

1 INCORPORATED VILLAGE OF LAWRENCE

2 BOARD OF APPEALS

3 Village Hall
4 196 Central Avenue
5 Lawrence, New York

6 November 29, 2011
7 7:43 p.m.

8 APPLICATION: Cohen
9 11 Boxwood Lane
10 Lawrence, New York

11 P R E S E N T:

12 MR. LLOYD KEILSON
13 Chairman

14 MR. EDWARD GOTTLIEB
15 Member

16 MS. ESTHER WILLIAMS
17 Member

18 MR. MARK SCHRECK
19 Member

20 MR. LESTER HENNER
21 Member

22 MR. THOMAS V. PANTELIS, ESQ.
23 Village Attorney

24 MR. GERALDO CASTRO
25 Building Department

MR. MICHAEL RYDER
Building Department

Mary Benci, RPR
Court Reporter

1 CHAIRMAN KEILSON: Okay, good evening, ladies
2 and gentlemen. Welcome to the Lawrence Board of
3 Zoning Appeals. I'd appreciate it if you would
4 turn off your cell phones; and if there are any
5 conversations, please hold them outside.

6 Can we have proof of posting?

7 MR. CASTRO: I'd like to offer proof of
8 posting and publication (indicating).

9 CHAIRMAN KEILSON: Thank you very much.

10 Mr. Pantelis, would you like to give the
11 short preamble for the short calendar.

12 MR. PANTELIS: Yes. The Board of Appeals
13 pursuant to the state law is required to consider
14 certain statutory factors in connection with the
15 granting of applications, and this Board as part
16 of its regular procedure will typically go to view
17 properties, will familiarize themselves with the
18 applications and pretty much should be considered
19 a hot Board. So you can expect that they're very
20 familiar with the applications that are before
21 them.

22 Nonetheless, you should be prepared to
23 explain exactly why you are here, how your
24 circumstances and your situation developed and
25 what you're asking to do.

1 Mr. Chairman, as a matter of record, should
2 we indicate that certain cases on tonight's
3 calendar are being adjourned and they're being
4 adjourned without a set date at this point?

5 CHAIRMAN KEILSON: Absolutely, correct. We
6 have a request from Stern of Harborview North for
7 an adjournment, again without a set date. We also
8 have an adjournment request from the Congregation
9 Bais Medrash on Harborview as well with a date
10 certain.

11 MR. PANTELIS: Is there anyone here in
12 connection with either one of those applications?

13 (No response.)

14 CHAIRMAN KEILSON: Okay. I'd also like to
15 welcome Mr. Henner who is sitting this evening.
16 He's normally an alternate, Mr. Rosen is not
17 present, and we welcome you always.

18 MEMBER HENNER: Thank you.

19 CHAIRMAN KEILSON: The matter of Cohen on
20 Boxwood Lane, would they or their representative
21 please step forward.

22 MR. MUNISTERI: My name is Mark Anthony
23 Munisteri, architect. I'm here representing the
24 estate of Ceil Cohen, the late owner of 11 Boxwood
25 Lane.

1 The requested variance -- is it okay if I
2 just go on?

3 CHAIRMAN KEILSON: By all means.

4 MR. MUNISTERI: We are asking --

5 CHAIRMAN KEILSON: We actually wanted to
6 compliment you on your drawings.

7 MEMBER WILLIAMS: Very nice.

8 CHAIRMAN KEILSON: It will have no bearing on
9 the outcome, though.

10 MEMBER WILLIAMS: I think they're great.

11 CHAIRMAN KEILSON: But it's really a pleasure
12 to be able to read something.

13 MR. MUNISTERI: I appreciate hearing that.

14 We're asking for a variance to maintain a
15 rear raised terrace with a greater surface area
16 than allowed, and less than required side- and
17 rear-yard setback. In efforts to sell the home to
18 a prospective buyer, the Village of Lawrence made
19 it aware to us that there is no permit for this

20 raised terrace, as the structure has been in
21 existence for over 50 years and has no complaints
22 from the abutting neighbors. The side yard --

23 CHAIRMAN KEILSON: The applicant's papers
24 read 30 years. It's 50 years? Identify yourself,
25 please.

1 MR. COHEN: Allan Cohen, Ceil Cohen's son.
2 I've lived there since 1952. It was there since
3 as long as I can remember.

4 CHAIRMAN KEILSON: I see.

5 MR. MUNISTERI: The side-yard setback is 6.60
6 where 15 feet is allowed. The rear-yard setback
7 is five feet where 30 feet is required. Please
8 note the raised terrace is two feet in height and
9 surrounded by trees. I'm sure you guys went to
10 the site to see. I also have additional photos if
11 you need them.

12 MEMBER GOTTLIEB: The photos were great.

13 MR. MUNISTERI: Thank you. I'm doing good so
14 far. Also, you see the plot plan there is a good
15 distance from the surrounding structure to the
16 side. To the rear there's an accessory structure
17 that abuts the raised terrace. I did a Google map
18 is the best way, if you would like me to submit
19 that, so you could just see when I mentioned that
20 exactly what's abutting you will actually see the
21 structure. So the neighbor directly behind it
22 that I would believe to be most affected can't
23 even see what's actually back there.

24 CHAIRMAN KEILSON: And would not know where
25 that exists.

1 MR. MUNISTERI: I'm going to guess that same
2 thing, but that would be a guess.

3 And our last variance request is for the
4 existing surface area of 4,753 where 4,334 is
5 allowed. It's 419 square feet over. The actual
6 residence sits on two lots, yet only the base lot,
7 lot 46, and not 45, which is directly next-door
8 and greatly diminishes the surface area allowed.

9 CHAIRMAN KEILSON: If you had the second lot
10 included you probably would have the surface
11 coverage.

12 MR. PANTELIS: Is that a separate deeded lot?

13 MR. MUNISTERI: Yes. We do believe this
14 structure -- we do not believe that the structure
15 produces a negative impact on the adjacent
16 properties since its rear terrace is only two feet
17 above the ground and screened by plant life. We
18 also feel there's no adverse effect to this
19 variance and that our request is not substantial.

20 CHAIRMAN KEILSON: Do you have any idea, is
21 it the buyer's intention to maintain that patio?

22 MR. MUNISTERI: Yes. I don't actually know
23 that if the person buying it is actually looking
24 to maintain it.

25 MR. COHEN: They would like to.

1 CHAIRMAN KEILSON: Because I think he's a
2 developer, isn't he? Is that Evan Genack?

3 MR. COHEN: Yes, he's intending to live in
4 the house.

5 CHAIRMAN KEILSON: And he likes the patio?

6 MR. COHEN: So he says, yes.

7 MEMBER HENNER: Are both lots under contract
8 to sale?

9 MR. COHEN: Yes.

10 MEMBER HENNER: So when you're talking
11 about --

12 MR. COHEN: The same, he's buying both.

13 MEMBER HENNER: He's buying both?

14 MR. COHEN: Yes.

15 MEMBER HENNER: So the deposit reflects both
16 lots?

17 MR. COHEN: I don't know.

18 MEMBER HENNER: The letter says \$150,000
19 deposit in escrow. Is that combined for both

20 lots?

21 MR. COHEN: It's one lot. I didn't really
22 discuss it.

23 MR. PANTELIS: The escrow I think is for the
24 permit.

25 MEMBER HENNER: Aren't there two lots

1 involved here?

2 MR. MUNISTERI: Our variance is only one lot.

3 MEMBER HENNER: There is another lot that's
4 owned?

5 MR. MUNISTERI: Adjacent to it. It's a blank
6 lot, yes.

7 MEMBER HENNER: But that's not part of this?

8 MR. MUNISTERI: No, sir.

9 MEMBER HENNER: What's happening with that
10 lot?

11 MR. MUNISTERI: Being sold.

12 CHAIRMAN KEILSON: It was sold to Genack as
13 well?

14 MEMBER HENNER: Being sold as well.

15 MR. MUNISTERI: Yes.

16 MEMBER GOTTLIEB: So I guess you want to know
17 if there are two separate contracts, one for each
18 lot.

19 MEMBER HENNER: I don't really care, but if
20 they're both being bought by Genack it appeared
21 that some of these variances wouldn't be needed
22 because the side lot thing disappeared.

23 MR. MUNISTERI: Unfortunately, we weren't
24 able to do it that way.

25 CHAIRMAN KEILSON: It's irrelevant. I'm sure

1 he's going to develop the other one and build a
2 home on it.

3 MR. MUNISTERI: That's a good guess.

4 MEMBER GOTTLIEB: I've got a question for the
5 Building Department. There's a surface area
6 coverage. If this variance is granted, can that
7 surface coverage be -- and the patio is removed,
8 can that surface coverage be applied to another
9 area? For example, if they take out the patio and
10 want to put another room in the back of the house,
11 can those 419 feet be used somewhere else?

12 MR. PANTELIS: You're asking a legal
13 question. As a legal question, no. The variance
14 is being granted to maintain this particular
15 structure with and incorporating a certain surface
16 coverage. Once that structure is removed then
17 that variance in effect lapses. Any new
18 construction, whether it's in place of the -- in
19 place of the patio or in addition to would require
20 -- potentially require a variance.

21 MEMBER WILLIAMS: Even if it was another
22 patio?

23 MR. PANTELIS: Yes. As long as that patio
24 came under the definition of structure and
25 coverage as opposed to a grade level patio which

1 would not be included in coverage.

2 MEMBER WILLIAMS: Got it.

3 CHAIRMAN KEILSON: Well, if we wanted to
4 condition the variance on having it being
5 maintained, that would be unnecessary.

6 MR. PANTELIS: Well, you don't have to
7 require them to retain it. I think it should just
8 be clear that the coverage variance is being
9 granted only in connection with the maintenance of
10 the patio as opposed to if you have a different --
11 you know, I think, honestly, if you had a
12 structure here instead of a patio, and someone
13 took that structure down and wanted to build
14 another one, or another one in another place, you
15 would have the same situation; you would still
16 require a coverage variance.

17 MR. MUNISTERI: It may eliminate the rear
18 yard and side yard, but you're exactly right,
19 we're right at the cusp to begin with before the
20 patio even existed.

21 THE COURT: Right.

22 MEMBER GOTTLIEB: You answered my question.

23 CHAIRMAN KEILSON: Does anyone in the
24 audience want to speak to this matter? Any
25 further questions from the Board?

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1 (No response.)

2 CHAIRMAN KEILSON: Okay, so we'll vote on the
3 matter. Mr. Henner, do you want to lead off.

4 MEMBER HENNER: I'm in favor.

5 CHAIRMAN KEILSON: Mr. Gottlieb.

6 MEMBER GOTTLIEB: For.

7 CHAIRMAN KEILSON: Mr. Schreck.

8 MEMBER SCHRECK: For.

9 CHAIRMAN KEILSON: Miss Williams.

10 MEMBER WILLIAMS: For.

11 CHAIRMAN KEILSON: And for.

12 MEMBER HENNER: Do we know what the
13 application motion was?

14 CHAIRMAN KEILSON: The application; it's very
15 clear.

16 MEMBER GOTTLIEB: So we have approved the
17 motion to accept the application.

18 CHAIRMAN KEILSON: Right.

19 MEMBER GOTTLIEB: As stated, with no changes.

20 MR. MUNISTERI: Thank you all.

21 MR. COHEN: Thank you.

22 (Whereupon, the hearing concluded at
23 7:53 p.m.)

24 *****

25 Certified that the foregoing is a true and

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1 accurate transcript of the original stenographic
2 minutes in this case.
3

4 Mary Benci

5 MARY BENCI, RPR
6 Court Reporter
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4 Village Hall
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8 November 29, 2011
9 7:53 p.m.

10 APPLICATION: 284-285 Central Owners Corp
11 285 Central Avenue
12 Lawrence, New York

13 P R E S E N T:

14 MR. LLOYD KEILSON
15 Chairman

16 MR. EDWARD GOTTLIEB
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1 CHAIRMAN KEILSON: The matter of 284-285
2 Central Owners Corp., would they or their
3 representative step forward. Please introduce
4 yourself.

5 MR. BASSO: My name is Jeffrey Basso,
6 Schneider Mitola, LLP. We're the attorneys for
7 the petitioner, 284-285 Owners Corp. I'm going to
8 turn it over to Mr. Capobianco. He's more
9 familiar with this, so I'll defer to him.

10 MR. CAPOBIANCO: John Capobianco, architect,
11 159 Doughty Boulevard, Inwood.

12 We're here this evening to maintain two
13 additions that actually they were enclosed
14 screened-in porches for quite a long time on this
15 building, co-op building 285 Central located on
16 the southwest corner of Central Avenue and
17 Rockaway Turnpike. The fact that Rockaway
18 Turnpike because it's narrower of the two front
19 yards is actually the front yard and the rear of
20 this building is actually a side yard.

21 If you look at the survey and you look at the
22 photos there's an existing open roof terrace which
23 is a roof over the underground garage which is
24 approximately three feet, three and a half feet
25 above grade which is a terrace that runs along the

1 entire, you know, south property line of the
2 building, or what I call it actually the side
3 yard. The required side yard here is 20 feet, and
4 we're seeking relief to maintain these two
5 structures because, apparently, they were screened
6 in at one time and then they closed them in with
7 windows and some walls and they made them actually
8 rooms.

9 CHAIRMAN KEILSON: Can we get a chronology?

10 MEMBER SCHRECK: For all of them.

11 MR. BASSO: It was built in the fifties, '52,
12 and there is no record when it was put on as an
13 open porch or screen porch.

14 MEMBER WILLIAMS: And when were they
15 enclosed?

16 MR. CAPOBIANCO: One was enclosed recently,
17 probably about two years ago, and the other I
18 think maybe five or six or seven years ago.

19 MEMBER WILLIAMS: Are you sure about that?

20 MR. CAPOBIANCO: I'm not sure. The one that
21 I'm sure about is the one that's on the west side
22 of the building, the one-story one which is, you
23 know, towards the west end. The one on the east
24 side I think was done before that, that one.

25 MEMBER WILLIAMS: So you're saying nothing

1 was done in the past two years; is that what
2 you're saying?

3 MR. CAPOBIANCO: I'm saying that the one that
4 is on the west side was recently done within a
5 two-year period.

6 MEMBER WILLIAMS: What does that mean? When
7 you say a two-year period, are we talking about
8 four months, are we talking about two years?

9 MR. CAPOBIANCO: That's a good question. It
10 could be a year. I'd say about a year.

11 MEMBER SCHRECK: Was it done with the
12 permission of the co-op?

13 MR. CAPOBIANCO: Yes.

14 MEMBER SCHRECK: Everything that was done was
15 done with the permission of the co-op?

16 MR. CAPOBIANCO: Yes.

17 MR. PANTELIS: You're also showing on the
18 plot plan it looks like one, two, three, four
19 other structures which were built in that little
20 courtyard which didn't require variances.

21 MR. CAPOBIANCO: That's correct.

22 MR. PANTELIS: Can you tell us when those
23 were built?

24 MR. CAPOBIANCO: Again, you know, these
25 things were all maintained recently and permits

1 recently taken out for them because they do fall
2 within the required zoning criteria.

3 MEMBER WILLIAMS: Hold on. Permits were
4 taken out for them before they were done?

5 CHAIRMAN KEILSON: No.

6 MR. CAPOBIANCO: No, there were no permits
7 taken out by any of them. They were just done
8 without permits.

9 MEMBER WILLIAMS: Because?

10 MR. CAPOBIANCO: Pardon?

11 MEMBER WILLIAMS: Because?

12 MR. CAPOBIANCO: Because they just did it.
13 They just did it.

14 MEMBER WILLIAMS: All right, I just wanted to
15 understand.

16 MR. CAPOBIANCO: Maybe they felt they had a
17 right to do it, but they certainly didn't.

18 CHAIRMAN KEILSON: Did you question anyone as
19 to how these came about?

20 MR. CAPOBIANCO: Well, actually, I pointed it
21 out to the building management, because the one
22 that came up first was the one-story in the back.
23 And when I went to visit that one-story, I noticed
24 there was another structure and then another one
25 and another one and another one. So I said, you

1 know, management, I said let's just legalize them
2 all because I noticed that they weren't all filed
3 for and they didn't have a building permit.

4 MR. PANTELIS: Counsel, does your firm
5 represent the co-op?

6 MR. BASSO: We do, yes.

7 MR. PANTELIS: Are you familiar with the
8 bylaws of the co-op and do they normally require
9 the permission of the Co-Op Board before any
10 construction is done?

11 MR. BASSO: They generally would, yes.

12 MR. PANTELIS: And would that also require
13 that someone obtain permits for those structures
14 as part of the bylaws? I'm thinking of typical
15 bylaws that usually say that any construction if
16 approval is given would require obtaining building
17 permits.

18 MEMBER HENNER: Many co-ops would have
19 separate alteration agreements. Do they require
20 it here?

21 MR. BASSO: Right. Well, there's usually a
22 number of procedures that would be followed. If
23 it's required, that would obviously be it.

24 MEMBER HENNER: Did the co-op do the
25 alteration or did the unit owners?

1 MR. CAPOBIANCO: The unit owners.

2 MEMBER HENNER: Why isn't the applicant here?

3 MR. CAPOBIANCO: Because they represent the
4 unit owners as a whole.

5 MR. BASSO: It's a co-op, so it's
6 shareholders.

7 MEMBER WILLIAMS: It's hard to deal with this
8 because you're not giving us information. You're
9 telling us I don't know, two years, five years,
10 who did it, we're not sure. I'm really, really
11 not happy with this, and I don't feel like I'm
12 getting the information that I need here.

13 MR. CAPOBIANCO: Well, I can tell you that
14 the building was built in the fifties. I can't
15 tell you when the one-story --

16 MEMBER WILLIAMS: Honestly, John -- John,
17 honestly, the Village got a call from one of the
18 neighbors that one of them was being completed
19 this summer. I'm having a hard time with it.

20 MR. CAPOBIANCO: Completed, no; they just
21 closed it in, that's true.

22 MEMBER WILLIAMS: Just closed it in to make
23 it an ugly looking shed? What do you mean?

24 MR. CAPOBIANCO: It was a roof structure that
25 was there. It was a roof structure that was there

1 already. It was an enclosure with screens.
2 That's what I don't know is undetermined in my
3 opinion.

4 MEMBER WILLIAMS: And the person who knows
5 this didn't bother to show up here to talk to us.

6 MR. CAPOBIANCO: Well, management didn't know
7 how far back it was built. It could have been up
8 30 years already. I don't even know.

9 CHAIRMAN KEILSON: I'm sorry, just to
10 clarify. The unit -- to your knowledge, the unit
11 owners put it up independently?

12 MR. CAPOBIANCO: No, they didn't put the
13 structures up. The structures were there when
14 they purchased the units.

15 CHAIRMAN KEILSON: So they went about
16 enclosing it?

17 MR. CAPOBIANCO: They just enclosed it. They
18 took the screens out and they made walls and
19 windows.

20 CHAIRMAN KEILSON: And to the best of your
21 knowledge, they did not consult with the co-op per
22 se, or to the best of your knowledge you have no
23 knowledge?

24 MR. CAPOBIANCO: To the best of my knowledge,
25 I think one of them who did the balcony was the

1 president of the co-op, so he must have consulted
2 somebody.

3 CHAIRMAN KEILSON: His wife.

4 MR. CAPOBIANCO: And the others I think might
5 have just, you know, talked to them about it
6 before doing it. I really don't know the
7 procedure. I'd have to find out from them.

8 MR. PANTELIS: Mr. Capobianco, you prepared
9 the plans in connection with this?

10 MR. CAPOBIANCO: Yes.

11 MR. PANTELIS: Would it be fair to say that
12 what you essentially have is a newer structure
13 which has replaced perhaps something that was
14 there before? Because if I look at it visually at
15 these photos is it fair that we've got some type
16 of vinyl --

17 MR. CAPOBIANCO: Siding.

18 MR. PANTELIS: You've got vinyl siding, you
19 have windows, a new roof, you have gutters and so
20 on.

21 MR. CAPOBIANCO: The roof was there. The
22 roof structure was there. There were posts
23 holding up the roof structure, and in between the
24 posts there were screens. That was all there.

25 MR. PANTELIS: That's all been removed and

1 now you put up new walls?

2 MR. CAPOBIANCO: The roof remained. They
3 just reroofed it with a new roof. They just put a
4 new finish on it, and they enclosed it with some
5 walls with siding and windows.

6 MEMBER WILLIAMS: That sounds to me like
7 building a new building.

8 MR. CAPOBIANCO: Pardon me? And we went to
9 the Building Department to find out and the co-op
10 didn't know how long these things were up, but
11 they said they were up for many, many years. It
12 could be 30 years.

13 MEMBER WILLIAMS: Okay. But John, we're not
14 dealing with an individual who might not have been
15 to lawyer and might not know anything about real
16 estate who does something like this. I could
17 somehow, right, wrong or indifferent, say, okay,
18 this individual may not have known. I'm finding
19 it very hard that all these people who nobody

20 knows about nobody realized that permits were
21 required or variances were required for this. It
22 seems odd.

23 MR. CAPOBIANCO: They probably did, but they
24 didn't abide by the rules or laws. I mean, I
25 can't tell you. You know, I was called in to help

1 maintain and legalize because an appearance ticket
2 or a violation was issued, and that's why I got
3 involved. And then while I was there I noticed --

4 MEMBER WILLIAMS: Could I ask you how did it
5 come about to the point where you brought this up
6 about the variance?

7 MR. CAPOBIANCO: I brought it up.

8 MEMBER WILLIAMS: It was your bringing it up
9 that caused this hearing to be?

10 MR. CAPOBIANCO: That's correct, yes. I met
11 with her at the point when I think one neighbor
12 behind her complained; that's the one on the west
13 end of the property. The internal ones that were
14 in the court had no complaints with that.

15 MEMBER WILLIAMS: So in other words, because
16 a neighbor complained, therefore you met with
17 them.

18 MR. CAPOBIANCO: That's why I was called.

19 MEMBER WILLIAMS: So it was instigated not by
20 your saying there was something wrong with it but
21 by the neighbor saying this is making me
22 uncomfortable and you saying --

23 MR. CAPOBIANCO: That's correct.

24 MEMBER HENNER: They were cited and got a
25 violation.

1 MR. CAPOBIANCO: That's why I appeared there.
2 But while I was there I noticed other structures
3 were closed in, and I says -- you know, and I went
4 and checked with the Building Department and they
5 had no records of those having permits or COs. So
6 I thought it would be a good idea to legalize
7 everything.

8 MEMBER GOTTLIEB: Well, fortunately, we don't
9 have to hear about those tonight.

10 MR. CAPOBIANCO: But those have permits I
11 think. It's just these two that encroach into the
12 side yard that are the problem.

13 CHAIRMAN KEILSON: Okay. Are there any other
14 questions of Mr. Capobianco at this point?

15 MEMBER GOTTLIEB: Well, just do we have any
16 compelling reason why these have to be here? Is
17 there any medical necessity why these had to be
18 there?

19 MR. CAPOBIANCO: No medical necessity. I
20 think they wanted it.

21 MEMBER HENNER: What's the reason to grant
22 the variance? Then what's the hardship?

23 MR. CAPOBIANCO: The reason is that they
24 opened the space up to the internal space.
25 Actually, before, when I was sitting outside they

1 were opened to the outside. So now at least
2 they're inside and they're quiet.

3 MEMBER HENNER: The problem I have, even
4 though you didn't ask, you and I know each other a
5 long time. The problem I have is that if -- and
6 I'm the alternate and I'm just sitting here. You
7 got lucky I'm here today. The other guy is a
8 killer. You're lucky I came.

9 But if you grant -- if this Board -- again, I
10 don't know how people are going to vote -- grants
11 a variance because two people decided to build and
12 build whatever they wanted there. They didn't
13 know, they didn't care, they didn't want,
14 whatever. The co-op lets it happen. I do this
15 every day. I've never heard -- maybe it's just
16 easier out here on Long Island, but in the city
17 you can't change a light bulb without getting all
18 kinds of stuff. And here, things are built and
19 they magically appear, and they call Capobianco to
20 show up to the Board.

21 MR. CAPOBIANCO: Now, these didn't magically
22 appear. They were there, they were structures
23 built 35, 40 years ago. But they were structures.

24 MEMBER HENNER: I understand. It's the
25 difference between a sukkah and a --

1 MR. CAPOBIANCO: I know what a sukkah is.

2 MEMBER HENNER: The point is and I'm not sure
3 what the answer is, John, if you say the Board
4 says yes to this co-op, what's to stop -- why
5 shouldn't just everybody do whatever the hell they
6 want? And then when it comes time that they get
7 cited, send in John, send in Bill, send in
8 somebody to say I need variance?

9 MR. CAPOBIANCO: Well, this Board does grant
10 variances for side yards, they do grant variances
11 for encroachments.

12 MEMBER HENNER: Before -- usually before
13 somebody puts something up, no?

14 MEMBER WILLIAMS: Not post facto.

15 MR. CAPOBIANCO: Listen, I don't disagree
16 with your thinking. However, I do disagree with
17 one element of this, that there was a structure
18 there for 35 years that was as obtrusive and as
19 large as what that is.

20 MEMBER WILLIAMS: Does anyone have a picture
21 of what that structure looked like?

22 MR. CAPOBIANCO: It was exactly that without
23 the walls and the windows. But it had screens.

24 MEMBER HENNER: It's a sukkah, isn't it?

25 MR. CAPOBIANCO: It's a sukkah with screens.

1 MR. PANTELIS: May I ask a question. Along
2 that same wall of the building that we're -- that
3 we have the two structures that are before us,
4 approximately do you know how many units there
5 are, and potentially could we have applications
6 from other units saying we'd like to --

7 MR. CAPOBIANCO: Well --

8 MR. PANTELIS: -- construct a room?

9 MR. CAPOBIANCO: -- that's a B bank of
10 buildings. This is one unit. This is one, two
11 units. This unit is not doing it because they
12 have this corner that faces the courtyard. So
13 it's only these two that would do it. If this one
14 were to do it, they would be able to comply with
15 the front yard and the side yard.

16 CHAIRMAN KEILSON: Perhaps it would be
17 helpful to show the people who are voting on it.

18 MEMBER WILLIAMS: Show us what you just
19 showed him.

20 MR. CAPOBIANCO: I was showing him that, and
21 what I was saying is this unit is the only unit
22 and this one on this whole back wall that would
23 have these two structures because this is the A,
24 the B, the C, the D, the E. So this is the D bank
25 and this would be the only place on that bank.

1 This unit has that one-story structure here
2 already. So that complies with the required side
3 yard. But these two they built -- actually were
4 built and they were enclosed; they're in the
5 required side yard. But I know there was
6 something brought up about this one. I only heard
7 this as a side story that this neighbor was
8 unhappy with it about five years ago or something.
9 This one was done first, a long time ago, maybe
10 five years.

11 MEMBER WILLIAMS: What street does that back
12 up with?

13 MR. CAPOBIANCO: It's Rockaway Turnpike.
14 These are residences that come off of Arrowhead.
15 Arrowhead is here.

16 MEMBER WILLIAMS: And this one backs up what?

17 MR. CAPOBIANCO: I think that's the dead-end
18 of the next block.

19 MEMBER WILLIAMS: Dillon, whatever it is.

20 MR. CAPOBIANCO: Dillon. And I know she was
21 unhappy, this one.

22 MEMBER WILLIAMS: Dillon was unhappy too?

23 MR. CAPOBIANCO: No. This one here they had
24 a conversation; apparently, he worked out
25 something with them. I don't even know what the

1 story was. It's really a messed up story here,
2 but I'm trying to straighten it out, you know.
3 And I just brought up these as issues that they
4 should clean up and solve.

5 CHAIRMAN KEILSON: You're the fireman, okay.
6 Does the attorney want to say anything
7 further?

8 MR. BASSO: I really have nothing further.

9 CHAIRMAN KEILSON: Let's hear from any
10 neighbor that would like to express themselves.
11 Identify yourself for the record.

12 MR. GOTTLIEB: My name is Eli Gottlieb. It's
13 the first time I see another Gottlieb here. We
14 have nothing to do with each other, just last name
15 the same spelling. And we live in 44 Arrowhead
16 Lane. We came to this community 27 years ago
17 because we wanted -- we came from Brooklyn and in
18 Brooklyn was very confined.

19 CHAIRMAN KEILSON: Is that a Brooklyn accent
20 you have?

21 MR. GOTTLIEB: This is a brook line accent.
22 And we were very confined there and we decided to
23 come to Lawrence, spacious, free, trees, swimming
24 pools, gardens, and we bought this house. We live
25 there, as I say, 27 years.

1 All of a sudden a year, I would say, a couple
2 of months ago, a year ago, somebody went ahead, I
3 don't know who it is, and build literally a shack
4 in front of our face. A room they call it. It
5 was with screens, it wasn't with screens. And
6 just the side, I would like to ask the counsel,
7 what is the variance between a house and my
8 property? Is it 20 feet, supposed to be 20 feet?

9 MR. CAPOBIANCO: Supposed to be 20.

10 MR. GOTTLIEB: Okay, so it's supposed to be
11 20 feet. People take liberty, and they go and
12 they build. First on my right side somebody went
13 ahead and build, and we never complained because
14 it wasn't in our faces. The right side did it,
15 now the left side did it. The left side did it in
16 front of our face. I stand in my kitchen, I stand
17 in my bathroom, I stand in my bedroom, I see their
18 television.

19 In addition to that, the most annoying thing
20 they put the bling, bling, bling something on the
21 wall, and each time when the wind is blowing
22 twelve o'clock at night, bling, bling, bling,
23 bling. They have the chutzpah to put the bling in
24 my face also.

25 CHAIRMAN KEILSON: Wind chimes, yes.

1 MR. GOTTLIEB: I don't know what it is, a
2 Chinese thing. It blings in my head twelve
3 o'clock, three o'clock. Why? Because they took
4 the liberty to go out and do it because they had a
5 patio there, which they build illegally because we
6 need 20 feet. First comes the patio, then comes
7 the screens, then take off the screens, then build
8 a house in front of my face.

9 Besides I think it's hazardous. God forbid
10 there's a fire. I don't know how they're going to
11 go through there. Now all of a sudden in front of
12 my house I have two of them. And then as Mr. John
13 say, A, B, C, D, E, F, all of a sudden I have A,
14 B, C, D, E, F. Everybody is going to have
15 something that was built 35 years ago. And on top
16 of that they're going to build me a house in front
17 of my house.

18 Now, there is laws, there is regulations,
19 there is bylaws. And as one of the -- as

20 Mr. Henner say, in Brooklyn they change a bulb you
21 need to put -- you have to get permit. Here we
22 pay 20,000, \$25,000 taxes, people build in front
23 of your face. First of all they build. Then if
24 you complain they come to ask for a permit, and
25 they send somebody, pay for him to plea to make

1 sure that the permit will go through.

2 So it's not a free market here, you know, and
3 I don't say the value of my house is going down
4 because of it. My quality of life is going down
5 because of it, and I'm asking the panel to
6 consider the way we feel. We pay taxes in this
7 town. There's rules, there's regulations, and
8 everybody has to abide the rules and regulations.

9 Now, since this one build it without
10 permission, now we don't want the second one
11 either. Because when there is one, there is A,
12 there is a B, there is a C, there is a D.
13 Otherwise, I go look again, show me the diagram,
14 let me see the A, B, C, D. It's not going to
15 work. It's not right.

16 MEMBER WILLIAMS: Mr. Gottlieb, when you saw
17 this happening, did you take any action?

18 MR. GOTTLIEB: Yes. My wife went -- go
19 ahead.

20 CHAIRMAN KEILSON: Name and address.

21 MS. GOTTLIEB: Linda Gottlieb, 44 Arrowhead
22 Lane. We're the most affected by this because
23 this building went up right in our face right up
24 to the property line. I mean, it's only eight
25 feet from the property line. It's supposed to be

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1 20 feet. They did this without a permit. It just
2 went up. My kids said to me, ma, look what's
3 happening, why don't you go complain. I called
4 the Village Hall and I told them.

5 CHAIRMAN KEILSON: Do you know when you
6 called?

7 MS. GOTTLIEB: It was in the summer. This
8 went on for the past year. It was sometime this
9 summer. I don't have a date. I didn't write it
10 down. It was a phone call. I called up, and the
11 woman said to me, well, they're going to send down
12 an inspector. Do I have permission to go on your
13 property? I said yes, go on my property. You can
14 see that they're building a room right in my face.
15 And I don't know what he's talking about being a
16 porch, screened porches. There was nothing there
17 before. I don't recall anything there before.
18 This is a room. They built a whole new extension
19 onto that building, and it's in my face. It's
20 eight feet from my property lane.

21 MEMBER WILLIAMS: And after you made the
22 phone call did you ever hear from anybody after?

23 MS. GOTTLIEB: I never heard from anybody
24 again, anything. I think I went one other time
25 and spoke to the Building Department, and they

1 said to me, well, they didn't file a permit, you
2 can't do anything now. A permit has to be filed.
3 A permit has to be filed after the fact it's done?
4 I don't get it. I mean, you're supposed to get a
5 permit first. You're not supposed to build the
6 building first and then get a permit. And now
7 they're coming to ask you for a variance? I just
8 don't understand. Where are the laws? Do you
9 follow laws here? Where are the laws?

10 CHAIRMAN KEILSON: Okay, thank you. Any
11 questions of the neighbor?

12 (No response.)

13 MEMBER GOTTLIEB: John, is this structure
14 elevated above ground level?

15 MR. CAPOBIANCO: It's on top of the roof of
16 the garage below, the parking garage. The parking
17 garage goes right up to the property line, and
18 it's about three and a half feet.

19 MEMBER GOTTLIEB: At the property line
20 there's a retaining wall.

21 MR. CAPOBIANCO: There's a retaining wall.
22 It's on top of that.

23 MEMBER GOTTLIEB: How tall is that retaining
24 wall?

25 MR. CAPOBIANCO: About three and a half feet.

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1 MEMBER GOTTLIEB: That property line is the
2 retaining wall.

3 MR. CAPOBIANCO: Three and a half feet above,
4 right at the property line.

5 MEMBER GOTTLIEB: So from the property line
6 or from the edge of that retaining wall there's
7 eight or nine feet --

8 MR. CAPOBIANCO: There's nine feet.

9 MEMBER GOTTLIEB: -- of roof and then comes
10 the structure.

11 MR. CAPOBIANCO: Then comes the structure.

12 MEMBER GOTTLIEB: So the structure sits
13 approximately three feet above normal grade.

14 MR. CAPOBIANCO: Three and a half feet.

15 MEMBER WILLIAMS: If there are no plans done,
16 how do we even know this building is safe, done,
17 anything? I mean, no plans.

18 MR. CAPOBIANCO: Well, I couldn't find any
19 records in the Village Hall with regard to a

20 structure being there. As a matter of fact, the
21 old survey that was dated 1952 I believe it was
22 the only record that you had, the survey that you
23 had didn't show a structure at all.

24 MEMBER WILLIAMS: So now that there's a
25 structure that we don't know anything about the

1 code or anything about how it was built; is that
2 correct?

3 MR. CAPOBIANCO: I know it's wood frame. It
4 was built in a wood-frame fashion and it's on top
5 of a concrete structure. The code is not an
6 issue.

7 MEMBER WILLIAMS: I'm just curious.

8 MR. CAPOBIANCO: The building code, it works
9 in terms of construction technology. It doesn't
10 work in terms of zoning.

11 MEMBER WILLIAMS: It looks like a shed.

12 CHAIRMAN KEILSON: Are you suggesting it's
13 possible there was no screened-in porch?

14 MR. CAPOBIANCO: That's what they're saying.

15 MS. GOTTLIEB: There was never anything
16 there.

17 CHAIRMAN KEILSON: Please, please, please.

18 MR. CAPOBIANCO: I was told there was a
19 screened-in porch, that there was a roof already
20 there.

21 CHAIRMAN KEILSON: Do you see any evidence of
22 that?

23 MR. CAPOBIANCO: I saw that the roof was --
24 both were identical and they were built as roof
25 with screens around them. I don't know how many

1 years ago. It was an undetermined amount of
 2 years. No one seems to know exactly when. The
 3 Building Department didn't have records; they
 4 weren't sure. No one was sure of anything. I
 5 mean, that's why I drew it to maintain it. But
 6 she's saying there wasn't anything there. And I'm
 7 not sure of that. They might have taken something
 8 down and rebuilt it, I don't know. I just thought
 9 they told me that there was an existing structure
 10 there, it was a screened-in porch, and that they
 11 took it and they added it as a living space to
 12 their apartment by enclosing it with insulated
 13 walls and windows and heated it. That's what they
 14 did.

15 MEMBER WILLIAMS: Okay, they didn't do
 16 anything. They just added walls and windows and
 17 heat and a new roof.

18 MR. CAPOBIANCO: Oh, no, they did.

19 MEMBER WILLIAMS: But it was there.

20 MR. CAPOBIANCO: Listen, what they did was
 21 wrong a hundred percent.

22 MEMBER GOTTLIEB: Did he remove the brick
 23 wall that was there before?

24 MR. CAPOBIANCO: No.

25 MEMBER GOTTLIEB: So the brick wall is still

1 there?

2 MR. CAPOBIANCO: Yes.

3 MEMBER GOTTLIEB: So there is a door or some
4 entryway?

5 MR. CAPOBIANCO: That was a sliding glass
6 door they removed.

7 MEMBER HENNER: Were these all done by the
8 same builder?

9 MR. CAPOBIANCO: I don't think so. One was
10 done years before. This one was done in the
11 summer, the one that's facing them, I think in the
12 summer. And the other one was done four or five
13 years ago because they had complaints back then.

14 MS. GOTTLIEB: There's another one further
15 down that they did after that one. It's the same
16 builder.

17 CHAIRMAN KEILSON: Mrs. Gottlieb, there's no
18 private conversations, please.

19 MEMBER WILLIAMS: When we started out, John,
20 you told us the last one was done two years ago.
21 Now you're telling me the summer.

22 MR. CAPOBIANCO: The summer, yeah.

23 MEMBER WILLIAMS: That's two years ago this
24 summer?

25 MR. CAPOBIANCO: I think they did it before

1 the summer because they called me in the summer.

2 MEMBER SCHRECK: What is the name of the
3 builder?

4 MR. CAPOBIANCO: They didn't tell me the name
5 of the builder. I only worked with the owners of
6 the apartment.

7 CHAIRMAN KEILSON: I assume the owners of the
8 apartment are too embarrassed to appear tonight.

9 MR. CAPOBIANCO: They put it back into the
10 co-op's lap, and the co-op has their
11 representative here.

12 MEMBER HENNER: I don't understand that. If
13 I'm an owner of a unit and I just build whatever
14 the hell I want, and then I get caught, and I tell
15 the co-op, by the way, it's on you. Is the co-op
16 paying you guys? I mean, I don't want to breach
17 confidentiality here, but all these guys did this
18 work to improve their own units, and the other
19 shareholders are actually paying your bills?

20 MR. BASSO: Well, it's not like a
21 condominium. The co-op owns the building.

22 MEMBER HENNER: I understand that. But if
23 the guy in 1-A builds a thing without a permit,
24 without a thing, and now the co-op is now
25 incurring expenses --

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1 MR. CAPOBIANCO: No, they're not. They're
2 assessing the individual owners. They're paying
3 the bills.

4 MEMBER HENNER: So that's my question.

5 MR. CAPOBIANCO: They are paying.

6 MEMBER HENNER: Who's paying?

7 MR. CAPOBIANCO: They are.

8 MEMBER HENNER: They are?

9 MR. CAPOBIANCO: That's correct.

10 MEMBER GOTTLIEB: This is the president's
11 apartment?

12 MR. CAPOBIANCO: No, the corner unit that's
13 legal. The corner unit that's legal is.

14 MEMBER WILLIAMS: What disturbs me about
15 cases like this, honestly, and I'm sure you'll
16 agree, John, is that whether Mrs. Gottlieb is
17 wrong or right, she -- had this gone through the
18 normal channels, she would have had her legal
19 rights met in that she would have had notice, and
20 she would have had a right to come before us. And
21 we would have made a decision with her input, and
22 she would have been recognized.

23 MR. CAPOBIANCO: I understand.

24 MEMBER WILLIAMS: Now you're asking us to say
25 your input is irrelevant, here it is, and that's

1 not fair from her point of view at all, and when
2 you come post facto from any resident who pays
3 taxes to be put in that position.

4 CHAIRMAN KEILSON: I think we also have to
5 ultimately use the criteria that John likes to
6 quote so ably in his applications, the five
7 criteria that we know as to whether a variance
8 will fall or stand. I think by testing each of
9 the five criteria I think it fails. There's much
10 to say about it. That's certainly my position,
11 and we will vote at this time, okay.

12 So let's start with Mrs. Williams.

13 MEMBER WILLIAMS: Shockingly, no. I think
14 they should all be taken down.

15 MEMBER HENNER: I'm sorry, I couldn't hear
16 you. What did you say?

17 MEMBER WILLIAMS: I would vote that they
18 should all be taken down.

19 CHAIRMAN KEILSON: Mr. Schreck.

20 MEMBER SCHRECK: No.

21 CHAIRMAN KEILSON: Mr. Gottlieb.

22 MEMBER GOTTLIEB: I just need some
23 clarification. We're talking about both sheds?

24 CHAIRMAN KEILSON: The two that are being
25 applied for.

1 MEMBER GOTTLIEB: The two are together as one
2 application?

3 MR. PANTELIS: Yes.

4 MEMBER GOTTLIEB: I will have to not grant
5 this.

6 CHAIRMAN KEILSON: Mr. Henner.

7 MEMBER HENNER: No.

8 CHAIRMAN KEILSON: Add the Chair votes no.

9 MR. CAPOBIANCO: Okay.

10 MEMBER WILLIAMS: That means they have to be
11 taken down.

12 MR. CAPOBIANCO: Okay.

13 CHAIRMAN KEILSON: Okay.

14 MEMBER GOTTLIEB: But you did have a very
15 good argument, John, and we thank you.

16 MR. CAPOBIANCO: No, I'm not sure actually of
17 the one. If they didn't tell me the truth I would
18 be annoyed also, because I was told that these
19 were existing structures already there.

20 MEMBER WILLIAMS: Can you show us a picture
21 of that?

22 MR. CAPOBIANCO: That's what we are going to
23 try to find.

24 MEMBER WILLIAMS: Mr. Pantelis, is there a
25 time -- just like we give a time to build, is

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1 there a time to remove?

2 MR. PANTELIS: Well, the Building Department
3 from this point on once the Board has issued its
4 decision, you know, it takes over from the point
5 of view of notification and potential violation.

6 MR. CAPOBIANCO: Well, they have a right to
7 file an Article 78 as well, so this thing could
8 drag out.

9 MEMBER WILLIAMS: Let's see them win this
10 one.

11 MEMBER HENNER: If the co-op has the
12 opportunity to spend more money.

13 MR. CAPOBIANCO: That's true.

14 CHAIRMAN KEILSON: John, I would urge, let
15 them take down the wind chime immediately.

16 MR. CAPOBIANCO: We'll do that.

17 (Whereupon, the hearing concluded at 8:25 p.m.)

18 *****

19 Certified that the foregoing is a true and

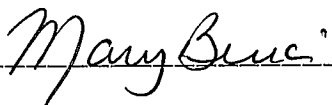
20 accurate transcript of the original stenographic
21 minutes in this case.

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MARY BENCI, RPR
Court Reporter