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INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

July 14, 2010
7:45 p.m.

APPLICATIONS FOR ADJOURNMENT:

Amar
357 Central Avenue
Lawrence, New York

Blavis
40 Stevens
Lawrence, New York

P R E S E N T :

MR. LLOYD KEILSON
Chairman

MR. ELLIOT FEIT
Member

MS. ESTHER WILLIAMS
Member

MR. J. PHILIP ROSEN
Member

MR. EDWARD GOTTLIEB
Member

MR. RONALD GOLDMAN, ESQ.
Attorney for the Board of Appeals

MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Good evening, ladies and
2 gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. I'd ask you to turn off your cell
4 phones, please.

5 Mr. Ryder, do we have proof of posting?

6 MR. RYDER: Yes, we have an affidavit stating
7 that posting was completed. I have proof of it.

8 CHAIRMAN KEILSON: Do we have proof of
9 posting?

10 MR. RYDER: We do, Mr. Chairman, but we seem
11 to have misplaced it. We have it.

12 CHAIRMAN KEILSON: I'll accept you at your
13 word.

14 MR. GOLDMAN: I will serve on his behalf.

15 CHAIRMAN KEILSON: Yes.

16 We have two matters that are seeking
17 adjournment. The first matter is Amar. Is there
18 anyone here representing Amar? Their request is
19 to postpone the hearing to the next session
20 regarding the property at 357 Central Avenue,
21 Lawrence.

22 Any objections?

23 MEMBER FEIT: No.

24 CHAIRMAN KEILSON: Everybody for?

25 MEMBER GOTTLIEB: Yes.

1 MEMBER WILLIAMS: Yes.

2 CHAIRMAN KEILSON: The next date will be
3 September 15th.

4 The matter of Blavis of 40 Stevens Place, are
5 they or their representative present? If not,
6 I'll read into the record their letter, which is
7 to confirm that based on their rabbi's advice they
8 are withdrawing their petition for the July BZA
9 meeting and would like to be put on the schedule
10 for the August meeting. There will be no August
11 meeting, but September. That's all. Everybody
12 for?

13 MEMBER FEIT: Yes.

14 MEMBER GOTTLIEB: Yes.

15 MEMBER WILLIAMS: Yes.

16 CHAIRMAN KEILSON: Yes.

17 MR. RYDER: Mr. Chairman, here, we have proof
18 of posting.

19 CHAIRMAN KEILSON: Thank you. I had no
20 doubt.

21 Mr. Goldman, do you want to speak about the
22 very hot Board in the very hot room.

23 MR. GOLDMAN: Yes, please.

24 One, we want to apologize to the public and
25 to the Board; it's usually much neater, but there

1 was a slight accident in the court clerk office,
2 and so much of the equipment was transferred here,
3 and so we apologize for what appears to be
4 somewhat less than usually perfectly neat.

5 More to the point, tonight is the meeting of
6 the Board of Zoning and Appeals. These are all
7 volunteer members, non-salaried members of the
8 community. I'm explaining to you folks in the
9 audience that this is what we call a hot Board,
10 not because there's a lack of air conditioning,
11 but because what they do is they're provided a
12 copy of each of your applications in advance.
13 They don't collectively review it, because there's
14 the Open Meetings Law, but as individuals they
15 review each and every one of the applications,
16 they make site visits as well.

17 So what happens is when they come here
18 tonight they hone in on certain specific issues.
19 The reason I'm telling you this is that we don't
20 want you to think that anyone is getting short
21 shrift here and that you're not being permitted to
22 make a very long-winded presentation or a detailed
23 presentation, because that's not necessary.

24 What you may find is that they're going to
25 focus in on specific issues, address those issues,

1 confer collectively in the front here and in
2 public, and then render a decision in those cases.

3 So that having been said, Mr. Chairman, I
4 would also ask all of you, we run this as a pretty
5 organized operation, so we ask for no private
6 conversations, no comments from the audience
7 unless called upon by the Chair. All comments are
8 to be addressed to the Chair and to the Board.
9 And, of course, all cell phones should be turned
10 off in advance of them going off.

11 CHAIRMAN KEILSON: Also, in light of the fact
12 we have so many guests here tonight, I will just
13 introduce who is present.

14 Mr. Goldman is the attorney for the Board of
15 Zoning Appeals.

16 Mr. Ryder is the head of the Building
17 Department.

18 MR. RYDER: Good evening.

19 CHAIRMAN KEILSON: Mr. Castro is a member of
20 the Building Department.

21 Mary is our trustworthy stenographer.

22 And the members of the panel, you could see
23 their names and who they are.

24 MR. GOLDMAN: Except for Mr. Rosen.

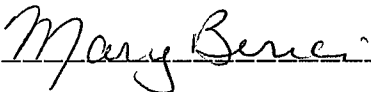
25 CHAIRMAN KEILSON: Except for Mr. Rosen who

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is hiding behind the computer.

(Whereupon, the hearing concluded at
7:50 p.m.)

Certified that the foregoing is a true and
accurate transcript of the original stenographic
minutes in this case.



MARY BENCI, RPR
Court Reporter

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INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

July 14, 2010
7:50 p.m.

APPLICATION: Schwartz
45 Briarwood Lane
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. ELLIOT FEIT
Member

MS. ESTHER WILLIAMS
Member

MR. J. PHILIP ROSEN
Member

MR. EDWARD GOTTLIEB
Member

MR. RONALD GOLDMAN, ESQ.
Attorney for the Board of Appeals

MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: The first matter of this
2 evening is Schwartz, 45 Briarwood. Would they or
3 their representative please step forward.

4 MR. CAPOBIANCO: Good evening. John
5 Capobianco, architect, 159 Doughty Boulevard,
6 Inwood.

7 I'm here representing the Schwartzes.
8 Mr. Schwartz is unable to attend; however, his two
9 children are in the audience to stand up for their
10 father. He had minor surgery today and so he
11 couldn't attend tonight's meeting.

12 However, this was a board that I put together
13 today to show the Board that the variances that
14 we're seeking is an encroachment into the two
15 required setbacks for a recreational structure. I
16 wanted to show this because they are minor in
17 nature, because of the angle that the tennis court
18 is placed. It's placed for a couple of reasons,
19 to salvage a couple of big trees that were on the
20 property, and also to give the right angle for a
21 tennis court so that the sun doesn't play havoc on
22 the players when they throw the ball up to serve,
23 and things like that, so the orientation of the
24 court to the sun is properly addressed.

25 The area in yellow which is a small portion

1 of the -- I would call it the north side of the
2 tennis court, is encroaching into the 20-foot
3 setback. And on the east side it's a very small
4 little triangular area, probably less than 100
5 square feet which is encroaching at a very, you
6 know, small point at the east property line. So
7 that, you know, in all parts it's just a very
8 small area of the tennis court that is encroaching
9 into that required setback.

10 The property is a very large piece of
11 property, 73,000 plus square feet, and we meet the
12 required surface coverage for, you know, the
13 Building Department's requirements, and also
14 building coverage. So you know, we're seeking
15 relief on those two items this evening so that we
16 can, you know, proceed with the project.

17 The north, the east and the west side of the
18 property lines will be bordered by a buffer zone
19 of landscaping and planting, and I was also
20 informed by Mr. Schwartz that the adjoining
21 neighbor had seen the application, reviewed the
22 site plan and is okay with it. There's no
23 document. He didn't sign a document; he just
24 verbally gave an okay. And that's basically it.

25 CHAIRMAN KEILSON: I have difficulty in light

1 of the fact that it's such a large parcel that you
2 can't accommodate and work within the bounds of
3 what is building by right.

4 MR. CAPOBIANCO: Well, you can. You can turn
5 the court, but it would probably project too far
6 into the back of the house, and at this side you
7 already have a swimming pool and a garage.

8 CHAIRMAN KEILSON: Why would it project too
9 far into the --

10 MR. CAPOBIANCO: Well, because what happens
11 is that when you turn it sideways the orientation
12 is not perfect for a tennis court in terms of the
13 sun exposure. And also what happens --

14 CHAIRMAN KEILSON: Maybe we'll adjust the
15 sun.

16 MR. CAPOBIANCO: Pardon me, we could adjust
17 the sun? We could try.

18 CHAIRMAN KEILSON: I think you're going to a
19 great extent.

20 MR. CAPOBIANCO: Pardon me?

21 CHAIRMAN KEILSON: I think just that you're
22 going -- you're creating a tennis court which is a
23 structure which is pretty much an elective, and to
24 have an encroachment on such a large parcel I
25 don't see the justification.

1 MR. CAPOBIANCO: But, you see the
2 encroachment is such a minor portion of the tennis
3 court. If you look at it, I shaded this area in
4 yellow. It's just like such a small minor factor
5 of the tennis court. Most of that north side has
6 over a 20-foot setback. It's just a small portion
7 that's under 20, it goes to ten. But if you were
8 to straighten the tennis court, the length of it
9 would encroach into the house. You could see that
10 you have 120 feet.

11 CHAIRMAN KEILSON: Why can't you straighten
12 it and move it down?

13 MR. CAPOBIANCO: Because the length of the
14 tennis court would encroach into the rear yard of
15 the house. It would be right on top of the house;
16 what you see here, this view of the house
17 (indicating). See, what happens, look, when you
18 put it on an angle, it also helps shorten the
19 length north and south, so it fits in that piece
20 of property that he took the house down on.

21 MEMBER GOTTLIEB: What I'm having a problem
22 with is that it appears to me you'd rather
23 encroach on your neighbors buffer than move it
24 closer to your own home and inconvenience
25 yourself. I see that you can orient it straight

1 along Waverly and it would go a little bit into
2 the, I guess into these different lots; that's why
3 they're squared off and such. It would project
4 slightly into the existing home plot and it would
5 fit in there fine without any variance needed.

6 MR. CAPOBIANCO: Yeah, I think that in terms
7 of the orientation of the court relative to the
8 front which is on Waverly also, that having the
9 court this far set back makes a better situation
10 with regard to the front yard.

11 In addition to that, I think that there's so
12 much property on that parcel as it is that angling
13 it doesn't really create any adverse effect to
14 anything or to the neighbors. I don't see --
15 because it's on ground. It's really grass and
16 color.

17 MEMBER GOTTLIEB: What is the material?

18 MR. CAPOBIANCO: It's going to be a synthetic
19 material. It's not grass. It's not a grass
20 court. It's going to be green.

21 MEMBER GOTTLIEB: Is it porous, is it
22 asphalt?

23 MR. CAPOBIANCO: He's vacillating back and
24 forth between the both. It might be that court
25 that has the drainage, you know, where it seeps

1 through. It's like a --

2 CHAIRMAN KEILSON: Porous.

3 MR. CAPOBIANCO: Yeah, it's like a porous
4 court.

5 MR. GOLDMAN: Is there a plan for lighting?

6 MR. CAPOBIANCO: Well, he's not putting any
7 lights for outdoor or night play, no. He's going
8 to have, you know, just standard day play on this
9 court. There will be no night playing.

10 CHAIRMAN KEILSON: I have to imagine at some
11 point they might be interested in lighting which
12 may bear on the neighbors again, the orientation
13 of the court.

14 MR. CAPOBIANCO: I asked him about it, and
15 he says he is not interested in playing at
16 night.

17 CHAIRMAN KEILSON: But the kids are.

18 MR. CAPOBIANCO: The kids are interested in
19 playing at night?

20 MR. GOLDMAN: That could be a condition of
21 the variance to preclude a reapplication.

22 MEMBER FEIT: Let me ask you a technical
23 question, a legal question: Have these properties
24 all been merged together by the Board of --
25 Planning Board, by the Planning Board, or are they

1 still considered two separate lots?

2 MR. CAPOBIANCO: You know, that's a good
3 question. I mean, we're showing them as one lot
4 for the purposes of calculating the surface
5 coverage, but I think it has to be made into one
6 lot legally.

7 MEMBER FEIT: I don't think you can do that
8 until it's been merged into one lot. You have to
9 treat each lot individually, you know, coming from
10 the Planning Board up to the Zoning Board. I feel
11 sorry, but Mike, maybe you can take it.

12 MR. RYDER: Yes. If I may, the Planning
13 Board will handle subdivisions. In this case this
14 is a land merger.

15 MEMBER FEIT: No, I was told that -- when we
16 were on the Planning Board we handled land mergers
17 as well as land subdivisions. In fact, one sticks
18 in my mind when there was a house with his back
19 door neighbor when they were switching properties
20 to even out the line. The house was on Broadway.

21 MR. GOLDMAN: If I might interrupt, I believe
22 this is one owner.

23 MEMBER FEIT: You might remember it,
24 Mr. Capobianco.

25 MR. CAPOBIANCO: I know.

1 MR. GOLDMAN: It's the one owner, and we
2 believe it merges.

3 MEMBER WILLIAMS: I think it merges
4 automatically.

5 MR. RYDER: If it's conforming.

6 MR. CAPOBIANCO: You say it wouldn't work as
7 separate properties. It has to be one property.

8 MEMBER FEIT: No, I know, but I'm asking a
9 technical question, that's all.

10 MR. CAPOBIANCO: Okay. Well, certainly, we'd
11 have to make certain that the deed would be done
12 as one deed and one property with 45 Central, and
13 that would have to be -- if it has to be a
14 condition, we'll make it a condition, but I would
15 assume it's, you know, going to be one property.
16 If it hasn't been done already. I'm not sure. I
17 have to ask him. I know the house is down, it's
18 gone.

19 MEMBER FEIT: I just didn't want to have a
20 technical problem.

21 MR. CAPOBIANCO: No, I agree. I agree.

22 MEMBER GOTTLIEB: The side-yard setback
23 requirement is 20 feet and the rear yard is 15
24 feet?

25 MR. CAPOBIANCO: The rear yard is -- the

1 front yard is 25. I kept it 25 off Waverly.

2 MEMBER GOTTLIEB: No, the rear yard.

3 MR. CAPOBIANCO: It's 20 feet also. You
4 know, it's funny because it's two fronts. You
5 know, you have two street sides.

6 MR. RYDER: It's a through lot.

7 MR. CAPOBIANCO: Yeah, it's a through lot,
8 and, you know, I just treated that street side
9 like a front, and I didn't really -- I know it has
10 to be behind the house, the tennis court, but in
11 this case, you know, what is front and what is
12 rear? I know the Village of Lawrence that you
13 could choose. I think it's the narrower of the
14 two fronts on the corner, but when you have a
15 through lot I don't know if they're both fronts or
16 one is designated the rear.

17 MEMBER WILLIAMS: I have a question to ask
18 you, just out of pure curiosity. If you would
19 turn -- just humor me. If you would turn it this
20 way (indicating).

21 MR. CAPOBIANCO: That way (indicating).

22 MEMBER WILLIAMS: Parallel to Waverly.

23 MR. CAPOBIANCO: To Waverly. It would

24 encroach --

25 MEMBER WILLIAMS: Hold on. And you would

1 have the proper setback to the left.

2 MR. CAPOBIANCO: Right.

3 MEMBER WILLIAMS: How far would this side be
4 from the house? If you are flipping it this way,
5 parallel to Waverly, right, you're leaving the
6 proper setback on the side over here.

7 MR. GOLDMAN: On the left.

8 MR. CAPOBIANCO: On the left side, yeah.

9 MEMBER WILLIAMS: Over here. You're leaving
10 the proper setback here (indicating). How far
11 will it be from the house?

12 MR. CAPOBIANCO: From the house it would be
13 approximately ten feet.

14 MEMBER WILLIAMS: If you did that.

15 MR. CAPOBIANCO: Yes. That's why it's a
16 little close. Because you have 132 less 2, 112 and
17 125 is the court length, or 115 is a shorter court
18 length, but the proper court length is 125.

19 MEMBER WILLIAMS: So if you made it 115 you'd
20 have 20 feet.

21 MR. CAPOBIANCO: You would have to run back,
22 you know, and get the ball.

23 MEMBER WILLIAMS: You would have 20 feet.

24 I'm just asking.

25 MR. CAPOBIANCO: Yeah, it would be too tight.

1 It would be very close to the house.

2 MEMBER ROSEN: Isn't it 115 now?

3 MR. CAPOBIANCO: It's 115 now.

4 CHAIRMAN KEILSON: Any other questions from
5 the Board?

6 MEMBER GOTTLIEB: Just regarding
7 Mrs. William's comments, you're saying that if you
8 orientate parallel to Waverly it's going to be too
9 close to the existing multi-walled -- it looks
10 like a breakfast room.

11 MR. CAPOBIANCO: Yeah.

12 MEMBER GOTTLIEB: And if you brought it
13 further, I'll call it down, because I don't know
14 the orientation north, south. If you brought it
15 further toward Waverly, still 25 feet off Waverly,
16 is that still going to be so close to that side of
17 the house?

18 MR. CAPOBIANCO: It would be, yeah. I'm
19 going to show you. Just let me draw it.

20 MEMBER GOTTLIEB: If you don't want to write
21 on your board.

22 MR. CAPOBIANCO: Well, it's hard to show you
23 unless I draw it. You know, if you have the 120,
24 it would be -- this width would be here, and it
25 would be that width here (indicating). So you

1 could see if I hold the setback, you see where my
2 finger is, this left finger, it's going to be
3 right at the corner where that octagon is.

4 MEMBER GOTTLIEB: I understand.

5 MR. CAPOBIANCO: Right at the corner where
6 the octagon is.

7 CHAIRMAN KEILSON: Okay. Is there anyone in
8 the audience who wants to speak to the matter?

9 Something you want to bring to our attention?

10 (Whereupon, a discussion was held off the
11 record.)

12 CHAIRMAN KEILSON: We're going to vote then.
13 Mr. Gottlieb.

14 MEMBER GOTTLIEB: I have to say no.

15 CHAIRMAN KEILSON: Mr. Feit.

16 MEMBER FEIT: No.

17 CHAIRMAN KEILSON: No.

18 MEMBER WILLIAMS: I think there's a better
19 option here, no.

20 MEMBER ROSEN: I vote yes.

21 CHAIRMAN KEILSON: Okay.

22 MR. GOLDMAN: Let the record reflect -- did
23 you vote, Mr. Chairman?

24 CHAIRMAN KEILSON: Yes, I voted no.

25 MR. GOLDMAN: No. So it's four nos.

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CHAIRMAN KEILSON: After a conversation after evaluating the five criteria that we normally use in the balancing, we have found that the equity is such that we should deny and decline the application.

(Whereupon, the hearing concluded at 8:00 p.m.)

Certified that the foregoing is a true and accurate transcript of the original stenographic minutes in this case.

Mary Benci
MARY BENCI, RPR
Court Reporter

INCORPORATED VILLAGE OF LAWRENCE

BOARD OF APPEALS

Village Hall
196 Central Avenue
Lawrence, New York

July 14, 2010
8:25 p.m.

APPLICATION: Bayberry, LLC
35 Bayberry Road
Lawrence, New York

P R E S E N T:

MR. LLOYD KEILSON
Chairman

MR. ELLIOT FEIT
Member

MS. ESTHER WILLIAMS
Member

MR. J. PHILIP ROSEN
Member

MR. EDWARD GOTTLIEB
Member

MR. RONALD GOLDMAN, ESQ.
Attorney for the Board of Appeals

MR. GERALDO CASTRO
Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: We'll go on to the next
2 matter intermittently, Bayberry, LLC.

3 Please identify yourself.

4 MR. LENHART: Good evening. Gary Lenhart,
5 CMC Design Architects, One East Sunrise Highway,
6 Freeport, New York.

7 MR. GOLDMAN: I have to ask you to please
8 speak up a bit.

9 MR. LENHART: Yes, sir.

10 CHAIRMAN KEILSON: We're quite hot and we
11 heard you last time. So you can move along
12 quickly.

13 MR. LENHART: Okay. As you pointed out, I
14 was here last month and began to make a
15 presentation for this case. This case involved a
16 proposed enlargement to a house resulting in
17 excess floor area and side-yard and rear-yard
18 setback issues. The primary cause of the problems
19 originated with shortly after the purchase of the
20 property by Mr. and Mrs. Weiss due to health
21 conditions that became apparent to Mr. Weiss. The
22 result of the health problems forced them to plan
23 a master bedroom on the first floor instead of
24 utilizing the master bedroom that is currently in
25 place on the second floor. In our efforts to

1 design that, we ended up with excess floor area
2 beyond what is allowable.

3 We have, since our last meeting and
4 consulting with the family, we've reduced the size
5 of the proposed enlargements. We originally had
6 635 square feet in excess, which represented 23.8
7 percent overage. We've reduced it to 535 square
8 feet, about a hundred square foot reduction, and
9 it's down to 19.8 percent.

10 Since the filing of these plans and the
11 public legal notice, we've made a further
12 reduction, albeit minor, but we've reduced the
13 total overage to 506 square feet, or 18.9 percent.

14 CHAIRMAN KEILSON: Does that change every six
15 hours or --

16 MR. LENHART: The primary reductions occurred
17 in reducing the breakfast room and in reducing the
18 proposed closet for the master bedroom. The
19 current arrangement on the second floor that they
20 were originally planning to utilize had a master
21 bedroom closet of 20 feet -- I'm sorry --
22 thirteen-three by fifteen was existing, and we
23 will propose thirteen feet eleven by seven foot
24 ten. So it's a substantially smaller closet
25 space.

1 Mr. Harold Weiss -- Schertz, rather,
2 contacted many of the neighbors, particularly the
3 immediate neighbors, to discuss with them the
4 plans for these alterations, and he could speak as
5 to what he heard from the neighbors.

6 MR. SCHERTZ: Harold Schertz, 88 Margaret
7 Avenue, Lawrence New York 11559.

8 I had the opportunity over the past few days
9 to speak with the surrounding neighbors adjacent
10 to the north, the south, the east and the west
11 buttressing the rear of the property, south of the
12 property, as well as to the north of the property,
13 showing them the plans and asking for their
14 opinions and their concerns as to what was going
15 on at the previous hear -- at the previous
16 meeting.

17 The neighbor had brought up the issue of not
18 -- of complaints of issues and height and,
19 unfortunately, never received the original
20 petition because he had a wrong address -- he had
21 his wrong address listed. That has been corrected
22 and he has received the new plans. He was showed
23 them. He told me, and I can represent to the
24 Board, that he completely acquiesces to our
25 current design, to the design of the bedroom,

1 master bedroom suite, and the enlargement of the
2 kitchen area.

3 The primary reason for moving the bedroom was
4 for the health of Mr. Weiss who, unfortunately,
5 due to a severe heart condition that has become
6 worse, unfortunately, was not -- has not been able
7 to climb stairs. And that was the primary reason
8 for doing that. He cannot walk long distances.
9 He's here this evening. Long distances are done
10 by wheelchair, which we are -- in our design we
11 have accommodated to have wheelchair accessibility
12 throughout the master bedroom suite, as well as
13 the kitchen -- and as well as the back kitchen
14 area.

15 CHAIRMAN KEILSON: Okay. Can you summarize
16 what we're requesting tonight.

17 MR. LENHART: Yes. What we are requesting is
18 a -- we have plans that have already been filed
19 with an overage of 19.8 percent.

20 CHAIRMAN KEILSON: No, what are we requesting
21 tonight?

22 MR. LENHART: Tonight what we are requesting
23 is revised plans that would bring the overage to
24 18.9 percent.

25 CHAIRMAN KEILSON: 506 feet over.

1 MR. LENHART: 506.6 square feet in excess.

2 CHAIRMAN KEILSON: As far as the building
3 coverage.

4 MR. LENHART: That's the building coverage.
5 The rear-yard setback is changed from 23.6 feet to
6 24 feet, still under the 40-foot requirement. The
7 side-yard setback --

8 CHAIRMAN KEILSON: Slowly, slowly, slowly.
9 You're not requesting anything on the rear-yard
10 setback?

11 MEMBER ROSEN: Because it's within.

12 CHAIRMAN KEILSON: Right.

13 MR. GOLDMAN: Or you are?

14 MR. LENHART: Yes. There had been a
15 rear-yard variance granted for the deck. The deck
16 is remaining unchanged, but now we're building the
17 structure almost up as far as the deck. The deck
18 had a setback of 19.2 feet. The building now will
19 be 24 feet, so it does not extend as far as the
20 deck did.

21 CHAIRMAN KEILSON: So you're not encroaching
22 any further than you presently are?

23 MR. LENHART: Absolutely not.

24 CHAIRMAN KEILSON: Next.

25 MR. LENHART: With regard to the side yard,

1 the side yard is reduced to a 13.6 foot side yard
2 and a 28.5 foot aggregate instead of the 35 foot
3 aggregate required.

4 CHAIRMAN KEILSON: So you're encroaching how
5 much further?

6 MR. LENHART: We're encroaching -- actually,
7 the original house had a side yard of 17.9 --

8 CHAIRMAN KEILSON: No, on the existing, the
9 existing. There's existing a Florida sun room,
10 correct?

11 MR. LENHART: Yes, and that was 17.6 feet.
12 We are now at 13.6, so four feet.

13 CHAIRMAN KEILSON: Four feet you're
14 additionally moving to the right.

15 MR. LENHART: Correct. And we are actually
16 aligned with the existing exterior wall of the sun
17 room. We're not going any further than that, but
18 the property line cuts in as it comes forward and
19 as a result the side-yard setback narrows.

20 MEMBER WILLIAMS: The house is not coming
21 further out from the line?

22 MR. LENHART: That's correct.

23 MEMBER WILLIAMS: And you spoke to this
24 neighbor that's on that side?

25 MR. SCHERTZ: We've met with the neighbor,

1 and the neighbor has walked in and seen the
2 revised plans. I don't think the Board members
3 have --

4 MEMBER ROSEN: Who is that neighbor?

5 MR. LENHART: Mr. Chimone Gladney.

6 MEMBER WILLIAMS: We met him last time.

7 MR. SCHERTZ: No, you met last time Mr. Mark
8 Brown.

9 MR. GOLDMAN: Mr. Chairman, there is an
10 exhibit that's being offered. Can you just
11 identify what it is we're doing.

12 MR. SCHERTZ: Yes. What you have in front of
13 you is a submission of four drawings; a plot plan,
14 first-floor plan, front right side elevation, and
15 a rear elevation and second-floor plan of the
16 house. It's a somewhat reduced version of what
17 had been previously submitted. However, this now
18 includes the further reductions that I spoke of.

19 MR. GOLDMAN: So let me just interrupt. The
20 record should reflect that a copy of Applicant's
21 number 1 is being made part of the record and the
22 copies are being submitted to the Board (handing).

23 MEMBER FEIT: Let me ask you a question. I'm
24 very sensitive to wheelchair accessibility. Could
25 the upstairs rooms and master bedrooms have been

1 made by themselves wheelchair-accessible, or would
2 the walls have to have been pushed out on the
3 second floor?

4 MEMBER WILLIAMS: How would he get there?

5 MR. LENHART: I'm not sure I follow you.

6 MEMBER WILLIAMS: Yeah, but how will he get
7 there?

8 MEMBER FEIT: No, no. I'll get one to the
9 other. On the second floor, could the bedroom be
10 made wheelchair-accessible without any alteration
11 of the walls, moving them out?

12 MR. LENHART: No. The exterior walls
13 wouldn't have to be modified. The doorways would
14 all be modified, so we'd have to modify the --

15 MEMBER FEIT: There would be enough room in
16 the master bedroom on the second floor for it to
17 be wheelchair-accessible the way it is now besides
18 the door?

19 MR. LENHART: Well, yes, yes.

20 MEMBER FEIT: So I'm just going to go back to
21 one question I asked last time, and if need be let
22 it be reiterated. I want to make sure I
23 understood. Why can't all this be done by just
24 putting in an elevator?

25 MR. SCHERTZ: If I may just answer that

1 question. My mother is claustrophobic and she
2 cannot walk into a tiny elevator that would be
3 installed in a home. It would not be possible.

4 MEMBER ROSEN: Isn't it very expensive?

5 MEMBER WILLIAMS: I'm not comfortable making
6 an elevator a requirement of your day-to-day
7 living. It's one thing to do it as an accessory
8 or something, but if someone is required to have
9 an elevator for their day-to-day lives.

10 CHAIRMAN KEILSON: And this Board is known to
11 be a compassionate Board and on other occasions
12 when we've had that request and we've dealt with
13 that in an appropriate manner. I don't think
14 we're concerned about setting a precedent here. I
15 think the question is whether the request is the
16 minimal that can be done under the circumstances,
17 and I think an effort has been made to reduce it
18 to an appropriate size to accommodate them.

19 MR. LENHART: Yes, sir.

20 MEMBER FEIT: And you're putting in the plans
21 or the new plans, so you're also putting in a
22 cryon dry well to try and alleviate the water
23 problem?

24 MR. SCHERTZ: Storm Track.

25 MEMBER ROSEN: I thought that was very

1 impressive since the last time.

2 MEMBER WILLIAMS: I did also. I think it's
3 very neighborly and I like that.

4 CHAIRMAN KEILSON: Is there anyone in the
5 audience who would like to speak to this matter?

6 Okay, are there any further questions from
7 the Board?

8 MR. GOLDMAN: Let the record reflect the
9 Board is conferring.

10 CHAIRMAN KEILSON: Mr. Gottlieb.

11 MEMBER GOTTLIEB: Two comments. You're the
12 son?

13 MR. SCHERTZ: Yes, sir.

14 MEMBER GOTTLIEB: It's my understanding that
15 should at some time the house be sold that the --
16 or should you decide to, you cannot build a second
17 floor above this new structure. You cannot.

18 MR. SCHERTZ: I don't think you can build a
19 second story there.

20 MEMBER GOTTLIEB: I just want to be clear
21 that you understand that, and you may or may not
22 choose to pass that on to the next buyer that they
23 can't assume that they can build over by right
24 what you are building on the first floor.

25 And you're the architect?

1 MR. LENHART: Yes.

2 MEMBER GOTTLIEB: There was some rumor that
3 we approve things under 20 percent, and you
4 conveniently came in at 19.6. I just want to let
5 you know --

6 MEMBER WILLIAMS: 18.9.

7 MEMBER GOTTLIEB: Originally, you wanted to
8 go even further. But the fact is we consider the
9 merit of the individual application and not the
10 percentages. I just wanted to make that clear.

11 MR. LENHART: No, in response to the last
12 meeting, I had a long meeting with the client, and
13 not without some friction trying to reduce the
14 size of the extensions as much as we possibly
15 could, and to get another six inches taken off of
16 the breakfast room was quite a struggle, but they
17 succumbed.

18 CHAIRMAN KEILSON: Good judgment prevailed.

19 MEMBER FEIT: You're not planning to put in a
20 tennis court?

21 MR. LENHART: No tennis court, but it will be
22 handicapped-accessible.

23 MR. GOLDMAN: The Board is conferring.

24 CHAIRMAN KEILSON: In evaluating the
25 application based upon the five criteria in

Bayberry, LLC - 7/14/10

1 balancing the equity to the neighbors and the
2 applicant, let's take a vote.

3 Mr. Rosen.

4 MEMBER ROSEN: Definitely, yes.

5 CHAIRMAN KEILSON: Miss Williams.

6 MEMBER WILLIAMS: For.

7 CHAIRMAN KEILSON: Mr. Feit.

8 MEMBER FEIT: For.

9 CHAIRMAN KEILSON: Mr. Gottlieb.

10 MEMBER GOTTLIEB: Yes.

11 CHAIRMAN KEILSON: And for.

12 MEMBER WILLIAMS: I just want to say how much
13 I appreciate the fact that you took everything
14 into account and really did make your best effort
15 to make it work.

16 MR. SCHERTZ: Thank you.

17 MR. LENHART: Thank you.

18 MR. GOLDMAN: How much time do you need?

19 MEMBER FEIT: Two years.

20 CHAIRMAN KEILSON: Take two years.

21 MR. GOLDMAN: Well, two years is the maximum.
22 So people understand, before you would have to
23 come back and reapply, so it's not a question of
24 two years to just do it. Also, you have to go
25 before the Board of Building Design as well. You

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understand that as well.

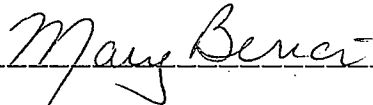
MR. SCHERTZ: I understand that.

MR. RYDER: We'll be talking.

MR. SCHERTZ: Right, we will be.

(Whereupon, the hearing concluded at
8:40 p.m.)

Certified that the foregoing is a true and
accurate transcript of the original stenographic
minutes in this case.



MARY BENCI, RPR
Court Reporter