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TOWN OF WESTFIELD
BOARD OF ADJUSTMENT

IN RE :
PUBLIC HEARING - SPECIAL MEETING :
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TRANSCRIPT OF PROCEEDINGS
ADOPTED AS MEETING MINUTES
WEDNESDAY, April 19, 2023

MUNICIPAL BUILDING
425 EAST BROAD STREET
WESTFIELD, NEW JERSEY
COMMENCING AT 7:30 P.M.

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B E F O R E :

FRANK FUSARO, CHAIRMAN

CHRIS MASCIALE, VICE-CHAIRMAN

MATT SONTZ, MEMBER

CAROL MOLNAR, MEMBER

PAUL EILBACHER, MEMBER

SAMUEL REISEN, SECOND ALTERNATE

- - -

JENNY MANCE, ZONING OFFICIAL/ASST. PLANNER

A B S E N T :

MICHAEL COHEN, MEMBER

OMAR KARAME, MEMBER

A P P E A R A N C E S :

WELLS, JAWORSKI & LIEBMAN, LLP
BY: KATHRYN J. RAZIN, ESQ.
Attorney for the BOARD

SAVO, SCHALK, CORAINI, WARNER, GILLESPIE,
O'GRODNICK & FISHER, P.A.
BY: MATTHEW R. FLYNN, ESQ.
Attorney for the APPLICANT VALUCA REALTY

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I N D E X
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STATEMENT BY THE CHAIRMAN	4
ROLL CALL	5
APPROVAL OF MINUTES: N/A	
ADOPTION OF RESOLUTIONS: N/A	

- - -
A P P L I C A T I O N
- - -

ZBA 23-18
 VALUCA REALTY, LLC
 232 SAINT PAUL STREET
 BLOCK: 3113, LOT: 10
 REPRESENTED BY: MATTHEW R. FLYNN, ESQ. 6

<u>WITNESS</u>	<u>PAGE</u>
MATT BEVACQUA	10/12
THOMAS LUZZI	26/46

<u>EXHIBIT</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
	NONE MARKED	

*MOTION TO UPHOLD THE ZONING OFFICER'S DECISION	41
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*MOTION TO APPROVE THE APPLICATION WITH CONDITIONS	53
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P R O C E E D I N G S
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(Whereupon, the Pledge of Allegiance was recited.)

CHAIRMAN FUSARO: Good evening.

This is a special meeting of the Board of Adjustment for the Town of Westfield at which formal action may be maybe taken. The public will have the opportunity to be heard as the Board considers this applications. Adequate notice of this meeting was provided by posting on the bulletin board of the town tall, mailing of the notice to the Westfield Leader, the Newark Star Ledger, and filing with the Town Clerk of the Town of Westfield all in accordance with the requirements of the Open Public Meetings Act.

Kathryn Razin, our Board Attorney, will give a brief statement explaining the Board of Adjustment's powers, purpose, and criteria for granting variances.

MS. RAZIN: Good evening. The Zoning Board has the power to grant variances from the zoning ordinance. The Board can only grant a variance in accordance with the Municipal Land Use

1 Law, and these can be (d) type use variances or
2 (c) bulk variances. In all cases, it is the
3 Applicant's burden to prove his or her case, and
4 the Applicant must demonstrate that the granting
5 of the variance will not create substantial harm
6 or negative impacts to the public, or substantial
7 impact to the intent and purpose of the zoning
8 plan.

9 CHAIRMAN FUSARO: Thank you, Katie.
10 Jenny, can you please call the roll?

11 MS. MANCE: Sure. Chairman Fusaro.

12 CHAIRMAN FUSARO: Here.

13 MS. MANCE: Vice-chairman Masciale.

14 MR. MASCIALE: Here.

15 MS. MANCE: Mr. Cohen is absent.
16 Mr. Sontz.

17 MR. SONTZ: Here.

18 MS. MANCE: Ms. Molnar.

19 MS. MOLNAR: Here.

20 MS. MANCE: Mr. Karame is absent.

21 Mr. Eilbacher.

22 MR. EILBACHER: Here.

23 MS. MANCE: Mr. Reisen.

24 MR. REISEN: Present.

25 MS. MANCE: Thank you. Since there

1 are no meeting minutes or resolutions that we need
2 to address due to the fact that this is not a
3 regularly scheduled meeting but a special meeting.
4 We'll move right into the application for this
5 evening.

6 This evening's application being
7 heard is ZBA Number 23-18 Valuca Realty, LLC, 232
8 Saint Paul Street. The Applicant has filed an
9 application for the change in use and occupancy of
10 a rental unit located on the lot known as 232
11 Saint Paul Street, Block: 3113, Lot: 10. The
12 change in use would be to allow Applicant's
13 proposed tenant to occupy the rental unit for use
14 as a satellite office supporting the entity's
15 logistics business located offsite. The Applicant
16 requests the following relief from the town's
17 Zoning Board of Adjustment: (a) an overturning of
18 the zoning officer's February 12, 2023, decision
19 finding the proposed satellite office as not
20 permitted in a P-1 zone; (b) an interpretation of
21 Section 11.20a of the Town's Land Use Ordinance in
22 the Applicant's favor finding the proposed as
23 permitted; or (c) a use variance under NJSA
24 40:5D-70(d)(1) to permit the satellite office in
25 the P-1 zone. Waivers are also requested for the

1 submission of a formal site plan, and the
2 Applicant is currently the contract purchaser for
3 the subject lot and has consent of the owner to
4 bring the within application.

5 Please come forward. I just want to
6 make you aware that if the appeal of the zoning
7 officer's determination of February 13, 2023, is
8 not granted, then the application will move toward
9 a request for a d(1) variance which shall require
10 five affirmative votes from our board. Please
11 state your name and address for the record and
12 spell your name.

13 MR. FLYNN: Sure. Matthew Flynn.
14 I'm from the Law Office of Savo Schalk in
15 Somerville. We're 56 East Main Street in
16 Somerville, New Jersey. I am the attorney on
17 behalf of the Applicant, Valuca Realty, LLC. And
18 everything you stated, Mr. Chairman, is correct.
19 We wanted to preserve all of our options when
20 coming to the board tonight. We are aware that if
21 our appeal on the interpretation challenge is
22 unsuccessful, we are prepared to seek the d(1) use
23 variance approval for occupancy for one of the
24 units as a satellite office.

25 As you stated, the Applicant is the

1 contractor purchaser of the lot known as
2 Block: 3113, Lot: 10 in your tax records better
3 known as 232 Saint Paul Street. We are here this
4 evening, we do appreciate the board convening a
5 special meeting to hear the application. We
6 realize that this board gets quite busy and we
7 really appreciate it.

8 With that being said, we did have a
9 hiccup heading here this evening. We received
10 very, very late notice that our professional
11 planner who was planning to testify, John
12 McDonough, from John McDonough and Associates. We
13 also had contacted his associate, also Matthew
14 Flynn, to present testimony in support of the
15 variance request tonight. I do have the
16 principal, the Applicant, here with me to be sworn
17 in and basically state what he wants to do with
18 the property. We feel that this occupancy of this
19 site is a very small change and less intensive
20 than what is normally permitted in these units of
21 the P-1 professional office zone. We're talking
22 about -- and, again, he'll testify to this -- but
23 the Applicant and one other employee occupying the
24 site. There won't be any customers. There's no
25 traffic. It's a perfect use and repurposing of

1 one the of units.

2 That being said, we do understand if
3 the board does require professional planning
4 testimony in support of the application. And
5 perhaps, Mr. Chairman, just in all transparency,
6 if we can get our planner here tonight; great.
7 Otherwise, we defer to the discretion of the board
8 as to what proofs that you'll ultimately require.

9 MS. RAZIN: Just to clarify. Did he
10 indicate -- and I know John's schedule, I do know
11 that this does happen with John. I've had this
12 happen with John, so I understand. He's a lovely,
13 very professional, wonderful planner.

14 MR. FLYNN: He's the best.

15 MS. RAZIN: But it does happen. So
16 what did he...?

17 MR. FLYNN: He's in another town and
18 he's going to try to be available later tonight;
19 if at all possible. But also, I have an Applicant
20 here who is a contract purchaser and doesn't want
21 his deal to fall through. And we do think, again,
22 it's a very minor repurposing of the site. And we
23 would hope that the Board can understand the
24 circumstances and look favorably upon the
25 application. So I guess we'll start with the

1 Applicant, and then we'll see sort of how it goes.
2 And, again, I'm open to whatever you feel
3 Mr. Chairman.

4 CHAIRMAN FUSARO: Thank you.

5 MR. FLYNN: So with that, I'd like
6 to have Matt Bevacqua, who is the principal of the
7 LLC sworn in for operational testimony.

8 CHAIRMAN FUSARO: Good evening,
9 Mr. Bevacqua. Please come to the mic and state
10 your name and address for the record and spell
11 your name for the secretary.

12 MR. BEVACQUA: Sure. Matthew
13 Bevacqua, 542 Arlington Avenue, Westfield. The
14 last name is B-e-v-a-c-q-u-a.

15 CHAIRMAN FUSARO: Please raise your
16 right hand.

17 MATT BEVACQUA, having been duly
18 sworn, was examined and testified as follows:

19 CHAIRMAN FUSARO: Please proceed.

20 MR. MASCIALE: Hold on, Frank, for
21 one second. Can we just go over what we're --
22 because I know we're going to hear the appeal of
23 the zoning officer's decision. I just want to
24 make sure I understand because we're hearing
25 testimony. Is his testimony only in regard to the

1 zoning officer or are we starting -- or we have to
2 start at the use case if we go to the "d."

3 CHAIRMAN FUSARO: Certainly, yes.

4 As we stated in the application, there are
5 basically two questions before us. And if we go
6 with one question, then it will possibly trigger
7 the second one. The first question before us is
8 as I've stated, the zoning officer has made a
9 determination that the use that you are requesting
10 is not permitted in the P-1 zone. That is the
11 zoning officer's decision. You have asked us to
12 weigh in on that. We can certainly address that
13 first if you like or would you like to hear
14 testimony with respect to the zoning officer's --
15 or to us agreeing or not agreeing with the zoning
16 officer's determination?

17 MR. MASCIALE: If there's testimony
18 with regard to the zoning officer's decision from
19 the Applicant, I think we should probably hear
20 that first.

21 CHAIRMAN FUSARO: So why don't we
22 proceed with that portion of it, and then we'll
23 make a determination as to whether we agree with
24 the zoning officer's determination or not. And
25 then we can continue if we go down the road of the

1 d(1) variance.

2 MR. FLYNN: Okay. And I don't think
3 the two are necessarily not interrelated. I mean
4 we're ultimately going to say what he's going to
5 do on the site, and then you can determine with
6 question one, how the board feels; and then
7 question two, whether that furthers the proofs for
8 the potential variance.

9 BY MR. FLYNN:

10 Q. Mr. Bevacqua, can you just describe
11 your relationship to the Valuca Realty, LLC?

12 A. This property -- I have a logistics
13 business and came upon the property just to use as
14 an office for myself and another employee. And
15 coming to the knowledge that in a P-1 zone, it
16 would be less intensive -- and, you know, than
17 owner that's there, for my business because we
18 just want to move in, use the computer and a
19 phone; that's it. You know we're not having
20 customers or trucks. Nothing is coming there.
21 There is a P-1 professional renting in one of the
22 spaces in there. And I would like to use a space
23 for myself and one other employee. And then offer
24 the additional space to other P-1 professionals
25 that want to rent it. You know, it needs a little

1 upkeep and I'm willing to do that and offer this
2 space to P-1 professionals. I just want to use
3 the space for myself, you know, as a satellite to
4 conduct business just to -- you know, phone,
5 computer, that's it. I'm only a couple of blocks
6 away from where I live so for me I can walk there.
7 We would have one car for the other employee and
8 that's it. We don't anticipate any traffic or
9 anything like that. We'd be extremely quiet. And
10 like I said, offer space to other professionals
11 that will need it in a nice setting. That's it.

12 Q. When you mentioned that you have a
13 logistics company, can just go through what you do
14 on a day-to-day basis?

15 A. Right. So our logistics is we deal
16 with export containers, containers going to and
17 from the port. We are a hauler of wastepaper
18 recycling. So environmental various customers;
19 things like that. But in no way coming here, it's
20 all offsite at those lotions. We just need an
21 area where we can use our computer and our phone
22 and that's pretty much it.

23 Q. Where are you doing this now?

24 A. We're based out of Newark.

25 Q. When you say you desire a satellite

1 office, are you onsite in Newark every day or are
2 you home or a combination?

3 A. Mostly working from home. Just
4 because of some of the hours that we put in, it's
5 just more convenient. That's all we need. We
6 don't need to travel just to get to Newark just to
7 use the technology that's there. It would just be
8 much more simpler and easier for us to have
9 someplace that's a little bit closer.

10 Q. So you basically have a
11 work-from-home capability now and you'd like to
12 occupy this unit to transfer that work-from-home
13 capability into this unit at 232?

14 A. Correct.

15 Q. Can you be a little bit more
16 specific with the board with what precisely you'd
17 like to do there once you occupy?

18 A. Once we occupy, you know, the
19 facility needs a little bit of upkeep. It needs
20 just flooring and painting and things like that.
21 It needs to get a little more updated to have
22 other P-1 professionals to come in and occupy that
23 space. Like I said, there is one occupant in
24 there. That's in a space that's fine for them and
25 they are willing it stay. So that's why we tried

1 to help that professional stay.

2 Q. And what does that tenant do?

3 A. They're a therapist, from my
4 understanding.

5 Q. Let's say that the Board were to act
6 favorably on what you're looking for here tonight,
7 and you are able to occupy that unit; can you take
8 me through, you arrive at work, what's your
9 day-to-day operation as you're running this
10 operation from this satellite location?

11 A. Basically just coming in and, you
12 know, using the computer for the spreadsheets and
13 the systems that we use to run the operation.
14 It's very simple. It's just, you know, go on the
15 computer that we need to contact our customers.
16 That's basically it. We're just sitting at a
17 desk. We don't have anyone visiting us. We just
18 need that space to run the business.

19 Q. How many employees would be at this
20 site?

21 A. There would just be two.

22 Q. You and one other?

23 A. Correct.

24 Q. And she's employed by you now?

25 A. Yes.

1 Q. And what are your general hours of
2 operation?

3 A. Some would be -- some of the drivers
4 are up earlier -- it can be 6:00 to 2:00, you
5 know. There could be days where we just work from
6 home, we don't go there or just one of us is
7 there, or neither of us is there. It just depends
8 on the schedule. Or if I have meetings somewhere,
9 I won't be there so it would be one person. But
10 that's generally it. Sometimes we wrap things up
11 2:00/3:00 in the afternoon. And like I said,
12 there will be no additional cars or anything like
13 that. One, maybe two at most. That's it.

14 Q. So you operate sort of a traditional
15 logistics hours of operation and that they're off
16 hours from your normal 9 to 5 peak hours?

17 A. Yeah. We're not working Saturdays
18 or Sundays. Just Monday through Friday; normal
19 house.

20 Q. And you would match your hours
21 working this satellite office when you are there
22 with the hours that you have people out of in the
23 field; so to speak, 6:00 a.m. or 7 to 2:30 or
24 3:00?

25 A. Right.

1 Q. And I know you mentioned parking
2 briefly, but you and the other employee, maybe one
3 to two parking spaces per day?

4 A. That's right.

5 Q. And no customers or additional
6 visitors to the site?

7 A. Uh-uh. (Indicating in the negative.)

8 Q. Any deliveries or anything like
9 that?

10 A. No.

11 Q. And you said most days, weather
12 permitting, you would walk because you're two
13 blocks away?

14 A. Correct.

15 Q. And do you sense any conflicts you
16 would have in occupying with the other tenant on
17 site or any of the other surrounding property
18 owners?

19 A. No.

20 Q. Very low-intensive use?

21 A. Exactly.

22 MR. FLYNN: I have no further
23 questions at this time.

24 CHAIRMAN FUSARO: Thank you. I'm
25 going to just ask a couple of questions. You've

1 answered some of them. One of my questions was
2 the hours of operation. You basically said there
3 are no weekend hours. It's generally a weekday
4 operation. Sometimes earlier in the morning. I
5 believe that you mentioned that you live on
6 Arlington.

7 MR. BEVACQUA: Yes.

8 CHAIRMAN FUSARO: Which is several
9 blocks -- I live in the neighborhood as well, so I
10 know that it's close by. You've confirmed that
11 there will only be in your office two employees;
12 yourself and another employee. How many people
13 currently work in the therapist's office?

14 MR. BEVACQUA: One.

15 CHAIRMAN FUSARO: One therapist plus
16 her clients -- his or her clients?

17 MR. BEVACQUA: Yes.

18 CHAIRMAN FUSARO: And the parking
19 requirements; currently the building only has one
20 tenant, so I assume there are no issues. You, at
21 most, will have two vehicles. And you said that
22 you are looking to possibly bring in another P-1
23 professional tenant into the building. What
24 percentage of the building is currently occupied
25 by the therapist's office, approximately?

1 MR. BEVACQUA: She occupies one
2 office. There is another space on the first floor
3 and then there's the upstairs which is all vacant.

4 CHAIRMAN FUSARO: Am I to assume
5 that there are currently three tenant spaces in
6 the building? Or four or two or one? You tell
7 me.

8 MR. BEVACQUA: The upstairs;
9 there're three rooms upstairs, so they could be
10 individual. You know, essentially, they're just
11 one-room offices. Really for one person.

12 CHAIRMAN FUSARO: So the current
13 therapist occupies a suite on the first floor?

14 MR. BEVACQUA: Yes.

15 CHAIRMAN FUSARO: And you would
16 occupy a suite on the first floor?

17 MR. BEVACQUA: Yes.

18 CHAIRMAN FUSARO: And the second
19 floor is vacant?

20 MR. BEVACQUA: Yes.

21 CHAIRMAN FUSARO: Okay. It could
22 possibly be one additional tenant and possibly
23 two?

24 MR. BEVACQUA: Yes. Yeah, one could
25 take them all upstairs.

1 CHAIRMAN FUSARO: So in total, there
2 could be four tenants in the building. Would you
3 say that's accurate?

4 MR. BEVACQUA: Yes.

5 CHAIRMAN FUSARO: You've confirmed
6 the location of your logistics company; its main
7 operation is in Newark?

8 MR. BEVACQUA: Yes.

9 CHAIRMAN FUSARO: And none of those
10 operations are going to be transferred to this
11 location?

12 MR. BEVACQUA: No.

13 CHAIRMAN FUSARO: The current
14 tenant, the child therapist, what lease terms do
15 they currently have; do you know?

16 MR. BEVACQUA: It's A
17 month-to-month.

18 CHAIRMAN FUSARO: It's
19 month-to-month?

20 MR. BEVACQUA: Yeah.

21 MR. FLYNN: And you're -- sorry,
22 Mr. Chairman -- and you would be interested in
23 keeping that tenant long-term; if possible?

24 MR. BEVACQUA: Yes.

25 MS. MOLNAR: How many parking spaces

1 are there currently?

2 MR. BEVACQUA: Five. I think five,
3 plus, there is a garage.

4 CHAIRMAN FUSARO: It's a two-car
5 garage.

6 MR. BEVACQUA: There's a two-car
7 garage and I believe there are five spaces in the
8 back.

9 MS. MOLNAR: Can you park in the
10 garage or is it filled with stuff?

11 MR. BEVACQUA: The owner is
12 occupying one side. He has somebody renting his
13 second space. But, yes, cars could fit.

14 MS. MOLNAR: It's not available
15 then?

16 MR. BEVACQUA: I don't know what the
17 current owner's plan is. Like, yes, he would be
18 moving his contents out of his space. I don't
19 know what the agreement is with the second space.

20 MR. REISEN: On that agreement, when
21 you say "rents to someone" are you saying they
22 just rent a spot or someone is living in there?

23 MR. BEVACQUA: Yeah, they're renting
24 it to put contents.

25 CHAIRMAN FUSARO: It's being used as

1 a storage unit.

2 MR. BEVACQUA: Yeah.

3 MS. MOLNAR: So there're three rooms
4 upstairs, that's three tenants, and one room
5 downstairs for the therapist and one for you;
6 that's five tenants, five parking spots right
7 there. Plus, you and you're going to have an
8 assistant. Now we're up to six parking spots.

9 MR. FLYNN: Well, that's actually
10 one of the reasons that we feel this application
11 is so appropriate is because if the Board were to
12 find that this is not a professional office use, a
13 professional office, in your ordinance, requires a
14 higher parking demand than a non-professional use.
15 We're basically taking a property that, as we can
16 see from the board here, that with a full
17 occupancy of five total tenants may have parking
18 concerns, and we're saying we're taking some of
19 those away because we are required to have less
20 parking with a general office use as opposed to a
21 professional office. So should the Board not look
22 favorably on our application/interpretation
23 request, I would submit that one of the things
24 that support a variance, in this case, is the fact
25 that the Applicant's change in use proposed

1 requires less parking.

2 MS. MOLNAR: How many parking spots
3 right now are required for this building?

4 MR. FLYNN: So the P-1 zone, it's
5 one space per 200 square feet of area. General
6 office is one space per 250 square feet of area.
7 And I believe the building in total -- I think
8 it's 2,400 square feet.

9 MS. MOLNAR: Let's see.

10 CHAIRMAN FUSARO: Based on those
11 numbers, it would appear that they would need
12 approximately 10.

13 MS. MOLNAR: Ten spots.

14 CHAIRMAN FUSARO: About 2,500 square
15 feet, 250 square feet --

16 MS. MOLNAR: Does he need a use
17 variance -- does he need a variance for the
18 parking?

19 MR. FLYNN: I would submit not at
20 this time because we're only proposing the change
21 in use. And if it's an existing nonconformity;
22 this tenant requires less parking as a general
23 office as opposed to a professional office, and
24 therefore, it wouldn't trigger a variance
25 exercising or surcharging preexisting

1 nonconforming.

2 MS. RAZIN: There's no change to the
3 conditions?

4 MR. FLYNN: Right.

5 MS. MOLNAR: Okay. So it's
6 preexisting is what you're saying?

7 MR. FLYNN: Right. The law exists
8 and the spaces exist as they did if all were to be
9 occupied as P-1 professional office tenants.

10 CHAIRMAN FUSARO: And, Jenny, do you
11 know -- I know there's a parking lot on that
12 street, is there a time limit on the parking on
13 that street? Do you know?

14 MS. MANCE: Not that I'm aware of,
15 no.

16 AUDIENCE MEMBER: There is.

17 CHAIRMAN FUSARO: We'll bring you up
18 in one second, sir. Any other Board Members have
19 any other questions at this time for the Applicant
20 or their attorney?

21 MR. REISEN: Just the therapist
22 doesn't have like a scheduler or assistant that
23 goes there too?

24 MR. BEVACQUA: The times that I've
25 been there, I've only seen the therapist and one

1 client. That's it.

2 CHAIRMAN FUSARO: Thank you.

3 MR. FLYNN: And just because this
4 issues will come up. Based on your personal
5 observations of the parking situation in front of
6 that building, is there street parking on an
7 average day?

8 MR. BEVACQUA: Yeah. When I arrive,
9 I just park in front of the building. There're
10 spots always open right there on the street, yes.

11 CHAIRMAN FUSARO: I don't have any
12 further questions for the applicant. If anyone in
13 the audience would like to address the
14 application, please come forward and state your
15 name and address for the record.

16 MS. RAZIN: Is he going to ask
17 questions for the --

18 CHAIRMAN FUSARO: I don't have any
19 additional questions.

20 MS. RAZIN: I'm saying is he going
21 to ask questions?

22 CHAIRMAN FUSARO: Sir, please come
23 forward.

24 MS. RAZIN: Sir, are you asking
25 questions or are you going to address the

1 application in terms of your -- do you have a
2 comment or questions?

3 MR. LUZZI: Probably both.

4 MS. RAZIN: Probably both, okay.

5 CHAIRMAN FUSARO: Please state your
6 name and address for the record and please spell
7 it.

8 MR. LUZZI: Thomas Luzzi, L-u-z-z-i,
9 411 Saint Marks.

10 CHAIRMAN FUSARO: Please raise your
11 right hand, Mr. Luzzi.

12 THOMAS LUZZI, having been duly
13 sworn, was examined and testified as follows:

14 MR. LUZZI: I don't believe I'm
15 going to testify, but I only intend to --

16 CHAIRMAN FUSARO: The statement
17 you're going to be making; alright.

18 MR. LUZZI: The statement or the
19 questions I ask will be to the best of my ability
20 or the best of my knowledge truthful.

21 CHAIRMAN FUSARO: Excellent. Please
22 continue.

23 MR. LUZZI: I'm very new to this
24 process. I received the notification from your
25 office. There're a lot of codes, and I can't

1 interpret many of the codes, but I've been
2 listening to the conversations. There're a couple
3 more things that I'd like to get a little bit more
4 definition on if I can in terms that are being
5 used such as "logistics company" and I think I
6 hear you say "documentation for transfer of
7 goods." So supply chain -- (Indiscernible.) Are
8 you involved in possession of the goods that you
9 are in a logistics service of?

10 MR. BEVACQUA: We transport products
11 from the customer to the port.

12 MR. LUZZI: Right. So do you intend
13 to bring the product to this facility?

14 MR. BEVACQUA: Absolutely not. It's
15 strictly an office for computer and phone. There
16 will be no product, nothing coming to this
17 facility at all.

18 MR. LUZZI: Another aspect of the
19 service that I think you provide is tremendous
20 documentation to the title of transfer and
21 logistical items. That usually brings with it a
22 lot of courier services. Do you presently have a
23 lot of courier services coming like FedEx?

24 MR. BEVACQUA: No. No courier
25 services.

1 MR. LUZZI: Okay. There was a
2 question about the parking in the area. I live a
3 couple of houses in; there's no parking by about
4 7:00 a.m. every spot is taken. When the parking
5 authorities in the town are active, they do rotate
6 through very, very quickly, but in the Covid
7 environment they haven't been, so there's
8 overflow. And the overflow starts to encroach up
9 on Lenox, up on Sycamore, and on Tremont all the
10 way up. There are signs posted for two-hour
11 parking from 8:00 a.m. to 2:00 p.m. but they
12 haven't been enforced in years.

13 CHAIRMAN FUSARO: So there's
14 `two-hour parking there. Okay.

15 MR. LUZZI: Not only on Saint Paul's
16 all the way up on Saint Marks, and I believe
17 Tremont as well. So there are cars lined up all
18 the time, so much so that residents cannot park in
19 front of their homes. Westfield residents
20 probably realize the parking issues in this town.
21 It becomes troublesome. Especially when there are
22 home care professionals coming into the homes or
23 visitors or grandmas and grandpas. There's not a
24 lot of places to park.

25 CHAIRMAN FUSARO: Yes, I know in

1 that area, a lot of the street parking is taken up
2 by postal workers. I see them parking their cars
3 in that area.

4 MR. LUZZI: Other service providers
5 as well, yes. It's true. You can see them
6 shuttling their postal trucks up and down to their
7 cars. Which is they're doing what they have to
8 do. But it doesn't seem as though it's a timing
9 process and it leads to -- well, it leads to
10 things that shouldn't be there.

11 CHAIRMAN FUSARO: Understood.

12 MR. FLYNN: Mr. Chairman, a brief
13 response; if I may.

14 CHAIRMAN FUSARO: Sure.

15 MR. FLYNN: And I understand the
16 resident's concern. Our position is that
17 eventually the units will be occupied by a
18 traditional P-1 professional which would surcharge
19 the parking on the site. What we're trying to
20 propose here is a less intensive use with less
21 parking. We're coming in as a resident of the
22 town who wants to use a unit as a satellite office
23 for an offsite facility. There's no interaction
24 with that facility other than phone, email,
25 computer. And what we're trying to do is improve

1 the parking because he's not going to have any
2 customers, no clients, no visitors to the site.
3 It would just be just him and one other person.
4 So, if anything, he's lessening the issue with the
5 parking in the area.

6 CHAIRMAN FUSARO: Understood.

7 MR. LUZZI: Is this an acquisition
8 of that building? Is this an acquisition?

9 MR. FLYNN: He's a contract
10 purchaser.

11 MR. LUZZI: I'm not sure what that
12 means.

13 CHAIRMAN FUSARO: A contract
14 purchaser means he is purchasing the building I
15 would assume with the condition that his use be
16 approved. If it's not approved, then I don't
17 think -- he would possibly not purchase the
18 building. So he doesn't currently own it, but
19 he's going to be purchasing it. He will be a
20 landlord and he wants to occupy space in his own
21 building.

22 MR. LUZZI: And then, bear with me
23 on the codes. The new use is different than all
24 the other properties on Saint Paul? They're all
25 therapists, dentists, attorneys.

1 CHAIRMAN FUSARO: That's a P-1 use.
2 That side of the street; there're architects,
3 attorneys, there are accountants. They're all
4 along that side of the street. His use is not
5 considered a professional use the way -- in a
6 strict, literal interpretation of the zoning
7 ordinance.

8 MR. LUZZI: Okay. And then once the
9 -- so the entire building, the entire facility
10 will transition into this new usage; is that
11 correct?

12 CHAIRMAN FUSARO: Say that again.
13 I'm sorry.

14 MR. LUZZI: The building, once
15 acquired, will transition to this new usage?

16 CHAIRMAN FUSARO: No. Just this
17 space. And if we grant the application, the
18 variance, we would more than likely attach a
19 condition to it. Something along the lines of
20 once he moves out, this variance will basically
21 become null and void. And if a new applicant
22 comes in that's a P-1 use, he doesn't need to
23 appear. But if a new applicant comes in that has
24 a professional use, like he would, then he would
25 have to come before us again.

1 MR. LUZZI: Thank you for that. So
2 it will have a sunset to it?

3 CHAIRMAN FUSARO: Correct.

4 MR. LUZZI: And that will be a firm
5 sunset, not potential sunset, it will be firm that
6 if there's a transition of --

7 CHAIRMAN FUSARO: If another -- he
8 just mentioned that he's going to be looking for
9 an additional tenant. If the additional tenant is
10 a P-1 use tenant, then he will not come before the
11 Board. If that tenant is not a P-1 use tenant, he
12 would have to come before the Board and ask for an
13 additional variance for that particular tenant.

14 MR. LUZZI: Is the change in use
15 revocable for cause or any reason?

16 CHAIRMAN FUSARO: I don't...

17 MS. RAZIN: If there were a specific
18 condition to the resolution that was not being met
19 and the zoning officer went out, they would have
20 to resolve those conditions. But it's not
21 revocable, per se. It's that they would have to
22 resolve the conditions in the approval in order to
23 be in line with what the board conditioned and
24 granted the approval upon. I don't know if
25 "revocable" is the right word.

1 CHAIRMAN FUSARO: He has to abide by
2 whatever conditions we place on him.

3 (Crosstalk.)

4 MR. REISEN: I think he'd
5 (indiscernible.)

6 MS. RAZIN: Right. I mean whenever
7 the zoning officer determined is the penalty for
8 not meeting the conditions at that time. Or if
9 there was another zoning violation in general that
10 they were not meeting, in general, and any
11 property that's supposed to meet, then they would
12 be, you know, penalized for it.

13 MR. FLYNN: This variance only
14 applies to his specific use. If he were to sell
15 the property and another tenant would want to come
16 in with a completely different use that wasn't a
17 P-1 use, they'd be right back before the Board.

18 MR. LUZZI: Yes. I think that's
19 what I heard. And then the hours and days of use.
20 Again, logistics is global. Logistics is 24/7,
21 360; not to be cliché. But I heard the intention
22 is typical business hours; 6 to 3. Is that what
23 the commitment is or it could expand, it could
24 grow, it could evolve?

25 MS. RAZIN: I don't know -- I don't

1 think the Board has gotten to the point of
2 discussing whether it had any intent of limiting
3 the hours. And I don't think -- I don't think --

4 MR. LUZZI: I'm not asking to limit.
5 I'm asking what the expectation is. I'm in not a
6 very different business, and I'm 24/7.

7 CHAIRMAN FUSARO: I believe the
8 Applicant has testified that he's going to be
9 using general business hours.

10 MS. RAZIN: Not Saturday and Sunday.

11 CHAIRMAN FUSARO: Not Saturday or
12 Sunday. Monday through Friday, general business
13 hours. Not 3:00 in the morning.

14 MR. LUZZI: Yeah. And that's what I
15 wrote down as well. Okay. Thank you for your
16 time.

17 CHAIRMAN FUSARO: Thank you. Is
18 there anything you'd like to add in closing?
19 Arguments? Discussions?

20 MR. FLYNN: No. I mean at this
21 time, Mr. Chairman, and because of the peculiar
22 situation with our planner not being available, we
23 would like some feedback on the Board so we sort
24 of know where we stand. If the Board tells us
25 we're not inclined to grant anything without

1 professional planning testimony, we could go back
2 to the drawing board. But at this point, I'd like
3 to conclude our direct examination of this witness
4 and hope that you find in our favor.

5 MS. MOLNAR: One question. The
6 survey you received, it was 1996. Are you in a
7 position to say how the building today differs
8 from the '96 survey? It shows a garage underneath
9 the house.

10 MR. FLYNN: From what the Applicant
11 has stated tonight and the picture we've provided,
12 it looks to be basically exactly the same.

13 MS. MOLNAR: There's no garage in
14 the house though; right?

15 MR. FLYNN: A garage in the house?

16 MS. MOLNAR: Yeah. It says "garage
17 under" from the '96 survey.

18 CHAIRMAN FUSARO: Apparently, the
19 home -- and I don't know if it was in addition to
20 the rear, to the garages that are in the rear or
21 if it's a typo on the survey -- apparently, that
22 corner of the home either had a garage as part of
23 -- an attached garage -- obviously, there is no --
24 I walk by it -- there is no garage that is
25 currently part of that building structure; is that

1 correct?

2 MR. BEVACQUA: There was a detached
3 two-car garage in the back.

4 MS. MOLNAR: You can probably access
5 it in the rear at the time when there was a
6 garage.

7 CHAIRMAN FUSARO: Okay. Any other
8 Board Members have any other questions before I
9 close that portion? I'm going to close that
10 portion of the meeting and open it to Board
11 discussion. You'll obviously hear our comments
12 and then we'll bring you back up. Okay?

13 MR. FLYNN: Excellent.

14 CHAIRMAN FUSARO: We've heard
15 basically from the Applicant, their attorney, a
16 neighbor from the neighborhood there. I believe
17 that we've asked the pertinent questions.
18 Everyone is on record with respect to the hours of
19 operation and the parking requirements, the number
20 of employees both at the logistics office and the
21 therapist, and a possible future tenant in the
22 building. As the Applicant's attorney has
23 mentioned, the use that they are requesting does
24 require less parking than the professional use for
25 that area. There is parking on the street,

1 however, we've heard that it's limited most days.

2 In my opinion, the literal
3 interpretation of the P-1 professional office
4 district zone as made by the zoning officer, in my
5 opinion, is correct. This use is not a permitted
6 use if you literally interpret that ordinance. As
7 such, I would say that we uphold the zoning
8 officer's decision, and we can move forward with
9 the d(1) variance request. How does the rest of
10 the Board feel?

11 MR. MASCIALE: I totally agree with
12 you, Frank, reading the literal interpretation. I
13 think the zoning officer was correct. And I think
14 that's the purpose of the zoning the way it's
15 written is to come in front of the Board. Where
16 here's a case in which actually it could be
17 better. You know. I mean there's some more
18 testimony we're going to hear, but right now, this
19 could be less intensive. The purpose of this
20 Board is to sit and look and make that
21 determination. Just because it literally says and
22 it doesn't have a case, it doesn't mean that it's
23 not a good fit for the neighborhood. And that's
24 what the Board is here for. And I would support
25 in upholding the zoning officer's decision. And I

1 would like to hear a case for the d variance.

2 CHAIRMAN FUSARO: Matt?

3 MR. SONTZ: Yeah. I agree. I think
4 the zoning officer got it correct. Unfortunately,
5 that's how the ordinance is written. As far as
6 the "d" I'm totally supportive of granting the
7 "d." I was a tenant of 220 Saint Paul for 10
8 years. There was a lawyer's office there, we had
9 four offices. He was only using three and rented
10 and rented out to me upstairs, it was five
11 offices, there was a common bathroom, and it was
12 all therapists. And every building on the street
13 or next to it is exactly the same. I always found
14 plenty of parking on the street if there happened
15 to be not enough parking in our back parking lot.
16 Which is exactly like this one; it was a
17 five/six/seven car parking lot. It's very
18 standard for the area. You know, as lawyers and
19 as accountants, you hate the day. You have to be
20 there on nights or weekends, but it happens. No
21 one is there on nights and weekends on Saint Paul
22 Street. So if it happens to be the case it has to
23 be there on the weekend, it's office work. It's
24 not like hammering and sawing. No one is going to
25 hear him in the office with his computer. So I

1 don't think we need any restrictions on dates or
2 times. It's office work. And you've two people
3 there using it as an office which is the same as
4 what is allowed. I think the argument is right on
5 points say. If we say no to this, then we lose
6 the right to say anything and the next person
7 could be more intensive. This helps the
8 neighborhood. This clearly meets the positive and
9 negative criteria. I see no reason not to approve
10 it.

11 CHAIRMAN FUSARO: Thank you. Carol?

12 MS. MOLNAR: Yeah. I agree we
13 should uphold our zoning officer's decision. The
14 only thing that's bothering me is that the
15 Applicant testified that he is bringing in other
16 professionals. So they're asking for us to agree
17 with the position that the parking has to comply
18 with the business administrative -- business
19 administrative parking rather than professional.
20 I say it still should comply with the professional
21 one per 200. I don't think we should change that
22 at all. I don't think that we can change this
23 application, it's all preexisting; right?

24 CHAIRMAN FUSARO: It's all existing,
25 yes.

1 MS. MOLNAR: But the future owner,
2 it still should comply with the professional zone
3 parking.

4 CHAIRMAN FUSARO: Paul?

5 MR. EILBACHER: I think the
6 application certainly meets the spirit of the
7 zoning ordinance. I agree with the zoning
8 officer's determination. It doesn't meet the
9 letter, but it's real close. So I personally
10 would support it. I would even support a
11 de minimis exception, but I'll certainly support
12 the use variance.

13 CHAIRMAN FUSARO: Thank you. Sam?

14 MR. REISEN: Yeah, I struggle a
15 little bit with the interpretation. But I will
16 defer to smarter minds than mine. The management
17 thing kind of has me because when you look at it,
18 it's arguably very close because this is
19 definitely something of management function that's
20 being proposed here. But I would support the d
21 variance for it as well if that's the way we're
22 going to go.

23 CHAIRMAN FUSARO: Great. So with no
24 other comments from the Board, you've heard our
25 discussion, it appears that we are all in favor of

1 upholding the zoning officer's determination, and
2 then we can move forward with your request for a
3 d(1) variance. Now, do we need to vote on that?

4 MS. RAZIN: I would do two separate
5 motions. I would do a motion on the
6 interpretation. Actually, there were sort of two
7 requests. You could probably do those together
8 because it was an (a) and (b.) And then if you're
9 ready to conclude on the d(1) you could do it as a
10 second motion.

11 CHAIRMAN FUSARO: So the first
12 motion I would like to request is a motion based
13 on the determination of the zoning officer -- of
14 upholding the determination of the zoning officer,
15 and --

16 MS. RAZIN: And interpreting that
17 the --

18 CHAIRMAN FUSARO: -- the request is
19 not de minimis.

20 MS. RAZIN: And does not fall within
21 the category of permitted uses.

22 CHAIRMAN FUSARO: Correct.

23 MR. MASCIALE: I'll make a motion to
24 accept the zoning officer's determination, and
25 that this does not fall as a de minimis use.

1 MR. REISEN: Seconded.

2 CHAIRMAN FUSARO: Jenny, can you
3 please call the roll?

4 MS. MANCE: Sure.

5 MS. RAZIN: I'm sorry. So wait, I
6 was writing the motion.

7 MR. MASCIALE: Yes to uphold the
8 zoning officer's decision.

9 MS. RAZIN: Got it.

10 MS. MANCE: Chairman Fusaro.

11 CHAIRMAN FUSARO: Yes.

12 MS. MANCE: Vice-chair Masciale.

13 MR. MASCIALE: Yes.

14 MS. MANCE: Mr. Cohen.

15 MR. COHEN: (Not present.)

16 MS. MANCE: Mr. Sontz.

17 MR. SONTZ: Yes.

18 MS. MANCE: Ms. Molnar.

19 MS. MOLNAR: Yes.

20 MS. MANCE: Mr. Eilbacher.

21 MR. EILBACHER: Yes.

22 MS. MANCE: Mr. Reisen.

23 MR. REISEN: Yay.

24 CHAIRMAN FUSARO: So that concludes
25 parts (a) and (b.) Now, we'd move to if there's

1 any further discussion, anything you would like to
2 add with respect to the d(1) variance. As I
3 mentioned previously, we will more than likely
4 attach a condition -- I don't know if we need to
5 attach that condition if this tenant...

6 MS. RAZIN: Would variances run with
7 the land, so if you wanted any kind of expiration
8 clause I would include it now.

9 CHAIRMAN FUSARO: Okay. Fine. So
10 the condition would be that if we have -- if this
11 tenant moves out or sells the building or
12 whatever, this particular variance is granted for
13 this specific logistics company --

14 MR. REISEN: And will not run with
15 the land.

16 CHAIRMAN FUSARO: Correct.

17 MS. RAZIN: Can you just specify to
18 me which space again in the building?

19 MR. FLYNN: And I want to be clear
20 on the condition if the Board acts favorably won't
21 interfere with what the Applicant's doing. The
22 Valuca Realty, LLC entity is the LLC created to
23 purchase the property as the contract purchaser.
24 I believe he's going to lease it to his actual
25 company which is an LLC affiliate. So I just

1 don't want the condition to make that --

2 MS. RAZIN: It won't change -- but
3 you mean, like, assign it to a different name or
4 something like that?

5 MR. FLYNN: Right. Because if the
6 condition is based on the Applicant's occupancy
7 terminating, we want to make sure that the fact
8 that the LLC names are different.

9 MS. RAZIN: It would run with this
10 particular -- I can word it if the Board was
11 inclined to grant it with that condition I would
12 run with this particular use and Applicant --

13 MR. FLYNN: Great.

14 MS. RAZIN: Versus --

15 CHAIRMAN FUSARO: Correct. Most
16 buildings are owned by an LLC. And even though
17 the owner occupies it, it's a separate LLC that
18 pays rent. We understand how it works.

19 Is there anything else you would
20 like to add?

21 MR. FLYNN: No. For purposes of the
22 motion on the use variance, we would just like to
23 incorporate all the prior testimony. And, again,
24 hope the Board acts favorably on the application.

25 MR. REISEN: Can I just ask; you're

1 not going to have any meetings at this office,
2 right, besides yourself and the other employee?

3 MR. BEVACQUA: Right.

4 MR. MASCIALE: Can I just ask one or
5 two follow-up questions?

6 CHAIRMAN FUSARO: Sure. Please.

7 MR. MASCIALE: Just so we have an
8 understanding. If you decide to expand your use
9 and add another person or if you decide to stop
10 the current tenant there and expand and take it
11 on, this variance that we're proposing will not
12 cover that use. You would need to come back to
13 the Board for expanded use.

14 MR. FLYNN: If he were to occupy
15 another unit on-site, he would need d(2) relief
16 for expansion.

17 MR. MASCIALE: For expansion, he
18 would have to come back in front of the Board.

19 MR. FLYNN: Right. So this one is
20 for this player unit.

21 CHAIRMAN FUSARO: Provided that
22 expansion is not a P-1.

23 MS. RAZIN: Right. And if a P-1 is
24 coming in they don't have to --

25 CHAIRMAN FUSARO: Correct. Any use

1 outside of the P-1 description or ordinance would
2 have to come back for any other space in the
3 building.

4 MS. MOLNAR: Are we going to specify
5 the exact space that he's taking?

6 CHAIRMAN FUSARO: I believe that the
7 Applicant has testified that the current therapist
8 occupies one suite on the first floor, he's going
9 to occupy the second suite on the first floor, and
10 the second floor is currently vacant and looking
11 for a P-1.

12 MS. RAZIN: I'm not going to specify
13 it by -- I'm going to say suite -- I mean. I'm
14 going to say a suite.

15 CHAIRMAN FUSARO: Okay. Anything
16 else?

17 MS. RAZIN: There's an audience
18 member who would like to...

19 CHAIRMAN FUSARO: Yes.

20 MS. RAZIN: Can you come up, sir?

21 CHAIRMAN FUSARO: Please. I'll just
22 remind you that you're still under oath. Please
23 state your name and address for the record one
24 more time.

25 MR. LUZZI: Thomas Luzzi, 411 Saint

1 Marks. I'd like to share not an anecdote but a
2 true story to what the gentleman just -- the
3 question that I asked, the potential evolution.
4 If you know Saint Marks it's a wonderful,
5 beautiful Colonial street in Westfield. And it's
6 been that way since I've been here for over 20
7 years. On the block, midway up the block, in one
8 of those wonderful Colonials is a piano teacher.
9 When I moved in, there was one piano and one
10 teacher. A few years later, there were two pianos
11 and two teachers. Ultimately, there were five
12 pianos and five teachers. From 2:45 every day
13 until 9:00 every night, five days a week.
14 Saturdays were recitals, Saturdays was extra days.
15 There was a constant flow, a churn, a carousel
16 because they were 1/2-hour lessons. So every 1/2
17 hour, you have five cars zipping up the street,
18 people on their cell phones, kids in soccer
19 uniforms, dropping someone off, picking someone
20 up. One person, one car, one piano; somewhat
21 tolerable. But when your children want to play
22 catch, kickball, tag, ride their bicycles, or
23 rollerblade in the street it was extremely
24 problematic. In fact, it was dangerous. And I'm
25 projecting that on your business, sir, but I am

1 projecting that those things happen. And it's
2 been 20 years where our young children were the
3 ones who were at risk of this evolving, growing,
4 wonderful business. The DNA of the town is
5 wonderful, but five pianos and five teachers every
6 1/2 hour was not good. And it brought in other,
7 as I said, problematic issues. Especially at
8 night, especially in the winter, especially when
9 someone was running late. It created other
10 issues. Traffic and parking is a serious problem
11 in that part of town.

12 CHAIRMAN FUSARO: Thank you.

13 MR. LUZZI: Thank you for your time.

14 CHAIRMAN FUSARO: I'm familiar with
15 the piano teacher. She's been there for many,
16 many years, but I didn't realize there were five
17 pianos there. And I'm very familiar with Saint
18 Marks, I walk it several times a week. I don't
19 think that that's going to be an issue here. As
20 Matt has stated as well, that entire street is
21 basically all P-1 use. And let's face it, an
22 office of an attorney and an office that this
23 gentleman is proposing is basically the same
24 thing. It's someone sitting at a desk whether
25 you're working on a legal brief or whether you're

1 working on billing and logistics; you wouldn't be
2 able to differentiate. So that's...

3 MR. REISEN: And there're five
4 spaces, so there's one per each supposed
5 professional in this building as well anyway.

6 CHAIRMAN FUSARO: Correct. And
7 depending on the time of day, like I said, I
8 literally drive by there every morning at various
9 times. There are cars parked in the street at
10 times, and there are spots available on the street
11 at times. Saint Marks is directly in front of
12 this building, perpendicular to it. So that
13 having been said, is there anything else you'd
14 like to add before we close it?

15 MR. FLYNN: No.

16 CHAIRMAN FUSARO: Is there anyone
17 else in the audience who would like to address the
18 application for the d(1) variance? Seeing none.
19 As I mentioned previously, we will require five
20 affirmative votes from the Board. We have six,
21 members here this evening. We were fortunate
22 enough to not have five. So we'll close that
23 portion and open it up again to our Board
24 discussion.

25 I think we've discussed it enough.

1 I don't think that there's anything else I need to
2 add. Does anyone else like to add anything else?
3 The one condition being the one that we discussed
4 that this particular use variance will be
5 specifically for this tenant in this building.
6 Any additional or new tenant that comes in that
7 does not comply with the P-1 use as outlined in
8 the ordinance will have to come back before the
9 Board.

10 MS. MOLNAR: Could we also add the
11 condition that the parking requirement remains for
12 the P-1 zone?

13 CHAIRMAN FUSARO: The parking
14 requirement for the P-1 zone are greater than what
15 this gentleman is --

16 MS. RAZIN: I think the testimony
17 was that it was -- it was an argument of why they
18 were suggesting that the d(1) variance be granted
19 or that the interpretation be granted because the
20 requirements in the other office zone are lesser.
21 So if the Board wanted to look to that zone for
22 their parking requirements, you could do so. For
23 example, if you're having a gas station in this
24 zone and it wasn't permitted, you could look to
25 that zone to see what the gas parking was. So you

1 could look to the other zone and say, okay, the
2 one per 250 is what is permitted in that zone. It
3 doesn't apply, per se, to all of their uses or it
4 wouldn't apply to P-1. It would just be applying
5 in this instance or you can look to it for
6 reference, but it doesn't apply by the letter of
7 the law. It applies by --

8 MS. MOLNAR: What was in the legal
9 argument; it would then follow the parking
10 requirement, it would be the business office
11 rather than the professional offices.

12 MS. RAZIN: Right. For this
13 particular space, their argument, which I read, I
14 read was that you could look to that zone for the
15 parking, in this instance; which you could.

16 MS. MOLNAR: But I'm saying we
17 should not.

18 MS. RAZIN: But it doesn't matter
19 because the P-1 parking -- when an applicant comes
20 in for any application and that's in the P-1 zone,
21 the P-1 zone applies. Their argument is in this
22 instance because you have a use from a different
23 zone you could look to that zone. And that's --

24 (Crosstalk.)

25 MS. MOLNAR: It doesn't apply in

1 this case if the parking remains --

2 MS. RAZIN: That's your -- I'm not
3 going to say whether that's true or not because I
4 would very much probably agree --

5 MS. MOLNAR: Let's make a condition
6 it remains the P-1 parking requirements.

7 (Crosstalk.)

8 MS. RAZIN: It is. It does.

9 MR. FLYNN: We will stipulate that
10 the application in no way changes the parking
11 calculations for this site for the P-1 zone; if
12 that wants to be thrown in as a condition. It was
13 only meant to support our argument that the use is
14 less intense. And we're not in any way stating
15 that we think the parking calculations for this
16 zone need to be changed in any way. So whatever
17 -- if you want to word it as a condition, we would
18 stipulate that to.

19 MS. MOLNAR: Very good. Thank you.

20 CHAIRMAN FUSARO: Having heard your
21 testimony, I'm fine with not applying that
22 condition, but if the Board wants to, feel free.
23 One condition that I mentioned is the one
24 pertaining to this particular street. So having
25 said that can I have a motion?

1 MR. REISEN: Motion to grant the
2 application with -- I don't know if the other
3 condition is necessary -- just the one condition
4 that it will end with the Applicant's termination
5 of their ownership of the property and will not
6 run with the land.

7 MR. EILBACHER: Termination of the
8 use, not the ownership, but the use of the
9 property.

10 MR. REISEN: The use of the
11 property, yes.

12 MR. EILBACHER: Second.

13 CHAIRMAN FUSARO: Seconded by
14 Mr. Eilbacher. Jenny, please call the roll.

15 MS. MANCE: Chairman Fusaro.

16 CHAIRMAN FUSARO: Yes.

17 MS. MANCE: Vice-chair Masciale.

18 MR. MASCIALE: Yes.

19 MS. MANCE: Mr. Sontz.

20 MR. SONTZ: Yes.

21 MS. MANCE: Ms. Molnar.

22 MS. MOLNAR: Yes.

23 MS. MANCE: Mr. Eilbacher.

24 MR. EILBACHER: Yes.

25 MS. MANCE: Mr. Reisen.

1 MR. REISEN: Aye.

2 CHAIRMAN FUSARO: Your application
3 is approved. Good luck.

4 MR. FLYNN: And thank you for
5 convening the special meeting for our application.

6 CHAIRMAN FUSARO: Have a good
7 evening. Motion to adjourn.

8 MR. REISEN: Seconded.

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10 (The meeting was adjourned at
11 8:27 p.m.)

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