

**CITY OF HACKENSACK
ZONING BOARD OF ADJUSTMENT
MINUTES**

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DATE: September 21, 2023

1. Roll Call

This is the Regular Meeting of Thursday, September 21, 2023. Chairman Giarrusso called the meeting to order at 7:07 p.m. Roll call was taken and the following members were present: Mr. Pemberton, Ms. Harrigan, Mr. Puleio, Mr. Cheatham, Vice Chairman Jones, and Chairman Giarrusso.

ABSENT: Mr. Prifti and Mr. Sarni

LATE ARRIVAL: None

EARLY DEPARTURE: None

ALSO PRESENT: Christos J. Diktas, Esq.; Bridget McLaughlin, Zoning Officer; Gregory J. Polyniak, P.E., P.P., Board Engineer/Board Planner, Neglia Engineering; and Kim O. Furbacher, Certified Court Reporter.

2. Payment of Bills

MOTION MADE BY CHAIRMAN GIARRUSSO TO PAY BILLS RECEIVED FROM THE BOARD'S PROFESSIONALS. SECOND BY VICE CHAIRMAN JONES. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. PEMBERTON, MS. HARRIGAN, MR. PULEIO, MR. CHEATHAM, VICE CHAIRMAN JONES, AND CHAIRMAN GIARRUSSO.

3. Approval of Minutes of July 2023

MOTION TO ACCEPT AND APPROVE THE MINUTES OF JULY 2023. MOTION MADE BY CHAIRMAN GIARRUSSO. SECOND BY MR. CHEATHAM. MOTION IS PASSED BY AN AFFIRMATIVE VOTE OF MR. PEMBERTON, MS. HARRIGAN, MR. PULEIO, MR. CHEATHAM, VICE CHAIRMAN JONES, AND CHAIRMAN GIARRUSSO.

4. MEMORIALIZATIONS: NONE

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5. APPLICATIONS:

a. SP#5-22 V#5-22

Site Plan Application

Applicant: G.P. Development, LLC

Address: 220-224 Anderson Street

Block 435 Lots 8 & 9 [Gerald Salerno, Esq.]

The Applicant proposes a ten (10) story, multifamily building with structured parking. The first two floors of the structure will provide covered parking with a total of eighty-nine (89) parking spaces with four (4) being ADA accessible. The remaining eight (8) stories will consist of residential units containing fifty-six (56) one (1) bedroom units and twenty-four (24) two (2) bedroom units. Amenities within the structure include bike storage rooms, a 1,300 square foot gym, and a roof deck with associated seating. In addition, the Applicant proposes concrete walkways, landscaping improvements, fencing, a subsurface detention system, stormwater inlets, associated piping, and pavement markings.

WITHDRAWN WITHOUT PREJUDICE

b. SP#34-22 V#34-22

Applicant: Hackensack Assisted Living LLC

Address: 329 Prospect Avenue

Block 344 Lots 3, 4, 5, & 14

The Applicant proposes to construct a nineteen (19) story, assisted living facility consisting of one hundred and fifty (150) residential units and two hundred and fifty (250) parking spaces with frontage on Prospect Avenue and Summit Avenue. The Applicant proposed forty-five (45) studio units, eighty-one (81) one-bedroom units, and twenty-four (24) two-bedroom units.

CARRIED TO OCTOBER 19, 2023 MEETING.

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c. SP#27-22 V#27-22

Applicant: XE Corporation & Dr. Naljian

Address: 952 Main Street

Block 540 Lot 15

The Applicant proposes to raze the existing site improvements and construct a four (4) story, fifteen (15) unit multifamily residential building. The proposed first floor will consist of a vestibule and lobby, refuse area, utility, and partially covered parking for twenty-two (22) vehicles, including two (2) handicap-accessible spaces. The proposed second through fourth floors consists of four (4) one-bedroom units and one (1) two-bedroom unit, per floor. Additionally, the Applicant proposed a 570-square foot common deck on the second floor as well as associated landscaping, lighting, curb cuts, a permeable paver sidewalk, and a permeable paver ramp to the entrance.

WITHDRAWN WITHOUT PREJUDICE

d. SP#7-23 V#7-23

Applicant: Marcello Bustamante

Address: 35 Jefferson Street

Block 18 Lot 9.02

The Applicant proposes to construct a three-story, one-family dwelling with frontage on Jefferson Street. The first floor consists of a two-car garage, mechanical room, and storage space. The second floor consists of a family room, kitchen, dining room, living room, home office, and bathroom. The third floor consists of two (2) bedrooms, laundry room, bathroom, primary bedroom, primary bathroom, and walk-in closet. Additional site improvements include a curb cut and driveway.

CARRIED TO OCTOBER 19, 2023 MEETING.

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b. SP#13-21 V#13-21

Applicant: Maisano Properties LLC

Address: 215 Elleen Terrace

Block 100.02 Lots 1-9 and 21-28 [L. D'Arminio,
Esq.]

The Applicant proposes to construct a four (4) story mixed-use building consisting of four (4) one-bedroom units, fourteen (14) two-bedroom units, storage space, business offices, and a parking deck within Lots 1-8 & 21-28. It appears that the Applicant proposes to consolidate Lots 1-8 and 21-28. Additionally, the Applicant proposes to construct a parking lot within Lot 9. Furthermore, the Applicant proposes additional site improvements consisting of concrete wheel stops, trash enclosures, concrete curb, asphalt pavement, fencing, gates, walls, traffic striping, grading, lighting, and landscape improvements. Furthermore, it appears that the Applicant proposes to maintain the existing on-site billboard.

A P P E A R A N C E S

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E X H I B I T S

None marked

P U B L I C H E A R I N G

G R E G O R Y J. P O L Y N I A K, P.E., P.P.,
sworn/affirmed.

B R I D G E T M c L A U G H L I N,
sworn/affirmed.

Mr. Inglima stated: Robert Inglima, Jr.,
representing 211 SN Hackensack, LLC, the owner of
211-215 S. Newman Street, also known as Lots 1.03 and
1.04 in Block 95.

Good evening.

Mr. Diktas stated: Mr. D'Arminio is going to
give his closing argument tonight. Will you be
giving an argument also or will you be speaking?

Mr. Inglima responded: I would like an
opportunity to speak.

Mr. Diktas stated: Then you're welcome to speak
after Mr. D'Arminio finishes.

Mr. D'Arminio stated: Just some quick
housekeeping matters.

The request at the last meeting in July was to
get the Caruso Street vacation squared away. We've
done that, so that has been done. We provided copies
of that to the board and to Mr. Diktas.
We also made continuous contacts. You wanted a list
of those contacts, many of which were copied to Mr.
Polyniak. So we gave a letter, we went through each
of these in their latest -- this goes from May, it's
been five months actually, May to September. We did
get a new person now, maybe our fourth or fifth, and
hopefully we'll get some response from them, but we
appreciate the July meeting, at the time in terms of
if we do get approved, to run to get that has been
running, but we hope that we would get something
within the next couple of weeks. We've been trying.
I just wanted you to know, we've been trying.

Mr. D'Arminio asked: Mr. Polyniak, you're aware
of that, right?

Mr. Polyniak responded: Yes.

Mr. D'Arminio stated: Other than that, I am
ready for my summation, but I think Mr. Inglima would
go first.

Mr. Diktas stated: Mr. Inglima.

Mr. D'Arminio stated: And I go last.

I think we have six members, so we're not getting

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a vote tonight. We'd like to have seven members.

Mr. Diktas stated: Just so everybody in the audience knows what Mr. D'Arminio has asked for, he's ready for a vote this evening; however, in the board of adjustment, the statute requires five out of seven vote. We only have a board tonight of six; although we have a quorum, that would give the applicant a disadvantage because if he had a 3/3 vote, he would lose, whereas if he had a 5/2 vote, he would win under the statute.

He's asked, and it's granted automatically subject to granting a waiver, of course, within the time periods, that this matter will be brought to a vote next month.

Mr. D'Arminio stated: The 19th.

Chairman Giarrusso stated: Yes.

Mr. Diktas asked: Bridget, when is our next meeting, the 19th?

Ms. McLaughlin responded: Yes.

Mr. D'Arminio stated: Rather than take up time, it looks like you will be very busy, we'll do it tonight and then we'll hopefully get a vote. We'll do a transcript and hopefully we'll have seven members next month.

Mr. Diktas stated: Before you do that, I spoke to Mr. D'Arminio and to Bridget earlier, we have six hearings on this matter, October 20th, 2022; January 19, 2023; April 20th, 2023; May 18, 2023; June 15, 2023; July 20th, 2023.

Members, commissioners, who have 100 percent attendance, Chairman Giarrusso, Secretary Cheatham, Commissioner Harrigan, Commissioner Pemberton, Commissioner Puleio.

Mr. Jones missed April 20, 2023 and July 20, 2023, but Commissioner Jones handed in his certification that he read the transcripts, so you do have six members available. We do have one member out and one alternate out, and we'll follow-up with them because they need this transcript also. So they would have to come in and certify the meetings that they missed.

Mr. D'Arminio stated: And Kim is going to provide us with a transcript.

Mr. Inglima stated: It's been a long process. I don't know how many of you remember where my client's property is, but I would like to just briefly, and hopefully not too quickly for Ms. Furbacher, go through the points that are important to my client and just remind you of how we came to this process, and also to thank the applicant and Mr. D'Arminio for

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the manner in which they've addressed those concerns. Briefly, my client's property is located at the south end of S. Newman Street. I know all of you are very familiar with the area. The fact that sort of all of the water in the entire area leads down into that part of S. Newman Street, much of the water, that runoff that accumulates in that area is directed into a swale which is just north of my client's property and runs along the east side of Kenneth Street. Kenneth Street is the road that borders the applicant's site and is at more or less the bottom of the hill formed by Elleen Terrace.

So my clients have water coming to them from all directions, and it passes into this swale that I just described, and then enters my client's property through a culvert. There is a twin pipe culvert that runs under my client's property in a southerly direction and brings the water south towards the Route 80 embankment. And at that point, it emerges from the culvert into more or less an open waterway. It has an Asian colloquial name of Losen Slote, although it's really not part of what is called Losen Slote Creek, which is all the way over in Little Ferry. So that's quite some distance from this site. In fact, the water that currently goes into the open waterway I described, now goes under Route 80. Since Route 80 was constructed, they culverted the water, they brought it south of the highway, and it runs along the railroad right-of-way, the railroad that you're familiar with that's more or less between Teterboro Airport and Route 17. And from there it goes all the way down into a stream that runs along the west side of Teterboro, and it eventually finds its way to Berry's Creek, all the way down in Carlstadt.

So my client has water coming from all directions, as I said. It finds its way into the property and then into this open waterway. The open waterway doesn't really drain that well. In fact, the topography leading south from my client's property is almost flat for several hundred yards. It's more or less at elevation 15, I believe. And as a result, water accumulates, it ponds in what I referred to as Losen Slote before and then during heavy rainfalls, we have flooding. The water doesn't go under the highway, it just accumulates there.

So obviously, based on the topography of the area and the size of the drainage area that contributes flow of runoff into my client's property, they're very concerned with any development that takes place

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in the area that does not provide for some type of detention or retention, and, as you know, there's not a lot of pervious surfaces of landscaping in the area, it's a pretty well developed area of Hackensack. And when they heard about this application, obviously they were concerned about whether or not it would create additional runoff that would then exacerbate the existing flooding conditions at the end of S. Newman Street.

We appeared at the hearings at the outset. We engaged in dialogue with the applicant and his attorney, and we were very happy to be able to arrange some changes to the site plan that the applicant is willing to make and to have a drainage structure created under the applicant's parking lot.

Right now, under existing conditions, all the water that comes down through the applicant's site, down Elleen Terrace, winds up on our property without any detention at all. It just comes right in.

We believe that the system that has been designed for the applicant's site, that the applicant is going to install as part of this project, will slow the flow of the water. It will collect runoff from not only the applicant's property but also the vacated portions of Caruso Street and some water that enters the applicant's site from Polifly Road or areas farther to the west. So there will be a net benefit of having this system installed.

It will have a control structure that will regulate the flow of the stormwater out into the off-site drainage system in Kenneth Street. And as a result of that, there will be storage, as well as a slowing of the flow, and it will enter our site at a later time. In other words, the detention will hopefully bring the water to us after the bulk of the rainwater that's accumulating from a storm has occurred. As a result, we hope that this will help mitigate our drainage conditions.

We know that there are going to have to be other changes made in the area. There's going to have to be consideration of how to enhance the flow of water from that open waterway, that I described before, to the south. Those are things that we are very interested in pursuing with the city, with the county, with even the state to the extent that they have regulatory authority, but for right now in the context of this application, we feel that this is a beneficial situation, that this will help improve the situation.

There are other aspects of the application that

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will assist in controlling the flow of water into our site. One of them is that the applicant has agreed not to discharge any water into an existing concrete swale that lies at the base of the Route 80 embankment. As you know, Route 80 is many feet above the level of the site and the level of even my client's property, and there is a concrete swale that directs stormwater from Route 80 directly into that open waterway I described. I'll call it Losen Slote, even though it's not correct. But that existing swale collects water from all of the drains on the Route 80 embankment, the Route 80 westbound ramp to Polifly Road, and even some of the catch basins that are at the intersection of that ramp and Polifly Road, and it just brings the water straight down into our backyard.

So the applicant has agreed not to contribute any flow to that. They're not going to connect any of their drainage structures. They're going to isolate their system so that it only goes into the stormwater system that I described before.

Once again, a benefit.

The applicant's engineer has also designed their site plan so that as much as possible water that is flowing on their property will find its way into the stormwater system so that we won't have water escaping through driveways or other openings in the applicant's site and finding its way into the public streets like Elleen Terrace or Kenneth Street.

In addition, the applicant is proposing to improve Kenneth Street to put in new pavement, a drainage system, lighting, sidewalk, curbing, and all of those improvements which are not necessary for my client. We don't need that portion of Kenneth Street to be improved for our own use, but, nevertheless, those improvements have been designed with sensitivity toward the needs of my client. So that we will have to make some changes to striping on our property, but we will be able to continue to have our existing parking lot and our driveway to Kenneth Street function in more or less the same manner that they do today.

Once again, these are changes that are necessitated by the improvements of the site and by the improvement of Kenneth Street, but the applicant is going to make those changes at its own cost and allow us to retain what we have on our side of Kenneth Street.

We have an agreement with the applicant, and just so that everyone is aware, this agreement doesn't

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involve money changing hands. This is an agreement whereby we would be willing to actually endorse the application and state our support for its approval, as long as the improvements that I just described are being made as part of the site plan. So that the board completely understands, Maisano is going to do the drainage, they're going to do the improvements along Kenneth Street, and based upon that fact, we are supportive of the application. And to the extent that it might be required, we would withdraw our objections to the site plan.

Mr. Diktas stated: Thank you.

Mr. Inglima stated: I think I've covered everything on my sheet here, but if there are any questions from board members, I'd be happy to answer them on behalf of my client.

Chairman Giarrusso stated: Mr. Polyniak, could you validate Mr. Inglima's comments? I know we've heard them from Mr. D'Arminio.

Mr. Polyniak stated: Through the Chair.

There is an extensive drainage system that's proposed on the subject property to address stormwater runoff, and then as Mr. Inglima had mentioned, Kenneth Street will be improved through this development and there will be drainage improvements that are proposed within Kenneth Street also.

Chairman Giarrusso asked: Okay. Any commissioners have comments or questions for Mr. Inglima?

Mr. Cheatham responded: Actually it's to our engineer.

So the design of the drainage system you propose on Kenneth Street has been screened by our engineers and so forth?

Mr. Polyniak responded: It definitely has. It has been screened by our office. We've reviewed it.

If you look at the property as a whole today, and if you were actually to compare the preexisting conditions versus the post development conditions and look at it at every point in time, in actuality they're improving the site through their landscaping that they're proposing and aren't required to construct any stormwater management on the property. They're installing an extensive drainage system, one which will aid the city's issues that occur within the S. Newman Street area, it will also address the concerns of this business.

Mr. Cheatham asked: Beyond what we saw in the application?

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Mr. Polyniak responded: No, it will be what you saw on the plans.

Mr. Cheatham stated: On-site they did all that. I didn't realize they were in the street.

Mr. Polyniak responded: There is no stormwater management system in the street, but there are drainage improvements to capture and direct the runoff properly.

Mr. Cheatham stated: All right. Thank you.

Chairman Giarrusso asked: Anyone else?

(No response.)

Chairman Giarrusso stated: I commend the applicant, Mr. Maisano, and your business to work together to come to an agreeable end that satisfies both parties.

Chairman Giarrusso continued: Mr. D'Arminio, when you come up, I just want to have your attestation to that.

Mr. D'Arminio stated: Yes, that's true.

Chairman Giarrusso asked: Mr. D'Arminio, could you again also validate Mr. Inglema's position on the improvements and speak for your client that this has a bonding agreement between both parties?

Mr. D'Arminio responded: Yes.

Chairman Giarrusso stated: Validate that.

Mr. D'Arminio responded: Yes, that's a part of this project, yes.

Mr. Diktas stated: You have an independent settlement agreement.

Mr. D'Arminio responded: Yes.

Mr. Diktas stated: It's not for us, just so the record is clear.

Mr. D'Arminio stated: Yes, there's a written with an attached plan. The plan is attached, yes.

Mr. Diktas stated: Mr. Inglema's client is protected by our resolution, if you get approved.

Mr. D'Arminio responded: Yes.

Mr. D'Arminio continued: Well, just a few minutes for me.

Obviously, this is I think the sixth or seventh --

Mr. Diktas stated: Seventh.

Mr. D'Arminio stated: Seventh meeting.

This is our application. It's 30 units. Now down to 72 parking spaces. But that's the actual parking; we actually can take credit for many more. And this is on obviously Elleen Terrace.

Rather than go through extensively the statutory proofs, I'll touch upon that, but I'm basically relying on Mr. Kauker's testimony. That was on 6/15.

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He's the planner. So with regard to all the planning issues, he really laid them out pretty well, so I would urge you to take a look at those too. But let me just go through some of the key points here. What we're hoping is that approval of this application will be a catalyst for improvement of the Polifly Road and Newman Street area. Indeed, the 2020 master plan recognizes and wishes and encourages redevelopment like this project. Indeed, the state and federal government has actually designated this property as one of two economic opportunity zones which also provide incentives for redevelopment. So that's a unique aspect of this property.

I think the Maisanos, with Bertin Engineering, have a mixed use site which really creatively divides the existing construction use from the residential use, such as there's no problems with circulation, parking, visual conflict between the two. In fact, there's a tremendous aesthetic benefit.

I just have two exhibits that have already been marked, they're A-15 and A-20, that I may refer to. Can these just be passed out? What you're looking at is, the first one is A-15, that's new number three actually, and that's the look of what the location is from Polifly Road. You see photos and simulations with regard to the rear of the property. There's a parking deck and garage that will totally encompass the existing construction uses.

Mr. Maisano keeps a great yard, lines cars up very cleanly and directly, but now you'll never see that, you'll just see those totally enclosed in an attractive parking deck that really helps the entire area.

The residential portion is going to be oriented towards the western portion of the property and towards Polifly Road. And what it does is, it's in accordance with that corridor which has residential multifamily uses. There was a good exhibit I thought, there's two pages you'll see, that's A-20 from Mr. Kauker, which shows the residential multifamily uses along that area, that portion of what I guess is the B-1 zone.

The residential uses are on the Hasbrouck Heights side of Route 80, they follow all across on Polifly Road, both sides. It's anticipated that whatever happens with the Stony Hill Inn location, that will be some sort of a residential use, whether it's an assisted living use or whatever, but it will be residential.

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And you take that down all the way to Lodi Street, you go past Lodi Street -- I mean, I grew up on Lodi Street on the other side, I used to walk there to school all the time -- but there's a multifamily use right there, as you do the T intersection. Then even past Essex Street, there's all kinds of multifamily uses. Where we have positioned the residential use is really consistent with that area and it fits in that area.

Now, as you can see from the picture, A-15, we do need a height variance. But the front is basically a conforming 50 feet. What's unique about this site and you are probably very aware of it, is it slopes substantially down. As Mr. Inglema said that the problem, the water, flows down. And the portion that is really requiring the variance relief is on the backside and faces the light industrial area. Plus you have Route 80, which is high. So any issues with regard to the height are really not compounded but are mitigated by the surrounding area.

As we have stated, the access to the residential is now -- actually through the help of the board, our first plan was not the best plan and the board had a problem with it, but we did change it substantially. Now the access to the residential is through a totally rebuilt Kenneth Street, with the city's signature lanterns on top of it, lighting, landscaping, and a sidewalk, and doesn't conflict at all with the commercial uses, which was an issue before.

Access to the commercial use remains the same. That's through Elleen Terrace, with again no conflict with the residential access.

Also as Mr. Inglema indicated, the project is going to dramatically improve the drainage. It's far beyond what was necessary for us to get an approval here. I think it can contain and hold a hundred year flood, which was not what was required, but Mr. Inglema, who is a very good attorney himself, has detailed specifically how all that works. So it's definitely beyond the city's standards, and that's also a key aspect of this.

As for the variance relief itself, again we would rely on Mr. Kauker, but in terms of the use, the aesthetics, the key issue there for the special reasons is the aesthetics and the suitability of the site, for this use, as we've shown by the exhibits that I've already shown you.

Also the catalyst aspects of the proposal, the city has considered this as being maybe a potential

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future area for redevelopment. Well, we're at the gateway. I think that's one of the things that we will hopefully encourage that.

With regard to the height, again I talked to you, it was mitigated by the slopes, it is mitigated by the existing conditions on the site, and the height is directed to Kenneth Street. And the site can certainly accommodate the height by the construction, the design, and the proposed layout.

There was a variance for multiple uses, but again we've shown again that the multiple uses work because we have a separation between those uses. And the billboard is a passive use in that sense and as the testimony has shown, the panel truck comes up there maybe a couple of times a month to change copy, but that's the only time that it has any impact.

There was some mention of a use variance in the B-1 zone because the parking is separate there, but the B-1 zone lot is parking for the accessory use for the entire structure, the residential structure. So I think that really, if anything, that is a technicality, and I believe the board would like to see the lot consolidate into one lot. So those lots are going to function together, so there really isn't any issue of having some separate parking use in the frontage zone, because that use is going to be supported by the residential use.

As Mr. Kauker has indicated, most of the bulk and setback requirements we've asked to be included in the use through the Puleio case, but really what's happening here is that we're restricted by the buildings that are existing upon the property and the slope, the unique physical conditions. So it's a classic (c)(1) variance that because of these issues in terms of building on top of what's there, it makes sense, and the uniqueness of the parking garage, we're putting it down on the right near the roadway, but, again, those setbacks don't hurt Mr. Inghima's client, don't hurt the area, they're mostly existing and would be permitted under the (c)(1) aspect or the (c)(2), the benefits outweighing the detriments.

This is a very beneficial layout for all the parties involved, and certainly there's no real negatives, given the surrounding area. There's an issue in terms of the landscaping. We can't put the landscaping in because we have a parking deck, and you really can't put trees in a parking deck, so that's our issue, but we put extensive landscaping along Kenneth Street and along Polifly Road to try to make up for that. Any other

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deficiencies with regard to the layout of the parking deck, it's a parking deck, it might be off a foot in terms of the width of the alleyways and the like, but those are really de minimis and I think it's been looked at by your engineer, and that parking deck is going to function properly, as will the parking underneath for the commercial uses.

Critically, again, for any negative criteria, relying on Mr. Kauker, rarely do I actually find good reasons for the master plan consistency, but this really is consistent with the master plan because of its encouragement of redevelopment, its encouragement of reuse of properties, and that's all that this does, especially in this area and in this economic redevelopment zone and the surrounding uses in terms of any impact on the surrounding uses of any of these variances. You have Route 80, you have light industrial, and any impact on Polifly Road is mitigated by the fact that the proper residential use is along Polifly Road.

Some of the other issues finally. The site plan, there's ample testimony, like I said before, that this actually is going to make that whole side look better and whole area work better. There's the separation of uses, and we have a circulation plan that seems like it's going to work for all vehicles. And we certainly have enough parking. I know the board wanted us to lose a couple of spaces to get more of a width for the town, which is fine, but even that gives us 72 hard spaces. But we've never taken credit for the EV units and also we have parking along Kenneth Street that we're allowed to take credit for. So we've just talked about the hardscape, we actually probably have 80 spaces all included. So we definitely have parking, which is a benefit to the residents that are going to be there.

Whether you call this a re-subdivision, a consolidation or whatever, we're going to put all the lots together, we'll do it whichever way the board wants. We can do it on the Lot 9, which is the B-1 zone and consolidate, or the M-1. I think there was a statement made previously that it's better and clearer to have one lot. Whatever the board wants, we would happily be able to do that. This is a good project. It's a catalyst for the area. Not only that, it's a benefit to the area. We hope that it will, if not completely solve, substantially mitigate the drainage issues that are in this area. And we're happy to do it and we're lucky that that's what he does for a living. So it's

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helpful that he knows how to do that kind of stuff. I'm talking about Mr. Maisano.

So it's a boom to our neighbors. I think it's a boom to the neighbor. And as I said, amazingly we actually meet all the requirements of the use variance. In any event, you've been very patient. Thank you, again, Mr. Inqlima and his client, for their cooperation, and we look forward to a vote next month and hopefully it will be approved.

Thank you very much.

Chairman Giarrusso stated: Thank you.

Mr. Diktas asked: Mr. Inqlima, do you have anything to say?

Mr. Inqlima asked: No, no. Thank you.

Mr. Diktas stated: Counsel, just for the record, and the board members and the public, Mr. D'Arminio is asking for a continuance of the application. He waives his time periods, correct?

Mr. D'Arminio responded: Yes, we'll do it to the end of October or end of November.

Mr. Diktas stated: We'll say the end of November.

That means that we have a transcript of Mr. D'Arminio's closing arguments and Mr. Inqlima's concurring and supporting arguments that you can read. We have two members absent. We'll get the transcripts.

I'm going to ask you to please do not discuss between and amongst yourselves the contents of the transcripts or anything about this project, because it could be construed that you've violating the Sunshine Law. So as a courtesy, please, no one can speak about it. If you want to speak about it, you do it in an open meeting. When there's an open meeting, you can say whatever you like, but nothing really about this matter, application until we call for a vote, that's No. 1.

No. 2, Mr. D'Arminio and I have discussed it with Bridget, there is no COAH unit contribution, but if your client is successful, there will be a cash contribution to the city.

Mr. D'Arminio responded: Yes.

Mr. Diktas asked: The C operator, Greg, it will be subject to the C operator's approval?

Mr. D'Arminio responded: Yes.

Mr. Diktas stated: All the conditions that are in the record will be enumerated.

You'll be purchasing a transcript for tonight?

Mr. D'Arminio responded: Yes. I always do.

Mr. Diktas stated: I spoke to our planner, our

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engineer, Greg. For the first subdivision, they want a mylar. The engineers can address that.

Just for the record, we're asking if the board will approve this application, what's called the consolidation or reverse subdivision. Under the statute, we have the power to either grant the subdivision or consolidate the lots.

Because it's a big parcel, I've asked Greg, instead of doing it by deeds, what the engineer and the surveyors will do is create a mylar. A mylar is a plastic type of a drawing. Mr. Chairman and the secretary will sign off on that, if it's approved. And then Greg of course will approve it, and then the metes and bounds will be addressed and that will be submitted to the county, and all those lots that Mr. Maisano has will then become one new lot, per the city's assessor. There's a small cost, I don't know what that is, you'll find out from the assessor. You have to pay for that one page, again if you're successful, you pay for that one page of redoing the tax map.

Mr. D'Arminio responded: Of course.

Mr. Diktas stated: With that, and I spoke to Greg, you'll be required to enter into a developer's agreement, again if this is a successful application.

So those will be any conditions that would be imposed, again, if there is a vote of approval.

Mr. D'Arminio asked: Mr. Chairman, just one request, could we be first on the agenda on the 19th because it's just for a vote?

Chairman Giarrusso responded: I think we can do that.

Chairman Giarrusso asked: Mr. Polyniak, do you have any comments relative to Mr. D'Arminio's summary?

Mr. Polyniak responded: I do not, Chairman.

Chairman Giarrusso asked: Any commissioners? (No response.)

The hearing was open for public comment/questions. No one wished to comment.

Mr. Diktas stated: Let the record reflect the record is closed as of 10 to 8 tonight. We'll see you next month.

THE APPLICATION IS CONTINUING ON 10/19/2023.

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6. **Old Business: None.**
7. **New Business: None.**
8. **Public Portion:**

Ellen Nyemcsik, 214 Clinton Place, Hackensack, sworn.

Ms. Nyemcsik stated: I just wanted to express concerns about all these apartments going up in the town. And I just want to mention some things that were happening and I just want to bring them up and make you be aware of them so that going forward maybe you can watch the quality of what's being built and what's being done.

Let's see. An 80-year-old couple, they wanted to downsize and live in the Hackensack area because it's more convenient for them and they were looking at an apartment building. It happens to be The Walcott building near Sears. And they said that the apartments are so small and they want like \$4,000 a month for the apartment and then I think additional if they want to park. And these people are retired but they are well off, doctors in their previous occupations. And they said that the apartments are so small and too expensive.

Mr. Diktas stated: Ms. Nyemcsik, just for record, I just spoke to Greg the planner, the area that you're speaking of that's the area of redevelopment, we do not have jurisdiction, that's the mayor and council. You're welcome to tell your story, I'll just tell you we can't do anything about that area, that's not our jurisdiction, that's the mayor and council.

Ms. Nyemcsik stated: Then I'm not sure should I write a letter.

Mr. Diktas stated: I can't tell you what to do, but you're welcome to talk to us, but you really should be presenting this to a mayor and council meeting, Bridget can tell you the next mayor and council meeting. That area and the size of those units are part of the redevelopment plan and that's the mayor and council and the planning board and not us. But you're welcome to talk to us, please talk to us.

Ms. Nyemcsik stated: I'm thinking in the future, if you have people proposing plans for future buildings, then I just want to bring these things up, because these are situations, so if this is a

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well-off couple who thinks this apartment is too small and too expensive, I'm wondering who's going to rent these apartments? Are these people who rent going to be low class people that are going to have to be subsidized by the housing authority in order for this building to get renters? And I don't know if they're fully rented, but this building has been sitting there for years it seems and it doesn't even look like it's fully rented and at this point I don't even know if they're paying any taxes and if it's any benefit, this redevelopment, of this building.

Also in that area somebody was parking on the street for years and years and years and then all of a sudden all the signs changed or something changed, and then she got a ticket, so she's mad as heck at the town of Hackensack.

And it's all, you know, with this building going on. There's changes.

And then a woman who lives in an apartment building, it has to be on Main Street, I was visiting her apartment and she has a hallway that goes into her living room, and all along the hallway she's got boxes, boxes, boxes, boxes, with stored things on the side. She doesn't have enough room for all of her stuff in her apartment. So, you know, it's like you're building jail cells. And I just feel that landlords, they don't care about the people, all they want is money in their pocket. And so my feeling is that you as a zoning board, you have control of what is being built here, and I think that you need to have the backbone to tell these landlords who don't care and probably don't even live in the town, about our town that, you know, they can go somewhere else. And so whatever is your plan for the city, it seems that these people are coming with all these millions of variances, oh, we want to put another whole floor, we want to put 20 apartments additional, totally out of range with what the plan is. It just seems that, you know, I hope that this board is going to be strong enough to say this is not in our interest as a town because will New York City is like a jailhouse over there. It's like a jail city.

Mr. Diktas stated: We thank you for your time and for the presentment, but the real powers to be are the Mayor and Council of the city. So October 3rd at 8:00 p.m. in these chambers and they'll let you speak at the end of their meeting like we do, that's the rules for the public.

Rhonda Williams, 240 Third Street, Hackensack, New Jersey, sworn.

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Mr. Diktas stated: Just for record, Ms. Williams called my office about a project up on Prospect?

Ms. Williams: No.

Mr. Diktas stated: Summit, excuse me, Summit and I explained to her that I really couldn't speak with her because as the board attorney I have an ethical obligation to the board and to the city on this side of the bar, and I can't give her advice and I recommended that if she has any zoning type of advice that she really needs to retain counsel and then appear with counsel.

So with that preface on the record and that I did speak with her and that's what I told her, you're welcome to say what you can.

Ms. Williams stated: We'll add to the record that I was confused now that I'm looking at you, it wasn't you that I thought I was speaking with.

Mr. Diktas stated: That's okay, it was me.

Ms. Williams stated: It is you, but I had someone else in mind when I heard your name so you're not the person. He was younger but okay. Thank you for allowing me to come and share my moment with you.

As I said, my name is Rhonda Williams and I did call Mr. Diktas about 110 Summit Avenue. I have been a lifelong resident of Hackensack. I am fourth generation in Hackensack, this is all I've ever known, and my fifth generation unfortunately lives here but can't afford to live here, so I share her plight with the rents.

But anyway, I would love the privilege and benefit of working and living in Hackensack. I am a licensed funeral director and have been such for over 25 years working for other people. And I would like nothing more than to work at home. And I think I'm being developed out of property that is suitable. I did find something on Summit Avenue, 110 --

Mr. Diktas stated: Please don't tell us, because you can prejudice your application.

Ms. Williams stated: I'm sorry.

Mr. Diktas stated: That's what our conversation was.

Ms. Williams asked: What is the informal method?

Mr. Diktas responded: There is no informal method. The informal method is before the planning board. Under the statute, we don't have that opportunity. So if you have a piece of property that needs a (d) variance, a use variance, which you've explained to me and you briefly explained to the board, like you were here the whole night, you need an attorney, you need an architect, an engineer, you

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have to put a whole plan together and then your attorney will then give notice to everybody within 200 feet and then --

Ms. William stated: I understand that process.

Before I engage other professionals and spend money, I guess my question is how would I know if I'm going to be well received or even welcomed with something that would even be tolerated?

Mr. Diktas stated: I can't answer that. You can't do that because every piece of property is reviewed on its own merit, so there's a four corners of each application. Every application is reviewed under the statute but individually, and then you have to proof the positive and negative criteria under the statute and if you make your proofs and all the proofs with met, then in all probability you'll be approved, if they're not met, in all probability you'll be denied, but I can't tell you, you're only hurting yourself.

Ms. Williams stated: I understand, so there is no hard an fast rule that this cannot be here, if I come with a plan and good reasoning and something that makes sense and looks nice, I have just as much of a chance as anyone else?

Mr. Diktas responded: Correct.

There being no one else wishing to comment, the public comment was closed:

9. Adjournment:

MOTION TO ADJOURN OFFERED BY CHAIRMAN GIARRUSSO.
SECOND BY MR. PEMBERTON. ALL PRESENT BOARD
MEMBERS RESPOND IN THE AFFIRMATIVE. MEETING IS
ADJOURNED AT 8:38 P.M.