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Proceedings - Maximillian Holdings LLC

APPLICATION FOR ZONING VARIANCE

IN THE MATTER OF

MAXIMILLIAN HOLDINGS LLC
68 Washington Avenue

Applicant.

200 Cedarhurst Avenue
Cedarhurst, New York

February 14, 2023
7:02 p.m.

B E F O R E

MEIR KRENGEL, Chairman

MICHAEL BLEIBERG, Board Member

JARED CLARK, Board Member

DAVID SHTEIERMAN, Board Member

YOEL GOLDFEDER, Village Attorney

WAYNE YARNELL, Supt. Bldg. Dept.

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2 CHAIRMAN KRENGEL: Good evening,
3 everyone, and welcome to the Cedarhurst Board
4 of Zoning Appeals. Tonight we will have a
5 continuation of the hearing known as Number 18
6 of 2022. It's the application with regard to
7 the address of 68 Washington Avenue in the
8 Village of Cedarhurst. There is a proposal,
9 an application to build a multifamily building
10 in an R1 zone consisting of 17 units and three
11 stories. The village attorney will now read a
12 statement into the record.

13 MR. GOLDFEDER: This application has
14 been submitted to the Nassau County Planning
15 Commission for review, and by resolution at
16 its regular meeting held on December 15, 2022,
17 the Nassau County Planning Commission has
18 recommended that the Village of Cedarhurst
19 take the action that it deems appropriate. In
20 addition to the foregoing, at the November 15,
21 2022 meeting, a member of the committee,
22 Michael Bleiberg, was unable to attend and has
23 fully read the transcript and is prepared to
24 take part in these deliberations.

25 CHAIRMAN KRENGEL: Good evening once

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2 again. Just to summarize where we stand as of
3 this evening, as the village attorney said, we
4 have had a hearing about two months ago where
5 the applicant presented their case. There was
6 time for comment from the public whether for
7 the application or against the application.
8 We are continuing the hearing at that time as
9 we did not have the application from Nassau
10 County, which subsequently we did receive and
11 also to give the village time to order its
12 review for its own traffic study which we did
13 receive and will be commenting on this
14 evening.

15 That being said, this hearing will be
16 open once again to a review of the entire
17 application, and there will be time for
18 comment from the public. That time may be
19 restricted depending on the amount of people
20 that wish to speak this evening. That will be
21 determined later on this evening and if there
22 is more time needed, there will be a period in
23 writing or there will be another hearing which
24 again will be determined later on this
25 evening.

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2 Now, to continue the hearing, we would
3 like to ask the applicant to or its
4 representative please step forward.

5 MR. BONESSO: Good evening, Mr.
6 Chairman, members of the Board. William
7 Bonesso, Forchelli Deegan Terrana, 333 Earle
8 Ovington Boulevard, Uniondale, New York, here
9 on behalf of the applicant, Maximillian
10 Holdings LLC. As noted by the chairman, this
11 is a continued hearing, the last one occurring
12 back in November. And at that hearing, the
13 applicant presented his full case using the
14 testimony and evidence presented by the
15 applicant's architect, his consultant on this
16 project, Mr. Ari Brown, and two experts, real
17 estate expert who indicated for the record
18 that the application that the project proposed
19 was one appropriate for the site and the
20 location and would not have a negative impact
21 on surrounding property values or the
22 character of the neighborhood and from a
23 traffic expert who provided a report based
24 upon an analysis and study that was performed.
25 That report finding that the project would not

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2 have a negative impact on traffic or
3 noticeable impact on traffic and that the
4 parking proposed for the site can fully
5 accommodate the needs of the project.

6 As noted, this application was continued
7 after the public comment was provided and the
8 -- for two reasons. One to get the
9 recommendation of the Nassau County Planning
10 Commission, which as noted by counsel to the
11 Board, they came back with a recommendation of
12 local determination, which is as close as they
13 come to basically indicating no objection.
14 And the -- and also to permit a study to be --
15 the R & M study to be reviewed by the
16 village's own traffic experts.

17 So we really don't have a direct
18 presentation here this evening, but we are
19 here, we are prepared to respond to public
20 comment and to any questions that the Board
21 may have. We did provide at the last -- at
22 the last meeting a list of -- rather a
23 collection of letters in support of the
24 application from many of the people who were
25 most affected. I would like to add another

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2 letter this evening. We have a letter from
3 Shira Litvak, 77 Carman Avenue, who has
4 provided a letter in support of the
5 application. She resides direct -- on Carman
6 Avenue, catty-corner to the property. And we
7 also -- I believe I already provided these to
8 Mr. -- to Mr. Yarnell. Copies of letters from
9 both Lawrence-Cedarhurst Fire Department and
10 HAFTR indicating no opposition or no position
11 on the project, certainly not opposition.

12 The other thing I am going to provide is
13 just a marked up radius if you will showing in
14 yellow the lots -- the parcels that are in
15 support of the application, and you can see
16 from that, we have a lot of local support.
17 But beyond that, that's our quote, unquote,
18 direct presentation. We are -- as indicated,
19 we are prepared to respond to any questions of
20 the Board and any public comment.

21 CHAIRMAN KRENGEL: Thank you. First I
22 would like to call up Mr. Eschbacher who was
23 retained on behalf of the village to review
24 the traffic study and to comment on the same.

25 State your name and address for the

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2 record.

3 MR. ESCHBACHER: Sure.

4 CHAIRMAN KRENGEL: I would just ask you
5 to explain what your methodology was. You did
6 your own report, did you review an existing
7 report, and what your conclusions were.

8 MR. ESCHBACHER: Certainly. Good
9 evening, Mr. Chairman and members of the
10 Board. My name is Robert Eschbacher. I am a
11 senior transportation consultant with VHB
12 Engineering, located at 100 Motor Parkway in
13 Hauppauge. I am a licensed professional
14 engineer in New York and have been involved in
15 traffic engineering projects over on Long
16 Island for the past 48 years. My firm VHB was
17 retained by the village to review and evaluate
18 the traffic analysis prepared by R & M
19 Engineering which they did on behalf of the
20 applicant for the project.

21 The scope of my work included a review
22 of the R & M documents, an evaluation of the
23 reasonableness of their assumptions, findings,
24 and conclusions, my personal observations of
25 traffic conditions on five different occasions

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2 that were specified by the village,
3 essentially Wednesday, Friday, during school
4 arrival and school dismissal periods, and also
5 Sunday at midday period. Since the R & M
6 study did not include all five of these
7 periods, I asked them to conduct some
8 additional traffic counts to -- so that all of
9 these periods would be included. They have
10 done that, and they have prepared a
11 supplemental report which I then reviewed.
12 After reviewing all of the information, I
13 prepared a letter report which was submitted
14 to you setting forth my findings and
15 conclusions which I will briefly summarize at
16 this time.

17 The first major aspect that I reviewed
18 was their methodology. In other words, how
19 they went about their work in preparing the
20 traffic study. I found that the R & M
21 methodology is consistent with standard
22 transportation engineering practices for
23 preparing traffic impact studies, and they
24 used widely accepted engineering manuals to
25 assess the project's impacts, the same way I

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2 would on my own personal projects. The second
3 thing I looked at was their traffic count
4 information. As I just mentioned, they
5 conducted an original series of counts and
6 then they conducted the additional counts in
7 accordance with the village's request. The
8 time periods at which they conducted the
9 counts were reasonable, and they were
10 performed in the typical manner for traffic
11 studies.

12 One of the most important parts of the R
13 & M study was the trip generation projection
14 methodology. This process is used to analyze
15 how much traffic would be created by the
16 proposed 17-unit apartment building during the
17 peak 1-hour periods. To do this, R & M used
18 the trip generation manual published by the
19 Institute of Transportation Engineers. This
20 is a widely accepted reference publication
21 used by traffic engineers including myself.
22 The projections that they developed based upon
23 this manual showed that the project would
24 generate nine trips during the busiest hours
25 of the week. This would generally be the

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2 evening commuter peak on a weekday. These
3 nine trips during the 16-minute period would
4 be equivalent to adding one trip along
5 Washington Avenue every six or seven minutes.
6 It is important to note that the actual number
7 of trips is likely to be somewhat less since
8 the availability of bus service and the Long
9 Island Railroad will result in some
10 non-driving trips. This is because the
11 project is commonly referred to as TOD or a
12 transit-oriented development. So the nine
13 trips that they use were not reduced to
14 account for these factors, making it a very
15 conservative analysis.

16 I then reviewed their intersection
17 analysis. This was performed by R & M, and it
18 indicates that the small number of trips will
19 not have a noticeable change to the traffic
20 delays or the operations of the nearby traffic
21 signals. The way they are operating today,
22 the small amount of delay that drivers
23 experience when they stop at the red lights
24 will not change by any measurable amount.
25 Finally, the Long Island Cedarhurst Fire

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2 Department had been contacted with regard to
3 this project, and in a letter, the chief
4 stated, and I quote, "I am not opposed to nor
5 support the new proposed building project on
6 Washington Avenue and Carman Avenue for the
7 Fire Department. The Fire Department does not
8 comment regarding any building project unless
9 it directly prohibits our operation."

10 So in conclusion, based upon my
11 evaluations of the R & M documents and my
12 field observations, I concur with the
13 assumptions, analyses, and results contained
14 within the R & M traffic assessment and their
15 supplemental analysis. I would be happy to
16 answer any questions that the Board may have.

17 CHAIRMAN KRENGEL: Thank you. Any
18 questions from members of the Board? Any
19 questions?

20 MR. SHTEIERMAN: No.

21 MR. ESCHBACHER: Thank you.

22 CHAIRMAN KRENGEL: Mr. Bonesso, I know
23 -- I believe in your introduction comments you
24 discussed some of the dimensions of the
25 building and I believe you did that with

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2 regard to an R1 zone; is that correct?

3 MR. BONESSO: Correct.

4 CHAIRMAN KRENGEL: I don't believe you
5 addressed if there would be a multifamily
6 zone, how these buildings would be -- would be
7 in conformance or not in conformance.

8 MR. BONESSO: Well, I did touch upon
9 that in the last -- at the last hearing. But
10 in terms of the variances, the relief we need
11 are from the R1 zoning district.

12 CHAIRMAN KRENGEL: So this is a use
13 variance?

14 MR. BONESSO: Correct. It's a use
15 variance, but we also need area variances as
16 well and what I indicated at the last hearing
17 is the following: The district requires
18 25-foot front yard setback. The main portion
19 of the building will be 25 feet back but a
20 small portion of the building extends into the
21 front yard setback leaving 19.9 feet. So we
22 need a front yard setback variance for that
23 portion of the building. On our northerly
24 side yard abutting the parking lot, we have
25 setbacks that range from 11.3 feet, 9.7 feet,

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2 and 6.3 feet from various points on the
3 building while 20 feet is required. So we
4 need side yard setback variances for those --
5 for those items.

6 In our rear yard we have setbacks of
7 10.1 feet and 22.2 feet where 25 feet is
8 required. We also have a building area
9 variance requirement of 50 -- that we are at
10 52.3 percent. While in the Resident 1
11 district you are permitted 30 percent, in the
12 multifamily district you would be permitted 50
13 percent but you are only permitted 30 percent
14 in the R1 district.

15 And then lastly we have a variance
16 required for being three stories whereas only
17 two and a half stories are permitted, but that
18 said, we do meet the 30-foot height limitation
19 that applies to the R1 height limitation or
20 the R1 height requirements. And we did point
21 out that there are any number of homes along
22 Washington Avenue that are 30 feet and some
23 that are higher.

24 CHAIRMAN KRENGEL: The multifamily
25 requirements I believe are not the same as the

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2 R1 setback and side yard. Setbacks are not
3 the same in multifamily zone than they would
4 be in an R1 zone.

5 MR. BONESSO: Correct.

6 CHAIRMAN KRENGEL: Your numbers are a R1
7 zone using a multifamily, so we may have to
8 address that at a later time.

9 MR. BONESSO: I'm sorry. In what regard
10 because the zoning district is the R1 zoning
11 district?

12 CHAIRMAN KRENGEL: Understood but the
13 building you propose to build is a multifamily
14 building.

15 MR. BONESSO: Right, in the R1 zoning
16 district, so the setback requirements for the
17 R1 zoning district are the requirements that
18 still apply. In some cases that helps us; in
19 some cases that hurts us. For example, in the
20 multifamily district as noted, you are allowed
21 a 50 percent building area, but in the R1
22 district it only permits 30 percent. So
23 that's a larger variance that we need.

24 MR. GOLDFEDER: However, even in a
25 multifamily zone you are allowed 50 percent,

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2 but you are looking to occupy 52.3 percent
3 which exceeds the multifamily.

4 MR. BONESSO: No, I understand. It's a
5 smaller variance, but we still need the
6 variance.

7 MR. SHTEIERMAN: I have a question.
8 Regarding the height, so you mentioned the
9 houses on the block are 30 feet high but
10 that's to a ridge point and most of them have
11 sloped roofs, so you would also need a
12 character of roof variance as the roofs would
13 be flat 30 feet high.

14 MR. BONESSO: I don't know that was
15 identified as a variance being required, but
16 if that's the case, is a flat roof prohibited?

17 MR. GOLDFEDER: Correct.

18 MR. BONESSO: Okay. Then yes, we need
19 that variance as well.

20 MR. SHTEIERMAN: That would be an
21 additional variance.

22 MR. BONESSO: Yes. We do have a mansard
23 roof so there is something of a pitched roof,
24 but you are right. The majority of the roof
25 is flat.

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2 MR. SHTEIERMAN: I believe you are
3 limited to 200 feet of flat roof in
4 residential.

5 CHAIRMAN KRENGEL: It would be some -- a
6 variance would be required for that.

7 MR. SHTEIERMAN: So that would be an
8 additional variance. How did you address the
9 character of the district with this variance?

10 MR. BONESSO: Well, I will allow our
11 representative from the architect's office to
12 address that in greater detail, but as you saw
13 from the design, we tried to make the building
14 look far more residential than quote, unquote
15 more institutionalized style building. Adding
16 the mansards, providing residential-style
17 windows which -- building -- putting recesses
18 in the building, using, you know, more
19 house-like colors and materials.

20 MR. SHTEIERMAN: Allow me to clarify,
21 please. When I talk about character, A,
22 aesthetics, true, B, massing, the bulk of the
23 building, and C, the use, a 17-family
24 building. How do you feel that it addresses
25 and falls in the character of the

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2 neighborhood? So one of the requirements we
3 have is to look at character.

4 MR. BONESSO: Okay and we had testimony
5 from our real estate expert who appeared last
6 time and indicated because of the mixed
7 development in the area, yes, there are
8 single-family homes to the south along
9 Washington. To the north you have a parking
10 lot. Along the entire other side of the
11 street you have institutional uses, synagogue,
12 a school, and the Lawrence-Cedarhurst Fire
13 Department building. So consequently the mix
14 of uses in the area in his expert opinion
15 would not generate any negative impacts to the
16 character of the neighborhood. That's all in
17 the testimony already provided.

18 MR. SHTEIERMAN: We are talking about
19 the buildings across the street which is
20 another village. I don't know if we should be
21 looking at it but talking about that, has
22 anybody looked at what the coverage is, the
23 lot coverage of those buildings versus what is
24 being proposed here?

25 MR. BONESSO: We have not provided that

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2 information -- we can provide that information
3 if the Board wishes but we do not -- we don't
4 have that information presently.

5 MR. SHTEIERMAN: Thank you.

6 CHAIRMAN KRENGEL: Thank you. We are
7 going to go to public comment for the moment.
8 We may go back to direct. Just by show of
9 hands, who in the audience, whether for or
10 against this application, wishes to speak for
11 the evening, whether for or against? Anybody
12 who would like to speak or say anything? So
13 by a show of hands, whoever would like to
14 speak this evening, just get a count to see
15 about where we are.

16 We are going to start -- we are going to
17 limit it to three minutes a person to start
18 with. Three minutes to start with. That's
19 it.

20 MR. ERBIS: Why just three minutes? He
21 just had 20.

22 MR. GOLDFEDER: Just to clarify, that is
23 the applicant's representative who is
24 presenting his case. This is open to the
25 public. There is no right for the public to

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2 speak. As a courtesy -- there is an order to
3 this. We have members of the audience who
4 would like to speak. Everybody would be given
5 an opportunity to speak and it's just limited.
6 That's what it is.

7 CHAIRMAN KRENGEL: In addition to that,
8 as I said in the beginning, if there is more
9 time needed, we will either reopen it or allow
10 for written comment after the hearing.

11 SPEAKER: Can a member of the audience
12 give their time to somebody else?

13 CHAIRMAN KRENGEL: No. Would anybody
14 who would like to speak in favor of this
15 application, please step forward.

16 MR. GOLDFEDER: Just to clarify, when
17 you step forward, please state your name and
18 address for the record.

19 MR. QUENZEL: Good evening. My name is
20 Arthur Quenzel, Q-U-E-N-Z-E-L. I live at 60
21 Washington Avenue in Cedarhurst, and I have
22 listened to a lot of the --

23 CHAIRMAN KRENGEL: Where is that
24 relative to the proposed project?

25 MR. QUENZEL: I am one property south.

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2 One property south.

3 MR. BONESSO: He is the next-door
4 neighbor.

5 CHAIRMAN KRENGEL: In layman's terms.

6 MR. QUENZEL: One property south. I am
7 one property south. I have been living in the
8 area for many, many years since 1973. And all
9 of the other people who want to speak this
10 evening are very, very dear friends of mine
11 and neighbors for many years. I have been
12 here since I said 1973. I listened to a lot
13 of the comments and a lot of the information,
14 and I have come to the conclusion that even
15 though there are people who object to it,
16 which is their right and their privilege just
17 like it's my right and my privilege, I am for
18 the project.

19 CHAIRMAN KRENGEL: Thank you very much.
20 I appreciate your comment. Anybody else would
21 like to speak in favor? Please step forward.

22 MRS. LITVAK: Hi. My name is Shira
23 Litvak. I live at 77 Carman Avenue. I am a
24 neighbor to this project. Last meeting I was
25 here feeling upset and angry like many of you

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2 sitting here right now. Another development
3 in our neighborhood and this time was really,
4 as we say, hitting home. Right across the
5 fence. My husband and I decided to move from
6 Argentina to Carman Avenue to raise our
7 beautiful family here because we loved the
8 rural life, but at the same time we wanted to
9 be walking distance to Cedarhurst shops,
10 cafes, supermarkets, restaurants as we had
11 back in our city of Buenos Aires.

12 After last meeting, I met with many of
13 my friends on our coffee shop on Central
14 Avenue. I was discussing to them this
15 upcoming Washington project. My friends
16 shared that they are not lucky as me to have
17 my parents living nearby in Lawrence. They
18 would like to have their parents in close
19 proximity especially at this point of their
20 lives where they are getting older and require
21 more attention from their children. And there
22 are really not too many options for them to
23 downsize here in the Five Towns area. The
24 Washington project would be a really good
25 place for their parents because they have

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2 everything accessible and walking distance to
3 Shul, supermarkets, pharmacy, park, and shops.
4 This idea made them feel somewhat excited.

5 I did have a lot of concerns regarding
6 Carman Avenue turning into Brooklyn. However,
7 while learning more about the Washington
8 project and looking at the blueprints and
9 design, I noticed that the architecture
10 looked -- had great consideration in keeping
11 Cedarhurst beautiful and rural as it is now.
12 The structure is being kept at the height of
13 other houses on my block, not causing to stick
14 out like a sore finger even though we have the
15 building across the street. Also, the roof is
16 designed in a dark color to give a low
17 impression, fitting with the rest of our
18 block.

19 You are probably sitting here thinking
20 that I received any sort of compensation to
21 support the Washington project or this \$15,000
22 that everyone is talking about. No. I
23 haven't received a cent. I am here to
24 advocate for the community and their needs. I
25 am here to support the Washington project. At

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2 the end of the day, we are welcoming our
3 family back. Yes, I will be giving up some
4 sunlight and view from my kitchen window but
5 gladly welcome others to enjoy Cedarhurst,
6 especially Central Avenue, with the beautiful
7 shops and restaurant, coffees, and park as
8 much as I do. I am here to support the
9 project.

10 CHAIRMAN KRENGEL: Thank you. Anybody
11 else would like to speak in favor of this
12 project?

13 MR. SIMON: My name is Alan Simon, 284
14 Central Avenue, Lawrence, New York. I am not
15 in support of the project. I believe that the
16 vast majority of citizens of Lawrence and
17 Cedarhurst are not in support of it.
18 Regardless of that, we all know what's going
19 to happen here. We are going to hear from the
20 experts, we are going to see glossy pictures,
21 we are going to see men in nice suits, and
22 then it will be passed like everything else.

23 According to the Village of Cedarhurst
24 website, one of the provinces of the Zoning
25 Board is to prevent overcrowding of land, to

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2 avoid undue concentration of population, and
3 to make provisions so far as conditions may
4 permit to accommodate solar energy. You are
5 not following that at all obviously. I am
6 glad that you are following the law that I was
7 versed, the three-minute law, but you are not
8 following the law that is Section 4704-A/A
9 1108-A, which is part of the New York State
10 Open Meetings Law which says that you have to
11 post all your minutes online. You are not
12 doing that. That is against the law. Any of
13 your meetings that went on and you did not
14 post possibly could have -- an aggrieved party
15 could protest. So if you are going to follow
16 the law, please follow the law.

17 If you are going to put on your website
18 that you are trying to prevent
19 overconcentration of buildings, please do
20 that. If you are not going to do that, please
21 take that off your website and think about
22 something more appropriate. We have all seen
23 this. It's Groundhog Day all over again. We
24 all know what's going to happen. So it's sort
25 of -- I don't want to say a sham. There is

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2 probably a better word but that is my feeling
3 and I appreciate your listening to me.

4 CHAIRMAN KRENGEL: Thank you. Anybody
5 else would like to speak in favor of this
6 application? It was supposed to be. Okay.
7 Now open comments to those against this
8 application.

9 CHAIRMAN KRENGEL: Just for the record,
10 Mr. Michael Hatten who I guess is about to
11 speak as submitted some exhibits for the Board
12 to review and the Board will take it under
13 review at a later time this evening or at a
14 later date.

15 MR. HATTEN: Is it to be in the official
16 proceedings? Exhibits as well?

17 CHAIRMAN KRENGEL: Do we take exhibits
18 from the audience? Yes. We will make it part
19 of the record. Public comment 1.

20 (Public Comment Exhibit 1, Documents
21 from Michael Hatten, marked for
22 identification, as of this date.)

23 MR. HATTEN: As everybody knows, my name
24 is Michael Hatten. I live at 56 Washington
25 Avenue. I have been there for 25 years. My

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2 lovely wife and son are here this evening to
3 hear my comments. Anybody who knows me knows
4 that five minutes is not enough or three
5 minutes is not enough for me to make the
6 points, and I have given you a rather
7 voluminous information to look over. I think
8 -- I believe I am the only one here tonight
9 that has actually FOILED the complete
10 documentation that was submitted by
11 Maximillian Holdings and I have had about two
12 months to look it over and in the last five
13 days I was given the opportunity by Yoel to
14 memorialize the information. There you have
15 it. It is a rather extensive seven-page
16 narrative regarding the opposition to this use
17 variance.

18 So while my comments I hope will get an
19 opportunity to continue this at some point
20 during the evening, but I do want to point out
21 something that's rather important that the
22 mayor had mentioned to me and he was weighing
23 the balance of those in our community who are
24 for this project and those in the community
25 who are against this project, and from what I

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2 hear, from what I see and from the testimony
3 and everything I read through all the
4 documentation, there is only a handful of
5 people that are actually for this project.
6 Most of them have a financial interest. So I
7 wanted to ask what was the community's
8 position, what do the community members see,
9 or how do they look at this use variance
10 application, and what do they feel about its
11 approval. I pay 350 dollars to a blank to put
12 out to the residents of the community the
13 following information: If you were against
14 this project, please put your name, your
15 e-mail address, and sign it and tell everybody
16 in public whether you felt this was a good
17 project. You have a copy of the Five Towns
18 Central piece that I am referring to. 224
19 residents signed that application. 224. If
20 you know anything about putting out a
21 petition, you know that 224 people signing a
22 petition, putting down their e-mail address,
23 and identifying themselves is quite
24 extraordinary. This application -- and I
25 probably am running out of time.

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2 CHAIRMAN KRENGEL: Forty seconds.

3 MR. HATTEN: I am going to go pretty
4 much to the back of it and again, hope I get
5 an opportunity to expand on these thoughts.

6 CHAIRMAN KRENGEL: If you want to give
7 some bullet points, we will review your
8 narrative.

9 MR. HATTEN: Okay. I don't know what
10 that point means.

11 CHAIRMAN KRENGEL: Okay.

12 MR. HATTEN: It's pretty hard. It's
13 seven pages and it's comprehensive and I get a
14 few minutes to articulate but let me go to --

15 CHAIRMAN KRENGEL: Your three minutes is
16 up. We will give you another minute.

17 MR. HATTEN: I will just have to read it
18 fast. This use variance application is
19 unpopular, and completely disregards health
20 and safety. You can read through what I
21 actually found in the application. It is
22 riddled with false claims and misleading
23 representations. I was told by the mayor that
24 if they found misleading representations and
25 false claims in this application that he would

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2 find it very troublesome and it's also they
3 have manufactured a self-created hardship and
4 I outlined that in pretty extensive ways
5 showing you that this property was sold for 3
6 million dollars, a portion \$1,350,000 to
7 Washington Avenue, \$1,650,000 to the
8 properties over on Carman.

9 The property -- according to the real
10 estate experts, the applicant overpaid for the
11 property by half a million dollars. It's
12 probably pretty close to accurate, thus
13 creating a position that is ripe for a
14 hardship application. They failed on all of
15 the levels of that and I hope I get an
16 opportunity to let the general public hear
17 exactly how they failed on that and where this
18 application fails as far as it's -- the
19 telling of the truth.

20 There is a -- what I will do one. I
21 will just do one. You will have an
22 opportunity to read the others. It's pretty
23 blatant, and it's really put in here so that
24 you can have the benefit of approving this
25 application based on absolutely false

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2 testimony. Page 2 of 4, you will see that it
3 starts -- the first sentence says, "The
4 property was vacant and has been vacant for
5 over 14 years".

6 That's not true. That's a
7 misrepresentation. But I believe it was put
8 in there so that you would feel anything going
9 in there now would actually be better than
10 something that's been unoccupied for 14 years.

11 CHAIRMAN KRENGEL: Do you know how many
12 years it was vacant for?

13 MR. HATTEN: Yes. As soon as they
14 bought it, renters stayed in this building for
15 years and years and years. I hardly remember
16 a time where there wasn't somebody in there
17 until it was sold to Maximillian Holdings so
18 that's a false claim and application.

19 CHAIRMAN KRENGEL: Mr. Hatten, you are
20 almost at six minutes already. Give some
21 people a chance and maybe we will come back to
22 that and maybe review this and maybe keep the
23 hearing open.

24 MR. ERBIS: I would be open to yield
25 time to him.

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2 CHAIRMAN KRENGEL: Next person. Who
3 would like to speak?

4 MR. ERBIS: Thank you for having me. My
5 name is John Erbis. I live at 40 Washington
6 Avenue, been there for 47 years. I would like
7 to speak about transparency. Just want to
8 make a few comments. Sam Nahmias --

9 MR. GOLDFEDER: Excuse me, sir.

10 MR. ERBIS: I have been through the
11 meetings since it started and are you Sam?

12 MR. GOLDFEDER: Excuse me, sir.

13 MR. BONESSO: You don't get to question
14 our witnesses.

15 MR. GOLDFEDER: Sir, let's just clarify.
16 Everybody is welcome to make a statement to
17 address the Board.

18 MR. ERBIS: I apologize. It hasn't been
19 mentioned that Sam Nahmias is chairman of the
20 Nassau County Bridge Authority.

21 CHAIRMAN KRENGEL: Okay.

22 MR. ERBIS: Never been mentioned. So
23 why do I have to mention it?

24 MR. CLARK: Why did you mention it?

25 MR. ERBIS: Excuse me?

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2 MR. CLARK: Why did you mention it?

3 MR. ERBIS: I think it's important. You
4 got a chairman of the Bridge Authority, you
5 got a deputy mayor in charge -- meeting with
6 neighbors, offering bribes, payoffs, to --
7 hold on, let me finish -- to beautify the
8 neighborhood. You are going to beautify a
9 neighborhood, why are you painting somebody's
10 kitchen? Why are you buying a new stove?
11 Does that beautify the neighborhood?

12 To me all these people coming up, they
13 are my neighbors. I live with them. They are
14 coming up here telling you it's a great idea,
15 we love it. Yeah, who is getting a
16 washer/dryer? Who is getting carpeting? We
17 know who we are. Okay. Fifteen thousand
18 dollars each and the grand payoff is to my
19 neighbor. To be determined how much money she
20 gets.

21 CHAIRMAN KRENGEL: Who is she?

22 MR. ERBIS: Well, my neighbor. I don't
23 want to mention her name.

24 CHAIRMAN KRENGEL: Okay.

25 MR. ERBIS: But you know her. She came

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2 up and spoke in approval of the project.

3 CHAIRMAN KRENGEL: Okay.

4 MR. ERBIS: I live with her. I have to
5 live with her when I leave this building, so I
6 won't mention her name. He knows. Anyway
7 when something is -- when we have omissions
8 from the truth, I would call it a lie. All
9 right. We have a lot of omissions going on on
10 this project. Thank you.

11 CHAIRMAN KRENGEL: Thank you.

12 MS. LEVINSON: Barbara Levinson from
13 Lawrence. First of all, living in a nice --

14 CHAIRMAN KRENGEL: What's your address,
15 please?

16 MS. LEVINSON: Oh, I'm sorry. 38
17 Herrick Drive. When I look at this and I say
18 I bought my house in a nice residential area
19 and to think that somebody can buy the
20 property next door and put in an apartment
21 house up next to me is frightening, but aside
22 from that, this gentleman who is talking about
23 the traffic, he is assuming two people in the
24 apartment and taking the train to New York and
25 are not going to be around here. Which is not

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2 very realistic. But let me go a little bit
3 further. I believe you have approved Pearsall
4 Avenue --

5 CHAIRMAN KRENGEL: That is incorrect.
6 This Board was not a party to any approval nor
7 did we hear that case at all. This Board had
8 nothing to do with the approval of that case.

9 MS. LEVINSON: Okay. But it's
10 Cedarhurst, it's going up in Cedarhurst, and
11 how he can discuss traffic from Washington
12 Avenue and not take into consideration what's
13 going up on Pearsall is like blinding your
14 eyes to one part. And the other is very
15 important and the area is a nightmare to get
16 around. It's not just Washington Avenue; it's
17 Broadway. I mean, if I go from Rockaway
18 Turnpike to Woodmere Boulevard, it could take
19 me 20 minutes. I could walk it faster than
20 you can drive and you are adding another 200
21 apartments between everything and has to be
22 thought of as a whole. Not each part
23 individually. Thank you.

24 CHAIRMAN KRENGEL: Thank you very much.

25 (Discussion off the record.)

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2 MS. SAFRA: Hi, I'm sorry. I am going
3 to use my phone because my notes are on here.
4 Thank you for having another public meeting
5 about this ill-conceived plan.

6 CHAIRMAN KRENGEL: Just give your name
7 and address.

8 MS. SAFRA: Rena Safra, 23 Iris Street,
9 Cedarhurst. I just want to reiterate that a
10 project of this magnitude at this location at
11 the present time is just about the worst idea
12 ever. The builders and their architects and
13 their traffic experts claim this is best,
14 actually the only option for this property.
15 They claim there will be no additional
16 traffic. In fact, they claim adding a 17-unit
17 building will improve traffic. Oh, please.
18 We live here; we know how bad traffic is and
19 we won't be gaslit by the builder's team of
20 experts.

21 Perhaps the biggest concern is an
22 elected official, so not one but two
23 government offices, one of the men who
24 literally appointed you to the Cedarhurst
25 Zoning Board has come up with a way to ask for

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2 approval on a project in which he owns a
3 stake. How can anyone say no to their own
4 deputy mayor? This is a prime example of the
5 fox guarding the henhouse and it's got to
6 stop. That house should be torn down and
7 replaced with another single-family home or
8 two-family home or even three or four
9 townhouses, not 17 apartments. Or better yet
10 replace it with a parking lot. Something that
11 is desperately needed for the deputy mayor's
12 beloved village and business district.

13 In the past few years there have been so
14 many meetings about overdevelopment here in
15 the Five Towns. The overwhelming majority of
16 residents are anti-overdevelopment. It's not
17 just Washington Avenue. It's not just
18 Pearsall Place or the Woodmere Club or the
19 myriad of projects being built in North
20 Lawrence and Inwood. It's the totality of
21 them all that's going to destroy us. The
22 fatal flaw in all the traffic studies you are
23 so proud of presenting don't take any of these
24 future projects into consideration. Traffic
25 is already a nightmare. You know it, we know

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2 it, and Nassau County leaders know it. That's
3 why they have extended building moratoriums
4 for another year, and that's why Nassau County
5 Executive Bruce Blakeman is fighting to keep
6 zoning in the hands of local towns.

7 Governor Kathy Hochul would absolutely
8 love this project. At this rate she won't
9 even have to change any laws. If you allow
10 this to pass, it's open season on the Village
11 of Cedarhurst. You will set a dangerous
12 precedent where anyone can get a variance to
13 change their single-family home to a
14 multifamily dwelling. Is this what we want?
15 Is this why we all chose to live in the Five
16 Towns so that we can turn it into the sixth
17 borough? We are supposed to be fighting Kathy
18 Hochul on this, not doing her bidding.

19 You have a choice tonight. Be brave.
20 Reject this project in its entirety. Keep the
21 zoning as is. Don't be a part of the problem.
22 Do the will of the people and be part of the
23 solution. Thank you.

24 CHAIRMAN KRENGEL: Anybody else would
25 like to speak? Anybody of the lawyers would

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2 like to speak? We are going to take a
3 five-minute break and come back.

4 (Recess taken.)

5 CHAIRMAN KRENGEL: Back on the record.
6 Based on the testimony and evidence submitted
7 to date, the Board is not inclined to approve
8 the application --

9 MR. BONESSO: Mr. Chairman, I'm sorry.
10 I don't get to respond to the public comment?

11 CHAIRMAN KRENGEL: No.

12 MR. BONESSO: That's unheard of with all
13 due respect. I mean, the process that every
14 board that I have ever gone before is the
15 applicant gets a closing statement and gets to
16 respond to public comment.

17 CHAIRMAN KRENGEL: We are not -- let me
18 finish my statement and then we can have a
19 discussion. Based on the testimony and
20 evidence submitted to date, the Board is not
21 inclined to approve the applications as is.
22 However, before we take a formal vote on the
23 matter, we would like to give the applicant a
24 chance to substantially revise their plans and
25 resubmit. Off the record, please.

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2 (Discussion off the record.)

3 MR. BONESSO: Mr. Chairman, I have had a
4 conversation with my client, the applicant,
5 and at this time he has indicated to me that I
6 should advise the Board that we are not
7 prepared to modify the application in any way,
8 shape, or form. It is not economically
9 feasible for a project of a different size to
10 work here, and consequently we are asking the
11 Board to decide the case as it's been
12 presented.

13 CHAIRMAN KRENGEL: Do you have any
14 response or closing statement?

15 MR. BONESSO: I would merely add in
16 connection with the testimony that has been
17 taken, the public opposition that's been
18 offered is along the lines of what I said at
19 the last hearing, and that is that this is --
20 this Board is being asked to deny this because
21 it's unpopular. This Board is being asked to
22 deny this because it should send a message to
23 Kathy Hochul. None of these are
24 justifications for a denial or an approval for
25 that matter. The Board has to apply the law.

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2 The law, as the Board well knows, sets forth
3 criteria for the Board to consider, and that
4 criteria has to be applied.

5 We believe based upon the expert
6 testimony that we have presented, based upon
7 the architect's testimony, based upon the
8 history of the site that the property cannot
9 yield a reasonable return as zoned, that it's
10 a unique property, that it will not negatively
11 impact the community, and that this is not a
12 self-created hardship. Those are the
13 standards for a use variance. With regard to
14 the area variance, though they may be
15 substantial in number, they are not
16 substantial in effect because of the
17 mitigating circumstances that we outlined in
18 our last presentation.

19 So when all is said and done, ,we
20 believe that the evidence and testimony
21 supports the application. And any assertion
22 that this is unpopular or unsafe -- I mean, we
23 have expert testimony, not only our own but
24 the expert testimony of the village's own
25 traffic expert that this will not create

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2 traffic hazard or traffic congestion, that the
3 impact will be negligible and unnoticeable.
4 So consequently, we believe that the standards
5 have been met and that the application is
6 approvable and we would ask the Board to
7 approve the application. Thank you.

8 (Discussion off the record.)

9 CHAIRMAN KRENGEL: Okay. Back on the
10 record. Based on Mr. Bonesso's testimony, is
11 there a motion from the Board to make a
12 decision this evening or to close the hearing
13 and come to a vote at a later date? A motion
14 from the Board.

15 MR. CLARK: I move to vote.

16 CHAIRMAN KRENGEL: Just for procedure, I
17 believe it's a simple majority. Simple
18 majority is needed to approve or deny which
19 tonight would be -- there are four members
20 here this evening, which means you have to
21 have three votes either way to approve or deny
22 and I am the last vote. So my vote may or may
23 not count. Motion to --

24 MR. CLARK: Move to vote.

25 MR. SHTEIERMAN: Denied.

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MR. CLARK: Denied.

MR. BLEIBERG: Denied.

CHAIRMAN KRENGEL: Three votes denied.

The application is denied.

(Time noted: 8:26 p.m.)

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C E R T I F I C A T E

STATE OF NEW YORK)

: ss.

COUNTY OF QUEENS)

I, YAFFA KAPLAN, a Notary Public
within and for the State of New York, do
hereby certify that the foregoing record of
proceedings is a full and correct
transcript of the stenographic notes taken
by me therein.

IN WITNESS WHEREOF, I have hereunto
set my hand this 1st day of March, 2023.

YAFFA KAPLAN

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