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INCORPORATED VILLAGE OF MINEOLA

HEARING OF THE
BOARD OF TRUSTEES

February 17, 2021
6:30 o'clock p.m.

B e f o r e:

SCOTT P. STRAUSS, Mayor,
PAUL A. PEREIRA, Deputy Mayor,
(Virtual via Zoom)
PAUL S. CUSATO,
GEORGE R. DURHAM,
DENNIS J. WALSH, Trustees.

* * *

PETER TRENTACOSTE, ESQ.
Village Attorney

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JOSEPH R. SCALERO, DANIEL B. WHALEN,
Village Clerk Supt. of Buildings

* * *

KELLY CULEN
Official Court Reporter

1 MR. SCALERO: Please silence all pagers and
2 cell phones. Emergency exits located in the rear of
3 the room. Please observe social distances.

4 MAYOR STRAUSS: Good evening, folks, before we
5 start the hearing, I just want to point out that we
6 have Deputy Mayor Paul Pereira coming to us live. He
7 is unavailable to be here so we use technology to our
8 advantage. He actively wants to participate in all
9 Village board meetings and entities and things and
10 events, so he had some family issues that he needs to
11 take care of out of the country, believe it or not, so
12 he's here and live, and he will participate in anything
13 that we have going on here this evening.

14 Mr. Scalero, the floor is yours.

15 MR. SCALERO: Legal notice, public hearing,
16 Incorporated Village of Mineola, please take notice the
17 Board of Trustees of the Incorporated Village of
18 Mineola will hold a public hearing on Wednesday,
19 February 17, 2021 at 6:30 p.m. at Village Hall, 155
20 Washington Avenue Mineola, 11501, or at some other
21 location hereafter designated by the Board of Trustees
22 in order to receive public comment upon the following:

23 Application of North Shore Farms for a special
24 use permit pursuant to Chapter 550 of the code of the
25 Incorporated Village of Mineola entitled Zoning,

1 section 550-12 entitled B-1 Districts, Subsection (B)
2 entitled Special Uses to expand the previously issued
3 special use permit in order to legalize and maintain
4 the conversion of cellar storage space into a
5 commercial bakery area, prep areas, ten walk-in
6 refrigeration boxes, locker room, storage rack areas,
7 food prep areas and rack ovens upon the property known
8 as 330 East Jericho Turnpike, Mineola, New York, known
9 and designated on the Nassau County Land and Tax Map as
10 Section 9, Block 381, Lot 44.

11 The Village of Mineola does not discriminate
12 on the basis of handicapped status in administration or
13 access to or employment in its projects and activities.
14 Joseph R. Scalero has been directed to coordinate
15 compliance with nondiscrimination requirements of the
16 Federal Revenue Sharing Regulations.

17 At this scheduled meeting of its Board of
18 Trustees, reserved decisions from previous meetings, if
19 any, may be acted upon by the Board of Trustees.

20 At the aforesaid time and place, all
21 interested persons will be given an opportunity to be
22 heard.

23 By the Order of the Board of Trustees of the
24 Incorporated Village of Mineola, Joseph R. Scalero,
25 Village Clerk, dated January 13, 2021.

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MAYOR STRAUSS: Thank you.

Mr. Whalen, regarding mailings.

MR. WHALEN: Yes, Mr. Mayor, I am in possession of the affidavit of mailing notice. It's been signed and notarized as required and indicates that the recipients of said mailing are all within 400 feet of subject property.

MAYOR STRAUSS: Thank you. Mr. Trentacoste?

MR. TRENTACOSTE: At this time, Mr. Mayor, I would ask for a SEQRA designation for the application.

MAYOR STRAUSS: We need a motion.

TRUSTEE WALSH: Motion.

MAYOR STRAUSS: Motion by Trustee Walsh and seconded by Trustee Cusato.

All in favor?

DEPUTY MAYOR PEREIRA: Aye.

TRUSTEE DURHAM: Aye.

TRUSTEE STRAUSS: Aye.

TRUSTEE CUSATO: Aye.

TRUSTEE WALSH: Aye.

MAYOR STRAUSS: Aye.

Opposed?

Carried.

Ladies and gentlemen, this will be the format for this evening's hearing. The applicant will make

1 their presentation, interaction with the board and
2 after those interactions we will open it up to public
3 comment. I ask anybody approaching the podium to
4 please state their name, their address, their
5 affiliation, if there is one, and speak slowly and
6 clearly so everything can be accurately recorded.

7 John.

8 MR. SCALERO: Thank you.

9 MR. MICHELEN: Thank you my name is Oscar
10 Michelen with the law firm of Cuomo L.L.C., 200 Old
11 Country Road, Mineola, New York. Also with me is
12 Valerie Rothschild who is the attorney for Kimco. I
13 represent North Shore Farms.

14 MAYOR STRAUSS: If I can interrupt you for one
15 second. If you feel it's beneficial to speak without
16 the mask, you can certainly do that. If you're
17 uncomfortable with taking it off, then I certainly
18 appreciate that also.

19 MR. MICHELEN: Appreciate it. I just didn't
20 want to bother the protocol.

21 MAYOR STRAUSS: Understood.

22 MR. MICHELEN: By way of background --

23 Well, also with me is Peter Mamais, M A M A I
24 S, who is one of the owners of the supermarket, Jimmy
25 Litchhult, who is the V.P. of operations and our

1 architect Anthony Garrett.

2 So by way of background, this property was
3 previously a CVS, and then in March of 2009, the
4 property was given a special use permit to convert it
5 to a supermarket where it was taken over by a company
6 called Freshway who operated it until North Shore Farms
7 came in to play. So when the current applicant North
8 Shore Farms came into the space, the basement was
9 already used by the supermarket for food prep. There
10 was already electricity down there. There was already
11 plumbing down there, and the company believed that it
12 was a permitted use under this special use.

13 The building department then informed us that,
14 in fact, the basement had not been part of the special
15 use and that there was no right to use that as in that
16 fashion. The property did have electrical approval for
17 down there and plumbing approval, apparently, but we
18 have since filed with the building department for those
19 permits, and we're advised that we had to apply to
20 amend the special use to include the basement which is
21 what we're doing here today.

22 So if we can have Mr. Garret come up and
23 explain what the proposal is.

24 MR. GARRETT: Also, board members, I have an
25 exhibit on the back of my board, so I've made copies.

1 Would you like copies?

2 MAYOR STRAUSS: Sure. Give them to Mr.
3 Scalero.

4 MR. GARRETT: I made ten copies, but I guess
5 the board only needs six.

6 TRUSTEE WALSH: Counsel, I missed your name.

7 MR. MICHELEN: Oscar Michelen.

8 MR. GARRETT: And with the Board's permission,
9 because I see that I have some extra copies, we
10 discussed it if the neighbors would like to have a copy
11 in their hand, I'm fine with it.

12 MAYOR STRAUSS: I'm good with it. The more
13 information out, the better.

14 MR. GARRETT: I'm going to avail myself to
15 taking off the mask. My name is Anthony Garrett. I'm
16 a licensed architect in the State of New York and
17 several other jurisdictions. My offices are located at
18 161 Main Street, Ridgefield Park, New Jersey 07660.
19 The name of the firm is Bilow Garrett Group. I
20 testified before various boards in the State of New
21 York as well as in New Jersey, Ohio, various locations.

22 MR. MICHELEN: So if you can just take the
23 board through the plan, what was there, what was added,
24 and what does the map indicate, fixtures, et cetera,
25 that are going to be put in?

1 MR. GARRETT: Okay, so what this drawing
2 depicts is Drawing A100 prepared by our office under my
3 supervision depicts basically the basement floor plan,
4 and it's approximately 10,400 square feet. There are
5 three means of egress out of the basement. There's an
6 exit over here. There are two exits that enter into a
7 hallway into an areaway. There's a third exit out to
8 another hallway, fire rated hallway, and then there's
9 also a supplemental stair which is demarcated with an
10 exit sign that leads up to the main floor of the
11 building and then out through an emergency exit. So
12 there's technically four exits out of the basement
13 space.

14 The basement space is used primarily for
15 storage. There are several refrigerated or freezer
16 boxes which line the perimeter of the room coupled by
17 itinerant boxes in the space here. Dry good storage
18 towards the north end of the building, and that area
19 totals approximately 7,677 square feet and it's used
20 for storage of food.

21 In addition refuse box No. 1 -- refrigerated
22 box No. 1 is designated and used for the storage of
23 refuse that would spoil if it were put outside in a
24 dumpster in accordance with what the original special
25 use permit in 2009 required, and it's located adjacent

1 to the exit door so it's very convenient to get that
2 refuse.

3 In addition to that, the center portion of
4 this area is a small prep area. They're doing
5 preparation of vegetables, produce, that type of thing
6 that would then be brought upstairs via conveyor
7 located in the northeast corner to the main selling
8 floor.

9 In addition -- there are a number of sinks in
10 there. There are three multicompartment sinks, and the
11 commensurate hand sinks down there to meet the health
12 department requirements for washing ones hands.

13 In addition to that there's a main area here
14 entitled baked goods which is approximately 25 by 30.
15 Again, it's mostly a prep area where they're prepping
16 the dough for baked goods that are for sale by North
17 Shore Farms.

18 I don't know that I would characterize this
19 technically as a commercial bakery where they're baking
20 for outside customers. It is not a wholesale bakery.
21 They're doing some light baking in the basement for the
22 breads and other pastries that they sell in the store.

23 And there are, I guess, there were three
24 ovens, rack ovens that were added and, again, I think
25 that's one of the reasons we're here before you is to

1 ensure that we -- we're legal with what's going on
2 there. And so that's an addition to what was in place
3 at the time of purchase.

4 You'll hear testimony about when North Shore
5 Farms purchased, I think it is around 2016 or so.

6 MR. MICHELEN: Correct.

7 MR. GARRETT: I have a long history with North
8 Shore Farms.

9 MR. MICHELEN: 2011.

10 MR. GARRETT: We have done the work with them
11 in Commack, in Port Washington, Great Neck.

12 AUDIENCE MEMBER: Elmont, Hauppauge.

13 MR. GARRETT: Hauppauge, that's the one I
14 couldn't think of. I also have a longstanding
15 relationship with the owners in their previous lives
16 where we've done work for them in stores in Manhattan
17 and Jersey as well.

18 So we have a longstanding relationship and,
19 quite frankly, we're really taken aback that this
20 special use permit issue came up because they bought
21 this building in all good-faith assuming, and this is a
22 bad word to say, that everything had been legally
23 installed and they were continuing the operations
24 there.

25 I was not involved in this job. There wasn't

1 a lot of architecture, so I can't refrain from using
2 it, there wasn't a lot of meat on the bone for me on
3 this one so they didn't get me involved.

4 Nonetheless --

5 MR. MICHELEN: When they purchased it?

6 MR. GARRETT: When they purchased the
7 building.

8 When Mr. Whalen's office did the inspections
9 and issued a number of violations for unpermitted work,
10 the special use permit, among other things, they
11 retained me to go in, walk down the space, address the
12 concerns that were raised by Mr. Whalen, which we did,
13 hence we put together this plan, which has a bunch of
14 zebra striping which is probably one of the main
15 features on the drawing. That's been painted out to
16 delineate egress routes out of that basement. So there
17 is a visual -- a visual demarkation that says don't
18 store here because you're blocking the exits and that's
19 not -- doesn't meet the code.

20 I walked through the space since they have
21 done the work and I walked through again today just to
22 ensure that what I'm testifying to is true. The zebra
23 striping is there and it's clear pathways to the exits.
24 All the exit signs were brought into working order.
25 They were missing an exit sign. I said you need an

1 exit sign. They went and they put it in because we
2 wanted to make sure that the life safety issues that
3 are really paramount here were being addressed.

4 We had filed all of this documentation with
5 the building department in Mineola --

6 MR. MICHELEN: Let me ask you before you turn
7 it -- in addition to that, you want to talk --

8 MAYOR STRAUSS: Mr. Michelen, if you could, we
9 televise these at home, so if you can get closer to the
10 microphone, it would be beneficial.

11 MR. MICHELEN: Certainly. If you can talk
12 about sprinklers in the basement.

13 MR. GARRETT: Sure. The entire basement had a
14 sprinkler system installed, however, there were heads
15 that were rusty. There were broken heads. Not many,
16 but a few locations. We surveyed that, highlighted it
17 on our drawings. We highlighted fire alarms as well
18 where we thought there might be a missing device.
19 There was one device that had to be added and we
20 documented that on the drawing and there's a series of
21 key notes that describes all of this work.

22 MR. MICHELEN: If I can present to the board
23 the sprinkler system has been inspected and approved by
24 the County fire marshal.

25 MR. GARRETT: Just the last thing on the

1 sprinklers, there were one or two walk-in boxes that
2 did not have sprinkler heads in there. They were
3 added, so the space is fully protected from a fire
4 sprinkler standpoint.

5 The back of my board and in portrait fashion
6 are recent photographs that were taken by North Shore
7 Farms showing the egress ways, showing the storage.

8 Oh, that was one of the other issues, the
9 storage was within 18 inches of the ceiling. That has
10 all been taken down. There are no goods being stored
11 within 18 inches of the ceiling any longer.

12 New exit sign, panic device at the exit door
13 and this, it's a little blurry because we enlarged the
14 photo, it gives you an idea of the prep area and the
15 baking area where the -- which I think is one of the
16 main cruxes of why we're before you tonight.

17 MR. MICHELEN: If you look at the upper right
18 picture there, is that another egress door that's shown
19 there?

20 MR. GARRETT: Yes.

21 MR. MICHELEN: So the striping leads --

22 MR. GARRETT: The striping leads to egress
23 doors which delineate the way out of the building, and
24 they're also supplemented by the exit, the way finder
25 signage which, again, I was there tonight and looked

1 and made sure that if I was in that basement I could
2 always see a way finder sign so I would know my way out
3 of the basement.

4 In my opinion, professional opinion, the
5 basement has been brought up to a standard that meets
6 the requirements for the Life Safety Code at this
7 point. There wasn't a lot of work, but there was some
8 work done to do that.

9 I'm gonna flip back to the drawing because I
10 think there was a small alcove added over here on the
11 drawing where there was a minor expansion of the prep
12 area, and that enlarged the special use permit,
13 certainly.

14 Or let me rephrase that.

15 It enlarged what we had thought to be included
16 of the special use permit.

17 So we're here before you to present what is
18 going on in the basement of the building and to ask for
19 your consideration in terms of granting the expansion
20 of the special use permit.

21 MAYOR STRAUSS: Okay, thank you, sir. I have
22 a couple of questions for you. One, just the size --
23 just to confirm everything from what I'm being told,
24 everything has been brought up to the standards and
25 requirements for the Village Code as well as Nassau

1 County Fire Marshals and New York State Building Code;
2 is that correct?

3 MR. GARRETT: Yes.

4 MAYOR STRAUSS: And this is not a full
5 basement of the store; it is only a small portion of
6 the basement?

7 MR. GARRETT: No. This basement exists under
8 the entire store.

9 MAYOR STRAUSS: Okay.

10 MR. GARRETT: The first floor is 10,000 --

11 MAYOR STRAUSS: I should say not the entire
12 building.

13 MR. GARRETT: Not the entire building,
14 correct.

15 MAYOR STRAUSS: So even though it's a long
16 strip, you're restricted only to the basement of North
17 Shore Farms?

18 MR. GARRETT: Correct.

19 If I might, referring to the key plan, the
20 area that I'm circling in my finger is the North Shore
21 Farms space. That's where the basement is, you can see
22 the stairs. The rest of this is the balance of the
23 stores, there are a couple of restaurants. That is not
24 part of -- we're not looking to expand into that area.

25 MAYOR STRAUSS: I'm mentioning it just for

1 edification for the board members and for the audience
2 as well as anybody at home. I've been in the basement
3 there. I've been in that area. Unfortunately, it's
4 been well after midnight because of the fire alarms
5 that have been going off there but that all seems to
6 have -- I'm going to jinx myself. I went there at
7 3 o'clock this morning, so it has been -- seems to have
8 been rectified, so thank you for that.

9 Can you go into the operation of what's going
10 on down there? You said it's not a wholesale bakery.
11 Are you sending items out in delivery vans or is it
12 just strictly internal?

13 MR. MICHELEN: We're going to have the vice
14 president of operations address that.

15 MAYOR STRAUSS: That would be great.

16 MR. MICHELEN: If you have anymore questions
17 for Mr. Garrett --

18 MAYOR STRAUSS: I want the question answered
19 so whoever needs to do that, come on up.

20 MR. MICHELEN: This is Jamie Litchhult who is
21 the vice president of operations of the company.

22 MR. LITCHHULT: Jamie Litchhult, 22 Lisa, L I
23 S A, Drive, Dix Hills, New York 11746. A little
24 background or you want to go right to the question?

25 MAYOR STRAUSS: I'll take your background.

1 MR. LITCHHULT: I've been in this business 45,
2 46 years. When the store was purchased in 2011, I was
3 corporate director of operations for their wholesaler,
4 Krasdale Foods at that time. Within about nine months
5 of the purchase of that store, I changed jobs and came
6 to work for North Shore Farms. Early part of 2012.

7 My background I was store manager for ten
8 years at Grand Union. That might date me a little bit.

9 MR. GARRETT: How about Bohack?

10 MR. LITCHHULT: And I stayed in this business
11 ever since. Started pushing carts and brooms and here
12 we are before you now.

13 As to the operation, again, as everybody
14 alluded to, we really did what was being done prior,
15 may that be right or wrong.

16 The wholesale bakery question is we are not
17 running vans in and out of this store. We do bring
18 prepped dough to stores that need it or run out. There
19 is no bread baking whatsoever in the basement.
20 Everything is brought upstairs and baked, or it is also
21 prepped and baked in other stores, so within North
22 Shore Farms. Not any other particular person. I hope
23 that answers your question.

24 MAYOR STRAUSS: Yes, it does. So all right,
25 I'll leave it to the rest of the board.

1 Deputy Mayor, are you on?

2 DEPUTY MAYOR PEREIRA: Good evening, can you
3 all hear me?

4 MR. LITCHHULT: Yes, we can.

5 DEPUTY MAYOR PEREIRA: Great, thank you so
6 much, glad to be there. It is a little bit before
7 midnight here, but here I am.

8 So just to get my understanding, there is no
9 expansion of the use there and there aren't going to be
10 anymore employees, the hours of operation aren't going
11 to change? Essentially, you're going to continue to do
12 what you were doing except now you're going to be doing
13 it, quote-unquote, legally, which you didn't know you
14 weren't doing before --

15 MR. LITCHHULT: That is 100 percent correct.

16 DEPUTY MAYOR PEREIRA: -- is that correct?

17 Having said that, there really are no other
18 questions for me because we did this back in 2009 and
19 so we essentially approved this and now you've been
20 operating this way. So the bakery upstairs is staying
21 where it is?

22 MR. LITCHHULT: It has not moved. Bread is
23 still being baked upstairs in the oven that is a five
24 rack bread oven.

25 DEPUTY MAYOR PEREIRA: Okay, so, essentially,

1 this is just to bring up to code and conformity?

2 MR. LITCHHULT: Correct, we filled out --
3 that's correct.

4 DEPUTY MAYOR PEREIRA: Nothing else changes,
5 not with the refuse? Because I do remember about
6 storing the refuse in a walk-in box downstairs and that
7 was mentioned today. So everything else remains the
8 same?

9 MR. LITCHHULT: Correct.

10 DEPUTY MAYOR PEREIRA: Great, thank you.
11 Mayor, that's it for me for now.

12 MAYOR STRAUSS: Trustee Cusato?

13 TRUSTEE CUSATO: Thank you. I had five
14 questions; I am now down to one because I had concern
15 about cooking in the basement.

16 MR. LITCHHULT: There is no cooking whatsoever
17 in the basement?

18 TRUSTEE CUSATO: So my last question is are
19 you going to have people working overnight cooking?

20 MR. LITCHHULT: No, we have no overnight
21 workers. We run no night crews in our stores.

22 TRUSTEE CUSATO: So I'm done, like I said.

23 MR. LITCHHULT: I thank the board.

24 MAYOR STRAUSS: I have more people.

25 MR. LITCHHULT: Oh.

1 MAYOR STRAUSS: You're not off the hot seat
2 yet.

3 MR. LITCHHULT: That's all right. I'm used to
4 it. I don't mind.

5 TRUSTEE DURHAM: My only question you have
6 three existing brick ovens in the basement; what are
7 they used for? You said there's no cooking down in the
8 basement?

9 MR. LITCHHULT: There is no cooking, no open
10 flame. Those ovens in the basement are for light
11 baking of ovens and/or rolls which have to be proved
12 longer and everything else will be proved and baked
13 upstairs. That's what those rack ovens are for.

14 MR. MICHELEN: What's the fuel source for
15 that? Not a brick oven?

16 MR. LITCHHULT: Gas. No open flame.

17 TRUSTEE DURHAM: So rack ovens, not brick
18 ovens, okay, that's my only question.

19 MAYOR STRAUSS: Thank you.

20 Trustee Walsh?

21 TRUSTEE WALSH: Yes, hello. Thanks for coming
22 out tonight. How are you?

23 Let me ask you, do you have permission from
24 the Health Department to do everything you're doing
25 downstairs as well as upstairs?

1 MR. LITCHHULT: Okay, supermarkets are
2 governed by the Department of Agriculture which is New
3 York State, so we'll use that in lieu of Health
4 Department. Since we're not a restaurant and we're not
5 serving food to go, we're not governed by the Health
6 Department. We have a passing grade and every inch of
7 upstairs and downstairs is inspected and signed off by
8 the Department of Agriculture.

9 TRUSTEE WALSH: When was it inspected last?

10 AUDIENCE MEMBER: Four months ago.

11 MR. LITCHHULT: Three months, four months ago
12 with a passing -- it is an A B and C grade. It was an
13 A grade.

14 TRUSTEE WALSH: That's for downstairs as well?

15 MR. LITCHHULT: That's complete heel to toe
16 everything.

17 TRUSTEE WALSH: How about the deli, you have a
18 deli section?

19 MR. LITCHHULT: That is correct.

20 TRUSTEE WALSH: Is the food for that deli
21 section prepared down in the basement?

22 MR. LITCHHULT: No, absolutely nothing is
23 prepared for the deli in the basement.

24 TRUSTEE WALSH: Where is that stuff prepared?

25 MR. LITCHHULT: In the deli.

1 TRUSTEE WALSH: So, essentially, what exactly
2 are you cooking or preparing down in the basement when
3 it comes to food product?

4 MR. LITCHHULT: Nothing is being cooked in the
5 basement. There's no cooking whatsoever going on in
6 the basement.

7 TRUSTEE WALSH: What is being prepared down
8 there food wise?

9 MR. LITCHHULT: You can take produce is being
10 cleaned and chopped and prepared for sale upstairs.

11 TRUSTEE WALSH: Fish?

12 MR. LITCHHULT: No. Fish is not part of North
13 Shore Farms. It's its own corporation owned by others,
14 but it's all cut and prepared upstairs as well as
15 sushi.

16 TRUSTEE WALSH: Yeah, I see the sushi area and
17 how about the meat, that's also prepared upstairs?

18 MR. LITCHHULT: The meat -- everything for
19 meat, other than being stored in cardboard cases as it
20 comes in, is cut and processed upstairs in a
21 refrigerated meat cutting room that has not changed.

22 TRUSTEE WALSH: So let me get to that delivery
23 and storage. How are things delivered to the basement?
24 Through what entrance, or how are they delivered to the
25 basement?

1 MR. LITCHHULT: There's a back door. Pallets
2 or U-boats, hand trucks, however it may come in the
3 backdoor. They get loaded on an elevator and brought
4 down to the basement.

5 TRUSTEE WALSH: What time of night or what
6 time of day does that occur? Is it at night?

7 MR. LITCHHULT: After -- there's usually
8 nothing going in or out of that store after 8 o'clock.

9 TRUSTEE WALSH: So --

10 MR. LITCHHULT: We close at 10.

11 TRUSTEE WALSH: You close at 10. Do
12 deliveries come after you close?

13 MR. LITCHHULT: No.

14 TRUSTEE WALSH: So all of the deliveries are
15 done while the store is open?

16 MR. LITCHHULT: That is correct.

17 TRUSTEE WALSH: Only because there are
18 neighbors back there, you know?

19 You had said there is 10,300 or approximately
20 10,300 square feet and that 7,600 square feet is used
21 for storage. Does that -- does that 10,300 square feet
22 include only the footprint of North Shore Farms? It
23 doesn't include the other stores?

24 MR. GARRETT: That is correct, it is only
25 North Shore Farms.

1 TRUSTEE WALSH: So you have 2,700 additional
2 square feet and that is used for what, prep?

3 MR. GARRETT: That would be the prep area and
4 there are two toilet rooms and a small locker room.

5 TRUSTEE WALSH: And a small locker room that I
6 see there.

7 And baking is for your store only? Because
8 that was a key question we had here, it's only for your
9 store? You don't have any of the product -- and I know
10 you bake it upstairs, I see the pizza oven type of
11 thing and everything you bake is sold inside the store?

12 MR. LITCHHULT: Yes, that is correct.

13 TRUSTEE WALSH: How about all of the soup and
14 stuff that I see next to the baking area? That's
15 prepped downstairs?

16 MR. LITCHHULT: Soup is prepped on a stove
17 upstairs in the bakery. I'm sorry, in the deli.

18 TRUSTEE WALSH: And the sprinkler system that
19 you spoke about was approved by the fire marshal?

20 MR. LITCHHULT: When we went for all the
21 permits for the Village, we submitted them. We also
22 submitted a permit to Nassau County, the fire marshal
23 granted the permit. We had Maccarone, a licensed
24 plumber, very well-known, come in and redid everything
25 for significant cost, updated, made sure everything was

1 legalized, and then he had the fire marshal come in and
2 inspect and sign off, and I believe Oscar has given you
3 a copy.

4 TRUSTEE WALSH: We saw a copy of that, yeah.

5 Okay, photo No. 4, it seems like an elaborate
6 locking system. Is that a push bar that automatically
7 opens it up in case there's a problem? You see that
8 parallel to the ground push bar?

9 MR. GARRETT: You push that and it pulls the
10 bar down from the dead bolts.

11 TRUSTEE WALSH: So it's accessible for you to
12 run out?

13 MR. GARRETT: Absolutely, yes.

14 TRUSTEE WALSH: The only thing I do want to
15 say is that the gentleman said that --

16 Hold on one second.

17 Mr. Garret had said that you know, you're a
18 little taken aback by the fact that when they bought
19 the building, when they bought the building they
20 thought that the previous owner had permission to do
21 so, but that is up to your due diligence --

22 MR. GARRETT: Not an excuse.

23 TRUSTEE WALSH: So --

24 MR. GARRETT: They're renters. They don't own
25 the building.

1 TRUSTEE WALSH: Okay, so when you come and
2 sign a lease agreement, we'll go along that route, it's
3 up to you to do the investigating and see what's going
4 on just like any contractor and anything else. So it
5 was up to you and now the building department --

6 Is the building department satisfied with all
7 judgments against them or anything like that?

8 MR. WHALEN: Yes.

9 TRUSTEE WALSH: I have no other questions,
10 thank you.

11 MR. MICHELEN: The violations that were issued
12 had been paid. We recognize that.

13 TRUSTEE WALSH: That's all, thank you.

14 MAYOR STRAUSS: Anything else, gentlemen?

15 MR. MICHELEN: No, thank you.

16 MAYOR STRAUSS: We're going to ask you to take
17 a seat and open it up to public comment. If you can
18 take note of the questions and comments that are made
19 and we'll bring you back up to answer those comments.
20 Again, folks, I ask anybody that approaches the podium
21 please speak clearly. State your name and address and
22 direct all of your comments and questions to the board,
23 and we'll answer them at the end.

24 Anybody? Yes, sir?

25 MR. DOYLE: Good evening, my name is John

1 Doyle. I reside at 3 Short Ridge Drive. It is in
2 Mineola and the zip is 11501. My property is
3 immediately adjacent to the parking lot for North Shore
4 Farms, and I guess what it comes down to is we've had a
5 series of problems with the noise that's generated by
6 the operation that is going on now. I guess I just
7 found out that they were functioning illegally or not
8 in consistence with the current zoning that they had.

9 Be that as it may, it doesn't matter. What
10 does matter is that the baking, the baking, be it a
11 commercial bakery, it may be true that because the
12 bread isn't baked there that it's not a commercial
13 bakery, but what the dough that they're sending out
14 trucks come in and out of there all day long taking the
15 bread and moving it elsewhere. You can barely sit in
16 the backyard and not hear those trucks.

17 Now, a supermarket, you understand, has to
18 have deliveries, but this is far in excess of that.
19 The noise is from the trucks that they're sending out
20 with the bread.

21 The other thing that's come in recently is 2
22 or 3 o'clock in the morning you can hear noise by the
23 dumpsters and so we wonder what's going on back there.
24 If they're not functioning all night long, why is there
25 so much noise?

1 So I would ask you to not make a decision
2 tonight, to take a look at these issues, take a look at
3 the noise issue and take a look at the dumpster issue
4 and maybe when you do pass a resolution, that you set
5 certain standards what time of day they can operate,
6 maybe a barrier should be built, a noise barrier along
7 the fence, common fence, something to help us out a
8 little bit.

9 MAYOR STRAUSS: Understood, thank you, sir.
10 Anything else?

11 MR. DOYLE: No, that's it, thanks.

12 MAYOR STRAUSS: Thank you very much for coming
13 down. Anybody else wish --

14 Yes, ma'am.

15 MS. KACHTIANE: Good evening trustees, thank
16 you for the opportunity to speak.

17 MAYOR STRAUSS: Sure.

18 MS. KACHTIANE: This is my first time speaking
19 and so my heart is racing a little bit.

20 MAYOR STRAUSS: So is mine don't worry about
21 it. You get used to it.

22 MS. KACHTIANE: I brought here with me --

23 TRUSTEE CUSATO: Can you speak closer to the
24 mic?

25 MS. KACHTIANE: Yes.

1 I brought here with me several photos and
2 correspondence that I've had with Kimco Realty since
3 about 2017. Unfortunately, I did not make ten copies
4 for everybody, but if I can submit this as evidence, I
5 would really like to.

6 For several years now since about 2017, my
7 husband and I have been talking and texting with Kimco
8 Realty regarding problems we've had with North Shore
9 Farms to absolutely no avail. Some of the problems
10 we've experienced as North Shore Farms was illegally
11 operating their commercial bakery business are as
12 follows:

13 Trucks have backed up snow into our fence and
14 they've had to -- Kimco has had to fix the fence
15 countless numbers of times.

16 Truck drivers loading and unloading making a
17 racket as early as 5 a.m. on weekdays including all
18 holidays and weekends.

19 I recall on Sunday morning, Easter morning,
20 trying to make a beautiful breakfast, a nice atmosphere
21 with my family, and having the noise of the truck
22 compressors at a decibel level that would make you
23 deaf. I had to download a decibel reader on my phone
24 to document this. It's been an absolute nightmare.

25 MAYOR STRAUSS: What was the level?

1 MS. KACHTIANE: It was -- I don't recall. It
2 was, I think, a nine. It was very high. The reading
3 was that it would cause deafness, okay?

4 Now there -- I'm surprised that they say that,
5 you know, the trucks do not come at all hours of the
6 day and night to pick up. As you can see, there are
7 two trucks side by side constantly within twelve inches
8 of my backyard fence with the compressors going on for
9 hours. They're loading bread, they're unloading bread.
10 They have constant deliveries.

11 I don't reproach them for that; they're
12 running a supermarket, but they're using the alleyway
13 behind my backyard as a loading zone. There must be
14 regulations on how close the loading zone can be to a
15 residential property.

16 Now, these truck drivers, if they came in,
17 took their bread or took their merchandise, turned off
18 their compressors and left, that would be one thing,
19 but they hang out in their trucks talking on their
20 phones and wasting time. They're not just picking up.
21 They're just taking a break back there. Okay?

22 And then you will see they load up their
23 cardboard and their boxes and their garbage way higher
24 than my fence. I've had 500 pounds stacks of cardboard
25 fall over my fence. Now, ruining my property. If my

1 dog was back there, as we let him out in the backyard
2 to do his thing, he would have been crushed. There's
3 garbage and plastic bottles and debris constantly being
4 blown into my backyard, which I like to keep
5 immaculate. We just renovated our backyard and we've
6 made it, you know, into a beautiful piece of property
7 where we like to relax and enjoy our time.

8 My husband and I have worked very, very hard
9 in our lives. I've worked for over 30 years at the
10 United Nations. I retired early. I became a caregiver
11 to my parents who are constantly sitting outside and
12 enjoying a little bit of sun having to hear the
13 compressors.

14 It's just -- it does not seem unreasonable to
15 us to live in peace. It does not. We've tried to
16 resolve these issues with Peter Mamais himself, okay,
17 to no avail, to no avail. But when we've tried to talk
18 to the truck drivers they have cursed my husband out.
19 They have called him words that I won't repeat, and
20 they even told me to go get a life.

21 This is unheard of, Trustees, please,
22 understand us. We've purchased our home 23 years ago
23 and have never experienced this before. We are 23 year
24 residents. John Doyle was our neighbor. Has been
25 there way before us. And our other lovely neighbors,

1 we just can't take it anymore.

2 So after a couple of years of reporting the
3 above mentioned to Kimco, who you have seen the text
4 messages, they say they try to do something, nothing
5 has ever been done. I was forced to file a formal
6 complaint because I couldn't take it anymore. I
7 thought that my husband was going to have a heart
8 attack having to deal with the noise and the truck
9 drivers all day long.

10 And most recently -- most recently, we have
11 garbage trucks coming in 3, 4, 5 o'clock in the morning
12 seven days a week. I swear to God sometimes my husband
13 and I have nightmares we hear beep, beep, beep, beep,
14 beep in our dreams. This is now become unacceptable.

15 I almost wanted instead of continuing to
16 improve my property and help Mineola raise its
17 standards and its property values, I just want to move
18 out. These people, you know, they just make me want to
19 move out. So I'm here pleading with you, I know you
20 can hear it in my voice, I'm really pleading with you
21 for help. We have nothing against North Shore Farms
22 running a good solid business. And we especially
23 appreciate everything they have done in this past
24 epidemic providing food for the community, but there
25 has to be something done for the neighbors. There has

1 to be. This is just not acceptable, really. Make
2 money, make all the money you want, okay, just respect
3 the property owners and respect the town of Mineola.

4 Thank you very much for your time.

5 MAYOR STRAUSS: Thank you very much. Ma'am,
6 if I could, first of all, I want to thank you. You did
7 great. You actually did better than great, you did
8 fantastic. I certainly -- we all can hear the passion
9 that you have.

10 MS. KACHTIANE: And the frustration.

11 MAYOR STRAUSS: And the frustration without a
12 doubt.

13 I do have a question for you. You said you
14 filed a formal complaint. When and where was that?

15 MS. KACHTIANE: I have a copy here. September
16 2019.

17 MAYOR STRAUSS: So at the same time as these
18 pictures?

19 MS. KACHTIANE: With the Village of Mineola.
20 These pictures go back to 2108. They are just an
21 accumulation of messages and pictures throughout.

22 MAYOR STRAUSS: Understood. Have there been
23 any recent issues?

24 MS. KACHTIANE: Well, you know, I keep having
25 to call North Shore Farms on a weekly basis almost to

1 ask them -- to ask the managers there, please, can you
2 go outside and tell the truck drivers to turn their
3 compressors off or to turn their engines off because,
4 you know, it hasn't been solved. I have to say it has
5 improved since they have gotten all of those
6 violations, and since they no longer operate that
7 illegal commercial bakery, right? But you know, you
8 can't just sleep on it because they keep trying to get
9 away with things. They just keep slacking.

10 I have evenly asked Mr. Mamais to put somebody
11 in charge of deliveries, have somebody stand there to
12 make sure that when the deliveries come in, the truck
13 drivers abide by what we've asked.

14 MAYOR STRAUSS: My question was when you said
15 you filed a formal complaint and these pictures are
16 dated in 2019, so I just want to make sure that there
17 hasn't been any recent -- has the situation improved
18 like you said it has?

19 MS. KACHTIANE: They have worn me thin. I'm
20 tired of going out there. My father had a heart
21 attack. My family had COVID. My husband had a heart
22 attack. He had an ablation. He has atrial
23 fibrillation. Now we've been through hell. I have not
24 had time to go out there and take pictures.

25 MAYOR STRAUSS: It's okay, ma'am. I'm just

1 looking for anything more recent. You don't need to be
2 trampled on.

3 MS. KACHTIANE: No.

4 MAYOR STRAUSS: We know you don't need to be
5 trampled on and with that being said, and I agree
6 wholeheartedly, but you do own a home that's right on
7 the business district, but it doesn't allow anybody to
8 trample on your rights for a peace and quiet
9 tranquility. I understand that.

10 TRUSTEE DURHAM: What was your name.

11 MS. KACHTIANE: I'm sorry, my name is Regine
12 Kachtiane, R E G I N E, last name K A C H T I A N E,
13 and I reside at five Green Tree Road, Mineola, New York
14 11501.

15 TRUSTEE WALSH: And, Mayor, if you don't mind,
16 how are you today? Thanks for coming down.

17 MS. KACHTIANE: Thank you for the opportunity.

18 TRUSTEE WALSH: Like the mayor said, you did a
19 great job.

20 They had said that there's no deliveries going
21 in and out -- they answered my question there's no
22 deliveries after the store closes. Have you noticed
23 that that is correct or incorrect?

24 MS. KACHTIANE: That is not correct, sir.
25 That is not correct. There are deliveries happening --

1 AUDIENCE MEMBER: Seven days of the week.

2 MS. KACHTIANE: -- as early as 5 o'clock in

3 the morning seven days a week. Holidays included.

4 TRUSTEE WALSH: How about after say 9 or 10

5 o'clock at night when they close?

6 MS. KACHTIANE: No deliveries at that time and

7 I'm asleep at that time anyway.

8 TRUSTEE WALSH: I know, but you would hear

9 them.

10 MS. KACHTIANE: I can't tell you a hundred

11 percent, but, no, I don't think there's deliveries

12 being made.

13 TRUSTEE WALSH: So the noise violation in your

14 judgment is early in the morning, 5 o'clock in the

15 morning?

16 MS. KACHTIANE: It's from 5 o'clock in the

17 morning to about 7 o'clock at night. Nonstop.

18 TRUSTEE WALSH: Just another question, have

19 you seen recently bread, already produced bread, bread

20 ready for sale, leave the back of the store, go into a

21 vehicle and take off?

22 In other words, do you feel that they're

23 producing bread that they're bringing to another

24 location or just --

25 MS. KACHTIANE: Sir, no, no, but my son is on

1 his way with additional photos of their workers loading
2 crates of -- stacks of dough.

3 TRUSTEE WALSH: Dough. So dough is coming in?

4 MS. KACHTIANE: Dough is going out.

5 TRUSTEE WALSH: Dough is going out, so you
6 believe they're producing dough and transporting that
7 to another location?

8 MS. KACHTIANE: Yes, sir.

9 TRUSTEE WALSH: Which is similar to baking
10 bread?

11 MS. KACHTIANE: Yes, sir, several trucks.

12 TRUSTEE WALSH: Thank you, ma'am.

13 TRUSTEE DURHAM: One more question. The
14 garbage truck in the photos, was that at North Shore
15 Farms dumpsters or other dumpsters along --

16 MS. KACHTIANE: North Shore Farms.

17 TRUSTEE DURHAM: North Shore Farm. And you
18 say that's at 3 o'clock in the morning?

19 MS. KACHTIANE: As recently as 3 o'clock in
20 the morning, and if I'm not saying anything that's not
21 correct, maybe my neighbor can come and correct me,
22 but, yeah, as early as 3 o'clock in the morning. Beep,
23 beep, beep, beep, beep, that's all we hear, all
24 morning, all night.

25 MAYOR STRAUSS: Thank you.

1 TRUSTEE WALSH: Thank you.

2 MAYOR STRAUSS: And again, a wonderful job.

3 MS. KACHTIANE: Thank you very much.

4 MAYOR STRAUSS: Anyone else?

5 Yes, ma'am.

6 MS. SHAIKH: Magma Shaikh, 7 Green Tree Road
7 Mineola, New York 11501.

8 I've been living here 40 years, same house.
9 I've never really said anything, but lately the trucks,
10 when they come, they come so close to my fence and they
11 have broken once, twice. I did not know where to go
12 like my neighbor did, so I go into the store, I tell
13 the manager that, look, come out and see what they have
14 done to my fence, and they come, they see, okay, we'll
15 take care of it. Wasn't taken care of it.

16 And now you go out in the back still my fence
17 is broken. They repair it, how do you say? Temporary
18 with some screws and nails. They tried to close it,
19 but as soon as a truck come, they come so close to my
20 fence, I live right behind where their basement is, so
21 where the delivery come in it goes in, but the trucks
22 are always there, and like my neighbor said, they are
23 always running. But that's not the point.

24 The point is they come so close to my fence.
25 I want them to put a metal barrier or something that

1 stops a truck from banging into my fence. If they can
2 do that, that would be great.

3 There's also a question of rats. I have also
4 complaint -- not now. A few years ago to the
5 Department of Health because I told them come and see.
6 There are dead rats, dead mouse, and I didn't have the
7 foresight to take a picture for my record, so I have to
8 clean that -- pick them up and discard them. So if
9 they are going to use the basement regularly as baking
10 area or whatever, and if there is this nuisance, they
11 have to take care of it. They can't just leave.

12 And the noise level is, like my neighbor
13 said -- I live right behind. She lives one house back.
14 I live right behind, so I get the smell, I get the
15 noise and the foul language, everything is there. And
16 the dumpsters, when he comes in the morning, it's right
17 there right behind my fence, and when he raises up,
18 puts a lot of garbage in my yard and I have to pick it
19 up. They don't even bother. I have to pick it up.
20 There's cardboard, milk cans. And the guys, the
21 workers, they drink, coke, beer, whatever and they
22 throw the cans into my backyard. That's not right.
23 I'm not supposed to pick it up. They're supposed to
24 pick up their own garbage. Why should I do it?

25 So if they can put a metal bar behind my fence

1 so the trucks when they come close they don't break my
2 fence. They need to do that. That's my only issue,
3 you know, the trucks are there like my neighbor has
4 said, she described it correctly. It's always in the
5 morning, beep, beep, beep, like she said.

6 But I know they are running a business, but do
7 not run a business in a way that you also take care of
8 the neighbors. You don't want them throwing your
9 garbage into your neighbors. That's what they are
10 doing. I have nothing against stores. When I bought
11 there that was my first thing that we are living right
12 behind them, but we like the house so we stayed. It's
13 a commercial place, I get it, but they have to also
14 maintain some kind of propriety that they don't disturb
15 the neighbors when they do the garbage thing, when the
16 dumpsters, when they haul it in. They have to make
17 sure it's not in somebody's backyard.

18 MAYOR STRAUSS: I can't agree with you more.

19 MS. SHAIKH: Yeah, I'm tired, I'm old now, I'm
20 tired of picking up the garbage that they throw and
21 they also have to train their workers not to throw
22 cans, beer cans, Coke cans, whatever cans, bottles in
23 too. They drink, they throw it, why? They don't have
24 a dumpster? Do they not have dumpster to throw it?
25 Why do they have to flick it back into my yard? I

1 always pick up and I'm tired, please.

2 MAYOR STRAUSS: Understood, thank you very
3 much, ma'am. Anyone else wish?

4 Yes, sir.

5 MR. DOYLE: So I just gave Joe some photos
6 that were recently delivered that were supposed to be
7 some trucks that have show up to pick up this dough. I
8 did want to emphasize that I have not seen any baked
9 goods leaving the building, but it is this dough and it
10 is continuous all day long. Clearly, they're stocking
11 their other stores around the Metropolitan region, and,
12 as I said, it is a constant thing.

13 I also want to say, though, that the people
14 who work there, the manager of the store has made a
15 genuine effort to try and address these issues. Some
16 of it, as you say, is just by nature of the fact that
17 the residential property is adjacent to the commercial
18 property, but I wonder if we just can't have something
19 to mitigate what's been going on for us; maybe move
20 those dumpsters from the end of the property they're
21 on -- Kimco is here -- move it to the other end of the
22 property by Jericho Turnpike; that way whatever is
23 going on with it, we won't hear it. There's nobody
24 over there. It's Jericho Turnpike itself. It is a
25 sump. There's nobody to bother if the dumpsters are at

1 that end.

2 That's really the type of thing we're looking
3 for. We don't want to shut them down. We don't want
4 to deprive them of the business they have. But there's
5 something that needs to be done to mitigate the
6 circumstances that we are all dealing with.

7 MAYOR STRAUSS: You're absolutely right. It
8 doesn't give anybody the right to trample on you even
9 though you're a business district -- commercial.

10 MR. DOYLE: I would ask that when the
11 resolution is finally passed by the board, and I assume
12 it will be and it should be, that they incorporate
13 certain provisions about the time of day that these
14 operations can occur, the type of mitigation measures
15 that have to be done. That way if it's put in that
16 resolution itself and it's not lived up to, the fact
17 it's not lived up to would be a violation in and of
18 itself and would aid in enforcement.

19 MAYOR STRAUSS: Absolutely.

20 MR. DOYLE: We can't just take yes promise to
21 do this. It needs to be put in writing in a
22 resolution.

23 MAYOR STRAUSS: And they normally are, and
24 they are usually followed up with if they get
25 complaints, absolutely.

1 MR. DOYLE: Once again, I'd ask you to not
2 pass this tonight, give us some time, all sit down try
3 to work something out. I would like to see this go
4 ahead, but I would like to see this go ahead in a way
5 that we can all live with.

6 MAYOR STRAUSS: Thank you, Mr. Doyle.
7 Anybody else wish to make a public comment?
8 Okay, gentlemen, who's up?

9 MR. MICHELEN: Thank you, I guess I'll start.

10 MAYOR STRAUSS: So you heard all of the
11 comments?

12 MR. MICHELEN: I did.

13 MAYOR STRAUSS: A couple of questions.
14 Obviously, you need to say your piece.

15 MR. MICHELEN: Well, a couple of points, first
16 of all, I think, you know, the board pointed out that
17 this commercial property has been there, it's been
18 there for quite sometime, and the property owners being
19 next to a commercial property has to take into
20 consideration with respect to evaluation and appraisal,
21 et cetera. But most of these complaints, I believe,
22 are back from a time when before Mr. Whalen came in and
23 kind of showed us what was incorrect about the
24 procedures that we were having.

25 AUDIENCE MEMBER: No, no, no.

1 MR. MICHELEN: The pictures were in 2019.
2 There is no dumpster in that alleyway that North Shore
3 Farms uses.

4 AUDIENCE MEMBER: There is.

5 MR. MICHELEN: There's only one --

6 MAYOR STRAUSS: Folks, if we could, thank you.

7 MR. MICHELEN: And so that was one of the big
8 problems that was causing a lot of the issues because
9 the dumpsters were right in the alleyway between the
10 back of the store and the fences.

11 I'm told by Mr. Litchhult that Kimco did
12 install a metal guardrail by Ms. Shaikh's fence. So I
13 believe that that has been complied with. If not,
14 we'll certainly work with Kimco to do that. That's a
15 reasonable request if her fence had been struck into.

16 The other thing that's important I think is
17 for all the folks who testified is that there are
18 several other restaurants there, a Thai restaurant, a
19 Chinese restaurant, a bagel store that have dumpsters
20 in that back alleyway that we don't. We don't get
21 garbage pickup at 3 a.m. for North Shore.

22 We abide and have not received a complaint
23 that our trucks are coming in within the special use
24 time is 7 a.m. to 8 p.m. We abide by that. We receive
25 a complaint, we will process the complaint. It may not

1 necessarily be our trucks. I don't know.

2 But the other aspect is that there are a lot
3 of other food businesses in that same shopping district
4 that have garbage pickups, and we have never received
5 rat problem, for example, or had a rat infestation in
6 the store. That can certainly come from the many
7 restaurants that operate in that same location.

8 We keep using the word commercial bakery, and
9 I think Mr. Litchhult testified that the prepared dough
10 is brought sometimes to other stores. That is --
11 that's permitted. That's not the sale of commercial
12 goods. That's not a commercial bakery operation. We
13 don't sell it to any third parties, and it's not the
14 baked bread. It is the prepared dough. And the other
15 stores, most of which have their own bakery run out.

16 I think that was most of the issues. Let me,
17 just, take a quick look.

18 Obviously, for our drivers, we'll make sure
19 that they understand not to deposit any garbage.
20 That's a complaint we have not heard before of cans or
21 whatever. That's certainly an issue we will address,
22 but we don't believe these handful of complaints should
23 stop or cause a delay in the process.

24 We, you know, as I think the neighbors have
25 indicated, are listening, are mindful of their

1 complaints, but the fact is that we're a supermarket.
2 We get dairy truck deliveries, get produce deliveries,
3 and there are a lot of different supplies that don't
4 come in one truck. So there are going to be deliveries
5 throughout that time period, and we will just make sure
6 that the truckers abide by the 7 a.m. to 8 p.m.
7 restriction that's already in the special use, and,
8 honestly, we would expect those time limits to be
9 applicable to the amendment as well. And that's
10 something that we would be glad to do and make sure
11 that we're within that time frame.

12 MAYOR STRAUSS: Okay. What about the garbage
13 stacked up over the height of the fence? I know these
14 pictures are from 2018, 2019.

15 MR. MICHELEN: Yeah. That can't occur any
16 more. There are no dumpsters back there.

17 MAYOR STRAUSS: These are baled cardboard
18 boxes that were double stacked and looks like one
19 triple stacked and, again, the picture is dated, but I
20 just want to get a confirmation from you that that is
21 no longer happening and will not happen.

22 MR. LITCHHULT: Cardboard bales, I believe, is
23 what you're talking about being stacked up on top of
24 each other.

25 MAYOR STRAUSS: Yeah.

1 MR. LITCHHULT: I don't remember in -- well,
2 there's the guardrail that is installed. There is a
3 picture of the actual guardrail that Kimco installed, I
4 would say, maybe six months ago. There's a picture of
5 it. As far as cardboard bales, we can assure the board
6 and the neighbors that we will keep them no more than
7 double stacked. The bale company now comes three times
8 a week to pick them up, and they take them out as
9 quickly as they can. I can't say that it was never
10 done three high, obviously, by the picture, but that's
11 something that's very easily addressed.

12 MAYOR STRAUSS: So one of the residents said
13 that there's a garbage -- when the dumpster is picked
14 up and dumped into the garbage truck, some of the
15 overflow goes into her backyard. You said you moved
16 those dumpsters.

17 MR. LITCHHULT: There are no dumpsters in that
18 back alley anywhere near any of those neighbors.

19 MAYOR STRAUSS: For you --

20 MR. LITCHHULT: But I can't say for the
21 restaurants or the other businesses, I can't attest to
22 what they do or don't do.

23 MAYOR STRAUSS: Understood, thank you.

24 MR. LITCHHULT: I can say there are a
25 tremendous amount of trucks, and as one neighbor

1 testified the compressor, she means the refrigeration
2 on the trucks, and that's a problem in the summer
3 because you have three or four different meat companies
4 deliver and they can't shut off their refrigeration in
5 90 degrees. We have two to three produce trucks with
6 fresh produce being delivered daily in and out; they
7 cannot shut off their refrigeration, but we do control
8 all idling of the trucks, and when we open the store,
9 the store is open at 7 a.m., when someone is there at
10 6:30, if there is a truck already in the parking lot
11 and it's a repeat driver, we tell them not to pull into
12 the back, stay up in the front by Jericho Turnpike.
13 Now, I can't control if someone is there when we do not
14 have an employee there, but when an employee does come
15 and opens that store, if anybody is idling, we do make
16 it a note to go out and tell them they have to turn the
17 truck off. And that's all probably been done since
18 2019, 2020. We've been pretty vigilant with doing
19 that.

20 MAYOR STRAUSS: Is there any way that you can
21 enforce that prior to the store opening?

22 MR. LITCHHULT: Unless there is someone there,
23 I can't. Other than we have signs posted all along the
24 fence no idling of trucks, period. As far as how would
25 I control a driver that's never been to that location

1 before and he may be -- at least some of them are
2 over-the-road truckers, some of them are coming out of
3 the produce market, I can't control what time they get
4 there. If there is someone there, we will tell them
5 they need to stay in the front. Again, that would be a
6 repeat driver.

7 MR. MICHELEN: Those are not North Shore
8 employees?

9 MR. LITCHHULT: No, those are not our
10 employees. Those are all independent.

11 MAYOR STRAUSS: But you do have some control
12 over them because they deliver to your business, and if
13 they want your business, they have to adhere to your
14 rules and you have to adhere to ours.

15 MR. LITCHHULT: We have actually called and
16 had spoken to a bunch of the suppliers about timing. I
17 know for a fact when I was with Krasdale Foods we had
18 limitation on deliveries and I know for a fact that
19 grocery suppliers do not deliver there at 4 or 5 a.m.
20 There's no one there to deliver it.

21 MAYOR STRAUSS: Thank you, sir. Anything else
22 you would like to say?

23 TRUSTEE WALSH: Mayor, if I could, if somebody
24 can address this: Who is Intercounty Bakers from Deer
25 Park?

1 MR. LITCHHULT: The supplier, not ours,
2 Intercounty Bakery.

3 TRUSTEE WALSH: Please come to the --

4 MR. LITCHHULT: To the best of my knowledge,
5 Intercounty Bakers is a supplier.

6 TRUSTEE WALSH: Supplier of dough to your
7 place or --

8 MR. LITCHHULT: I couldn't tell you exactly
9 what they supply to us. Intercounty Bakery they can be
10 supplying flour, they could be supplying anything. I
11 couldn't attest to what it is that --

12 TRUSTEE WALSH: As far as the comment about
13 rats, how often is your store serviced by an
14 exterminator and approximately when was the last time
15 they were serviced by an exterminator.

16 MR. LITCHHULT: I would say it's weekly,
17 Peter, right, weekly? Yes, weekly.

18 TRUSTEE WALSH: Weekly you have an
19 exterminator there?

20 MR. LITCHHULT: Every single weekend it is
21 signed off and Department of Agriculture requires a
22 posted sign off by a licensed New York State
23 exterminator.

24 TRUSTEE WALSH: What time is your -- we're not
25 talking about the other stores, so we are only talking

1 about you. What time is your garbage picked up in the
2 morning?

3 MR. LITCHHULT: I really -- it's --
4 unfortunately, the garbage company is not very reliable
5 as to time, but it's always when we are usually open
6 and operating, to the best of my knowledge.

7 TRUSTEE WALSH: To the best of your knowledge
8 they don't --

9 MR. LITCHHULT: They're not there at 3 o'clock
10 in the morning.

11 But, again, there are multiple -- five other
12 stores that do have garbage pickup. I can't say what
13 those people do or don't do.

14 TRUSTEE WALSH: I just said before we started
15 that we're only talking about you, so let's not talk
16 about any other stores. We're just here as you're the
17 applicant here.

18 What is the name of the carting company that
19 services your store?

20 MR. LITCHHULT: Jamaica Ash.

21 TRUSTEE WALSH: Jamaica Ash. Is there any way
22 that you can call ---

23 MR. LITCHHULT: Absolutely.

24 TRUSTEE WALSH: -- and insist -- again, thank
25 you.

1 MR. MICHELEN: I'm sorry.

2 TRUSTEE WALSH: I'm trying here. Is there
3 anyway that you can call Jamaica Ash and forcefully
4 require them to come, you know, when you're open or at
5 a reasonable time in the morning?

6 MR. LITCHHULT: I personally have a very good
7 relationship with the owners of that company. I would
8 not have to forcefully ask them. All I would have to
9 do is make a request, and that will be done tomorrow.

10 TRUSTEE WALSH: As you can see the neighbors
11 are disturbed, so I would hope that you would do that.

12 MR. LITCHHULT: That will be done tomorrow
13 morning.

14 TRUSTEE WALSH: When you said that you can't
15 control drivers that park back there before your store
16 opens, I kind of disagree with that also. Because I
17 understand that somebody that comes from California or
18 somewhere else that's delivering, but for the most
19 part, it's repetitive companies that are delivering,
20 and I don't see why you can't call them up and say
21 there's several incidences of neighbors complaining and
22 please don't come before this hour.

23 MR. LITCHHULT: That has been done and can be
24 done again. But if it's not the same exact driver
25 who's on a route or on a stop, they just don't know,

1 and that's not always communicated with other
2 companies.

3 TRUSTEE WALSH: Okay, but --

4 MR. LITCHHULT: I mean, we can do our best to
5 do exactly what you said and call those companies and
6 put them on notice that this is what we need and this
7 is a town regulation or a Village regulation. But --

8 TRUSTEE WALSH: Or consummate to the agreement
9 of your store being open.

10 MR. LITCHHULT: But I still can't personally
11 control it if I don't have an employee present.

12 TRUSTEE WALSH: Okay, but you can make an
13 effort with the ones that deliver all the time.

14 As you can see here tonight, the neighbors
15 have issues, and if someone tells me that there's
16 garbage or soda cans or whatever going over into her
17 property, that's not really a good neighbor policy for
18 the store. And I use your store and I think it's a
19 good store, and a lot of people use the store, but if
20 you don't have a good neighbor policy, and I guess
21 these truck drivers have to be spoken to or something
22 because it's just not fair to the people -- obviously
23 there are people here that have issues, so I just want
24 you to be aware of that.

25 MR. LITCHHULT: Thank you.

1 TRUSTEE WALSH: Thank you very much.

2 TRUSTEE DURHAM: Just one question: You said
3 that the dumpsters were moved out of the alley. Where
4 did you move them on the property, out of curiosity?

5 MR. LITCHHULT: All the way to the very corner
6 by the sump.

7 TRUSTEE DURHAM: Yours are already out in the
8 back corner by the sump?

9 MR. LITCHHULT: Back corner by the sump.

10 MAYOR STRAUSS: Would it be possible to put a
11 metal chain up to prevent the trucks going into the
12 back there? You know, they come in --

13 MR. LITCHHULT: You mean prior to opening and
14 then have it removed after it's open?

15 MAYOR STRAUSS: When you close, the manager,
16 whoever, goes back to put the chain up with a sign no
17 parking here, and then when you open up in the morning,
18 they pull the chain down and they can back in, so
19 they're not sitting -- listen, I get it they get there
20 early because of traffic issue.

21 MR. LITCHHULT: I would have to investigate
22 that how I would do that without closing off the alley
23 to the other stores. I don't know. We can look at it.

24 MAYOR STRAUSS: I appreciate it if you could.

25 One of the people -- or one of the other

1 residents mentioned about a sound barrier, is that a
2 possibility at all? I'm not versed in that area.

3 MR. LITCHHULT: Neither am I. I'm not
4 qualified to speak to that, but I can say that North
5 Shore Farms would do anything that's reasonably
6 possible to abate noise.

7 MAYOR STRAUSS: Okay.

8 MR. LITCHHULT: And if there was a suggestion
9 or something that we could do that was within code --

10 MAYOR STRAUSS: Of course.

11 MR. LITCHHULT: -- we would not be adverse to
12 doing it. That's all I can say to that.

13 TRUSTEE DURHAM: Can your architect make a
14 suggestion?

15 MR. LITCHHULT: Tony?

16 MR. MICHELEN: Just the only thing that I
17 would recommend because it's come up in other issues
18 you then have a sight issue. Be careful what you ask
19 for, you might get it.

20 MAYOR STRAUSS: Absolutely.

21 MR. MICHELEN: To alleviate the sound, you
22 have to go above the fence line, that's why he said to
23 code. You might create a second problem trying to
24 alleviate a problem because the sound barriers have to
25 be high to be effective.

1 MAYOR STRAUSS: We couldn't let you build
2 anything out of code.

3 MR. MICHELEN: He may have a suggestion.

4 MR. GARRETT: So, yeah, recently I had an
5 issue the other way around the residents wanted to put
6 up this material on a chain link fence which deadens
7 sound. It's not a sound wall. It's not a cure wall,
8 but it absorbs some of the noise which would reduce
9 some of the ambient noise. I have spoken to my client.
10 It wouldn't go higher than the fence, but I think we
11 would be willing to put that on there, and it just
12 appears as a black material on the fence, and it would
13 be on our side. It wouldn't be on their side, assuming
14 the fence is on Kimco's property. If it is someone
15 else's fence, we can't touch it, but there may be a
16 solution.

17 MR. LITCHHULT: To the best of my knowledge,
18 there is doubling fences. The neighbors have their
19 fence and I believe Kimco has their fence. You
20 probably see a picture with the guardrail. If that's
21 available to put on a stockade fence, which is there,
22 we can gladly do that, and I believe our stockade fence
23 is six feet. We would not be adverse to installing an
24 eight foot stockade fence with, obviously, with written
25 consensus that's not to code.

1 MR. GARRETT: We don't want to create a
2 variance issue where we have to go before the zoning
3 board.

4 MAYOR STRAUSS: One other question --

5 MR. GARRETT: I'm sorry, Mr. Chairman, I would
6 submit the documentation to Mr. Whalen for his review
7 so that a third party verifying what I am saying
8 because we have to get some --

9 MAYOR STRAUSS: One question: Again, these
10 pictures are dated, but the fence the one lady who was
11 up there --

12 MR. GARRETT: This isn't for me.

13 MAYOR STRAUSS: Whoever. Was the fence
14 repaired? Ma'am, was the fence repaired?

15 MS. SHAIKH: Yeah.

16 MAYOR STRAUSS: The fence was repaired, thank
17 you.

18 Any other questions from the board or
19 comments?

20 Ma'am, go ahead.

21 MS. KACHTIANE: Thank you I would just like
22 you to take note, please, that although they installed
23 that metal rail, it did not prevent the fence from
24 being hit and being broken down.

25 MAYOR STRAUSS: Do you happen to know what it

1 was struck by?

2 MS. KACHTIANE: I don't know. You see the
3 guardrail, right, you see the fence is broken?

4 MAYOR STRAUSS: That's why I asked the
5 question, I don't know. I'm not sure how can it get
6 broken.

7 MS. KACHTIANE: So that's one point. Yes,
8 North Shore farms has made an attempt regarding the
9 signs that they put up on the wall, on the fence,
10 saying no idling, but that's no idling of engine. The
11 engine noise is no comparison to the refrigeration
12 compression noise. That is a major problem. And so if
13 North Shore Farms could agree to have their deliveries
14 parked a couple of hundred feet away from our
15 properties, away from the fence and have the
16 merchandise then brought over via whatever manner they
17 want, hand truck, electric truck, whatever, to their
18 property that would resolve a little bit of the noise
19 issue. You see? The major problem is that the trucks
20 are ten feet high and the compression noise comes above
21 that, so whether they install a six foot, seven foot,
22 eight foot fence, it's going right over.

23 MAYOR STRAUSS: It's going right over.

24 MS. KACHTIANE: So that is not gonna sustain
25 that, and I think that's all I had to add. Thank you

1 very much.

2 MAYOR STRAUSS: Okay, thank you.

3 Yes, ma'am. Come up to the podium, please.

4 MS. SHAIKH: One question about the guardrail.

5 I don't have a guardrail behind my fence because I'm
6 right behind North Shore and the gentleman said that
7 there is a guardrail. The guardrail is there but
8 towards the parking lot, not where I live. I live
9 right behind where their basement, right behind is my
10 house, so I have no guardrail there. I need a
11 guardrail there.

12 MAYOR STRAUSS: So you live -- I don't want to
13 sound ignorant here or insulting, but you live right
14 behind North Shore Farms that part of that strip?

15 MS. SHAIKH: That alley, yes.

16 MAYOR STRAUSS: I understand the area, but
17 you're not behind the Chinese restaurant?

18 MS. SHAIKH: No, no, right behind North Shore.

19 MAYOR STRAUSS: Okay.

20 MS. SHAIKH: I'm not near the Chinese or the
21 deli or even the Italian restaurant. I'm right behind
22 that.

23 MAYOR STRAUSS: Okay, thank you.

24 MS. SHAIKH: So I just need a barrier there, a
25 metal barrier, or guardrail right behind my fence

1 because when the trucks come, they come so close I can
2 here the crunching of the, you know, it's hitting, so
3 you have to at least consider that.

4 MAYOR STRAUSS: Understood.

5 MS. SHAIKH: Thank you.

6 TRUSTEE WALSH: Could you tell me your address
7 again, please?

8 MS. SHAIKH: 7 Green Tree Road.

9 TRUSTEE WALSH: Seven?

10 MS. SHAIKH: Seven.

11 MAYOR STRAUSS: Okay, sir?

12 MR. MICHELEN: Obviously, I didn't know. I
13 thought that we were referring to -- that property I'm
14 speak to Kimco about addressing that property in the
15 similar fashion for that property as well, and my
16 client believes that it may have been plowed snow but
17 not by us that came over the guardrail on that fence
18 because he thinks that would be the only explanation
19 why there was no other damage to the guardrail and
20 there was no indication of an impact, so he believes
21 that might have happened by plowed snow. Despite the
22 guardrail, some of the fence was pushed back in the
23 photograph, but we'll speak to Kimco about adding an
24 additional guardrail by that property.

25 MAYOR STRAUSS: While you're speaking to them,

1 if the fence isn't repaired, maybe you can look at
2 that.

3 MR. MICHELEN: Understood.

4 MAYOR STRAUSS: Any other comments from the
5 board?

6 Okay, great.

7 Deputy Mayor, anything?

8 DEPUTY MAYOR PEREIRA: Nope, I'm good.

9 MAYOR STRAUSS: Thank you very much. I'll
10 entertain a motion to close the hearing and reserve
11 decision.

12 TRUSTEE WALSH: Motion.

13 MAYOR STRAUSS: Motion by Trustee Walsh. Do I
14 have a second?

15 TRUSTEE CUSATO: Second.

16 (Continued on the next page to include the
17 certification page.)
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MAYOR STRAUSS: Second by Trustee Cusato. All
in favor.

DEPUTY MAYOR PEREIRA: Aye.

TRUSTEE DURHAM: Aye.

TRUSTEE STRAUSS: Aye.

TRUSTEE CUSATO: Aye.

TRUSTEE WALSH: Aye.

MAYOR STRAUSS: Aye.

Opposed?

Carried.

* * * * *

C E R T I F I C A T I O N

I, KELLY CULEN, a senior Court Reporter do
hereby certify this transcript to be a true and
accurate stenographic transcription of the proceedings.

KELLY CULEN
Official Court Reporter