



# *Village of Harriman*

1 Church Street  
Harriman, New York 10926  
Phone (845) 783-4421

## **ZONING BOARD OF APPEALS**

**FEBRUARY 27, 2025**

### **MEETING AGENDA**

- 1. PLEDGE OF ALLEGIANCE**
- 2. ROLL CALL**
- 3. 101-2-1.12 – CONTINUED PUBLIC HEARING:  
MYL INVESTORS/ aka RIGHT CHOICE BUILDERS**

**NEXT ZONING BOARD OF APPEALS MEETING  
IS SCHEDULED FOR  
WEDNESDAY MARCH 5, 2025 @ 7:30PM**

**DEADLINE FOR COMPLETED PAPERWORK SUBMISSION  
FOR THE NEXT ZBA MEETING IS DUE  
BY 12:00PM ON FEBRUARY 19, 2025**



ZBA Public Hearing - Zoning Board of Appeals  
February 27, 2025

ZBA PUBLIC HEARING

VILLAGE OF HARRIMAN  
COUNTY: COUNTY OF ORANGE

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ZONING BOARD OF APPEALS  
PUBLIC HEARING HELD, FEBRUARY 27, 2025

-----X

ZONING BOARD OF APPEALS  
FEBRUARY 27, 2025  
7:53 p.m.

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

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<p style="text-align: right;">Page 2</p> <p>1 ZBA PUBLIC HEARING</p> <p>2</p> <p>3 A P P E A R A N C E S:</p> <p>4</p> <p>5</p> <p>6 MICHAEL PETTIFORD CHAIRMAN</p> <p>7 AARON SANTIAGO BOARD MEMBER</p> <p>8 TRACEY TORRES BOARD MEMBER</p> <p>9 JUSTIN LARMARCH BOARD MEMBER</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17 ALSO PRESENT: Joseph Mckay, Village Attorney,</p> <p>18 Village of Harriman, Maria Hunter, Zoning Board of</p> <p>19 Appeals Secretary, Village of Harriman.</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 3</p> <p>1 ZBA PUBLIC HEARING</p> <p>2</p> <p>3</p> <p>4 THE CHAIRMAN: Good evening,</p> <p>5 everyone. I'd like to call this meeting</p> <p>6 of the Harriman Zoning Board of Appeals.</p> <p>7 Please rise for the Pledge of Allegiance.</p> <p>8 (Whereupon, the Pledge of</p> <p>9 Allegiance was recited by all present, as</p> <p>10 of this date.)</p> <p>11 THE CHAIRMAN: Welcome to the</p> <p>12 February 27th, 2025, Zoning Board of</p> <p>13 Appeals. My name is Michael Pettiford,</p> <p>14 I'm the Chairman.</p> <p>15 Before we proceed, I would like to</p> <p>16 outline our agenda for this evening.</p> <p>17 We've done the pledge, two, the roll call.</p> <p>18 There are three line items, continued</p> <p>19 Public Hearing and MYL Investors, a/k/a</p> <p>20 Right Choice Builders.</p> <p>21 Our next Zoning Board of Appeals</p> <p>22 meeting is scheduled for Wednesday,</p> <p>23 March 5th, 2025. And the deadline for</p> <p>24 completed paperwork submission, for the</p> <p>25 next ZBA Meeting was due by noon,</p>
<p style="text-align: right;">Page 4</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 February 19th, 2025.</p> <p>3 Roll call, now. All right. If I</p> <p>4 say your name, just say that you're here.</p> <p>5 Aaron Santiago?</p> <p>6 MR. SANTIAGO: Here.</p> <p>7 THE CHAIRMAN: Justin Larmarch?</p> <p>8 MR. LARMARCH: Here.</p> <p>9 THE CHAIRMAN: Tracey Torres?</p> <p>10 MS. TORRES: Here.</p> <p>11 THE CHAIRMAN: Christine Biaz?</p> <p>12 MS. HUNTER: She's absent.</p> <p>13 THE CHAIRMAN: She's absent. All</p> <p>14 right.</p> <p>15 May I have a motion to approve the</p> <p>16 minutes from the last meeting?</p> <p>17 MR. LARMARCH: I'll make that</p> <p>18 motion to approve the minutes from the</p> <p>19 last meeting.</p> <p>20 MS. TORRES: I second that motion.</p> <p>21 THE CHAIRMAN: All right. The</p> <p>22 minutes are approved then.</p> <p>23 MR. MCKAY: Who -- who made the</p> <p>24 motion?</p> <p>25 THE CHAIRMAN: Justin --</p>	<p style="text-align: right;">Page 5</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 MS. TORRES: -- Justin.</p> <p>3 MR. MCKAY: Who seconded?</p> <p>4 THE CHAIRMAN: Tracey.</p> <p>5 MS. HUNTER: Tracey.</p> <p>6 MR. MCKAY: What was the vote?</p> <p>7 THE CHAIRMAN: Approval of the</p> <p>8 minutes from the last time.</p> <p>9 MR. MCKAY: No. I -- in other</p> <p>10 words, you weren't on the Board, so I</p> <p>11 think, you should recuse yourself from the</p> <p>12 vote.</p> <p>13 So, it's three yes and one no.</p> <p>14 MS. HUNTER: Okay.</p> <p>15 THE CHAIRMAN: We now open the</p> <p>16 floor for the Public comments --</p> <p>17 (Whereupon, a discussion was held</p> <p>18 off the record.)</p> <p>19 (Back on the record.)</p> <p>20 THE CHAIRMAN: Okay. The Board</p> <p>21 would like to open the floor for MYL</p> <p>22 Investor to make their preparation.</p> <p>23 MR. WARNER: Yes. Um -- good</p> <p>24 evening, my name is Aaron Warner. I'm an</p> <p>25 Attorney, from the Law Firm Zarin and</p>

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<p style="text-align: right;">Page 6</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 Steinmetz. We represent the Applicant MYL</p> <p>3 Investors. I'm also joined by my Partner</p> <p>4 Dan Richmond and Colleague, John Loch,</p> <p>5 Professional Engineer and Land Surveying.</p> <p>6 We represent the Applicant, MYL</p> <p>7 Investors in connection with their mix use</p> <p>8 and office storage space project, located</p> <p>9 at 200 Route 17M, in the Village's B2</p> <p>10 zoning district.</p> <p>11 Per view, the building is already</p> <p>12 constructed, fully constructed. But,</p> <p>13 however, due to a minimal height</p> <p>14 discrepancies, we require an area variance</p> <p>15 from the 35 foot height restriction, in</p> <p>16 the B2 zoning district.</p> <p>17 As you know, we're continuing from</p> <p>18 the previous Public Hearings on this</p> <p>19 matter. However, tonight we request that</p> <p>20 the Applicants application for a zoning</p> <p>21 code interpretation of whether a mezzanine</p> <p>22 constitutes as a third-story. And the</p> <p>23 variances for parking and third-story, be</p> <p>24 held in abeyance. And Public Hearing kept</p> <p>25 open, while the Applicant addresses the</p>	<p style="text-align: right;">Page 7</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 mezzanine and third-story and parking</p> <p>3 issues, with the Planning Board.</p> <p>4 Including, obtaining their feedback prior</p> <p>5 to returning to the ZBA.</p> <p>6 On that note, we are finalizing</p> <p>7 conceptual terms to an agreement with the</p> <p>8 Village that would prohibit use of the</p> <p>9 third-story/mezzanine level, until we</p> <p>10 obtain Planning Board approval.</p> <p>11 This agreement would allow the</p> <p>12 Applicant to operate the first and</p> <p>13 second-story, until we are able to obtain</p> <p>14 Planning Board approval for parking and</p> <p>15 resolve the mezzanine/third-story issue.</p> <p>16 Furthermore, this agreement has at</p> <p>17 least, tentative approval from the current</p> <p>18 building inspector. Who has also, by the</p> <p>19 e-mail that you've just received and</p> <p>20 looked at, indicated that merely 100</p> <p>21 percent of the building code issues have</p> <p>22 been resolved as of today.</p> <p>23 And I would just like to reiterate</p> <p>24 again, that we did pass out that e-mail</p> <p>25 and that the Board Members have received</p>
<p style="text-align: right;">Page 8</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 it.</p> <p>3 MR. MCKAY: And that, the agreement</p> <p>4 is a verbal agreement, right? With the</p> <p>5 building inspector, is there anything in</p> <p>6 writing?</p> <p>7 MR. WARNER: We're finalizing the</p> <p>8 terms to that agreement.</p> <p>9 MR. RICHMOND: We're waiting for</p> <p>10 the Village Attorney to break down and to</p> <p>11 finalize their terms.</p> <p>12 MR. MCKAY: Okay.</p> <p>13 MR. WARNER: Consistent with both</p> <p>14 of these things, we're currently only</p> <p>15 seeking a variances for the as constructed</p> <p>16 building height, in feet. Specifically,</p> <p>17 the reason that we're seeking a height</p> <p>18 variance for the as constructed height is</p> <p>19 that, the building inspector's denial</p> <p>20 letter, which we appealed and the reason</p> <p>21 why we're before your Board, lists a range</p> <p>22 of possible height calculations.</p> <p>23 And in addition to the range of</p> <p>24 possible height calculations, it also</p> <p>25 clearly states that, the Village's</p>	<p style="text-align: right;">Page 9</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 consulting engineer calculated the</p> <p>3 building height to be, 36.5, 2, feet tall.</p> <p>4 There's also ambiguity in the code.</p> <p>5 Which is why there was a range of heights</p> <p>6 listed in the building inspector's denial</p> <p>7 letter. So, I would like to invite my</p> <p>8 Colleague, John Loch, to explain the range</p> <p>9 of heights and the ambiguity of the</p> <p>10 coding.</p> <p>11 MR. LOCH: Most certainly. Hi, my</p> <p>12 name is John Loch. I've been introduced,</p> <p>13 I'm the engineer with AFR.</p> <p>14 When we starting working towards</p> <p>15 getting the C.O. on the building, one of</p> <p>16 the things we did was, we prepared an as</p> <p>17 built -- um -- which included things like</p> <p>18 measurements on the roof and ground</p> <p>19 elevations. And that was the first time</p> <p>20 that came up as an issue, that we may have</p> <p>21 exceeded the height that was allowed.</p> <p>22 If you look at the site plan, there</p> <p>23 are some building height calculations on</p> <p>24 it. Okay. It was before I was involved</p> <p>25 with this project. It was prepared by</p>

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1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25	ZBA PUBLIC HEARING  somebody else. I can't track the numbers on it. How they match up to the plan, with respect to -- staying within the 35 or exceeding. I don't understand those calculations on here.  Your Village has a rather, interesting definition of how height is calculated. Um -- essentially, for something that is peek roof. The upper level is pretty obvious, they talk about midpoint. Based on definition in the midway, between the peek in the eve.  But then they have the ground elevations that you're supposed to be considering is, it's an average at every foundation corner. This building, happens to have, in my opinion, six foundation corners. It also talks about an average at a point.  Well, you don't usually have an average at a point. You usually have at the corner, a single elevation. Now, to try and at least work within the spirit of it, there's some debate as to what	ZBA PUBLIC HEARING  MR. LOCH: I'm sorry. You want me to identify this document?  MR. MCKAY: Yes.  MR. LOCH: Yes, okay. I'm sorry. This is a document that I've titled, "AFR Project 10951 200 Route 17N. Building height definition diagram for ZBA." It's dated, "10/31/24" and copies were provided to the Board; I believe back in -- when we were here in November. I think we provided copies at that point.  Um -- there're actually were several diagrams that we used just to explain the various heights that were possible, in terms of calculations on this.  Um -- another good example is, your code also has in other sections, it says, you don't count the height that's taken up by the loading dock. In other words, if you've never ramped loading dock. And we have -- the whole back of the building is loading dock. And roughly, half of the front of the building is depressed because	ZBA PUBLIC HEARING  elevation you should be using. Because at two of the corners we have retaining walls. Is the ground elevation there where it's filled at the top of the wall? Is the ground elevation where it's all the way down at the bottom of the wall?  Since it used the term average, we looked at midway between. Um -- but because there is some ambiguity in the language, I would guess that's why the building inspector in writing the denial letter, put a range of values on it.  Um -- I have provided a -- the plans that you see in front of us, which have your code written out, a diagram. This is more schematic, not necessarily to scale for your building. But indicating how the heights are calculated. So, that's why we've asked it just to be to the height as built.  Now --  MR. MCKAY: -- Can you just state what document you're looking at? And, what page as far as that?
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<p style="text-align: right;">Page 14</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 constructed facility.</p> <p>3 (Whereupon, a discussion was held</p> <p>4 off the record.)</p> <p>5 (Back on the record.)</p> <p>6 MR. WARNER: I would like to</p> <p>7 emphasize that, the Applicant itself,</p> <p>8 according to plans that were reviewed and</p> <p>9 then permanent, based on those plans from</p> <p>10 the building inspector.</p> <p>11 Um -- as my Colleague has</p> <p>12 explained, there is ambiguity in the</p> <p>13 zoning code regarding the calculations of</p> <p>14 building height. And case law dictates</p> <p>15 that any ambiguity in the zoning code</p> <p>16 should be resolved in favor of the</p> <p>17 applicant and against the municipality.</p> <p>18 And it's because of this ambiguity</p> <p>19 and the varying height, possible height</p> <p>20 calculations which is why we're seeking</p> <p>21 the height variance as constructed. To</p> <p>22 account for the different possible</p> <p>23 permutations of the calculation of height.</p> <p>24 However, based on the Village's</p> <p>25 Consulting Engineer, Lincoln Tully, based</p>	<p style="text-align: right;">Page 15</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 on the denial letter, the height of the</p> <p>3 building only exceeds the 35 foot height</p> <p>4 restriction by 1.52 feet. Meaning, our</p> <p>5 constructed height variance is extremely</p> <p>6 minimal.</p> <p>7 Your Board's responsibility is to</p> <p>8 grant relief from the zoning code when it</p> <p>9 will not harm the neighborhood. And with</p> <p>10 respect to area variances, like, the</p> <p>11 minimal as constructed height variance</p> <p>12 that we seek here, the ZBA determines</p> <p>13 whether or not to grant an area variance.</p> <p>14 Based on a balancing test of the five</p> <p>15 factors under your Town Law.</p> <p>16 I'm going to walk through each of</p> <p>17 these five factors and explain exactly why</p> <p>18 respectfully, your Board should grant this</p> <p>19 minimal height variance here.</p> <p>20 The first factor is regarding</p> <p>21 whether an undesirable change will occur</p> <p>22 to the community character, by the</p> <p>23 granting of the height variance.</p> <p>24 An undesirable change to the</p> <p>25 character of the community will not be</p>
<p style="text-align: right;">Page 16</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 caused by granting the as constructed</p> <p>3 height variance here. Which again, is</p> <p>4 small, it's only 1.52 feet. And this is</p> <p>5 primarily due to the site topography,</p> <p>6 including both natural and manmade</p> <p>7 screening.</p> <p>8 The building is on an extreme</p> <p>9 slope. Essentially, tucked away in a</p> <p>10 lower elevation than much of the other</p> <p>11 buildings surrounding it. Um -- we --</p> <p>12 switch that --</p> <p>13 (Whereupon, a discussion was held</p> <p>14 off the record.)</p> <p>15 (Back on the record.)</p> <p>16 MR. WARNER: So, to the back of the</p> <p>17 site, behind the building you can see that</p> <p>18 there is dense tree vegetation that blends</p> <p>19 in with the building's earth and tones.</p> <p>20 And blocks view from Heritage Trail,</p> <p>21 behind it.</p> <p>22 And you can also tell that, to the</p> <p>23 side of the buildings there are other</p> <p>24 large commercial ventures. And from this</p> <p>25 vantage point you can also get a sense</p>	<p style="text-align: right;">Page 17</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 that, the building is clearly at a lower</p> <p>3 elevation than closer to Route 17M. Which</p> <p>4 is where this photo was taken. And in</p> <p>5 addition to the obvious trees in front of</p> <p>6 the building. Which is again, is more</p> <p>7 natural screening.</p> <p>8 This photo shows it was taken from</p> <p>9 the vantage point slightly east of the</p> <p>10 site. To the west of the site, is another</p> <p>11 large commercial venture. Which is Loyal</p> <p>12 Tire and Auto, which also has a large</p> <p>13 commercial parking lot in that direction</p> <p>14 as well.</p> <p>15 A -- go to the next photo please.</p> <p>16 Um -- most importantly, is to the front is</p> <p>17 Frankie's Full Auto Car Service Shop.</p> <p>18 Which primarily screens the site from view</p> <p>19 and draws view away, with its bright, red,</p> <p>20 blue, coloration. Whereas, our building</p> <p>21 here on the site, it's more drape earthy</p> <p>22 tones. And tends to blend in with the</p> <p>23 background natural screen.</p> <p>24 And if we go to the next photo,</p> <p>25 please. This is a view of head on,</p>

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<p style="text-align: right;">Page 18</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 looking directly at Frankie's Auto Car</p> <p>3 Service Shop. It's clear, you cannot see</p> <p>4 the building from this vantage point. And</p> <p>5 this is a Google Earth Street View photo,</p> <p>6 directly in front of Frankie's Auto</p> <p>7 Car Service.</p> <p>8 And you can also -- part of the</p> <p>9 reason for this is part of the site lines</p> <p>10 and the different elevations from</p> <p>11 Route 17M, compared to our building.</p> <p>12 Um -- and finally, Photo 5, please.</p> <p>13 I'll give you a few seconds to try and</p> <p>14 find the building. John, I don't know if</p> <p>15 you can maybe point it out.</p> <p>16 MR. LOCH: That's the building,</p> <p>17 right there. (Indicating)</p> <p>18 MR. WARNER: So, what he's pointing</p> <p>19 out is just the top sliver. Which is the</p> <p>20 only thing that you could possibly see</p> <p>21 from this building from Route 17M here.</p> <p>22 There are other commercial ventures and</p> <p>23 nature screening that clearly blocks the</p> <p>24 building.</p> <p>25 Again, emphasizing that our height</p>	<p style="text-align: right;">Page 19</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 variance is minimal. Um -- furthermore,</p> <p>3 in 2017, the Applicant was before this ZBA</p> <p>4 seeking a nine foot height variance.</p> <p>5 MR. MCKAY: I'm sorry, for</p> <p>6 interrupting. All those photos that you</p> <p>7 just referenced, those were the</p> <p>8 February 20th, memo to the Board?</p> <p>9 MR. WARNER: Yes, yes.</p> <p>10 MR. MCKAY: Thank you.</p> <p>11 MR. LOCH: When you're looking for</p> <p>12 this particular plan - you might not have</p> <p>13 realized, where I provided to the Board</p> <p>14 previously was, smaller copies so that</p> <p>15 every individual has it. The large one</p> <p>16 was just for me, being able to point at</p> <p>17 something here.</p> <p>18 MR. SANTIAGO: Mr. Loch, so we have</p> <p>19 the front plans are from October 31st?</p> <p>20 MR. LOCH: Yes.</p> <p>21 MR. SANTIAGO: And the smaller one,</p> <p>22 which is the second page there, was that a</p> <p>23 different date?</p> <p>24 MR. LOCH: No, same date.</p> <p>25 MR. SANTIAGO: Same date.</p>
<p style="text-align: right;">Page 20</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 MR. LOCH: It's the same thing,</p> <p>3 that's just a blown up copy, so that I</p> <p>4 could point to it in a meeting. (Handing.</p> <p>5 MR. WARNER: So, the Applicant was</p> <p>6 previously before the ZBA in 2017.</p> <p>7 However, seeking a nine foot height</p> <p>8 variance. Where is now, we're only</p> <p>9 seeking a 1.52 foot height variance.</p> <p>10 However, the ZBA determined that</p> <p>11 evenly a nine foot height variance would</p> <p>12 not cause an undesirable change to the</p> <p>13 character of the community.</p> <p>14 Therefore, our much smaller as</p> <p>15 constructed height variance, should also</p> <p>16 not cause any undesirable change to the</p> <p>17 character of the community.</p> <p>18 It's a much smaller variance in any</p> <p>19 way that you calculate it. No matter what</p> <p>20 number is used on the building inspector's</p> <p>21 denial letter, it's still a smaller</p> <p>22 variance than the nine foot height</p> <p>23 variance. That the ZBA previously found,</p> <p>24 did not have an undesirable change to the</p> <p>25 character of the community.</p>	<p style="text-align: right;">Page 21</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 Accordingly, respectfully, it would</p> <p>3 be contradictory and irrational for your</p> <p>4 Board to weigh this factor against the</p> <p>5 Applicant. There's ample New York case</p> <p>6 law that holds that ZBA's acts arbitrarily</p> <p>7 and irrationally, when they deny de</p> <p>8 minimis area variances. Or those that</p> <p>9 minimally exceed the bulk requirements.</p> <p>10 For example, in Bout versus ZBA,</p> <p>11 Oyster Bay, a Second Department case from</p> <p>12 2010. The Court held that the ZBA acted</p> <p>13 arbitrarily when it denied a area variance</p> <p>14 that was de minimis. And only minimally</p> <p>15 exceeded the bulk side yard requirements</p> <p>16 for the zone.</p> <p>17 Another example is, Staten versus</p> <p>18 Siegel, a Second Department case from</p> <p>19 1984. That affirmed a granting of a side</p> <p>20 yard variance that exceeded the side yard</p> <p>21 requirement by little over a foot. Again,</p> <p>22 de minimis area variance.</p> <p>23 The de minimis nature of these area</p> <p>24 variances, including our own 1.52 foot</p> <p>25 height variance, means that they would</p>

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<p style="text-align: right;">Page 22</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 have little to no impact. Like, the de</p> <p>3 minimis as constructed height variance</p> <p>4 that we seek here.</p> <p>5 Accordingly, this factor easily</p> <p>6 weighs in favor of granting the as</p> <p>7 constructed height variance.</p> <p>8 Um - does your Board have any</p> <p>9 questions before we move on to the second</p> <p>10 factor?</p> <p>11 MR. MCKAY: Any questions?</p> <p>12 THE CHAIRMAN: You can go ahead.</p> <p>13 MR. WARNER: The second factor is</p> <p>14 whether there's a feasible alternative to</p> <p>15 achieve the benefits sought by the</p> <p>16 Applicant. Here there's no feasible</p> <p>17 alternative to achieve the benefit sought</p> <p>18 by the Applicant.</p> <p>19 Here the benefit sought by the</p> <p>20 Applicant is the legalization of the</p> <p>21 building through a height variance. So,</p> <p>22 that the first two floors could at least</p> <p>23 be used while the Applicant addresses the</p> <p>24 mezzanine and the third-story issue. As</p> <p>25 well as, the additional parking with the</p>	<p style="text-align: right;">Page 23</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 Planning Board.</p> <p>3 The Applicant built the building</p> <p>4 pursuant to plans reviewed and permitted</p> <p>5 by the building inspector. The building</p> <p>6 cannot be legalized without a height</p> <p>7 variance. Because the building's already</p> <p>8 constructed. Therefore, the variance is</p> <p>9 necessary to achieve the benefits sought</p> <p>10 by the Applicant here. Um - therefore,</p> <p>11 there's no feasible alternative to achieve</p> <p>12 the benefits sought by the Applicant.</p> <p>13 Does your Board have any questions</p> <p>14 before we move on to the third factor?</p> <p>15 THE CHAIRMAN: No.</p> <p>16 MR. WARNER: The third factor is</p> <p>17 whether the as constructed 1.52 foot</p> <p>18 height variance is substantial. The as</p> <p>19 constructed 1.52 foot height variance is</p> <p>20 not substantial. Again, when the</p> <p>21 Applicant was before the ZBA in 2017, it</p> <p>22 was seeking a nine foot height variance.</p> <p>23 Drastically bigger than the height</p> <p>24 variance that we're seeking here. Yet the</p> <p>25 ZBA also found that a nine foot height</p>
<p style="text-align: right;">Page 24</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 variance would not be substantial.</p> <p>3 Our requested - again, it's the as</p> <p>4 constructed height variance is only for</p> <p>5 1.52 feet. Which we submit, is very</p> <p>6 minimal and respectfully not substantial.</p> <p>7 And furthermore, there's no</p> <p>8 irrational basis for the Board to divert</p> <p>9 from the New York Court precedent, that</p> <p>10 routinely upholds the granting of de</p> <p>11 minimis, relatively small variances, area</p> <p>12 variances.</p> <p>13 Furthermore, even if the requested</p> <p>14 variance is deemed substantial, it is well</p> <p>15 settled law that, substantially cannot be</p> <p>16 judged in the abstract. Rather, it's the</p> <p>17 totality of the circumstances. And</p> <p>18 whether the variance will actually have an</p> <p>19 adverse impact to the character of the</p> <p>20 community. Which goes back to the first</p> <p>21 factor that we already reviewed and went</p> <p>22 over.</p> <p>23 But again, this, minimal height</p> <p>24 variance will not have an adverse impact</p> <p>25 on the character of the community, due to</p>	<p style="text-align: right;">Page 25</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 the nature of the variance. Case law</p> <p>3 supports this, as I mentioned.</p> <p>4 In Waybill versus South Hampton</p> <p>5 Zoning Board of Appeals, a Second</p> <p>6 Department 2016, case. The court reasoned</p> <p>7 that, while we agree with the petitioner</p> <p>8 the proposed variance is substantial.</p> <p>9 However, there was no evidence that</p> <p>10 granting of the evidence would have an</p> <p>11 undesirable effect on the character of the</p> <p>12 community or the neighborhood. Or</p> <p>13 adversely impact the physical and/or</p> <p>14 environment conditions. Or otherwise</p> <p>15 result in a detriment to the health,</p> <p>16 safety and welfare, of the neighborhood or</p> <p>17 community.</p> <p>18 Therefore, even if you somehow</p> <p>19 consider a 1.52 foot as constructed height</p> <p>20 variance to be substantial, respectfully,</p> <p>21 case law dictates that it would still be</p> <p>22 contradictory and irrational for the Board</p> <p>23 not to weigh this factor in favor of the</p> <p>24 Applicant. Due to the fact that there's</p> <p>25 zero impact from this de minimis height</p>

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<p>1 ZBA PUBLIC HEARING</p> <p>2 variance.</p> <p>3 Does your Board have any questions</p> <p>4 before we move on to the fourth factor?</p> <p>5 THE CHAIRMAN: No, questions.</p> <p>6 Proceed.</p> <p>7 MR. WARNER: The fourth factor is</p> <p>8 whether there would be an adverse impact</p> <p>9 on the environment or physical conditions</p> <p>10 of this height variance. Again, the</p> <p>11 Applicant in 2017, was before your Board</p> <p>12 seeking a nine foot height variance. And</p> <p>13 the Zoning Board then, also determined</p> <p>14 that there was no impact on the physical</p> <p>15 or environmental conditions from a nine</p> <p>16 foot height variance.</p> <p>17 Respectfully, we're seeking a much</p> <p>18 less, a much smaller height variance.</p> <p>19 There should also be no impact on the</p> <p>20 physical or environmental conditions on</p> <p>21 this site.</p> <p>22 Does your Board have any questions</p> <p>23 before we move on to the fifth factor?</p> <p>24 THE CHAIRMAN: No.</p> <p>25 MR. WARNER: The fifth factor is</p>	<p>1 ZBA PUBLIC HEARING</p> <p>2 whether the alleged hardship is deemed</p> <p>3 self created. Even if your Board deems</p> <p>4 the alleged hardship is self created, this</p> <p>5 does not preclude granting the area</p> <p>6 variance. Again, this is a balancing test</p> <p>7 of considering all the relevant factors.</p> <p>8 All five of the factors and no one factor</p> <p>9 is determined. And this is supported by</p> <p>10 case law.</p> <p>11 Case law establishes that, where a</p> <p>12 height variance is the result of varying</p> <p>13 interpretations of municipal code, by</p> <p>14 different officials in response to amended</p> <p>15 building plans. It is irrational to hold</p> <p>16 that hardship is entirely self imposed.</p> <p>17 This was exactly what occurred in</p> <p>18 Mo roto V. Shire, a Second Department case</p> <p>19 from 2007. The town had a maximum</p> <p>20 building height of 35 feet. And the</p> <p>21 zoning code provided a definition of</p> <p>22 height and how it was calculating.</p> <p>23 Um -- the original town building</p> <p>24 examiner, examined the original plans and</p> <p>25 determined that height should be measured</p>		
<p>1 ZBA PUBLIC HEARING</p> <p>2 from the average grade of the ground, at</p> <p>3 the base height of the house. And that</p> <p>4 town building examiner determined that the</p> <p>5 -- a -- height of the building was</p> <p>6 35 feet.</p> <p>7 After receiving a building permit</p> <p>8 and framing the house, the Applicant</p> <p>9 modified the house. By extending its</p> <p>10 second-story over its garage, by changing</p> <p>11 the pitch of the roof. Which did not</p> <p>12 change the height of the house. The</p> <p>13 Applicant, thereafter, submitted amended</p> <p>14 building plans that depicted this</p> <p>15 modification.</p> <p>16 A different town building examiner</p> <p>17 used a different height calculation. And</p> <p>18 determined that the height of the house</p> <p>19 was 37.71 feet. Exceeding the zoning</p> <p>20 code's 35 foot height restriction.</p> <p>21 The ZBA found that the Applicants</p> <p>22 hardship was totally self imposed due to</p> <p>23 it's conduct. The Second Department,</p> <p>24 however, rejected this determination. And</p> <p>25 held that the hardship was not totally</p>	<p>1 ZBA PUBLIC HEARING</p> <p>2 self imposed because of the town's</p> <p>3 involvement.</p> <p>4 This case, with facts that are</p> <p>5 merely similar to those here, establishes</p> <p>6 that the hardship here is also not</p> <p>7 entirely self created. And, therefore,</p> <p>8 it's -- under these facts, should not be</p> <p>9 weighed against the Applicant. However,</p> <p>10 even if it is, this does not preclude the</p> <p>11 granting the de minimis 1.52 foot height</p> <p>12 variance, that we're seeking here, in the</p> <p>13 as constructed height variance.</p> <p>14 In conclusion, as a majority of the</p> <p>15 factors weighed in favor of granting the</p> <p>16 height variance, we respectfully request</p> <p>17 that your Board grant the as constructed</p> <p>18 height variance, that we're seeking here.</p> <p>19 Thank you.</p> <p>20 THE CHAIRMAN: Thank you, for your</p> <p>21 presentation.</p> <p>22 (Whereupon, a discussion was held</p> <p>23 off the record.)</p> <p>24 (Back on the record.)</p> <p>25 THE CHAIRMAN: Anybody have any</p>		

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<p style="text-align: right;">Page 30</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 questions of the presentation?</p> <p>3 I now would like to open up the</p> <p>4 meeting for the Public comments.</p> <p>5 MR. YUNQUG: I want to start off</p> <p>6 with a question.</p> <p>7 MS. HUNTER: If you come up to the</p> <p>8 microphone, speak loudly. And you might</p> <p>9 have to spell your name for the Reporter,</p> <p>10 please, thank you.</p> <p>11 MR. YUNQUG: Sure.</p> <p>12 Hi, Rob Yunqug, from Harriman</p> <p>13 Heights, here in Harriman. I heard the</p> <p>14 beginning of the presentation the term,</p> <p>15 "mix use." I'd just like you to</p> <p>16 elaborate, what you mean by, "mix use" for</p> <p>17 this facility?</p> <p>18 MS. HUNTER: He should be talking</p> <p>19 to you, not the Attorneys.</p> <p>20 MR. MCKAY: So, that's fine. He's</p> <p>21 asking the question of the, mix use.</p> <p>22 MR. YUNQUG: Yeah, I'm a little</p> <p>23 curious as to what "mix use" is in their</p> <p>24 interpretation.</p> <p>25 MR. LOCH: I don't think, "mix use"</p>	<p style="text-align: right;">Page 31</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 was used correctly in terms of the classic</p> <p>3 definition of rezoning. In this case,</p> <p>4 what we have is a use of office space and</p> <p>5 accessory storage space.</p> <p>6 MR. YUNQUG: Okay. Also, I think,</p> <p>7 there was a question on, I think, it was</p> <p>8 Slide 2. If you could put Slide 2, up</p> <p>9 please. We're also a little curious as to</p> <p>10 this particular photo here. I couldn't</p> <p>11 help but notice how many, it looks to be,</p> <p>12 windows, on these two or three levels.</p> <p>13 I don't know if that kind of makes</p> <p>14 sense but -- it just seems to be a whole</p> <p>15 lot of windows on this property for</p> <p>16 something like "mix use." I wasn't here</p> <p>17 the first session because I was in the</p> <p>18 City. I just want to get a better idea of</p> <p>19 the interpretation of why there are so</p> <p>20 many windows on this particular property?</p> <p>21 With respect, again, to the "mix</p> <p>22 use" terminology part.</p> <p>23 MR. LOCH: So, basically, what we</p> <p>24 have is for the backside of the building</p> <p>25 and roughly the front side of the</p>
<p style="text-align: right;">Page 32</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 building, there are office spaces all</p> <p>3 around the perimeter. The interior of the</p> <p>4 building is really just very, very, large</p> <p>5 spaces for storage purposes.</p> <p>6 So, the layout was, they wanted the</p> <p>7 offices ringing around on the outside of</p> <p>8 the building with windows, so every office</p> <p>9 space had adequate natural daylight. They</p> <p>10 didn't want to have offices that were</p> <p>11 essentially in the interior further end of</p> <p>12 the building.</p> <p>13 MR. SANTIAGO: Can I ask a</p> <p>14 question? Mr. Loch, right?</p> <p>15 MR. LOCH: Yes.</p> <p>16 MR. SANTIAGO: Mr. Loch,</p> <p>17 originally, you gave the presentation</p> <p>18 that included this picture, right?</p> <p>19 MR. LOCH: Yes.</p> <p>20 MR. SANTIAGO: And the same at the</p> <p>21 last visit, you said, your words and I</p> <p>22 don't want to -- I don't -- I can't say</p> <p>23 verbatim what they were. But you said,</p> <p>24 I'm not sure exactly how they calculated</p> <p>25 the distance, right. Because it didn't</p>	<p style="text-align: right;">Page 33</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 make sense --</p> <p>3 MR. LOCH: Okay.</p> <p>4 MR. SANTIAGO: When did you see</p> <p>5 that? Or when did you take over and</p> <p>6 looking at it yourself and say -- this</p> <p>7 doesn't -- it's not going to make the cut?</p> <p>8 MR. LOCH: I wasn't aware that</p> <p>9 there was an issue until we really had</p> <p>10 done an as built on it. Our firm was not</p> <p>11 involved in the initial review and</p> <p>12 approvals of this project. We were hired</p> <p>13 initially to stake it out and provide</p> <p>14 surveying services.</p> <p>15 MR. SANTIAGO: So, you were still</p> <p>16 on from 2017, onward?</p> <p>17 MR. LOCH: No. Construction, I</p> <p>18 don't think, in terms of this was until</p> <p>19 end of 2019, 2020, something in that</p> <p>20 range.</p> <p>21 No, when I said, I couldn't make</p> <p>22 sense of the calculations, this is also a</p> <p>23 page that was provided to the board. This</p> <p>24 is -- (Handing) from the original site</p> <p>25 plan. And, when I look at the numbers on</p>

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<p>1 ZBA PUBLIC HEARING</p> <p>2 there, where they say that, that's the</p> <p>3 height calculations.</p> <p>4 To me, I can't -- I can't find a</p> <p>5 correlation between those numbers and what</p> <p>6 I saw on the approved site plan for this</p> <p>7 job. So, I don't know how they were</p> <p>8 coming up with those calculations.</p> <p>9 MR. SANTIAGO: I can give</p> <p>10 you -- just looking at this, the whole</p> <p>11 entire lower level looks like, below</p> <p>12 grade. If this represents grade here --</p> <p>13 MR. LOCH: -- Yes.</p> <p>14 MR. SANTIAGO: That probably is not</p> <p>15 right.</p> <p>16 MR. LOCH: The way this building is</p> <p>17 built, basically you have the back is, the</p> <p>18 lowest level is exposed in the back of the</p> <p>19 building.</p> <p>20 MR. SANTIAGO: Okay.</p> <p>21 MR. LOCH: And it has loading docks</p> <p>22 available to it. Um -- I don't know, did</p> <p>23 you want that? (Handing)</p> <p>24 MR. SANTIAGO: I have looked at</p> <p>25 that.</p>	<p>1 ZBA PUBLIC HEARING</p> <p>2 MR. RICHMOND: I just want to</p> <p>3 emphasize what John said. So, John was</p> <p>4 retained after. Again, this building was</p> <p>5 built and received approval from the</p> <p>6 building inspector to be built as designed</p> <p>7 as it is now, in the field exists.</p> <p>8 The 1.5 foot came -- you know -- an</p> <p>9 issue, again, which is de minimis, came up</p> <p>10 only when he started doing the field</p> <p>11 survey, so we could get -- you know -- the</p> <p>12 certificate of occupancy. The building</p> <p>13 inspector in reviewing it, I honestly,</p> <p>14 have been practicing land use for almost</p> <p>15 30 years, I've never seen a building</p> <p>16 inspector not take a position of what a</p> <p>17 village code says. Which I think,</p> <p>18 highlights the ambiguity of the code here.</p> <p>19 Which, again, my colleague Aaron</p> <p>20 emphasized, needs to be constructed in our</p> <p>21 favor. But again, it looks like you're</p> <p>22 talking about a 1.5 foot variance on the</p> <p>23 height.</p> <p>24 MS. CARRILLO: Jennifer Carrillo,</p> <p>25 Harriman, New York. I just have a few</p>		
<p>1 ZBA PUBLIC HEARING</p> <p>2 questions -- um -- what is the entire</p> <p>3 height of the building complete at it's</p> <p>4 highest point?</p> <p>5 MR. LOCH: Give me a minute and I</p> <p>6 will try to give you -- what are you</p> <p>7 looking for?</p> <p>8 MS. CARRILLO: The entire height of</p> <p>9 the highest point of the building.</p> <p>10 MR. LOCH: Okay. Which face of the</p> <p>11 building?</p> <p>12 MS. CARRILLO: So, you're saying</p> <p>13 that the front of the building is taller</p> <p>14 than the back of the building?</p> <p>15 MR. LOCH: No.</p> <p>16 MS. CARRILLO: Or vise versa?</p> <p>17 MR. LOCH: The front of the</p> <p>18 building would be shorter --</p> <p>19 MS. CARRILLO: -- Okay.</p> <p>20 MR. LOCH: -- than the back of the</p> <p>21 building.</p> <p>22 MS. CARRILLO: So, I'm looking</p> <p>23 for -- I'll give you what I'm looking for</p> <p>24 completely.</p> <p>25 MR. LOCH: Okay.</p>	<p>1 ZBA PUBLIC HEARING</p> <p>2 MS. CARRILLO: So, I'm trying to</p> <p>3 get to, what is the entire height of the</p> <p>4 building? And, how are the three floors</p> <p>5 divided? What are the heights of each</p> <p>6 floor, the mezzanine, the middle floor and</p> <p>7 the -- the bottom floor? I would like to</p> <p>8 know the heights of how there're divided.</p> <p>9 MR. RICHMOND: Well, I think, John,</p> <p>10 I mean, you can't answer that question. I</p> <p>11 mean, that's why the project is at a</p> <p>12 slope, so what I think John asked, are you</p> <p>13 asking for the height of the front of the</p> <p>14 building? Or are you asking the height --</p> <p>15 MR. LOCH: -- The problem --</p> <p>16 MS. CARRILLO: -- I think, that</p> <p>17 it's really not ambiguous. I think that</p> <p>18 what I'm asking is, you have storage space</p> <p>19 on the ground level, correct?</p> <p>20 MR. LOCH: We have storage space on</p> <p>21 two levels.</p> <p>22 MS. CARRILLO: Okay. And so you</p> <p>23 have a ceiling at some point.</p> <p>24 MR. LOCH: Yes, yes.</p> <p>25 MS. CARRILLO: What is the height</p>		

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2 of the bottom, to the top of the first  
3 floor? What is the height of the bottom,  
4 to the top of the second floor? And, what  
5 is the height of the mezzanine, is what  
6 I'd like to know? That would give me the  
7 entire height of the building, would it  
8 not?  
9 MR. RICHMOND: Well, again --  
10 MR. LOCH: -- Okay. Here's the  
11 problem, that's not how the Village in  
12 their code defines the height of a  
13 building. I understand what you're asking  
14 for.  
15 MS. CARRILLO: Okay. The ceilings  
16 in here, they do have dips and -- but you  
17 can probably say that maybe, it's a  
18 25 foot ceiling on average? I mean --  
19 MR. LOCH: -- Okay. So, the  
20 question you're asking --  
21 MS. CARRILLO: -- I mean, right?  
22 So, what is average height of the --  
23 MR. LOCH: -- All right. Hold on.  
24 What I can tell you is that --  
25 MR. RICHMOND: -- Well, I think,

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2 Which are, what the project consistency is  
3 with the community character, at the end  
4 of the day.  
5 MS. CARRILLO: Well, I think we  
6 discussed the impact. And that was one of  
7 the things that prevents -- um -- zoning  
8 if there's an impact to the community.  
9 So, I think use, definitely impacts the  
10 community. Does it not? So, I want to  
11 know what it's used for?  
12 MR. RICHMOND: The use -- let's be  
13 clear, the use is approved. No one is  
14 questioning if this is an approved use.  
15 The viability and the compatibility  
16 of this use, in this district, was  
17 established in the Village code a long  
18 time ago.  
19 MS. CARRILLO: But we can't  
20 determine how high a ceiling is?  
21 MR. RICHMOND: You can determine,  
22 again, how high a ceiling is from a  
23 certain point. That's why we're asking,  
24 are you asking, from the front or the  
25 back? It's a sloped site.

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1 ZBA PUBLIC HEARING  
2 then your question, you're comparing to  
3 this room. What if, the floor of this  
4 room were at a slant? This building is  
5 built on a slope.  
6 MS. CARRILLO: So, you're not going  
7 to -- you can't at this point answer that  
8 question?  
9 MR. RICHMOND: You could not at any  
10 point answer your question because A)  
11 It's not consist with the code. And  
12 there's a definition of the code that  
13 accounts for the facts that there's  
14 geographic variability at different sites.  
15 That's why, as John explained, he  
16 talks about average grade density. When  
17 you talk about height, again, you're  
18 talking about the front.  
19 MS. CARRILLO: Maybe it would be  
20 more helpful then at the next meeting if  
21 you brought pictures of the inside of the  
22 building of how it's used.  
23 MR. RICHMOND: I don't see how the  
24 inside of the building has to do with the  
25 issue that's before the Zoning Board.

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2 MS. CARRILLO: Okay.  
3 MR. YUNQUG: What is it in the  
4 front? And, what is it in the back?  
5 THE CHAIRMAN: Just wait.  
6 MR. YUNQUG: Sorry. Apologies.  
7 Just making it easier.  
8 MR. LOCH: All right. So, the  
9 first floor level, which is accessible  
10 from the back of the building, through the  
11 second floor level. It's roughly, a 16  
12 foot difference in height.  
13 MS. CARRILLO: It slopes, is what  
14 you're saying?  
15 MR. LOCH: No, no, no slope. The  
16 ground slopes on the side of the building  
17 there's a substantial slope, that's how  
18 you get it. When you come in the front  
19 part of the building, you're basically  
20 coming into the second floor.  
21 This drops off, in the back, you  
22 have access to the first floor. Mind you,  
23 it's also with some loading dockets, so  
24 the ground is depressed a little further  
25 around there.

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1	ZBA PUBLIC HEARING	1	ZBA PUBLIC HEARING
2	From the first floor level, which	2	floor level, some office spaces, very few
3	is all the way down at the bottom, up to	3	a little bit less than we do on the next
4	the second floor level, it's roughly a	4	level. And we have the quarter building,
5	16 foot difference in height. You're	5	which is mostly storage. And actually, a
6	asking for the floor height of the	6	lot of the storage even goes up to this
7	building. One floor to the next.	7	first wall. This is more schematic, this
8	From there, up to the -- peek of	8	is not to scale. And intended to
9	the roof -- let's see --	9	be -- this is so we can explain stories
10	MS. CARRILLO: -- Is that what	10	and heights, when we're discussing with
11	you're calling the mezzanine? From there	11	the Board.
12	to the peek of the roof?	12	At the second floor level, which is
13	MR. LOCH: No.	13	here, we have offices here, we have
14	MS. CARRILLO: Okay.	14	offices here. And via, you cut the
15	MR. LOCH: And actually, we're	15	building.
16	not -- we're not addressing the mezzanine	16	The bulk of the interior of the
17	and things at this meeting. There is no	17	building is storage space, full height.
18	variance to that.	18	And actually, there's not a ceiling it
19	MS. CARRILLO: I'm sorry. I was	19	goes basically up to the roof. It's an
20	just trying to understand what floors mean	20	exposed roof system. Which -- you got a
21	what. Because of the mezzanine and --	21	steel structure installation, it's not
22	MR. LOCH: -- Okay. See if I	22	really a dropped ceiling or anything here.
23	can --	23	What will be discussed further in
24	MS. CARRILLO: -- So	24	another setting, is mezzanine use, which
25	MR. LOCH: We have, at the first	25	is basically, if you got something here,
1	ZBA PUBLIC HEARING	1	ZBA PUBLIC HEARING
2	my recollection, this is over 20 feet	2	it?
3	tall. Don't quote me on the number, I'm	3	MR. LOCH: No, that was
4	not looking it up right now. But if you	4	actually -- we've had this display at a
5	look at the office space it's only using	5	couple of meetings.
6	up nine feet of space here.	6	MS. CARRILLO: Okay.
7	Clearly, you got room for more	7	MR. LOCH: Many, many, years ago,
8	space above it. And there is some	8	they actually talked about doing a full
9	discussions regarding whether that's a	9	three-story building. Which was going to
10	mezzanine or third floor? That's not	10	be much taller than this. That was back
11	really what's in front of the Board right	11	in 2017 --
12	now. We're just worried about the overall	12	MS. CARRILLO: -- Yes, 2017.
13	height.	13	MR. LOCH: And, yes, what you see
14	The reason being in the state	14	in blue here, that was me trying to answer
15	building code, they define mezzanine, as	15	a question on the fly here. And drawing
16	not counting as another story. Because	16	on the thing.
17	the mezzanine is fully within the level	17	MS. CARRILLO: Okay.
18	it's being used for, the second story.	18	MR. LOCH: That's not what we have
19	MS. CARRILLO: No. This image is	19	-- um -- what we've got -- basically, is
20	helpful.	20	the way they define zoning, we're going
21	MR. LOCH: I hope I explained what	21	with some numbers that would be about from
22	the use is.	22	here to here. (Indicating)
23	MS. CARRILLO: I see what you're	23	Which is, they measure from
24	saying. And the one and a half, is that	24	midpoint on a roof and they measure it
25	the additional blue line that goes above	25	average ground elevation, at every

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<p style="text-align: right;">Page 46</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 foundation corner. And then you average</p> <p>3 those. And if you use those numbers you</p> <p>4 end up saying, it's about a foot and a</p> <p>5 half higher, than is allowed. That's what</p> <p>6 we're applying for, a foot and a half.</p> <p>7 It's not -- um -- it's not related</p> <p>8 to the mezzanine or third story issue with</p> <p>9 respect to it.</p> <p>10 The way they went about putting</p> <p>11 this building up is -- they got their</p> <p>12 permits in -- okay, first they got the</p> <p>13 Planning Board approval. Then they went,</p> <p>14 they got their building permits sort of</p> <p>15 incrementally.</p> <p>16 First, they got the permit, to let</p> <p>17 them get started on some of the site work.</p> <p>18 And then, they got a permit that let them</p> <p>19 do, basically, the foundation. Which</p> <p>20 covers the entire first floor. Because</p> <p>21 the back wall is concrete.</p> <p>22 Then the upper levels are actually</p> <p>23 steel framed buildings. Which are</p> <p>24 generally the order of a particular</p> <p>25 building to fit on that. And that's what</p>	<p style="text-align: right;">Page 47</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 they did.</p> <p>3 I don't know -- it seems</p> <p>4 that -- what they constructed in terms of</p> <p>5 floor levels, matches up with the site</p> <p>6 plan that was approved. There is nothing</p> <p>7 on the site plan that indicates what the</p> <p>8 peek of the roof was supposed to be at.</p> <p>9 And I don't really know exactly how they</p> <p>10 ended up with the thing, a foot and a half</p> <p>11 higher. Because as I've said, I've looked</p> <p>12 at the calculations on the site plan and</p> <p>13 the numbers don't seem to match in what</p> <p>14 you expect to see with the code. Um --</p> <p>15 MS. CARRILLO: -- Thank you.</p> <p>16 MR. LOCH: So, I hope I've answered</p> <p>17 your question.</p> <p>18 MS. CARRILLO: I appreciate your</p> <p>19 time. Thank you, very much.</p> <p>20 THE CHAIRMAN: Any more questions</p> <p>21 from the Public? Anything from the Board?</p> <p>22 MR. SANTIAGO: Mr. Loch, I think</p> <p>23 you just said it pretty well, it doesn't</p> <p>24 add up. So, that's why -- and I</p> <p>25 understand the de minimus amount according</p>
<p style="text-align: right;">Page 48</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 to Arron right? Or the legal term.</p> <p>3 But did you advise them or LLC --</p> <p>4 the building engineers that A) This</p> <p>5 doesn't make sense? You know, I think</p> <p>6 we're going to be off on the numbers even</p> <p>7 from powering the original foundation. If</p> <p>8 the slope of the roof hadn't changed</p> <p>9 -- um -- I haven't seen the original</p> <p>10 blueprints or what was proposed but</p> <p>11 -- you know -- two plus two, is usually</p> <p>12 four, so, so --</p> <p>13 MR. RICHMOND: I think what John</p> <p>14 was talking about, the original site plan.</p> <p>15 I think it's different from what the plans</p> <p>16 that were submitted to the building</p> <p>17 department. I think, John, could correct</p> <p>18 me if I'm wrong, showed the height of what</p> <p>19 we built already.</p> <p>20 MR. MCKAY: At the risk of</p> <p>21 interjecting myself in the meeting. I</p> <p>22 think that's what the question is. We</p> <p>23 understand there are certain dimensions on</p> <p>24 the site plan and cannot reconcile at this</p> <p>25 point. But I think, the question is, I</p>	<p style="text-align: right;">Page 49</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 think, the Board is asking --</p> <p>3 MR. LOCH: -- When did I know it?</p> <p>4 MR. MCKAY: Yes, that's one</p> <p>5 question. At some point an application</p> <p>6 was made for the building, for the</p> <p>7 construction permits.</p> <p>8 MR. WARNER: Yes.</p> <p>9 MR. RICHMOND: Yes.</p> <p>10 MR. LOCH: Yes. Okay.</p> <p>11 MR. MCKAY: That's really what the</p> <p>12 people are interested in.</p> <p>13 MR. LOCH: Okay. If I can. I</p> <p>14 believe I can address that. I didn't</p> <p>15 become aware that there was an issue with</p> <p>16 respect to the height. It wasn't</p> <p>17 something that I was looking at, until it</p> <p>18 was brought up after I prepared the as</p> <p>19 built. And we were trying to gear up, get</p> <p>20 ready for the C.O.</p> <p>21 If terms of permitting on the</p> <p>22 building, that was handled by architect.</p> <p>23 Who was actually the person that prepared</p> <p>24 the site plan on this. This is a copy of</p> <p>25 the approved plan. Which you have within</p>

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2 your files here.  
3 No, I did not submit a full set and  
4 everything to the Zoning Board.  
5 But what I can tell you is, nowhere  
6 on this plan, does it say what the roof  
7 pitch is. Or what the height of the peek  
8 of the roof is.  
9 MR. SANTIAGO: It doesn't say 12.2?  
10 MR. LOCH: No, it doesn't.  
11 It's -- and that's one of the things made  
12 it difficult for me. Where I look at  
13 where they're supposed to have a table  
14 here that they calculated the height of  
15 the building. And none of those numbers  
16 are something that I can look at the plan  
17 view and say, yeah, I can see where that  
18 number came from and how this works.  
19 MR. MCKAY: John, that's the signed  
20 site plan?  
21 MR. LOCH: Yes, it is. This was  
22 approved by the Village Planning Board  
23 dated 4/15/2019. So, I know that -- I  
24 have seen -- the plans for the building,  
25 the later on when the ceiling thing was up

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1 ZBA PUBLIC HEARING  
2 MR. RICHMOND: I think, the point  
3 to emphasize, our Client, the plans got  
4 approved by the building department. They  
5 abided by it. They thought -- you know --  
6 had every reasonable expectation to  
7 understand that what they were building  
8 was permitted by law, pursuant to the site  
9 plans. They had a building permit from  
10 the building inspector.  
11 Then when they turn around and  
12 C.O.'d, I think as, Aaron talked about the  
13 Moroto case, which is similar to this.  
14 They got a different code enforcement  
15 officer, that says, well, actually you're  
16 off. You got a foot and a half here too  
17 high. So, here we are.  
18 But I think, to place that on our  
19 Client, I mean, this is our fourth meeting  
20 for a foot and a half variance. I mean,  
21 for a building that's ready to be  
22 occupied. We've been trying to work with  
23 the Village and still interested in going  
24 to the Planning Board.  
25 We're here tonight for a foot and a

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1 ZBA PUBLIC HEARING  
2 and on. But at no point, was anybody  
3 doing height calculations on that.  
4 Um -- normally, that is something  
5 that -- I think, you would have for your  
6 code enforcement official, your permitting  
7 people looking at -- you know -- is this  
8 in conformance. But I don't know exactly  
9 how it occurred. I can't speak for other  
10 people's actions.  
11 MR. SANTIAGO: Sir, I know steel is  
12 not free so, I'm sure somebody was  
13 counting on how much foot of steel you  
14 guys were putting up. And not that it  
15 matters here, because we're here just for  
16 a variance issue. I don't want to drag  
17 things out.  
18 MR. LOCH: No.  
19 MR. SANTIAGO: But I'm sure  
20 somebody had to cut a check for it, at the  
21 end of the day.  
22 MR. LOCH: Yes, I'm sure somebody  
23 did. I don't know.  
24 MR. SANTIAGO: That's what I'm  
25 saying.

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1 ZBA PUBLIC HEARING  
2 half that I think, as you see from the  
3 pictures, has no real impact on the  
4 community. Which is the Zoning Board's  
5 charge.  
6 MR. LOCH: I mean, I also well, I  
7 appreciate -- you know -- the outlook that  
8 somebody is obviously paying for the  
9 steel. You tend to try to minimize, you  
10 don't buy more than you need to.  
11 Generally, these types of buildings you're  
12 also buying from stock sets. You're not  
13 getting things that are custom made just  
14 for your building. There are exceptions  
15 and I'll give you an example.  
16 The end frames on this building  
17 would probably have to be custom made  
18 because the building is skewed. It's not  
19 a right angle building. But the rest of  
20 the stuff, probably, in fact, I know,  
21 basically these were two stock sets of  
22 plans. I don't know if something said,  
23 oh, we didn't look to see what the roof  
24 pitch was.  
25 THE CHAIRMAN: Any other questions?

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2 MR. LOCH: Oh, I should also  
3 emphasize one other thing too.  
4 MR. SANTIAGO: I have something.  
5 Again, you said, those were stock plans,  
6 right? From like, an erector steel?  
7 MR. LOCH: That's how most are  
8 obtained, yes.  
9 MR. SANTIAGO: It's -- at who --  
10 chooses the roof pitch? Could that  
11 building be a flat roof perhaps? Is that  
12 possible?  
13 MR. LOCH: It's not really  
14 economical. I mean, it's much, much, less  
15 expensive to build with a proof that has  
16 pitch to it. Flat roofs are structurally  
17 more difficult. And your cost would go up  
18 substantially.  
19 MR. RICHMOND: If you're asking our  
20 Client to convert this to a flat roof now  
21 would be cost prohibited. Again, despite  
22 of all the history here and what he's gone  
23 through with the Planning Board, building,  
24 again, this is --  
25 MR. LOCH: -- Conversion was --

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1 ZBA PUBLIC HEARING  
2 curtain on this.  
3 MR. LOCH: There is one other thing  
4 I wanted to emphasize too. While we've  
5 had some discussions this evening about  
6 the mezzanine -- the additional foot and a  
7 half foot height, would not have made a  
8 difference in terms of the development of  
9 that space.  
10 We still have space above there  
11 that's not occupied. So, we didn't make  
12 the building taller so that we could get  
13 that additional space.  
14 MR. SANTIAGO: I haven't said -- I  
15 haven't looked at the original blueprints.  
16 MR. LOCH: No, I just --  
17 MR. SANTIAGO: -- and what you had  
18 to say at some point in time, I can peruse  
19 them for myself. I appreciate everything  
20 that you guys gave good evidence.  
21 MR. LOCH: Thank you.  
22 THE CHAIRMAN: Any one else in the  
23 Public have any comments? It seems like  
24 a, no.  
25 With that being said, I would like

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1 ZBA PUBLIC HEARING  
2 MR. RICHMOND: -- This roof was  
3 developed pursuant to --  
4 MR. LOCH: -- Not even close. But  
5 I would leave it initially planning the  
6 building, you would not plan something  
7 like this with a flat roof.  
8 MR. SANTIAGO: I want to take a  
9 second look at the meat and potatoes.  
10 Forgive me, because I'm just trying to  
11 catch up --  
12 MR. LOCH: No, no, we appreciate  
13 it.  
14 MR. RICHMOND: We appreciate that.  
15 MS. HUNTER: Aaron, would you  
16 please put your mic's on when you speak.  
17 THE CHAIRMAN: There're on.  
18 MR. SANTIAGO: It's on.  
19 MS. HUNTER: Is the green light on?  
20 You have to talk into the mic itself.  
21 MR. SANTIAGO: Thank you, for --  
22 MR. RICHMOND: No, we appreciate  
23 your engagement. It's refreshing, very  
24 refreshing.  
25 MR. SANTIAGO: I'm trying to

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1 ZBA PUBLIC HEARING  
2 to thank the Representatives from MYL  
3 Investors. You gathered the necessary  
4 information. I would like to -- have a  
5 discussion with the Board in private.  
6 MR. MCKAY: Attorney client  
7 session.  
8 THE CHAIRMAN: Attorney client  
9 session. We are adjourning and coming  
10 right back.  
11 MR. MCKAY: Is this --  
12 THE CHAIRMAN: Speak loud.  
13 MR. MCKAY: Well, just for the  
14 record, the Public Hearing is still open,  
15 we're just adjourning to attorney client  
16 session. And then the Board will come out  
17 and there may be additional questions.  
18 (Whereupon, the ZBA Members retired  
19 for attorney client session, as of this  
20 date.)  
21 (Whereupon, ZBA Members are all  
22 present, Public Hearing resumes, as of  
23 this date.)  
24 THE CHAIRMAN: I have the time as  
25 9:53 p.m., I have a motion to have

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<p style="text-align: right;">Page 58</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 attorney client to go back to the Public</p> <p>3 Hearing. Can I have someone second that</p> <p>4 motion?</p> <p>5 MR. SANTIAGO: I second that.</p> <p>6 MS. TORRES: I second that.</p> <p>7 THE CHAIRMAN: We have two seconds</p> <p>8 for the motion. The meeting is now back</p> <p>9 open.</p> <p>10 At this point on, I will invite</p> <p>11 each Board Member to share their views.</p> <p>12 And each feel free to discuss, any points</p> <p>13 of agreement and concern by the</p> <p>14 application presented by MYL Investors.</p> <p>15 We the Board, we use actually, I'm</p> <p>16 just going to read the framework to which</p> <p>17 we use to grant variances.</p> <p>18 "New York the authority of the</p> <p>19 Village ZBA to grant area variances</p> <p>20 governed by New York City Village Law,</p> <p>21 7-712-B3."</p> <p>22 "For an area variance which</p> <p>23 involves relief from aforementioned</p> <p>24 requirements, like, building height, the</p> <p>25 ZBA must lead in a balancing test. To</p>	<p style="text-align: right;">Page 59</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 weigh the benefits to the applicant and</p> <p>3 his potential detriment to the health,</p> <p>4 safety and welfare of the neighborhood or</p> <p>5 community. The statute requires the ZBA</p> <p>6 to consider five factors."</p> <p>7 "The first factor, is stating</p> <p>8 whether granting the variance will produce</p> <p>9 an undesirable change to the character of</p> <p>10 the neighborhood or detriment to nearby</p> <p>11 properties."</p> <p>12 "The second, whether the benefits</p> <p>13 sought to be achieved by some feasible</p> <p>14 alternative method, not requiring a</p> <p>15 variance."</p> <p>16 "Third factor, whether the</p> <p>17 requested variance is substantial."</p> <p>18 "The fourth factor, whether the</p> <p>19 variance will have an adverse effect on</p> <p>20 physical environments, conditions, in the</p> <p>21 neighborhood."</p> <p>22 "And the fifth being, whether the</p> <p>23 difficulty was self-created. Though this</p> <p>24 alone does not preclude granting the</p> <p>25 variance."</p>
<p style="text-align: right;">Page 60</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 Um -- at this point, I would like</p> <p>3 to discuss here with the Public and</p> <p>4 amongst the ZBA, whether if you consider</p> <p>5 the first factor. Granting the variance</p> <p>6 will produce an undesirable change in</p> <p>7 character of the neighborhood or detriment</p> <p>8 to the nearby properties.</p> <p>9 (Whereupon, a discussion was held</p> <p>10 off the record.)</p> <p>11 (Back on the record.)</p> <p>12 THE CHAIRMAN: I'll open up to the</p> <p>13 Village Board the ZBA, whether granting</p> <p>14 the variance will produce an undesirable</p> <p>15 change in the character in the</p> <p>16 neighborhood or in connection to the</p> <p>17 nearby properties?</p> <p>18 I'll go first. I feel that</p> <p>19 considering the evidence, considering the</p> <p>20 evidence, looking over the photos and</p> <p>21 listening to the statements from MYL</p> <p>22 Investors. 1.52 feet, is that where we</p> <p>23 are?</p> <p>24 MR. WARNER: Yes.</p> <p>25 THE CHAIRMAN: That's all we can</p>	<p style="text-align: right;">Page 61</p> <p>1 ZBA PUBLIC HEARING</p> <p>2 consider as we're discussing -- um -- as</p> <p>3 we're discussing the variance, right now.</p> <p>4 That's all they're here for.</p> <p>5 Um -- granting the variance, in my</p> <p>6 opinion, does not necessarily produce an</p> <p>7 undesirable change in the character of the</p> <p>8 neighborhood in the community. Or the</p> <p>9 nearby property.</p> <p>10 The height alone, does not create</p> <p>11 an issue for me, in my opinion. And from</p> <p>12 understanding what they presented in their</p> <p>13 evidence.</p> <p>14 Anyone else?</p> <p>15 MS. TORRES: I'm Tracey Torres. I</p> <p>16 did visit the building. And based on that</p> <p>17 one criteria, as to whether the character</p> <p>18 of the neighborhood is impacted, I say,</p> <p>19 no. I don't see the impact. So, I don't</p> <p>20 see an issue with the 1 -- the 1.52.</p> <p>21 MR. LARMARCH: I would have to</p> <p>22 agree with the two other Board Members.</p> <p>23 1.52 does not seem -- um -- you know -- a</p> <p>24 drastic change.</p> <p>25 THE CHAIRMAN: Okay. The second</p>

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2 factor -- I'm sorry, the second -- did you  
3 abstain from comment?  
4 MR. SANTIAGO: I abstained on that.  
5 THE CHAIRMAN: Okay. The second  
6 balancing factor -- excuse me, the second  
7 of the five factors are -- states whether,  
8 the benefits sought can be achieved by  
9 some feasible alternative method, not  
10 requiring a variance.  
11 I mean, you could chop off the roof  
12 but I mean, what -- you know -- how does  
13 that work, I'm not actually sure.  
14 Um -- so, I'm not sure if there -- if we  
15 could achieve -- getting it to the correct  
16 height without -- without the variance.  
17 Um -- that's pretty much my opinion on  
18 that.  
19 MS. TORRES: My opinion was that, I  
20 don't see how they can -- resolve the 1.52  
21 issue. So, I think, the variance would be  
22 needed. Because I don't see any changes  
23 happening from 1.52.  
24 MR. SANTIAGO: I will comment on  
25 that. On this line item, the second part,

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1 ZBA PUBLIC HEARING  
2 see an issue there.  
3 THE CHAIRMAN: Any comments?  
4 MR. MCKAY: Does anybody else want  
5 to comment?  
6 MR. LARMARCH: I have to agree with  
7 the two Other Zoning Board Members. 1.52  
8 is -- not a -- it's not a major or  
9 substantial increase, right now.  
10 THE CHAIRMAN: Okay. A -- on the  
11 th factor, whether the -- I'm sorry,  
12 Aaron. I apologize.  
13 MR. SANTIAGO: I'm going to  
14 abstain.  
15 THE CHAIRMAN: The fourth factor,  
16 whether the variance would have an adverse  
17 effect on physical or environmental  
18 conditions in the neighborhood. Again,  
19 we're only allowed to vote on the 1.52  
20 foot variance -- um -- I'm not sure that  
21 height is going to have a physical or  
22 environmental effect on the neighborhood.  
23 I'm looking at the photos and the  
24 evidence, the blending of the vegetation  
25 was taken into consideration, by the

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1 ZBA PUBLIC HEARING  
2 I brought up to the attention, I think of  
3 Mr. Loch and the Attorneys. And asked  
4 about a flat roof that would be  
5 -- you know -- the only thing that I could  
6 see being feasible.  
7 But -- you know -- 1.52 is de  
8 minimus. As I reflect on that -- um --  
9 it's not enough to cause a change in the  
10 existing structure.  
11 THE CHAIRMAN: Out of the three of  
12 the five factors, whether the requested  
13 variance is substantial -- you know --  
14 when I first got on the ZBA and I was  
15 understanding all of the factors  
16 -- you know -- it's a lot long. That's  
17 not what we're here for today. We're here  
18 for a 1.52 variance.  
19 And is it substantial to the  
20 overall structure. Looking at it, I can't  
21 find reason to say that 1.52 feet is  
22 substantial.  
23 MS. TORRES: I'm in the same  
24 sentiment, whether the required variance  
25 are substantial. Um -- so -- I -- I don't

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1 ZBA PUBLIC HEARING  
2 builders. It seems, for the color.  
3 Um -- again, not even up for decision  
4 about that. Only talking about 1.52 feet.  
5 So, no.  
6 Anyone else?  
7 MR. SANTIAGO: I -- I took the time  
8 to read a little bit of the -- 209-page  
9 packet, from the study that was done.  
10 There's no significant finding that  
11 anything would have a detriment towards  
12 it. However, I don't know if anyone here  
13 locally lives here -- um -- you know, I'll  
14 end it at that. So, I won't say anything.  
15 MS. TORRES: For Number 4, whether  
16 the proposed variance would have an  
17 adverse effect on the physical or  
18 environmental condition.  
19 So, we're talking, we're going up  
20 1.52. So, that space up there, in that  
21 area that's still hasn't been labelled  
22 whether, it's mezzanine or third-story,  
23 going up, is not impacting that.  
24 If it was one point -- maybe, if  
25 the building was getting this way longer

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2 and more offices, more parking, you would  
3 assume. Or more traffic, but  
4 there -- we've been told over and over  
5 again, that this, this variance that we're  
6 deciding yea or nay on, is based on 1.52,  
7 from here to here. Up this space up here.  
8 (Indicating)  
9 So, I also don't see an issue of  
10 not giving the variance based on Number 4.  
11 MR. LARMARCH: I'm going to decline  
12 to answer the question.  
13 THE CHAIRMAN: On factor Number 5,  
14 whether the difficulty was self created,  
15 though this alone, does not preclude the  
16 variance.  
17 I have to say that, MYL Investors  
18 this entire situation was self created  
19 through a series of -- you know -- checks  
20 and balances that seems like you guys did  
21 go through. You know -- some with  
22 -- um -- other employees and personnel.  
23 But -- a -- you know -- it's -- as far as  
24 the blueprints, as far as who okay'ed it,  
25 as far as, how we got here, to the point

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2 particular project. And it's -- it's  
3 interesting because when you look at the  
4 way things happen in government and you  
5 wonder why this happens, why that happens.  
6 And here, this is just one little  
7 personal experience that I'm having. And  
8 it's like, I'm so appreciative of the  
9 community members that came. But you see  
10 the frustration, because there should be  
11 more people participating and coming to  
12 events like this -- you know -- that also  
13 would help. And we need to become more  
14 proactive as citizens in Harriman.  
15 And the other piece is, so, I'm  
16 trying to catch up, I'm reading but I'm  
17 not an engineer. I can't understand  
18 things. And just like what was said, it's  
19 checks and balances and some people are  
20 here today and some people are not.  
21 And it's -- you know -- it seems a  
22 little awkward, the other meetings when  
23 it's the reaction to the ZBA Board, is  
24 like, why are we prolonging this?  
25 Now, that I'm sitting here today,

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1 ZBA PUBLIC HEARING  
2 where we need a variance.  
3 Um -- you know -- that's -- that's  
4 not what we have to vote on. We only have  
5 to vote on the 1.52 variance, was self  
6 created on. I do believe so. How, is a  
7 tough one more me, so I'll stop right  
8 there.  
9 MR. SANTIAGO: I -- a -- I think I  
10 said some statements earlier in this  
11 meeting that address the cost of issues to  
12 materials and blueprints. I also referred  
13 to your engineer. I also believe it's  
14 self inflicted, there's no question.  
15 It's hard to build a building of  
16 that size and that square footage without  
17 knowing what you're doing. That being  
18 said, we're talking about 1.52 feet here  
19 tonight. So, that is the only thing that  
20 that's in question. So --  
21 MS. TORRES: Number 5, whether the  
22 alleged difficulty was self created. Here  
23 is where for me -- you know -- I'm brand  
24 new to the ZBA Board and I think we've had  
25 maybe four or five meetings based on this,

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1 ZBA PUBLIC HEARING  
2 I'm grateful that we did say, no, let's  
3 come back another day. And it may have  
4 seemed or it seemed to me that, the  
5 interpretation is that, we don't know what  
6 we're doing and I'm learning. But  
7 -- you know -- you want to do your due  
8 diligence and you want to do right by the  
9 community.  
10 So, with that said -- I said -- I  
11 can't deny giving a variance on those  
12 four. I will say that -- you know -- the  
13 project leaders and the Client, the person  
14 who the owner who chose all this, at a  
15 certain point, ignorance is no excuse,  
16 they say.  
17 So, I do feel this was somewhat  
18 self created, that's my opinion. Because,  
19 too many numbers shifting here and there.  
20 And that kind of behavior makes it very  
21 uncomfortable for someone like me, to say,  
22 yea and nay and feel comfortable walking  
23 out in the community. Because that's who  
24 you want to do right by.  
25 And not only that, you want to set

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1 ZBA PUBLIC HEARING  
2 that precedence of respect in being  
3 professional and responsible enough, to  
4 read numbers and make sure you're doing it  
5 accordingly.  
6 So, I did feel that this whole  
7 thing blew up, because yes, it was  
8 somewhat self created. There was a lack  
9 of -- um -- being careful and being  
10 completely -- having somebody double  
11 check. And holding accountability for  
12 that part. Instead of saying, it wasn't  
13 us. So, that's my opinion. Thank you.  
14 MR. LARMARCH: We're here for,  
15 originally, we were here for multiple  
16 things. Tonight, we're only here for 1.52  
17 variance, height variance. Could it have  
18 been avoided, yes.  
19 You guys didn't have a clerk of  
20 works. If you guys had a clerk of works  
21 on the project, they would have talked to  
22 the building department a lot more. Every  
23 commercial building that's built has a  
24 clerk of works, all right.  
25 You know -- it's just, hearing

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1 ZBA PUBLIC HEARING  
2 MS. HUNTER: Yes.  
3 THE CHAIRMAN: All in favor, say  
4 Aye.  
5 MS. TORRES: I motion to support  
6 the variance.  
7 MR. LARMARCH: I second the motion.  
8 MR. SANTIAGO: I also support.  
9 MR. MCKAY: Motion to approve.  
10 Second it and now take a vote.  
11 THE CHAIRMAN: Motion to approve,  
12 second it. And, now to take a vote. To  
13 approve the variance, yes or no?  
14 MS. TORRES: Yes.  
15 MR. LARMARCH: Yes.  
16 MR. SANTIAGO: Yes.  
17 MS. HUNTER: We have four, yes's?  
18 THE CHAIRMAN: Yes, 4, yes's.  
19 MR. RICHMOND: Thank you, very much  
20 and the Board, we appreciate it.  
21 MR. WARNER: Thank you.  
22 (Whereupon, a discussion was held  
23 off the record.)  
24 (Back on the record.)  
25 THE CHAIRMAN: Okay. I'd like to

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1 ZBA PUBLIC HEARING  
2 different numbers throughout the four  
3 meetings that we had was -- you know --  
4 ridiculous. But we're only talking about  
5 a 1.52 variance, all right. That's all I  
6 have.  
7 Mike?  
8 THE CHAIRMAN: Um -- is it --  
9 (Whereupon, a discussion was held  
10 off the record.)  
11 (Back on the record.)  
12 THE CHAIRMAN: Okay. Um -- thank  
13 you. Understand, again, everyone who  
14 participated, tonight's meeting, all your  
15 input is invaluable to our process.  
16 This is a reminder the next meeting  
17 is scheduled for March 5th, 2025, at 7:30.  
18 And we'll take a full vote.  
19 May I have a motion to approve or  
20 deny --  
21 MR. MCKAY: Do one.  
22 THE CHAIRMAN: Just do one?  
23 So, the motion to approve the  
24 variance on the 1.52 foot variance at the  
25 property at 200 Route 17M?

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1 ZBA PUBLIC HEARING  
2 make a motion to have the ZBA Attorney to  
3 draft the decision for our vote tonight.  
4 MR. MCKAY: To be signed by who?  
5 THE CHAIRMAN: To be signed by me,  
6 The Chairman.  
7 MR. LARMARCH: I'll make that  
8 motion.  
9 MS. TORRES: I'll second that  
10 motion.  
11 THE CHAIRMAN: All in favor?  
12 MS. TORRES: Aye.  
13 MR. LARMARCH: Aye.  
14 MR. SANTIAGO: Aye.  
15 MS. HUNTER: That was four yes's.  
16 THE CHAIRMAN: Yes, that's four  
17 yes's.  
18 (Whereupon, a discussion was held  
19 off the record.)  
20 (Back on the record.)  
21 THE CHAIRMAN: Any announcements  
22 anybody?  
23 MS. HUNTER: That's next weeks  
24 agenda.  
25 THE CHAIRMAN: So, no.

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1 ZBA PUBLIC HEARING  
2 MR. WARNER: Excuse me, I think we  
3 need to -- set a return date. Because --  
4 MR. RICHMOND: -- Adjournment.  
5 Adjourn the Public Hearing.  
6 MR. WARNER: Adjourn the public  
7 hearing to a date certain -- um --  
8 MR. MCKAY: You know -- on the  
9 items that were held in abeyance?  
10 MR. WARNER: On the remaining  
11 variances and the zoning interpretation.  
12 So, we would suggest a tentative date in  
13 May, that you guys are meeting.  
14 MS. HUNTER: I don't have my phone  
15 with me. What's the first Monday, in May?  
16 MS. TORRES: The 7th.  
17 MR. MCKAY: Do you think that's a  
18 reasonable date to get the Planning Board,  
19 have a public hearing and come back? I  
20 mean, that's already --  
21 MR. RICHMOND: We haven't been  
22 before them. I guess, if worse comes to  
23 worse, it could be adjourned again, at  
24 that point.  
25 MR. MCKAY: Yes, thank you.

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1 ZBA PUBLIC HEARING  
2 appeared before the Planning Board yet.  
3 It'll depend -- I don't know what's going  
4 to happen.  
5 MR. MCKAY: Do you have an  
6 application yet filed with the Planning  
7 Board?  
8 MR. RICHMOND: No.  
9 MS. HUNTER: No.  
10 MR. RICHMOND: We have to file it.  
11 And I think, Monday, is the deadline.  
12 MS. HUNTER: Monday's, the deadline  
13 to be on the --  
14 MR. RICHMOND: -- April, again.  
15 MS. HUNTER: March.  
16 MR. RICHMOND: March?  
17 MS. HUNTER: We're in February.  
18 MR. RICHMOND: Yeah, yeah.  
19 MS. HUNTER: March 3rd, to be on  
20 the 17th --  
21 MR. RICHMOND: Deadline.  
22 MS. HUNTER: Agenda. Can you get  
23 it to me?  
24 MR. RICHMOND: We're going to try.  
25 MS. HUNTER: It would be May 17th,

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1 ZBA PUBLIC HEARING  
2 MR. RICHMOND: Okay.  
3 MR. MCKAY: So, I guess what I'm  
4 thinking is, if we hold it on the first  
5 week in May, the notices would have to go  
6 out by mid-April. Mid, to the third week  
7 in April.  
8 MR. RICHMOND: For what?  
9 MR. MCKAY: Well, I think, under  
10 the circumstances, since we're adjourning  
11 to a date certain, we should probably  
12 republish.  
13 MR. RICHMOND: You think we're  
14 going to have to renew? I mean, just --  
15 MR. MCKAY: -- I'm just saying,  
16 republish.  
17 MR. RICHMOND: Not re-notice?  
18 MR. MCKAY: Not re-notice but given  
19 the lapse in time.  
20 MR. RICHMOND: You mean, just in  
21 the newspaper?  
22 MR. MCKAY: Correct. With  
23 recommendation to the Board with  
24 re-notice.  
25 MR. RICHMOND: I guess, we haven't

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1 ZBA PUBLIC HEARING  
2 it would be March -- I'm sorry -- April, I  
3 don't have the schedule in front of me.  
4 THE CHAIRMAN: March 7th -- no, May  
5 7th.  
6 MS. HUNTER: Can I have that?  
7 Ermer, has it. We have certain dates for  
8 our Planing Board meetings. Thank you,  
9 Ermer. Thank you, Joe. (Handing)  
10 MR. MCKAY: You're welcome.  
11 MS. HUNTER: Our next meting for  
12 the Planing Board would be March 17th,  
13 with a March 3rd, submission.  
14 And then, the next meeting is  
15 April 21st, with April 7th, submission to  
16 the Planing Board. And that's by  
17 noontime.  
18 And then we have, May 19th, to be  
19 the next meeting. If they have a meeting  
20 on the 21st, I don't know if we're going  
21 to have a decision on the May 7th, ZBA  
22 Meeting. Do you see where I'm heading?  
23 And then -- you know -- because --  
24 April 21st -- April 21st, is  
25 before -- right after Easter. Because the

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1 ZBA PUBLIC HEARING  
2 17th, is a Friday. 18th, 19th, 20th,  
3 17th, 18th, 19th, 20th, 21st, is the day  
4 after Easter. Just putting it out there.  
5 Making sure everyone -- can see the  
6 Planning Board will be present. Make sure  
7 all my Members are not on vacation or  
8 anything.  
9 So, I'm just hesitant about the  
10 May 7th, ZBA Meeting. It might have to go  
11 to June. I'm trying to do --  
12 MR. RICHMOND: I understand, but I  
13 think we'll know by April, where we stand.  
14 MS. HUNTER: I mean -- we could --  
15 MR. MCKAY: So, I wasn't trying to  
16 make it more complicated. I think that's  
17 an aggressive deadline. But if the Board  
18 is willing to make a motion to adjourn the  
19 remainder of the variance request and  
20 interpretation to May 8th?  
21 MS. TORRES: May 8th?  
22 MS. HUNTER: May 7th.  
23 MR. MCKAY: Sorry, May 7th. If we  
24 find out prior to that date that it's not  
25 going to go, we'll let the Applicant know

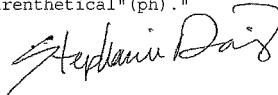
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1 ZBA PUBLIC HEARING  
2 we'll take that off and leave is as is.  
3 Okay, all right.  
4 THE CHAIRMAN: If there's no  
5 further business I'll entertain a motion  
6 to adjourn. Can I have a motion?  
7 MR. SANTIAGO: Motion to adjourn.  
8 MS. TORRES: I second that motion.  
9 THE CHAIRMAN: All in favor?  
10 MS. TORRES: Aye.  
11 MR. LARMARCH: Aye.  
12 MR. SANTIAGO: Aye.  
13 THE CHAIRMAN: This meeting is  
14 adjourned. Thank you, everyone for your  
15 participation.  
16 MR. WARNER: Thank you, everyone,  
17 again.  
18 MR. RICHMOND: Thank you.  
19 (Time noted: 10:21 p.m.)  
20  
21  
22  
23  
24  
25

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1 ZBA PUBLIC HEARING  
2 as soon as possible.  
3 MR. SANTIAGO: We'll change it.  
4 MR. WARNER: Yes.  
5 MR. RICHMOND: Yes.  
6 MR. MCKAY: And it's not published,  
7 set it for an another date. A motion to  
8 adjourn the remaining matters to May 7th,  
9 ZBA Meeting. So, you want to make that  
10 motion?  
11 MR. SANTIAGO: I'll make that  
12 motion.  
13 MS. TORRES: I'll second that  
14 motion.  
15 THE CHAIRMAN: All in favor?  
16 MS. TORRES: Aye.  
17 MR. SANTIAGO: Aye.  
18 MR. LARMARCH: Aye.  
19 THE CHAIRMAN: The date is?  
20 MS. HUNTER: May 7th, is the ZBA.  
21 (Whereupon, a discussion was held  
22 off the record.)  
23 (Back on the record.)  
24 MS. HUNTER: Yeah, I had you on the  
25 agenda for next week, for continued. But

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1 ZBA PUBLIC HEARING  
2 CERTIFICATION  
3  
4 I, Stephanie A. Colon-Davis, Certified  
5 Court Reporter, before whom this proceeding was  
6 taken, do hereby state on the Record:  
7 This to be a true and accurate  
8 transcript of the aforesaid proceeding and that due  
9 to the interaction in the spontaneous discourse of  
10 the proceedings, dashes (--) have been used to  
11 indicate pauses, changes in thought, and/or  
12 talkovers; that same is the proper method for a  
13 Court Reporter's transcription of proceedings, and  
14 that the dashes (--) do not indicate that words or  
15 phrases have been left out of this transcript;  
16 That any words and/or names which could  
17 not be verified through reference material have  
18 been denoted with the parenthetical "(ph)."  
19   
20  
21  
22 Stephanie A. Colon-Davis  
23  
24  
25 Dated: February 27, 2025

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