTADT: Do you know how many times I have  
7 heard people, professionals, come before boards and say  
8 oh, eight foot is wide enough for a parking space, oh,  
9 nine foot is wide enough for a parking space, so why isn't  
10 it wide enough on a 19-foot garage?

11 MR. MEEKS: I think -- let's see. The depth --  
12 the width is 18 feet.

13 MR. NIERSTADT: So it's 18 feet wide, 19 deep?

14 MR. MEEKS: The current door that you see there  
15 is eight-foot wide, which is a standard overhead door.  
16 To widen that opening would not accommodate two  
17 cars.

18 MR. NIERSTADT: Okay. What would the minimum  
19 width be that you would recommend in order to have two  
20 cars fit within a garage?

21 MR. MEEKS: A minimum of 20 feet plus walls on  
22 either side of the overhead door so the building doesn't  
23 crack.

24 MR. NIERSTADT: Could that be done and still  
25 provide a three-foot side yard? I believe it can. You

1 got 2.7 feet. You got 5.7 total.

2 MR. MEEKS: Right.

3 MR. NIERSTADT: Because what I'm getting to here,

4 okay, and I don't know if some would view this as

5 assisting your case or not, but one of the variances

6 you're requesting is you can provide two cars in a garage

7 I believe that you could expand this garage and fit two

8 cars in it. Can that not be done?

9 MR. MEEKS: I believe the side yard setback is

10 required to be five feet.

11 MR. NIERSTADT: Well, you're already requesting

12 front yard setback, so to me that doesn't matter what's

13 required. Can it be done?

14 MR. MEEKS: Yes, it could be done.

15 MR. NIERSTADT: Mr. Koodray, I will leave that

16 out for thought, as a way to eliminate a variance.

17 MR. KOODRAY: I appreciate that, Mr. Nierstadt.

18 I've already messaged Mr. Martin to see if he's interested

19 in that, so we will circle back.

20 MR. NIERSTADT: I do recognize what Mr. Meeks

21 said regarding side yard variance, but, you know, I don't

22 have the zoning schedule immediately right here in front

23 of me, but, you know, it's already at least front yard.

24 Let's see. Now I do have it. So let's see. And it's

25 already a preexisting nonconforming front yard and a

1 THE CHAIR: Well, that's --

2 MR. FRASER: Let's review that question. Do we

3 have Adele here?

4 THE RECORDING SECRETARY: Yes.

5 MR. FRASER: So if we lose Mr. Barcan, who would

6 be next on line to vote.

7 THE RECORDING SECRETARY: So Mr. Barcan was not

8 one of the scheduled members to vote anyway, so it remains

9 unchanged with Mr. Capobianco, Mr. Greet, Kathy Villagio,

10 Mr. Nierstadt, Mr. Tarantino, Mr. Napolitano, and Mr. Vena

11 so it's a seven member vote.

12 MR. FRASER: Right.

13 THE RECORDING SECRETARY: So we do not need our

14 alternates to vote this evening.

15 MR. FRASER: There you go, Rich.

16 MR. MCCORMACK: So that's part two of the

17 question. The question is: Can I ask a question?

18 THE CHAIR: Absolutely.

19 MR. FRASER: Wait. Wait. Wait. Let me think

20 about it for a second. I want to get Mr. Koodray's input

21 on it as well. It is my opinion, unless I'm persuaded

22 otherwise, that Mr. McCormack who is presently not the

23 councilman designee on the Board, but a regular alternate

24 on the Board, it's my opinion, Mr. Koodray, that

25 Mr. McCormack can ask a question, but before I make that

1 preexisting nonconforming side yard. What's another foot?

2 Thank you.

3 THE CHAIR: Anyone else on the Board?

4 MR. BARCAN: Steve, I think I'm going to sign

5 off. I overestimated my energy.

6 THE CHAIR: Okay. Okay. Steve. Thank you so

7 much.

8 MR. BARCAN: Yep.

9 MR. FRASER: Mr. Chairman, is that all it takes?

10 THE CHAIR: That's it.

11 MR. BARCAN: You have to have surgery the day

12 before.

13 MR. NIERSTADT: You know, I think I'm pretty

14 tired, too, Steve.

15 THE CHAIR: You have a medical excuse here.

16 MR. KOODRAY: Mr. Barcan, thank you for your

17 questions and participation.

18 MR. NIERSTADT: Mr. Fraser, let's go back to the

19 earlier question. Who then gets to vote?

20 MR. MCCORMACK: Can I intervene here, Steve?

21 THE CHAIR: Yeah.

22 MR. MCCORMACK: About 7:45 it was questioned that

23 I, as a councilman, on December 9th could not vote on

24 this. I'm sitting here as a planning board member. Do I

25 have a voice and a vote on this at present?

1 ruling I want to give you an opportunity to object or

2 persuade me otherwise if you see it differently.

3 MR. KOODRAY: We're not going to object to

4 Mr. McCormick asking questions.

5 MR. FRASER: Okay, because I don't want have it

6 be that he asked a question and that then becomes a basis

7 for an appeal. You understand?

8 MR. KOODRAY: No, absolutely not. And don't

9 assume there would be an appeal, Mr. Fraser. Come on.

10 MR. FRASER: I'm not assuming, but I also don't

11 want to set myself up..

12 MR. KOODRAY: I understand. I'm kidding.

13 MR. FRASER: I know you are. I know you are. I

14 know you are.

15 MR. KOODRAY: Pleaes.

16 MR. FRASER: So Mr. McCormack, go ahead and ask a

17 question.

18 MR. MCCORMACK: Thank you. So my question would

19 be can we remove the parking part on this screen right now

20 and go back to the second and first floor layout?

21 MR. KOODRAY: Certainly. I think Paul has to do

22 that.

23 And Mr. McCormack, while he gets that queued up,

24 I would actually just like to say I did receive

25 confirmation from Mr. Martin that if the Board would like

1 to see the garage expanded and it's feasible, Mr. Martin  
2 would certainly be willing to do that as part of the  
3 application if it were to be approved, so just to clarify  
4 if the garage can be expanded whether that requires a side  
5 yard setback or not, we would be willing to do that. So I  
6 just wanted to put that on the record.

7 MR. FRASER: Thank you, Mr. Koodray.

8 MR. MCCORMACK: Okay. So my question is:  
9 Earlier this morning I went to Borough Hall and I  
10 retrieved a blueprint for this dwelling and being pretty  
11 relevant with blueprints it's usually existing and  
12 proposed, and what on my plan it says existing first floor  
13 plan, which is not up here for us to all walk through, and  
14 then it says proposed second floor plan. All I see on the  
15 screen here is first floor view and second floor view.  
16 The word "proposed" is left out. Is it done that way for  
17 a reason or am I just overlooking something?

18 MR. MEEKS: It's just nomenclature on the  
19 drawings by the homeowner.

20 MR. MCCORMACK: Because it seems it would have  
21 been better to walk everybody through the proposed first  
22 and second floor blueprint if you showed the existing  
23 first and second floor, but maybe that's an argument, but  
24 that's just my view and I just wanted to get that out for  
25 my questions.

1 MS. VILLAGIO: Okay. Thank you.

2 MR. KOODRAY: And then to clarify again,  
3 Mr. Meeks, correct, if we had the plan up and I'm not sure  
4 if Paul has ready access to it, but you would see the zone  
5 chart clouded with the revision and that revision symbol  
6 would correspond with the correct zoning chart so yes,  
7 that's Ms. Villagio that's how the plans were drawn  
8 originally.

9 MS. VILLAGIO: I'm done.

10 THE CHAIR: Anyone else from the Board? Hearing  
11 none, I will open it up to the general public.

12 MR. WIECEK: All are unmute at the moment.

13 THE CHAIR: They are all unmuted? Okay. Thank  
14 you.

15 Anyone from the general public have specific  
16 questions of this witness? Hearing none, I will close  
17 that portion of the meeting also.

18 Do we have another witness coming up?

19 MR. KOODRAY: Yeah, we do, Mr. Chairman. Thank  
20 you. I'm just going to scoot over and coming in from, I  
21 guess, my stage right would be Mr. Joseph Signorella.

22 MR. FRASER: I'm going to suggest that we lose  
23 the screen share.

24 MR. KOODRAY: Yes, please.

25 THE CHAIR: We're going to take a quick

1 MR. KOODRAY: And I do just want to clarify, and  
2 Mr. Meeks, correct me if I'm wrong here, but the proposed  
3 plan actually is the existing condition. Right? The  
4 work's been done so I think Mr. McCormack what you mean is  
5 the original floor plan, right, pre work?

6 MR. MCCORMACK: Right. It's not viewed so not  
7 the average person can see that, right.

8 MR. KOODRAY: I understand.

9 MR. FRASER: Didn't we go through some of this at  
10 the last hearing, Mr. Koodray?

11 MR. KOODRAY: We did, and my effort was to  
12 clarify some of that, but...

13 MR. MCCORMACK: Thanks for taking my question.

14 MR. KOODRAY: No, thank you, Mr. McCormack.

15 THE CHAIR: Do we have any other questions from  
16 the Board? I will open it up to the general public for  
17 questions specific of this witness.

18 MS. VILLAGIO: I have one, Steve.

19 THE CHAIR: Go ahead, Kath.

20 MS. VILLAGIO: Mr. Meeks, when you started to, on  
21 this, on this renovation, what was your understanding of  
22 the -- of the zone that it was in?

23 MR. MEEKS: My understanding at that time, which  
24 was incorrect, was that it was a two-family zone based on  
25 an antiquated zone map.

1 three-minute break.

2 MR. FRASER: Before we do that, if anybody is  
3 here for the Crossroads application, the Crossroads  
4 application is not being heard tonight. It's being  
5 carried to the February 28 meeting of the board. There  
6 will be no further notice.

7 (Brief recess)

8 THE CHAIR: Do we have another witness?

9 MR. KOODRAY: Yes, Mr. Chairman. Thank you.

10 THE CHAIR: Josh, how many more witnesses?

11 MR. KOODRAY: Well, Mr. Signorella and then we  
12 have our planner, Mr. O'Brien.

13 THE CHAIR: Let's continue and let's see how far  
14 we can get.

15 MR. KOODRAY: Okay. I appreciate that  
16 Mr. Chairman. Thank you.

17 So Mr. Signorella, I think Mr. Fraser is going to  
18 swear you in now.

19 MR. FRASER: Sounds good.

20 JOSEPH SIGNORELLA, Applicant's witness, having been duly  
21 sworn by the Board Attorney, testified as follows:

22 MR. FRASER: Please state and spell your name.

23 MR. SIGNORELLA: Joseph Signorella, J-o-s-e-p-h.  
24 Signorella, S-i-g-n-o-r-e-l-l-a.

25 MR. FRASER: And your address, sir.

1 MR. SIGNORELLA: 11 Rolling Hill Way, Clark,  
 2 MR. FRASER: Your witness.  
 3 MR. KOODRAY: Thank you, Mr. Fraser.  
 4 VOIR DIRE EXAMINATION  
 5 BY MR. KOODRAY:  
 6 Q. Okay. So Mr. Signorella, we're going to be  
 7 qualifying you this evening as a licensed real estate  
 8 broker and property manager, so if you could just for the  
 9 Board and public's benefit, provide them with your  
 10 educational background, you know, your professional  
 11 affiliations, professional experiences, any licenses that  
 12 you may hold, and just general experience in the field of  
 13 real estate and property management?  
 14 A. As a real estate agent and the business with --  
 15 family-run business for the first 10 years of my career, I  
 16 have been doing it a total of 31 years, the first 11 years  
 17 was with my family in Union at Mangels & Company  
 18 (phonetic) with a second office on Centennial Avenue which  
 19 was also Mangels & Company. After several years of that  
 20 business being family-ized, we became an acquisition to  
 21 the obviously global company, which is the largest real  
 22 estate company in the world, let alone locally, and my  
 23 cousin James Bernetti (phonetic) became the vice-president  
 24 of commercial. I stayed with the residential end of it  
 25 and maintained the top producer position and undertook the

1 Q. And some of those would include two-family  
 2 residences?  
 3 A. A good amount of them are.  
 4 Q. Okay. And you actively manage multifamily  
 5 properties?  
 6 A. Yes. That's what I was alluding to.  
 7 Q. Okay. Got it.  
 8 MR. KOODRAY: Mr. Fraser, we would --  
 9 MR. FRASER: I'm not sure that I completely  
 10 understand the field of expertise. I recognize the  
 11 gentleman is a realtor. Is he here to testify that  
 12 there's a demand for rental units, Mr. Koodray.  
 13 MR. KOODRAY: Well, he's here to testify about  
 14 the nature and character of the residential real estate  
 15 market in Garwood and yes, to establish that there's a  
 16 demand for apartments and there's a lack of supply so yes.  
 17 MR. FRASER: He seems to me to be qualified to  
 18 testify to those subjects. Again, I'm not sure if this is  
 19 a field of expertise that is recognized that you have an  
 20 expert witness in, but he is certainly is qualified to  
 21 testify to those subjects, Mr. Chairman, and I would  
 22 recommend that he be deemed an expert for those purposes.  
 23 THE CHAIR: So be it. We'll deem him as an  
 24 expert.  
 25 MR. KOODRAY: Thank you very much.

1 fact that I, aside from the sales, do a lot of leasing and  
 2 Garwood was a town, is a town, still active in and have  
 3 been very active in all throughout the years, having put  
 4 in rentals in the property, residential, but also such as  
 5 my personal groomers for my puppies and Al's Meat Market,  
 6 Diamond in the Ruff, so I do a fair amount of business in  
 7 the community and maintain, as Mr. Koodray mentioned, a  
 8 managerial position. I don't go out as a manager in real  
 9 estate as opposed to I do management for clients with  
 10 specificity, so Depart (phonetic), L.L.C. at the end of  
 11 Center Street, specifically 816 Center Street, which is a  
 12 duplex property, for the past 12 years I have tenants in  
 13 there maintaining the property as best I can to Garwood's  
 14 great expectations. I know sometimes we get a little,  
 15 maybe a fine but a citation on the lawn getting a little  
 16 carried away, but I'm also very active in the sales of the  
 17 property, such as a nice two-family that it was Eileen  
 18 Cucaros (phonetic).  
 19 Q. We'll get to this. We'll still trying to get you  
 20 qualified as an expert in the field, so just to confirm  
 21 you're a licensed broker.  
 22 A. Licensed broker, correct.  
 23 Q. And you handled a number of transactions I would  
 24 imagine over your 31 years, right?  
 25 A. Correct.

1 DIRECT EXAMINATION  
 2 BY MR. KOODRAY:  
 3 Q. Mr. Signorella, can you just confirm to the Board  
 4 that you had an opportunity review the application, the  
 5 plans, the review letter and everything else that was  
 6 submitted or issued in connection with the application?  
 7 A. Yes, I did. And it came very quickly especially  
 8 visiting the property how well everything was done and  
 9 what would be considered normal specification for a  
 10 two-family.  
 11 Q. Okay. We'll get to that. So I want to say so  
 12 that's the second question I had and you had the  
 13 opportunity to actually visit the property?  
 14 A. Yes.  
 15 Q. In the current condition?  
 16 A. Yes.  
 17 Q. And you weren't present for the first hearing; is  
 18 that accurate?  
 19 A. Correct.  
 20 Q. But did you have an opportunity to fully review  
 21 the transcript?  
 22 A. I did.  
 23 Q. Okay. Fantastic. All right, Mr. Signorella, if  
 24 you can, why don't we just begin by giving a brief  
 25 overview of the nature and character of Garwood from a

1 real estate professional's perspective?

2 A. Well, obviously it's a great town. I'm sure

3 everyone here will agree with that and the fact that quite

4 a few of my clients are owners in the town. I sold them

5 property and, as I said, now manage the property. The

6 overall view is that this town has a very low inventory of

7 multifamilies. It is highly desirable to look for them

8 and to get them and of course they serve the public

9 because obviously we can get quality people into the town,

10 and in this case, of course because the house seemed to

11 accommodate the tenants with off-street parking whereas

12 the Board knows there are many, many homes, not only

13 two-families but two families producing more occupants.

14 Q. Let's just unwrap a little bit. Okay?

15 A. Sure.

16 Q. So you indicated that there is a low inventory

17 for --

18 A. Correct. There's one active home right now.

19 There's one.

20 Q. Okay. And how about apartment units; is that

21 equally low inventory?

22 A. Yes. At the moment there is one right now vacant

23 with about three applicants that are being considered so

24 right now I would have to say virtually there's no

25 inventory.

1 A. It's a listing that was active, but we listed it

2 in Garwood on Locust Avenue and also rented it. The only

3 relativity to it is it's a legal two-family with similar

4 traits, similar --

5 MR. FRASER: Josh, does he need a document for

6 this?

7 MR. KOODRAY: I don't believe so, but he's

8 referring to this.

9 MR. FRASER: Then just ask him the question.

10 MR. KOODRAY: Okay. Fair.

11 Q. Okay. So that property is currently rented,

12 correct?

13 A. Correct.

14 Q. What the address again, just for the record?

15 A. Sure. 253 Locust Street.

16 Q. And how quickly was that unit rented?

17 A. In a matter of a couple of days.

18 Q. Do you have any other active listings in Garwood?

19 A. All of the listings such as would be considered a

20 two-family, there's one on Spruce Avenue.

21 Q. Okay. What's the address for the record?

22 A. 512 Spruce Avenue.

23 Q. Okay. Is that property rented?

24 A. This property is now available. It was listed in

25 middle of January. If I may, the reason why it's still

1 Q. Okay. Is it fair to say that when a property

2 does come on the market if an apartment were to open up,

3 one of these units that there's heavy interest and they

4 are rented very quickly --

5 A. 20, 30 applications.

6 Q. And then that would be indicative of a high

7 demand?

8 A. Very much so.

9 Q. But a low supply?

10 A. Next to none.

11 Q. Now, you mentioned you had some properties that

12 were currently being listed. Now you're referring to --

13 what are these? What would we call these?

14 A. One of the properties --

15 Q. Not this specific property. You're picking up a

16 sheet here that the Board doesn't have, so I want to

17 describe what this is. What would we call this? Is it a

18 GSMLS report?

19 A. Correct.

20 MR. KOODRAY: So Mr. Fraser --

21 MR. FRASER: I don't know where he's going with

22 it. Let me hear one or two more questions.

23 MR. KOODRAY: Fair enough.

24 Q. So is this one of these particular properties, IS

25 this an active listing that you have?

1 available, this one is for sale, it's not for rent, it's

2 on the small side. It would appear like a Cape Cod, which

3 is a single family.

4 Q. Okay. So Mr. Signorella, you had the opportunity

5 to review everything and you heard all the testimony. The

6 neighborhood where Mr. Martin's house is located, can you

7 describe it just generally? You've had an opportunity to

8 review it, I presume, right?

9 A. Correct. It would appear to be, well, first,

10 obviously there isn't a street in Garwood that isn't

11 neighborhood friendly, okay, and that's exactly what that

12 is and of course it's desirable for some families because

13 it's close to the things that maybe are important to them;

14 the school and some of the downtown, little strip stores,

15 etc. The last thing is, it's also close enough into the

16 Cranford sector where, of course, they go to for bigger

17 shopping and the likes of the downtown.

18 Q. So you're saying it's a desirable area --

19 A. Extremely.

20 Q. -- for a renter?

21 Are there any vacancies currently in Mr. Martin's

22 immediate neighborhood --

23 A. No.

24 Q. -- for apartments?

25 A. Well, we found out tonight because of a couple



1 that I found out that broke up. Just saying it like that.

2 Q. But that's his unit. We're not talking about.  
3 That can't be rented.

4 A. No.

5 Q. So let me say this: Are there any existing two  
6 families that are available for rent?

7 A. Absolutely not.

8 Q. To your knowledge?

9 A. No.

10 Q. Okay. So I guess from your perspective as a  
11 licensed real estate agent with 31 years of experience,  
12 what is unique about Mr. Martin's property based on  
13 differentiating factors from other listings that you've  
14 had?

15 A. Well, I noticed that his particular property has  
16 more property than quite a few of the others that are  
17 legal two-families.

18 Q. Now, when you say has more property, do you mean  
19 the lot?

20 A. The lot size.

21 Q. What's the significance to a potential renter on  
22 that?

23 A. Well, one example, if I may, is that Mr. Martin's  
24 property would allow the off-street parking, which is  
25 always desirable by the Township because more cars that

1 recognized?

2 A. Yes.

3 Q. The other question I have for you, we understand  
4 it's not a legal two-family, right, Mr. Martin's property,  
5 so from what you have seen based on the interior layout,  
6 is that a typical layout for a two-family dwelling?

7 A. Yes.

8 Q. In your experience, I mean, that's what we would  
9 see in a lot of these homes of that approximate age?

10 A. Maybe not as renovated, but yes.

11 Q. So you mean this may be in better condition?

12 A. Extremely.

13 Q. And obviously the work was performed without  
14 permits, we understand that, but is a lot of the housing  
15 stock in Garwood older?

16 A. The majority of is older. The Township has its  
17 fair amount of the two families that were built in the 60s  
18 and up. They are very obvious two-families. The majority  
19 of the two-families are antiquated and they are over 80  
20 years of age and they would appear to be either a  
21 single-family or maybe a grandfathered two-family. Like  
22 the one that I sold on 446 3rd Avenue. It has the  
23 appearance of being a stately colonial, but Eileen Cacarro  
24 (phonetic) listed it and I sold it. It's a legal  
25 two-family.

1 are off street, the less work our township crew has to  
2 deal with going around them.

3 MR. FRASER: Is this within his field of  
4 expertise, Mr. Koodray?

5 MR. KOODRAY: I would say it is. He rents  
6 properties to people and --

7 MR. FRASER: I'm saying when he's opining what is  
8 desirable to the Township.

9 MR. KOODRAY: Oh, that, that, well, I think we  
10 can say that this is a little speculation on his part, but  
11 what I would say --

12 MR. FRASER: That's my point.

13 Q. Mr. Signorella, what I would say is have you ever  
14 shown a listing, right, and someone may have turned it  
15 down for a lack of parking, off-street parking?

16 A. Yes.

17 Q. Have you ever had a listing where someone said  
18 nice house, but, in this hypothetical scenario, not enough  
19 yard for me?

20 A. Yes.

21 Q. Is Mr. Martin's, in your opinion, as a licensed  
22 broker, have outside door space for outdoor living?

23 A. It has that, yes.

24 Q. Would you say that's a differentiating factor  
25 from some of the other two-family homes that may have been

1 Q. Understood. Okay. So there are certain  
2 attractive features of Mr. Martin's property. We're  
3 trying to establish a need for this housing. I think you  
4 said it, but I want to reiterate it for the record.  
5 There's clearly a high demand, in your opinion, for rental  
6 units in this area?

7 A. Absolutely.

8 Q. And obviously based on some of the listings you  
9 mentioned and the rate that they get rented out, high  
10 demand, correct?

11 A. Correct.

12 Q. So do you see Mr. Martin, if the home were to be  
13 approved to be a two-family, filling a need?

14 A. Yes, filling, a need, and giving a nice gesture.

15 Q. Okay. And based on your experience as a licensed  
16 real estate broker, if it were -- you know, everything  
17 were approved by this Board and construction drawings were  
18 submitted and everything was up to code, would you have  
19 any reservation or hesitancy about renting out one of  
20 these units to someone?

21 A. None whatsoever.

22 Q. Mr. Signorella, anything else that you think the  
23 Board should know about the Garwood real estate market?

24 A. No, except that the township, you know, I know  
25 that's just going to be personal opinion based upon the

1 activity and the amount of business that I do, but it  
2 maintains to be a great town and I would be happy to see  
3 Mr. Martin and with the Board and Mr. Martin making it  
4 happen by complying with everything they have to do to  
5 make this a legal two-family and it will be a credit to  
6 the Township as well.

7 Q. And you say it's a credit to the township in your  
8 opinion, why? Because it helps provide housing stock?

9 A. Provide housing stock and again, even though it  
10 may not have sounded that important, but I think that  
11 off-street parking, off-street parking is a lot safer for  
12 the families coming out of the homes and everybody has to  
13 go out to the street.

14 Q. Now, just one other question that came to my  
15 mind. Do you, in your opinion, if Mr. Martin's property  
16 was granted this approval, would you, as someone who's  
17 familiar with real estate listings and properties in the  
18 area say, Oh, that looks like a two-family when you walk  
19 by visually?

20 A. Based upon the characteristics of it, being a  
21 two-family, adjustment with the -- as we have been talking  
22 about, the.

23 Q. Well, that's interior.

24 A. No, no exterior-wise, two mailboxes because there  
25 are some homes that you're not going on to see visually,

1 like a two-family or a one-family?

2 MR. SIGNORELLA: Two-family.

3 MR. FRASER: Okay. That's what I thought.

4 BY MR. KOODRAY:

5 Q. And then, Mr. Signorella, just to follow up on  
6 that, but would you say, based upon your observations you  
7 went into the neighborhood?

8 A. Uh-hum.

9 Q. You told me we were preparing for the case,  
10 that's a regular driving route?

11 A. Correct.

12 Q. So you pass through that neighborhood often.  
13 Would you say that home on the exterior is consistent with  
14 many other homes in the neighborhood?

15 A. Correct.

16 MR. KOODRAY: Okay. Thank you.

17 THE CHAIR: Anyone else from the Board?

18 MR. TARANTINO: Did we hear reasons why the  
19 realtor thinks it looks like a two-family?

20 MR. SIGNORELLA: Sure, because of the  
21 similarities that it has from the several either that I  
22 sold or rented in the area. Garwood has somewhat of a  
23 stigma on the older homes, and your Board already brought  
24 this up earlier where a lot of homes that were two-family  
25 originally and grandfathered where they were changed to

1 you could pass by a lot of these homes, we already went  
2 through that, and you're not going to know it's a  
3 two-family except for the two, sometimes two mailboxes,  
4 but we also heard the sensible response to that because  
5 there are single-family homes. They just want two  
6 mailboxes.

7 Q. Sure.

8 A. It's hard to say what that exterior  
9 characteristics is, but my opinion is that this particular  
10 home with the extra lot and everything has more  
11 characteristics on the exterior than some of the others  
12 including the one that's on 512 Spruce. That's a small  
13 Cape. You could walk by that 20 times a day and no one is  
14 going to depict this as a two family, but 512 Spruce is a  
15 legal two-family on the market for \$397,000.

16 Q. Okay. Understood. So I guess my last question  
17 is -- you know what? Withdraw that. I have no further  
18 questions.

19 THE CHAIR: Anybody from the Board have a  
20 question?

21 MR. FRASER: I have a question on something I  
22 just heard. So Mr. Signorella, are you saying this house  
23 looks like a two-family or looks like a one family?

24 MR. SIGNORELLA: In a typical way --

25 MR. FRASER: No, no, as it is now, does it look

1 somebody maybe who's not in the business it may appear to  
2 be just a single-family.

3 Q. Not to cut in, but that's sort of where I wanted  
4 to go with my question. You're relying on your  
5 experiences with other properties that you sold. A lay  
6 person, like myself, that doesn't sell real estate every  
7 day or is not involved in these transactions, in theory,  
8 if you were, from that eye, walking past Mr. Martin's home  
9 it would be characterized as a one-family or a two?

10 A. A one-family.

11 MR. FRASER: But Mr. Signorella, there are other  
12 things besides the visual appearance that would determine  
13 whether it would be a one-family and a two-family is what  
14 should be permitted. Is that not true?

15 MR. KOODRAY: Can you repeat the question. I'm  
16 sorry, Mr. Fraser.

17 MR. FRASER: Sure. He's only saying right now  
18 about visually. Nobody would know it was a two-family or  
19 nobody would know it's a one-family, but it's not simply  
20 the visual aspect that would be relevant or important as  
21 to whether a property is a one-family or a two-family; is  
22 that not true?

23 MR. SIGNORELLA: Correct.

24 THE CHAIR: I have kind of a question, comment.  
25 You mentioned that yet if you're walking past the house,

1 Garwood's got a stigma concerning this type of a house.

2 What do you mean by stigma?

3 MR. SIGNORELLA: Okay. Whether or not the word  
4 "stigma" was correct to use or not, so I'm just doing  
5 revert to, and I know --

6 THE CHAIR: Well, I just to make a reference to  
7 what stigma means and it basically is a mark of disgrace  
8 associated with a particular circumstance or quality.  
9 That's what stigma means. You're a real estate person,  
10 professional. And so as a real estate professional, you  
11 made the assumption that that's a stigma on Garwood. Is  
12 that correct?

13 MR. SIGNORELLA: Yes.

14 THE CHAIR: Oh, okay. Thank you.

15 BY MR. KOODRAY:

16 Q. Mr. Signorella, the question that the Chairman  
17 was asking was stigma in a negative connotation. Do you  
18 mean a stigma or do you mean like a common characteristic?

19 A. Common characteristics.

20 Q. There's a difference, right? There's a  
21 difference. So you didn't mean to in any way insult the  
22 --

23 A. Not in the derogatory. I don't right now at this  
24 hour, I don't have a derogatory bone in my body, but I  
25 will if the Board will allow.

1 THE CHAIR: Yep. Thank you.

2 MR. KOODRAY: He's been here once or twice, so  
3 thank you, Mr. Fraser and Mr. Chairman. I appreciate  
4 that.

5 DIRECT EXAMINATION

6 BY MR. KOODRAY:

7 Q. So Mr. O'Brien, if you can just very briefly, can  
8 you just confirm for the Board that you've had the  
9 opportunity to review the plans and application materials  
10 and everything that's been submitted as part of the  
11 application?

12 A. That is correct, Mr. Koodray.

13 Q. And confirm that you were actually present for  
14 the first hearing even though you didn't testify?

15 A. Also correct, yes.

16 Q. So you're well familiar with the record at this  
17 point?

18 A. Yes.

19 Q. Okay. And you had an opportunity to actually  
20 visit the site and canvas the neighborhood?

21 A. Yes, I did.

22 Q. Mr. O'Brien, you're well versed in this so I  
23 think at this point I will turn it over to you and ask  
24 that provide the planning justification for the relief  
25 that we're seeking this evening.

1 THE CHAIR: That's fine. I get it. I get it.

2 Anyone else from the Board have anything?

3 Okay. At this time, Andrew, again, anybody from  
4 the public? I'm going to open it up to -- anyone from the  
5 public who has specific questions of this applicant -- of  
6 this witness? Are they unmuted, Andrew?

7 MR. WIECEK: The lines are all unmuted.

8 THE CHAIR: Okay. In that case, hearing none, I  
9 will close this portion of the meeting.

10 You have another witness, I think?

11 MR. KOODRAY: Yes, Mr. Chairman. I'd like to  
12 call our planner, Kevin O'Brien.

13 MR. O'BRIEN: Good evening, Mr. Koodray and  
14 Mr. Chairman.

15 MR. FRASER: Mr. Koodray, let's expedite this.  
16 Mr. O'Brien, your licenses are current, correct?

17 MR. O'BRIEN: That is correct. No change.

18 MR. FRASER: Okay. And you are a licensed  
19 professional planner. You're licensed and you have  
20 testified on many, many occasions throughout Union County  
21 as a professional planner, correct?

22 MR. O'BRIEN: That's correct, Mr. Fraser. Thank  
23 you.

24 MR. FRASER: Okay. Mr. Greet, I certainly  
25 recognize Mr. O'Brien's qualifications.

1 A. Thank you, Mr. Koodray.

2 The Applicant is seeking a D-1 use variance to  
3 allow a two-family home. There are preexisting bulk  
4 conditions for minimum front yard, minimum side yard, and  
5 maximum height.

6 There are a number of unique aspects to this  
7 application. The home was built in 1915 as a  
8 single-family. It was used a mother/daughter in 2007. At  
9 that point there were completely separate living areas  
10 with kitchens, bathrooms, laundry and bedrooms.

11 The prior mother/daughter use made no changes to  
12 the exterior of the home or the property. It is unlikely  
13 that a passerby would realize that there were two living  
14 units inside the house.

15 Senior citizen accessory apartments are permitted  
16 in the single-family zones by the Land Use Ordinance  
17 Section 106-105. There could be an accessory apartment up  
18 to 800 square feet, or 25 percent, in any of the homes on  
19 a single-family lot.

20 The Applicant proposes a two-family dwelling  
21 here. Physical characteristics are already here and will  
22 not be changed the separate living areas access through  
23 the front door and there will nobody exterior changes to  
24 the building.

25 The site itself is quite large in comparison with

1 others in the area. It has 7,500 square feet where 5,000  
 2 square feet are required. The site can easily accommodate  
 3 the extra parking required and provide living space for  
 4 the residents in the large backyard. Adequate parking is  
 5 provided in accordance with the ordinance. Two spaces are  
 6 provided where two are required, including one garage  
 7 space. The property and the rental units are in great  
 8 demand, as the realtor has testified. Garwood has  
 9 leveraged the train station and nearby bus stops into a  
 10 transit friendly area. The home is 1300 feet from the  
 11 train station and closer to busses on North Avenue. The  
 12 home is within walking distance of North and South Avenue,  
 13 shops, and services.

14 The northeast area of Garwood where this  
 15 residence is located has a large number of two-family  
 16 homes. Block 206 is zoned two-family. Lots 201 through  
 17 205 are zoned single-family. Twenty-six percent of the  
 18 homes on Blocks 201 to 205 are identified as two-family,  
 19 which is 37 out of 143. Blocks 201 through 206, that  
 20 includes the two-family zone are compared, 35 percent of  
 21 those homes are identified as two-family.

22 Lot 205 itself for the property in question is  
 23 located has 37 lots, all in the single-family zone and 18  
 24 of them are two-family or 49 percent. Adjoining Block  
 25 206, two-family zone, has 47 lots and 25 of them are

1 properties, one, of course, is the property in question.

2 I believe that this application is supported by a  
 3 number of purposes of the Municipal Land Use Law. In  
 4 Section 40:55D-2, where the purposes of zoning are listed,  
 5 among them are A, encourage municipal action to guide the  
 6 appropriate use or development of all lands in this state  
 7 in a manner which will promote the public health, safety,  
 8 morals, and general welfare. And this application  
 9 promotes the general welfare by providing a needed  
 10 residential use.

11 B, provide adequate light and open space, and  
 12 this large oversized lot will continue unchanged and will  
 13 continue to provide light, air, and open space for itself  
 14 and surrounding neighbors.

15 G, provide sufficient space and appropriate  
 16 locations for a variety of residential uses, and I believe  
 17 this proposal will provide for a residential space in a  
 18 place that is particularly suited for it because it has  
 19 been operating substantially similar to a two-family home  
 20 for a number of years.

21 I, promote a desirable visual environment and  
 22 here the existing home will remain as it is. There will  
 23 be no change to the property, the neighborhood, or the  
 24 streetscape, thereby maintaining the character of the  
 25 community. I believe that this application does and is

1 identified as two-family dwellings, or 53 percent.

2 The south side of Block 206 and the north sides  
 3 of Blocks 207 and 208 are zoned two-family. This property  
 4 is across the street from the two-family zone to the south  
 5 on Block 207 and 450 feet away from the two-family zone on  
 6 Block 206.

7 The blocks closest to North Avenue, 205 and 206,  
 8 have a higher two-family use than the blocks further away.

9 Two-family uses exist through the area and make  
 10 up the character of the neighborhood.

11 It's important to note that there will be no  
 12 discernible physical change to the neighborhood as a  
 13 result of this application. Everything will remain  
 14 exactly as it is.

15 The OPRA request to the borough which has been  
 16 discussed in detail requests a conforming and  
 17 nonconforming status of the properties discussed by the  
 18 board back in January and of those 68 properties that were  
 19 identified as having two-family characteristics, the OPRA  
 20 records were requested and of those 68 properties we found  
 21 that 26 have some type of borough documentation indicating  
 22 a two-family use. 41 of them show two-family  
 23 characteristics as Mr. Martin pointed out in his  
 24 presentation, two doorbells, two doors, two electric  
 25 meters, things along those lines and of those 68

1 consistent with those passages from the Municipal Land Use  
 2 Law.

3 In terms of the borough master plan, the 2009  
 4 master plan, section 7, states A, preserve and promote a  
 5 balanced variety of residential, commercial, industrial,  
 6 public and recreation land uses;

7 Item B, preserve and protect the established  
 8 primarily residential character of the borough by  
 9 maintaining and improving neighborhood quality in existing  
 10 residential areas;

11 Item C, encourage future housing construction  
 12 which is compatible with the existing character of the  
 13 borough without increasing housing density and established  
 14 residential areas;

15 And D, maintain and improve the existing quality  
 16 of housing.

17 I believe this application meets those goals by  
 18 preserving the character of the neighborhood. There will  
 19 be no physical changes to the home or property as a result  
 20 of this application. Neighborhood densities will remain  
 21 the same. The density of the existing home as it existed  
 22 previously would be mother/daughter and the live-in aid  
 23 and if this is converted to a senior accessory apartment  
 24 will remain the same density.

25 In terms of negative impact, taking at the

1 property and the surrounding area, I believe this will be  
2 a positive for the neighborhood by continuing the existing  
3 home as it is. Allowing this home to become a two-family  
4 eliminates the possibility of a large-scale residential  
5 tear-down and new construction that could result in a home  
6 of 3,200 square feet. Existing is 1,890 square feet. A  
7 new home would be substantially different from what exists  
8 and would change the character of the neighborhood.

9 The application also requires both variances of  
10 the preexisting conditions that would not change as a  
11 result of this application. Front and side setback and  
12 height, no physical change is proposed. The home will  
13 remain as it is, and I cannot identify any negative  
14 impacts.

15 An application for a use variance must meet a  
16 three prong burden of proof: Special reasons, positive  
17 criteria, and negative criteria. The special reasons  
18 aspect of the burden of proof are met by meeting the goals  
19 of the Municipal Land Use Law, and this I have  
20 demonstrated. This application supports the goals of A,  
21 C, G, and I. The positive criteria are met by showing  
22 that the application can be reconciled with the master  
23 plan. This application supports the master plan goals of  
24 providing a balanced variety of housing and protecting the  
25 character of residential neighborhoods.

1 the single-family zone could establish an 800 square foot  
2 senior accessory apartment.

3 MR. FRASER: But my question is that's not what  
4 the applicant is asking for; isn't that true?

5 MR. O'BRIEN: That is completely true.

6 MR. FRASER: And if the Applicant wished to apply  
7 for a senior citizen accessory use, the Applicant could do  
8 that, but the Applicant has chosen not to. Is that fair  
9 to say?

10 MR. O'BRIEN: That's completely true, Mr. Fraser.

11 MR. FRASER: Thank you. Now you say that this  
12 will be continued.

13 MR. O'BRIEN: If I may finish my answer, please,  
14 recognizing we are not in a court of law.

15 MR. FRASER: I understand that, but my question  
16 was also rather very specific because I was trying to  
17 elicit not a speech but rather a response to my question,  
18 and my question was: The Applicant could have, if the  
19 Applicant wanted to apply for a senior citizen accessory  
20 use apartment, the Applicant could have done that and the  
21 Applicant chose not to do so; is that not correct?

22 MR. O'BRIEN: Agreed.

23 MR. FRASER: Thank you. Further, you testified  
24 that this use will continue as it is. Isn't it, in fact,  
25 correct that the preexisting use prior to the nonpermitted

1 The negative criteria are also met in this  
2 proposal. There will be no negative impact on nearby  
3 homes or in the area. Existing bulk variances will be  
4 continued under a C1 hardship argument that the  
5 preexisting conditions cannot be changed. One could also  
6 offer a C2 argument that the benefits of continuing the  
7 existing home outweigh any detriments.

8 In conclusion, I believe this that this  
9 application can be granted without substantial impairment  
10 to the zone plan and zoning ordinance and without  
11 substantial detriment to the public good.

12 Mr. Chairman, I welcome any questions.

13 Mr. Koodray?

14 THE CHAIR: Thank you. Anyone from the Board  
15 have any questions of this witness?

16 MR. FRASER: I have a couple of questions,  
17 Mr. Chairman.

18 Mr. O'Brien --

19 THE CHAIR: Absolutely.

20 MR. FRASER: -- you made reference to senior  
21 citizen accessory use. Is that the application before us?

22 MR. O'BRIEN: No, it is not.

23 MR. FRASER: Thank you.

24 MR. O'BRIEN: Mr. Fraser, I offered that as a  
25 comparison because any property on this lot or anywhere in

1 construction was mother/daughter use?

2 MR. O'BRIEN: Correct.

3 MR. FRASER: And the Applicant is not seeking to  
4 continue with a mother/daughter use, but rather the  
5 Applicant is seeking to convert mother/daughter use into  
6 two-family use. Is that not correct?

7 MR. O'BRIEN: That is correct.

8 MR. FRASER: And mother/daughter use is something  
9 that is different than two-family use. Is that not  
10 correct?

11 MR. O'BRIEN: Correct.

12 MR. FRASER: So the Applicant is actually seeking  
13 to change the characteristics of this building; is that  
14 not correct?

15 MR. O'BRIEN: There I'd like to offer something  
16 to the Board, and that is that the characteristics of the  
17 building have been for two dwelling units. The difference  
18 between a mother/daughter and a two-family unit  
19 essentially is a locked door. But nonetheless, there are  
20 still two units, there are still two groups of people  
21 living in home. I think that's important for the Board to  
22 recognize that there was a separate unit on that second  
23 floor related to part of the family on the first floor,  
24 but the only difference between that and what we are  
25 proposing is that one locked door. Same with a senior

1 citizen accessory apartment. The only difference between  
2 that and what we are proposing is that it's smaller, but  
3 there's no change in that there would still be a locked  
4 door and there would be two distinct units and two  
5 distinct groups living in that home. And based upon that  
6 explanation, my assertion is that there's no change to the  
7 home in terms of groups of people and where they are  
8 living.

9 MR. FRASER: But then the senior citizen  
10 accessory use apartment, in fact, the individuals who  
11 occupy the senior citizen accessory use apartment I would  
12 assume would necessarily be senior citizens, is that not  
13 correct?

14 MR. O'BRIEN: Of course.

15 MR. FRASER: In this respect, that is not what is  
16 applied for so it is fundamentally different; is that not  
17 true?

18 MR. O'BRIEN: The only difference is these are  
19 not designated senior citizens. It's still two units. I  
20 think that's the point here, is this there are two units  
21 in this house.

22 MR. FRASER: Right, I'm just merely making the  
23 point in response to your testimony about senior citizen  
24 accessory use; that it's not what's applied for. That's  
25 something different, albeit, I recognize that would be a

1 MR. O'BRIEN: Correct.

2 MR. FRASER: So, therefore, it's not a mother and  
3 daughter use. There's more than just a locked door as a  
4 difference.

5 MR. O'BRIEN: Agreed.

6 MS. BIANCO: Thank you.

7 MR. VINEGRA: Besides that, on a locked door,  
8 Kevin, you can't have two kitchens in a mother/daughter.  
9 It has to be communal living.

10 MR. O'BRIEN: I am not positive about that,  
11 Mr. Vinegra.

12 MR. VINEGRA: It has to be communal living  
13 because you're not supposed to have -- you're supposed to  
14 live as a single-family unit. You can have a separate  
15 entry, but you're supposed to live as a communal family.

16 MR. O'BRIEN: Does Garwood --

17 MR. VINEGRA: Mother/daughter just gives you  
18 permission to live together as a communal family.

19 MR. O'BRIEN: Mr. Vinegra --

20 MR. VINEGRA: On the unit counts, the unit counts  
21 that you did --

22 MR. O'BRIEN: Can I follow up on that, please?

23 MR. KOODRAY: Can he please answer that because I  
24 think it's important.

25 MR. VINEGRA: What was the question?

1 second housing unit of a different type, correct?

2 MR. O'BRIEN: Sure, Mr. Fraser.

3 MR. FRASER: Right, thank you. Thank you  
4 Mr. Chairman.

5 MS. BIANCO: I have a question.

6 THE CHAIR: Yeah.

7 MS. BIANCO: You mentioned that the difference  
8 between a mother and daughter and a two-family would be a  
9 locked door. However, my understanding of a  
10 mother/daughter is that there is family living without  
11 that locked door. So if that door is locked, you have two  
12 separate families. It's no longer a mother and daughter,  
13 so that's not the same use.

14 MR. O'BRIEN: I'm not quite following. My  
15 apologies.

16 MS. BIANCO: Well, you said the only difference  
17 between the mother and daughter, if I heard you correctly,  
18 and the two-family is a locked door, correct?

19 MR. O'BRIEN: I made it as simple as I possibly  
20 can.

21 MS. BIANCO: However, mother and daughter is for  
22 family use.

23 MR. O'BRIEN: Correct.

24 MS. BIANCO: As it implies. Not to rent it out  
25 to another family.

1 MR. KOODRAY: Your question, can he just answer  
2 that before you move on to the second one?

3 MR. VINEGRA: What was the question?

4 MR. O'BRIEN: The question is does Garwood  
5 prohibit a second kitchen in a residence.

6 MR. VINEGRA: We don't expressly prohibit such --

7 MR. O'BRIEN: Thank you.

8 MR. VINEGRA: -- but we don't permit such because  
9 it is not communal living.

10 MR. KOODRAY: I'm sorry?

11 MR. VINEGRA: On your listing --

12 MR. KOODRAY: Wait, Mr. Vinegra, just, I'm sorry,  
13 I just want to understand what you just said. Can you  
14 just repeat that? I misheard. I might have misheard you.

15 MR. VINEGRA: It's not specifically permitted so  
16 we don't permit such. It's not specified in the  
17 construction code as expressly permitted to have a  
18 secondary kitchen on the upper floors, so as a rule of  
19 fact and policy in the municipality, they do not permit  
20 kitchens on the second level unless it's a two-family.

21 MR. KOODRAY: And that's codified, you're saying?

22 MR. VINEGRA: No.

23 MR. KOODRAY: Oh. Thank you.

24 MR. VINEGRA: The second question, Kevin, when  
25 you gave the percentages of two families in the

1 neighborhood, what did you use? Did you use the --  
2 Mr. Paul Martin's calculations or did you use your own  
3 calculation?

4 MR. O'BRIEN: I used Mr. Martin's calculations  
5 and confirmed it with my field work.

6 MR. VINEGRA: Because I just double checked and,  
7 Josh, earlier I made a statement that around, I think 9:00  
8 or 10:00, and I went over what is not listed in the  
9 two-family zone and what is permitted to be 14 lots. A  
10 number of parcels list are not legal two-family at this  
11 point in time. They may -- they can become legal  
12 two-families if they come back before the Board some of  
13 them, but a number of them, just because they have two  
14 meters or two gas meters, electric meters, are not  
15 two-families.

16 MR. KOODRAY: Can we for the record, Mr. Vinegra,  
17 just identify which properties you think fall into which  
18 bucket I guess?

19 MR. VINEGRA: Well, okay, based on your list, the  
20 ones I looked at briefly are 230 3rd Avenue, 260 3rd  
21 Avenue, 217 3rd Avenue, 215 Maple, 210 Walnut, 54 3rd  
22 Avenue, because that's an apartment building. It's not a  
23 two-family. 39 3rd, 20 3rd Avenue, 18 3rd Avenue, and 12  
24 3rd Avenue.

25 So this is not my testimony. It's based on what

1 if they can prove that they have been two-families for  
2 this extended time since the ordinance change, then they  
3 would, more or less, most likely they could be awarded a  
4 certificate of nonconformance.

5 MR. KOODRAY: Okay. So in your opinion --

6 MR. VINEGRA: But they haven't been at this point  
7 in time.

8 MR. KOODRAY: No, I got you. I just want to  
9 conform. So 14 legal right now.

10 MR. VINEGRA: That's what I think, yeah.

11 MR. KOODRAY: And then the remainder of the list,  
12 based on what you have seen, probability that they can  
13 apply for that at some point?

14 MR. VINEGRA: Some can, yes, out of the 21 lots  
15 that you gave me. So some of the percentages Kevin has  
16 given me, had supplied as evidence, it's not  
17 substantiated.

18 MR. KOODRAY: And then just, Mr. Vinegra, just to  
19 clarify, too, just one thing, those properties are, in  
20 fact, in the one-family zone, right, currently?

21 MR. VINEGRA: Yeah, the ones I double checked are  
22 and the only one I really threw out is the apartment  
23 building on 3rd Avenue.

24 MR. KOODRAY: No, I got you. All right. Thank  
25 you.

1 I'm double-checking during the testimony --

2 MR. KOODRAY: No, I appreciate that.

3 MR. VINEGRA: -- of Paul Martin and what Kevin is  
4 using so I'm only coming with about 14 lots in the zone  
5 that are legal two-family that as a zoning officer which I  
6 do work as a zoning officer for the municipality, I would  
7 only sign off on 14 of these.

8 Now, granted some of these other lots could be,  
9 if they came back before the Board, showing that they were  
10 constructed prior to the zone change, but they haven't to  
11 date.

12 So to date, I would say there's 14 lots, not the  
13 percentage that you've given.

14 MR. KOODRAY: So Mr. Vinegra, in your opinion,  
15 it's 14 legal as we sit here tonight?

16 MR. VINEGRA: Paperwork, with paperwork, yes.  
17 That's my opinion for now, but I didn't do an in-depth  
18 analysis.

19 MR. KOODRAY: Oh, no, I'm just trying to get your  
20 opinion.

21 MR. VINEGRA: But just for the Board's records,  
22 there are a number of them that haven't sold through the  
23 market and they haven't come before this Board for  
24 certificates of nonconformities, but there were a number  
25 that were legal at one time when they were constructed and

1 MR. VINEGRA: Also, Kevin's referring to the zone  
2 plan of 2009 and a part of that zone plan was  
3 recommendations to city counsel and that's what triggered  
4 this area to be rezoned. So if you're referring to the  
5 zone plan of 2009, the zoning plan of 2009 made  
6 recommendations to both counsel and back to the Board to  
7 rezone this block to be single family, this side of the  
8 block. So if you refer to that, that's what triggered  
9 this to become a nonconforming side of the block. So to  
10 say the zone plan of 2009 permits this to remain a  
11 two-family, the zone plan of 2009 that you are referring  
12 to, reversed it to a single family.

13 And just one other item, the hardship of a C2  
14 hardship is self created. If you weren't going for a  
15 two-family unit, you wouldn't have this hardship so it's  
16 not -- this is a self-created hardship. It's not a  
17 hardship that -- either C1 or C2. That's my notation.

18 BY MR. KOODRAY:

19 Q. If I can, just while we're on that, just  
20 Mr. O'Brien, if you can just touch on the aspects of the  
21 zone plan and I believe the purpose here for a use  
22 variance is to reconcile the rezoning, right, for purposes  
23 of the zone plan. If you can just reiterate what purposes  
24 you feel are advanced by this application, that's number  
25 one.

1 And then my second question is -- I just forgot  
2 it, so if you can begin to answer that I maybe will  
3 remember it.

4 A. Well, the master plan does talk about and these  
5 are the passages that I quoted earlier, preserve and  
6 promote a balanced variety of residential, commercial,  
7 industrial, public and recreational land uses. By citing  
8 these goals of the master plan, remember that the master  
9 plan are goals, they are not ordinances, and no where in  
10 here does it say that this property cannot and can never  
11 be a two-family because that's what the function of the  
12 Board of adjustment is to grant leave should it be  
13 requested; and I'm saying that in a very general way that  
14 it meets that goal of providing that variety of  
15 residential uses, one and twos. It also protects the  
16 established residential character of this area.

17 MR. VINEGRA: But the reason I bring it up is my  
18 office helped draft this master plan.

19 MR. O'BRIEN: I'm aware of that, yes.

20 MR. VINEGRA: And this neighborhood was analyzed  
21 during those ordinances that were being created to revert  
22 this back to single-family because a number of the homes  
23 affected in the neighborhood were single-family. And to  
24 protect that neighborhood, one of the recommendations was  
25 to change this particular side of the block. The Board

1 MS. VILLAGIO: I have a couple of questions. You  
2 just mentioned in answering Victor's question that it  
3 doesn't matter what the zone is, that it should be a  
4 two-family, something to that effect. Because right now  
5 it's in a single-family zone, okay, and you answered one  
6 of his questions by saying that it really doesn't matter  
7 what the zone is, that, you know, the two-family would be  
8 okay, that it would fit in the neighborhood.

9 MR. O'BRIEN: Ms. Villagio, I'm only speaking  
10 about this particular application and this particular  
11 property.

12 MS. VILLAGIO: Yeah, I understand that.

13 MR. O'BRIEN: And I believe that there's  
14 justification to allow it to become a two-family based  
15 upon my testimony and the other testimony you heard this  
16 evening.

17 MS. VILLAGIO: I understand that.

18 MR. O'BRIEN: I am not making a blanket statement  
19 about other properties and other two-families.

20 MS. VILLAGIO: Because that in itself, it just,  
21 you know -- the other. All right.

22 The other question I had is that you indicated  
23 that this house was built in 1915, right?

24 MR. O'BRIEN: Correct.

25 MS. VILLAGIO: And in 2007 it was a mother/

1 chose not to change the southern side of the block. They  
2 decided to change the northern side of the block, so the  
3 northern side of the block had a number of single families  
4 and they wanted to protect that neighborhood and we were  
5 expressly involved with that.

6 So the reason I bring this up is we were involved  
7 with it and that's not the findings of the Board. The  
8 findings of the Board were to change the zone, so it's a  
9 direct conflict. I mean, you weren't there so I don't  
10 expect you to know this, but it's in direct conflict of  
11 what the Board did, what you testified to.

12 BY MR. KOODRAY:

13 Q. I did remember the other question if I could  
14 just -- it's very quick. Mr. O'Brien, are you required to  
15 show a hardship for a flexible C2 variance?

16 A. No. I was pointing out the hardship in terms of  
17 the preexisting nonconformities; that to change them to a  
18 conformity would be impossible because it would require  
19 destruction or change to the house.

20 Q. So you were justifying the existing  
21 nonconformities under the C1 and C2, flexible C2 being no  
22 hardship required, correct?

23 A. That is correct, Mr. Koodray.

24 MR. KOODRAY: Thank you.

25 THE CHAIR: Kathy?

1 daughter, right, in 2007?

2 MR. O'BRIEN: Correct.

3 MS. VILLAGIO: Okay. At that time, in 2007,  
4 whoever owned it, like if they wanted it to be a  
5 two-family it could have been, correct, because at that  
6 time this particular lot was in a two-family zone?

7 MR. O'BRIEN: This particular lot was in a  
8 two-family zone in 2007, yes, that's correct.

9 MS. VILLAGIO: And if they wanted it to be a  
10 two-family house, they would have legally done so.

11 MR. O'BRIEN: I cannot speak for the prior owner,  
12 ma'am.

13 MS. VILLAGIO: But if they wanted it to be a  
14 two-family, you know, it would have been in the right  
15 zone?

16 MR. O'BRIEN: That's correct. They could have  
17 legally made this into a two family.

18 MS. VILLAGIO: Okay. Now when we did --

19 MR. KOODRAY: In compliance -- I'm sorry,  
20 Ms. Villagio, just to clarify.

21 MS. VILLAGIO: Go ahead.

22 BY MR. KOODRAY:

23 Q. Mr. O'Brien, that conversion could be made  
24 obviously subject to compliance with all the other bulk  
25 requirements?



1 A. There is a process and procedure to that,  
2 Mr. Koodray, yes.

3 MR. KOODRAY: And then one more, Ms. Villagio.  
4 I'm so sorry. I just don't want to lose the thought.

5 Q. You had brought up a good point about the zone  
6 and the deviation, frankly, from the zone plan. But  
7 Mr. O'Brien, in your opinion as an expert planner, isn't  
8 that essentially the characteristics of every D-1  
9 variance? Isn't that the purpose of a D-1 variance, to  
10 show that this specific property is particularly suited  
11 and meets both the positive and negative criteria to  
12 justify such a deviation? Isn't that the very purpose of  
13 a D-1 use variance?

14 A. That is correct, and that was the effect of my  
15 testimony. Thank you.

16 MR. KOODRAY: Thank you, Ms. Villagio. I'm  
17 sorry.

18 THE CHAIR: Bill?

19 MR. NIERSTADT: Kathy, I don't want to jump in.  
20 Are you done?

21 MS. VILLAGIO: Go ahead. You can go.

22 MR. NIERSTADT: Kevin, I want to jump exactly in  
23 the conversation that you and Mr. Koodray just had because  
24 I understand why we went through all the prior testimony  
25 regarding existence of two-families in the neighborhood

1 being converted, how is this site particularly well suited  
2 to contain a two family dwelling?

3 MR. O'BRIEN: The testimony you've heard and the  
4 testimony I have given has shown there have been two  
5 dwelling units in this house for some time.

6 MR. NIERSTADT: Mr. O'Brien, that's not correct.  
7 That's an incorrect statement. There hasn't been two  
8 dwelling units in here until the Applicant made the  
9 conversion. So that's an incorrect statement.

10 MR. O'BRIEN: Then we can disagree,  
11 Mr. Nierstadt, because I think that a mother/daughter,  
12 while it has particular characteristics, still consists of  
13 two units of living.

14 MR. NIERSTADT: So when I get a CO for a  
15 single-family yet as a mother/daughter, do I get a CO for  
16 a single-family or two-family?

17 MR. O'BRIEN: Single family.

18 MR. NIERSTADT: So there you go. The statement  
19 about it being a two-family all these years is incorrect.

20 MR. O'BRIEN: I did not say, sir --

21 MR. NIERSTADT: It's been a single-family since  
22 1915.

23 MR. O'BRIEN: No, that's not our statement.

24 MR. NIERSTADT: Can you help me further  
25 understand?

1 and if anybody had looked at the master plan that was  
2 done, as Victor said, back in '09 you would have seen the  
3 master plan states right there, lots of these properties  
4 are two-families, again, not perhaps legal, but they have  
5 indicated with whatever analysis they did there's lots of  
6 two-families and I understand why the realtor testified  
7 and what Mr. Meeks said, but to me this all boils down to  
8 one question.

9 It doesn't matter to me if the Applicant did work  
10 without permits. It comes down to, in the application, in  
11 the statement of principal points that the attorney  
12 submitted, it made a statement. The existing home which  
13 will remain, was constructed in 1951 and is --

14 THE CHAIR: 1915.

15 MR. NIERSTADT: I'm sorry, 1915. I apologize.  
16 And is particularly well suited to become a two-family  
17 home. Well, that doesn't mean a darn thing to me because  
18 it's not a question of whether the house is particularly  
19 well suited, it's the site.

20 If you go further into the argument it says the  
21 site is particularly suitable for the proposed use. I'm  
22 still waiting to hear basic use variance support for an  
23 existing single-family house -- existing single-family  
24 property to be, I don't care if this was a new house being  
25 constructed on this property or it's an existing house

1 MR. O'BRIEN: Sure. I'm saying that since 2007,  
2 which is what we have documentation for, that there had  
3 been two different dwelling units in this house. Two  
4 different groups of people living in two different places.

5 MR. NIERSTADT: But that's an incorrect  
6 statement. There haven't been two separate dwelling  
7 units. It's a single-family house that's being utilized  
8 as a mother/daughter. As Victor said, it's  
9 mother/daughter communal living. You don't have, as you  
10 said, a locked door. This house has been a single-family  
11 since 1950.

12 MR. O'BRIEN: We don't know that for sure. All  
13 we can speak of is from 2007.

14 MR. NIERSTADT: How about this? It's been a  
15 legal single-family since 1915?

16 MR. O'BRIEN: We don't know the answer to that  
17 either.

18 MR. NIERSTADT: Has it ever gotten a CO for two  
19 or three or four or anything else?

20 MR. O'BRIEN: We requested that information in  
21 our OPRA and I have no information from the borough.

22 MR. NIERSTADT: I disagree with you. You  
23 received information that it's been a single-family since  
24 1915. You don't have any other documentation indicating  
25 it's been anything else.

1 MR. O'BRIEN: Let me confirm.

2 MR. TARANTINO: Hasn't the homeowner already

3 testified that he bought the house on the basis that it is

4 a single-family?

5 MS. BIANCO: Yep.

6 MR. O'BRIEN: In answer to your question,

7 Mr. Nierstadt, excuse me, I'm taking a look at the OPRA

8 information that was received and there is no indication

9 of -- certainly there's no indication of two-family,

10 you're absolutely correct. The records we were provided

11 go back to 1995 and there was no CO for single-family,

12 two-family or anything else. Instead, it is all work done

13 on the house through the construction permit process. We

14 don't have the information as to what it was prior to

15 these permits.

16 MR. NIERSTADT: So I apologize for this

17 ridiculous statement, and I know it's ridiculous. Could

18 we say it was a 25 unit house at one time? We don't know

19 anything, right?

20 MR. O'BRIEN: I think that you could possibly say

21 that it may have been a two-family based upon the

22 construction at some point, but we don't know that. As

23 for more than that, it doesn't seem likely. But I'm not

24 an architect. I don't know what you can put there.

25 MR. NIERSTADT: Okay.

1 purchased the property it was a one-family and even though

2 it may have had what you term as some characteristics of

3 having two separate dwelling units, notwithstanding that

4 opinion, he bought it as a one-family, correct?

5 MR. O'BRIEN: Agreed, again.

6 MR. NIERSTADT: All right. So, Mr. O'Brien, I

7 still remain here sitting here waiting to hear particular

8 suitability. It's 10:45. We may be back here again next

9 month, but I'm sitting here saying to you I don't hear a

10 particular suitability argument. I will tell you this:

11 It's there.

12 To continue, are you aware of any other

13 properties in the chart that Mr. Martin prepared that have

14 received certificates of nonconformity that are actually

15 smaller lots than this one?

16 MR. O'BRIEN: Yes, I am.

17 MR. NIERSTADT: Okay. So you have some 4,000

18 square foot lots, 5,000 square foot lots that the Board

19 has granted certificates to, correct?

20 MR. O'BRIEN: Correct.

21 MR. NIERSTADT: In terms of the master plan, I

22 want to go back to where Mr. Vinegra was. We planners,

23 you know, I have the master plan in my nightstand here,

24 you know, and in looking at the master plan, as

25 Mr. Vinegra said, I'm on Section 3, page four -- actually

1 MR. FRASER: But wait a minute. But,

2 Mr. O'Brien, but your own -- but your own applicant

3 testified that when he bought the house it was a

4 single-family, correct?

5 MR. O'BRIEN: That is correct.

6 MR. FRASER: So what has happened to change it

7 from a single-family the day that the guy bought it prior

8 to now?

9 MR. O'BRIEN: Prior to now?

10 MR. FRASER: Right.

11 MR. O'BRIEN: Are you talking about the change to

12 the property?

13 MR. FRASER: The point is he didn't buy it as

14 two-family. He bought it as a one-family, right?

15 MR. O'BRIEN: There's no dispute.

16 MR. FRASER: Okay.

17 MR. O'BRIEN: Mr. Nierstadt's question was what

18 it was before, going back to 1915.

19 MR. FRASER: Right.

20 MR. O'BRIEN: There is no documentation

21 whatsoever as to what it was before.

22 MR. FRASER: Appreciate that answer. I

23 understand that. And I understand Bill's question, too,

24 and that's fine. I'm merely jumping off that question.

25 The point though is that when Mr. Martin

1 page three and it talks about the number of two-family,

2 one-families, two-families, etc., etc. And based upon the

3 analysis that's on section 3, page three, it also goes on

4 to section 3, page nine, it all becomes a recommendation.

5 MR. O'BRIEN: Can you give me one moment,

6 Mr. Nierstadt, while I pull that up?

7 MR. NIERSTADT: No problem.

8 MR. O'BRIEN: Thank you.

9 MR. NIERSTADT: I will sell you a copy, cheap.

10 MR. O'BRIEN: I had so many documents.

11 MR. NIERSTADT: I understand. Like I said, given

12 the time, I think we're going to see each other again.

13 So my question is what you want to look at is

14 Section 8, page four. The recommendation that comes out

15 of that analysis, and I will be frank with you, Mr. Martin

16 had a very similar analysis, as Mr. Vinegra said, convert

17 the northern side of 2nd Avenue to single-family.

18 My question to you is: How does a conversion of

19 this single-family to a two-family advance the Garwood

20 master plan? I'm not talking about the MLUL general

21 standards. I'm talking about Garwood's master plan. How

22 does this advance that?

23 MR. O'BRIEN: I'm still pulling up that master

24 plan.

25 MR. NIERSTADT: No problem. Because you used

1 those magic words "consistent with" and I'd just like to  
2 know how.

3 And just to let you know, I'm a night owl, so I'm  
4 good until midnight. Nobody else is smiling.

5 MS. VILLAGIO: I don't have no place to go, so...

6 MR. NIERSTADT: That's true. None of us do,  
7 right?

8 MS. VILLAGIO: No, just the pool.

9 MR. NIERSTADT: Mr. Greet, are we going to come  
10 back anyway?

11 THE CHAIR: Let's continue for a little while  
12 longer and we'll see. If it's necessary, we come back.  
13 What can I tell you?

14 MR. NIERSTADT: Because I don't want to belabor  
15 the point. I don't expect --

16 MR. FRASER: I would make the observation that  
17 the applicant has gotten all its witnesses in and we can  
18 these philosophical debates as to stuff I don't think  
19 Mr. Nierstadt or Mr. O'Brien are going to give an inch on  
20 some of these points.

21 MR. NIERSTADT: Well, Mr. Fraser, just to let you  
22 know, okay, I mean this very seriously, with Mr. Koodray  
23 listening also, I am on the fence on this application. I  
24 need to be convinced, so he will come up with something.

25 MR. O'BRIEN: Mr. Nierstadt, I am on the master

1 Districts-Medium Density. It has two illustrations. One  
2 is photo 8-2. Example of medium residential showing a  
3 number of homes and Map 8-2 Land Use Plan medium density  
4 residential which highlights in yellow the medium density  
5 residential zone.

6 The text says, "This land use classification  
7 provides the foundation for the creation and continuance  
8 of the RA zone in the borough zoning ordinance."

9 Can you hear me? Yes, okay. I will continue.

10 "This district is found in the most part to the  
11 north of 2nd Avenue and in the most part south of Willow  
12 Avenue. This district is the largest land use  
13 classification accounting for 1045 lots, for 68.66 percent  
14 of the municipality. This land use classification  
15 encourages development of single-family homes at a minimum  
16 lot size of 5,000 square feet with a minimum lot depth of  
17 50 feet and a minimum lot width of 50 feet and a minimum  
18 lot depth of 100 feet."

19 MR. NIERSTADT: My question is out there.

20 MR. O'BRIEN: You're talking about the master  
21 plan making specific recommendations, which it does not in  
22 this passage. It must be elsewhere in the document, and I  
23 would be more than happy to take a look for that. But  
24 there's no specific recommendation saying to change  
25 something for a particular purpose.

1 plan on Section 8, page four. Which question did you  
2 have, sir?

3 MR. NIERSTADT. All right. The analysis that  
4 Mr. Martin drew and also the analysis from the master plan  
5 on previous pages comes to the conclusion on Section 8,  
6 page four that this area be rezoned to single-family  
7 which, as Mr. Vinegra indicated, planning board  
8 recommended to counsel and counsel did. So my question to  
9 you is, now I don't want to hear an answer about general  
10 MLUL provisions. If the master plan called for the  
11 conversion of this area to single family, how does the --  
12 how does an application converting a one-family to a  
13 two-family, how is it consistent with an advance of the  
14 master plan?

15 MR. O'BRIEN: I'm reading the passage on page  
16 four.

17 MR. KOODRAY: Mr. O'Brien, if you don't mind, if  
18 it's a short passage, and I know this is crazy because the  
19 time is late, do you want to read it into the record?

20 MR. O'BRIEN: As you wish, Mr. Koodray.

21 Let me move my other screen so you can hear me.

22 MR. KOODRAY: Sorry to mess with all the screens  
23 now.

24 MR. O'BRIEN: Section 8 page four of the 2009  
25 master plan is titled Single-Family Residential

1 MR. NIERSTADT: Mr. O'Brien, does the map on that  
2 page not show this area to be single-family? I understand  
3 what you are saying, but does the map not show it to be  
4 classified as single-family.

5 MR. O'BRIEN: Medium density residential is what  
6 it's classified as.

7 MR. NIERSTADT: And what is the only permitted  
8 use in medium density residential?

9 MR. O'BRIEN: Single-family.

10 MR. NIERSTADT: Single-family. Thank you.

11 THE CHAIR: I think we can dispense of this topic  
12 right now because basically we're going in the same way.  
13 I mean, you're hitting it from your standpoint, Bill, and  
14 Mr. O'Brien is hitting it from his standpoint, but you're  
15 both basically saying the same thing. It's an RA zone  
16 specified for single-family and that's when it came into  
17 effect was in 2009.

18 MS. VILLAGIO: '11.

19 THE CHAIR: Am I correct?

20 2007, I'm sorry.

21 MR. NIERSTADT: And Steve, Mr. Greet, I  
22 understand what you're saying and I'm not going to dwell  
23 on it longer because I have other questions, but the  
24 intent of my question was when I hear testimony about an  
25 application being consistent with advancing a master plan

1 that calls for a single-family, I just don't understand  
2 that response.

3 THE CHAIR: I agree.

4 MR. VINEGRA: Why don't you get off that?

5 THE CHAIR: If you don't agree with the response  
6 and you've made your case, and I agree with you, quite  
7 honestly.

8 MR. NIERSTADT: All right. You mentioned about  
9 the difference between single-family and mother-daughter.  
10 So tomorrow, in your experience, and you have been, you  
11 have testified far more times than I, in many more  
12 municipalities, but do you find that most municipalities  
13 start their residential zoning with single-family homes or  
14 mother/daughter homes?

15 MR. O'BRIEN: If mother/daughters are mentioned  
16 at all, they are subsumed within single-family homes, but  
17 I find it rare that they are mentioned at all.

18 MR. NIERSTADT: I agree with you. So why do you  
19 think that is?

20 MR. O'BRIEN: They are not usual. Because they  
21 are, as we have both pointed out on several sides tonight  
22 and we have agreed to, single-family homes.

23 Mother-daughters are subsumed within single family homes.

24 MR. NIERSTADT: As single-family homes, not two  
25 family homes with separate -- with locked doors?

1 considered as an element to particular suitability?

2 A. Yes, it is, and that's one of the reasons why we  
3 keep coming back to those two dwelling units within this  
4 house. Agreed it's a one-family. Agree a mother/  
5 daughter is different, but the character of it is that  
6 there have been two different groups living in the  
7 building, and that this proposed change, essentially  
8 looking at it from the street, is nothing different from  
9 having two different groups in that building. And I think  
10 that's what you're getting at, Mr. Koodray, in terms of  
11 particular suitability.

12 Q. No, I think but for the suggestion by  
13 Mr. Nierstadt that we expand the garage, if that were a  
14 condition that the Board would like to see, all the  
15 existing bulk conditions are remaining the same, right?  
16 There's not going to be any appreciable change from the  
17 outside of the property, any further impact on the  
18 adjoining neighbors?

19 A. There is no change suggested to the property, to  
20 the building on the exterior. The Board has seen the  
21 extent of the walls and doors that Mr. Meeks has testified  
22 to, which are fairly minimal, so there's really no change  
23 outside. And if the Board wanted to expand the parking by  
24 widening that garage, that actually is a benefit because  
25 that means that those cars will most definitely be off the

1 MR. O'BRIEN: Agreed.

2 MR. NIERSTADT: Okay. I'm going to end there. I  
3 have taken enough of everybody's time. Thank you.

4 THE CHAIR: Anybody else from board? Any  
5 questions of this witness from the Board. Okay. Hearing  
6 none, I will open this up. Andrew, again, you can you  
7 unmute anybody from the public. I will open it up for  
8 specific questions of this witness right now.

9 MR. KOODRAY: Mr. Chairman, if I may? I did have  
10 a couple of follow up questions for Mr. O'Brien. Do you  
11 want me to hold those for after public, if there is any?

12 THE CHAIR: No, you can give that now and then I  
13 will open it back up for public comment.

14 MR. KOODRAY: Okay. Great. Thank you.

15 BY MR. KOODRAY:

16 Q. Just a couple of points, Mr. O'Brien. So  
17 Mr. Nierstadt wasn't swayed by the site suitability  
18 argument, I guess, that we are were making, right, so I  
19 would say and I argue this on many cases on a number of  
20 occasions, but I'm curious to get your take on it. At  
21 least an element of particular suitability is if there is  
22 an existing structure that can be preserved or repurposed  
23 in some way without, you know, expanding the footprint or  
24 increasing the height or increasing existing  
25 nonconformities, isn't that an element that should be

1 street and can accommodate more cars.

2 Q. Now that we're talking about parking, though, I  
3 think now we can shift a little bit from the structure to  
4 the site itself, right? We've heard testimony from  
5 Mr. Signorella and also Mr. Martin's survey. What about  
6 this site, the specific characteristics of this lot, make  
7 it particularly suited to accommodate this use, in your  
8 opinion?

9 A. It is oversized. It is 7,500 square feet where  
10 5,000 square feet are allowed.

11 As the Board knows, this area does have multi  
12 families. They are on 5,000 square foot lots or smaller.  
13 This one is oversized. It's got plenty of room for those  
14 two groups living in that home.

15 Q. Now, do you see as a professional planner having  
16 some outdoor living space as a unique aspect of this  
17 application?

18 A. I do because today so many rental units don't  
19 have green space and I see them in the townships where I  
20 work as a planner, applicants coming in trying to squeeze  
21 every inch out of a property. And my question has been  
22 where are the families going to play? In this particular  
23 case, it's being provided. There's more than adequate  
24 space for people to enjoy that outdoors.

25 Q. Now, the other, I guess, point I had, do you see

1 -- do you know what? From an exterior, it's more related  
2 to the building, so I won't ask that question. But did  
3 you have an opportunity, Mr. O'Brien, we identified a  
4 number of properties, right, as having legal documents,  
5 right, associated with them and I know Mr. Vinegra  
6 disagreed and certainly maybe the list is plus or minus a  
7 few, but did you have an opportunity to look at the  
8 specific lot area for those properties that we identified?

9 A. Yes, I did. I'm pulling that up right now.

10 Q. And once you have pull it up, my question is  
11 going to be: How does the lot area for those properties  
12 compare to Mr. Martin's?

13 A. I got about 20 documents open here to call on.

14 Q. Too many screens, too many pdfs open.

15 A. Yeah.

16 Q. I'm not trying to belabor, everyone. I  
17 apologize.

18 MR. FRASER: Let me ask a question. Don't we all  
19 know the answer to that? This one's 7500 feet and most of  
20 the other ones aren't, Mr. Koodray?

21 MR. KOODRAY: I would like Mr. O'Brien to say  
22 that after he's had a chance to review his records, but  
23 yes.

24 A. Of the 26 properties, let me -- can you hear me?

25 Q. Yes.

1 A. That is correct.

2 Q. Okay. And the last question I had was there was  
3 a question early on, I didn't want to forget about it,  
4 about the buffer zone. Do you have any opinion about this  
5 property and its impact on that, the buffer zone between  
6 the commercial zone and then the two-family?

7 A. Right. The commercial zone starts along North  
8 Avenue. The two-family zone is immediately to the north  
9 of that and has been explained earlier this evening. This  
10 is the first layer of buildings that are in the  
11 single-family zone. Further to the north in Garwood are  
12 more predominant single-family homes, as you have seen  
13 from Mr. Martin's presentation. The two-families more  
14 concentrated more towards North Avenue, so you could look  
15 at this area as buffer in that you've got existing  
16 two-families here. As has been pointed out, this was a  
17 two-family zone, as recently as 2009, so we really don't  
18 know how many of those properties will take advantage of a  
19 certificate of nonconformity or other legal process to  
20 establish their two-family status. So in terms of a  
21 buffer, this does provide a buffer area to those  
22 single-family areas that are to the north.

23 Q. And then that testimony along with the testimony  
24 from Mr. Signorella about filling the need within a  
25 community, that's beyond a personal benefit to Mr. Martin

1 A. Okay. I will move it a little bit. Of the 26  
2 properties that we stated had characteristics of two  
3 families -- no, I'm sorry, scratch that. Of the  
4 properties we stated had thorough legal documentation, this  
5 particular property is larger than 12 of those.

6 Q. I'm not really a quick math guy, so approximately  
7 46 percent?

8 A. 46.15, yes, Mr. Koodray.

9 Q. And then just to circle back, I'm not trying to  
10 belabor the point, Mr. Nierstadt's questions about the  
11 master plan are valid questions. Obviously the purpose of  
12 the zone was changed for a specific reason and we  
13 understand that and there's an inherent tension between a  
14 D-1 use variance and a purpose of the master plan,  
15 correct, Mr. O'Brien?

16 A. That is correct.

17 Q. But there are specific goals within a master plan  
18 that can be identified even with that tension, right? I  
19 mean a D-1 use variance is not excluded from having the  
20 reconciliation element, correct?

21 A. No, it is not.

22 Q. Okay. And I know you testified to it already,  
23 but there are specific goals in this master plan that have  
24 been advanced, in your professional opinion, by this  
25 application, correct?

1 alone, correct?

2 A. That is correct.

3 MR. KOODRAY: Okay. That's all I have right now.  
4 Thank you.

5 MR. FRASER: Mr. Chairman, I have to interject  
6 here.

7 THE CHAIR: Yes.

8 MR. FRASER: I observe that it is 11 o'clock.

9 The Board would need to have a motion to resolve to  
10 continue the application at this point because of the  
11 bylaws.

12 THE CHAIR: In that case, do I hear a motion?

13 MR. FRASER: I have no problem with that, but it  
14 would have to be done then.

15 THE CHAIR: Understood.

16 Mr. Koodray, do you have much more testimony of  
17 this witness or any other witness that you've had tonight?

18 MR. KOODRAY: I don't, Mr. Chairman, at least off  
19 the top of my head. Again, I reserve the right to, you  
20 know, ask further questions if more information is  
21 solicited.

22 THE CHAIR: I'm saying do you have anything  
23 prepared?

24 MR. KOODRAY: No, no direct, no direct.

25 MR. FRASER: Right, so Mr. Chairman, what that

1 means is if there is not further questions of Mr. O'Brien  
2 asked by the board or by the public that would mean that  
3 there's not an opportunity for Mr. Koodray to ask more  
4 questions of the witness.

5 THE CHAIR: That would be correct.

6 MR. KOODRAY: But I would hopefully have a short  
7 opportunity to close, just short.

8 THE CHAIR: You get to sum up, Josh, absolutely,  
9 but that would mean that questions would not be reopened  
10 unless they would be further redirect as a result of  
11 something somebody else brought up.

12 MR. KOODRAY: Thank you, Mr. Fraser, that's  
13 right. Thank you.

14 THE CHAIR: So with that being said, do I have a  
15 motion to continue this application tonight and complete  
16 it.

17 MR. VENA: I have a question. Can we put a time  
18 limit on the extension?

19 MR. FRASER: Yeah, I mean, what you can do right  
20 now, Mr. Vena, that was actually the same thing I was  
21 thinking is --

22 MR. VENA: To go to 11:30?

23 MR. FRASER: -- the Board can say, okay, we're  
24 going to extend this to until 11:30 and we revisit it at  
25 that point if it wasn't done.

1 Mr. O'Brien.

2 THE CHAIR: Understood. Mr. Nierstadt, do you  
3 have anything to start off with?

4 MR. NIERSTADT: No, I'm looking forward to Board  
5 discussion. I have no further questions.

6 THE CHAIR: Okay. Anyone else from the Board?  
7 Okay. At this time, Andrew, we'll open it up to the  
8 general public.

9 MR. FRASER: And this will be specific questions  
10 for Mr. O'Brien.

11 THE CHAIR: And this will be opened up to  
12 specific questions of this particular witness.

13 MR. WIECEK: The lines are unmuted.

14 THE CHAIR: Okay. Anybody have any specific  
15 questions for had Mr. O'Brien. Hearing none, I'm going to  
16 close it up and open it up for general comments from the  
17 public about this application.

18 MR. FRASER: So this is if anybody from the  
19 public wants to speak in favor of or against this  
20 application or provide evidence of either in favor of or  
21 against the application.

22 MS. SIKORA: I'm in favor of --

23 MR. FRASER: Okay. There's a lady under the name  
24 Michael Colling. Ma'am, what is your name?

25 MS. SIKORA: Stacy S-i-k-o-r-a.

1 MR. VENA: I would make that motion.

2 THE CHAIR: Do I hear a second?

3 MS. VILLAGIO: Second.

4 MR. TARANTINO: I second.

5 THE CHAIR: All those in favor?

6 (Everybody except Mr. Nierstadt answers in the  
7 affirmative)

8 THE CHAIR: Opposed?

9 MR. NIERSTADT: Nay.

10 THE CHAIR: Who's nay?

11 MR. NIERSTADT: Bill Nierstadt.

12 THE CHAIR: You want to close it out?

13 MR. NIERSTADT: I want to close it and come back  
14 next meeting. Well, the ayes have it now.

15 MR. NIERSTADT: I lost it.

16 THE CHAIR: So let's continue until 11:30 and  
17 then we'll reevaluate.

18 MR. FRASER: All right. So Mr. Koodray has now  
19 concluded his second round of questioning of Mr. O'Brien.  
20 It would be appropriate at this time, Mr. Chairman, if  
21 anybody else from the Board has any further questions  
22 based upon the additional testimony that Mr. Koodray just  
23 elicited. They could ask Mr. O'Brien about that now. If  
24 nobody from the Board has anything about that, then open  
25 it up to the public to see if they have questions of

1 THE CHAIR: And your address, please?

2 MS. SIKORA: 238 2nd Avenue, Garwood.

3 MR. FRASER: Okay. Please raise your right hand.

4 STACY SIKORA, having been duly sworn by the Board  
5 attorney, testified as follows

6 MR. FRASER: Go ahead, Ms. Sikora.

7 MS. SIKORA: I'm in favor of him making it a  
8 two-family. I grew up in this town and as far as I know,  
9 it's always been a two-family, and it was always  
10 separated. The upstairs has always been separated by a  
11 separate locking door. So I don't know what anybody else  
12 is talking about. It's always been a separate unit, per  
13 se. It's not a mother/daughter. There's no communal  
14 living. It wasn't like that. Except at Sunday dinner,  
15 maybe.

16 THE CHAIR: Is that it?

17 MS. SIKORA: And, furthermore, it's not going to  
18 bring anything negative to the neighborhood. He's an  
19 onsite landlord. That's awesome because I have an offsite  
20 landlord next to me. That house is a shitshow. It's  
21 disgusting. It's full of rats. I had keep calling the  
22 Board of Health. It's disgusting. The stairs are falling  
23 down. So how is he getting a CO for that? That's  
24 ridiculous. So I don't know. I think an onsite landlord  
25 who maintains the property opposed to everybody buying up

1 these houses, it doesn't matter if it's single-family.  
 2 Everybody is buying these single-family houses and renting  
 3 them out for thousands of dollars and not maintaining  
 4 them. My husband cleaned up all his last tenant's garbage  
 5 a month after they moved out, so I don't know. I think  
 6 you are going about it all wrong. That's my comment.

7 THE CHAIR: Thank you. All right.

8 MICHAEL COLLING, having been duly sworn by the Board  
 9 attorney, testified as follows;

10 MR. COLLING: Mike Colling, 238 2nd Avenue,  
 11 Garwood.

12 MR. FRASER: Go ahead sir.

13 MR. COLLING: Yeah, so I live two doors from this  
 14 said property at 242 I believe and I'm familiar with the  
 15 family that used to live there and I moved into this home  
 16 at 238 2nd Avenue in the year 2004. I moved in Garwood in  
 17 2000. 2004 we moved here and they have had tenants living  
 18 upstairs with the prior owner so whether something was  
 19 slipped or whatever, I don't know, I know you guys brought  
 20 up 2009, 2007, they also had a lady living upstairs in the  
 21 upstairs part. I think she was from Italy or something  
 22 like that so she was there and I know because she used to  
 23 maintain the garden in the backyard. Also, too, we're  
 24 surrounded by two-family houses. They just built one down  
 25 the street, I don't know the address. They built -- they

1 gesture by Mr. Martin, you know, it's a great thing. We  
 2 have a shared driveway here. We have one car, two cars.  
 3 At one time we had four cars there, we used that driveway.  
 4 It's a great thing for Mr. Martin to bring a two-family  
 5 there. That's all I got to say.

6 THE CHAIR: Okay. Thank you very much.

7 MR. COLLING: Yep.

8 THE CHAIR: Anybody else from the general public?

9 Hearing no, we'll close --

10 MR. FRASER: Hold on, Steve. There was a lady.

11 I see somebody a lady named Alana raise her hand.

12 THE CHAIR: Speak.

13 MR. FRASER: Ma'am, your name, please.

14 MR. TARANTINO: You're on mute.

15 MR. NIERSTADT: Andrew, she's unmuted.

16 MR. WIECEK: I'm not sure why the audio is not  
 17 coming through from her end.

18 THE CHAIR: Miss, can you speak, see if we can  
 19 hear you.

20 MR. WIECEK: She's unmuted on the system. It's  
 21 an audio issue on her end, on the computer.

22 MR. KOODRAY: Can I make a suggestion, just a  
 23 little selfishly on behalf of our client. Can we share  
 24 the dial-in number possibly?

25 MR. FRASER: I was thinking the same thing, Josh.

1 split the land in half and they bought, somebody bought  
 2 the house and they built like a duplex over there so I  
 3 don't know what kind of thing they got over there and then  
 4 I got a house right next to me. If I'm 238, they might be  
 5 236. They extended the back of the house. I never got  
 6 any notice on it. You know, we get notice for Paul's  
 7 house, but we never got notice for the house right next  
 8 door to me. They probably put like 20 feet on the back of  
 9 the house and they rent that out as a two-family and that  
 10 was a one-family house. So I don't know what happened  
 11 there. I don't see any negative -- like my wife said,  
 12 being brought to the neighborhood. It's well maintained  
 13 property. It's a huge property I know because I used to  
 14 mow the lawn for the lady that used to live there. I know  
 15 you guys talked about the property. I was on the last  
 16 time this came before the Board and I think one of the  
 17 Board members was talking about getting property stuff and  
 18 additions. The owner that owned that house, he did the  
 19 own addition to the back of the house.

20 And what else? I don't see -- like my wife said,  
 21 there's nothing negative coming in. The tenants that are  
 22 there are nice people, well maintained property. I mean,  
 23 see anything. The cars are off the street. The survey  
 24 that they show with the six cars in the parking lot, when  
 25 the wintertime comes we park our cars there. Very nice

1 Andrew, do you want to tell the lady how to dial in.

2 MR. WIECEK: Yep. Give me one second.

3 MR. FRASER: While we're waiting for that, I will  
 4 just throw it out there. Is there anyone else from the  
 5 public that wants to testify?

6 MS. GREENE: Hi, Ann Greene here.

7 THE CHAIR: Ms. Green, do you have a camera or  
 8 just doing it orally?

9 MS. GREEN: Just audio, please.

10 MR. FRASER: That's fine, Ms. Green. Please

11 state and spell your name.

12 MS. GREENE: Ann Greene, A-n-n, G-r-e-e-n-e.

13 MR. FRASER: And your address, please.

14 MS. GREENE: 243 2nd Avenue, Garwood.

15 MR. FRASER: Ms. Greene, please raise your right  
 16 hand.

17 ANN GREENE, Member of the Public, sworn by the Board  
 18 attorney, testified as follows:

19 MR. FRASER: All right. Ms. Green, go ahead.

20 MS. GREENE: So I would be greatly in favor of  
 21 granting this request. So far, the tenants at the  
 22 property have been quiet. The property is nicely  
 23 maintained by Mr. Martin. I have never experienced any  
 24 parking or any other issues and, again, that parking, the  
 25 driveway is fantastic for those cars. And I don't really

1 see any negative impact on the neighborhood. There's  
2 quite a variety of houses on both sides of the street and  
3 I think the house fits in really nicely as is to the  
4 makeup of the neighborhood. Thank you.

5 THE CHAIR: Thank you.

6 MR. NIERSTADT: Mr. Chairman or Mr. Fraser?

7 MR. FRASER: Yeah.

8 MR. NIERSTADT: While we're waiting, is it  
9 possible to ask Mr. Collins a question or no?

10 MR. FRASER: I think that's fair, Mr. Nierstadt.

11 MR. NIERSTADT: Mr. Collins, can you hear me?

12 MR. COLLING: Yes.

13 MR. NIERSTADT: You indicated that this has been  
14 a two family. Very interested in that, that statement.  
15 Can you add anything to that? I mean, how long are you  
16 aware this has actually been a two-family.

17 MR. COLLING: I moved to Garwood, to this  
18 property here from Anchor Place in 2004.

19 MR. NIERSTADT: Are you saying as of 2004, this  
20 was a two-family, to your knowledge.

21 MR. COLLING: Yes. I mean, people move out. It  
22 was on and off, but, yes, there's been people upstairs  
23 and, you know --

24 MR. NIERSTADT: It hasn't always been, you know,  
25 same family? It's been, you know, totally different

1 just wanted to kind of speak to the neighborhood and how I  
2 really didn't notice any difference in the residence in  
3 question compared to any other residence that I noticed on  
4 the block. I noticed that both sides of the street both  
5 seemed to have two-family units or and there was also  
6 single-family units. Having the driveway was wonderful.  
7 I actually just come from an apartment previously that had  
8 no off-street parking as well as having a landlord right  
9 there on site was actually an amazing thing to have. As  
10 well as I didn't notice with us having the driveway  
11 ability for parking that it affected any of the street  
12 parking. It didn't appear that the trash that we created  
13 was any different than any other houses along the block.

14 MR. KOODRAY: Mr. Fraser, am I able to ask a  
15 question of Ms. Fraser, no relation?

16 MR. FRASER: No relation.

17 Ms. Fraser, are you done because now if you are,  
18 Mr. Koodray can ask you a question. Are you done?

19 MS. FRASER: Yes, I do.

20 MR. FRASER: Go ahead, Mr. Koodray.

21 MR. KOODRAY: Ms. Fraser, thank you very much for  
22 calling in. You spoke about the driveway and some of the  
23 other aspects of the property in the neighborhood. One  
24 thing, if you could, as a former resident, can you just  
25 speak to the outdoor space that the property provides.

1 people at various times?

2 MR. COLLING: Yes, there's been somebody upstairs  
3 living other than the said family that used to occupy the  
4 property.

5 MR. NIERSTADT: Thank you.

6 MR. FRASER: All right. I now see a phone number  
7 that ends in 0268. Is that Alana?

8 MS. FRASER: Yes, it is.

9 MR. FRASER: What is your full name?

10 MS. FRASER: My name is Alana Fraser.

11 MR. FRASER: Oh, spell the last name, please.

12 MS. FRASER: It is spelled exactly like yours.

13 MR. FRASER: All right. So it's spelled  
14 correctly. I'm glad to hear that you. And Ms. Fraser,  
15 there is no relationship, I will note that for the record.  
16 But where do you reside?

17 MS. FRASER: Well, currently I'm residing in  
18 South Carolina, but prior to that I was one of the first  
19 floor residents.

20 MR. FRASER: Okay. Ms. Fraser, please raise your  
21 right hand.

22 ALANA FRASER, Member of the Public, sworn by the Board  
23 attorney, testified as follows:

24 MR. FRASER: Go ahead, ma'am.

25 MS. FRASER: So being a previous resident there I

1 MS. FRASER: Absolutely. It actually was a much  
2 larger backyard than most of the other properties that I  
3 had looked at in my years of living in apartments and  
4 having that large outdoor space in the back to be able to  
5 use was a nice thing. I mean, unfortunately COVID kind of  
6 eliminated a lot of what it would have been used for, but  
7 it was definitely a positive to be able to have.

8 MR. KOODRAY: That's all I have. Thank you so  
9 much.

10 MR. TARANTINO: I'd like to ask a question of  
11 Alana. Alana, I didn't hear what years did you live at  
12 this residence.

13 MS. FRASER: I had taken and attended a moving in  
14 as far as I know as the first tenant in March of 2020 and  
15 then just recently took in -- left a little bit earlier  
16 this month.

17 MR. TARANTINO: So you were Mr. Martin's first  
18 tenant after the renovation.

19 MS. FRASER: As far as I'm aware, yes.

20 THE CHAIR: Any other questions? Anyone else  
21 from the public? Thank you, by the way, very much for  
22 your input.

23 MR. PAEZ: Yes, this is Juan Paez from 235.

24 MR. FRASER: From where?

25 MR. PAEZ: 235 2nd Avenue.



1 MR. FRASER: Mr. Paez, please spell your last  
2 name.

3 MR. PAEZ: P-a-e-z.

4 MR. FRASER: And please raise your right hand.

5 JUAN PAEZ, Member of the Public, sworn by the Board  
6 attorney, testified as follows:

7 MR. FRASER: Go ahead, sir.

8 MR. PAEZ: So I mean we been living here in  
9 Garwood for about five or six years now and we've  
10 actually, you know, seen the property just across the  
11 street. I know that after Mr. Martin took over, you know,  
12 like the property, we've actually noticed that the  
13 property has been kept better. We haven't seen any, you  
14 know, any difference, you know, as far as the appearance,  
15 any impact afforded us.

16 And to one thing I can actually say about  
17 Mr. Martin was that when we moved in here to Garwood, the  
18 first year, which was in 2015 or 2017, we had a snowstorm  
19 and he actually was one of the only neighbors that came  
20 across when I was actually shoveling snow by myself with  
21 one shovel. Being a new homeowner, that's that pretty  
22 much shown me who he was as the actual neighbor and how he  
23 actually takes care of his own neighbors just around, so  
24 I'm actually in favor for him to be able to have this  
25 property as a two-family home because there's no impact

1 difference in use from when it was utilized by the prior  
2 owner to now. Is that accurate?

3 MR. PAEZ: Correct. Honestly, I actually seen  
4 that house all this time and I have never noticed any  
5 difference in who's coming in and out of that property so  
6 to me it still looks exactly the same. It actually looks  
7 better now because it's actually been painted.

8 MR. KOODRAY: And not just talking about  
9 aesthetics. I'm talking about actually the intensity of  
10 the use. Would you say it's comparable even when the unit  
11 was fully rented to what it was previously? I mean, in  
12 and out of --

13 MR. PAEZ: It is comparable. I haven't seen any  
14 changes in traffic.

15 MR. KOODRAY: And, again, then the question I  
16 have for you, do you live in a one- or two-family because  
17 you said you're on the other side of the street?

18 MR. PAEZ: I am right across from him, but  
19 technically if I'm 100 percent sure, this is a  
20 single-family but we're zoned for a two-family.

21 MR. KOODRAY: Okay. Got you. Just wanted to  
22 clarify. So you're across the street in a two-family  
23 zone.

24 MR. PAEZ: Yes.

25 MR. KOODRAY: Okay. Thank you.

1 towards me. I actually have three cars and there's no  
2 impact to me finding any parking. I always have parking  
3 spaces any time that we actually come over here to our  
4 house.

5 THE CHAIR: Okay. Thank you. Anybody have any  
6 questions of this witness?

7 MR. KOODRAY: Two quick questions, if I may?

8 MR. PAEZ: Yes.

9 MR. KOODRAY: Mr. Paez, thank you so much. Just  
10 really quickly. When did you move into your current  
11 property?

12 MR. PAEZ: We moved in here -- I believe it was  
13 -- we closed in December of 2015 I think it was.

14 MR. KOODRAY: So December of 2015 would be before  
15 Mr. Martin acquired the property in 2018?

16 MR. PAEZ: Correct.

17 MR. KOODRAY: So you're familiar with the prior  
18 use of the property?

19 MR. PAEZ: Yes, I did. I actually do remember  
20 which I think the previous owner was Antoinette which she  
21 passed away unfortunately at that time, you know, at that  
22 situation.

23 MR. KOODRAY: But you mentioned you didn't  
24 notice, I don't want to put words in your mouth,  
25 essentially what you said was you didn't notice any

1 MR. PAEZ: Thank you.

2 THE CHAIR: Anybody else have a question of -- a  
3 person of the public, Mr. Paez? If not, thank you,  
4 Mr. Paez, for your testimony. We appreciate it.

5 MR. PAEZ: Thank you.

6 THE CHAIR: And we'll open it up to anybody else  
7 from the public who would like to weigh in.

8 Is there anyone else out there, Andrew? You're  
9 muted.

10 MR. WIECEK: No, I think everyone else has kept  
11 themselves muted so it looks like there's no one else  
12 who's interested in speaking.

13 THE CHAIR: Okay. Thank you. At this time I  
14 will close this portion of the meeting and it's 11:25 now.

15 MR. FRASER: No, let Mr. Koodray sum up, Steve.

16 THE CHAIR: Okay. Mr. Koodray.

17 MR. KOODRAY: Thank you, Mr. Chair, and members  
18 of the Board. I will be brief.

19 I think there's been a lot of testimony given  
20 from our perspective that this home is particularly well  
21 suited to be converted to this two-family use. We're not  
22 looking to -- and really I really don't know if I can say  
23 it any better than the neighbors. There's not going to be  
24 an over-intensification here. We're not expanding the  
25 footprint. We're not increasing the height, so for all

1 intents and purposes, from the exterior of the home it's  
2 going to he remain the same. We're certainly amenable to  
3 certain modifications if the Board would like to see for  
4 the garage to further better the parking situation, but we  
5 do provide code compliant parking and again, there was a  
6 lot of testimony given that really it's consistent with  
7 the nature and character of the neighborhood.

8 Mr. Martin's survey, while I certainly understand  
9 the point of family characteristics, visually does not  
10 necessarily equate to a legal two-family use. You're  
11 hearing from the people that live on the street about what  
12 what's surrounding them and I think truly, particularly  
13 under Mr. Martin's management here, that this would be an  
14 asset to the community.

15 You heard Mr. Signorella's testimony, about a  
16 need, about a demand for this type of use. There's a lack  
17 of supply and this certainly fills that gap so for all  
18 those reasons and certainly for the reasons that  
19 Mr. O'Brien testified as to the variances, we would  
20 respectfully request that the Board grant this application  
21 and I really want to thank everybody for their time,  
22 patience, and certainly it's been a long road to get here  
23 but we certainly appreciate everyone's efforts. You're  
24 all volunteers and it's 11:27 at night, so I'm going to  
25 stop speaking. Thank you.

1 Board members.

2 THE CHAIR: Steve, do you want to way in?

3 MR. NAPOLITANO: Yeah. I just want to add I know  
4 the previous owners personally. And finally, as a client,  
5 I was with the previous owner's daughter over the weekend.  
6 The house has always been a single-family. Not a two  
7 family. It's always been a mother/daughter. The family's  
8 always lived there. They might have had a helper there  
9 for the mom in the later years, but I know them personally  
10 so that might affect somebody's vote.

11 MR. FRASER: Mr. Chairman, let me suggest and  
12 somebody's got this all echoing now.

13 THE CHAIR: Somebody better check their system  
14 here. Put them on mute.

15 MR. FRASER: I'm going to suggest why don't you  
16 take a simple straw poll without comment on do people want  
17 to continue to try to finish this tonight or want to hold  
18 it over and then you can take a motion whether you're  
19 going to extend it past the 11:30, whether they want to  
20 vote yes or no. Do they want to continue? That would be  
21 what I would suggest.

22 THE CHAIR: All right. Adele, do you want to  
23 take a vote, here, a roll call, a straw poll? This is  
24 going to be a straw poll to continue tonight first.

25 MR. FRASER: So yes, yes is we keep going tonight

1 THE CHAIR: Thank you, Mr. Koodray.

2 All right. At this time, we'll close that  
3 portion of the meeting as well and we'll open it up to our  
4 board for discussion. Now, we can go several different  
5 ways. I don't know how much discussion we're going to  
6 have tonight, if it's going to be lengthy. We could be  
7 here for a while. If it's not, we might be able to wrap  
8 this up tonight, but I don't have a sense right now of  
9 which way we're going to look to do here.

10 MR. TARANTINO: Chairman, I'd like to say I've  
11 made a decision so I'd like to see a vote happen tonight.

12 MR. NIERSTADT: Mr. Chairman, I'm the exact  
13 opposite of Paul. I would like to hear from my fellow  
14 Board members. I would like to have a little more  
15 discussion. I am not prepared to vote.

16 THE CHAIR: You're not prepared to vote tonight?

17 MR. NIERSTADT: That is correct. I think there's  
18 been some interesting argument on both sides and I think  
19 it's a very important question regarding advance in the  
20 master plan or explore or accepting a particular  
21 suitability of this property. I think it really sets a --  
22 we never use the word "precedent." Mr. O'Brien would  
23 shoot me if I use that word, but it's important in  
24 recording how we advanced the master plan and future  
25 zoning and I'd like to have some other discussion with the

1 and no is we carry this to the next meeting.

2 THE RECORDING SECRETARY: Ken Capobianco.

3 MR. CAPOBIANCO: Yes.

4 THE RECORDING SECRETARY: Steven Greet.

5 THE CHAIR: Yes.

6 THE RECORDING SECRETARY: Kathy Villagio?

7 MS. VILLAGIO: Yes.

8 THE RECORDING SECRETARY: William Nierstadt?

9 MR. NIERSTADT: No.

10 THE RECORDING SECRETARY: Paul Tarantino?

11 MR. TARANTINO: Yes.

12 THE RECORDING SECRETARY: Steve Napolitano?

13 Steve Napolitano?

14 MR. NAPOLITANO: No.

15 THE RECORDING SECRETARY: Mike Vena?

16 MR. VENA: No.

17 THE RECORDING SECRETARY: So it's four to three  
18 continue.

19 THE CHAIR: What is it?

20 MR. FRASER: So the sense of four members of the  
21 Board is they would prefer to continue. The sense of  
22 three members of the Board is they would prefer to, I  
23 guess, conclude now and continue this on another evening.

24 MS. VILLAGIO: When is the next Board meeting?

25 THE RECORDING SECRETARY: April 14th.

1 MR. FRASER: The next board meeting that is  
2 scheduled is April 14th.

3 MS. VILLAGIO: Can I --

4 MR. FRASER: Let me finish.

5 MS. VILLAGIO: I'm sorry.

6 MR. FRASER: I personally am going to be out of  
7 state on the 14th.

8 MS. VILLAGIO: It doesn't matter.

9 MR. FRASER: I know, because I'm actually going  
10 to be down in South Carolina, but if we're going to be  
11 doing this on the 14th I guess I will somehow stop what  
12 else I'm doing and I will Zoom in to do this, if that's  
13 the Board's pleasure not to finish this tonight. So it  
14 was a close call. So the Board hasn't decided. That was  
15 just a straw poll, but I think that somebody should make a  
16 motion now knowing where everybody'S kind of sense is on  
17 it, so somebody should make a motion that either we're  
18 going to continue to stop the application this evening or  
19 that we're going to carry now that kind of everybody kind  
20 of knows that it's a close call. That would be what I  
21 would suggest.

22 MR. NIERSTADT: Mr. Chairman, I will make that  
23 motion to carry it to the 14th of April.

24 MR. CAPOBIANCO: Second.

25 THE RECORDING SECRETARY: Who made the second,

1 carry so there will be no further notice to the members of  
2 the public. The application has been closed. So when we  
3 continue on the 14th we'll continue with Board discussion  
4 and then presumably a vote at some sort.

5 MR. KOODRAY: Mr. Fraser, just logistically  
6 speaking, I think I know the answer, but I want to just  
7 confirm with our professionals. We're expected to have  
8 all of our witnesses present, right, just in case we  
9 reopen?

10 MR. FRASER: Let me say this. I might have a  
11 different answer to that question than at least one  
12 particular Board member.

13 MR. KOODRAY: I agree with you, so then that's my  
14 answer. Yeah, I understand.

15 MR. FRASER: I know what my answer would be, but  
16 I think that Mr. Nierstadt might have a different answer.

17 MR. NIERSTADT: No, my answer would be that they  
18 do not have to be there.

19 MR. FRASER: Yeah, that's what I -- my view is  
20 this application is closed.

21 MR. NIERSTADT: That's right.

22 MR. FRASER: The Board debates it and they are  
23 going to vote.

24 MR. NIERSTADT: And I agree with that.

25 MR. FRASER: But, you know, I mean you never know

1 please?

2 MR. CAPOBIANCO: Ken Capobianco.

3 MR. FRASER: So this is a motion to carry this.  
4 So "yes" means we're not finishing it tonight and "no"  
5 means we continue and this is the official vote.

6 THE RECORDING SECRETARY: Ken Capobianco?

7 MR. CAPOBIANCO: No.

8 THE RECORDING SECRETARY: Steven Greet?

9 THE CHAIR: Yes.

10 THE RECORDING SECRETARY: Kathy Villagio?

11 MS. VILLAGIO: Yes.

12 THE RECORDING SECRETARY: William Nierstadt?

13 MR. NIERSTADT: "Yes" is to continue, right?

14 MR. FRASER: "Yes" is to go to the next meeting.

15 MR. NIERSTADT: Yes.

16 THE RECORDING SECRETARY: Paul Tarantino?

17 MR. TARANTINO: No.

18 THE RECORDING SECRETARY: Steve Napolitano?

19 MR. NAPOLITANO: Yes.

20 THE RECORDING SECRETARY: Mike vena?

21 MR. VENA: Yes.

22 THE RECORDING SECRETARY: Five to two.

23 MR. FRASER: All right. So the Board has now  
24 voted that this application is going to be carried to the  
25 next meeting, which the is the April 14th meeting. It's a

1 what's going to happen, Mr. Koodray.

2 MR. KOODRAY: I understand. Abundance of  
3 caution.

4 MS. VILLAGIO: Do you think that we'd have the  
5 minutes done by then?

6 MR. FRASER: I'm sure Mr. Koodray is going to  
7 make sure that it happens because he's got an Applicant  
8 and he's going to be motivated to get it done. Right,  
9 Mr. Koodray.

10 MR. KOODRAY: You're correct, Mr. Fraser.

11 THE CHAIR: This will be, just for the Board's  
12 edification, we'll have really two things going on the  
13 14th which is kind of good because it opens it up a little  
14 bit for us.

15 MR. FRASER: No, we won't. We made Crossroads  
16 the 28th.

17 MS. VILLAGIO: No.

18 THE CHAIR: Hear me out, Don.

19 MS. VILLAGIO: You don't need to do this one.

20 THE CHAIR: We're not doing Crossroads on the  
21 14th. That's not what I'm saying.

22 MR. FRASER: Okay.

23 THE CHAIR: What I was going to say is that Kathy  
24 has an ordinance review that she would like people to buy  
25 in on. If we're doing this on the 14th, then we can then

1 discuss yours as well, Kathy, correct?  
 2 MS. VILLAGIO: Yes.  
 3 THE CHAIR: And you would like to have everyone  
 4 who got sent update to the ordinance to review it.  
 5 MS. VILLAGIO: Please, please.  
 6 THE CHAIR: And have comments, if they have any,  
 7 available that night on the 14th.  
 8 MS. VILLAGIO: Yes.  
 9 MR. FRASER: Kath, what's the ordinance about?  
 10 MS. VILLAGIO: It's about heights and stuff like  
 11 that. I will send it to you.  
 12 MR. FRASER: I just wanted to generally know  
 13 because I'm planning my 14th.  
 14 MS. VILLAGIO: It's a bulk ordinance basically.  
 15 MR. KOODRAY: Mr. Fraser, just one last thing.  
 16 I'm sorry. If it's necessary, we would obviously consent  
 17 to an extension of time to act and I would put that in  
 18 letter and I will submit it to Josh..  
 19 MR. FRASER: I was about to go there, Josh, so  
 20 thank you.  
 21 MR. KOODRAY: We appreciate everyone's effort,  
 22 seriously, and it's late, so thank you.  
 23 THE CHAIR: Okay. Thank you.  
 24 THE APPLICANT: Thank you. Have a good night.  
 25 MR. FRASER: And also possibly inures to your

1 client's benefit, Mr. Koodray.  
 2 MR. KOODRAY: Possibly, yes, Mr. Fraser.  
 3 (Zoom meeting concluded at 11:41 p.m.)  
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1 C E R T I F I C A T E

2 I, FRANCESCA Di BELLA, a Notary Public and Certified  
 3 Court Reporter of the State of New Jersey and Registered  
 4 Professional Reporter, do hereby certify that prior to the  
 5 commencement, the witnesses were duly sworn to testify the  
 6 truth, the whole truth and nothing but the truth.

7 I DO FURTHER CERTIFY that the foregoing is a true and  
 8 accurate transcript of the Zoom hearing as taken  
 9 stenographically by and before me at the time, place and  
 10 on the date hereinbefore set forth.

11 I DO FURTHER CERTIFY that I am neither a relative nor  
 12 employee nor attorney nor counsel of any of the parties to  
 13 this action, and that I am neither a relative nor employee  
 14 of such attorney or counsel, and that I am not financially  
 15 interested in the action.

16 /s/ Francesca Di Bella  
 17 \_\_\_\_\_

18  
 19 Francesca Di Bella, RPR, CCR, CLR, CRR, CRC  
 20 License No. 30X100225300  
 21 Dated: April 7, 2021  
 22  
 23  
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 25