

S T A T E    O F    N E W    Y O R K  
COUNTY OF JEFFERSON

-----x  
ZONING BOARD OF APPEALS

PUBLIC HEARING

#593

Area Variance to increase the maximum allowed  
façade length in the Neighborhood Mixed-Use  
District

-----x  
ZONING BOARD OF APPEALS

PUBLIC HEARING

#594

Area Variance to reduce the required building  
transparency in the Neighborhood Mixed-Use  
District

-----x  
ZONING BOARD OF APPEALS

PUBLIC HEARING

#595

Use Variance to expand a legal-nonconforming  
two-unit dwelling use in the Downtown District

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245 Washington Street  
Watertown, New York 13601  
Wednesday, December 20, 2023

B E F O R E:

Chairperson: Samuel S. Thomas

Board Members: Adam Ruppe  
Morgan Mayer

Senior Planner: Jennifer Voss

City Planner: Geoffrey Urda

City Attorney: Christina Stone, ESQ.

REPORTED BY: Tiffany-Jo Ponce  
Court Reporter

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1 CHAIRPERSON THOMAS: Okay. I would like  
2 to call the Zoning Board of Appeals meeting to  
3 order. And, first, we'll begin with roll call.

4 Adam Ruppe?

5 MR. RUPPE: Here.

6 CHAIRPERSON THOMAS: Christin Filippelli,  
7 absent.

8 James Corriveau, absent.

9 Morgan Mayer?

10 MS. MAYER: Present.

11 CHAIRPERSON THOMAS: I, Samuel Thomas,  
12 Chairperson of the Zoning Board of Appeals, is  
13 present. And I'd also like to recognize Geoffrey  
14 Urda, Planner, who's in attendance, Ms. Christina  
15 Stone representing the City as legal counsel, and  
16 we have Jennifer Voss, Senior Planner.

17 This is a continuation of a hearing at  
18 the last meeting held in November, the 15th, and we  
19 have three items on the agenda. We'll begin with  
20 Area Variance Number 593 to increase the maximum  
21 allowed façade length in a neighborhood mixed-use  
22 district. Location, 1067 Marble Street; applicant,  
23 Hale Bus Garage, LLC.

24 Would somebody like to approach?

25 And state your name for the record and

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1 your representation.

2 MR. TOMPKINS: Good evening, everybody.  
3 My name is Mark Tompkins with GYMO Engineering, and  
4 here with me tonight is Steven Hale with Hale's Bus  
5 Garage.

6 So a couple of updates for the board. We  
7 have gone to the planning board, which I'm sure you  
8 saw from that memo that they completed SEQOR. We're  
9 working through that process with them. And  
10 Mr. Hale has also closed on the two adjacent  
11 properties, so they now own -- they now own the  
12 smaller property in front of the building and then  
13 the larger property off to the west of the  
14 building. So they own all three parcels that are  
15 involved in the project.

16 We submitted -- or I should say -- start  
17 out with we received some cut sheets for the actual  
18 full-vision window panels that we plan to use in  
19 the overhead doors of the building. And now that  
20 we have actual cut sheets, we were able to  
21 accurately calculate what that percent transparency  
22 would be. And we updated that proposed  
23 transparency for the area variance from 5.8 percent  
24 to 8.8 percent, and that would be using one row of  
25 full-vision windows.

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1 CHAIRPERSON THOMAS: Other information  
2 you would like to present to the board?

3 MR. TOMPKINS: I think that's most of it.  
4 I mean, if you guys want, I can move back through  
5 some of the project points.

6 CHAIRPERSON THOMAS: Would the board  
7 members like to hear that?

8 MS. MAYER: No. I don't believe that's  
9 necessary. Thank you.

10 MR. RUPPE: No. I don't think so either.

11 CHAIRPERSON THOMAS: Okay. It's my  
12 understanding, Mr. Urda, the planning commission is  
13 the lead agency for this application, and they have  
14 completed the SEQR review?

15 MR. URDA: They have. And they have  
16 adopted a negative declaration pursuant to SEQRA,  
17 so the ZBA is free to make its decisions on both  
18 area variance requests.

19 CHAIRPERSON THOMAS: Very good. Thank  
20 you.

21 So we don't have to complete SEQR, but we  
22 do need -- there's nobody here present that wants  
23 to speak on behalf of the application, so we're  
24 going to close the public hearing. I'll need a  
25 motion on that, a second motion, and all in favor,

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1 and then we'll begin the voting process. And that  
2 vote will, again, be for the -- for the -- sorry,  
3 not doing well tonight -- façade length in the  
4 neighborhood mixed-use district.

5 MR. RUPPE: I move to close the public  
6 hearing.

7 CHAIRPERSON THOMAS: May I have a second  
8 on the motion?

9 MS. MAYER: Seconded.

10 CHAIRPERSON THOMAS: All in favor?

11 MR. RUPPE: Yes.

12 MS. MAYER: Aye.

13 CHAIRPERSON THOMAS: I just want to  
14 review for the board members, three of us are  
15 present, and that would require -- a variance  
16 would -- with three people present, two absent, we  
17 would have to have a majority, so it would be three  
18 yes votes.

19 Correct?

20 MS. STONE: Uh-huh.

21 CHAIRPERSON THOMAS: Just pointing that  
22 out in case one wishes to delay until there were  
23 those ...

24 Well, I will begin. I have considered  
25 the following for the area variance request to

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1       increase the façade length to 337 linear feet, as  
2       stated in the previous area variance request, to  
3       allow 337 feet where only 60 feet is permissible.

4               It would be difficult for the applicant  
5       to achieve the desired benefit by some other means.  
6       The structure of approximately 4,500 square feet  
7       would be used to house buses, maintenance items,  
8       tools, and other equipment in a secured location.

9               Am I correct in saying buses will be  
10      placed in there?

11              MR. HALE:   Yes.

12              CHAIRPERSON THOMAS:   Okay.   Getting them  
13      off the street; thereby, reducing the consequences  
14      of potential vandalism and exposure to harsh  
15      weather conditions.   All drainage issues have been  
16      addressed, which should not cause environmental  
17      problems unless a historic weather event should  
18      take place, which would place a strain on drainage.  
19      And we are having a historic record event today.  
20      It was stated on the news that the Black River is  
21      flowing at a very high rate for this date.

22              The addition will not adversely impact  
23      the neighborhood or district, but would serve to  
24      enhance and improve existing conditions by  
25      providing the structure to house the items

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1 previously mentioned in this response.

2 I vote yes to the area variance to allow  
3 for 337 linear feet.

4 Ms. Mayer?

5 MS. MAYER: I vote yes based on there  
6 being no adverse impact to the community.

7 MR. RUPPE: Yeah, I don't see this  
8 causing any undesirable change to the neighborhood.  
9 The building's been there for 50 years, and this  
10 expansion is a safe distance from the community and  
11 otherwise minimal impact. I also agree that it's  
12 not feasible to achieve the needs of your business  
13 by any other means and this variance. And the  
14 number is not terribly substantial because it's --  
15 so far, it will not have impact to the safety,  
16 well-being of the neighborhood, and it's certainly  
17 not self-created, given the conditions.

18 So I also vote yes.

19 CHAIRPERSON THOMAS: Thank you,  
20 Mr. Ruppe.

21 Well, you have three yes votes, so your  
22 area variance request for extending the linear feet  
23 has been granted.

24 MR. TOMPKINS: Beautiful. Thank you.

25 CHAIRPERSON THOMAS: Okay. Next, we'll



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1 go on to the variances for -- area variance request  
2 to reduce the required building transparency in the  
3 neighborhood mixed district. And I noticed -- I  
4 know that you've integrated the two and mentioned  
5 8 percent, as opposed to the 5 percent; is that  
6 correct?

7 MR. TOMPKINS: Correct. And maybe the  
8 only other thing I wanted to add there is we took a  
9 hard look at the reasoning behind the transparency  
10 requirements as part of the city planning  
11 department and their theory and thought process on  
12 setting those. And we don't feel that -- even if  
13 the parcel, we did make the extreme measures to try  
14 to meet the minimum percent transparency  
15 requirements, we don't feel that the intent of that  
16 requirement could ever be achieved, just because  
17 the building is so far away from the city  
18 right-of-way. There's a lot of large trees, no  
19 sidewalks in the area.

20 So I just wanted to reiterate that even  
21 with -- even if we didn't meet the 50 percent  
22 transparency requirement, we went through those  
23 extreme measures, the intent of that requirement,  
24 we don't believe, could be met in this instance.  
25 It's a unique case.

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1 CHAIRPERSON THOMAS: Well, as stated  
2 previously, the SEQOR -- correct? -- is approved at  
3 the planning commission's meeting?

4 MR. URDA: That's correct.

5 CHAIRPERSON THOMAS: Okay. So we don't  
6 need to do that. Are there further comments before  
7 we close the public hearing?

8 MR. URDA: Just to be clear, you'll be  
9 voting on a variance to 8.8 percent, based on the  
10 applicant's new calculations.

11 CHAIRPERSON THOMAS: Okay. May I --  
12 City's position, Ms. Stone?

13 MS. STONE: I have no comments.

14 CHAIRPERSON THOMAS: May I have a motion  
15 to close the public hearing?

16 MR. RUPPE: Yeah, I'll move we close the  
17 public hearing.

18 MS. MAYER: Seconded.

19 CHAIRPERSON THOMAS: All in favor?

20 MR. RUPPE: Yes.

21 MS. MAYER: Aye.

22 CHAIRPERSON THOMAS: Well, we'll begin  
23 with the voting process.

24 The petition is for an area variance  
25 request to reduce the required building

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1 transparency in the neighborhood mixed-use  
2 district. Representatives of Hale Bus Garage wish  
3 to reduce the required building facade transparency  
4 on the ground floor from 50 percent to 8.8 percent.  
5 This would be on the overhead shop replacement  
6 doors that will contain a single row with  
7 full-vision windows in each row or bay.

8 Correct?

9 MR. TOMPKINS: Correct.

10 CHAIRPERSON THOMAS: Just checking.

11 This will be part of their  
12 4,500-square-foot addition, which is an addition to  
13 the existing garage facility.

14 While the application for the  
15 transparency request is substantial, it does not  
16 pose a threat to nearby properties or is a  
17 detriment to the neighborhood. Actually, the  
18 proposed project slightly increases the  
19 transparency from the original building. As you  
20 indicated, it went from 5 percent up to 8.8  
21 percent, but it most closely matches the exterior  
22 of the original building.

23 Furthermore, there are no environmental  
24 impacts. It would be difficult and not cost  
25 effective to try to achieve a 50 percent

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1 transparency and would require significant  
2 renovations. The results are far different than  
3 the original building. Therefore, the benefit to  
4 the applicant could not realistically be achieved  
5 by some other means.

6 I do not feel the variance is a  
7 self-created hardship. The transportation facility  
8 has existed in this location for certain decades  
9 and their desire to expand should not be impeded by  
10 the recently adopted zoning ordinance regarding  
11 transparency requirements.

12 Although the applicant considered adding  
13 a second row to increase transparency, it is not  
14 feasible. The right-of-way is located  
15 approximately 158 feet from the building and is  
16 screened by several large trees. Furthermore,  
17 increasing the transparency of this building may  
18 pose potential security problems as their equipment  
19 may use tools that shall be in the housing  
20 structure.

21 I vote yes to the requested area variance  
22 to reduce the first-floor transparency to  
23 8.8 percent.

24 Mr. Ruppe?

25 MR. RUPPE: Yes, I agree with everything

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1       you just said. This -- based on the same logic as  
2       the last one, it's not going to cause any adverse  
3       effects, and it's necessary for your business.

4               So my vote is also yes.

5               CHAIRPERSON THOMAS: Ms. Mayer?

6               MS. MAYER: My vote is also yes. I agree  
7       with what both gentlemen have said. I think it's a  
8       benefit to the neighborhood, rather than a  
9       detriment, based on the decreased security risk  
10      that it will present, as the gentlemen brought up  
11      at our last meeting. So I do vote yes.

12              CHAIRPERSON THOMAS: Well, your variance  
13      has been granted for transparency on this building,  
14      and you may speak to Mr. Urda regarding follow-up  
15      and beginning of the construction project --

16              MR. URDA: So I'll --

17              CHAIRPERSON THOMAS: -- permit process.

18              MR. URDA: So I'll get these out in the  
19      mail to you tomorrow morning, and then I'll see you  
20      at the planning commission meeting in January. And  
21      just as a reminder, that will be Wednesday,  
22      January 3rd, which is different than the  
23      traditional Tuesday.

24              MR. TOMPKINS: Sounds good.

25              Thank you, everybody, for meeting with us

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1 and working with us on it. We appreciate it.

2 MS. MAYER: Thank you.

3 CHAIRPERSON THOMAS: Thank you.

4 MR. URDA: Any questions, just call me in  
5 the meantime.

6 MR. TOMPKINS: Perfect. Thank you,  
7 Geoff.

8 CHAIRPERSON THOMAS: Okay. Next on the  
9 agenda, Case Number 595, use variance to expand a  
10 legal nonconforming two-unit dwelling use, which is  
11 now located in the downtown district. Location,  
12 312 Gotham Street; the applicant being Michael J.  
13 Countryman.

14 MR. PITTAVINO: Hello. I'm not Michael.  
15 I'm Adam --

16 CHAIRPERSON THOMAS: I noticed that.

17 MR. PITTAVINO: -- from Ground Up  
18 Construction.

19 CHAIRPERSON THOMAS: If you could please  
20 state your name for the record.

21 MR. PITTAVINO: It's Adam Pittavino.

22 CHAIRPERSON THOMAS: And your  
23 association? You're with a construction company?

24 MR. PITTAVINO: Yeah. From Ground Up  
25 Construction, which is owned by Michael.

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1           CHAIRPERSON THOMAS: Oh, okay. Very  
2 good. Well, if you would like to speak on the  
3 matter, we may have -- we will have some questions,  
4 and then we'll go from there.

5           MR. PITTAVINO: I'll just take your  
6 questions. I don't know what else to say. I  
7 mean ...

8           CHAIRPERSON THOMAS: Well, one of my  
9 concerns for this application are the financial  
10 pieces, and I know this puts you in a difficult  
11 position because Mr. Countryman is not present.

12          MR. PITTAVINO: Right. I do have some  
13 information here, which may help me answer your  
14 questions, so ...

15          CHAIRPERSON THOMAS: Well, use variances  
16 are very difficult to prove, and this is a unique  
17 situation in that the zoning recently changed to a  
18 downtown -- to a downtown district because of  
19 the -- he's in the backyard of the state office  
20 building.

21                 And when I looked at his figures, it  
22 didn't quite match what I would say was the -- we  
23 were looking for in the process of providing  
24 competent financial evidence that indicates in its  
25 current state, that you're not able to get a

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1 reasonable return.

2 But since you're representing the  
3 construction company, now, will there be a  
4 demolition involved in this, or how is this  
5 going --

6 MR. PITTAVINO: Nope. The only thing  
7 being demoed is a porch. That's -- just a porch.

8 CHAIRPERSON THOMAS: Okay.

9 MR. PITTAVINO: That's all. Like a  
10 small, little porch.

11 CHAIRPERSON THOMAS: Because I was -- I  
12 was thinking, if this was going to be -- probably,  
13 if you were going to demolish the area of where he  
14 wants to complete this construction, that it would  
15 up the ante or up the numbers because demolition  
16 rebuild is -- you know, it's an expensive process.  
17 But you're just saying it's a rear porch?

18 MR. PITTAVINO: Yeah. I mean, you have  
19 to -- I mean, obviously, we have to do a lot of  
20 site work, groundwork to attach for a foundation.  
21 But as far as the building goes, we don't have to  
22 demo any part of the building at all.

23 CHAIRPERSON THOMAS: And if I recall, you  
24 know, his numbers for reconstruction, not  
25 demolition, was about \$64,000.



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1 MR. PITTAVINO: Yes, it was.

2 CHAIRPERSON THOMAS: And --

3 MR. PITTAVINO: Or 62,000, I think I  
4 have.

5 CHAIRPERSON THOMAS: Yeah. So it didn't  
6 make the test for the use variance piece of  
7 providing competent financial evidence.

8 And, Mr. Urda, I might refer to you on  
9 this discussion.

10 MR. URDA: I'm going to try and do a  
11 little bit of translation here, I guess. What the  
12 board member is asking is -- essentially, what I've  
13 told Mr. Countryman and yourself is that your use  
14 is grandfathered, so it's not an allowed use in the  
15 downtown district, but it's grandfathered and  
16 allowed to continue because it existed before the  
17 zoning ordinance was adopted.

18 But the zoning ordinance says that you  
19 can't expand a grandfathered use without a use  
20 variance, which is why you're here. And the  
21 financial test that the board member is asking  
22 about is basically it's -- the onus is on the  
23 applicant to show that he can't get a reasonable  
24 return by changing the use to what would be an  
25 allowed use in the downtown district. And that's

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1       what the board member's email last week was, that  
2       said, well, what would be the cost associated with  
3       turning it into a three-unit?

4               So the dollars and cents he's asking for  
5       is basically asking you and Mr. Countryman to show  
6       it's not really financially feasible. It would be  
7       more difficult for us to obtain a reasonable return  
8       converting it to a three, as opposed to just  
9       leaving it a two.

10              MR. PITTAVINO: It's going to be,  
11       100 percent, because we'll have to remove the  
12       tenants for six to seven months, so no rent is  
13       going to be being paid. And then to do another  
14       unit, you have to redo electrical, the plumbing.  
15       You have to add a hot battery heater, another  
16       furnace. There's just -- to add a whole other  
17       unit ...

18              MR. URDA: Hopefully, I adequately  
19       communicated your question.

20              CHAIRPERSON THOMAS: Thank you. Yeah.  
21       And there are pieces here, like -- did you know --  
22       I don't know if this is a fair question. Who's  
23       paying the utility on each unit? Would it be the  
24       landlord or would the --

25              MR. PITTAVINO: I believe the tenants pay

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1 the utilities.

2 CHAIRPERSON THOMAS: And there were  
3 indications in here about taxes -- you know,  
4 property taxes that was left out, which would  
5 probably up the total cost of maintaining this  
6 thing.

7 MR. PITTAVINO: Oh, I'm sure.

8 CHAIRPERSON THOMAS: You know, I'm a  
9 little bit stymied by this because, you know,  
10 you're in now the downtown district. You don't  
11 have to worry about setbacks.

12 As you said, Mr. Urda, that's like zero.

13 MR. URDA: That's correct.

14 CHAIRPERSON THOMAS: Because you would be  
15 looking at contiguous buildings. I'm also  
16 concerned --

17 MR. URDA: Contiguous buildings are  
18 actually allowed by the downtown zoning district.

19 CHAIRPERSON THOMAS: Did you know, at one  
20 time, Watertown had the most contiguous buildings?  
21 For sure (unintelligible) shared this with me -- in  
22 the world, we had -- yeah, it was true. It was at  
23 one time and that all changed, but ... side bar.

24 This is a difficult case. I'm concerned  
25 about this neighborhood because there's been an

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1 enormous loss of homes. And I was counting up in  
2 my head, and I think there's like a dozen. And one  
3 of the pictures that showed the old Victoria  
4 apartment building, which burned in 2007 and sat as  
5 a vacant lot, so more vacant lots are appearing.

6 I applaud the applicant's willingness to  
7 renovate the structure to keep it there because,  
8 you know, so many things in --

9 MR. PITTAVINO: It's going to be more  
10 desirable.

11 CHAIRPERSON THOMAS: Yeah. That piece, I  
12 totally agree with you. It's the financial piece  
13 that I think we struggle with, because use  
14 variances, as I stated before, are challenging to  
15 prove.

16 Suggestions? I'm stymied.

17 MR. URDA: Well, as I mentioned to both  
18 the ZBA and to the applicant, unlike the planning  
19 commission where staff does have the latitude to  
20 make formal recommendations, we cannot do that in  
21 this case. The ZBA must reach its own  
22 determination, and staff's only role is to report  
23 the relevant section of code that the applicant is  
24 seeking relief from.

25 What I could do is try to lend better

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1 context to this request and the intent of the  
2 zoning ordinance. Mrs. Voss and myself both sat on  
3 the zoning rewrite steering committee for two  
4 years, and I can tell you it was a foremost intent  
5 of the new zoning to allow applicants to renovate  
6 duplexes without difficulty. That is our primary  
7 reason why duplexes are allowed by right in the  
8 residential district and no longer would require a  
9 use variance to renovate or expand the residential  
10 districts. Duplexes are also legal in urban  
11 mixed-use and neighborhood mixed-use. So the  
12 intent to allow owners of duplexes to renovate them  
13 was a forefront goal of our zoning ordinance.

14 Another goal at the forefront of our  
15 zoning ordinance was a dense, vibrant, active  
16 downtown bus-wide. One-unit and two-unit dwellings  
17 are not allowed downtown, but they are in  
18 less-intense districts. As one board mentioned,  
19 once you get to three units, that's the minimum  
20 number of units you would be allowed downtown as  
21 we're trying to promote density.

22 I think what we have here is a case of  
23 both of those intentions are perfectly valid and  
24 both of those pieces of zoning are there with  
25 Watertown's best interest and best future at heart,

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1 and that's why the code says that. I think you  
2 have a bit of geography here where, at the time  
3 this home was built in the mid-1800s, the state  
4 office building didn't exist. Downtown at that  
5 time was largely just public square. In a century  
6 and a half, downtown has grown.

7 And as I mentioned at the last meeting,  
8 staff went parcel by parcel and spent endless days  
9 crafting the zoning map so the Dulles State Office  
10 building block was zoned downtown with intent.  
11 But, here, you have a house built in a different  
12 age before downtown grew to the footprint where  
13 it's in today, which I think makes it unique in its  
14 zoning district. And I think that's the context  
15 you're looking at where this applicant, who owns a  
16 duplex on a parcel that was zoned limited business  
17 in the 1958 zoning ordinance where it would have  
18 been legal, has seen downtown grow around it, but  
19 is still a functioning property that the applicant  
20 is seeking to enhance.

21 And although it's not directly related to  
22 the use variance, another part of the zoning is  
23 urban design and good form, which is why it's a  
24 hybrid form-based code. As I think you-all know,  
25 the downtown district does not allow outdoor

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1 surface parking. The maximum is zero for outdoor  
2 surface spaces, and in this case, the end product  
3 of this proposed expansion would be to enclose that  
4 parking, which would actually bring the property  
5 into conformance with that piece of zoning.

6 But all of this is just to provide you  
7 with context of our zoning and its intent, and you  
8 still have to reach your own decision. I hope that  
9 all helped.

10 CHAIRPERSON THOMAS: Thank you. That was  
11 very helpful.

12 The only thing -- and I know this is not  
13 our role and you would remind me of that, but I  
14 just want to make sure, also in discussion about  
15 this case, that the parking area will be like a  
16 carport-type thing, I understand. It will be --  
17 and then he wants to create like a larger apartment  
18 on that second floor; correct?

19 MR. PITTAVINO: It's a master suite on  
20 the second floor.

21 CHAIRPERSON THOMAS: Yeah. But is -- and  
22 this is not -- we don't vote on this piece, but it  
23 would be just making sure that is legal.

24 MR. URDA: It's basically an expansion of  
25 the second-floor unit, which is no different than,

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1       you know, if you built an expansion without a  
2       garage and enlarged the dwelling, in essence. It's  
3       still an expansion, so it's covered within the  
4       decision form.

5               CHAIRPERSON THOMAS: And the footprint of  
6       the house will remain the same; correct?

7               MR. PITTAVINO: Yeah.

8               CHAIRPERSON THOMAS: Okay.

9               MR. PITTAVINO: Aside from --

10              MR. URDA: Yeah. The footprint of the  
11       structure will expand with the first floor  
12       expansion being the garage; the second floor  
13       expansion being the expansion of the upstairs unit.

14              CHAIRPERSON THOMAS: But you're getting  
15       the cars under a covered area?

16              MR. PITTAVINO: Yes.

17              CHAIRPERSON THOMAS: So they're not going  
18       to be exposed. That will be interesting in future  
19       cases.

20              MR. PITTAVINO: It's going to be easier  
21       for all the tenants in there, too, because if there  
22       was a separate garage structure, where you would  
23       have to put the snow and everything, it would be --  
24       it would cause a lot of problems in there because  
25       it's a shared parking lot with the building next



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1 door, too. And that's a three-unit building next  
2 door, so there's a lot of cars. So this is going  
3 to make things a lot easier for everyone being able  
4 to get parking.

5 CHAIRPERSON THOMAS: I mean, when you  
6 look at the structures on that block, several of  
7 those homes are just like alleyways between them.

8 MR. PITTAVINO: The home next door  
9 doesn't even have parking. I don't know how it  
10 sold. It has zero parking.

11 CHAIRPERSON THOMAS: The red brick?

12 MR. PITTAVINO: It's the one before the  
13 brick. There's a white one in between --

14 CHAIRPERSON THOMAS: Yeah.

15 MR. PITTAVINO: -- that doesn't even have  
16 parking.

17 CHAIRPERSON THOMAS: And the same with  
18 Sterling Street, and I always used to make comments  
19 about that, so ...

20 But I couldn't remember. I did go back  
21 and look, obviously.

22 Questions by board members?

23 MS. MAYER: No questions.

24 MR. RUPPE: To grant this variance, the  
25 law says we must look at each and every permitted

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1 use under the zoning law. And you covered some of  
2 that, but we need to at least examine some of the  
3 other options.

4 So what if we converted entirely from  
5 residential to, well, a different purpose, like an  
6 office or a restaurant. It might be obvious in  
7 this instance, but I would like to hear from you.

8 MR. PITTAVINO: I'm sure that is not his  
9 interest at all.

10 CHAIRPERSON THOMAS: He wants to purely  
11 keep it residential.

12 MR. PITTAVINO: Yes.

13 MR. RUPPE: And in keeping residential,  
14 you can expand the footprint to make it a  
15 three-unit building. So, right now, you're looking  
16 at taking that back porch and making a garage out  
17 of it. You can make the building longer in the  
18 back to make a third unit and keep the existing two  
19 units in the same size of it right now.

20 MR. PITTAVINO: It's -- the one-unit is  
21 an upstairs/downstairs unit next door, so you're  
22 going to completely change the layout of that -- of  
23 that whole place.

24 MR. RUPPE: That would obviously be very  
25 expensive.

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1 MR. PITTAVINO: Yeah, to do that, because  
2 it's an upstairs/downstairs. You're not just  
3 adding it onto an upstairs unit, so ...

4 MR. RUPPE: Okay.

5 MR. PITTAVINO: It's a two-floor unit and  
6 the other is one-floor unit.

7 MR. RUPPE: And then the hardest one to  
8 pass, because you're an existing use, that's also a  
9 legal use under the zoning law, and you have to  
10 show a lack of return for that answer as well.

11 And one thing that comes to my mind, I  
12 have a friend who lived on the 400 block of Gotham  
13 Street, and she passed of cancer earlier this year  
14 and no one has taken residence of that building.  
15 It's gone into disrepair. The windows are now  
16 boarded up. It's in really quite poor condition.  
17 And Mr. Countryman explained in his letter that  
18 this house was in pretty poor condition when he  
19 purchased it.

20 MR. PITTAVINO: Oh, it was. It's not  
21 now, but it was in poor condition.

22 MR. RUPPE: So it took a great deal of  
23 investment to bring it back up to speed.

24 MR. PITTAVINO: Oh, it did. He's owned  
25 it for a little over 15 years, and he's put a lot

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1 of work into it. I personally put a lot of work  
2 into it with him, so I've seen it. I know what it  
3 looked like.

4 CHAIRPERSON THOMAS: Well, that would be  
5 interesting to know the amount of how much -- the  
6 cost of all the renovations over time, you know,  
7 which he doesn't indicate in his response. I know  
8 this is putting you in a tough position.

9 MR. PITTAVINO: Yeah. I'm trying my  
10 best.

11 MR. URDA: I will lend some perspective.

12 CHAIRPERSON THOMAS: Yeah. And I'm just  
13 thinking that if that were added into this piece,  
14 if you had financial evidence that indicated -- you  
15 know, I'm trying to, for instance, break even on  
16 this.

17 MR. PITTAVINO: Yeah.

18 CHAIRPERSON THOMAS: And I did read he  
19 talked about the home originally was in poor  
20 condition and he's absolutely right, because I  
21 remember viewing it and I thought, "Gosh, is that  
22 going to be another demolition?" And he -- you  
23 know, it looks much, much better than it did in the  
24 past.

25 But there are no -- I mean, would that

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1 count, Mr. Urda, if he were to ...

2 MR. URDA: Well, I think the way you look  
3 at all the improvements that have been made over  
4 the years and then you weigh the zoning is you  
5 have -- the ZBA has a different task toward  
6 implementing zoning than necessarily staff and the  
7 planning commission do. Zoning is meant to be  
8 forward-looking. It's meant to implement the  
9 comprehensive plan. The vision is for more dense  
10 development.

11 If that block behind the state office  
12 building were vacant land and the five houses that  
13 are there now weren't there and it was all vacant  
14 land, the City's preference for new development and  
15 what the zoning is attempting to put there would be  
16 something akin to a multistory, multifamily  
17 apartment building, you know, to go with the dense  
18 downtown with the comprehensive plan and zoning and  
19 visions.

20 But what the ZBA is tasked with is  
21 determining whether or not the zoning ordinance is  
22 imposing an undue hardship on this applicant. I  
23 think you could look at the investments made over  
24 the last 20 years as part of your determination as  
25 part of your thought process.

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1 MR. RUPPE: And this investment would be  
2 maintaining that for the future to come. This  
3 garage can be more desirable, which means it's less  
4 likely to become vacant, which means it's less  
5 likely to deteriorate.

6 CHAIRPERSON THOMAS: Like, for instance,  
7 he demolished -- the city asked him to demolish the  
8 old garage, and I'm sure that was costly.

9 MR. PITTAVINO: Yeah. And he was going  
10 to fix that garage. It was minor repairs, I guess,  
11 and they said no, so ...

12 And, yeah, I'm sure it was costly.

13 MR. URDA: Was that -- that was probably  
14 under the old zoning?

15 MR. PITTAVINO: I'm sure.

16 MR. URDA: Pre-February '23.

17 MR. PITTAVINO: Oh, yeah, yeah. That was  
18 a while ago. I don't know what year it was. That  
19 was quite a few years ago.

20 CHAIRPERSON THOMAS: I think when he  
21 originally acquired the house, they wanted the  
22 garage to be demolished --

23 MR. PITTAVINO: Oh, that's --

24 CHAIRPERSON THOMAS: -- I believe, in  
25 reading that. And that's why I was thinking when

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1 he sent off the correspondence and I was --  
2 obviously, over time, he has put a great deal of  
3 time, effort, and money into trying to bring this  
4 thing in compliance, because I do recall it being a  
5 pretty rundown property going back -- geez --  
6 maybe -- well, I can't put an exact time frame on  
7 that, but it concerned me when I was going by.

8 Other questions?

9 MR. RUPPE: Well, one last point, the  
10 form states there must be an unnecessary hardship  
11 demonstrated by the applicant. But you mentioned  
12 that there's tenants in the building now, and any  
13 major change to the building is, obviously, going  
14 to impact them, as I'm sure you would agree. How  
15 long have those existing tenants been in this  
16 building?

17 MR. PITTAVINO: I know the one has been  
18 there for, I think, ten years, and the other one is  
19 fairly new.

20 MR. RUPPE: Okay.

21 MR. PITTAVINO: But the other one has  
22 been there for a long time.

23 CHAIRPERSON THOMAS: So if he's going to  
24 lose that income -- because I believe you stated  
25 earlier that, once you're authorized to complete

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1 renovations, that they have to vacate the property.

2 MR. PITTAVINO: Well, if we were to turn  
3 it into a three-unit building, to do that, they  
4 would have to vacate the property.

5 CHAIRPERSON THOMAS: Okay. But you're  
6 just going to do one piece at a --

7 MR. PITTAVINO: Yeah. For this, they  
8 won't have to vacate the property, so he's not  
9 going to lose money.

10 CHAIRPERSON THOMAS: I'm sorry. I  
11 misunderstood.

12 MS. STONE: Mr. Thomas, are you looking  
13 for more financial --

14 CHAIRPERSON THOMAS: Yes.

15 MS. STONE: -- information? So they  
16 need -- I think the applicant can provide you,  
17 like, changing the use to a three-unit --

18 MR. URDA: That's what this was meant to  
19 be (indicating).

20 MS. STONE: Oh, I didn't think that -- I  
21 didn't really think that --

22 MR. URDA: One of the board members asked  
23 that specific question a week ago, and this  
24 spreadsheet was Mr. Countryman's response to that  
25 question.



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1 MS. STONE: Okay. So, perhaps, I was  
2 looking at the old one. This other spreadsheet  
3 may -- I think that, to show that, okay, to bring  
4 it up to a three-unit is going to be cost  
5 prohibitive versus the rate of return over time and  
6 versus, you know, having -- keeping it a two-unit  
7 with a garage, you can get more money, more  
8 bang-for-your-buck type thing.

9 Is that what you're looking for,  
10 Mr. Thomas?

11 CHAIRPERSON THOMAS: Yeah. And, also,  
12 would it be applicable for him to also piece in all  
13 of the renovations done prior to this?

14 MS. STONE: Yeah. I mean, he said -- he  
15 already stated that they would have to redo the  
16 electrical and probably more plumbing, et cetera,  
17 et cetera --

18 MR. PITTAVINO: To add a unit, yes.

19 MS. STONE: -- to add another unit. So,  
20 yeah, he could say, "Look, I spent X number of  
21 dollars over the years for a two-unit. Now I'm  
22 going to have to scrap that and then do more -- do  
23 more work and cost more money to bring it into -- a  
24 three-unit into compliance."

25 CHAIRPERSON THOMAS: And you want to keep

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1       it, obviously, as a two-unit, so that additional  
2       cost would make a sound -- a sound case for your  
3       yield a reasonable return on the property.

4               Am I correct?

5               MS. STONE:   Correct.

6               CHAIRPERSON THOMAS:   I know this puts you  
7       in a really tough position.

8               MR. PITTAVINO:   No, it's okay.

9               MR. URDA:   What I would recommend,  
10       because I see where this is going and I want to  
11       step in and make a recommendation.   The ZBA, I  
12       think, needs to make a determination tonight  
13       whether it's comfortable voting, based on the  
14       conclusions reached during this discussion, or if  
15       the ZBA really, truly feels they need to see  
16       another spreadsheet to be comfortable with that  
17       financial part of it.

18               And if it's the latter, I would say,  
19       given that the applicant has a January 3rd planning  
20       commission deadline, the ZBA, if that's where you  
21       want to go with it and you haven't made your  
22       determination yet, you may wish to think about  
23       reconvening ahead of that --

24               CHAIRPERSON THOMAS:   January.   But can  
25       you legally do that?

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1 MR. URDA: We keep the public hearing  
2 open. You don't need to post a public notice. I  
3 guess I'm just trying to make the point that if you  
4 table this to January 17th, the applicant is now  
5 looking at a February planning commission meeting.

6 So the first step would be to determine  
7 whether or not you feel the hardship test is  
8 satisfied, based on the line of questioning with  
9 Mr. Pittavino tonight, or whether you want to see  
10 those figures added up in a spreadsheet.

11 If it's the former, then I think you can  
12 feel free to vote. If it's the latter and you want  
13 to see that additional financial evidence in a  
14 spreadsheet, you may wish to make some  
15 consideration for the time line for the other board  
16 the applicant is appearing in front of and  
17 potentially come back ahead of that.

18 CHAIRPERSON THOMAS: I would be more  
19 comfortable -- the time frame concerns me, but I  
20 still would be more comfortable with additional  
21 information, but I -- I'm just one person, so --  
22 and I'm not sure how others feel.

23 MS. MAYER: I agree with that. I don't  
24 necessarily have a problem reconvening sometime in  
25 a couple weeks.

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1 MS. VOSS: You would have to meet next  
2 week.

3 MR. URDA: Or -- or -- and I don't know  
4 if this works for everyone, but the planning  
5 commission will meet at 6 p.m. on January 3rd. The  
6 ZBA could, conceivably, meet at 5 or 5:15 p.m. in  
7 this same room, and staff just turns the room over  
8 for the planning commission. It depends on what  
9 all your schedules permit.

10 MS. STONE: And check with Tiffany.

11 *(A discussion was held off the record.)*

12 MR. URDA: Well, if it were 5:30, the  
13 meeting couldn't last more than 10 or 15 minutes,  
14 and we would need that 15 minutes from 5:45 to 6 to  
15 turn it around for the planning commission. Or if  
16 there's an earlier date than January 3rd.

17 CHAIRPERSON THOMAS: Well, I don't -- how  
18 soon can the applicant provide that information?

19 MR. PITTAVINO: I'm sure he can -- I can  
20 call him as soon as I leave here, and I'm sure he  
21 can get it to you as quickly as you need it.

22 CHAIRPERSON THOMAS: I mean, it's a bit  
23 of an inconvenience because it is Christmas week  
24 and people get busy with things. I'm not sure what  
25 the -- there's just three of us and reminder that

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1       this vote would require -- well, it could be four  
2       if Mr. Corriveau is back, but I think he's on  
3       vacation and has left the area for a while. So  
4       it -- we would have to be in consensus in order to  
5       get that variance granted.

6               MR. URDA: I think if you were looking at  
7       5:30 on the 3rd, if you were confident that you  
8       could read the spreadsheet and arrive ready to  
9       vote, you could hold that vote. The meeting would  
10      last ten minutes, staff could turn it around for  
11      the planning commission at 6. If you anticipate  
12      anymore questions and answers with the applicant,  
13      then a different date where you would have that  
14      time.

15               *(A discussion was held off the record.)*

16              MR. RUPPE: I think the evidence  
17      presented is good, but given what the strength test  
18      is, more would be better, I think. It's good for  
19      us to ask for more.

20               *(A discussion was held off the record.)*

21              MR. URDA: Well, we could do this a  
22      different way. We could have the planning  
23      commission grant approval contingent on receiving  
24      the variance. And, potentially, you could meet at  
25      seven, after the planning commission. We would

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1 turn the room over for you, as opposed to for them.  
2 It would be a Wednesday at seven, which is your  
3 normal hours.

4 CHAIRPERSON THOMAS: That's fine.

5 MS. MAYER: That's fine with me.

6 MR. URDA: Mr. Pittavino, you'll be here  
7 that night anyway for planning commission. Would  
8 you be able to stay an extra hour?

9 MR. PITTAVINO: Yeah, no problem.

10 MR. URDA: Basically, that meeting would  
11 end. We would turn over the room and open this  
12 one.

13 MR. PITTAVINO: That's fine.

14 *(A discussion was held off the record.)*

15 MR. URDA: So 7 p.m. on the 3rd works for  
16 all parties. It would certainly work for  
17 Mr. Pittavino because he'll be here anyway.

18 CHAIRPERSON THOMAS: Okay. I mean, it  
19 works for me. Are we all in agreement for a  
20 Tuesday, January 7th --

21 MR. URDA: Wednesday, January 3rd.

22 MS. VOSS: Wednesday, January 3rd.

23 CHAIRPERSON THOMAS: Yeah, Wednesday,  
24 January 3rd at 7 p.m.

25 MR. URDA: And then work with me on

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1 getting that spreadsheet ahead of time. I'll talk  
2 to you later about --

3 MR. PITTAVINO: Okay.

4 MS. STONE: So I think we should  
5 reiterate what exactly you're seeking from the  
6 applicant so there's no confusion, and then he has  
7 what you're requesting.

8 MR. URDA: I was going to say the same  
9 thing.

10 CHAIRPERSON THOMAS: One of the things I  
11 think would be helpful, if he could give a  
12 historical account of all the investments he's made  
13 to the building. Also, he needs to probably add  
14 property taxes. And the difference, I think I was  
15 hearing this evening -- correct me if my  
16 statement's not valid -- that he would want to  
17 present financial figures for the different -- for  
18 the conversion into three units, which would be --  
19 what I'm hearing, is cost prohibitive.

20 MR. URDA: Yeah. I emailed this to  
21 everyone the Friday, the 20th, or Friday --  
22 whatever last Friday was, the 15th. Mr. Countryman  
23 sent this spreadsheet that talked about the cost of  
24 the conversion to a three. It would have landed in  
25 your email inboxes Friday afternoon. It would have

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1       been after we had sent out the agenda, obviously,  
2       by a week, but ...

3               MR. RUPPE: This was in the follow-up  
4       email (indicating).

5               CHAIRPERSON THOMAS: Oh, I had a hard  
6       time printing that. It wouldn't come up and then  
7       everything was going on. I started trying to read  
8       it.

9               MR. URDA: You can have that copy. I  
10       could actually print all of you copies of that  
11       tonight if you're having trouble printing it at  
12       home.

13              CHAIRPERSON THOMAS: Well, we have that,  
14       then, the conversion to the three units. But I  
15       think it would be helpful if he could -- to the  
16       best of his ability and validity, that he would  
17       incorporate the amount of investments -- investment  
18       that he has placed on this property, so ...

19              And, also, the resale value of the house,  
20       if he were to put it on the market, what -- you  
21       know, if he wants to, we could look at that, but  
22       what would be a fair and reasonable price if that  
23       were --

24              MR. PITTAVINO: Now, is this the resale  
25       value of it after the renovations or the resale



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1 value piece as is?

2 CHAIRPERSON THOMAS: Probably --  
3 probably, I would want after the renovations.

4 MR. PITTAVINO: After.

5 CHAIRPERSON THOMAS: Or before? Put it  
6 like, right now, if he were to sell that house as  
7 it is current.

8 MR. PITTAVINO: Okay. In current state.

9 MR. URDA: For the board members, do you  
10 think each of you, by close of business tomorrow,  
11 could send me an email with any financial  
12 information you would like included for the 3rd,  
13 and then I can forward those questions to  
14 Mr. Pittavino and Mr. Countryman? Is that close of  
15 business tomorrow a fair time line from the three  
16 of you?

17 MR. RUPPE: Yeah. Another potential  
18 expense to look at is any insurance liability in  
19 the future because the detached garage would make  
20 it likely (unintelligible) small and coming as a  
21 relevant cost as well.

22 CHAIRPERSON THOMAS: Yeah, you might want  
23 to also include insurance on the property, taxes,  
24 all the stuff we all have to pay out for. And what  
25 would he get for that property should he --

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1 pre-renovations, what would be potential asking  
2 price, but I know that's hard to determine because  
3 you never know who's coming along that would like  
4 to, perhaps, purchase that piece, but it's  
5 always ...

6 Maybe looking at the assessed value of  
7 the property. It's interesting what's selling in  
8 town, and I know these are tough neighborhoods to  
9 make sales and, you know, it just -- I've seen  
10 houses hold on for a long time.

11 MR. RUPPE: And how are investors going  
12 to look at investing the money here versus  
13 somewhere else in town, and if somewhere else  
14 always going to be a better deal, so why making  
15 this investment is going to be worth it for you  
16 versus potentially taking a loss also.

17 CHAIRPERSON THOMAS: I am glad to see  
18 that he cares about this house and has a history of  
19 residing in it years and years ago, that he's going  
20 back to try to upgrade it. I just hope he doesn't  
21 feel too frustrated by this process, but we just  
22 need to do it legally.

23 MR. PITTAVINO: Oh, yeah. No, he  
24 understands, so ...

25 MR. RUPPE: Yeah. I'd like to reiterate

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1       that, too. I do applaud him being willing to go  
2       through this. I think it's great, but we have to  
3       do it right.

4               MR. PITTAVINO: Yeah.

5               MR. URDA: So if the board members get  
6       all their written questions to me by close of  
7       business tomorrow and I get them to you and  
8       Mr. Countryman, would you be comfortable saying you  
9       could turn around responses to me in a new  
10      spreadsheet by Friday, the 29th?

11              MR. PITTAVINO: Yes.

12              MR. URDA: Okay.

13              MR. PITTAVINO: Yep.

14              MR. URDA: And then we reconvene the 3rd.

15              MR. PITTAVINO: Okay. Yeah, Friday, the  
16      29th, no problem.

17              MR. URDA: That gives you a whole week  
18      with it. I know it's Christmas week.

19              MR. PITTAVINO: Oh, I'm sure he'll be  
20      fine.

21              MR. URDA: He responded to the last  
22      question that they had in two hours, so ...

23              MR. PITTAVINO: Oh, yeah. Okay.

24              MR. URDA: I also applaud  
25      Mr. Countryman's patience with the process and

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1 willingness to do everything right.

2 CHAIRPERSON THOMAS: Any further  
3 questions?

4 MS. MAYER: No.

5 CHAIRPERSON THOMAS: Assignment seems  
6 clear, Mr. Urda.

7 MR. URDA: All right. If I don't hear  
8 from all of you tomorrow by 4:00, I will -- even  
9 3:45, I will probably email anyone who I haven't  
10 heard from, just to make sure we keep everything on  
11 track. Thank you, all.

12 CHAIRPERSON THOMAS: And we'll adjourn  
13 the meeting, but we'll keep the hearing open.

14 MS. STONE: Are you going to make a  
15 motion?

16 CHAIRPERSON THOMAS: May I have a motion?

17 MS. MAYER: I would move to keep the  
18 public hearing open.

19 MR. RUPPE: Second.

20 CHAIRPERSON THOMAS: All in favor?

21 MS. MAYER: Aye.

22 MR. RUPPE: Yes.

23 CHAIRPERSON THOMAS: Motion to adjourn?

24 MS. MAYER: I would move to adjourn the  
25 meeting.

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1 CHAIRPERSON THOMAS: May I have a second?

2 MR. RUPPE: Second.

3 CHAIRPERSON THOMAS: All in favor?

4 MR. RUPPE: Aye.

5 MS. MAYER: Aye.

6 CHAIRPERSON THOMAS: Very good. Thank  
7 you so much.

8 *(The meeting was adjourned.)*

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## REPORTER'S CERTIFICATE

I, TIFFANY-JO K. PONCE, Official Court Reporter and Notary Public in and for the State of New York, do hereby certify:

That the sworn testimony and/or proceedings, a transcript of which is attached, was given before me at the time and place stated therein; that the witness was duly sworn or affirmed to testify to the truth; that the testimony and/or proceedings were stenographically recorded by me and transcribed under my supervision.

That the foregoing transcript contains a full, true, and accurate record of all the testimony and/or proceedings held on December 20, 2023.

That I am in no way related to any party to the matter, nor to any counsel, nor do I have any financial interest in the event of the cause.

WITNESS MY HAND this 10 day of January, 2024.



TIFFANY-JO K. PONCE  
Official Court Reporter

TIFFANY-JO PONCE  
Court Reporter