

CITY COUNCIL
CITY OF NEW YORK

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TRANSCRIPT OF THE MINUTES

of the

SUBCOMMITTEE ON ZONING AND FRANCHISES

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April 4, 2011
Start: 10:00 am
Recess: 11:50 am

HELD AT: Council Chambers
City Hall

B E F O R E:
MARK S. WEPRIN
Chairperson

COUNCIL MEMBERS:
Council Member Daniel R. Garodnick
Council Member Vincent M. Ignizio
Council Member Robert Jackson
Council Member Brad S. Lander
Council Member Diana Reyna
Council Member Larry B. Seabrook
Council Member Albert Vann

A P P E A R A N C E S (CONTINUED)

Jim Bantis
Owner
Mussels and More

Philip Robertson
Representative
SWA Architects

Robert Kandel
Attorney
Kaye Scholer Fierman Hayes & Handler

Cosmo Marfione
Project Manager
Sea Breeze Estates

Vincent Petraro
Attorney
Kingswood Partners, LLC

Charles Visini
Owner
Adjacent Building

Richard Lobel
Attorney
Sheldon Lobel PC

Neil Weisbard
Lobbyist representing Center for Negative Thinking
Slater & Beckerman

Marshal Sohne
Managing Member
Center for Negative Thinking

Iko Nosei
Planner
Department of City Planning, Brooklyn

A P P E A R A N C E S (CONTINUED)

Jennifer Hong
Deputy Director of Land Use
Manhattan Borough President Scott Stringer

Grace Han
Urban Planner
Department of City Planning, Manhattan

CHAIRPERSON WEPRIN: Hi, good morning, everyone. I'm getting over a cold, I apologize. My name is Mark Weprin, I am the Chair of the Subcommittee on Zoning and Franchises, of the Land Use Committee. We are, I am joined today by the following Members of the Subcommittee: Council Member Seabrook, Council Member Vann, Council Member Reyna, Council Member Garodnick, Council Member Ignizio, Council Member Jackson. We are not joined today by Council Member Lappin, who we are happy to say had a baby on Friday. And that is not an April Fool's joke, a baby boy named Miles. And we wish her and the baby and mom really well. We are going to start with two cafés that are on today, request for cafés. The first one is Land Use No. 354, called Mussels and More. Come up to the front to get ready your presentation. We have Jim Bantis here. Now that's mussels like the shellfish, in case you were wondering, not like the muscle. Okay. I do have regrets from Council Member Gentile, who is not here, he had to go to a funeral, and it is in his district, and he wanted to show up. He did give a statement, which I will read after your

1 presentation. You may start, if you can figure
2 out the microphone.
3

4 JIM BANTIS: Good morning,
5 everybody, my name is Jim Bantis. [background
6 noise, re mic] It's on. Good mor--It says on.
7 Good morning, everybody, my name is Jim Bantis,
8 representing Mussels and More, located at 510 80th
9 Street. Thank you for your time. I would just,
10 back in June or July, I applied for an outside
11 café, which according to the City zoning rules I
12 was eligible for 48 seats; subsequently, in the
13 meetings relating to the community board, it was
14 their wishes that I limit the number of seats to
15 34. I was exploring my options as far as allowing
16 the café to have the 48 seats. Subsequent to the
17 community board meetings, I met with various
18 peoples, and Councilman Gentile, and we had agreed
19 to, to follow the recommendations of the community
20 board, and I'm happy to be here and just agree to
21 make everyone happy, including Mussels and More,
22 myself and the community in whole. And I brought
23 with me a letter, and revised plans for the,
24 revised plans to adhere to the 34 seats.

25 CHAIRPERSON WEPRIN: I have a copy

1 of that letter here, it sort of memorializes what
2 you just described as the change. I do want to
3 read a letter, statement from Council Member
4 Gentile, who I mentioned had a funeral to go to
5 this morning. And he says, "Good morning. After
6 discussions with Jim Bantis, per Brooklyn
7 Community Board Ten, and members of the community,
8 I am pleased to support the revised sidewalk café
9 application for Mussels and More, Ltd. I am
10 confident that the revised plan provides the
11 restaurant ample sidewalk space, while respecting
12 the needs of residents living around Mussels and
13 More. I am especially pleased that Mr. Bantis was
14 willing to work with my office and the community
15 to find a reasonable café size that satisfies the
16 needs of all parties involved. Thank you, Chair
17 Weprin" that's me " and members of the
18 Subcommittee," that's these guys, "for your time
19 and consideration this morning." All right, thank
20 you, Mr. Gentile, wherever you are, and thank you
21 Mr. Bantis. Anyone have any questions here, or
22 any comments about this café application? I don't
23 see any. Mr. Bantis, thank you very much. We'll
24 probably be voting later on this meeting. Now I'd
25

2 like to move to our next sidewalk café, which is
3 Land Use No. 358. Pietrasanta, Philip Robertson
4 is here. Yes, he is. Mr. Robertson, would you
5 come up to the microphone. And please state your
6 name for the record, and describe the issue with
7 the sidewalk café.

8 PHILIP ROBERTSON: Good morning,
9 everyone, my name is Philip Robertson. I am
10 representing SWA Architects, which is a client of
11 683 9th Avenue. I have a letter here to read to
12 the Council Members. And I'll start.

13 CHAIRPERSON WEPRIN: [off mic]
14 Please.

15 PHILIP ROBERTSON: "This letter
16 should be served as our agreement with the Chair
17 Council Member Weprin, and the - - members of
18 Subcommittee on Zoning and Franchises that we will
19 commit to the following. And the following is,
20 the hours of operation for the café will be from
21 12:00 p.m. to 11:00 p.m., Sunday through Thursday,
22 12:00 p.m. to 12:00 a.m. on Friday and Saturday.
23 Service to the café will be provided through the
24 French doors located on West 47th Street. There
25 will be no improvised sound outdoors, or French

1
2 doors and windows that open to the street front
3 will be closed when amplified sound is played
4 inside. Delivery bikes will be stored within the
5 sidewalk café permitted area close to the wall at
6 the western end of the building on West 47th
7 Street. Storm vestibule enclosures will not
8 project more than 18 inches onto the sidewalk, and
9 will only be used between November 15 to April 15,
10 as per New York City Department building code.

11 And we will remove the two planters located on 9th
12 Avenue, side of the restaurant. If there's any
13 further questions, please call my office." And
14 that is the letter that I have. I don't, I don't
15 know if you guys have a copy of the letter, but I
16 was told we will send you--

17 CHAIRPERSON WEPRIN: Yeah, the
18 letter you just read, I have a copy of. I'm not
19 sure if the other members of the Committee, but I
20 will share that with them. They do have it, as
21 well. Anybody have any questions or comments on
22 this café? We don't have an issue with the
23 community, so I don't see any questions, so thank
24 you very much.

25 PHILIP ROBERTSON: Thank you.

1
2 CHAIRPERSON WEPRIN: Moving right
3 along. All right, that was in the Speaker's
4 district, and she does support it. [pause] The
5 next item on our agenda was Land Use No. 333.
6 This is the Campbell's Sports Center at Columbia,
7 Columbia University. That matter is going to be
8 laid over till tomorrow morning. The Members of
9 the Committee should be aware that we will be
10 meeting again before the Land Use meeting tomorrow
11 morning. So 9:45? Yeah, 9:45, that means in this
12 room as promptly as possible, we'll be meeting
13 before that. We are now going to move on to Land
14 Use No. 355 and 356, these are related. Sea
15 Breeze Estate in The Bronx, Community Board 10,
16 M900604A and N070384. I'd like to call up Robert
17 Kandel and is anyone else with you there, Robert?
18 Yes. And Cosmo Marfione [phonetic]? Close
19 enough? Yeah, okay.

20 COSMO MARFIONE: [off mic] Perfect.

21 CHAIRPERSON WEPRIN: Perfect?

22 Well. That's how you kiss up to the Chair, I like
23 that. No, no. So, Mr. Kandel, if you're going
24 to be doing the talking, please state your name
25 for the record. And mention Cosmo's name, as

2 well, so we can be on the record. And you may
3 start when you're all set up.

4 [pause, background noise]

5 ROBERT KANDEL: Good morning, Mr.
6 Chairman, Members of the Committee, my name is Bob
7 Kandel, I'm an attorney with Kaye Scholer Fierman
8 Hayes & Handler, we represent GBG, Inc., the
9 developers of Sea Breeze Estates. With me today
10 is Cosmo Marfione, who is the project manager for
11 GBG. This project was before you once before and
12 approved by you once before, in 1991. In the 20
13 years since then, there've been many changes in
14 the economy, many changes in the approach to this
15 particular project. But certain elements have
16 remained the same. It is a mixed use, residential
17 project with a Marina application at the
18 waterfront. It, in its present form, it consists
19 of 32 apartments in two buildings, which are on
20 the north and the south side, of what had used to
21 be Marine Street. Marine Street ran from City
22 Island Avenue all the way down into the water. In
23 1991, we made application to close and acquire
24 Marine Street beyond a point. We did that at that
25 time. As I said, our program has a residential

2 building to the north, a residential building to
3 the south. We go out into the water where we're
4 going to have 43 marina slips.

5 COUNCIL MEMBER IGNIZIO: Mr.
6 Chairman, if I could just orient myself, is that
7 the water all the way to the right? I just--

8 CHAIRPERSON WEPRIN: Yes. Okay,
9 you got a blue magic marker, so Mr. Ignizio can--

10 COUNCIL MEMBER IGNIZIO: Thank you.
11 Thank you, just me my colleague were just saying,
12 "Is that--" Thank you.

13 ROBERT KANDEL: And what's most
14 interesting about this project in its new
15 iteration, I believe, is the fact that in 1991,
16 this project was a groundbreaker in terms of the
17 waterfront treatment. The City was just starting
18 to grapple with how to make the waterfront its
19 waterfront accessible to the public. We worked
20 with them because it was a street closing project,
21 and developed a very progressive series of
22 thoughts with maintenance obligations and
23 commitment, public access for everyone who wanted
24 to walk down what had been the former bed of
25 Marine Street to the water, so they could enjoy

2 it. In the 20 years since then, however, the
3 world has changed. The City has become much, much
4 more thoughtful, much more creative, and has
5 adopted legislation which I think you know well,
6 setting out the pattern for waterfront development
7 and waterfront accessibility. We're proud that in
8 2011, we have brought our project up to those
9 standards, and believe we are once again in the
10 leadership of providing waterfront access to the
11 public at large. The actions before this City
12 Council relate to a zoning text amendment, to
13 permit a, an authorization which will allow us to
14 penetrate a perimeter wall height issue, plus two
15 authorizations. One relates to that wall,
16 perimeter wall issue. The other relates to a
17 street, private street issue. And fourth, we have
18 a modification of the previously approved an
19 executed restrictive declaration, which govern the
20 development of this particular project. The
21 modification and amendment brings it up to date
22 with all the other commitments that we've made in
23 the project so far. If there are any questions,
24 I'd be pleased to answer them.

25 CHAIRPERSON WEPRIN: Good morning,

1
2 thank you. Before I call on some members for
3 questions, I want to state that Council Member
4 Jimmy Vacca could not be here this morning due to
5 an obligation. I want to point out that 1991 you
6 said it was before the Council, it was not before
7 any of the Members of this Council, as you know,
8 'cause none of them were here. Although I was
9 wondering was Karen Koslowitz here in 1991? Not
10 yet, no. First time? Anyway, but none of this
11 panel was here; however, as luck would have it,
12 Council Member Jimmy Vacca was actually the Chair
13 of Community Board Ten at the time, and does
14 support this plan then, and supports this plan
15 now. He called to make sure I knew that, that he
16 was supporting it, and now I'd like to call on
17 Council Member Ignizio, now that he knows where
18 the water is, to ask a question.

19 COUNCIL MEMBER IGNIZIO: Thank you
20 very much. Thank you, gentlemen. One question I
21 have, having representing, representing the area,
22 the South Shore of Staten Island, which has tons
23 of waterfront. What we did many years ago, and I
24 thought was a bad move, was we built a project
25 called Port Regal, and ultimately Port Regal has

2 an open esplanade, but it's lock and key, and
3 supposed to be open every day at 9:00 o'clock,
4 it's supposed to be closed every day at, at dusk,
5 and it rarely finds itself open at the level we
6 can. Is there any gate, any division to prevent
7 people from walking from the water on the
8 esplanade? And what is the requirements that you
9 would have to keep it open if you do?

10 ROBERT KANDEL: Yes, thank you, we
11 do have requirements. We have required signs at
12 the entry to the project. This is where the
13 public pedestrian easement comes in. We in fact
14 have to keep this open all the way down to the
15 water. - - vehicles. Not for private vehicles,
16 which have their parking garage underneath, but--
17 thank you. But for police or fire or sanitation
18 vehicles that needed to go down to the waterfront.
19 The waterfront itself, there is no barriers, there
20 is signage down there indicating that it is part
21 of the City's waterfront program. It will be
22 accessible--one thing we are intending to do is to
23 have sufficient lighting and cameras to give
24 everyone the sense that this is being observed and
25 maintained and proper conduct is being carried

2 out. When we were presenting this project to the
3 residents of City Island, particularly the
4 neighbors on Spring Street, they appreciated the
5 fact that we would take that extra step to assure
6 them that it would not become a gathering spot.
7 They're happy to have it. In fact, one thing that
8 they asked for and we did 20 years ago and are
9 still doing, is in addition to the boat slips,
10 which we have which are further out in the water,
11 we have installed private--not a private, a public
12 launch dock, so that some of the neighbors who
13 have canoes or kayaks or small boats, inflatable
14 rafts, can come down through here, walk down to
15 the waterfront, and launch into the water
16 themselves.

17 COUNCIL MEMBER IGNIZIO: Thank you
18 very much, thank you, Mr. Chairman.

19 CHAIRPERSON WEPRIN: Thank you, Mr.
20 Ignizio. Does anyone else on the panel have a
21 question? Okay, as I mentioned, the Council
22 Member in the district is very supportive of this,
23 enthusiastically supportive. So, without any more
24 questions, we want to thank you, gentlemen, thank
25 you very much for being here.

2 ROBERT KANDEL: Thank you.

3 CHAIRPERSON WEPRIN: Okay. We're
4 going to move on to [pause] Okay, no we are going
5 to do Land Use No. 357, Kingswood office and
6 retail and center in Brooklyn, in Council Member
7 Nelson's district. That's C 100232 ZMK. And here
8 in favor, is Vincent Petraro [phonetic], and he
9 will introduce who's with you, Vincent, 'cause I
10 don't have it in front of me. And describe the
11 matter, and I know we have--and then we have some
12 people who wanted to speak in opposition to this
13 application.

14 VINCENT PETRARO: Yes, thank you
15 very much. My name is Vincent Petraro as stated.
16 With me is Evan Leminitis [phonetic], who's an
17 environmental consultant, in case there's any
18 questions regarding that issue, and my associate
19 Steven Simich [phonetic] is here helping with the
20 diagrams. I'm the attorney for Kingswood
21 Partners, LLC, and as stated I'm here to testify
22 on Land Use Item No. 357, which requests the
23 amendment of Zoning Map 22D, extending an existing
24 C4-4A zoning district for 20 feet to the north,
25 thereby changing the R5B zoning district. We were

1 here back in 2003 when some of the members
2 might've been here. And the Council unanimously
3 approved the transfer and purchase of this
4 particular parcel, and a nearby--this is the
5 parcel we're talking about--and a nearby second
6 municipal lot, which Kingswood purchased from the
7 City. Subsequently, Kingswood improved the site,
8 the site that's in question today is improved with
9 a three-story office and retail center, with two
10 stories of underground parking. And the other
11 parking, they were both parking lots. The other
12 parking lot is now a multistory, 300 space parking
13 garage serving the community, creating a total of
14 over 550 parking space. Additionally, the retail
15 and office center contained such tenants as TJ
16 Maxx, Visiting Nurses, New York Sports Club, and
17 some other office tenants, so it's been a very
18 positive development for the area. Due to an
19 architect's error not discovered by the Department
20 of Buildings during its review, a 240 square foot
21 portion of the Kingswood Building, 120 square feet
22 on the second story and 120 on the third, was
23 built within a 30 foot rear yard. This is the
24 part of the property we're talking about. This
25

1 particular one-story building is allowed, no rear
2 yard necessary. But the second and third story,
3 right behind it, should've been, had a 30 foot
4 yard; instead it has a 20 foot yard. We have a
5 photo that shows it in more detail. It's this
6 particular small portion of the building. As I
7 said, it's 120 square feet on the second floor and
8 120 on the third floor. Go back to the area map.
9 The building was not built, it was not overbuilt
10 as far as total square footage; in fact, it's very
11 much under built. It's just solely an issue of
12 the yard. Here's what we're talking about. This
13 particular portion of the site, it wraps around
14 this firehouse, and right over here, in the small
15 area, there's a 12x10 portion that was built. We
16 attempted to resolve the issue at the Department
17 of Buildings, and then at the Board of Standards
18 and Appeals, but could not. And therefore, we
19 approached City Planning, and then brought this
20 application. Which as you know, the Borough
21 President and the, and City Planning Commission
22 have approved. There are, some issues were raised
23 by an opponent, and we did a detailed description,
24 a detailed review of that ourselves, as well as a
25

1
2 detailed review by the Borough President, and the,
3 and the City Planning Commission, and we've also
4 had detailed discussions with staff, with the
5 local member of the Council, Michael Nelson. Some
6 issues that were raised, which were by the
7 opponent was, they said this was a spot zone.
8 Now, as discussed, this is an extension of an
9 existing zone, it's not a zone that was just
10 plopped down in the middle of a differently zoned
11 area. In fact, City Planning, in its report,
12 stated, "Where the existing zoning boundary
13 currently divides lots 15 and 17," 15 is this
14 particular lot here and 17 is the, is my, is the
15 applicant's lot, "the proposed zoning map
16 amendment now establishes a clear, rationale
17 regulation by drawing the zoning district boundary
18 coincident with zoning lines." So, now, rather
19 than having the zoning line 20 feet from the
20 boundary of these two lots, one owned by my
21 client, one not, the zoning line now runs right
22 alongside the lot line. As to the impact of the
23 neighbor to the north, as to the impact on the
24 neighbor to the north of lot 15, lot 12, and this
25 is his building right here, which by the way two

1 wings of the building are built on the lot line,
2 which I think is important to understand, this is
3 the other house that's going to be rezoned, this
4 building is built on the lot line, two wings of
5 the H-shaped building, now lot 12 is going to have
6 a C4-4A adjacent to its property instead of an
7 R5B. And again, this issue was thoroughly
8 reviewed by the Brooklyn Borough President and
9 City Planning Commission. The Planning Commission
10 stated in its report, "The Commission notes that
11 the proposed zoning map amendment would require
12 that any new development within the proposed C4-4A
13 district, adjacent to the R5B zoning district
14 boundary" put the area map back "provide an eight
15 foot side yard at curb level and limit development
16 to height and setback regulations of an R6B;
17 whereas under existing zoning, no side yard is
18 required, and the building could be built on the
19 lot line." So, in other words, right now, under
20 current zoning under R5B, this particular building
21 could be built right on the lot line, right up
22 against the other building, with the two wings,
23 and basically create a shaft way. You got the
24 smaller pictures, the one--This is a diagram

2 showing what could be built right now, right on
3 the lot line. Whereas, subsequent to the
4 rezoning, building would have to not only set back
5 eight feet, but then also have heightened setback
6 within 25 feet of the lot line. The Planning
7 Commission went on to say, "The Planning
8 Commission believes that while it would increase
9 the allowable FAR, the rezoning, and range of
10 permitted uses, the proposed zoning designation
11 would also impose building height limits within 25
12 feet of the adjacent residential zoning district
13 boundary, and require the eight foot side yard,
14 which would result in the development that's
15 compatible with the neighborhood and existing
16 buildings. The Commission further believes that
17 the proposed extension of the C4-4A commercial
18 district is appropriate and would result in a
19 clear, rational zoning designation that is
20 consistent with the Commission's previous
21 approvals and the existing development." That's,
22 my testimony is at an end, if you have any
23 questions, I'd be happy to answer.

24 CHAIRPERSON WEPRIN: Mr. Petraro, I
25 know that City Planning overwhelmingly approved

2 this, and the Borough President approved, but the
3 community board was opposed to it, and what were
4 their issues?

5 VINCENT PETRARO: The community
6 board I guess had had several issues. We were
7 able to testify. I think the biggest issue they
8 had was there was some talk about, about the
9 parking garage and the fees in the parking garage,
10 as the Borough President mentioned in his report,
11 and City Planning mentioned in their report. The
12 parking fees have since been reduced, and--and so
13 now I understand from, I was not at the meeting
14 last week, but I was told by people at the
15 community board meeting that they were much
16 happier with, with the application, and it wasn't
17 really an issue as, the parking was the issue, for
18 most of the members.

19 CHAIRPERSON WEPRIN: The neighbor
20 you mentioned that has an issue, is that Charles
21 Vessini [phonetic]?

22 VINCENT PETRARO: I believe so, I
23 haven't--yes it is, I've been told.

24 CHAIRPERSON WEPRIN: Okay, I know
25 he's here.

2 VINCENT PETRARO: Yes.

3 CHAIRPERSON WEPRIN: And will be
4 testifying afterwards, in opposition. I just want
5 to make sure it was the same person.

6 VINCENT PETRARO: Yeah.

7 CHAIRPERSON WEPRIN: Any questions
8 on this side? Ms. Reyna, did you have a question?
9 Okay. Mr. Garodnick will start while--

10 COUNCIL MEMBER GARODNICK: Thank
11 you. I'm sorry. The--I need to just take you
12 back a little bit. You gave us a lot in a very
13 short period of time.

14 VINCENT PETRARO: I thought I was
15 only going to have three minutes, so I--[laughs]

16 COUNCIL MEMBER GARODNICK: Okay,
17 no, no, I got, that's fine. So you have the 240
18 square foot area which was, which is on the border
19 between the C4-4A and the C--and the R5B
20 districts.

21 VINCENT PETRARO: Right.

22 COUNCIL MEMBER GARODNICK: Correct?
23 And that was, and you have an area which was, it
24 just does not give enough room as currently built,
25 is that correct?

2 VINCENT PETRARO: Well, what
3 happened was, because this is a house in a
4 residential zone, the yard back here should've
5 been 30 feet, not 20. The architect, when he was
6 basically, you know, you have, when you're, when
7 you're less than 25 feet away from a line, you can
8 move the line? When he moved the line to allow
9 our building, let's call it my client's building,
10 to be built here, he also inadvertently moved this
11 line, let's say. So he built a, as I said, the
12 first story's fine, the first story's up against
13 the lot line here, behind the house.

14 COUNCIL MEMBER GARODNICK: Right.

15 VINCENT PETRARO: That's fine.
16 It's the second and third story, instead of being
17 30 foot back, they're 20 feet back. Because of an
18 eight foot side yard, we're really talking about
19 12 feet by ten feet.

20 COUNCIL MEMBER GARODNICK: Okay, so
21 there was a, an error made, the line was
22 inadvertently changed. And you, in order to, to
23 allow for it to be in compliance with the law, you
24 needed to be in the different zone?

25 VINCENT PETRARO: By making this,

2 this particular property C4 instead of the R5--

3 COUNCIL MEMBER GARODNICK: It would
4 be in compliance?

5 VINCENT PETRARO: --it would be a
6 20 foot yard instead of a 30 foot.

7 COUNCIL MEMBER GARODNICK: So, you
8 brought this, you said, to the Board of Standards
9 and Appeals, and you brought it--and they, they
10 turned you down?

11 VINCENT PETRARO: We, yeah, when we
12 filed an application, we spoke to them, and they
13 basically, you know, said it was, their, that
14 wasn't the venue. We went to the Building
15 Department, tried to work out all sort of things,
16 and they were, basically we couldn't work it out
17 there. So--

18 COUNCIL MEMBER GARODNICK: Now,
19 what then are the implications if we were to turn
20 you down here today? You have a building which is
21 built too close, and you have it in the wrong
22 zone, and if the Council were to say no, what
23 would be the implications?

24 VINCENT PETRARO: Yeah, it's not
25 that our building is in the wrong zone, it's that

2 a small portion of our building should've had a
3 larger yard. I just wanted to--

4 COUNCIL MEMBER GARODNICK: I've got
5 it, okay, that's what I meant, yeah.

6 VINCENT PETRARO: It would have to
7 be demolished. I mean, there's really no other
8 way. This 240 square feet, which is, you know,
9 less than a percent of the building, and as you
10 said we're not over FAR, or anything of that sort.
11 Would basically have to be demolished, there's
12 tenants there, there's Visiting Nurse, there's
13 tenants in the place. It would just be a real, a
14 real problem; whereas in, this solution, you know,
15 not only solves the problem, but as, as stated in,
16 you know, the review of the Borough President and
17 City Planning, it actually really creates a better
18 zoning plan.

19 COUNCIL MEMBER GARODNICK: Well, it
20 solves it for the legality of the issue. I'm, the
21 concern that I have is what it does for the, the
22 building that is, that has a new building, which
23 is a few feet too close to it. I assume that's
24 who we're going to hear from in a moment.

25 VINCENT PETRARO: I guess, sure,

2 but as, you know, as stated, when it was looked at
3 by the Borough President, the Brooklyn Borough
4 President and his Land Use staff, and by the City
5 Planning Department and the Commission, their
6 thought was actually that this zone is actually a
7 more positive thing for the building next door.
8 Because of the, the eight foot side yard
9 requirement, and the heightened setbacks.

10 COUNCIL MEMBER GARODNICK: So BSA
11 didn't turn you down, they suggested that the
12 appropriate venue was to come to the Council.

13 VINCENT PETRARO: Right.

14 COUNCIL MEMBER GARODNICK: Okay,
15 thank you.

16 CHAIRPERSON WEPRIN: Council Member
17 Comrie, the Chair of the Land Use Committee, has a
18 question.

19 COUNCIL MEMBER COMRIE: Morning.
20 You mentioned that you readjusted the parking
21 prices. Did you put that in writing and send it
22 to the Borough President, or to the community
23 boards? [pause] What's the difference? Oh,
24 okay. [off mic] - - I thought it was on the
25 site. So, all right. Then, I guess I have to

2 withdraw that question, 'cause it's not about the
3 property in question, other than I hope that that
4 was actually done. So, basically what you're
5 doing is making the adjustment so that there can
6 be an opportunity for space, a proper setback to
7 match the other properties in that, adjacent to
8 the building, correct?

9 VINCENT PETRARO: Yeah, again, j--
10 the rear, the building in the rear yard, the first
11 floor is fine, we're actually up against the
12 property line here, where the residential house--
13 it's the second and third floor, so it's basically
14 so that the second and third floor, the setback
15 can be only 20 feet instead of 30.

16 COUNCIL MEMBER COMRIE: How long
17 has the building been--

18 VINCENT PETRARO: The building was,
19 I believe, completed in '06, maybe '07.

20 COUNCIL MEMBER COMRIE: Okay.

21 VINCENT PETRARO: What would happen
22 was, when the Council approved this back in '02, I
23 believe, or '03, we first, my client first, as
24 agreed, built the 300 space parking garage on the
25 other site, so that the community wouldn't be

2 without parking.

3 COUNCIL MEMBER COMRIE: Mm-hmm.

4 VINCENT PETRARO: So that, that
5 happened first, so that took a little while to do.
6 And then, came and closed this lot and then built
7 this building, and then as I said--

8 COUNCIL MEMBER COMRIE: So
9 parking's on a separate lot.

10 VINCENT PETRARO: So, no, there's
11 parking here also. The parking here is 257
12 spaces, I believe, in two underground levels, and
13 there's also 300 spaces on the other site. So
14 there's basically an increase of 300 spaces for
15 this community, based upon this.

16 COUNCIL MEMBER COMRIE: So in the
17 257 spaces in this lot, what is the price for
18 parking for that?

19 VINCENT PETRARO: It's about, you
20 know, it's three, as we discussed with the
21 Community Board, it's \$3 an hour, \$3 for the first
22 hour.

23 COUNCIL MEMBER COMRIE: Mm-hmm.
24 Okay.

25 VINCENT PETRARO: And that's, you

2 know, they were happy. We also are introducing a
3 new half hour rate, which has never, which has
4 never been there before, which the community was
5 very happy about.

6 COUNCIL MEMBER COMRIE: And what's
7 that rate?

8 VINCENT PETRARO: \$1.75.

9 COUNCIL MEMBER COMRIE: Okay.

10 VINCENT PETRARO: And they're, you
11 know, they're both self-park, but they're garages,
12 so they're totally secure, it's not like, you
13 know, there were lots before, so the garage is
14 now--so it's a much better situation.

15 COUNCIL MEMBER COMRIE: Okay, all
16 right. Thank you, thank you.

17 VINCENT PETRARO: No problem.

18 COUNCIL MEMBER REYNA: I'm sorry--

19 CHAIRPERSON WEPRIN: I'm sorry, I
20 didn't call on you yet, I just was making sure you
21 still want to be called on. Council Member Reyna
22 has a clarification.

23 COUNCIL MEMBER REYNA: I just need-
24 -I just needed to follow this, and you know, we
25 don't have any visuals in front of us, so we're

2 depending on your maps as opposed to following you
3 with maps of our own. So, you know, we're talking
4 about one property, correct?

5 VINCENT PETRARO: We're talking
6 about one property is affected by this rezone, but
7 two properties are in the rezoning area.

8 CHAIRPERSON WEPRIN: Could you show
9 the assortment of pictures? She has a choice to
10 ask to put up on the thing, yeah. You can ask
11 them to, you want to look at--You see something
12 you like, you'll, they'll put it up for you.

13 VINCENT PETRARO: We're going to
14 have, we have some more pictures I want to bring
15 out, I can bring out.

16 COUNCIL MEMBER REYNA: Right.

17 [pause, background noise]

18 VINCENT PETRARO: Let me see. I'm
19 going to start with that, and then show me the
20 other one. So this is, this is the, this is the
21 new, the new shopping center, office retail
22 complex that was built after purchase from the
23 City. The is the [pause] back here, this is
24 basically the area we're talking about. The first
25 story is built right up against the lot of this

2 house, which is totally permitted. It's the
3 second and third floor, is, while the first floor
4 is built right on the lot line, the second and
5 third floor are set back 20 feet now, instead of
6 the 30 feet. So we're talking about a twelve foot
7 portion of the building--

8 COUNCIL MEMBER REYNA: Setback.

9 VINCENT PETRARO: --with setback
10 only 20--

11 COUNCIL MEMBER REYNA: That you
12 did--

13 VINCENT PETRARO: --instead of 30.

14 COUNCIL MEMBER REYNA: And pushed
15 out, right.

16 VINCENT PETRARO: It should've been
17 ten feet further from the house.

18 COUNCIL MEMBER REYNA: Right.

19 VINCENT PETRARO: The first floor,
20 though, is right up on the lot line, which is
21 permitted.

22 COUNCIL MEMBER REYNA: Now, you
23 know, as far as construction permits were
24 concerned, architectural plans were submitted.
25 Why was that not caught in the process of building

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permits?

VINCENT PETRARO: It was submitted, the Building Department reviewed it, it was not caught by the Building Department, and then it was--

COUNCIL MEMBER REYNA: That's insane.

VINCENT PETRARO: --you know, after construction, and through the process--

COUNCIL MEMBER REYNA: But that's insane.

VINCENT PETRARO: --there was an audit for a different reason, and then it was, that's when it was first caught. After the building was entirely constructed and the TCR issued.

COUNCIL MEMBER REYNA: This is, this is like--

VINCENT PETRARO: Believe me, it would've been much better.

COUNCIL MEMBER REYNA: [pause] This is so unacceptable, and you know, like I'm, this is why I wasn't following, I was like, "What is the issue here?" So you went to the BSA--

2 VINCENT PETRARO: Went back to the
3 Building Department first, to see if there was any
4 way to--

5 COUNCIL MEMBER REYNA: And the
6 Building, the BSA doesn't--You didn't meet the
7 five findings.

8 VINCENT PETRARO: I, we spoke to
9 the, I spoke to the Executive Director, and he
10 basically said that, yeah, you weren't going to be
11 able to make the case.

12 COUNCIL MEMBER REYNA: Because this
13 is a building issue, Buildings Department issue
14 that was not caught in time.

15 VINCENT PETRARO: That's, it was a
16 Building Department issue that was not caught in
17 time, that's right, it was, the building was
18 already built, and then only after that did the
19 Building Department say that there's a problem.

20 COUNCIL MEMBER REYNA: I don't
21 under--heads would be rolling right now. As far
22 as the City Planning Commission, so the City
23 Planning Commission is the only agency right now,
24 in the midst of this mistake, that was not caught
25 in time, to be able to deal with it. And so the

2 answer is that now you'll be rezoned into what
3 would be a C4-4A?

4 VINCENT PETRARO: Well, it's, yeah,
5 already, everything within these red lines here is
6 already C4-4A.

7 COUNCIL MEMBER REYNA: Right.

8 VINCENT PETRARO: So basically the,
9 the C4-4A line is just being moved 20 feet--this
10 is north, by the way, you know, this is north--is
11 being 20 feet to the north--

12 COUNCIL MEMBER REYNA: To capture--

13 VINCENT PETRARO: --to capture, so
14 that both, that these lots are now, instead of
15 being this lot's split in half, and this lot's
16 split into two zones--

17 COUNCIL MEMBER REYNA: To correct
18 the mistake.

19 VINCENT PETRARO: Right, but
20 they'll also both be in one zone, which City
21 Planning also feels is better planning, but they
22 will now correct the mistake, also, yes.

23 COUNCIL MEMBER REYNA: And as far
24 as the homeowner, there's a, there's a--but, I
25 just want to understand, so how does that affect

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that property?

VINCENT PETRARO: That property--

COUNCIL MEMBER REYNA: Based on the City's mistake.

VINCENT PETRARO: Right, well, that property--

COUNCIL MEMBER REYNA: And architectural plans that were not reviewed appropriately.

VINCENT PETRARO: Right, that property, lot 15, yeah, show me the picture of the hou--yeah, that, that's good. That particular building, there's a house there now, the two story house, we have the picture of it. [pause] This, that's that, see the two-story house there.

COUNCIL MEMBER REYNA: Yep.

VINCENT PETRARO: Which is built almost to that lot line. You can take it down. Right now, that particular owner could build something like up against the lot line, you know, in the resident, in the R5 zone. Subsequent to the rezoning, they could build, they could have a commercial use there, as well as a--You could always have community facility or residential.

2 They could also have commercial uses. But, but
3 the difference is, because of the regulations of
4 when an R5B is adjacent to another zone, there'll
5 have to be further protection. So there'll be an
6 eight foot side yard, which doesn't exist now, and
7 there'll also be further setbacks once you go up a
8 certain height, within the first 25 feet. So, so
9 the building can be built larger, but that's--

10 COUNCIL MEMBER REYNA: But the rear
11 of that building is affected, as opposed to the
12 front.

13 VINCENT PETRARO: That's, that's
14 right, and it's the--

15 COUNCIL MEMBER REYNA: So what's
16 the implication for the rear?

17 VINCENT PETRARO: The rear of their
18 house?

19 COUNCIL MEMBER REYNA: Uh-huh.

20 VINCENT PETRARO: The existing
21 house, you're talking about.

22 COUNCIL MEMBER REYNA: The existing
23 and, you know--

24 VINCENT PETRARO: Right.

25 COUNCIL MEMBER REYNA: --moving

1 forward as far as--

2
3 VINCENT PETRARO: Right, right now-

4 -

5 COUNCIL MEMBER REYNA: --the
6 property line.

7 VINCENT PETRARO: --right now, this
8 is the house, and there's already a pretty big
9 yard, probably a 30 foot yard on the house, the
10 house has. Right behind the house, only in this
11 section, this section is no question, it's not a
12 problem, in this particular 20 foot section, right
13 now there's a one-story building is built right
14 flush up against the lot line, which is permitted.
15 We're talking about the second and third story,
16 which runs about here, is now ten foot closer,
17 it's about, it's about here instead of here. I
18 mean, it's hard to, you know, so small, really,
19 but it's, so it would, it would have to be, it
20 should've been ten foot further, the second the
21 third floor, back from the lot line of the house,
22 which already has a 30 foot yard.

23 COUNCIL MEMBER REYNA: But, but the
24 building structure itself has a wall that's not
25 set back--

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SUBCOMMITTEE ON ZONING AND FRANCHISES 39

MALE VOICE: [off mic] Show the other picture.

COUNCIL MEMBER REYNA: Face--right, like the picture that shows all three.

MALE VOICE: [off mic] Look at the bottom right.

VINCENT PETRARO: Yeah. See, see this particular one-story building, that's a tall one-story because of the, because it's retail, there was retail there.

COUNCIL MEMBER REYNA: Uh-huh.

VINCENT PETRARO: That is built right on the lot line of the house, this is the house's back yard.

COUNCIL MEMBER REYNA: Right.

VINCENT PETRARO: So it's totally permitted. It's this portion - - should've been ten feet--

COUNCIL MEMBER REYNA: Back.

VINCENT PETRARO: Back.

COUNCIL MEMBER REYNA: Further.

VINCENT PETRARO: Back further.

COUNCIL MEMBER REYNA: I see, okay. So the existing first floor is not the issue, it's

2 the--

3 VINCENT PETRARO: No. It's the
4 second and third floors.

5 COUNCIL MEMBER REYNA: --existing
6 setback that was supposed to be--so it doesn't
7 affect the building structure that's adjacent to
8 this, and moving forward if they wanted to build
9 something else on that land, whether it was
10 residential or not--

11 VINCENT PETRARO: The only way it
12 affects it is that, in the new zone, the property,
13 that property owner would have to set back from
14 the neighbor, the neighbor who's going to be
15 speaking to you soon--

16 COUNCIL MEMBER REYNA: On the
17 second and third floor.

18 VINCENT PETRARO: No, on, in the
19 entire, his entire building--

20 COUNCIL MEMBER REYNA: Set back
21 from the front or the rear?

22 VINCENT PETRARO: The whole side.

23 COUNCIL MEMBER REYNA: So the,
24 there's no setback from the back, it's just going
25 to be now the, from the rear.

2 VINCENT PETRARO: Well this
3 particular building, Lot 15, the only thing behind
4 it is my client's property.

5 COUNCIL MEMBER REYNA: Correct.

6 VINCENT PETRARO: So the, the
7 difference is that, that this building, where the
8 house is now, and you could see the house right
9 here, closer to the lot line already, would have
10 to be set back eight from the--

11 COUNCIL MEMBER REYNA: More so.

12 VINCENT PETRARO: --from the
13 building to the north.

14 COUNCIL MEMBER REYNA: To make up
15 for--

16 VINCENT PETRARO: Along the entire
17 side lot line. Because the City's, the zoning,
18 which the Council approved, along with City
19 Planning, provides protections when you, when a
20 property is adjacent to an R5B.

21 COUNCIL MEMBER REYNA: Mm-hmm.

22 VINCENT PETRARO: So, if the
23 property is rezoned to C4-4A, there will have to
24 be an eight foot setback along the entire length
25 of the property, adjacent to the, to the building

2 to the north, the lot 12 building.

3 FEMALE VOICE: [off mic] If it were
4 redeveloped.

5 COUNCIL MEMBER REYNA: If it were--

6 VINCENT PETRARO: If it were
7 redeveloped. I mean, it could stay--

8 CHAIRPERSON WEPRIN: [off mic]- -
9 right there now.

10 VINCENT PETRARO: You're talking
11 about that one?

12 CHAIRPERSON WEPRIN: [off mic]
13 Yeah, I mean, just, is that--

14 VINCENT PETRARO: Right.

15 CHAIRPERSON WEPRIN: [off mic] If
16 they took down that - -

17 COUNCIL MEMBER REYNA: Too close.
18 Pick up the mic. Right.

19 VINCENT PETRARO: It's closer than
20 eight feet right now.

21 COUNCIL MEMBER REYNA: Mm-hmm.

22 VINCENT PETRARO: If they, if they
23 redeveloped, it would have to be built, you know,
24 probably about this, this, this far away.

25 COUNCIL MEMBER REYNA: And they

2 would be able to move the whole development, what
3 would be new dev--

4 VINCENT PETRARO: Yeah, they would
5 demolish this, if they did--I mean, they may keep,
6 the house may stay there forever, I mean, the
7 house was there for years.

8 COUNCIL MEMBER REYNA: Right,
9 right.

10 VINCENT PETRARO: And it used to be
11 R6, and it was a higher zone and they never built
12 it.

13 COUNCIL MEMBER REYNA: It's
14 beautiful.

15 VINCENT PETRARO: So it may stay
16 forever. But if they do redevelop, they'll have
17 to set back eight feet along the entire side.

18 COUNCIL MEMBER REYNA: But is that
19 because you're, we're making up now what we took
20 away.

21 VINCENT PETRARO: Yeah, the eight
22 foot setback is only if you rezone. If you don't
23 rezone, they could build a building--right against
24 the building, right flush against the walls of the
25 building, the neighbor's building.

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COUNCIL MEMBER REYNA: So what we're taking is s--rear, side buildable lot line.

VINCENT PETRARO: You're, you're, I mean, you're making a side yard, a required side yard, which there is not one now, if you rezone. So, sure, they could build a little bigger, but the protection adjacent to the lot is going to be more.

COUNCIL MEMBER REYNA: Okay. Thank you.

CHAIRPERSON WEPRIN: Council Member Ignizio.

COUNCIL MEMBER IGNIZIO: Yeah, so, because of a mistake, that was made prior, by whomever built, or did, it was the architecture of the building, the person that gets, I'm just going use layman's terms, the person that gets screwed in this is the guy that owns the house next door.

VINCENT PETRARO: Are you talking about the house, this two-family house, or the four story building at--

COUNCIL MEMBER IGNIZIO: Yeah. I'm talking about the two, like--Well, just look at it from layman's terms, here I am, minding my own

2 business, I'm living in my house. Somebody does
3 something wrong next door. Nothing to do with me.
4 Right, he went afoul of the rules, the law,
5 whatever you want to say. And he screwed up. So,
6 I'm still living in my house, and I have, I can
7 build out what I can build out, and I'm pretty
8 with the way I can build out. To correct this
9 scenario of somebody else's mistake, ultimately I,
10 the guy who's living in his house minding my own
11 business, has to pay that price. The only person
12 I see here that has to pay this debt, so to speak,
13 is the gentleman who lives in that house. I don't
14 know who he is, I don't--but I'm saying--

15 CHAIRPERSON WEPRIN: You're going
16 to learn him.

17 COUNCIL MEMBER IGNIZIO: Right, I
18 hear that.

19 VINCENT PETRARO: No, I don't--

20 COUNCIL MEMBER IGNIZIO: Because
21 now he has it--

22 VINCENT PETRARO: The opponents,
23 the opponents are not the people in this house.

24 COUNCIL MEMBER IGNIZIO: But I'm
25 saying, now he has a separate--

2 VINCENT PETRARO: The opponents are
3 the four-story building to the north.

4 COUNCIL MEMBER IGNIZIO: But I'm
5 saying, now he has a side, the gentleman in that
6 house ,the house I'm looking at now--

7 VINCENT PETRARO: Right.

8 COUNCIL MEMBER IGNIZIO: Now has a
9 side yard, under this scenario, should it be
10 passed, will now have a side yard requirement that
11 otherwise he would not have had to have. So his
12 development potential has been reduced, no?

13 VINCENT PETRARO: No, no.
14 Actually, his--the, the person has, first of all
15 the house could stay there forever, if he wanted.

16 COUNCIL MEMBER IGNIZIO: Right, I'm
17 talking about a redevelopment scheme.

18 VINCENT PETRARO: But in a
19 redevelopment, yes--

20 COUNCIL MEMBER IGNIZIO: Scheme
21 isn't a - - word, redevelopment process.

22 VINCENT PETRARO: Okay, right.

23 MALE VOICE: Put 'em both up.

24 VINCENT PETRARO: In a
25 redevelopment, if the, if the owner of the house

2 right now today, and you don't rezone, decides to
3 demolish that house, he could build a residential-
4 -

5 COUNCIL MEMBER IGNIZIO: Lot line
6 to lot line.

7 VINCENT PETRARO: Lot line, right,
8 right up against the lot line, you know, up, up
9 three stories, and then set back, you know,
10 whatever, I mean, probably no one will build these
11 towers, but I wanted to show everything. But if
12 he, if he put in a community facility building, he
13 would have to have an eight foot side yard, right
14 now today. However, if you rezone, the person in
15 the house, of course the house could stay forever-
16 -

17 COUNCIL MEMBER IGNIZIO: Sure.

18 VINCENT PETRARO: --but any
19 building that they build, they do get more floor
20 area, the zoning is going to be bumped up, so--

21 COUNCIL MEMBER IGNIZIO: Okay, all
22 right, that's important.

23 VINCENT PETRARO: I don't think
24 they're screwed, I mean, they get more floor area.

25 COUNCIL MEMBER IGNIZIO: Right,

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that's an important--

VINCENT PETRARO: They get some more uses, they could put commercial there, you know--

COUNCIL MEMBER IGNIZIO: Right.

VINCENT PETRARO: But they would have to have the eight foot side yard no matter what the development is, and then also some other further setbacks within the 25 feet of the--

COUNCIL MEMBER IGNIZIO: You know what the enhanced SFRA is?

VINCENT PETRARO: Let me, I have, I'd have to double check, I don't have it on me.

COUNCIL MEMBER IGNIZIO: Okay.

VINCENT PETRARO: It is, I mean, it is an enhanced FAR, it's--

COUNCIL MEMBER IGNIZIO: Okay, all right.

VINCENT PETRARO: It's a nice, it's a bump for them. So they, they're not being screwed in any way of the matter, and I think it, you know, as City Planning and the Borough President feel, it's actually a win-win for both the homeowner, and then the person, the, let's,

2 the opponent, let's call him, who has the four-
3 story building, because, which they may not think
4 so, but I'm telling you what City Planning and
5 Borough President said, because there's more
6 protections for the building.

7 COUNCIL MEMBER IGNIZIO:

8 Understood, all right, thank you very much. Mr.
9 Chairman, the one thing I will submit for the
10 record is what City Planning desires, seeks, says,
11 in terms of these type of things, means less than
12 nothing to me. Because their, their goal is
13 totally separate from what the neighborhood's goal
14 is, and most order, in terms of my district, so
15 I'm going to apply that here. But hopefully we
16 can continue the dialogue, thank you.

17 CHAIRPERSON WEPRIN: I think City
18 Planning had a point of personal privilege, but I
19 will, but they're not here, so they're not,
20 they're not on the panel, I mean, you know. So,
21 yes. Anyone else have a question? [background
22 comment] Yes, I know, that's true. Okay, well,
23 you guys can stick around, right?

24 VINCENT PETRARO: I'll definitely
25 stick around, yeah.

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CHAIRPERSON WEPRIN: Stick around,
'cause we want to hear from the opponent and
there's a chance we may have to call you back, but
I--

VINCENT PETRARO: Okay, no problem,
I'll be here to call back.

CHAIRPERSON WEPRIN: Okay.

VINCENT PETRARO: And I just want
to add, that the only one that is opposed so far,
at any level is the, the homeowner, not the house,
but the homeowner to the north. I mean, no one
else came to any, any hearing from the community
or anyplace, to oppose other than that. Thank you
for your time.

CHAIRPERSON WEPRIN: Thank you.
And now I'd like to call up Richard Lobel,
representing Charles Visini, and Charles Visini
himself, who are in opposition to this change.

[pause, background noise]

MALE VOICE: You're welcome, sir.

[pause, background noise]

CHARLES VISINI: I'm sorry,
gentlemen. Things will, things will--

CHAIRPERSON WEPRIN: No problem.

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CHARLES VISINI: --be better as I go, I guarantee you that.

CHAIRPERSON WEPRIN: Us, too. Mr. Lobel, if you, who's going to start.

RICHARD LOBEL: [off mic] I think Mr. Visini will start--

CHAIRPERSON WEPRIN: Okay.

RICHARD LOBEL: [off mic] Because a lot of the things that I'm - -

CHAIRPERSON WEPRIN: Okay, Mr. Visini, if you could please restate your name for the record. And then, you may testify as you see fit.

CHARLES VISINI: Thank you very much, can you hear me folks? Can you hear me?

CHAIRPERSON WEPRIN: Mr. Visini, I just want to make clear, we're going to have you on a three minute clock. You know, we'll be a little flexible, but if you could try--

CHARLES VISINI: I'll try to.

CHAIRPERSON WEPRIN: --to keep it as short as possible.

CHARLES VISINI: Thank you very much. First of all, sir, my is Charles Joseph

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2 Visini, I was born in New York, I'm a native New
3 Yorker. I moved to Brooklyn City [phonetic] two
4 years ago, and I bought this building 38 years
5 ago. This building was built in 1928. So that's
6 when the building was built. Right next to that
7 building that you're talking about, which is the
8 problem, which is a, which screwed me. I'll use
9 your words, sir. That's exactly right.

10 [background voice] This whole thing as he pointed
11 out is based on a total error, they're taking an
12 error and they want to capitalize on an error.
13 This building was built in 1928, right next door
14 to that building used to be the Democratic
15 clubhouse. When I first came to Brooklyn, that
16 was the Democratic clubhouse. That building's
17 been there for 30 all, for almost 40 years, more
18 than 80 years. Along comes this empty lot, the
19 man makes an error, the Building Department gives
20 him a certificate of occupancy, which is illegal,
21 and take an illegal action and they want to
22 capitalize it - - . The only person that gets
23 hurt is me. He goes on to do better things, make
24 more money, and I get hurt. Now, the community
25 board has not approved of this action. The whole

1
2 thing they gave, they gave 'em the parking lot
3 commission. The fee they charged with the parking
4 was excessive. So the Borough President get back
5 what he's supposed to get, the parking lot fees
6 were corrected, and that makes this whole thing
7 okay. That's not true. I still get hurt. Now
8 Community Board 15 has said they don't like this.
9 And the Borough President is saying he likes it.
10 So there's politics involved in here. They
11 admitted, they admitted to the fact that they made
12 a mistake. You were right, Diana. They made a
13 mistake, and they want to capitalize on a mistake.
14 But can one mistake be corrected by another
15 mistake. And you people are going to approve it.
16 Well, I hope you don't. Because I tell you the
17 god's honest truth, for a man that worked and
18 served his government, and not get - - this way,
19 this is not just. It's a matter of plain common
20 sense. I'm a professor of economics, management
21 and accounting. We're supposed to make decisions
22 based on facts, not make believe. This man
23 admitted to a mistake, he said it very correctly,
24 the - - boards were disapproved, said no good, you
25 violated, you violated the rules. Now he goes

2 over here telling you to correct his, correct his
3 mistake. And I don't get hurt? The word was
4 screwed, the answer sir, I will be screwed. Thank
5 you very much. You want to ask me another
6 question, I'll be glad to answer you.

7 CHAIRPERSON WEPRIN: Thank you, Mr.
8 Visini. Mr. Lobel--

9 CHARLES VISINI: By the way, one
10 thing more, please.

11 CHAIRPERSON WEPRIN: Yes, sir.

12 CHARLES VISINI: By putting up this
13 building, if they do - - the building, find out
14 the only people affected is the lower floors.
15 Four apartments. By doing what he said, you would
16 affect twelve apartments, the whole side of the
17 building gets affected. Thank you very much. You
18 have any questions, I'll answer anything you want
19 me to answer.

20 CHAIRPERSON WEPRIN: Okay, Mr.
21 Lobel, do you want to speak, or are you just going
22 to answer, are you here just to answer questions.

23 RICHARD LOBEL: [off mic] No, I'd
24 like to speak.

25 CHAIRPERSON WEPRIN: All right.

2 We're going to give Mr. Lobel another three
3 minutes, his own three minutes. Go ahead.

4 RICHARD LOBEL: Okay. So,
5 basically, as the Council is aware, and the
6 Committee is aware, this zoning district will move
7 the C4-4A from the current boundary line, which is
8 red, up to green. It's going to move it 20 feet
9 north. And the question is, the question is, why
10 is this taking place? And is this really an
11 appropriate answer for what needs to take place?
12 The one thing everyone is in agreement here on is
13 that their architect did make a mistake.

14 CHARLES VISINI: Made a mistake.

15 RICHARD LOBEL: It was an
16 architectural error. Okay? And the question is
17 how you resolve that error. And where you strike
18 a balance. For the zoning district boundary to be
19 moved 20 feet north right now, what will happen to
20 Mr. Visini's building is as follows: we talked
21 about the two-and-a-half story residential
22 building, that's next to the Kingswood retail
23 center. That building right now can only be
24 residential, it's in, it's located in an R5B
25 zoning district, a split district. There's a two-

1
2 and-a-half story building there. They can put a
3 community facility. But in answer to your
4 question, it's a 1.35 FAR for residential. Okay?
5 And we did the development scenarios, and here's
6 what happens. Under the current zoning, the most
7 you can do there is a three story, 33 foot tall,
8 residential building. Three stories, 33 feet
9 high, with a 30 foot rear yard. That's what it
10 is, because you are severely hampered by the fact
11 that part of it is in a residential zoning
12 district, and it is adjacent to a residential
13 building. So, you have a limited development
14 scenario. Under the proposed zoning, when we
15 moved, when we moved this zoning district, if this
16 Council permits the zoning district to be moved 20
17 feet, here's what happens: I can put up a 60 foot
18 high, commercial building--so not just
19 residential, a commercial building--with a 20 foot
20 rear yard. Okay? That's where the balance is
21 being struck by this elephant gun being brought to
22 a problem which is, seems to be a minor moving of
23 a zoning district boundary. So, they talked to
24 you about the buildings and how the side yard and
25 how under the new development scenario they won't

2 need to leave a side yard. You need to look
3 carefully at what they put up, because they'll
4 show you in those pictures there's a little thing
5 like a finger, and I won't tell you which finger,
6 which goes out from their proposed scenario. And
7 in their scenario, maybe technically you don't
8 need a side yard, under the proposed rezoning.
9 But to build one of their buildings, you'd be
10 building a 20 foot wide building. It's not a
11 feasible development scenario. We're talking
12 about what happens, what really happens. And what
13 really happens is, even if it's built to the lot
14 line, under the existing zoning, it only goes 33
15 feet in height.

16 CHARLES VISINI: Exactly.

17 RICHARD LOBEL: Under the proposed
18 zoning, you move this zoning district, and all of
19 the sudden it goes to a, not only a 60 foot high
20 commercial district, commercial building, but it
21 goes to 20 feet from the rear lot line. We feel
22 that the balance has not been struck here. I see
23 my time is over. I'd be happy to answer more
24 questions.

25 CHAIRPERSON WEPRIN: We have some

1
2 questions. I was wondering, Mr. Petraro, could I
3 borrow that photograph that you had of the
4 building? The one with the photograph of the
5 building and the backyard, the four--the four
6 shots in one. And just set it up leaning against
7 the easel maybe, in front of them. Is that the
8 one, does it have the house in it? Is that the
9 one that has the house in it? Yeah. Yeah, yeah,
10 yeah, I just want to have that there. Okay, thank
11 you. Thank you for doing that, Mr. Petraro. Mr.
12 Lobel, so can you just point to us now, where,
13 where is, the building that Mr., that Mr. Visini
14 owns is to the right of that house, right?

15 RICHARD LOBEL: [off mic] Right
16 there.

17 CHAIRPERSON WEPRIN: And there are
18 no windows on that side of the house?

19 RICHARD LOBEL: No, there are
20 actually, although you can't see them from the
21 front, there are windows on the rear of the
22 building, as well as the courtyard in the internal
23 portion. And our shadow analysis that's been
24 done, as well as anecdotally, if you walk out to
25 the building, has determined that under the

2 existing zoning, if you did build to your 33 foot
3 height, you'd cover four apartments. So there
4 would be four affected neighbors. To correct
5 their mistake, and to move this zoning district
6 boundary, the new building would allow twelve
7 units to be covered by shadow, thus severely
8 hampering the light and air available to those
9 units.

10 CHARLES VISINI: Exactly.

11 RICHARD LOBEL: It's losing light
12 and air for an additional eight units in order to
13 compensate for their admitted mistake.

14 CHARLES VISINI: That's right.

15 CHAIRPERSON WEPRIN: Tell us again
16 what's in the building that you own, that he owns,
17 again. How many apartments and where do they
18 face?

19 CHARLES VISINI: Can I answer that
20 question?

21 CHAIRPERSON WEPRIN: Yeah, you can-

22 -

23 CHARLES VISINI: - - The whole
24 side, sir. So you understand the building, the
25 building is like an H form. It's 60 feet across,

2 100 feet deep. A, B, C apartments in the front, a
3 lobby, back id D, E, F. So everybody on this side
4 of the building would be affected by - - . In
5 other words, there are windows in front, there are
6 windows on the side, in the back, and windows on
7 that side.

8 CHAIRPERSON WEPRIN: I'm sorry,
9 repeat that, windows are in the front of the
10 building?

11 RICHARD LOBEL: As an illustration,
12 this is the H-cut out of the building. There is
13 no windows on the front portion, but as you go to
14 the rear, along the entire rear, as well as this
15 courtyard, there's windows lining the apartment
16 building.

17 CHARLES VISINI: Everybody has
18 windows. Everybody has windows.

19 RICHARD LOBEL: They're all going
20 to be covered.

21 CHARLES VISINI: They're all going
22 to be covered. There's your answer, sir.

23 [pause]

24 RICHARD LOBEL: You'll see--

25 CHAIRPERSON WEPRIN: Yeah, I'm

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having a hard time with the H. Where, I don't, I don't see the H.

[pause]

CHARLES VISINI: Would you like to see this picture? [pause] Here's the front and here's the side. All these windows. [pause] Yeah, that's - - .

CHAIRPERSON WEPRIN: The blockage that would take place would not be physically blocking the window, but the shadows that would be created by the size of the tower, you say in the back, will block the--the shadow would block what the people see.

RICHARD LOBEL: That's correct. It's, correct, it's the shadows which go, now, caused by the building, which goes higher and deeper.

CHAIRPERSON WEPRIN: Right, but-- but the, if it was made, it would be, the height would be the same as it would be now, so it wouldn't block--

RICHARD LOBEL: No, that's actually--

CHAIRPERSON WEPRIN: --any direct

1
2 blockage of windows.

3 RICHARD LOBEL: That's, well, the
4 height of the physical building, no, it's
5 incorrect. The height of the physical building
6 under the proposed development scenario would only
7 be 33 feet. Where under the proposed rezoning,
8 would be 60 feet. Five stories.

9 CHAIRPERSON WEPRIN: [laughs] Okay,
10 give us a sec, give us a second.

11 RICHARD LOBEL: Sure.

12 [pause, background noise]

13 COUNCIL MEMBER IGNIZIO: Can I ask
14 a question to the--

15 CHAIRPERSON WEPRIN: Mr. Ignizio is
16 going to ask a question now.

17 COUNCIL MEMBER IGNIZIO: But right
18 now, you can build to the lot line. So--

19 RICHARD LOBEL: Well, no we're,
20 we're in the, we're in the four story--

21 COUNCIL MEMBER IGNIZIO: Yeah, I
22 know exactly where you are.

23 RICHARD LOBEL: Right.

24 COUNCIL MEMBER IGNIZIO: But what
25 I'm saying is, under the--

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RICHARD LOBEL: That's correct.

That's correct.

COUNCIL MEMBER IGNIZIO: So you're going to, you're going to get--I don't know what the word--darkness? [laughs]

RICHARD LOBEL: Right.

COUNCIL MEMBER IGNIZIO: I mean, I don't know what you'd call it. You're going to get a darker--

CHARLES VISINI: Shadows.

COUNCIL MEMBER IGNIZIO: -- apartment either way.

RICHARD LOBEL: To a height of 30 feet under the existing, and to a height of 60 feet under the proposed.

COUNCIL MEMBER IGNIZIO: Right, so the point is, your point is, it's more commer-- it's more viably commercially to go higher if we do change the zone, because it'll be a commercial--

RICHARD LOBEL: Absolutely.

COUNCIL MEMBER IGNIZIO: -- probably, under my scenario, not under yours, probably would sell to the guy next door--

2 RICHARD LOBEL: Right.

3 COUNCIL MEMBER IGNIZIO: --to
4 expand their facility. And that would, you know,
5 so--

6 RICHARD LOBEL: Yeah, you're going
7 from a 1.35 FAR to a four, and you're going from a
8 whole new residential--

9 COUNCIL MEMBER IGNIZIO: Okay, just
10 a minute.

11 RICHARD LOBEL: --uses to
12 commercial uses. It's a very short walk to get to
13 a very large commercial building on this block
14 where the community board has already found that,
15 you know, they didn't really see the
16 justification.

17 COUNCIL MEMBER IGNIZIO: Right.
18 Okay, I just needed to know where you were going.

19 RICHARD LOBEL: That's fine.

20 COUNCIL MEMBER IGNIZIO: Now, I
21 understand where you're going.

22 RICHARD LOBEL: I'd also talk
23 about--

24 COUNCIL MEMBER IGNIZIO: Thank you,
25 Mr. Chairman.

2 RICHARD LOBEL: --BSA for a second,
3 because BSA has been raised. Now, I, for a
4 living, that's where I go. And BSA, the approach
5 that was made on this application was a phone
6 call, this is documented, to the Executive
7 Director, to see whether or not a, an application
8 would be acceptable. And the truth is that there
9 are cases where you would say, "We relied on the
10 buildings hers, we basically relied in good faith,
11 and we're bringing our application." This has
12 been called a win-win situation by the applicant.
13 It is not a win-win, it is a win-huge loss for us,
14 and, and the problem is that, when you look at
15 what might happen, you're looking at 240 square
16 feet of building, of their additional building,
17 that was built illegally. There is no qualms
18 about the fact that it was built in violation of
19 law. And the question is, how do you rectify
20 that? In 1988, the Appellate division decided the
21 case of Parkview Associates, a developer located
22 on Park Avenue, between 96th and 97th Street,
23 because of a misreading of the zoning map, built
24 his building to 31 stories. And what happened?
25 The City basically said, "You have to take down

1
2 twelve stories." And they went to the lower
3 court, and they went to the appellate division,
4 and this case has been quoted back to me a million
5 times. If you make a mistake, and your architect
6 makes a mistake, you're responsible for correcting
7 that mistake.

8 CHARLES VISINI: You pay for it.

9 RICHARD LOBEL: That was twelve
10 stories of a 31 story building. So, I think here,
11 the fact that you're trying to, or that the
12 applicant is trying to rectify 240 square feet
13 that they put on this building in error, does not
14 mean that you should counter, that you should go
15 against the wishes of the community board, and
16 basically against the, the cares and concerns of
17 the people who have been in the community for a
18 very long time.

19 CHARLES VISINI: Can I supplement
20 that, sir?

21 CHAIRPERSON WEPRIN: Yeah, sure,
22 Mr. Visini.

23 CHARLES VISINI: More - - stay in
24 Brooklyn, never mind New York, a person built a
25 building on Ocean Parkway, maybe you've been on

2 that board. They built a building to exceed the
3 building plans. They went up a whole floor, and
4 they wanted to City to say, "Okay," they said, "No
5 good, take down that whole floor," right there on
6 Ocean Parkway. It's within walking distance - -

7 CHAIRPERSON WEPRIN: Mr. Lobel, did
8 you testify at City Planning? The two of you
9 testified at the City Planning hearing?

10 RICHARD LOBEL: I testified, I
11 testified at City Planning, I testified at the
12 Brooklyn Borough President's Office, I testified
13 at the community board. The community board
14 overwhelmingly found in favor of the opposition,
15 26 to 9.

16 CHARLES VISINI: Community Board -
17 - against us.

18 RICHARD LOBEL: Obviously,
19 obviously there is, it's a, it's a retail center,
20 I'm not denying the fact that it is a useful
21 center for the surrounding community. But in my
22 line of work, we look at the balance, we look at
23 the benefits to the community. We look at the
24 benefits to the developer versus the detriment to
25 the community. And here the line in the last two

2 hearings has been drawn in totally the wrong
3 place.

4 CHAIRPERSON WEPRIN: Okay.

5 RICHARD LOBEL: We were, we've been
6 around for 38 years, and the truth is, this
7 application was filed with City Planning in
8 October of 2009. Okay? In November 2010, Mr.
9 Visini gets a letter, telling him about the Land
10 Use Hearing at Community Board 15. That is close
11 to one year. Did anyone come and approach Mr.
12 Visini during this whole time--

13 CHARLES VISINI: Never.

14 RICHARD LOBEL: --so that we would
15 be able to fix the situation as neighbors, as
16 friends, as fellow residents, within the twelve
17 month period? No. We are brought here, we're not
18 brought here because we want to be brought here.
19 We're brought here because we have to be brought
20 here.

21 CHARLES VISINI: We have to be
22 here.

23 CHAIRPERSON WEPRIN: Mr.--

24 CHARLES VISINI: This is a very
25 unusual case, sir.

2 CHAIRPERSON WEPRIN: Okay, yes, it
3 is. Mr. Garodnick has a question.

4 COUNCIL MEMBER GARODNICK: Thank
5 you, Mr. Chairman. We certainly understand the
6 predicament that everybody is in here, and this
7 was not your error, and you now are here facing
8 the--

9 CHARLES VISINI: The error, facing
10 the error, correcting - -

11 COUNCIL MEMBER GARODNICK: Facing
12 the error, that is correct.

13 CHARLES VISINI: --an error, wait a
14 minute.

15 COUNCIL MEMBER GARODNICK: Quite
16 literally and figuratively.

17 CHARLES VISINI: Correcting an
18 error with another error.

19 COUNCIL MEMBER GARODNICK: Okay.
20 So my question for you all is, your ideal solution
21 here, and you know, we have to figure out what is
22 a, you know, good and fair outcome, is for us to
23 deny this proposed rezoning. The building would
24 therefore be out of compliance with the zoning
25 rules, and then what? It would have to come down?

2 RICHARD LOBEL: Here's, here's the
3 issue as far as we see it: there is an additional
4 240 square feet on their building which isn't
5 allowed to there.

6 CHARLES VISINI: Not allowed to be
7 there.

8 COUNCIL MEMBER GARODNICK: Correct,
9 it seems like everybody acknowledges that, right.

10 RICHARD LOBEL: Right. Now, the
11 issue though, the interesting point about this
12 whole thing, is that 240 square feet, we could
13 care less. We don't want them to have to take
14 down their building. We would be happy if there
15 was a resolution which allowed them to keep that
16 square footage. The problem is, that because we
17 basically have been, have gone without any notice,
18 or any discussion for a year, and the problem is
19 that now that the application is certified and is,
20 is close to being voted upon, we've been left with
21 no choice, because the, what we view as a very
22 extreme solution to this problem, which rezoning
23 an affected district, to cure 240 square feet of
24 architectural mistake, it's a tough answer, it's a
25 tough solution. So, the answer is, what do we

2 want? We don't want this rezoning to be passed in
3 light of this. Is there another option which
4 would've allowed for an application at the zoning
5 board? A good faith reliance application? There
6 might be. We don't know, we don't know. Well,
7 there's, it's, in, there's a line of cases called
8 "good faith reliance," which allows you, upon the
9 error of Department of Buildings, to bring an
10 application. And all you have to show, basically,
11 is that you relied in good faith on the approvals
12 of the Department of Buildings, that you went
13 back, you tried to get your approvals, you did the
14 best job you could. It's not, it does, it allows
15 you to rely on the hardship from that mistake. It
16 doesn't say, it's not like you have to find the
17 five findings all new. You basically said, "I
18 relied on that, on the, I relied in good faith on
19 those approvals. To remove the 240 square feet
20 would cause me a hardship. Please allow me to go
21 forward and provide us a variance." I'm not
22 saying the application would work, but I'm saying
23 that in the, where we find ourselves now, we have
24 not, really not option but to oppose this.

25 COUNCIL MEMBER GARODNICK: I see.

2 So your, your, I'm sorry, Mr. Chairman, if that's
3 okay, so your solution here, is to ask the Council
4 to turn down the rezoning, ask the applicants to
5 formally go to BSA, and make a hardship
6 application?

7 RICHARD LOBEL: To make a good
8 faith reliance application, yes. And, and again,
9 I can't, I'm not speaking to the success of that
10 application, but all I can tell you is that there
11 seems to me, to be something very, very wrong
12 about coming at an architectural error with a
13 rezoning, just if you think about it just as far
14 as common sense is concerned.

15 CHARLES VISINI: And how do you,
16 how do you pay for it?

17 COUNCIL MEMBER GARODNICK: And
18 what, what about the actual zone that is proposed?
19 Let's just put all of the history--

20 RICHARD LOBEL: Oh, okay.

21 COUNCIL MEMBER GARODNICK: --and
22 all of the, you know, errors, behind for a moment.
23 C4-4A, for that particular site, why is that
24 inappropriate?

25 RICHARD LOBEL: It's inappropriate

2 because it does two things. It basically, it
3 basically triples the available square footage
4 from a 1.35 to a four.

5 COUNCIL MEMBER GARODNICK: Got it,
6 but it exists within feet of where it sits, right?

7 RICHARD LOBEL: Absolutely,
8 absolutely.

9 COUNCIL MEMBER GARODNICK: Okay.

10 RICHARD LOBEL: But you have to
11 look at potential redevelopment. And you have to
12 look at what can be there now, versus what can be
13 there then. If you're looking at an existing
14 residential building, and you're looking at, if
15 they redeveloped you're looking at existing
16 residential building, what you're looking at
17 tomorrow, if this thing got adopted, is a large,
18 commercial building. And they talk about this
19 cute, two-and-a-half story home, right? The cute
20 little two-and-a-half story home, and how this
21 could stay there for years. That is untrue.
22 There is evidence, there are DOB printouts, which
23 we submitted to the previous agencies, that show
24 that the call--that that house is in serious
25 structural disrepair. That because of the, the

2 work done on Kingswood, that that house has
3 structural deficiencies, there's cracks, there was
4 a call into DOB, if you check the DOB website,
5 where the owner of the house said, "We can't even
6 close our front door, the building has, the
7 building has shifted so badly on its foundations."
8 So if you think that there is a reason to keep the
9 cute little two-and-a-half story house, there is
10 already documented evidence that says that this
11 thing is in terrible shape, and indeed should be
12 coming down.

13 COUNCIL MEMBER GARODNICK: Okay,
14 but the fundamental question that I have is this:
15 If City Planning, or any applicant, had come to
16 this Council, independent of all of this
17 discussion, and said, "We would like to make the
18 C4-4A district go right up to the end of that
19 house." And we would look at it and we would say,
20 "Okay, sure, it might allow for additional
21 development, it might allow for this, it might
22 allow for that." It's not entirely clear to me
23 that the zoning is inappropriate. The question
24 that I, I mean, the bigger question here of course
25 is, is it appropriate under the circumstances.

2 RICHARD LOBEL: Right.

3 COUNCIL MEMBER GARODNICK: Is that,
4 is that fair?

5 RICHARD LOBEL: I think that's
6 fair.

7 COUNCIL MEMBER GARODNICK: Okay,
8 thank you.

9 CHAIRPERSON WEPRIN: All right,
10 we're going to have to move on. What we're going
11 to do is we're going to lay the vote over on this
12 thing till tomorrow, we're going to have a vote,
13 you know, before the Land Use meeting tomorrow.
14 We're going to have some discussions after this
15 meeting, just to, to resolve some issues, if we
16 can. And that's what we're going to do on that.
17 Does anyone else have any questions for this
18 panel? Hopefully--okay. Hopefully so. [laughs]
19 Hopefully. All right, Leroy. Council Member
20 Comrie.

21 COUNCIL MEMBER COMRIE: Okay.
22 Where's your green space for your building?
23 Where's the access to the building?

24 RICHARD LOBEL: The access is
25 through the front.

2 COUNCIL MEMBER COMRIE: Is there a
3 community garden?

4 RICHARD LOBEL: Do we have a
5 community garden? No. No, there's no garden.

6 CHARLES VISINI: I have a garden in
7 the backyard.

8 RICHARD LOBEL: Oh, there's a
9 garden in the backyard.

10 COUNCIL MEMBER COMRIE: There's a
11 garden in the backyard? And where is that
12 backyard vis-à-vis the pictures that we see? I
13 can't discern where that is.

14 CHARLES VISINI: You want to see my
15 building, sir. This is the front of the building,
16 the back of the building is--

17 RICHARD LOBEL: If this H-shape is
18 our building, the H right here.

19 COUNCIL MEMBER COMRIE: Right.

20 RICHARD LOBEL: And this is our
21 side courtyard, the backyard is directly behind
22 the building. That's where the green space is.

23 COUNCIL MEMBER COMRIE: That's
24 where the green is.

25 RICHARD LOBEL: Right. Which,

2 which, by the way, under the proposed rezoning,
3 would allow their building to go an additional ten
4 feet and would basically cover up most of that
5 green space.

6 COUNCIL MEMBER COMRIE: What do you
7 mean cover up?

8 RICHARD LOBEL: I mean, that--

9 COUNCIL MEMBER COMRIE: Put a
10 shadow over it?

11 RICHARD LOBEL: Yes, correct.
12 Right now, they've got, right now they've got the
13 rights to go 20 feet back. And when they, or to
14 30 feet from the real outline. When this, if this
15 rezoning is passed, they can go to within 20 feet
16 of the real outline, that's an additional ten
17 feet, which would, which would go into our rear.

18 COUNCIL MEMBER COMRIE: Ten feet in
19 the rear, plus the 60 foot--

20 RICHARD LOBEL: Correct.

21 COUNCIL MEMBER COMRIE: On the left
22 side of your H, what is that there?

23 RICHARD LOBEL: This is the,
24 there's an inner courtyard, there's a lot line,
25 and then this is their [pause] two-and-a-half

2 story house.

3 COUNCIL MEMBER COMRIE: So if they
4 built towards, at the maximum of the existing
5 zoning, you would lose that space along that left
6 side of your H, - -

7 RICHARD LOBEL: [interposing] Of
8 the existing zoning, we would be looking at, if
9 they redevelop, we would be looking at a 30 foot
10 tall building, that went to 30 feet from the rear
11 lot line. So, it probably would not, as our
12 building goes back further, it probably wouldn't
13 get to our backyard.

14 COUNCIL MEMBER COMRIE: It wouldn't
15 get to your backyard.

16 RICHARD LOBEL: It wouldn't get to
17 our backyard.

18 COUNCIL MEMBER COMRIE: It wouldn't
19 get to that cutout in the H.

20 RICHARD LOBEL: Cor--no, the cutout
21 in the H, it would get to. It wouldn't get to
22 the, to the rear of our building.

23 COUNCIL MEMBER COMRIE: Okay, so
24 you're willing to sacrifice that sp--what goes in
25 that space now? Nothing, or is it just--

2 RICHARD LOBEL: It's just the
3 backyard?

4 CHARLES VISINI: Backyard, it's
5 just the backyard.

6 COUNCIL MEMBER COMRIE: In the H
7 space, I'm talking--

8 RICHARD LOBEL: Oh, in the H space
9 is, that's light and air.

10 COUNCIL MEMBER COMRIE: That's
11 light and air?

12 RICHARD LOBEL: Yeah.

13 COUNCIL MEMBER COMRIE: So there's
14 no one their barbecues back there, there's no
15 activity?

16 RICHARD LOBEL: No.

17 COUNCIL MEMBER COMRIE: Is there a
18 side entrance back there? Emergency exit?

19 CHARLES VISINI: Yes.

20 RICHARD LOBEL: Yes.

21 COUNCIL MEMBER COMRIE: Would that
22 be impacted by the--

23 RICHARD LOBEL: No, because there's
24 a cutout in the front, so that people can access
25 that.

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SUBCOMMITTEE ON ZONING AND FRANCHISES 80

CHARLES VISINI: Access, put their garbage right in there. Garbage - -

COUNCIL MEMBER COMRIE: But you would lose that emergency exit if that was--

RICHARD LOBEL: No, no, because the cut out is in our building, it's not, it's not on the lot line. So, people can access through a doorway, go to the back, go to the courtyard.

CHARLES VISINI: Want to see a picture of this?

COUNCIL MEMBER COMRIE: I got it, I can see.

CHARLES VISINI: In other words, - - is--

COUNCIL MEMBER COMRIE: Right.

CHARLES VISINI: The walkway down going to the right.

COUNCIL MEMBER COMRIE: Okay. Okay. All right, I'm clear.

CHARLES VISINI: You sure?

COUNCIL MEMBER COMRIE: And then, if we, if the, if the two family homeowner builds to the new height, then you would still have all that setback, though, correct? You would just

2 have light and shadow issues, is your--

3 RICHARD LOBEL: We would have light
4 and air issues?

5 CHARLES VISINI: Everybody would
6 lose light.

7 COUNCIL MEMBER COMRIE: But you
8 would have space issues, 'cause you would have
9 access to the entire side of your property.

10 RICHARD LOBEL: If they, they
11 would, if they built to the lot line--well,
12 actually, no, they would be required, it's--we
13 would always have access to our rear because of
14 the way our building's laid out. We have a cut
15 out which allows people access to the rear. It's
16 a matter of they're basically saying that under
17 the existing zoning they can go up to the lot
18 line; under the proposed zoning, they can go eight
19 feet from the lot line.

20 COUNCIL MEMBER COMRIE: Okay. Is
21 City Planning here? Is Brooklyn City Planning
22 here?

23 CHAIRPERSON WEPRIN: Yes. What are
24 you asking, Leroy? You want them to come up and
25 speak?

2 COUNCIL MEMBER COMRIE: No, I just
3 want, I will ask them afterwards.

4 CHAIRPERSON WEPRIN: Okay.

5 COUNCIL MEMBER COMRIE: Okay, thank
6 you, thank you, Mr. Chair.

7 CHAIRPERSON WEPRIN: All right,
8 gentlemen, thank you very much. We'll keep
9 working over the next 24 hours. I'm going to move
10 to close this hearing. And we're going to move
11 on. We're going to move to, we're going to skip
12 359 for a second and move to Land Use No. 360,
13 followed by 361. So, 360, which is the Carol
14 zoning rezone--private rezoning. Which is 090225
15 ZMK, in Council Member Lander's district. I'm
16 going to call up Neil Weisbard and Marshal Sohne,
17 I think, in favor of this item. [pause,
18 background noise] Okay, gentlemen, whenever
19 you're ready. Please state your name again for
20 the record.

21 NEIL WEISBARD: Good morning, my
22 name's Neil Weisbard from Slater & Beckerman, and
23 I appear before you on behalf of Center of
24 Negative Thinking, and with me is Marshal Sohne,
25 Managing Member of Center for Negative Thinking,

1
2 which is the owner of 33 Carol Street, which is
3 located on the north side of Carol Street, between
4 Columbia and Van Braun Streets. 33 Carol Street
5 is within an M1-1 district; however, it's
6 sandwiched between an R6B district, directly to
7 the east, and a five story building which in 2007
8 received a variance to permit residential use on
9 the upper floors. The proposed rezoning will
10 extend the R6B district 135 feet over both 33
11 Carol Street, which is an 85 foot wide lot, as
12 well as 25 Carol Street. The owner proposes to
13 construct a four story residential building,
14 containing eight dwelling units. The building
15 will be constructed using passive house standards,
16 energy efficient construction. It will have a
17 base wall of 40 feet before setting back 20 feet
18 for, to an overall height of 50 feet. It will
19 align with the street walls of the adjacent
20 buildings, and will contain a 50 foot rear yard.
21 Due to the decline of manufacturing activity in
22 this area, as well as the predominately
23 residential use of the area, and the residential
24 variance granted to 25 Carol Street, there is a
25 rational land use justification for this rezoning.

2 The Community Board and the Borough President
3 offered favorable recommendations, and the City
4 Planning Commission unanimously approved the
5 application.

6 CHAIRPERSON WEPRIN: Mr. Weisbard,
7 may I recommend to you that you explain the name,
8 Center for Negative Thinking, [laughter] since it
9 seems to be the focus of some people, and that
10 it's just the name. But if you could explain
11 that.

12 NEIL WEISBARD: Maybe Marshal can
13 speak to that.

14 MARSHAL SOHNE: It was done sort of
15 as a joke.

16 CHAIRPERSON WEPRIN: [off mic] Is
17 that on?

18 MARSHAL SOHNE: I believe the, it
19 is on. It was done sort of as a joke. In this
20 process that we've been involved in, it was just a
21 name for an LLC. But at our office, a lot of
22 times we go through so many barriers to, before
23 we're able to do anything, that you want to give
24 up before you start. And it's always a joke, you
25 come in here and it's like, this is the Center for

2 Negative Thinking. What's going to hold us up?
3 You know, and there's, there's generally so many
4 issues that we have to work through, and we try to
5 keep positive, but--

6 CHAIRPERSON WEPRIN: Yeah.

7 MARSHAL SOHNE: --it's hard.

8 CHAIRPERSON WEPRIN: You're looking
9 at it. Anyway, no, just your name, again, for the
10 record, was Marshal Sohne?

11 MARSHAL SOHNE: Sohne, S-O-H-N-E.

12 CHAIRPERSON WEPRIN: Okay. Okay,
13 'cause I know it became the center of the
14 discussion, the name itself. Does someone have a
15 question for this group? I know Council Member
16 Lander is here, and he had a question, and he
17 represents this area. Thank you.

18 COUNCIL MEMBER LANDER: Thank you
19 very much, Mr. Chairman, Mr. Sohne, nice to see
20 you. I did over the weekend hear like some whole
21 NPR thing on like the people studying the use of
22 negative thinking to improve the world somehow.
23 So. So, I don't, I have a very specific question,
24 I guess I do want to say, as you guys know, while
25 I think you're bringing a thoughtful, specific

1 application, I think it's worth noting what I
2 think is a broader problem with kind of how we
3 approach our land use policy here.

4 Manufacturing's declined in this area because
5 we've allowed it, bit by bit by bit, to be
6 converted from manufacturing to residential, in an
7 area right near the port, an area with still some
8 manufacturing jobs. And gotten very little social
9 value for it in return. It's not your
10 responsibility to have us have an affordable
11 housing or inclusionary zoning policy that on
12 smaller sites, or sites done piecemeal, get us
13 affordable housing, or that provide more
14 protection for manufacturing in mixed use
15 districts, but I begin by being sad, because I
16 believe this area, as it was going to convert from
17 manufacturing to residential, either should've had
18 a lot more affordable housing, or should've been
19 done in a thoughtful way that would preserve
20 manufacturing jobs and promote job creation in the
21 area. So that's not your responsibility, it's not
22 really relevant specifically to this application,
23 but--

24
25 CHAIRPERSON WEPRIN: That's on the

Center of Sad Thinking, that's--

COUNCIL MEMBER LANDER: You know, it matters to me. Now, I did reach out to you early in the process and say it's important to me, given that this site should have an inclusionary housing component, but is too small for, given the City Planning policy to do so, and I appreciate that you came up with a creative solution working with the Borough President's Office and Richard Barack and that you've given us the letter that you gave the Borough President, that I worked with Richard and with you on. You have a set of sites, I just want this to make sure we're stated this-- why don't you actually just, why don't you tell us for the record what you've agreed to do, you know, as part of a commitment, assuming that we are able to move forward with HPD on the other sites, to get some affordable housing over here.

NEIL WEISBARD: Right. We, we entered the competition for development of affordable housing sites in the, in the Columbia Street Waterfront District, one of the sites is also by the Gowanus Canal. And basically, basically, we submitted, we prepared plans, and we

1 submitted these plans, and it was deemed by the,
2 the people at HPD that these were the best plans,
3 this was the best program, and we worked with HPD
4 to develop a affordable housing program on these
5 sites, which we would be the developers, and HPD
6 would provide the land, which they have, these are
7 in-fill sites, in the area. And basically they
8 have a program, basically that would provide for
9 affordable housing within a certain range of a
10 percentage of what they call AMI, the area of
11 median income. And we developed these plans and
12 we went forward with HPD, we, we did environmental
13 research, we did a lot of architectural work, we
14 did a lot of architectural redesign, we brought in
15 Sally Love to help us with the economic analysis,
16 and interfaced with HPD because that was not our
17 expertise. And we actually, I think, came up with
18 a pretty good program, we got pretty far along.
19 And unfortunately, things being the way they are,
20 the economy hit the wall, the banks and Wall
21 Street sort of imploded, or exploded, and somehow
22 this trickled down to HPD to the point where we
23 were informed that while all this is really good,
24 and it's a great investment for the future for
25

1
2 affordable housing, the City doesn't have the
3 money to forward at this time, with this program.
4 "And we're not eliminating it, but we're going to
5 have to put it on hold." And basically I said
6 "How long?" and it's basically indefinitely, and
7 it was pointed out to me, "You are aware that the
8 economy has fallen off. And I want to state for
9 the record, I am certainly aware that the economy
10 has fallen off. But we have a substantial
11 investment in this.

12 COUNCIL MEMBER LANDER: So let me,
13 so as I understand it, and I reached out to HPD to
14 ask them about his project. They have assured me
15 it's still in the pipeline, it's taking a while,
16 but it hasn't evaporated from the pipeline. But
17 what you agreed to do, so these, you know, for the
18 record, are nearby sites under their New
19 Foundations program, relatively near to this
20 program, where you had proposed affordable
21 homeownership. And where what you've agreed to do
22 in dialogue with the Borough President, is, that's
23 a 34, it would be as you proposed it, 34 units,
24 correct? The New Foundations Project, something
25 like that.

2 NEIL WEISBARD: I think it's 39 or
3 40 units.

4 COUNCIL MEMBER LANDER: Okay.
5 Well, great, even better. So what you've agreed
6 to do is deepen the affordability on 20 percent of
7 the units in that project, which would therefore
8 be six, seven, eight units, you know--

9 NEIL WEISBARD: Yes.

10 COUNCIL MEMBER LANDER: --by 20
11 percentage points of AMI. And so, the
12 affordability commitment you're making would be
13 to, you know, to make six or seven or eight, you
14 know, more afforded, more deeply affordable units,
15 and to make them affordable in perpetuity, along
16 with some of the models that the Borough President
17 was thinking. And how many units is this 33
18 Carol?

19 NEIL WEISBARD: Eight units.

20 COUNCIL MEMBER LANDER: So for
21 eight we're getting eight luxury units here, on a
22 former manufacturing site, but we're deepening the
23 affordability on six or seven or maybe even eight
24 affordable units nearby in the neighborhood and
25 making them affordable in perpetuity.

2 NEIL WEISBARD: That's correct.

3 COUNCIL MEMBER LANDER: So that to
4 me is a strong commit--an inclusionary like
5 commitment that is strong, and I want to say I
6 thank you for it. I think it was a creative way
7 to get affordability connected to this rezoning in
8 the neighborhood, help us keep affordable housing
9 here. Just the one question I want to ask, when I
10 did talk to HPD, and they said, "Yes, it's, we
11 don't have money for it today, but we still hope
12 to do it, it's still in the pipeline, Mr. Sohne is
13 still, you know, hope--contemplated as its
14 developer." The one thing they said is, "We
15 can't, we're not going to pay any extra in City
16 capital at any point in the future for these
17 specific commitments that Mr. Sohne is making, to
18 deepen the affordability or make it affordable in
19 perpetuity." And I just want to make sure you're
20 not, you know, you--

21 NEIL WEISBARD: No.

22 COUNCIL MEMBER LANDER: --you say
23 here, you're--

24 NEIL WEISBARD: That's correct, we
25 understand that, and especially with the

2 perpetuity commitment. I mean, that has to be
3 worked out with HPD, but I don't even believe
4 that affects the HPD or the development at all.
5 Or even the marketing of it, because usually on
6 these below market deals, you usually have a
7 lottery, and there's maybe three, three times the
8 amount of units of people stacked up, waiting to,
9 to get into these units.

10 COUNCIL MEMBER LANDER: So that's
11 a, this is a, I completely agree with you, it's a
12 longer conversation about the impacts of permanent
13 affordability, but it's great to hear you say that
14 for deepening the affordability and for long term
15 affordability, no additional public capital would
16 be required with that, you know, I'm in support of
17 the application on this site, and I thank you for
18 your time here.

19 NEIL WEISBARD: Thank you.

20 CHAIRPERSON WEPRIN: Thank you, Mr.
21 Lander. Any other questions for the panel? Yes,
22 Mr. Comrie.

23 COUNCIL MEMBER COMRIE: What is the
24 lot size at the--

25 NEIL WEISBARD: It's 85 by 100.

1
2 It's 100 deep by 85 wide.

3 COUNCIL MEMBER COMRIE: And you're
4 going to have eight apartments there?

5 NEIL WEISBARD: There'll be eight
6 units, there'll be four buildings, more like
7 brownstones, so they, they would become 21 feet
8 each wide, by 100.

9 COUNCIL MEMBER COMRIE: And what's
10 the 21 x 100. Okay, so that's a pretty, pretty
11 large unit.

12 NEIL WEISBARD: Well, we're not
13 going to build the full site, there's going to be
14 setbacks and--

15 MARSHAL SOHNE: There'll be 50 foot
16 rear yard setback. It's going to be an
17 approximately 17,000 square foot building.

18 COUNCIL MEMBER COMRIE: Okay. And
19 what's, about, what's the approximate size for
20 each unit? 2,100 feet?

21 NEIL WEISBARD: No, I think there's
22 two units, it should be, it would be--

23 MARSHAL SOHNE: It's a duplex,
24 it's, I think it's between 1,900 and 2,100 square
25 feet.

2 COUNCIL MEMBER COMRIE: Okay, so--

3 MARSHAL SOHNE: Is that--

4 NEIL WEISBARD: Yeah, that, that
5 sounds, that sounds about right.

6 COUNCIL MEMBER COMRIE: All right,
7 my, okay. And what are, and what do you expect
8 that they're go--what's with all the glass on the
9 front? Is that, is that beveled or curved or--?

10 NEIL WEISBARD: No, no, this, this
11 was a rendering by the architects. We're, we're
12 very committed to doing these passive house
13 projects, which are basically houses and
14 condominium units, we want to try to bring down
15 the energy consumption by 90 percent.

16 COUNCIL MEMBER COMRIE: Okay.

17 NEIL WEISBARD: And this is a south
18 facing façade, we're going to use a lot of the
19 sunlight that's going to come, come from the south
20 facing sun to, to heat the building.

21 COUNCIL MEMBER COMRIE: So, you're
22 going to have glass at the end or not going to
23 have class.

24 NEIL WEISBARD: No, there's going
25 to be, there's going to be more glass on the south

1
2 side than on the north side, because that will
3 help the energy, energy of the building. And
4 because it's an in-fill lot, there's going to be
5 minimum to the east and west.

6 COUNCIL MEMBER COMRIE: And when
7 you say you're going to have a high energy
8 efficiency building, what does that entail? The--

9 NEIL WEISBARD: It entails a very,
10 very tight envelope, the outside of the building,
11 we're going to have walls that are probably an R-
12 40, we're going to have sub-slab insulation, and
13 we're going to have like R-60 for the, for the
14 ceiling, with, we're going to try to also have an
15 airtightness of .6 air changes per hour, at 50
16 pascals. Which basically we create a very tight
17 envelope, and we use mechanical ventilation with a
18 heat exchanger, and we're able to, to save 90
19 percent of the energy use, and I think that makes
20 a big difference as far as, you know, not
21 importing oil or using gas. And--

22 COUNCIL MEMBER COMRIE: Is this a
23 new construction or we have an existing--

24 NEIL WEISBARD: This is a new
25 construction--

2 COUNCIL MEMBER COMRIE: Okay.

3 NEIL WEISBARD: --but we're going
4 to also use this to, this type of standard to
5 rehab some buildings, also.

6 COUNCIL MEMBER COMRIE: You can
7 rehab a building and make it that airtight or--?

8 NEIL WEISBARD: There's one being
9 done in Brooklyn right now, by Sumner Green,
10 another passive house developer, on 46 or 47
11 Sidney Place, it's a brownstone, and I was amazed
12 that they could do it in a landmarked area, but he
13 says he's very close to meeting the airtightness.
14 And the only unfortunate thing about it is the
15 cost is, was very, very high. We have to be able
16 to get the cost down so we can do this on a, on a,
17 across the board for people.

18 COUNCIL MEMBER COMRIE: And you
19 expect you'll be able to reach your price point
20 that'll be amenable to people to purchase and--

21 NEIL WEISBARD: I'm hoping. I'm
22 hoping. You know, it's, a lot has to do with the
23 economy, a lot has to do with the banks. And I
24 think right now, I think the biggest problem out
25 there right now is the banks, the banks are not

2 lending as they should to people.

3 COUNCIL MEMBER COMRIE: Right,
4 right.

5 NEIL WEISBARD: And that has to be
6 solved. And it has to be solved not only for the
7 middle class, also has to be solved, it's going to
8 be a bigger issue on the affordable housing, also.

9 COUNCIL MEMBER COMRIE: Right.
10 Okay, all right, thank you.

11 CHAIRPERSON WEPRIN: Mr. Lander has
12 a quick follow up.

13 COUNCIL MEMBER LANDER: First,
14 Chairman Comrie, you're correct, these are large
15 and exquisite units, so I mean, it's at a price
16 point that'll be amenable to some people that want
17 a very nice unit. So, I, I mean, and the
18 developer of course has a right to shoot for that
19 mark, and that's partly why it was important to me
20 we get some more affordability here as well, and
21 I'm enthusiastic about the passive house
22 technology. There's one being done in Park Slope,
23 as well, that got Landmarks Commission approval.
24 The one thing I just want to point out for the,
25 for the Chairman, and so you guys understand as

2 well, I am asking that this be laid over and will
3 be voted on at the subsequent meeting, and it's
4 really about the building next door, 25 Carol, and
5 not about 33 Carol, with the commitment that Mr.
6 Sohne made not to seek additional And I think
7 I'll probably ask you to put it in writing, the
8 clarity that you're--

9 MARSHAL SOHNE: No problem.

10 COUNCIL MEMBER LANDER: --not
11 seeking any, you won't seek additional capital.

12 MARSHAL SOHNE: I'll state it on
13 the record, we're not going to seek additional
14 capital contribution by the Housing Preservation
15 Development. And I also stated that we would work
16 with outside not-for-profits in any way we can to
17 move this forward, even if our participation is
18 diluted, whether it's Habitat for Humanity, or
19 another not-for-profit, because basically our
20 participation in this program was not about making
21 money.

22 COUNCIL MEMBER LANDER: Yeah, so I
23 appreciate that, I will, you know, follow up and
24 get--but the building next door, that you can
25 actually see in the picture, 25 Carol Street, is

2 also included, Mr. Chairman, in this rezoning. As
3 a result, even though their upper floors were
4 converted by variance from manufacturing to a
5 residential, the ground floor was supposed to
6 remain manufacturing subsequent to that variance;
7 this rezoning would enable them to covert that as
8 well. I'm in some dialogue with them about making
9 a, you know, a commitment as well to making sure
10 there's benefit in the neighborhood as a result of
11 this increase in value that will be voted on by
12 the Council. We're having good dialogue with
13 them, I don't imagine that it'll be a problem, but
14 we're not quite there yet. So, we're asking that
15 it be laid over for the two weeks till our next
16 meeting. Thank you very much, Mr. Chairman.

17 COUNCIL MEMBER COMRIE: So, we got
18 to lay this over, too?

19 COUNCIL MEMBER LANDER: Next
20 Tuesday, a week, great, till the next meeting, I'm
21 not asking, yes, that should be enough time.

22 CHAIRPERSON WEPRIN: All right, so
23 on these two items, on the two Carol Street items,
24 we are hoping to, we are planning on laying it
25 over until next week's meeting, which is next

1
2 Tuesday, a week from tomorrow. Just so you know.
3 Well, any other questions? None? Well, all
4 right, we're going to move to close this hearing
5 on 360. Thank you very much, gentlemen. That's
6 enough negative thinking for now. [laughter] I'm
7 a Met fan, as Mr. Economo [phonetic] would tell
8 you, I have enough negative thinking. We are now
9 going to call Land Use No. 361, which is also
10 Carol Street, 20-30 Carol Street, at C 10-110118
11 ZMK. [pause, background noise] Okay, those who
12 might be here for the Landmarks meeting, after
13 this item, it will be taking place on the 14th
14 floor, as soon as the Chairman gets there. But
15 after this item, he'll be going three, right, 14.
16 That's why Mr. Lobel and whoever else is here, we
17 skipped ahead to here, so Mr. Lander could comment
18 on these items. And I, Mr. Lobel, I know you
19 needed your rest after that last presentation.
20 Okay. As you guys know, name for the record,
21 please. And Brooklyn, you may start.

22 IKO NOSEI: I'm on, right? Okay.
23 Good morning. My name is Iko Nosei [phonetic],
24 and I'm the Planner at the Department of City
25 Planning's Brooklyn Office. I'm the Project

1
2 Manager for 20-30 Carol Street rezoning. This
3 application is a zoning map change from M11 to R6B
4 for six lots on the south side of Carol Street,
5 between Columbia/Van Braun Streets, in Community
6 District Six in Brooklyn. In your handout, and
7 also on this map, the City Planning Department's
8 rezoning is marked in the solid red line on the
9 south side. What you just heard in the previous
10 applicant is in the red dotted line, across the
11 street from this application. So, this action
12 would extend an existing R6B district zoning
13 district boundary westward, over the midblock
14 portion of the block, by 120 feet, so this moves
15 over to here. Although the six lots in this
16 rezoning are currently within a manufacturing
17 district, five of those six lots are developed
18 with residential row house buildings from the late
19 1890s, as you can see on your second page, and on
20 this photo board here. One lot here is vacant.
21 Though it also was once developed with the row
22 house building, this proposal would match the
23 zoning with the existing buildings. None of the
24 lots subject to the rezoning currently contain
25 active manufacturing uses. Four of the lots are

1 occupied by three story, nonconforming and
2 noncomplying residential row houses and lot 21 in
3 the middle there is vacant. Lot 19, which is the
4 further most west lot on the end, is occupied by a
5 three story commercial building that is partially
6 occupied with an illegal residential use, which
7 has received a violation from the Department of
8 Buildings. As background, in 2007, five of the
9 six lots--one, two, three, four and five--all
10 except the further most west lot, of this
11 rezoning, were a part of a larger private rezoning
12 application to change the zoning from M11 to R6,
13 which was approved by City Planning. However,
14 these lots were removed from the application by
15 the City Council at the Department of City
16 Planning's request, due to a technical omission
17 and remained within the M11 zoning district.
18 Furthermore, in 2009, the residential area to the
19 immediate east, north and south were rezoned from
20 R6 to R6B, in the Department of City Planning's
21 Carol Gardens and Columbia Street rezoning. This
22 rezoning only looked at the residentially zoned
23 districts for the contextual rezoning, and did not
24 address any existing manufacturing districts at
25

2 the time. The 20-30 Carol Street rezoning would
3 rezone the six lots to R6B to reflect the
4 character of the Carol Gardens and Columbia Street
5 rezoning. It will make four of the buildings
6 complying and conforming with the zoning, and it
7 would allow the vacant lot to be redeveloped with
8 an appropriate building that is in context with
9 the surrounding neighborhood. And it would also
10 resolve the DOB violation on lot 19. I'm happy to
11 answer any questions you may have.

12 CHAIRPERSON WEPRIN: Mr. Lander
13 would like to speak on this item, which is also in
14 his district.

15 COUNCIL MEMBER LANDER: [laughs]
16 Thank you, I, you know, I think it's obviously
17 sensible to compete the rezoning that was
18 contemplated earlier, the change to 6B makes
19 sense, you know, you heard what I said before
20 about some of the broader issue in the
21 neighborhood and how we think about mixed use
22 districts. But I won't rehearse that here. So,
23 I'm fully in support. I do want to flag, and this
24 is really, I've been in dialogue with DOT, about
25 this, it's really a DOT issue. You may have heard

1
2 last week, a pedestrian was killed at the
3 intersection of Summit and Columbia, and you know,
4 this is one of the challenges in these mixed use
5 districts, is that it's still a truck crowd, and
6 it was sort of built for a different--I mean,
7 obviously it was built with residential housing
8 long ago, so it's not a new challenge, but it is
9 one that's incumbent on us when we're permitting
10 new residential development in mixed use areas, to
11 make sure we do everything we can to get it right.
12 So, I hope the Administration, and like I said,
13 I'm talking to DOT, will work to make sure we can
14 make the streets around here safer for the folks
15 that are living there. Thank you very much.

16 CHAIRPERSON WEPRIN: Any other
17 questions or comments? Good, if you could just
18 please tell Ms. Burden that all this negative
19 thinking is what affected Mr. Ignizio before, I'm
20 sure. [laughter] Anyway, thank you very much,
21 we're going to close this hearing. And again this
22 vote will be put off till a week from tomorrow.
23 As of now, a week from tomorrow at that meeting.
24 I'm now going to go back to Land Use No. 359,
25 which is 542 to 556 Howard Avenue, the rezoning.

2 And I think Mr. Lobel, Richard Lobel, once again,
3 appearing in this matter. This time in favor.

4 Now that we got the negative thinking out of the
5 room, everyone's being positive. This is in
6 Brooklyn, Community Board Five, Council Member
7 Mealy's district, C 070579 ZMK. And then we have
8 one more item after this, should be brief. So,
9 stick with me, those who are here. Mr. Lobel,
10 please once again state your name for the record,
11 and describe the application.

12 RICHARD LOBEL: Hello? Thank you.
13 Richard Lobel, from the law firm of Sheldon Lobel,
14 PC. And I'm speaking on behalf of the applicant
15 in the Howard Avenue rezoning. The rezoning here
16 basically deals with a triangular portion of the
17 zoning district, which is currently a C8-2 zoning
18 district. The C8-2 zoning district, as you may be
19 familiar with, allows intensive commercial uses,
20 it allows commercial uses ranging up to a use
21 group 14 and use group 16. It's really typically
22 thought of as automotive related. The existing
23 development in the area and around this site, is
24 for a large part residential, with additional
25 commercial uses. So, basically in the C8-2 and

1
2 the existing zoning district, all of that property
3 is now nonconforming. The applicant here is S&H
4 Glazer Brothers. If you're familiar with the
5 area, they are a retail and home improvement
6 business, which has existed at this site for over
7 70 years. They are well-entrenched within the
8 surrounding community. So this application has
9 been considered for a number of years and we met
10 with the community board, we met with the Council
11 Member. And basically, had a very positive
12 meetings, had very positive reinforcement from
13 both the community board and the Council Member.
14 And so we sponsored this rezoning. The rezonings
15 that we feel are better rezonings are ones which
16 basically look at what's on the ground, and they
17 improve the condition, and they improve the
18 potential for the properties. And here, you're
19 looking at a district where all of the residential
20 uses are nonconforming. So there's about, out of
21 31 lots, about eleven of those are residential.
22 Which are not permitted in the C8-2, cause great
23 difficulty to the owners if they want to make any
24 alterations or changes. By changing this zoning
25 district to an R6A, with a commercial overlay,

1 we're doing a number of things. The first is we
2 are improving the conformance of the block in
3 question. So where right now, approximately 49
4 percent of the uses within this triangular
5 portion, are conforming, meaning only 49 percent
6 of them conform to C8-2. When we modify the
7 zoning district and change it to a, an R6A
8 district with a commercial overlay, we actually
9 come to a 93 percent conformance rate. Which
10 means that this rezoning makes sense from a use
11 standpoint. It basically creates on the map what
12 already exists on the ground. The second thing we
13 often look to is compliance, and we look to the
14 bulk of these buildings, and whether or not the
15 bulk reflects what's there. Under a C8-2 zoning
16 district, the bulk compliance in the rezoning area
17 is about 78 percent. Once it goes to an R6A with
18 a C2-4 overlay, it becomes a 91 percent complying.
19 So, we think that this rezoning makes tremendous
20 sense. We are joined by the community board in
21 that regard who has voted unanimous in favor of
22 that. We are joined by the Brooklyn Borough
23 President who has issued a strong recommendation,
24 and was happy to see an existing business, which
25

2 has been here for over 70 years, contribute back
3 to the community. And we are joined by the City
4 Planning Commission. I'd be happy to answer any
5 questions.

6 CHAIRPERSON WEPRIN: Thank you, Mr.
7 Lobel. I also want to add that Council Member
8 Mealy, who represents this district, is also on
9 board on the support of this issue, so we haven't
10 found any negatives. Are there any questions from
11 the panel? Seeing none, we're going to close this
12 hearing, and thank you very much, Mr. Lobel.

13 RICHARD LOBEL: I know, right, this
14 was a nice one. [laughs]

15 CHAIRPERSON WEPRIN: We are going
16 to move now to, right, okay, number, Land Use No.
17 362, Manhattan Community Board One. Number N
18 110167. Text amendment. And we call on Jennifer
19 Hong. Together? Okay. And is that--Grace Han.
20 So Jennifer Hong and Grace Han from City Planning
21 are here, yes, okay. Ladies, thank you for being
22 here. Please state your name once again for the
23 record, as you know. And describe the
24 application. And don't do anything to cause
25 trouble. Okay.

2 GRACE HAN: Good morning, City
3 Council Members, my name is Grace Han, and I'm
4 with the Department of City Planning, Manhattan
5 Office. And I'm joined by--

6 JENNIFER HONG: Jennifer Hong,
7 Deputy Director of Land Use for Manhattan Borough
8 President Scott Stringer.

9 GRACE HAN: Together the Department
10 of City Planning, the Manhattan Borough
11 President's Office, and also Community Board One
12 Manhattan, are co-applicants on this text
13 amendment to the special Tribeca missed use zoning
14 district, to modify the maximum building height.
15 And also to correct an oversight from previous map
16 and text amendments. There's some history here.
17 In 2006, this is matter of northern Tribeca, this
18 is Canal Street, West Street, Washington Street
19 and West Streets. This area, a new area, A4 was
20 created and rezoned from an N15 to a C63A. In
21 addition to the zoning map change, there were also
22 text amendments to apply new unique building
23 heights for 160 feet in the C63A, and 120 feet
24 along Washington Street. During this ULURP
25 application and rezoning, City Council made

1
2 modifications to the zoning text amendment, and
3 established letter agreements with property owners
4 and developers. To codify these agreements in the
5 zoning, the Manhattan Borough President's office
6 and Community Board One, applied for a zoning text
7 amendment which would, which was approved in 2008.
8 These text amendments establish a maximum building
9 height of 150 feet in the C63A and 110 feet in the
10 C62A. As part of that agreement, properties in
11 historic districts shown in the hash markings,
12 mainly that block, would not be limited to these
13 maximum building heights; instead, they would be
14 allowed to go under the approved and original
15 zoning heights, which was 160 feet in the C63A.
16 In the writing of this text amendment, there was
17 an error, and instead required the buildings in
18 historic districts to comply with the underlying
19 C63A, not the new zoning. And so they were
20 limited to a 145 feet instead of the 160 feet, as
21 originally intended in 2006. So this text
22 amendment basically seeks to correct that error
23 and allow these two buildings, 79 Lane Street and
24 also 250 West Street, to rise to 160 feet. 250
25 West Street is currently at 150 feet, and is

2 seeking, has received approval from Landmarks to
3 go up to 160 feet, with a one-story penthouse.

4 And 79 Lane Street is unlikely to enlarge because
5 it already exceeds the permitted FAR and has
6 already converted to condominiums. So I'm happy--

7 CHAIRPERSON WEPRIN: Thank you, Ms.
8 Han. Ms. Hong, do you want to speak as well, or
9 are you--

10 JENNIFER HONG: Oh, I'm just here
11 to answer questions.

12 CHAIRPERSON WEPRIN: Good.

13 JENNIFER HONG: But, you know, as
14 co-applicants with DCP and the community board--

15 CHAIRPERSON WEPRIN: Yes,
16 overwhelming, right? Shutouts, again.

17 JENNIFER HONG: And the text
18 amendment will restore the original intent of that
19 2008 text amendment.

20 CHAIRPERSON WEPRIN: And I point
21 out to my colleagues that Council Member Chin also
22 supports this, this change. Are there any
23 questions on the panel? Seeing none, I'm going to
24 thank you and move to close this hearing. Look at
25 that, how quickly we're working. Thank you very

2 much, ladies, and I apologize for the rushed.

3 Landlord's kicking us out soon. Okay. Hold on

4 one second. All right, I'm going to regroup now

5 on what we're about to do. Thank you Members of

6 the Committee who are here. We are going to vote

7 and couple the following items for today's vote:

8 Land Use No. 354, which was Mussels and More

9 Restaurant; Land Use No. 358, which was

10 Pietrasanta Restaurant; we are going to couple

11 that with Land Use Nos. 355 and 356, Sea Breeze

12 Estates, over on City Island. We are laying over

13 the King--No. 357, Kingswood office and retail

14 center till tomorrow morning. We are voting--we

15 are voting now on coupling for this meeting, right

16 now, No. 359, Howard Avenue rezoning; we are also

17 coupling with that Land Use No. 362, which we just

18 heard, in the text amendment, in Council Member

19 Chin's district. And then finally Land Use 6--360

20 and 361, is being laid over till next week, next

21 Tuesday, and we will be recessing this meeting at

22 the end. So I am now coupling all those items,

23 the restaurants and those matters for today. I am

24 going to ask Christian Hilton, our counsel, to

25 please read the roll, and the Chair recommends an

2 aye vote on all. Thank you.

3 COUNSEL: Chair Weprin.

4 CHAIRPERSON WEPRIN: Aye on all.

5 COUNSEL: Council Member Comrie.

6 COUNCIL MEMBER COMRIE: Aye on all.

7 COUNSEL: Council Member Jackson.

8 COUNCIL MEMBER JACKSON: Aye on
9 all.

10 COUNSEL: Council Member Vann.

11 COUNCIL MEMBER VANN: Aye.

12 COUNSEL: Council Member Garodnick.

13 COUNCIL MEMBER GARODNICK: Aye.

14 COUNSEL: Council Member Ignizio.

15 COUNCIL MEMBER IGNIZIO: Yes.

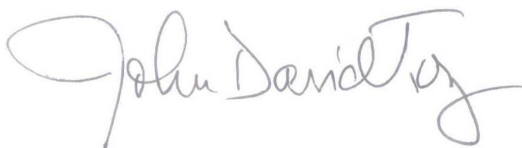
16 COUNSEL: By a vote of six in the
17 affirmative, none in the negative, no abstentions,
18 LU 354, 358, 356, 355, 359 and 362 are approved
19 and referred to the full Land Use Committee.

20 CHAIRPERSON WEPRIN: Thank you very
21 much. We are going to be recessing this meeting
22 till 9:45 tomorrow morning in this very room. And
23 until that time, we will see you tomorrow. Thank
24 you.

C E R T I F I C A T E

I, JOHN DAVID TONG certify that the foregoing transcript is a true and accurate record of the proceedings. I further certify that I am not related to any of the parties to this action by blood or marriage, and that I am in no way interested in the outcome of this matter.

Signature

A handwritten signature in cursive script that reads "John David Tong". The signature is written in dark ink and is positioned to the right of the printed word "Signature".

Date April 22, 2011