

**CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS
MINUTES**

February 21, 2018

A meeting of the Zoning Board of Appeals was held in the Common Council Chambers, Second Floor, City Hall, 16 James Street, Middletown, New York, on February 21, 2018 at 7:00 P.M., Joel Sierra, presiding.

Board Members Present: Joel Sierra, Nick Barber, Deborah Clark, Marc Woody.

Board Members Absent: Don Luis.

Other Attendees: Alex Smith, Assistant Corporation Counsel, Walter Welch, Building Inspector.

A motion was made by Mr. Barber and seconded by Ms. Clark to accept January 17, 2018 minutes as submitted.

Board Members Aye: Nick Barber, Deborah Clark, Joel Sierra.

37 Grand Avenue

Tommy Matiatos

Resolution (5-year extension to comply with Amortization Ordinance)

Mr. Sierra: Anyone here for 37 Grand Avenue? *(No one came forward)*. No one? All right.

Mr. Smith: They don't have to be here. They were told they didn't have to appear since it's just the resolution.

Mr. Sierra: Ok, do the Board members recall this property?

Mr. Smith: I emailed the draft resolution to the entire Board couple of weeks ago so I'm gonna presume everybody's read it. Our new member can't vote on this application because you were not here for the public hearings and...

Mr. Sierra: Any questions from the Board for the resolution as before us? *(there were no questions from the Board)*. All right, so I need a motion...

Mr. Smith: The bottom line of the resolution is that the Board is granting the application for the 5-year extension and determines that the multiple dwelling use can continue until March 31, 2022. So to vote for the... a yes vote basically means you are granting 5-year extension and since the Board has had this for a couple of weeks, if there is no objection, we'll deem this resolution read into the record.

Mr. Sierra: Any objection? (*there were no objections*). All right. So I need a motion to approve the resolution as before us.

A motion was made by Ms. Clark and seconded by Mr. Barber to approve the application of Tommy Matiatos for the 5-year extension to comply with Amortization Ordinance for the property located at 37 Grand Avenue, Middletown, New York.

Board Members Aye: Deborah Clark, Nick Barber, Joel Sierra.

Abstain: Marc Woody.

17 Genung Street
Tommy Matiatos
Resolution (5-year extension to comply with Amortization Ordinance)

Mr. Smith: This is basically the same; well, it's the same applicant who is represented by the same attorney and again the Board has had this direct resolution for a couple of weeks. This resolution would be a denial of the application for the 5-year extension.

Mr. Sierra: Any questions from the Board members? (*No one came forward*). Mr. Woody you won't be voting on this one.

Mr. Smith: Again, yes, right.

Mr. Sierra: So I need a motion.

Mr. Smith: Again, we deem it read and again approving the resolution means denying the application for the 5-year extension.

Mr. Sierra: Any questions from the Board members? (*No one came forward*). I need a motion to approve the resolution as before us.

A motion was made by Mr. Barber and seconded by Ms. Clark to deny the application of Tommy Matiatos for the 5-year extension to comply with Amortization Ordinance for the property located at 17 Genung Avenue, Middletown, New York.

Board Members Aye: Deborah Clark, Nick Barber, Joel Sierra.

Abstain: Marc Woody.

**55 Gardner Avenue
Maipi & Blanche Melendez
5-year extension to comply with Amortization Ordinance**

Mr. Melendez: Good evening.

Mr. Sierra: Please state your name and address, sir.

Mr. Melendez: Maipi Melendez, Westbrookville, New York 12785.

Mr. Smith: Just so that the Board understands, and again, our new member probably shouldn't be involved in this. This is a motion on an application for reconsideration of the Board's prior decision which can be done under our code, it's not necessary to hold a public hearing, it's not necessary to take any new evidence, it's just a motion for reconsideration. The gentleman sent a letter in, I sent it to all the Board members via email and my recommendation is to deny the application as I do not think mistakes were made and...

Mr. Melendez: Well, if you look at the numbers, the numbers don't add up.

Mr. Smith: Well, I do not agree with Mr. Melendez; it's up to the Board. My recommendation is to deny it.

Mr. Melendez: Well I'm asking the Board to reconsider and to re-vote on the numbers because what you voted on, the numbers weren't included, the right numbers, the expenses weren't included and whoever did the paperwork showed that I made a profit. I wish I did and you know whoever did it I wish they would tell me how they got those numbers. But right now, 20 Houston, they used the expenses; my property they weren't deducted at all. The yearly expenses weren't deducted so it's gonna show a profit, of course. So right now I'm minus \$95,000 if you add the expenses.

Mr. Smith: Mr. Melendez, you didn't provide us with the expenses going back 20 years.

Mr. Melendez: Yes, I did, I provided all the paperwork, sir.

Mr. Smith: I disagree, I disagree, sir.

Mr. Melendez: Well, I provided all the paperwork to you, to Martina...

Mr. Smith: You provided paperwork that did not show expenses going back 20-23 years.

Mr. Melendez: Sure I did. They're verifiable expenses.

Mr. Smith: I didn't see it, sir.

Mr. Melendez: Well, you need to look at the paperwork again?

Mr. Smith: We did.

Mr. Melendez: It's there. I have it right here.

Mr. Sierra; Mr. Melendez, do you want to resubmit the paperwork in with this letter? I mean, do you feel like we didn't see all the expenses; are there some expenses that you left out?

Mr. Melendez: Sure.

Mr. Smith: You simply said in your letter that we should basically put your figure of about, it was about \$24,000 for expenses for last year I believe it was...

Mr. Melendez: For every year for the 17...

Mr. Smith: ... that we should just put that in every single year.

Mr. Melendez: No, no, no. It's \$24,000 for every year. You added the profits for 17 years, since I had the house.

Mr. Smith: And you are saying we should have used the exact same expense figure for all those years and to me that's not acceptable.

Mr. Melendez: Well...

Mr. Smith: Expenses were the same to the very penny for all those years?

Mr. Melendez: But you used the profit numbers.

Mr. Barber: On your rental, do you pay heating cost, you don't ... like your tenants pay that?

Mr. Melendez: No, I pay the heating, I pay the water, I pay the gas.

Mr. Barber: But you make up for it in your rent. You don't take a loss from it.

Mr. Melendez: Well, if you add it yearly, I take a loss.

Mr. Barber: Well, that depends on how much electric and gas they are using.

Mr. Melendez: Well, it's very expensive, you know that.

Mr. Barber: Well, if you give it to them for free I'm gonna have my heat on with the windows open too, you know? The numbers don't... what you wrote here don't add up and if you want to re-submit that paperwork, I suggest you do it, but your numbers here in this letter do not add up.

Mr. Melendez: Sure they add up. Let me say this, ok? 28 Houston, there was a lot of questions there and you still approved it.

Mr. Smith: 28 Houston had only about 4 years to recoup their investment, you had 17.

Mr. Melendez: Let me be honest here ok? I'm gonna take off my gloves.

Mr. Smith: Mr. Melendez, you are making statements about other Board decisions which are quite frankly not really appropriate; this is not a court.

Mr. Melendez: But it's the same.

Mr. Smith: That other application was purchased only a few years ago. You had 17 years, you did refinance it, you took out equity in the house; it's a completely different situation.

Mr. Melendez: How do you not have equity? I don't understand that.

Mr. Smith: I said all I'm gonna say.

Mr. Sierra: Mr. Melendez, I want to give you an opportunity just like everyone else. We are taking your letter into consideration and if you have other documentation that you can give this Board, we'll give you an opportunity to submit that information but based on what you have given us so far this is the decision the Board has made.

Mr. Melendez: Did you see the expenses? The paperwork on the expenses?

Mr. Sierra: I saw the expenses that you submitted. Is there something else that you didn't submit?

Mr. Melendez: I submitted everything that you asked for; I submitted everything.

Mr. Sierra: So you are asking us to make reconsideration on information that you provided already?

Mr. Smith: You say in this letter the yearly operating expenses are exactly \$24,492 for each of 17 years.

Mr. Melendez: Ok, yes.

Mr. Smith: To me that's unacceptable.

Mr. Melendez: Ok, so you want the expenses since 1999.

Mr. Smith: Well, that was stated to you many a time.

Mr. Melendez: You said to give you approximate numbers.

Mr. Smith: You want us... you basically want us to make up expenses.

Mr. Melendez: So you told me to give you approximate numbers, you didn't tell me to give you exact numbers.

Mr. Smith: Mr. Melendez, you don't have the same expenses for 17 years to the dollar. That's not acceptable. It's not believable.

Mr. Melendez: 28 Houston wasn't believable either and you approved it.

Mr. Sierra: That's a different situation Mr. Melendez.

Mr. Melendez: I'm gonna say this, ok? There's a lot of unethical questions on the Board, ok? I don't have an attorney, I didn't donate any money to campaigns, and that shouldn't play. So, I'll submit, you deny it then we'll go the next time. I'm not gonna go away.

Ms. Clark: I'd like to make a comment. First of all, I really don't agree with what you are saying and I think it's very unfair.

Mr. Melendez: Why?

Ms. Clark: Let me finish. We are going based on a 2-page letter. The Board votes based on factual information that they get. Everyone on the Zoning Board base their decision on facts. We cannot deviate from that.

Mr. Melendez: You are not supposed to.

Ms. Clark: We don't, we don't.

Mr. Melendez: You are supposed to be...

Ms. Clark: If you come to every meeting, you will see. The bottom line here is...

Mr. Melendez: Not...

Ms. Clark: Just a minute; the bottom line here is if you attended and there is a discrepancy here, nobody's bills are exactly to the penny for 17 years. That's what we are saying. Prove to us in 17 years what your bills were. That's not being unrealistic; everybody else has to go through it. We have to be fair.

Mr. Melendez: So I provided the bills, I provided my income tax.

Ms. Clark: What I'm trying to say is I think there's disconnect here...

Mr. Melendez: I went all the way to 2000.

Ms. Clark: My point is if there is a disconnect...

Mr. Melendez: I can't cheat IRS, you know?

Ms. Clark: They are giving you a chance, we are giving you a chance to go back and look at your figures. That's what everybody's saying, we are giving you a chance. Nobody's saying... if you want us to take this 2-page- this doesn't make sense.

Mr. Melendez: But I submitted paperwork before.

Ms. Clark: That's what we are trying to say. Coordinate it, make it... this does not agree with the original paperwork. That's all we are saying, so just go back...

Mr. Melendez: Are you going to consider re-voting if I provide the other paperwork?

Ms. Clark: Go back and that's what everyone's saying...

Mr. Sierra: We cannot tell you, we can't hold your hand through the process
Mr. Melendez.

Mr. Melendez: I understand that.

Mr. Sierra: I cannot tell you how to do this, do you understand? I'm gonna put your comments to the side, I have a very tough skin.

Mr. Melendez: Me too.

Mr. Sierra; This Board is a volunteer Board.

Mr. Melendez: I know that. Yes, you are supposed to be independent.

Mr. Sierra: The scenarios that you are comparing, you are not comparing apples to apples. If I bought the house yesterday and you bought the house 20 years ago, there's a difference between 20 years ago and there's a difference between yesterday.

Mr. Melendez: No, no.

Mr. Sierra: How do you not see it? You bought a house for and investment, I get it...

Mr. Melendez: If the Court sees this...

Mr. Sierra: Listen, you have the right to retain an attorney and to do as you see fit. You have that right; we are not taking it away from you. You can take and exercise whatever freedom and rights you have; please do so. We cannot tell you how to circumvent our decision. We have to make decisions on this Board based off of figures that you give us; just like every other person in this room.

Mr. Melendez: And the figures were given.

Mr. Sierra: Ok and we made the decision off of the paperwork and information that you gave us.

Mr. Melendez: You haven't... I don't know why...

Mr. Sierra: We can't tell you to give us more information if it's not there. If you forgot to give us information or you withheld information from us...

Mr. Melendez: I didn't withheld, why would I withhold information? I provided what you asked for. I provided what you asked for.

Mr. Sierra: Mr. Melendez, you don't put a roof on your house every year, Mr. Melendez, you understand what I'm telling you? Corporation Counsel has tried but... every Board member here is trying to tell you that the expenses that you gave us we cannot take and just duplicate for the last 17 years; it's not possible. Orange & Rockland, I know for a fact, I pay Orange & Rockland bill, it goes up every year. Last year I paid less than I paid this year. It's just common sense.

Mr. Melendez: Right.

Mr. Sierra: So you are telling me to take your O&R bill from this year and apply it to 17 years ago. What was the price of gas 17 years ago? Understand? We cannot do that. We just cannot take your blanket expenses from yesterday and apply it to 17 years ago.

Mr. Melendez: I don't see it. I mean I read all these resolutions that doesn't ask for that, I really don't... but I will provide it and then we'll go from there, ok? I'm hoping that...

Mr. Sierra: Please. Again this Board sits here... no one here is collecting a paycheck or salary from sitting on this Board so please, if you want to insult me I can take it, don't insult my Board members.

Mr. Melendez: What did I say?

Mr. Sierra: Well, you made comments...

Mr. Melendez: You took it as personal; you see, this is the problem.

Mr. Sierra: You are making comments that you see a lot of ...

Mr. Melendez: This is general, this is not...

Mr. Sierra: You made a lot of comments that you don't...

Mr. Smith: You used the word unethical.

Mr. Sierra: Yes.

Mr. Melendez: Unethical, yes.

Mr. Smith: What's unethical?

Mr. Melendez: Your counsel, you know that.

Mr. Smith: My what?

Mr. Melendez: Your counsel.

Mr. Smith: Ok.

Mr. Melendez: You know that, everybody knows what's the matter.

Mr. Smith: I'm like Mr. Sierra, I have a thick skin too.

Mr. Melendez: Me too, ok?

Ms. Clark: Why don't we go back to the facts without any of this going on right now? You have a choice to come back. I would suggest that you take that choice, read what you have here, take it based on what you've already

submitted and you have a chance to come back. So why don't we just leave it like that and then you can go through this with whomever you need to.

Mr. Melendez: Ok, is counsel gonna accept it?

Mr. Smith: It's not my job to accept it; it's the Board's job to accept it.

Ms. Clark: I'm asking the Board to give you another 30 days to go through. The Board... You want me to make the recommendation? I make the recommendation.

Mr. Barber: Listen, if he doesn't submit it that's on him.

Ms. Clark: That's what I'm saying.

Mr. Barber: If he brings it in within 30 days we'll look at it.

Mr. Melendez: So you'll look at it for 30 days?

Ms. Clark: Yes, absolutely.

Mr. Barber: We've been telling you, give it to us and we'll look at it.

Ms. Clark: Ok? Is that fair?

Mr. Melendez: That's fine, that's fair.

Ms. Clark: Ok.

Mr. Sierra: You submitted this letter but it's a letter... I mean we could have read this letter into the minutes and moved on. We are giving you an opportunity here to speak your voice when we don't have to take any action on this; we don't have to but we are giving you an opportunity and you are here bashing us.

Mr. Melendez: I'm not bashing.

Mr. Sierra: When you calling us unethical it's insulting.

Mr. Melendez: Ethics...

Mr. Sierra: Thank you Mr. Melendez.

Mr. Melendez: I have ethics, everybody knows that.

Mr. Sierra: Thank you. All right.

Mr. Melendez: Thank you.

29 Prince Street
Jose and Gina Contreras
Use variance

Mr. Sierra: Please state your name and address.

Mrs. Contreras: Sure, Mary Contreras, 28 Brewster Drive, Middletown; my husband, Jose Contreras and my son, George.

Mr. Smith: And my recollection is you wanted to supplement your application for an extension with an application for a use variance.

Mrs. Contreras: Correct.

Mr. Smith: Have they submitted any paperwork, Martina, on justifying the use variance?

Clerk: Yes.

Mr. Smith: All the Board has it?

Clerk: Yes, the Board has it.

Mr. Smith: Do you have a mailing?

Mrs. Contreras: Yes, we did that; you asked her and we did that.

Mr. Smith: Ok. Now, my question is, are there any new financial figures to support the use variance? Any new financial figures? I'm just trying to...

Mrs. Contreras: No, we had given everything in in the beginning when we applied for the 5-year, we gave everything in.

Mr. Smith: Ok, but what I'm saying, I thought we went through this last time, maybe not, is that a use variance has different criteria.

Mrs. Contreras: Right.

Mr. Smith: In use variance you have to show a hardship that wasn't created by you...

Mrs. Contreras: Which is correct, which we went over the last time.

Mr. Smith: Yes, I know but you also have to show that you can't make a reasonable return on the property if it's used for the use that's allowed by the zoning.

Mrs. Contreras: Ok.

Mr. Smith: Do you feel like you've done that?

Mrs. Contreras: I brought in all the paperwork, the estimates of how much it would cost to convert it and things like that; we handed that in.

Mr. Smith: But you will also have to show how much you would be making on a two-family, right? Because that's the use that's allowed by the amortization ordinance.

Mrs. Contreras: I believe I might have sent it in with that.

Ms. Clark: It's in here.

Mr. Smith: Ok, if it's here all right, I just want to make sure that you feel like you've submitted everything.

Mrs. Contreras: I know you requested a title search so I have that.

Mr. Smith: Yes, that was on the hardship.

Mrs. Contreras: Ok, I have it here if ... you said you didn't have it the last time.

Mr. Smith: Ok, we have that, I see that. But I just want to make sure you feel like you had a chance to submit all your financials.

Mrs. Contreras: Yes, this is the only thing I didn't submit was this one. I gave you the municipal the last time and you asked for the title search so I got that.

Mr. Barber: I just have a question. Looking at your list of expenses you got paving of parking lot, furnace, new floors, hanging screen doors, right below it you put your total monthly expenses if you add all your numbers up from the paving, that's what it comes up to. But you don't pay that every month.

Mrs. Contreras: No, we paid... once we bought... what happened we bought the house when you said we didn't create the hardship. We bought the house, it was a legal three-family, it's always been, we never changed it, we went through, we did a title search, got the municipal, the only thing we did we paved the driveway to make it nice so they wouldn't have to park on the street, just to keep...

Ms. Clark: No, he understands that.

Mr. Barber: I understand that.

Mrs. Contreras: Ok.

Mr. Barber: But right below it with all your list it says total monthly expenses.

Ms. Clark: I think you just made a mistake.

Mr. Barber: I think it was just a mistake but I'm looking at it as like...

Mrs. Contreras: All right, this is all like super new to me that stuff so just...

Mr. Barber: Ok, I'm taking it as like you want us to think that...

Mrs. Contreras: Oh no, no, no, once I paid, I paid. I'm not... No, no, no.

Mr. Contreras: We submitted thorough monthly expenses on a separate sheet.

Mrs. Contreras: But no, he's talking about...

Ms. Clark: Right, but what he's saying is, in other words for paving your parking lot, that's not every month that expense.

Mr. Contreras: No, no, no.

Ms. Clark: But here, by accident it says the total monthly...

Mrs. Contreras: That was me...

Mr. Contreras: That was our mistake.

Ms. Clark: That's all that he's trying to say.

Mr. Barber: That's all, that's all, yes.

Mr. Sierra: Just so we can refresh our memory and Mr. Woody wasn't here at that time but you bought the house... when was it?

Mrs. Contreras: Four years... in 2014.

Mr. Sierra: Right, which is... it's a huge deal because you haven't had it long enough to recoup your investment.

Mrs. Contreras: Exactly.

Mr. Sierra: Unlike other properties that...

Mrs. Contreras: Thank you.

Mr. Sierra: We just wanted to make that... Martina, do you have that documentation still from this property, the original submitted expenses?

Clerk: Everything is on the file.

Mr. Smith: Yes, I look at it.

Mr. Sierra: We can make Mr. Woody a copy of the expenses from this file.

Clerk: Sure.

Mr. Smith: I would suggest, Martina, to give Mr. Woody a copy of the minutes from the last hearing and if he reads that and gets a little bit of documents he will be in good shape to vote whenever this comes up for a vote.

Clerk: I believe you have that, right? Last month minutes? I think...

Mr. Woody: I do. Thank you.

Mr. Smith: Ok, all right.

Mrs. Contreras: Did you want me to give you this paper though? Because I know you didn't have it.

Mr. Smith: You didn't give it to Martina?

Mrs. Contreras: No, you asked for it last week so I went to the attorney that did the closing, he gave me this, Mr. Fisher.

Mr. Smith: Is that a copy for us?

Mrs. Contreras: Yes, I made a copy for you.

Mr. Smith: Ok, sure, just give it to Martina.

Mr. Sierra: She can make copies for the Board.

Mrs. Contreras: Ok.

Mr. Sierra: Ok, so we gonna have to adjourn this for 30 days.

Mrs. Contreras: Ok, so the letters are all done, the only thing you just want...

Mr. Smith: We just gonna have to digest all this.

Mrs. Contreras: Ok. All right, and then you'll let me know if you need something.

Mr. Smtih: Right, right.

Mr. Sierra: She'll contact you.

Ms. Clark: Correction's made?

Mr. Smith: Oh, if you want to correct what Mr. Barber was talking about...

Mr. Barber: You don't have to. I just... as long as we understand it's not a monthly...

Mrs. Contreras: Oh no, I know what you mean.

Mr. Barber: Not a monthly expense, yes.

Mrs. Contreras: Ok.

Mr. Sierra: So yes, we gonna adjourn this for 30 days so Corporation Counsel can review it, she can get the information and give it to our other Board member and as of now just continue operating as you are.

Mrs. Contreras: And you take into consideration that the hardship wasn't created ...

Mr. Sierra: We may need 60 days so ... but we have your information now so we have to go through all the information and we'll make a determination. If it's not the next 30 days...

Mrs. Contreras: All right, I appreciate it very much.

Mr. Barber: On your paperwork we are just going to cross out that "monthly expense".

Mrs. Contreras: Ok, and I'll...

Mr. Barber: That way if we look at it again we don't forget.

Mr. Sierra: All right folks, so we table this.

Mrs. Contreras: And you'll let me know whether...

Mr. Sierra: Yes.

Mrs. Contreras: Ok.

Mr. Sierra: Thank you.

**18-18 ½ Prince Street
Victor and Ida Godinez
5-year extension to comply with Amortization Ordinance**

Mr. Gilbert: Good evening ladies and gentlemen, Dave Gilbert for Mr. and Mrs. Godinez. This is my first appearance so basically we need a laundry list so we can work on what we need but...

Mr. Smith: Didn't Martina give you the list?

Mr. Gilbert: No, actually no.

Clerk: I believe I spoke to your secretary.

Mr. Gilbert: That was a year and a half ago I think when we started. At the outset I would like to just say something while we are doing this. This is very unique situation. These are 2 two-family houses that were glued together at some point, I think around 1930 so we are going to be exploring separating them and then making them back into two lawful two-families. And I think that was informally ok'd, approved.

Mr. Smith: On the same parcel?

Mr. Gilbert: No, they actually were on two different parcels and they were joined together. They are even on two different levels these two buildings.

Mr. Sierra: Two different lots?

Mr. Gilbert: They were originally two different lots with two different houses and different elevations. At some point, I mean this must go back when it was a meat store I think, in the 30s, they sort of glued the two buildings together and they put this interim level in so what we had... I think Mr. Tawil I've spoken to, we were exploring re-dividing this building and making it into 2 two-families because right now you are looking at around 4,400 s.f. building, 4,400 square foot building that would end up being two 2,200 s.f. apartments.

Mr. Barber: That was the old restaurant, wasn't it?

Mr. Sierra: If you separate them then you don't have to be in front of the Board.

Mr. Gilbert: Exactly, so that was my next question.

Mr. Smith: Well, maybe not for amortization but you may need an area variance and a setback variance I would think depending on where you are going to put the building.

Mr. Gilbert: Well, the buildings were... they preexisted. All they did was...

Mr. Smith: But if you change the configuration of the ... if you change the building and change the configuration, now you are creating two 2-family homes.

Ms. Clark: Right.

Mr. Gilbert: Recreating.

Mr. Smith: Well, we gonna have to talk about this.

Mr. Gilbert: No, I understand but ...

Mr. Smith: I think you gonna need an area variance. What zoning district is this in?

Mr. Gilbert: Oh God, I...

Clerk: OR-2.

Mr. Smith: OR-2?

Mr. Welch: Owner occupied.

Mr. Smith: You gonna be owner occupied?

Mr. Welch: 7,500 square feet.

Mr. Gilbert: These predate... that's...

Mr. Smith: Yes, but you see you are changing the non-conforming use. We'll have to look at it.

Mr. Gilbert: Exactly, I understand.

Mr. Smith: In fact, you might want to call me up and make an appointment to come over and we'll look at it. Maybe Walter, you could be there for that because frankly, this is something new.

Mr. Gilbert: No, we... I have actually discussed this I mean even before we put this application in.

Mr. Smith: I can't remember anybody doing something similar.

Mr. Gilbert: It's so long ago.

Mr. Smith: I don't think I was involved in discussion but I remember...

Mr. Gilbert: In fact I met Mr. Tawil out there at the site. We did a walk around, they did a walkthrough.

Mr. Sierra: Ok and they have separate foundations?

Mr. Gilbert: Separate foundations, separate everything.

Mr. Welch: They are so close together, I imagine.

Mr. Gilbert: They... exactly.

Mr. Sierra: They side them up or board them up?

Mr. Welch: Together, I mean you have one here and one here I guess; they are probably that close so next...

Mr. Gilbert: Actually I think there's about 20-foot spread and...

Mr. Sierra: 20-foot?

Mr. Welch: Yes.

Mr. Smith: See, your argument is, now that I'm thinking about this, your argument is that you had a two-family grandfathered usage on each lot.

Mr. Gilbert: Yes.

Mr. Smith: They happen to be joined and if you unjoin them you haven't change that grandfathered. Is that the argument?

Mr. Gilbert: Well, we are going to be looking at this.

Mr. Welch: Two separate lots also, so...

Mr. Baber: That was a store.

Mr. Gilbert: Yes, it was a store.

Mr. Sierra: Why don't we... you have a list of what we requested.

Mr. Gilbert: Actually do you have another one?

Mr. Sierra: Martina...

Mr. Gilbert: She'll get it to me.

Mr. Sierra: We comprised a list of what you need for the 5-year extension; what the Board is looking for. Basically the expenses that you invested into this property, bank statements, mortgage statements, refinancing if you have or not, any annual expenses that you've had, if you have recuperated and how much of your losses or gains in the property.

Mr. Gilbert: Profits and losses.

Mr. Sierra: Like I said, she has a list of everything that we've been requesting. The more information the better.

Mr. Gilbert: Can I ask one question? What about... does the Board look at the matters going forward as to costs of... including the cost of the transformation?

Mr. Smith: Yes, a cost of conversion would be a factor.

Mr. Gilbert: And does the Board look at the marketability, the utility of the end result?

Mr. Smith: If you want to submit... I mean you would have to submit probably expert appraisals.

Mr. Gilbert: Ok.

Mr. Smith: But if you want to explore the other option I would suggest you probably do that first.

Ms. Clark: That makes more sense.

Mr. Smith: Yes. Why do all that work and why put the Board through reviewing it if you gonna do something else with the property. We just have to talk about the do ability of that something else.

Mr. Gilbert: Ok. Thank you very much.

Mr. Sierra: All right. So we'll table this for at least 30 days.

Mr. Gilbert: Thank you.

**5 Claremont Court
John and Beverly Jappen
appeal of the determination of the Commissioner of Public Works**

Mr. Jappen: John Jappen.

Mrs. Jappen: Beverly Jappen.

Mr. Smith: This was on some time ago, Martina advises me.

Clerk: End of last year I think first time you came before us.

Mr. Jappen: I think in November.

Clerk: November, yes.

Mr. Smith: And the application originally was for an appeal for the structural unreasonability decision?

Mr. Jappen: Correct.

Mr. Smith: Is that still the application or is there something else?

Mr. Jappen: Right.

Mrs. Jappen: Yes.

Mr. Smith: Just that.

Mrs. Jappen: Yes.

Mr. Smith: Ok. And you submitted the plans, I know.

Mrs. Jappen: Yes.

Mr. Jappen: Right.

Mr. Smith: Is there anything else you want to submit on that issue?

Mrs. Jappen: Well, have we answered everything that you wanted? We've given you...

Mr. Jappen: I think we've given you everything that you asked for in November.

Mrs. Jappen: We've tried to put everything together. We put together the package of what it would cost to do... to reconstruct it. If there's something missing let us know.

Mr. Smith: All right, I mean but the main issue on structural unreasonability is whether it's structurally unreasonable and reasons that you feel it's structurally unreasonable; not so much financially but structurally.

Mr. Jappen: Right.

Mr. Smith: Did you address that in your papers to your satisfaction?

Mr. Jappen: Yes, I think so.

Mr. Smith: Ok.

Mrs. Jappen: There's a mountain of stuff we've submitted.

Mr. Smith: Ok, well, we'll look at it.

Mr. Sierra: Is there any questions from the Board? Board members have any questions, I notice.

Mr. Barber: The structural, that'll go back to DPW?

Mr. Smith: It may very well. May very well.

Mr. Sierra: Yes, I know we've been reverting some of these back to the Commissioner of Public Works.

Mr. Smith: And again, Mr. Woody, if you review ... get the minutes of that meeting, take a look at it, look at all the stuff here to vote.

Ms. Clark: This was... the way I see paragraph 2, it was denied by DPW.

Mr. Sierra: Yes, by the Commissioner, yes. We had a few that the Commissioner had denied but the Board has actually reverted them back to the Commissioner for reconsideration.

Ms. Clark: Ok.

Mrs. Jappen: What happen, is that the next step?

Mr. Smith: Maybe.

Mrs. Jappen: Yes, my question is, do you as a committee make the decision or does it go back to the DPW Commissioner.

Mr. Smith: What the Board members are saying is that they recently voted on couple of applications to remit the whole application back to the Commissioner for reconsideration.

Mrs. Jappen: So that could happen in this case too?

Mr. Smith: It could.

Mr. Jappen: If you need explanation of what I've submitted you could...

Mr. Smith: Ok, that's fine, yes.

Ms. Clark: Do you have the rents at all? I don't see them here.

Mr. Smith: I don't know if that's really that relevant.

Ms. Clark: You don't need it on this one?

Mr. Smith: Not for structural.

Ms. Clark: Ok.

Mr. Sierra: There is a copy of at least one lease in here, I think. They did submit some information before. Rents haven't changed?

Mr. Jappen: No, no, not at this point.

Mr. Sierra: And these are the most current leases you have?

Mr. Jappen: Yes.

Mr. Barber: I could have sworn I saw a letter from DPW denying him but I don't see it in this.

Mr. Jappen: There was no explanation in the letter.

Mr. Barber: That's what I'm looking for.

Mr. Jappen: It just said it was denied.

Mrs. Jappen: It was one sentence.

Mr. Jappen: Right at it was...

Mr. Barber: That's what I was... yes, I've seen the denial letter before and that's what I'm actually looking for.

Mrs. Jappen: You have it in there?

Mr. Smith: I think Martina would have it.

Mr. Barber: I'm pretty sure... was that in your original application?

Mr. Jappen: Yes, I think so.

Mrs. Jappen: Yes, it was quite a while ago.

Mr. Barber: Ok.

Mr. Jappen: We've got it, we can fax you a copy.

Mr. Barber: No, I got the original application not here with me though, but I do have it.

Mrs. Jappen: Ok.

Mr. Barber: And somebody from the DPW showed up to do the inspection?

Mr. Jappen: Right.

Mr. Barber: Ok and that's when... after that you got the letter.

Mr. Jappen: Right.

Mrs. Jappen: Right.

Mr. Barber: Do you remember who showed up? I'm just... I'm not putting you on the spot I'm just...

Mr. Jappen: No... uhm...

Mrs. Jappen: Do you remember?

Mr. Barber: Was it Mr. Tawil?

Mr. Jappen: Who?

Mr. Barber: The Commissioner, Jacob Tawil?

Mr. Jappen: No, no, it wasn't. It was one of the ... it was newer guy. This was at the time Boris left.

Mr. Welch: Dave Ramkissoon?

Mr. Jappen: Yes, I think so.

Mr. Barber: Ramkissoon, ok, all right. Ok, thank you. That's all.

Mr. Jappen: Its' somewhere in my phone but I can't...

Mr. Sierra: All right, so what we'll do is we'll table this for at least 30 days so that the Board can review all these documents.

Mr. Jappen: Ok.

Mr. Sierra: We'll make a determination and we'll move forward from there.

Mr. Jappen: Ok.

Mrs. Jappen: Ok, we get another notice if we have to do another appearance?

Mr. Smith: Yes, yes.

Mr. Jappen: Ok.

Mr. Barber: Thank you.

Mr. Jappen: Thank you.

Adjourned at 7:40 p.m.

Respectfully submitted

Martina Tu, Clerk