

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of February 26, 2014

Chair Steve Greet called the meeting to order at 7:30 p.m. and stated the following:

Meeting Notice:

Pursuant to the Open Public Meeting Law, this is to state for the record that adequate notice of this meeting has been provided to the public by publication in the Cranford Chronicle and by filing of said notice in the office of the Municipal Clerk. This is a regularly scheduled meeting of the Board.

MOMENT OF SILENCE AND SALUTE TO THE FLAG

ROLL CALL

Present: Mayor Patricia Quattrochi, Bruce Paterson, William Nierstedt, Michael Vena, Robert Scherer, Stephen Greet, Kathleen Villaggio, Gene Jannotti, Timothy Hak (Alt I), Craig McCarrick (Alt II), Ileen Cuccaro, Paul Tarantino (Alt IV)

Absent: None

Excused: Georgia Mac Indoe

Also present were Board Attorney Donald Fraser Board Planner/Engineer Victor Vinegra and Board Secretary Adele Lewis.

MINUTES

• **MINUTES OF THE JANUARY 8, 2014 MEETING**

On a motion by Kathleen Villaggio and seconded by Robert Scherer, the Board voted by general consent to adopt the minutes of the January 8, 2014 Planning Board meeting.

RESOLUTION

Case #PB13-05 **105 Center Street- Block 404 Lot 34** C/I Zone-
Applicant: *Ermina Savino Livieri*
Granting of Preliminary Site Plan Approval
with parking variance for apartments

Mr. John Demassi, Esq., counsel for the applicant was present. It was noted that there were typographical errors in the Resolution and one condition regarding the Parking lease for 8 spaces to be attached to the fire sprinkler annual inspection was not included. Board

Attorney Fraser will correct the resolution and send corrected copy to Mr. Demassi and Board Secretary Lewis.

On a motion by William Nierstedt and seconded by Craig McCarrick, the Board voted Affirmative (6) Mayor Patricia Quattrochi, Bruce Paterson, William Nierstedt, Stephen Greet, Kathy Villaggio, Craig McCarrick to memorialize the wording of the Resolution granting Preliminary Site Plan Approval with parking variance for 4 -second floor apartments with conditions as revised by Board Attorney Fraser.

APPLICATION

Case #PB13-12 325-331 South Ave Block 404 Lots 8 & 9 C/B Zone

Applicant: LAND of NJ, INC.

Seeking Site Plan Approval (Preliminary & Final) with Variance relief for demolition of existing greenhouse and single family home to provide expansion of the existing mixed use building consisting of 1st floor retail and 2nd floor apartments

Bruce Paterson recused himself as he resides within 200 ft. of the subject property and stepped down from the dais.

Mike Vena and Ileen Cuccaro, who were both absent at the December meeting, gave Board Secretary Lewis certification to be placed in the case file stating that they had read the December 11, 2013 transcript.

ATTACHMENT # 1 .
TRANSCRIPT FROM CASE # PB 13-12
325-331 SOUTH AVENUE

John Schmidt, Esq. of Lindabury, McCormick, Estabrook & Cooper, Westfield, NJ continued to represent the applicant.

Mr. Schmidt stated that his client has reached a preliminary agreement with the owners of the abandoned Casale Industries to use 15 spaces 800 feet to the west in the parking lot across from the plant adjacent to the Garwood fire house. Additionally, Mr. Tsapatsaris has signed a 10-year lease with the Garwood Rest which is approximately 350 feet to the east on South Avenue for use of five parking spaces.

Nick Tsapatsaris, P.E., R.A., of Ridgewood was reminded that he had previously been sworn and qualified. He reviewed the revised site plans submitted and his revised proposal of a a four-story structure. He reviewed the detailed floor plans and two renditions of the new building, which is now a four-story proposal, using the attic space under a pitched roof to add dormers for extra rooms that left the average apartment 1,195 square feet.

Mr. Tsapatsaris stated that he redesigned the project after comments from the Board during the December 11, 2013 meeting.

Mr. Tsapatsaris also stated that he had signed a 10-year lease with the Garwood Rest which is approximately 350 feet to the east on South Avenue for the use of five parking spaces. Mr. Tsapatsaris stated he would stipulate in the leases of the retail outlets that their employees would be required to use the off-site lots.

MARKED INTO EVIDENCE

- A-4 email from Capt. Douglas Stouffer response to OPRA request
- A-5 rendition-front elevations
- A-6 rendition-rear elevations
- A-7 site plans
- A-8 parking lease for 10 yrs- 5 spaces from the Garwood Rest
- A-9 parking lot Map, lease plan on tax map
- A-10 revocable license agreement w/Casale for 15 spaces

QUESTIONS FROM THE PUBLIC:

Carl Reggi, director for the property owner of Garwood Mall Associates
Bruce Paterson, 325 Willow Avenue
Julie Matatov, 330 Willow Avenue
Kathy Gebler, 347 Willow Avenue
Anthony Prieto, 336 Willow Avenue
Frank Kelly, 337 -339 Willow Avenue
Franceli DaSilva, 351 Willow Avenue

RECESS 10:00-10:15 p.m.

John Schmidt announced that his client would like to return in March with another redesign that would eliminate the second floor.

Mr. Tsapatsaris stated he heard the concerns about the apartments being too large and would like to be responsive. Mr. Tsapatsaris will revise the drawings to see if this is a viable option by removing one of the floors.

Board Attorney Fraser stated that the application will be carried to the March 26, 2014 meeting without further notice given or required and the applicant waives the running of time that the Board must act.

Interpretation

Interpretation of Section 106-108 of Land Use code (Home Occupation) to determine if a requested use is an office use or a small retail use.

Victor Vinegra stated that he had received a request for a written letter from Mr. Billy Kleeman stating that his residence is zoned to run a small business. Mr. Kleeman is seeking to sell/re-sell small amounts of legal firearms from his residence.

Victor Vinegra replied to Mr. Kleeman that he needed a letter explaining exactly what was being proposed. Victor Vinegra distributed the letter received from Mr. Kleeman and also read

Section 106-108 of Garwood's code. Mr. Vinegra felt that the use might not fall under the office use but a rather a small retail use. Mr. Vinegra stated that he wanted to bring this before the Garwood Planning Board for an interpretation.

Mr. Billy Kleeman was present and addressed the Board. He stated that the NJ State Police require a written letter from the town stating that he is zoned to run a small business from his home. He continued that once the proper paperwork is filed, the State Police come to his house to inspect the residence to ensure all the proper safety requirements are met. Once this process is completed and the State Police are satisfied the Federal Bureau of Alcohol Tobacco and Firearms (ATF) then comes to the house to inspect for the proper safety requirements.

Mr. Kleeman stated that section 106-108 Home Occupations allows the residence to be used as a home office and his residence will not be used in such a manor that it will resemble a retail store. He continued that most sales will be internet based. Very few sales will be done in person and they will be by appointment only. He stated that this home based business will be run in accordance with the rules set forth by the Garwood town code.

Mr. Kleeman explained that under New Jersey law, a licensed third party is required for the transfer of firearms. Mr. Kleeman testified that he would not store any inventory on the property other than those firearms that already had been purchased from a manufacturer or retailer and shipped to him for delivery.

Board member Bill Nierstedt expressed concern about allowing any "retail" operation in a residentially-zoned area. He added that this will set a precedent. He put forth a motion that Mr. Kleeman's request was not a permitted use under borough's ordinances.

Ileen Cuccaro opined that Mr. Kleeman's proposed business was nothing more than an office and similar to Avon door-to-door cosmetics. Mr. Nierstedt stated he disagreed with that comparison.

On a motion by Bill Nierstedt and seconded by Stephen Greet, the Board voted Affirmative (2) Bill Nierstedt, Stephen Greet, Negative (6) Bruce Paterson, Michael Vena, Robert Scherer, , Kathleen Villaggio, Gene Jannotti, Timothy Hak (Alt 1), Abstention (1) Mayor Patricia Quattrochi, that the proposed use is a retail use therefore not permitted in a residential zone.

The motion was DEFEATED 2-6-1.

A motion was then made to accept Mr. Kleeman's business is **not** a retail use and therefore permitted under the Land Use code

On a motion by Michael Vena, and seconded by Gene Jannotti,, the Board voted Affirmative (6) Bruce Paterson, Michael Vena, Robert Scherer, , Kathleen Villaggio, Gene Jannotti, Timothy Hak (Alt 1 Negative (2) Bill Nierstedt, Stephen Greet, Abstention (1) Mayor Patricia Quattrochi, that the proposed use is a NOT a retail use therefore is permitted in a residential zone.

The motion was CARRIED 6-2-1.

OLD BUSINESS/NEW BUSINESS

Discussion of RFP's for an Redevelopment Investigation

Chair Greet reminded the Board that Council passed a resolution to do an investigation to determine if 75 North Avenue is in need of redevelopment pursuant to the Local Redevelopment and Housing Law. The Board had requested that the Board Planner prepare a Requests For Proposal.

Victor Vinegra had prepared a proposal for the Board's consideration in the amount of \$6000 and the Board made the recommendation to council to proceed at the Board's December meeting. There was confusion if the cost included the Study and the subsequent Plan. The Board asked for clarification and a revised submittal. The revision is dated February 14, 2014. Chair Greet stated that this vote is simply confirming the Boards action taken at the December 11, 2013 meeting. Board Secretary Lewis will forward the information to the Borough Clerk.

On a motion by William Nierstedt and seconded by Mike Vena, the Board voted Affirmative (8) Mayor Quattrrochi, Stephen Greet, William Nierstedt, Kathy Villaggio, Gene Jannotti, Mike Vena, Robert Scherer, Tim Hak, Abstain (1) Bruce Paterson to recommend the Borough Council hire Victor Vinegra per the submitted Proposal for \$6000.00 dated February 14, 2014 for the Investigation Study to determine if the Garwood PaperBoard property meets the criteria to be deemed an "area in need of redevelopment" in accordance with the New Jersey Local Redevelopment and Housing Law.

Resignation of Planning Board Attorney as an employee of the Borough.

Board Attorney Fraser distributed a letter of resignation as an employee of the Borough. He stated that he would like to remain as Board Attorney as a consultant. He is aware that the Borough will seek Requests for Proposals for which he will submit. The Borough Administrator was copied on the letter and will be notified to begin the RFP process.

Case #PB13-05 **105 Center Street- Block 404 Lot 34** C/I Zone-
Applicant: *Ermina Savino Livieri*

Mr. Demassi stated that he was present with his client and prepared to come forward for FINAL site plan approval. The plans had been submitted to the Board office the previous day. Board Attorney Fraser stated that the item was not on the agenda and could not be heard. Mr. Fraser stated the Board could place the matter on the agenda for March 26th and for a 30 minute time slot prior to the continuation of Case #PB13-12 325-331 South Ave. **Applicant:** *LAND of NJ, INC*

CLAIMS

On a motion by Kathy Villaggio and seconded by Robert Scherer the Board voted to approve payment to Victor Vinegra from Westfield Senior Housing escrow account in the amount of \$425.00 for invoice # 19839 & \$268.00 for invoice # 19742

On a motion by Mike Vena and seconded by Robert Scherer the Board voted to approve payment to Victor Vinegra from the escrow account of LAND Inc, South Avenue for invoice # 19746 in the amount of \$2254.00 & invoice # 19858 in the amount of \$2450.00

On a motion by William Nierstedt and seconded by Robert Scherer the Board voted to approve payment to Victor Vinegra in the amount of \$784.00 from the escrow account of 105 Center Street for invoice #19857

On a motion by Mike Vena and seconded by Robert Scherer the Board voted to approve payment to Victor Vinegra in the amount of \$340.00 for invoice #19841 .00 from the escrow account of 210 North Avenue

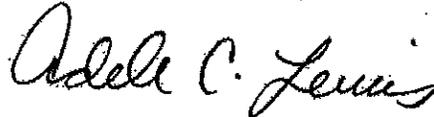
The next meeting of the Board -March 12, 2014 --will be cancelled as many Board members had conflicts for the meeting as did Board Attorney Fraser.

The next meeting will be March 26, 2014

ADJOURNMENT

There being no further business, the Board adjourned 11:10 p.m.

Respectfully Submitted,



Adele C. Lewis, Board Secretary

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BOROUGH OF GARWOOD
PLANNING BOARD

LAND OF NJ, INC : TRANSCRIPT
Case No. PB13-12 : OF
Block 404 Lots 8&9 C/B Zone : PROCEEDINGS

LOCATION: Garwood Municipal Building
403 South Avenue
Garwood, New Jersey 07027

DATE/TIME: Wednesday, February 26, 2014,
7:30 P.M.

BOARD MEMBERS:

- PATRICIA QUATTROCCHI, Mayor
- BRUCE PATERSON, present but excused
- WILLIAM NIERSTEDT
- STEVEN GREET, Chairman
- ROBERT SCHERER
- KATHLEEN VILLAGIO
- GENE JANNOTTI
- TIMOTHY HAK
- CRAIG McCARRICK
- PAUL TARANTINO
- MICHAEL VENA

ADVISORS/STAFF:

- DONALD FRASER, Board Attorney
- ADELE LEWIS, Secretary
- VICTOR VINEGRA, P.E.
- ILEEN CUCCARO

TRANSCRIBED BY AND BEFORE:

Susan M. Styron, C.S.R., R.P.R., and Notary
Public of the State of New Jersey

Job No. NJ1819907

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1 APPEARANCES:
2 LINDABURY, McCORMICK, ESTABROOK & COOPER, P.C.
3 53 Cardinal Drive
4 P.O. Box 2369
5 Westfield, New Jersey 07091
6 (908) 233-6800
7 jschmidt@lindabury.com
8 BY: JOHN H. SCHMIDT, JR., ESQ.
9 Attorneys for Applicant
10
11 ALSO PRESENT:
12 Nick Tsapatsaris, witness
13 Members of the public
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1 (Prior Board business addressed.)
2 THE CHAIRMAN: All right. We have
3 application Case PB13-12 that's for 325-331 South
4 Avenue, Block 404, Lots 8 and 9. Applicant is
5 Land of New Jersey, Inc. seeking site plan and
6 approval, preliminary and final, with variance
7 relief for demolition of existing greenhouse and
8 single-family home through and by expansion the
9 existing mixed-use building consisting of
10 first-floor retail and second-floor apartments.
11 Obviously this is the second time that you've
12 been here. However, Bruce --
13 MR. PETERSON: Right, I'm going to have
14 to recuse myself on this. I live within
15 200 feet.
16 THE CHAIRMAN: With that being said
17 there were some design changes, significant
18 design changes, and I think that we agreed that
19 you would resolicit.
20 MR. SCHMIDT: Renotice.
21 THE CHAIRMAN: Renotice, yes. You did,
22 okay, thank you.
23 MR. SCHMIDT: Yes, that has been done
24 and the affidavit and proof of mailing and
25 publication has been submitted to the town.

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1 MADAM SECRETARY: Yes, it's been
2 received.
3 MR. FRASER: I'm guessing, Mr. Schmidt
4 your going start your application from square
5 one?
6 MR. SCHMIDT: Well, I'm going to start
7 with Mr. Tsapatsaris again. I don't think I have
8 to go through the introduction of his history and
9 background as an architect, I think the record is
10 clear on that. But we are going to review the
11 new application, new plans somewhat in detail as
12 we have to.
13 MR. FRASER: Yes. I mean, I don't
14 think you need to requalify him, we recognize his
15 qualifications as an expert. But I think that
16 from a procedural standpoint and a jurisdictional
17 standpoint, because members of the public have
18 now been served with what arguably might be
19 considered to be a different application, then I
20 think that you should elicit all the substantive
21 testimony on which you intend to rely.
22 MR. SCHMIDT: Absolutely.
23 MR. FRASER: Okay.
24 MR. SCHMIDT: I'd like to begin,
25 however. I'd like to begin, again, I'm not sure

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1 if you want to restart the marking of exhibits
2 over again or whether you want to continue.
3 MR. FRASER: Use the numbers and we'll
4 just say exhibit such-and-such marked at the
5 previous meeting. We'll keep the same numbers.
6 MR. SCHMIDT: So this would be, I
7 believe, A4 would be the next exhibit.
8 MR. FRASER: Why don't we just restate
9 what A1, 2 and 3 are, or are you starting with
10 just 4?
11 MR. SCHMIDT: I'm just going to start
12 at A4. A1, 2 and 3 I believe were simply the
13 drawings and the rendition of the property.
14 MR. FRASER: Which have now been
15 superseded?
16 MR. SCHMIDT: Right.
17 MR. FRASER: I think you're right. For
18 the record to be clear, the next exhibit will be
19 A4, but for members of the public we're not
20 worrying about what was in A1, 2 and 3, we're not
21 using them.
22 MR. SCHMIDT: Yes.
23 MR. FRASER: Okay. I think that's the
24 best way to do it.
25 (Exhibit A4 was marked.)

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1 MR. SCHMIDT: Mr. Chairman, members of
2 the, Board, if you recall at the public question
3 segment last time there was a great deal of
4 discussion about civil unrest and police
5 disturbance on my client's property. And when I
6 questioned the neighbor about it, the neighbor
7 was adamant about the issue of the police
8 returning to that property.
9 Well, pursuant to a public records
10 request I contacted the Garwood Police Department
11 and I got a response to my request from Captain
12 Stoeffler. And I have with me and I would like to
13 submit as A4 his e-mail addressed to my
14 associate, Matthew Frish, who's an attorney in my
15 office. His response with one investigative
16 report that he found, that if you look at it,
17 does not concern my property, it involves 341
18 South Avenue. And that's for a three-year
19 search. There's been no instances of any police
20 incident reports or other activity at my client's
21 property. I just want to make this clear for the
22 record and I'd like to submit this with your
23 permission.
24 MR. FRASER: All right. A4 will be in
25 evidence.

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1 (Exhibit A4 was marked.)
2 MR. SCHMIDT: I have two extra copies
3 if any members of the Board would like to look at
4 them.
5 MS. CUCCARO: I'll have one.
6 MR. SCHMIDT: At this point I'd like to
7 call Mr. Tsapatsaris back to continue testifying
8 as to the revised plans and architectural
9 rendition of the new concept building.
10 MR. FRASER: Mr. Tsapatsaris, you
11 understand you're still under oath. When we talk
12 about continuing testimony we're going to get all
13 the necessary testimony tonight so everybody from
14 the public will have an opportunity.
15 MR. TSAPATARIS: Yes.
16 MR. FRASER: Okay. Go ahead. He's
17 sworn.
18 MR. SCHMIDT: Mr. Tsapatsaris, since
19 the last hearing in this matter, which was on
20 December 11th, you have, you being Land of New
21 Jersey, have submitted what is effectively a new
22 building design and rendition for this property;
23 correct?
24 MR. TSAPATARIS: Yes.
25 MR. SCHMIDT: And can you explain to

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1 the Board why you've done that?
2 MR. TSAPATARIS: We appreciated the
3 comments of both this Board as well as the
4 public. Subsequent to that we had a citizens'
5 meeting in our lawyer's office, people were
6 invited. So we listened. And to the degree that
7 we could, we made changes in summary that include
8 removal of the T from the back. The original
9 application, the original design had a stem that
10 went back approximately 12 feet from the
11 property. That has been taken away from this
12 application. We heard loud and clear that the
13 apartments were too small. So in removing the T
14 from the back piece we made the apartments larger
15 by going towards the front.
16 And, finally, we were able to find and
17 secure parking off-site for a portion of our
18 needs. That, in summary, are the changes that I
19 will get into when I show the graphic
20 illustrations of the details. I'll show you the
21 details in a bit, but those are the main changes.
22 And of course one other change is that the number
23 of units has been reduced. At the last hearing
24 the number 12 was discussed. The original
25 application was 14. Our proposal is for 13, but

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1 that's one more change. The units are, however,
2 bigger.
3 MR. SCHMIDT: Why don't we start with
4 the drawings. If we could mark the two
5 renditions A5 and A6.
6 (Exhibits A5, A6 and A7 were marked.)
7 MR. FRASER: Is that all on one board?
8 MR. SCHMIDT: No, two boards, A5 and
9 A6. And A7 would be the revised plans.
10 MR. TSAPATARIS: I think at this time
11 what I'd like to do as I begin describing the
12 property is to provide the Board with an
13 illustration of what the building is going to
14 look like. So the 11-by-17 drawings that you're
15 receiving at this time represent the proposed
16 front elevation from South Avenue and the back
17 elevation as it would be seen from the residence
18 at Willow.
19 MR. FRASER: All right. Just for the
20 record, the pictures that the Board are being
21 handed, are these other than the size of
22 reduction identical to A5 and A6 that are marked
23 on the Board that the public can see?
24 MR. TSAPATARIS: Yes.
25 MR. NIERSTEDT: And, Mr. Chairman, one

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1 other question.
2 THE CHAIRMAN: Yes.
3 MR. NIERSTEDT: Obviously they're not
4 rendered, but are they the same as A4 in the
5 packet?
6 MR. FRASER: Yes.
7 MR. NIERSTEDT: Okay, thank you.
8 MR. FRASER: Not A4, A7.
9 MR. NIERSTEDT: Sheet A4. He's
10 referring to the architectural.
11 MR. SCHMIDT: Looking at the two
12 architectural renditions in the front and the
13 back of the building, can you explain to us
14 Mr. Tsapatsaris, how it has changed?
15 MR. TSAPATARIS: Yes. Initially the
16 application was one floor shorter. It was one
17 floor shorter, lower. However, it was much
18 wider. It went to the back. It was a T-shaped
19 building, now it is no longer a T-shaped
20 building. To show you a graphic illustration of
21 that I'm going to go right to SP-1, which is in
22 your package. The drawings I'm referring to now
23 on the left board are identical to those that
24 were submitted to you back in January in your
25 package. So to give the Board and the public a

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1 sense of the new building, it is, in essence, a
2 rectangle. The T-shape at the back is no longer
3 proposed.
4 So listening to all of the comments
5 which included on many occasions that the units
6 were too small, and listening to the comments
7 that perhaps it was 12 feet, even though it met
8 your ordinance, may be too close to the residence
9 at the back, I believe Mr. Prieto mentioned it
10 was too close, we thought that the best way to
11 accommodate both of those desires was to tidy up
12 the building, bring it into a rectangular form,
13 still hold the 0 lot line along the front, move
14 the building 1 foot away from the property line,
15 as your engineer suggested that we do, because
16 the previous proposal also had a 0 lot line. So
17 as a courtesy to that neighbor we thought we'd
18 move it over another foot.
19 So with that let me get into first the
20 A5. What is this? This is basically retail on
21 the ground floor as it was before. There is, in
22 essence, no change in the ground floor that you
23 saw previously in this except that the entrance
24 to the apartments now is off of South Avenue and
25 through the building, which I'll show you on the

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1 architecture in a few minutes.
2 MR. SCHMIDT: How many retail stores
3 are you proposing?
4 MR. TSAPATARIS: We're proposing two
5 modules of retail, one underneath the existing
6 building, and one on the other side of the
7 overpass to the left. It is one space,
8 approximately 4,900 square feet or so for both.
9 So now there's about 2,000 square feet. We're
10 proposing to add another 2,000 square feet on the
11 left-hand side as it was before. The ground
12 floor is the same square feet.
13 So we add then two floors plus a half.
14 The reason that we designed it this way was part
15 for the front but part for the back. We
16 accommodate the larger unit size, but also wanted
17 to maintain the residential character of the
18 building. If you look at Exhibit A6, that is the
19 view that you'll see from our neighbors at
20 Willow.
21 One very important number that I need
22 to put out at this time is that the height does
23 not exceed what your ordinance permits. Your
24 ordinance permits 40 feet. The buildings on
25 either side are approximately 8 feet or so lower

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1 than that. To the right of us they're about
2 8 feet lower. So we didn't feel that meeting
3 your ordinance with respect to height was
4 something that would not fit in that streetscape,
5 especially since as you get towards the center of
6 the borough the intersection of Center and South
7 has a higher height. What it also did from the
8 back is to screen both visually and with sound
9 Willow. And that was a comment that one of our
10 neighbors had suggested that we do. So one of
11 our neighbors said, Well, I kind of like the fact
12 that you're putting a permitted 40-foot screen
13 that looks like this between our backyard and the
14 commercial across the street. So taking all
15 those factors in mind, we put together a
16 rectangle. And I'll get into a floor plate
17 rectangle, took out the back, and I'll get into
18 some of the details as to what's now in that
19 rectangle.
20 MR. SCHMIDT: And is it fair to say
21 that along the backscape of the building you've
22 also added some architectural style so it's not
23 simply a flat-backed building; correct?
24 MR. TSAPATARIS: Yes, yes. The dormers
25 are real, these are not fake. These are rooms at

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1 the fourth floor. We've also proposed a nice
2 hearty plank exterior with vertical towers that
3 sort of mimic what exists on Willow now. If you
4 were to glance at this you would see that it is
5 representative of a lot of the houses along
6 Willow, but when you look at it from South Avenue
7 it does look like a retail mixed-use building.
8 It holds that 0 lot line and it does continue the
9 streetscape, even though the other side is a
10 suburban-type of property which functions very
11 well, in my opinion, this side continues that
12 Center Street, the downtown feeling.
13 So getting into the more technical
14 aspects of this, if I draw your attention to SP-1
15 you'll see the floor plan of the ground floor as
16 I mentioned before is the same. It's important
17 now for us to focus for a few seconds on the
18 parking. There are 18 spaces here. Part of the
19 commentary at the last hearing was to move the
20 HVAC unit, was to increase the buffer as much as
21 possible. We've done both of those things. And
22 in one case we have, in the majority of cases
23 from Space 4 to Space 12 as you refer to SP-1
24 there's a 6.85-foot buffer. As we proceed to the
25 west spaces numbered 13, 14 and 15, which can

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1 only accommodate a 2.85-foot buffer because that
2 was the only way we could get the handicapped
3 space in, which is Space No. 18. So this took a
4 lot of thought to try and maximize the buffer
5 while at the same time provide a handicapped
6 space where there is none today.
7 One of the neighbors also mentioned
8 something about handicapped assessability. The
9 building was, but continues to be
10 handicapped-accessible. The
11 handicapped-accessible spot is now next to one of
12 the entrances of the building.
13 MR. SCHMIDT: Mr. Tsapatsaris, are you
14 still proposing the same size fence that you were
15 talking about before?
16 MR. TSAPATARIS: We have spent a
17 considerable amount of time refining the size of
18 the fence in the southwest corner, and that has
19 to do with a vendor that we've been speaking to
20 with regards to trash. But, yes, we've corrected
21 a discrepancy that existed on SP-1 with what was
22 on the detail sheet. I believe one of the Board
23 members mentioned that they didn't match, now
24 they match and they actually fit the recycling as
25 well as the trash, which I'll get into.

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1 MR. SCHMIDT: And do you still, would
2 you still be agreeable to placing plantings on
3 the neighbors', rear neighbors' side of the fence
4 upon their request?
5 MR. TSAPATARIS: Yes.
6 MR. SCHMIDT: As additional buffer?
7 MR. TSAPATARIS: Yes. So the spaces
8 also, based on your engineer's report, have been
9 widened to 8.5 feet. There was a comment before
10 that the 8 feet didn't work, so we've made them
11 all 8.5. We've provided a sidewalk along the
12 south side on both sides. We also continue to
13 take advantage of an overhang that your ordinance
14 very nicely permits for the vehicle to hang over
15 2 feet into a space, but now that we have a
16 6.85-foot buffer it's almost a moot issue.
17 There's room. It's bigger than the buffer that
18 we have today for spaces 5 to 12, but we still
19 take advantage of the vehicle being able to hang
20 over, and, therefore, are proposing somewhat
21 lower vegetation in that area.
22 MR. SCHMIDT: What is the trash
23 receptacle area?
24 MR. TSAPATARIS: The trash receptacle
25 area is at the southwest corner. It has a

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1 dimension of 18.65 feet by 13.33 feet. There's a
2 blowup on another sheet. The location of the
3 trash is in a spot where residents can go from
4 any part of the building up, down the side stairs
5 which exist today and will be maintained, and
6 then to the south can take the trash.
7 We may as well do it now. We have
8 engaged a local hauler. We provided that hauler
9 with our site plan, we visited another property
10 in Garwood that they service. I personally
11 witnessed how they did it. And we visited this
12 site with them and have proposed a trash-hauling
13 operation that will take the recyclables as well
14 as the trash from here, roll it out through the
15 building onto the driveway from South, and then
16 from South it will be picked up.
17 At the last hearing I testified that
18 this building will no longer be served by the
19 municipal hauling operations, and that we'd enter
20 into a contract, which we have with a local
21 hauler that also works with another mixed-use
22 residential property in town.
23 MR. SCHMIDT: And do you recall what
24 the proposal was for the number of times a week
25 that there would be a garbage pickup at this

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1 location?
2 MR. TSAPATARIS: They gave us a number
3 of different proposals. I did testify last time
4 that it would be hauled as necessary to
5 accommodate the tenants. So they've given us a
6 number of different tiers based on multiple
7 2-yard, light roll-out dumpsters. Our office,
8 for example, in Ridgewood is serviced in the same
9 way. We have multiple 2-yard dumpsters. A truck
10 will pull up at 7 a.m. off peak, they will roll
11 out the dumpsters and haul away. Similarly in
12 this case, our proposal would be to implement the
13 same kind of strategy where it's a light PVC
14 dumpster and haul as necessary.
15 MR. SCHMIDT: Go on to the second
16 floor.
17 MR. TSAPATARIS: Sheet SP-2 is a better
18 illustration of the massing of the building in
19 the plan view, because we shade in the second
20 floor. So the building will have a dimension of
21 37.35 feet by 143.14 feet.
22 Moving onto SP-3, this is the grade and
23 utility plan. I had the opportunity to meet with
24 your engineer in advance of this meeting, I
25 appreciate that time that we spent. There are a

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1 number of suggestions that he made that we've
2 implemented. And we've also, as of today we
3 spoke again and talked about some refinements to
4 the drainage, but both agreed that in the event
5 that this application is approved, if it's
6 approved, that the two of us would refine the
7 proposal to meet the standards for storm water
8 detention.
9 MR. SCHMIDT: And what you're proposing
10 is an underground detention system; correct?
11 MR. TSAPATARIS: Yes, and replacement
12 of the existing trench drain. Your municipal
13 engineer had a good suggestion, which was just
14 bring it away from the building. I had it
15 somewhat close to the building, and the
16 subsurface storage tank, if we pull it away a
17 little bit it will minimize the chances that any
18 water will infiltrate into the basement. We've
19 eliminated the basement on the east side but
20 we'll keep the basement that we have on the west
21 side.
22 Sheet SP-4 is a soil erosion and
23 sediment control plan which is fairly
24 straightforward.
25 Sheet SP-5 has to do with lighting.

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1 The lighting is similar to the last proposal and
2 shares the same concern that I had with
3 overlighting the south property line. So there
4 are four proposed light fixtures along the south
5 property line which is our neighbors at Willow,
6 and those are short bollards. We have three
7 building-mounted fixtures with shields, as you
8 can see on the top right of the drawing of the
9 building that will illuminate the area towards
10 the building. So we've taken some care to
11 minimize any spillage that you could have on the
12 houses on Willow.
13 Right now the building is illuminated
14 through three building-mounted fixtures. In the
15 past we've spoken with the owner of Lot 24.01,
16 Block 404, and have adjusted our lights downwards
17 so as not to spill onto him, and he's been fairly
18 pleased with that. So we've been able to keep
19 our neighbors happy adjusting lights downwards
20 and want to continue to do the same.
21 The landscaping plan is SP-6. As
22 counsel suggested earlier, along the southern
23 property line we would be willing to entertain
24 additional buffers for those residents on Willow
25 inclusive of trees on their side of the fence.

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1 It doesn't mean that on our side of the fence we
2 don't propose a total of perennial rye grass,
3 winter Barberry and then also some winter sealed
4 rye as ground cover and weeping lovegrass. The
5 intent of the landscaping on our side is of
6 course to keep it low. If you look at the
7 building now it's quite high. We'd like to keep
8 it low. We'd like to have an ability for the
9 vehicles to overhang a little bit onto the
10 landscaping as much as possible that your
11 ordinance permits.
12 So the proposed landscaping with the
13 exception of the four large trees in the front as
14 well as the large shade tree on the back left are
15 all going to be low-lying vegetation as a buffer.
16 And of course a new fence along the property line
17 on South as well as the property line between 337
18 and 325, which is the property to the west.
19 Sheet A1 is the architectural plan of
20 the ground floor. The existing plan of the
21 building shown on the bottom right of sheet A1,
22 an important feature that I want to point out is
23 at the top right of the lower right drawing. In
24 being able to widen the parking area and to
25 create a larger buffer as was requested, we had

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1 to remove the stairs that go down to the basement
2 and change the floor plan on the, where the nail
3 salon is now to accommodate for another entrance
4 into the basement. So as part of the site plan
5 improvements we had to eat away from part of the
6 building to get access down into the basement,
7 which will no longer be from the parking lot
8 where it is today.

9 The proposed retail space is shown on
10 Drawing 2, Sheet A1, Drawing 2. And an
11 interesting feature also on this sheet, if you
12 see the left-hand side of Detail 2, we've made it
13 so that the architecture on the left shows a
14 commercial building. This is a commercial
15 building, these look like stores, but if you're
16 showing this to a prospective tenant and want to
17 make a good impression, you'll be able to go to
18 this entrance, which looks like a proper
19 residential evidence. You'll have a fairly wide
20 lobby which is 8 feet wide, you'll have an
21 elevator right there, but you'll also have the
22 luxury of being able to go right to the back of
23 the buildings.

24 Your engineer also made another good
25 suggestion to be met, which we'll be willing to

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1 change if this is approved, which is to have all
2 of the entrances from the back of the building
3 through one door. Right now we had two doors.
4 So he made a suggestion that perhaps that one
5 door could be closed and then come in through
6 another glass door so that you have one sort of
7 see-through, front-to-back lobby, which I think
8 is an improvement. And that's a change to this
9 drawing that we would be willing, certainly be
10 willing to entertain. So you would walk in the
11 back door, there would be a glass door from the
12 parking lot. If you chose to come to this
13 facility with your car and came in the back, you
14 would be able to go in the back door. And the
15 back door here, again, if you look at this
16 element, it's a residential entrance. So if
17 you're in the back parking lot it's clear where
18 you should be walking into the building, as it
19 would be from the front. And you could see right
20 through. We've chosen not to put a basement on
21 the left-hand side on the proposed space.

22 The next sheet I'm showing you is Sheet
23 A2, which is the first residential floor, the
24 floor above the retail space. This was a
25 challenge to design because -- I'll wait for

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1 everyone to get there so I can go over the design
2 challenges. The whole right-hand side of the
3 proposed second-floor plan is existing
4 apartments. So we were able to weave in the
5 existing stairs, the existing apartments that
6 will be made larger in the front, and then have
7 the corridor, have a linear corridor and
8 synthesize it with the proposed building. But if
9 you look to the right it wouldn't be the way we
10 would have designed if it was a brand-new
11 building, but we had to incorporate the existing
12 units into the mix.

13 On the left-hand side they're much more
14 orthogonal and they flow better. The third floor
15 plan also has an interesting feature, which is an
16 interior stair to go up to the third floor and to
17 the fourth floor. I'd like to tell you why we
18 chose to put that extra floor on.

19 Again, listening to the public saying
20 that the units were too small, listening to the
21 Board saying that the units were too small,
22 reducing them by one and also removing the stem
23 in the back made the numbers as follows. In the
24 existing building today the average net unit size
25 is 602 square feet. The proposal that we brought

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1 last time, the average unit size was 633. The
2 proposed unit size is 1,195 square feet per unit,
3 an increase of 562 square feet per unit.

4 The important factor in arriving at the
5 increase and why we designed an increase was
6 taking a more careful look at the market -- and,
7 again, I appreciate everybody saying they're too
8 small, because we went to our competition. Our
9 competition would have been Cranford Crossing and
10 The Riverfront at Cranford. The unit sizes at
11 Cranford Crossing, based on their Website for a
12 two-bedroom are anywhere between 1,155 square
13 feet and 1,275 square feet. The Riverfront at
14 Cranford, which I visited, were 1,439 square feet
15 for a two bedroom. The 331 South Avenue Project
16 would be an average unit size of 1,195. So we
17 thought that a way to perhaps attract the same
18 type of tenant would be to have larger units,
19 more attractive units.

20 In terms of the total number of
21 bedrooms, the existing facility has three units,
22 total apartments, rather, sorry. The total
23 apartments today are three, they consist of two
24 one-bedrooms, one one-bedroom, and it's worked
25 fairly well for us over the past 20 years. The

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1 original submission had one studio, 11
2 one-bedrooms and two two-bedrooms for a total of
3 14 units. The proposed application that you have
4 before you now has 11 two-bedrooms and 2
5 one-bedrooms for a total of 13 in terms of
6 bedrooms, because your planner and engineer has
7 also looked at it in terms of bedrooms. There
8 are four bedrooms today, there were 16 bedrooms
9 in the previous application, and this application
10 before you today has 24 or 25.

11 And I can see the confusion in the most
12 recent letter that we received from your
13 consultant, because in some cases we have one
14 bedroom on the ground plus another bedroom on
15 the, in the attic space, if you will, or the
16 peaked roof area, and in some cases there are two
17 bedrooms there because the units are fairly
18 large, and one more upstairs that we had planned
19 for a study. So one could, even though it's not
20 labeled, assume that it is a bedroom. We would,
21 however, put a stipulation into that. And our
22 goal would be to have very nice two-bedroom
23 units.

24 MR. SCHMIDT: In connection with trying
25 to limit the occupancy of these units,

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1 Mr. Tsapatsaris, would you be willing to
2 stipulate to a lease restriction that may
3 restrict the tenancy to two adults and no more
4 than two children, or at least limit the
5 percentage occupancy with regard to children?

6 MR. TSAPATARIS: Yes.

7 A VOICE: That's illegal.

8 MR. SCHMIDT: I don't think that's
9 illegal.

10 MS. VILLAGIO: Is that enforceable?

11 MR. FRASER: I didn't think so.

12 MR. SCHMIDT: I don't think it's
13 illegal to restrict the number of adults that can
14 reside in a unit.

15 MR. FRASER: Hold on. But you weren't
16 just talking about the number of adults. I heard
17 two adults and two children or something like
18 that.

19 MR. SCHMIDT: Well, with all due
20 respect, I'm not positive about the children.
21 I'm quite positive about limiting the number of
22 adults that can live in a unit. And I think you
23 can restrict the percentage of units that can be
24 occupied by children in a unit, I believe. So
25 you could limit it to 20 or 30 percent of the

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1 units could be occupied by children.

2 MR. TSAPATARIS: And, again, over the
3 past 20 years I can't recall the last time a
4 resident of our building was a family. Generally
5 it's been a young couple looking to move into the
6 area, it's been an older person that doesn't want
7 to leave the area and their children. So, again,
8 the right fit and the right tenant for these
9 units again will be a young professional family
10 looking to move into town about to make a family,
11 if you will, a young couple. That is our goal.

12 Perhaps the planner can also discuss as an expert
13 how many children could be expected out of 12
14 units based on their expertise.

15 So that would conclude my description,
16 counsel, unless you have another question.

17 MR. SCHMIDT: Okay. Let's talk about
18 the parking for a second. How many parking spots
19 are proposed in the plan?

20 MR. TSAPATARIS: We're proposing 18
21 spaces.

22 MR. SCHMIDT: And you conclude that
23 there are how many space that would be needed
24 under the ordinance for this size project?

25 MR. TSAPATARIS: If you look at sheet,

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1 if the Board can turn to the cover sheet, which
2 is T1, the second half or the bottom half of the
3 chart has to do with parking. The top row
4 calculates the apartments at 1.5 spaces per unit.
5 Your ordinance does not distinguish between a
6 one-bedroom studio, two-bedroom, three-bedroom,
7 it is 1.5 per unit. I believe that, again, as I
8 testified last time, your ordinance didn't have a
9 parking requirement when I first applied ten
10 years ago, but I didn't go through with it at the
11 time, so now you have 1.5.

12 MR. SCHERER: I thought we always had
13 that ordinance.

14 MR. TSAPATARIS: Not in the early, in
15 1996 there was no parking requirement. And I was
16 in the room, but at the time it wasn't complete.
17 So there is one now, and it's 1.5. So the 1.5
18 yields 19.5 spaces, plus one space per 300 square
19 feet of retail, which yields 16.37 for a total of
20 36 spaces where 18 are provided for a variance of
21 18 spaces, yes, an 18-space variance.

22 Since the last meeting I've been to
23 four places which are potential places where we
24 can rent. And I have executed a lease with one,
25 another one is pending.

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1 MR. SCHMIDT: Where have you entered
2 into a lease to rent parking spaces?
3 MR. TSAPATARIS: We've entered into a
4 lease with The Rest, which is about 370 feet.
5 MR. SCHMIDT: If we could have this
6 marked, please?
7 MS. CUCCARO: The Garwood Rest?
8 MR. SCHMIDT: Yes, that's correct.
9 (Exhibit A8 was marked.)
10 MR. SCHMIDT: Mr. Tsapatsaris, can you
11 identify A8 for us? And we have copies for the
12 Board members.
13 MR. TSAPATARIS: It's a parking space
14 lease.
15 MR. SCHMIDT: And how many spaces have
16 you been able to lease from the Garwood Rest?
17 MR. TSAPATARIS: Five.
18 MR. SCHMIDT: And that is a signed
19 lease; correct?
20 MR. TSAPATARIS: Yes.
21 MR. SCHMIDT: And the caveat is that
22 you can park any time during off hours, which is
23 before 6 p.m.; correct?
24 MR. TSAPATARIS: Yes.
25 MR. SCHMIDT: And what is the intent

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1 with regard to people parking there? Who would
2 you ask to park on that property?
3 MR. TSAPATARIS: If the application
4 were to be favorably considered, I would enter
5 into leases with my tenants obligating them to
6 have their employees park in this lot. So, for
7 example, the wireless store, which they arrived
8 at 8 o'clock in the morning on Saturday and
9 perhaps out of the 12 apartments there's more
10 cars there than there should be, those employees
11 would have to park at The Rest. There's nobody
12 at The Rest at 8 o'clock in the morning on a
13 Saturday. Our peak -- but I don't want to get
14 into traffic testimony. I think that our traffic
15 expert is well versed in being able to explain
16 that piece, so I'd want to defer that to the
17 proper expert, Counselor. So, again, we have
18 five there, plus 15.
19 MR. SCHMIDT: Okay. One at a time.
20 How far is The Rest from your spot?
21 MR. TSAPATARIS: 350 feet.
22 MR. SCHMIDT: Okay. If we could mark
23 this as A9, please.
24 (Exhibit A9 was marked.)
25 MR. SCHMIDT: And I have some

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1 additional copies to distribute. Can you
2 describe what A9 is, please?
3 MR. TSAPATARIS: Exhibit A9 shows 331
4 South Avenue oriented as we are oriented. And if
5 you go towards Kings it's the first street. I
6 believe most of the Board members know where it
7 is. We found it to be an opportunity because our
8 peak times are not theirs. So, for example, on a
9 business day at 10 a.m. when I first met the
10 owner of The Rest it was a good time for us to
11 have spots there because it was empty. There
12 must have been three cars there at 10. I can't
13 remember, but the lot was fairly empty.
14 MR. FRASER: How many spaces are at The
15 Rest?
16 MR. TSAPATARIS: About 19 or so. It is
17 an underutilized lot. Every time I've been by I
18 haven't seen it packed. On a Saturday night when
19 they're packed there should be 18 spaces for our
20 residents at 331 South Avenue. So I think that
21 from a downtown developer's perspective it's a
22 great deal to be able to share that parking if
23 there's an opportunity that comes up to be able
24 to share parking.
25 MR. SCHMIDT: And I'd also like to

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1 represent to the Board -- and I will testify to
2 this because I negotiated this. I have, on
3 behalf of my client, been in touch with the
4 attorneys representing Casale Industries, both
5 the bankruptcy attorney and the land attorney
6 who's representing them. We have been able to
7 negotiate the use of 15 spots in their parking
8 lot. I have here, which we will mark into
9 evidence, it's deemed a revocable license
10 agreement. It is effectively a lease. We are
11 working out the terms. Fifteen spots were agreed
12 upon, the rent is agreed upon. There's some
13 language we're working on to resolve.
14 Now, this Board knows that they're in
15 bankruptcy, and we can't misrepresent to the
16 Board that these spaces can be there for an
17 indefinite period of time. But I have been
18 assured by the attorneys, both their land use
19 attorneys and their bankruptcy attorneys, that
20 until such time as the property is sold and/or
21 the bankruptcy plan is approved, these spots will
22 be available for our use. And in talking with
23 the land use attorney, they are confident that
24 whoever buys the building would allow us to
25 continue to use that until some such time as some

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1 land use development plan is approved by this
2 Board for that property. The Board can assume
3 obviously from your knowledge how long that would
4 take. My guess is we're looking at at least
5 three to four years before some approval is
6 granted for the redevelopment of that property.
7 So I anticipate three to four years we would have
8 the right to park up to 15 cars there.
9 And what is your intent with regard to
10 who would park there?
11 MR. TSAPATARIS: Employees. Again, if
12 there is a resident who says I like your place
13 and I have three cars. It's a year lease. We're
14 not going to rent the residential lease for more
15 than a year, I will suggest to them that they
16 park the second car -- won't suggest, I'll
17 stipulate in my lease that they will park it at
18 the lot and pay for it where we have the spaces.
19 This is something that I've also been
20 doing in the village of Ridgewood where I have my
21 business. We rent 18 spaces, and I ensure that
22 my tenants in my buildings have their employees
23 park not in the meters out front where the
24 customers should park, but we in our leases are
25 very used to obligating our tenants' employees,

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1 and perhaps in this case the residents if there's
2 more than one vehicle, to park at Casale's or
3 during the day the employees again park at The
4 Rest.
5 MR. SCHMIDT: I apologize to the Board,
6 I did not make sufficient copies to pass out to
7 everybody. I have one extra copy if anybody
8 would like to look at it. This is the red-lined
9 draft of the discussions that are continuing.
10 And you can see what the terms of the lease
11 agreement are and the things that are being
12 negotiated now are obviously for my client. I
13 want the lease to be contingent upon approval of
14 this Board.
15 MR. FRASER: We just got a couple of
16 documents. Did we mark --
17 MR. SCHMIDT: Yes, we did, that was
18 marked.
19 MR. TSAPATARIS: Yes, Exhibit A9.
20 MR. SCHMIDT: Has there been a change
21 in the number of parking spots that you're
22 cutting the size down for smaller cars?
23 MR. TSAPATARIS: Yes.
24 MR. SCHMIDT: And can you tell us what
25 that change has been?

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1 MR. TSAPATARIS: It used to be that we
2 had an 8-foot wide space, but we've made it an
3 eight-and-a-half-foot-wide space.
4 MR. SCHMIDT: I have no further
5 questions of Mr. Tsapatsaris.
6 THE CHAIRMAN: I did have several
7 questions. One in particular, you mentioned
8 community input, you had several meetings?
9 MR. TSAPATARIS: One.
10 THE CHAIRMAN: You had one. And how
11 many were in attendance?
12 MR. TSAPATARIS: Two people.
13 THE CHAIRMAN: Two people.
14 MR. SCHMIDT: We noticed, we sent a
15 notice out to all of the residents who were
16 within 200 feet. We gave them approximately
17 seven days' notice and we had two residents
18 attend the meeting. It was at my office in
19 Westfield. It began at 6:30 or 7 in the evening.
20 And we only had two show up. Mr. Paterson was
21 one of them.
22 MR. FRASER: Did Mr. Prieto happen to
23 show?
24 MR. SCHMIDT: He did not.
25 MR. FRASER: I'll just note for the

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1 record, because I did have a conversation with
2 Mr. Prieto that Mr. Prieto did mention that he
3 received an invitation to that meeting and I
4 think the record should reflect that.
5 MR. PRIETO: Yeah, I was busy. I called
6 Mr. Schmidt's office and I asked for a copy of
7 the plans, actually.
8 MR. FRASER: Oh, I didn't see you
9 there.
10 THE CHAIRMAN: To continue on a little
11 bit. When we're talking about two bedrooms and a
12 study that obviously, to me at least, doesn't
13 indicate a transit type of operation, that's kind
14 of a family residing within the community and
15 taking advantage of all the services within this
16 community. Which partly would require,
17 especially if you have children, having an
18 automobile or two automobiles for that purpose.
19 So I tend to think that the whole function of
20 this complex has changed a little bit from the
21 initial concept that you had to what it is now.
22 And I can appreciate that, but I want to be
23 upfront with everyone here, and particularly at
24 least from my perspective that it's pretty
25 obvious that it has changed dramatically, in my

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1 opinion, from the concept of a transit village to
2 the concept of having a permanent residence for
3 someone who wants to develop a family and promote
4 their family within the community.
5 With that being said, I just have to
6 ask this. I looked through the transcript of the
7 prior meeting that we had, and Mr. Tsapatsaris --
8 and forgive me if I mispronounce that -- in one
9 of these you flat-out state -- and I'll read it
10 verbatim, "Another option that we didn't even
11 want it mentioned is that you can put a
12 four-story building in the backyard. And that is
13 not something that I would be interested in
14 constructing even as a developer or an
15 architect."
16 MR. TSAPATARIS: Yes, exactly. The
17 backyard is not 0 lot line front. The ordinance
18 permits 40 feet. I tried to reach a balance
19 between having that stem in the back being
20 12 feet from Willow and having it be 53 now. So
21 going back, here's the issue, having heard the
22 Board loud and clear that the units were too
23 small, some were 400 square feet, there was just
24 not enough area. We were struggling with your
25 ordinance which says 60 percent must be covered,

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1 so we tried to spread the building out and then
2 tried to find the parking. So it's that
3 intention --
4 THE CHAIRMAN: But you're still not at
5 60 percent.
6 MR. TSAPATARIS: We brought it way
7 down. So we heard that the units should possibly
8 be larger. Right now they're 600, the previous
9 application was 600. This one is larger. This
10 one is what the other downtown projects in
11 adjacent municipalities have. Now, I hear you
12 also. I mean, they are larger.
13 THE CHAIRMAN: Larger, 1600 square feet
14 is --
15 MR. TSAPATARIS: 1100.
16 THE CHAIRMAN: The biggest one is 1600.
17 MR. TSAPATARIS: Yes, but there's also,
18 the average is 1190.
19 THE CHAIRMAN: I'm not talking about
20 average. I'm talking about individual units,
21 there are some that are 12 and 15 and 1600.
22 MR. TSAPATARIS: But there are some
23 that are very small ones also.
24 THE CHAIRMAN: Okay. I'm just
25 commenting.

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1 MR. TSAPATARIS: Understood. And just
2 to make sure, because I also read the transcript
3 carefully, what I was saying is that the rear
4 yard is up against Willow. The 40 feet up
5 against South Avenue would be different than in
6 the rear yard which would be back. So, again, we
7 struggled with what the height should be. We
8 didn't want to go above 40, but we didn't want to
9 do 40. And we didn't propose 40 in the back.
10 THE CHAIRMAN: I may have other
11 comments later, but I'll open it up to anyone
12 else on the Board.
13 MS. VILLAGIO: I have a, I'm the one
14 who said at the last meeting that the apartments
15 were too small, all right, for a one-bedroom, if
16 you could knock off one or two, and also leaving
17 it as a one-bedroom. I do know the apartments up
18 the street on North Avenue, I go past them every
19 day on my way to work. The two bedrooms, but I
20 have a -- I don't see how you can stop somebody
21 on the third floor from occupying that additional
22 room as a bedroom. You know, two bedroom, a
23 husband and wife, or husband and child, husband,
24 wife and child but I have a serious problem with
25 the third-floor loft. If it's a business couple,

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1 you know, they can make it into an office.
2 That's my comment right now with regard to the
3 building.
4 The parking. That was something that
5 you got the five spots from The Rest and you got
6 15 spots next door to Sally for two or three
7 years. But what do you think will happen if you
8 don't get those spots again? I understand what
9 your attorney said, I understand it's only until
10 such time as it's sold and/or it's redevelopment,
11 and then you would have to negotiate with the
12 owner of that. But what would happen if, you
13 know, the owner says you can't park here anymore?
14 Is there other places that you've been looking at
15 in the meantime to alleviate the parking variance
16 that you are asking us for?
17 MR. TSAPATARIS: Yes. There were four
18 total. But before I even -- I'll answer that
19 question in a second. But to answer your first
20 question. In terms of the upper level, I need to
21 make one very clear point. This is
22 architectural, this upper level is architectural
23 more than it is just area. I know the units are
24 too big, as a developer they're too big. Let's
25 do some math very quickly to answer your first

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1 question. Let's assume I took a whole floor off,
2 the way it was before. The units go back to the
3 same size they were before on average. I
4 struggle with that. We have, I actually have
5 drawings, and we studied this ad nauseam.
6 Unfortunately the size of this property at
7 150 feet by 100 without doing the stem in the
8 back, if you took off a floor you get back to the
9 small units. The same size they were last time,
10 600. The unit size would be 600 -- it's worth me
11 giving you an accurate number.
12 MS. VILLAGIO: That's fine.
13 MR. TSAPATARIS: The whole floor is
14 approximately 5,831 square feet. And that, the
15 residential floor is 6,700, approximately 6,700.
16 So at a 15 percent loss factor we would be down
17 to 700 square feet per unit. The current size of
18 the building and the previous application was
19 633. But they're not all the same size. Because
20 there's existing three, there were some last time
21 that were 400, but some that were 800.
22 MS. VILLAGIO: What about if you, the
23 majority of, you know, there's only a few
24 one-bedroom apartments; right? How many did you
25 say one-bedroom?

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1 MR. TSAPATARIS: We have 12
2 two-bedrooms. We have 13 total.
3 MS. VILLAGIO: Okay. So you have one
4 one-bedroom and the rest two bedroom?
5 MR. TSAPATARIS: No. We have two
6 one-bedrooms and 11 two-bedrooms.
7 MS. VILLAGIO: Okay. Now what if you
8 redesign the apartments so it's at least 50/50,
9 50 one-bedrooms, 50 two-bedrooms? And I
10 understand the size of it, but I can't see that
11 many two bedrooms there. You can reconfigure
12 some of those apartments and make them a
13 one-bedroom and then have a den instead of, like
14 an eat-in kitchen instead of that extra bedroom.
15 MR. SCHMIDT: So if I understand, your
16 suggestion is that about 50 percent of the
17 apartments in this building should be one-bedroom
18 units?
19 MS. VILLAGIO: At least, yes. You
20 know, and I don't, the actual size of them,
21 they're nice apartments, all right, what you're
22 proposing, nice-sized apartments. They're about
23 the same size as the ones up the street at The
24 Riverfront. But to have all two-bedrooms, you
25 know, you're not taking into consideration what,

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1 I just can't see all of them two-bedrooms like
2 that. And, also to make sure that the third
3 floor, that the room, that the loft is not used
4 as a bedroom, you know, that is used as an office
5 or a whatever you want to.
6 MR. TSAPATARIS: In some cases in the
7 plan that you have in front of you we just used
8 the volume. And I hope everyone understands why
9 the extra floor was there. I did struggle with
10 spending all that extra money.
11 MS. VILLAGIO: It does look nice. I'm
12 not going to say it doesn't look nice. It does
13 look nice with the peaks. But I would like to
14 hear from the residents that are living in the
15 back, waiting for them to make comments. But I
16 just want to give you my opinion, you know, on
17 the size of bedrooms and all of that.
18 MR. TSAPATARIS: I have an answer to
19 your question.
20 MS. VILLAGIO: Steve mentioned about
21 the bedrooms, too, and if we can cut the number
22 of two-bedroom apartments, you not only cut down
23 on the possibility of having that many children
24 for your school system, but you also cut down on
25 the parking with the vehicles possibly. And

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1 those are my comments and/or questions.
2 MR. TSAPATARIS: We've been in Garwood
3 for 20 years. Again, if something like this is
4 approved or was going to be approved, we
5 struggled with making the building bigger.
6 There's only one opportunity to build this
7 footprint. So had we gone just one floor above
8 plus, one and a half floors above as we had
9 before and not go towards the back, there would
10 never be an opportunity to add another floor. So
11 part of our logic was this, which stems from your
12 second question, which is if we were able to
13 build this thing now and we continued to invest
14 in perhaps other properties close by, and we will
15 actively seek to purchase other properties, I
16 think that this Board would have jurisdiction if
17 there were to be any changes in the future.
18 So part of my logic in designing it
19 this way was that there's only one chance to
20 build it. The roof has to be put on
21 architecturally. If it gets approved we have one
22 shot at doing this. But you don't have one shot
23 at buying other properties around. And let's
24 fast-forward five years, to answer the second
25 part of your question. If other properties

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1 become available and we have a building like this
2 built I will actively seek to purchase other
3 properties and come back to this Board if four
4 more units can go in the building. So part of
5 what we were also thinking is not to use the
6 upper level at all at this time. In other words,
7 forget the peak for now, just take it, put
8 something in the resolution if it's approved, and
9 have nothing there.

10 MS. VILLAGIO: Yeah, I didn't mean
11 anything by don't use it. I was specifically
12 saying don't use it, to make sure that it's not
13 utilized as a bedroom.

14 MR. TSAPATARIS: I could even go
15 farther than that.

16 MS. VILLAGIO: I do want to ask you
17 about the picture. The first floor with the
18 stores, what is that going to be, stone?

19 MR. TSAPATARIS: No, stucco.

20 MS. VILLAGIO: Is it possible that it
21 could be stone?

22 MR. TSAPATARIS: It's a wood building.

23 MS. VILLAGIO: Or brick or whatever?

24 MR. TSAPATARIS: Well, this is a real
25 stucco, not a synthetic stucco. This would be

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1 wire lath and a cementitious scored stucco to
2 make it look like stone. But it would be a real
3 cementitious.

4 MS. VILLAGIO: Like a cement type?

5 MR. TSAPATARIS: Yes. It will not be
6 an EIFS product. And the top is hearty plank.
7 So it will have an attractive base to it. The
8 architectural at the bottom will have an
9 attractive base. Brick I feel we have to
10 continue it up. As an architect my opinion would
11 be --

12 MS. VILLAGIO: Or like a white stone or
13 white brick?

14 MR. TSAPATARIS: If you can see the
15 scores, it will approximate stone. It will
16 approximate a sandstone or a megalithic sort of
17 image. If you can see, we actually --

18 MS. VILLAGIO: Yes, I see. Okay.
19 That's why I thought it was stone, to tell you
20 the truth. Okay. That's all for now, thank you
21 very much.

22 THE CHAIRMAN: Just a clarification.
23 Now, you mentioned that the reason you had
24 changed the concept basically was through some
25 input you had from the community and from the

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1 Board prior.

2 MR. TSAPATARIS: Yes.

3 THE CHAIRMAN: Okay. And just, the
4 drawing that you have presented here, the date of
5 it is 9/18/2013.

6 MR. TSAPATARIS: Yes.

7 THE CHAIRMAN: The date of the original
8 drawing that you presented last time is
9 9/18/2013. Were these both done at the same
10 time?

11 MR. TSAPATARIS: No. No, the revision
12 date on that right-hand side.

13 THE CHAIRMAN: I don't think I see a
14 revision date here.

15 MR. TSAPATARIS: It's not on the date,
16 it's on the right-hand side of the title block.
17 So they're revised January.

18 MR. SCHMIDT: January 10, 2014.

19 MR. TSAPATARIS: I put the revision
20 dates in another box.

21 THE CHAIRMAN: Okay. Thank you.

22 MR. SCHERER: Sir, let's go back to
23 parking again, okay. We have one and a half
24 parking spaces per unit. Now, could you -- let's
25 not talk about Cranford, let's not talk about

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1 Westfield, Plainfield, Elizabeth or anything,
2 let's talk about Garwood. If you take any time
3 or you have your expert in parking or traffic guy
4 coming?

5 MR. TSAPATARIS: Yes, he's here.

6 MR. SCHERER: Is he going to want to
7 explain it or you explain it?

8 MR. TSAPATARIS: Yes, if you prefer.

9 MR. SCHERER: Is it better I hold off
10 on it?

11 MR. SCHMIDT: Yes, that's why he's
12 here. If you prefer?

13 MR. SCHERER: No, I'd rather ask him
14 the question.

15 MR. SCHMIDT: If he can answer it,
16 that's fine. If he can't he can defer to our
17 parking expert.

18 MR. SCHERER: We put the Mews I and II
19 up and then we have the mall. And if you count
20 the apartments and the count the cars, if you
21 take the time and count the cars at like four in
22 the morning when you see all the people that are
23 there staying, you come out to one and a half
24 cars and more per apartment. So how do you
25 explain that? You would have, let's see, the

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1 Mews I has 60 cars in there overnight, the Mews
2 II has 38 cars in there overnight.
3 MR. TSAPATARIS: So it would be 12
4 units times 1.5, which is 19.
5 MR. SCHERER: So where is everybody
6 going, everybody has to rush and get out of their
7 apartments and get out of the parking lots so the
8 stores can open up? Because those lots are
9 parked now with the cars going in, and they have
10 the correct amount of parking spaces that are
11 required, and it's still kind of tight. So how
12 do you think this project is going to get away
13 with just 18 parking spaces? You might have one
14 store that comes in there that's going to be a
15 popular store, and they could suck up 20 parking
16 spaces easy just like that. And then where is
17 everybody else going to park? You can't park
18 along South Avenue because all the tenants from
19 the other buildings are going to park along
20 there.
21 MR. TSAPATARIS: I'd prefer, like I
22 said, I'd prefer that the expert in traffic, he
23 has a very good answer to that question, better
24 than mine.
25 MR. SCHERER: Oh, I want to hear this.

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1 I've been here for a long time, so I get a feel
2 of what goes on in town.
3 MR. NIERSTEDT: Mr. Tsapatsaris, how
4 are you?
5 MR. TSAPATARIS: I'm good, thank you.
6 MR. NIERSTEDT: First off, I want to
7 thank you once again for your detail, forethought
8 and/or the agita you went through to develop
9 this.
10 This is isn't a question I normally
11 ask, but you compared this to Cranford, and I
12 appreciate it. But how is the market for those
13 units in Cranford and do you have a market for
14 these in Garwood?
15 MR. TSAPATARIS: I know the market for
16 the three units that I have, and my brother owns
17 the building next door.
18 MR. NIERSTEDT: You can't compare those
19 three units you have to these.
20 MR. TSAPATARIS: Correct. They fill.
21 There is a strong market for residential housing.
22 MR. NIERSTEDT: Yes, but for
23 residential housing of this size? I hate to
24 phrase it this way, but Westfield, Garwood,
25 Cranford, you have three different towns, three

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1 different taxes, we're the lowest. You have
2 different -- not so many people are willing to
3 pay to live in different places. People are
4 willing to pay, perhaps a little more in
5 Westfield. Do you have a market for a 1600
6 square feet apartment in Garwood?
7 MR. TSAPATARIS: I have a market for an
8 1100 unit. It's 1197, there's one that's large.
9 I have no choice. I would have no problem making
10 that a 1200 square feet unit. Because of that
11 extra floor, and not to pigeonhole ourselves
12 again into substandard smaller units -- I came
13 here before with a much smaller tighter plan that
14 seemed to work fine for me for 20 years. But
15 overwhelmingly the units were too small. So on
16 an average basis if I bring them back up. I hear
17 you on the 1600, we can that make that 1200. But
18 the average unit size of this proposal is 1197.
19 MR. NIERSTEDT: And you have a market
20 for that?
21 MR. TSAPATARIS: Yes, I would say so.
22 MR. NIERSTEDT: Where is it?
23 MR. TSAPATARIS: I would say because
24 we're competing with a fairly occupied building
25 in Cranford and fairly occupied building at both

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1 locations. And I toured them myself and saw that
2 our rents could be competitive.
3 MR. NIERSTEDT: I am not comparing this
4 project to this, but I just have to say it.
5 MR. TSAPATARIS: The rents would be
6 lower.
7 MR. NIERSTEDT: No, I'm going to go
8 elsewhere. The Ward Mansion has been all sold
9 out except for two units for the past eight
10 years, you know. Every fourth Sunday you see in
11 the paper only two left, you know. Anyway, I
12 must throw that out there.
13 MS. VILLAGIO: At \$1 million.
14 MR. NIERSTEDT: Well, it's a different
15 market.
16 MR. SCHMIDT: Well, I live in Westfield
17 and I want to comment I don't think you're
18 talking about the Ward Mansion because that's on
19 East Broad Street. You're talking about the
20 Savannah, and those sell.
21 MS. CUCCARO: The Savannah.
22 MR. SCHMIDT: They're selling for more
23 than \$1 million apiece. They aren't rentals,
24 they're purchases. So I think it's unfair to
25 compare them.

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1 MR. NIERSTEDT: And I said I agree.
2 But the reason I said it is only because your
3 client made a statement about, you know, the
4 market and they sell.
5 MR. SCHMIDT: Besides the fact I don't
6 know who would want to spend \$1 million and be
7 next to a Chinese restaurant.
8 MR. NIERSTEDT: It's good food.
9 MR. SCHMIDT: But the smell is
10 terrible.
11 MR. NIERSTEDT: All right. Where I was
12 headed is I'm not concerned about the four
13 stories. I'm a little concerned about the
14 bedrooms, because I do believe there's a direct
15 correlation between the number of bedrooms and
16 the number of parking spaces. I chuckle at that,
17 but there is a real correlation. And I'm also
18 really not concerned about children. I really
19 find it depressing that we as a society want
20 these buildings but we don't want any children, I
21 can't figure that out.
22 But what I am concerned about is the
23 congestion on site. In my mind basically you
24 have an inadequate number of parking spaces for
25 the retail requirement, inadequate size of the

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1 spaces, they're all undersized by code, you have
2 no on-site loading, you don't have adequate
3 buffers, inadequate landscaping. Right now, it
4 hasn't come up get, but there's no place to put
5 snow.
6 And like this project, okay. I like
7 the architectural. I don't object to the four
8 stories. I just wish you had another property
9 right next door with about 18 more parking
10 spaces. I'd approve this in about ten seconds.
11 MR. TSAPATARIS: I wish I did, too.
12 MR. NIERSTEDT: Pardon?
13 MR. TSAPATARIS: That would be nice.
14 MR. NIERSTEDT: Yeah. I don't know now
15 we can do that, but it's a great project. But in
16 my opinion it's too much on that side. It's a
17 great project.
18 MR. TSAPATARIS: Thank you.
19 MR. VINEGRA: Before we go into parking
20 any further, the engineer keeps referring to the
21 ordinance. The ordinance refers to RSIS,
22 Residential Site Improvement Standards, which is
23 greater than 1.5. The municipality has chosen
24 not to modify its ordinance because of the RSIS,
25 which supersedes our ordinance anyway. So if you

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1 look at my letter it goes into parking counts
2 based on RSIS. The two-bedrooms, if they're all
3 two bedrooms they're about two spaces per, not
4 1.5. If you go a three-bedroom there's only a
5 moderate increase, only 2.1 spaces per unit. But
6 when you're looking at two-bedroom units based on
7 actual physical studies the state came up with a
8 standard of two parking spaces. It's a de
9 minus exception that the Board can give, they
10 don't have to go down to the state for an
11 exception from the RSIS, the Board has the
12 authority on that exception.
13 MR. NIERSTEDT: Right. Last comment,
14 just an architectural comment. In Victor's
15 report Page 5 indicates, his No. 5 on Page 5 the
16 residents must enter and exit the building and
17 reenter the building in the rear parking lot.
18 That is only if you're coming in from the front;
19 right?
20 MR. TSAPATARIS: No. That's from the
21 back. We're willing to make that --
22 MR. NIERSTEDT: If you come in from the
23 back can't you go up those stairs?
24 MR. TSAPATARIS: Absolutely. But the
25 question was why have two doors, one for the

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1 stair, one for the hallway. We would make one
2 door, we would have to then put in a subdoor on
3 the inside, which is fine.
4 MR. NIERSTEDT: Yes, that's what I'm
5 saying, it's not an issue to me either.
6 MR. TSAPATARIS: Right.
7 MR. NIERSTEDT: Because most people are
8 going to park in the back if they can find a spot
9 and they're going in the back anyway. And I just
10 wanted to make sure and that's it Mr. Chairman.
11 THE CHAIRMAN: Anyone else from the
12 Board?
13 MR. FRASER: I have one or two
14 questions, because I just moved into Riverfront
15 at Cranford, and some of the stuff you're saying
16 doesn't comport with my experience. So how are
17 you comparing the parking that you're providing
18 or proposed to provide for this project to the
19 parking that either Riverfront at Cranford
20 provides, or I also looked for renting there at
21 Cranford Crossing. And both of those were
22 providing, as I understood it, assigned parking
23 for each and every space that was not part time
24 of the day for a tenant and part time of the day
25 for a business. Do you think that's a fair

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1 comparison?

2 MR. TSAPATARIS: The comparison was

3 limited only to the unit size, not in any other

4 way. And I can't, I'd want to of course make my

5 testimony clear that I did not analyze parking

6 there. I simply went to see what the market is

7 holding in terms of unit size alone.

8 MR. FRASER: Right. But the question

9 I'm asking is if you're talking about renting --

10 I understand the part about the average-sized

11 unit is about 1200, you can't take the one at

12 1500. But if you're talking about renting an

13 average-sized apartment at \$1,200, wouldn't it be

14 your expectation that somebody renting an

15 apartment of that size at the prices you're going

16 to charge is going to expect to have a dedicated

17 parking space?

18 MR. TSAPATARIS: No. No, because in

19 this particular case what I would say is that,

20 again, the train station is across the street, it

21 is an urban location. I would say that the fact

22 that the unit size is larger, it's a brand-new

23 building, it's an attractive building and

24 somebody works in the city wouldn't mean that I

25 would designate those spaces. I am not planning

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1 on designating those spaces.

2 MR. FRASER: No, I understand you don't

3 plan on doing that because you don't have enough.

4 MR. TSAPATARIS: Right, and I wouldn't

5 do that. But, again I haven't discussed the

6 marketability in terms of rent. I know what the

7 rents are at our competition, and I would say

8 that our rents would be very attractive for the

9 same product, for the same square footage.

10 MR. FRASER: Thank you, that answers my

11 question.

12 MR. McCARRICK: I have a question. The

13 decision to move the handicapped parking spot to

14 the western side of the property, could you

15 explain that to me?

16 MR. TSAPATARIS: Yes. We needed to

17 have it accessible for vans also, which meant it

18 had to be 8.0 and 8.0. If we had brought it to

19 the other side we would not be able to put in

20 Spaces 4, 5 or 6 and also have the sidewalk wide

21 enough. So you could not lay it out on the other

22 side without losing 4, 5 and 6. And, most

23 importantly, if we put it on the other side the

24 buffer couldn't be 6.8. I'd have so much more

25 buffer that would be two.

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1 MR. McCARRICK: It was previously on

2 the other side though.

3 MR. TSAPATARIS: Yes, that's why. But

4 follow my reasoning. If it goes back to the

5 other side the buffer then goes to 2.

6 MR. McCARRICK: But it's gone from

7 being 10 feet from the entrance of the building

8 to 150 feet.

9 MR. TSAPATARIS: There's another

10 entrance right there (indicating).

11 MR. McCARRICK: And to the retail

12 stores, the entrances would still be in the

13 front?

14 MR. TSAPATARIS: And it's actually put

15 here for the path along the side to the front for

16 retail also.

17 MR. McCARRICK: Okay, thank you.

18 THE CHAIRMAN: Anyone else from the

19 Board? Yes, Paul.

20 MR. TARANTINO: The mechanical

21 compressors for the units, are those going to be

22 one-zone apartments, each have their own

23 dedicated zone?

24 MR. TSAPATARIS: There's going to be a

25 heating system that's a boiler system in the

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1 basement. And there will be zone valves, so the

2 heating system is going to be baseboard. And the

3 cooling is also going to be in the back also.

4 MR. TARANTINO: And where is that going

5 to be placed if you have a sidewalk that runs the

6 back of the building?

7 MR. TSAPATARIS: Well, the air handlers

8 are going to be up in the plenum of the, where

9 they are now in the stores. And the compressors

10 will be within this 3-foot sidewalk back over

11 here, outside the entrances, of course.

12 Now, the residential will be inside,

13 but the commercial is actually out farther now so

14 we're going to have to relocate and replace all

15 those units and make them fit.

16 MR. TARANTINO: So how many units will

17 be on the sidewalks?

18 MR. TSAPATARIS: I'd say four to eight

19 depending on the stores. But not within the

20 doors. They're going to be on the concrete pad

21 between the curb and the --

22 MR. TARANTINO: So then just to extend

23 on what Greg was saying, it seems like the

24 handicapped parking is on the wrong side of the

25 park lot. You have an elevator on the east side,

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1 and that should be where the handicapped entrance
2 is.
3 MR. TSAPATARIS: If you -- again, you
4 could do that. But if you do that and you put it
5 on the left, you'll have the eight plus the
6 eight, plus the eight and a half, plus the eight
7 and a half would then push the whole row of
8 spaces from 4 to 12 up.
9 The other reason that we wanted the
10 handicapped space on the right-hand side is
11 because a commercial tenant would then be able to
12 go from the handicapped access along the west
13 side of the building to the front.
14 MR. TARANTINO: I just personally think
15 it's a very tight site plan. I think the rear
16 rendering is a little bit misleading because you
17 have this green pasture of grass, but your site
18 plan doesn't indicate that.
19 MR. TSAPATARIS: Right.
20 MR. TARANTINO: You know, your site
21 plans indicate planting at a 2-foot buffer from
22 the edge of the parking lot to the fence line.
23 MR. TSAPATARIS: Right. This would be
24 a fence. You wouldn't be able see this because
25 there's a fence.

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1 MR. TARANTINO: Yes, that view is
2 clearly from inside someone's backyard.
3 MR. TSAPATARIS: Yes. So if I had to
4 clarify this I'd have to put a fence and hide the
5 rendering. So technically this grass is Willow's
6 grass.
7 THE CHAIRMAN: Anyone else?
8 MR. NIERSTEDT: Mr. Tsapatsaris, I
9 don't even know if I would like this, but I'm
10 just going to put it out there for another
11 thought. The idea of prohibiting children, the
12 idea of making someone, you can't use this as a
13 bedroom, stuff like that can't be enforced. And
14 I'm just thinking. Would you be open to sealing
15 off that whole fourth floor and not, building it
16 the way you have it, but sealing it off, not
17 finishing it until you get another lot for
18 parking?
19 MR. TSAPATARIS: Yes. And that's
20 something that we discussed internally, and I
21 think I would say is a fair suggestion, right.
22 And just have it no Sheetrock, nothing, just
23 leave it. And as we continue to find properties.
24 MR. NIERSTEDT: You would then be
25 creating a market.

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1 MR. TSAPATARIS: Right. Because then
2 the unit size would go down. That's a good
3 suggestion.
4 MR. NIERSTEDT: All right.
5 THE CHAIRMAN: Anyone else from the
6 Board? Okay. Hearing none, I'll open it up --
7 MR. VINEGRA: Briefly, are there two
8 elevators for the residential?
9 MR. TSAPATARIS: One.
10 MR. VINEGRA: Paul, you may be right.
11 That handicapped space by ADA code probably has
12 to be by the elevator for residential purposes.
13 MR. McCARRICK: The far stairwell is
14 not handicapped accessible.
15 MR. VINEGRA: Yes. By ADA law you may
16 have to move that parking space and move that
17 handicapped parking space closer to the elevator.
18 Because if you're making handicapped-accessible
19 units you can't have...
20 MR. TSAPATARIS: It's one or the other.
21 MR. VINEGRA: It's the same distance to
22 the residential to the retail stores.
23 MR. TSAPATARIS: But the retail has an
24 existing sidewalk.
25 MR. VINEGRA: Can you do the same by

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1 moving the sidewalk away from the property line.
2 Then you make it. Five for retail and five for
3 residential occupation. I think that's the ADA
4 law, too.
5 THE CHAIRMAN: Okay. Anybody else from
6 the Board? Okay. Hearing none -- and this is
7 important, this is only, these are only questions
8 that should be directed specifically to this
9 individual and they should be site-specific to
10 anything that he has raised, not comments and not
11 general information. So with that I'll open it
12 up to the general public.
13 MR. FRASER: Stephen, before we do
14 that, we're going to open it up, but actually
15 Mr. Paterson had made a good suggestion at a
16 prior, I think it was last time we were here
17 Mr. Paterson suggested that the applicant
18 identify at the outset what his experts are going
19 to be testifying to, that that would assist the
20 public in knowing which questions to be held. I
21 had to give Mr. Paterson credit on that one.
22 MR. PETERSON: Thanks, Don.
23 MR. FRASER: Well, credit where credit
24 is due. That's the first time in what, ten
25 years?

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1 MR. PETERSON: Takes a while.
2 MR. FRASER: No, in fairness that's a
3 good suggestion. So before we let the public
4 have at Mr. Tsapatsaris, Mr. Schmidt, why don't
5 you identify who your other experts are going to
6 be and in what other fields they're going to
7 testify, because that will educate the public.
8 MR. SCHMIDT: Okay. We have a traffic
9 expert that's Mr. Staigar, and we have our
10 planner here today, and that's Mr. Karlebach.
11 MR. FRASER: Thanks.
12 THE CHAIRMAN: Okay. With that I'll
13 open it up to the general public.
14 Yes. Please stand up and tell us your
15 name and address.
16 MR. REGGIE: Carl Reggie, 300 South
17 Avenue representing Garwood Mall.
18 THE CHAIRMAN: Okay.
19 MR. REGGIE: The change in the
20 configuration of the building you touched upon
21 several times, we've all talked about parking.
22 I'm just curious from the original submission to
23 now how the variance request has been altered, if
24 at all.
25 MR. TSAPATARIS: It's still an 18-space

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1 variance. So I believe we have the same, it's
2 the same.
3 MR. VINEGRA: I calculated a 21-space
4 variance based on RSIS.
5 MR. SCHMIDT: But if we eliminated the
6 fourth floor lofts that would be reduced
7 substantially and it get down to where we are
8 anyway.
9 MR. VINEGRA: No, because it's only
10 2.1. It would only reduce it by one, it would be
11 a 20-space variance.
12 MR. SCHMIDT: And I believe our parking
13 expert will testify that we think we're correct.
14 So there's a dispute.
15 MR. FRASER: All right. It's not the
16 first time the two experts will testify contrary
17 to each other.
18 THE CHAIRMAN: Okay. Anyone else from
19 the public? Bruce?
20 MR. PETERSON: Bruce Paterson as a
21 resident not a planning Board member. At the
22 outreach meeting that you had, or whatever you
23 want to call it -- and this goes into one more,
24 about the handicapped spot -- but as you know I
25 mentioned about that stairwell and elevator area

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1 being very close to a resident, and that it would
2 probably be most advantageous to be toward that
3 carport drive-through, you know, move over the
4 retail space that you're proposing, and therefore
5 that would allow the residents closer access to
6 the stairway from wherever they park.
7 The handicapped spot that Vic was
8 saying should be close to an elevator, that would
9 probably take care of that, I'm not sure, but
10 then the handicapped spot could remain in that
11 spot. There was some certain, which I didn't
12 hear yet, but about the dumpster.
13 MR. SCHMIDT: Is there a question?
14 MR. PETERSON: That's all comment.
15 MR. FRASER: Is there a question?
16 MR. PETERSON: Yeah. The ideas that I
17 put forth at the outreach meeting for that
18 stairwell being closer to the drive-through and
19 that would ameliorate the dumpster, the access,
20 to me that still seems advantageous, and I think
21 you should consider it.
22 MR. TSAPATARIS: We did.
23 MR. PETERSON: What did you --
24 MR. TSAPATARIS: We did that. It's
25 there.

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1 MR. PETERSON: You moved it? I'm
2 looking at the plans and it's still far to the
3 east, on the east side of your building.
4 MR. TSAPATARIS: We put -- it's there.
5 The stairwell is there plus another one on the
6 other side with a chute for the garbage to go
7 down to the basement.
8 MR. PETERSON: So you're saying the
9 dumpster is not in the back then?
10 MR. TSAPATARIS: It is there, it's
11 still in the back. And, as a result of that
12 meeting we entered, we haven't entered into a
13 contract yet, but investigated with the local
14 hauler how they do it in town. And we looked at
15 the number of bins that we would need for the
16 facility. We tried our best to meet those
17 concerns.
18 Of course at the citizens' meeting
19 Mr. Kelly also asked us to move the garbage to
20 the other side on Mr. Dolan's property, but we
21 only could do what we could do. So I wasn't able
22 to meet that concern, to move the whole dumpster
23 to Mr., to Richard's property. Because it's
24 always been at that location.
25 MR. PETERSON: Those same drawings you

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1 had at the outreach meeting, these are the same
2 set we're looking at?
3 MR. TSAPATARIS: Yes, yes.
4 MR. PETERSON: Well, that's what I was
5 saying about the stairwell.
6 MR. TSAPATARIS: No, no, the citizens'
7 meeting was before. The citizens' meeting was
8 before the final version. It was in December.
9 These drawings were as a result of that meeting.
10 MR. SCHMIDT: Mr. Paterson, I think the
11 staircase were you talking about is the one that
12 enters from the sidewalk. That still exists, but
13 now there's a staircase and an elevator on the
14 opposite side of the building.
15 MR. TSAPATARIS: In addition.
16 THE CHAIRMAN: On the east end. On the
17 east end of the building is where the elevator
18 and the additional staircase is.
19 MR. PETERSON: The far east end?
20 THE CHAIRMAN: Yes.
21 MR. PETERSON: That's what I was taking
22 exception to, moving it closer to the carport
23 drive-through for better access of all the
24 people. And that's what I'm asking, why can't
25 you do that? Because you're saying, oh, no,

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1 that's impossible.
2 MR. TSAPATARIS: Because it would
3 create a dead-end corridor upstairs for the
4 architecture. If you brought it to the corner
5 then the hallway would not have a means of egress
6 on the second going to the third floor. So you
7 have to have enough distance.
8 MR. PETERSON: The egress would be in
9 the middle of the building then, then you could
10 go to both ends at the same time instead of being
11 at one east end and going all the way to the
12 west.
13 MR. TSAPATARIS: You wouldn't be able
14 to get out of that side of the building.
15 MR. PETERSON: From the second floor
16 down to the grade level you have two means of
17 egress.
18 MR. TSAPATARIS: Yes.
19 MR. PETERSON: Where would that be
20 shown on the drawings?
21 MR. TSAPATARIS: A2. And we've also
22 added one more stair as a result of that meeting
23 for the residents to go down the stairs into the
24 basement and be able to exit from the side and
25 put their trash into the enclosure. We did our

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1 best to address those concerns.
2 MR. TARANTINO: Okay. Thank you.
3 THE CHAIRMAN: Okay. Anyone else from
4 the public?
5 MS. MATASTOF: My name is Dura Matastof
6 (phonetic). I am the owner of 330 Willow Avenue,
7 which is right across from the spot. And I have
8 a few questions. One of them since there's going
9 to be a few extra businesses right, like now it's
10 going to be more number, and should we expect
11 like let's say trucks unloading coming into the
12 parking lot and for all those businesses? How is
13 it going to be conducted in that regard?
14 MR. TSAPATARIS: It will not be
15 possible to get a truck into the property because
16 if you look at the front it's too low. No more
17 trucks can get back. So the trash is the only
18 thing we have to get back out, and that will have
19 to be brought into the front and taken out the
20 front. So a large truck can no longer get to the
21 back. The clearance of this is 9 feet.
22 MS. MATASTOF: So it will be coming
23 from the front of the building?
24 MR. TSAPATARIS: Not necessarily. The
25 type of businesses that will be here will be able

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1 to be serviced through smaller trucks and hand
2 trucks that come in. But you won't see a large
3 box truck, it cannot get back there. But the
4 cellular store, for example, that will remain is
5 serviced through much smaller vehicles.
6 MS. MATASTOF: So this is my other
7 question. So most of the services for retail
8 from what it is now, it's going to be the same
9 plus some extras, right?
10 MR. TSAPATARIS: Yes. Of the same
11 character, of the same character.
12 MS. MATASTOF: That will be there like
13 some sort of cafe where people are going to stand
14 out?
15 MR. TSAPATARIS: I cannot guarantee,
16 but we do have an interest in making a portion of
17 this side a cafe. We already have the equipment
18 from another location that we would want -- and
19 it's actually the equipment of the cafe is in the
20 basement of this building now. So we're going to
21 investigate the possibility of taking one of
22 these and making it a cafe, which we think is not
23 in town.
24 MS. MATASTOF: So with all those units
25 and businesses, what is the total like number of

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1 occupants in the building? What is the maximum
2 number of occupants in just general ballpark
3 number?
4 MR. TSAPATARIS: In the residential
5 there would be 13 apartments.
6 MS. MATASTOF: No, I understand that.
7 People, number of people. Like for the fire
8 department, whatever the number.
9 MS. CUCCARO: The maximum.
10 MR. TSAPATARIS: Yes. At most in the
11 residential apartments if there's two people --
12 well, it could be more. If there's two bedroom,
13 two people live there. My intent would be to
14 have two people. That would be my goal is to
15 have two people.
16 MS. MATASTOF: My question is generally
17 as the whole building, not per unit. For the
18 whole building.
19 MR. TSAPATARIS: Well, it could be more
20 in some case, less, but an average of two people
21 per unit.
22 MS. CUCCARO: What's the maximum
23 allowed in the building, the occupancy maximum?
24 MR. TSAPATARIS: The occupant load of
25 the downstairs? It depends on the use. So, for

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1 example from a building department or IBC
2 perspective, it depends on the use. The cafe
3 would have to have an occupant load depending on
4 its area and its use. I don't know the --
5 MS. MATASTOF: I'm just trying to
6 understand the traffic that's going to be there.
7 MR. TSAPATARIS: I understand. The
8 traffic would be as follows. Right now there's
9 two and a half thousand square feet of space.
10 Here we're adding another two and a half
11 thousand. There are three apartments, we are
12 proposing to add another ten. So analogously you
13 would expect an increase, a proportional
14 increase.
15 MS. MATASTOF: Okay. And if this will
16 be approved what's your prospective time it's
17 going take to rebuild -- are you going to rebuild
18 the building or demolish the building?
19 MR. TSAPATARIS: Rebuild. If this is
20 approved, it would start immediately.
21 MS. MATASTOF: And how long would it
22 take, this construction?
23 MR. TSAPATARIS: It will take nine to
24 12 months to do this project.
25 MS. MATASTOF: Okay. Thank you very

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1 much.
2 THE CHAIRMAN: Please stand and name
3 and address.
4 MS. GAMBLER: Kathy Gambler (phonetic),
5 347 Willow Avenue. In the event that Casale is
6 no longer an option, what are the other options
7 for parking? Because my only -- this is
8 beautiful. My only concern is parking, because
9 the parking is terrible now, and my concern is
10 that it's just going to continue to come around
11 the block. We have businesses now that have no
12 parking, their employees park, their customers
13 park and then if we come home at 7 o'clock at
14 night we're parking two blocks away. That's my
15 concern. What's the alternate site?
16 Because I parked in Casale through the
17 snow, thank you very much, that was a wonderful
18 option. It was full. I don't understand where
19 15 more cars are going to park. It's an option
20 for everybody, but is it a realistic option?
21 What are the other options if that's not an
22 option?
23 MR. TSAPATARIS: The other option is
24 that the owner of the building, which is I, would
25 stipulate in my leases and when I rent the spaces

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1 and when I rent the apartments as I've been
2 renting them for the past 20 years will either
3 put in the leases that my commercial tenants are
4 obligated to rent spaces at, through me at The
5 Rest, and at some point, although it's not
6 available now, we've also looked at Wells Fargo
7 and we've looked at the church, which is fairly
8 far, but there could be some.
9 MS. CUCCARO: Wells Fargo is down on
10 the corner of Lincoln and South; right?
11 MR. TSAPATARIS: Yes, and we've spoken
12 with the branch manager there, and I think there
13 are other applications that have used Wells
14 Fargo. But the first answer to your question is
15 this: That there's 12 to 13 units, and 18 spaces
16 I feel is sufficient plus the five, 23 is
17 sufficient. And then through leasing and through
18 management I'd be able to control that.
19 I also listened to another suggestion
20 here this evening, that the architectural peak be
21 constructed but not built until I were able to
22 either secure another, buy another piece of
23 property or secure another long-term lease.
24 MS. GAMBLER: Well, as parking frees up
25 you might be able the buy my lot.

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1 MR. TSAPATARIS: I just feel that's one
2 chance to do a nice building.
3 MS. GAMBLER: I think it's beautiful.
4 I'm just concerned about parking because parking
5 is so bad now, and those places in Westfield and
6 Cranford have parking. That's the difference,
7 they have the parking. I know there's a parking
8 garages there, there's paid parking there. There
9 isn't any here. And now with the snow Willow
10 Avenue is limited to one side of the street
11 parking to make things even worse.
12 MR. TSAPATARIS: I would like -- I
13 shouldn't be the one answering this question.
14 MS. GAMBLER: I didn't come to the
15 meeting because of family problems, I did get the
16 letter. I couldn't come to the meeting.
17 MR. TSAPATARIS: Not to interrupt you.
18 If you could just hold that. I have an expert
19 here who is a parking traffic expert. I really
20 want to have him answer that question.
21 MS. GAMBLER: Okay.
22 THE CHAIRMAN: Is there anyone else
23 from the public who has any questions of this
24 witness?
25 MS. MATASTOF: I have one more

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1 question.
2 THE CHAIRMAN: Yes, go ahead.
3 MS. MATASTOF: The cafe you mentioned.
4 How long would it be opened? Until like
5 11 o'clock at night, 12 o'clock at night?
6 MR. TSAPATARIS: 9:30 to 10. 9:30 at
7 the latest, I think.
8 MS. MATASTOF: And another thing about
9 the parking, from this picture I couldn't see it.
10 Is parking back on Willow Avenue?
11 MR. TSAPATARIS: From your house?
12 MS. MATASTOF: Right.
13 MR. TSAPATARIS: This is the view from
14 your house.
15 MS. MATASTOF: Right. So I was
16 actually writing the letter to you asking you if
17 it's possible when you do the parking to have
18 head-on parking only, because people turn on the
19 cars and all the exhaust goes into my yard
20 constantly. So I was asking if it's possible to
21 accommodate.
22 MR. TSAPATARIS: Yes, we can put up
23 signs also, and there will be a brand-new fence
24 here too.
25 MR. SCHMIDT: And we will put trees in

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1 as well.
2 MR. TSAPATARIS: I think that's fair.
3 MS. MATASTOF: Thank you.
4 THE CHAIRMAN: Yes, Bruce.
5 MR. PETERSON: Yes, Bruce Paterson
6 again. Board member Paul Tarantino, he actually
7 brought up an idea for the condensers. You're
8 saying the AC units are on the fourth floor, I
9 guess. Obviously every retail and each apartment
10 will have AC, so how many condensers are you
11 saying are going to be outside?
12 MR. TSAPATARIS: Well, the commercial
13 units are going to be four to eight, I would say.
14 MR. PETERSON: That's for the retail?
15 MR. TSAPATARIS: Right. And I have to
16 tell you that construction drawings for this have
17 not been done. I know that along this back area
18 that we've compressed to get the buffer in we can
19 put some, continue to leave some of the
20 commercial units being serviced from there, but
21 the residential units will be serviced from
22 inside.
23 So we'll have, again, the heat I
24 explained how that's going to be done. But maybe
25 one of those units will be large enough to take

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1 care of a number of different units with zone
2 valves in separate zone areas.
3 MR. PETERSON: Refrigeration you're
4 saying?
5 MR. TSAPATARIS: Correct.
6 THE CHAIRMAN: Anyone else from the
7 general public? Yes.
8 MR. KELLY: Frank Kelly, 337-339 South
9 Avenue. Nick, I have a number of questions, and
10 it all relates to what you've spoken about
11 tonight. The front rendering on the top, it is
12 beautiful.
13 MR. TSAPATARIS: Thank you.
14 MR. KELLY: The cars that are parked
15 there, are you aware that the white SUV is
16 currently parked in front of a fire hydrant?
17 MR. TSAPATARIS: Okay.
18 MR. KELLY: And if we move to the left
19 where you've got a gray vehicle, do you know
20 there's no parking there because the road doubles
21 up and there is no parking there?
22 MR. TSAPATARIS: It's a rendering,
23 they're in motion.
24 MR. KELLY: It's a misleading
25 rendering. Because we're on the parking issue I

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1 just think maybe you show it next time there
2 should be no cars in front of the building.
3 Number two, the square feet, the total
4 square feet of the building that's there now is
5 what? Commercial and residential.
6 MR. TSAPATARIS: Approximately 4,822.
7 Call it 5,000.
8 MR. KELLY: 4,822. The building that
9 you proposed in December to the Board, how much
10 was the total square footage of that building?
11 MR. TSAPATARIS: 14,379.
12 MR. KELLY: Almost three times the size
13 you've got now. The square feet, the square
14 footage of this building here, including the loft
15 is what?
16 MR. TSAPATARIS: 23,243.
17 MR. KELLY: 23,000?
18 MR. TSAPATARIS: 243.
19 MR. KELLY: 243. So we're pressing
20 four times the size of what is there now? I'm
21 just rounding, I'm sorry, five times the size.
22 MR. TSAPATARIS: Yes.
23 MR. KELLY: Five times the size. Okay.
24 I just wanted to clarify that because I don't
25 think that was mentioned. You talked about new

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1 fences. Where, could you point along the
2 perimeter where the new fencing will go?
3 MR. TSAPATARIS: It will go along our
4 neighbors on Willow and I'm putting a new fence
5 between us on the property line.
6 MR. KELLY: How many two-bedrooms on
7 the third floor have lofts?
8 MR. SCHMIDT: Let me suggest that if
9 we're going remove the lofts per the suggestion
10 of the Board there won't be any lofts.
11 THE CHAIRMAN: Well, that was a
12 suggestion by one member of the Board.
13 MR. SCHMIDT: Well, that's correct.
14 MR. FRASER: The question is still
15 proper.
16 MR. TSAPATARIS: Seven.
17 MR. KELLY: So there's seven lofts?
18 MR. TSAPATARIS: Yes.
19 MR. KELLY: Are they currently counted
20 in your bedroom count?
21 MR. TSAPATARIS: Yes.
22 MR. KELLY: They are considered
23 bedrooms? In your --
24 MR. TSAPATARIS: There are some on the
25 third floor that have one bedroom that I call a

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1 two-bedroom because they rely for the second
2 bedroom on the fourth floor. There are some that
3 are two bedrooms on the third floor that I called
4 two-bedrooms because the loft is an office area.
5 That is what, that is how I've counted it.
6 MR. KELLY: So those office areas which
7 you don't count in your bedrooms, how many are
8 those?
9 MR. TSAPATARIS: I'd have to guess,
10 maybe half, two to three.
11 MR. KELLY: Whoa. You just said seven.
12 Half is three and a half.
13 MR. TSAPATARIS: One.
14 MR. KELLY: Okay. So there's
15 another --
16 MR. TSAPATARIS: I stand corrected.
17 One.
18 MR. KELLY: Okay. Can I just go over
19 some numbers and make sure that I've got them
20 right? We have three apartments now for a total
21 of four bedrooms?
22 MR. TSAPATARIS: Correct.
23 MR. KELLY: In December you --
24 MR. TSAPATARIS: Plus a one-family
25 house, which I didn't consider.

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1 MR. KELLY: In your proposal in
2 December you proposed 14 apartments and 16
3 bedrooms.
4 MR. TSAPATARIS: No, I had 14
5 apartments; one studio, 11 one-bedrooms, two
6 two-bedrooms.
7 MR. KELLY: Eleven and four is 15, and
8 one studio is 16.
9 MR. TSAPATARIS: Sixteen. You're
10 right.
11 MR. KELLY: So we've got -- I'm glad so
12 we're getting all this clear. There was in
13 December 14 apartments and 16 bedrooms.
14 MR. TSAPATARIS: Yes.
15 MR. KELLY: We're proposing now 13
16 apartments, not a negligible difference and 25
17 bedrooms. Is that correct?
18 MR. TSAPATARIS: No, twenty-four.
19 Because you're assuming that the loft somebody
20 will sleep in it, but I'd say 24. Twenty-four is
21 the number that we proposed.
22 MR. KELLY: Twenty-four plus this loft,
23 this one miscellaneous loft that we've proposed
24 today.
25 MR. TSAPATARIS: Yes.

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1 MR. KELLY: Did you consider a building
2 with six apartments with nine or ten bedrooms?
3 MR. TSAPATARIS: Yes.
4 MR. KELLY: Would that fit within the
5 ordinance?
6 MR. TSAPATARIS: I'm not quite sure if
7 it would fit within the ordinance, but it's not a
8 proposal that I could implement.
9 MR. KELLY: I did some math and there's
10 a one- or two-spot variance. Six apartments,
11 nine to ten bedrooms. Same picture, same
12 beautiful facade, same number of commercial
13 spots, just --
14 MR. SCHMIDT: Is this a comment or a
15 question?
16 THE CHAIRMAN: I was going to say
17 you're getting into a comment.
18 MR. FRASER: It's to question the
19 methodology, some members of the public want to.
20 MR. KELLY: My question was did he
21 consider, that was how I led.
22 MR. SCHMIDT: And he said no.
23 THE CHAIRMAN: He said no.
24 MR. KELLY: Would you consider six
25 apartments, eight, or nine or ten bedrooms that

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1 would conform within one or two parking spaces to
2 the town's ordinance?
3 MR. TSAPATARIS: I previously testified
4 at the previous hearing that I could not do that.
5 I could not.
6 MR. KELLY: You would not. Because I
7 could do it, you could do it, but you would not.
8 MR. FRASER: This is getting into
9 argument.
10 MR. KELLY: All right. So let's move
11 on, I think the point is made.
12 We're talking about, one of the
13 concerns that was mentioned by the Board members
14 is the number of bedrooms, the methodology of the
15 project has changed from one-bedrooms, now
16 there's a lot of two-bedrooms. I think there are
17 11 two-bedrooms, thus allowing larger families to
18 join in.
19 MR. TSAPATARIS: I didn't say that; but
20 are you saying that?
21 MR. KELLY: It would permit larger
22 families to move into and live in this
23 development as opposed to one-bedrooms.
24 MR. TSAPATARIS: My intent of the
25 design is to have two-bedrooms and to continue

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1 what the market has, what market I've been
2 meeting for the past 20 years here, which is
3 either an early young couple or an older couple
4 who doesn't want to move away from the area. And
5 I'm not going to say that it isn't possible that
6 there could be a few families and some children
7 here, I didn't say that, but the product that I'm
8 producing is not intended to have 12 families
9 living in it.
10 MR. KELLY: Okay. My question is how
11 many children would you think there would be in
12 your marketing and your experience --
13 MR. TSAPATARIS: I would leave that to
14 the planner.
15 MR. KELLY: Okay. So that's the
16 planner. Parking.
17 THE CHAIRMAN: There is going to be a
18 parking expert.
19 MR. KELLY: Okay. But I think we've
20 extensively talked about the parking, and I think
21 it ties into some of the comments that
22 Mr. Tsapatsaris has said. I've taken some
23 pictures, again, with my camera from my property
24 and neighboring properties, not on
25 Mr. Tsapatsaris' property. Some of them are with

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1 zoom lenses. I'd like to present them into
2 evidence, if I may, Chairman.
3 MR. FRASER: Well, at this point you
4 can't present them into evidence. You can do
5 that when you present your case, but if you want
6 to mark a document for identification that you
7 want to present to the witness, I think you can
8 do that.
9 MR. KELLY: Okay.
10 MR. FRASER: Is that what you wish to
11 do? You want to question the witness about one
12 of your pictures?
13 MR. KELLY: Correct.
14 MR. FRASER: You want to mark it for
15 identification?
16 MR. KELLY: I do. And there's actually
17 five, five pictures.
18 MR. FRASER: All right. Let's do this.
19 Adele, why don't you take them. I'm sorry,
20 sir --
21 MR. KELLY: I have two copies.
22 MR. FRASER: Just mark them Kelly-1
23 through 5.
24 (Exhibit KELLY-1 through KELLY-5 were
25 marked.)

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1 MR. FRASER: I'm going to suggest after
2 that happens that, Mr. Kelly, you first describe
3 each of the five pictures for the record, and
4 then if you want to confront the witness with
5 them you may do so.
6 MR. SCHMIDT: I would respectfully
7 object. I would suggest as an alternative that
8 he just identify the fact that these are pictures
9 that he took and they accurately depict what's in
10 the pictures. I don't think he has to describe
11 the pictures.
12 MR. FRASER: All right. That's fine.
13 We're going to get there eventually. We will.
14 MR. KELLY: Okay.
15 MR. FRASER: Mr. Kelly, did you take
16 the pictures KELLY-1 through 5?
17 MR. KELLY: I did.
18 MR. FRASER: When did you take them?
19 MR. KELLY: They are marked. There's
20 one in, one that's specifically marked December
21 of 2013, that is number four, and the rest of
22 them were taken within the last week or so.
23 MR. FRASER: All right. By you
24 personally?
25 MR. KELLY: By me personally.

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1 MR. FRASER: So they're not in
2 evidence. We preserve all the procedural
3 niceties so Mr. Schmidt will not object.
4 And you may now question the witness
5 about any of the pictures that you want to, just
6 tell us which one you're using.
7 MR. KELLY: Great. Number one, the
8 garbage that is piled outside the rear of the
9 building, I believe it's behind the Chinese
10 eatery. And you gave previous testimony that
11 there was a garbage area dumpster area provided
12 on your property, and it's in this back bar. Can
13 you show me again, I forgot.
14 MR. TSAPATARIS: You know where it is,
15 it's on our property.
16 MR. KELLY: Could you show for the
17 purposes of the Board where the garbage is you
18 testified to today?
19 MR. TSAPATARIS: The garbage is located
20 currently at the southwest corner of the property
21 or at the southeast corner of the yours.
22 Adjacent to the southeast corner of yours.
23 (indicating).
24 MR. KELLY: In that corner?
25 MR. TSAPATARIS: Yes.

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1 MR. KELLY: Looking at the Picture No.
2 1, the yards of garbage, is that in that corner
3 of the property where the garbage is located?
4 MR. TSAPATARIS: No.
5 MR. KELLY: It is not. Okay. Are you
6 aware that there are rats and rodents in this
7 garbage?
8 MR. TSAPATARIS: No.
9 MR. KELLY: Can we move to No. 2?
10 THE CHAIRMAN: Can I just interrupt
11 here? And I'm a novice I guess, I should really
12 defer to Don. But I'm not so sure I see the
13 exact relevance of what you're testifying to now,
14 in all respect.
15 MR. FRASER: Not testifying.
16 THE CHAIRMAN: Well, not testifying,
17 but bringing up as opposed to a new project that
18 he's looking to develop.
19 MR. KELLY: I'm talking about the
20 credibility of the testimony, okay. That's
21 really where I'm coming from.
22 MR. FRASER: The questions have been
23 primarily proper.
24 MR. TARANTINO: It sounds like this all
25 of a sudden turned into a court case.

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1 MR. FRASER: Well, if you think about
2 it, in some respects it is. And certain Rules of
3 Evidence do apply, they're more relaxed than they
4 would be in a Superior Court trial. But it is
5 correct that it does resemble a court case in
6 that an objector has the right to cross-examine
7 evidence presented by the applicant and vice
8 versa. And in that respect what this gentleman
9 is doing is entirely proper.
10 MR. KELLY: I'd like to move to picture
11 No. 2. Is this the rear of your property at 325
12 South Avenue?
13 MR. TSAPATARIS: Yes.
14 MR. KELLY: The debris that's piled in
15 the back, do you know how long that has been --
16 it's virtually, it looks like the contents of the
17 house and miscellaneous stuff. Do you know how
18 long that has been in the rear of that house?
19 MR. TSAPATARIS: Yes, approximately a
20 month. And it's because we had requested that it
21 be removed, the tenant left. We were in Superior
22 Court evicting them for nonpayment of rent. They
23 vacated the house, unfortunately they left a
24 mess. I have correspondence that they had to
25 have it removed. I then retained John Romanelli

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1 to remove the garbage. Unfortunately because of
2 the snow he was unable to. And now that he will
3 catch up I've asked him to remove the garbage at
4 my expense, not the tenant's.
5 MR. KELLY: My record, for the record,
6 that picture has --
7 MR. SCHMIDT: I would object to
8 comments.
9 MR. FRASER: In a second. I'm well
10 ahead of you. Go ahead.
11 MR. KELLY: -- was taken in December of
12 2013.
13 MR. SCHMIDT: Move to strike. This
14 isn't the appropriate time.
15 MR. FRASER: Well, the picture is not
16 in evidence, anyway, Mr. Schmidt, so it doesn't
17 really matter.
18 MR. KELLY: Can we move to Picture No.
19 3? Regarding the rear yard buffer. And I think
20 it's across the property that abuts the Willow
21 Avenue residence dense. How wide would you say,
22 Mr. Tsapatsaris, is the snowbank that goes from
23 the fence to the front of the cars parked along
24 the rear of Willow Avenue?
25 MR. SCHMIDT: I'm going to object to

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1 that. I mean, he's asking him to speculate as to
2 the width of what's depicted in the picture? I
3 don't understand that.
4 MR. FRASER: I have to agree with Mr.
5 Schmidt about that, Mr. Kelly. But there's a
6 different way you can do this. When it comes
7 time for the public comment or testimonial
8 portion of this, you have the right to testify as
9 to what's in these pictures and seek to put them
10 in as evidence in opposition to the application.
11 So I would agree with Mr. Schmidt, to ask
12 Mr. Tsapatsaris to guesstimate on that is
13 probably not fair.
14 MR. KELLY: Okay. Let's move to No. 4.
15 MR. FRASER: And I'll also make one
16 other observation on that. Because at that point
17 you'll be able to get the pictures, if you have a
18 proper evidential basis like you took the
19 pictures and you can testify that they accurately
20 reflect what you saw, you have a way to get the
21 pictures before the Board. It's not a
22 particularly perhaps productive exercise to
23 question him about pictures that the Board can't
24 see. So you'll do better if you do it when you
25 have your comments.

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1 MS. CUCCARO: Yeah, I'd like to see the
2 pictures, I'd like to see them.
3 MR. KELLY: Well, you just need to go
4 there today. These were today. But I'm sure the
5 Board has already done that.
6 MR. FRASER: Do you have any other
7 questions.
8 MR. KELLY: I do. The parking is a big
9 issue. If we can touch on these leases. How
10 long is that lease with the Garwood Rest for the
11 five spots? How long in duration?
12 MR. TSAPATARIS: I believe it's ten
13 years. Yes, ten years.
14 MR. KELLY: Does it survive a change of
15 ownership?
16 MR. SCHMIDT: You're asking him a legal
17 question and I object.
18 MR. KELLY: Well, it's his lease. He
19 signed it.
20 MR. FRASER: If he knows.
21 MR. TSAPATARIS: I expect it to.
22 MR. KELLY: You expect it to. Okay.
23 Because typically leases --
24 MR. FRASER: Now that's a comment.
25 MR. KELLY: You're right, you're right.

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1 Do you know if Garwood Rest has put a
2 deed restriction on their property to permit you
3 to renew these five leases, these five spaces in
4 perpetuity?
5 MR. TSAPATARIS: No.
6 MR. KELLY: Okay. So at the end of ten
7 years could he --
8 MR. TSAPATARIS: I don't know is the
9 answer.
10 MR. KELLY: -- renege and pull back the
11 lease?
12 MR. FRASER: Well, it's the conclusion
13 of the lease. That's not renegeing. If the lease
14 expires, that's not renegeing.
15 MR. KELLY: Right. The spaces also
16 expire.
17 MR. FRASER: They might. But I don't
18 know if that's renegeing.
19 MR. KELLY: With the Casale lease, or
20 the proposed lease because I understand it's not
21 final, how far is the Casale lot from this
22 property here, from the center of the property?
23 MR. TSAPATARIS: 800 feet.
24 MR. KELLY: 800 feet?
25 MR. TSAPATARIS: Yes.

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1 MR. KELLY: Okay. How are you
2 proposing people get from here to Casale?
3 Shuttle? I heard shuttle. How are you proposing
4 them to get the 800 feet?
5 MR. TSAPATARIS: With their feet.
6 MR. KELLY: With their feet, okay.
7 The trash. I have a rat problem.
8 MR. FRASER: That's a comment.
9 MR. KELLY: Do you have a rat problem?
10 MR. TSAPATARIS: No.
11 MR. KELLY: I hear a lot of groaning
12 and grumbling. Do you think with open containers
13 the rodents and rats could be more easily
14 accessing the outside storage bins than bins
15 enclosed in the base of a building?
16 MR. SCHMIDT: Objection. He's asking
17 him to speculate. He's not an entomologist, he
18 has no expertise in rodents.
19 MR. FRASER: I don't know what an
20 entomologist is.
21 MR. KELLY: Garbage sanitation
22 engineer. It's common sense.
23 MR. SCHMIDT: I'm not saying it's
24 common sense. That's your common sense, but
25 you're asking him to speculate.

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1 MR. KELLY: No, I'm asking for his con
2 common sense.
3 MR. FRASER: All right. Let me hear
4 the question.
5 MR. KELLY: Do you think it's easier
6 for rats and rodents to access outside garbage
7 than it would be in an enclosed interior building
8 that's secure?
9 MR. SCHMIDT: That's just speculation.
10 MR. FRASER: I understand the
11 objection, Mr. Schmidt. I think the question
12 suggests its own answer. It's ultimately
13 argument. You can make that argument at the
14 comments section. We all got the point.
15 MR. KELLY: Have you considered
16 enclosing the garbage like they do at The Loft in
17 other Garwood-like properties?
18 MR. TSAPATARIS: Yes, we did. That is,
19 I visited the other property, I saw it. It's in
20 operation. I saw the portions of that operation
21 would apply to a property that could only
22 accommodate 13 units, and I hired them to prepare
23 a plan for us that would meet the same results at
24 the other location which I found acceptable and
25 that I would want to employ in my building. So

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1 this is the proposal that we have. It is the
2 same firm that does that location, and they have
3 assured me that with a 1- to 3-yard container on
4 wheels, or a 1- to 3-foot container on wheels
5 served at any number, two or three or even four
6 times per week or as necessary the refuse will be
7 taken away from the property in a proper manner
8 and recycled at the property. So these are the
9 experts that I relied upon to answer that
10 question.
11 MR. KELLY: Do you think it would be
12 easier to go, as far as transient moving of the
13 garbage, to have the garbage housed in the
14 building and move it from the building to the
15 street as opposed to the far rear corner of the
16 building across the lot -- and that's got to be
17 hundreds of hundreds of feet to the front --
18 MR. SCHMIDT: Objection to hundreds of
19 feet. The property isn't hundreds of feet long.
20 MR. TSAPATARIS: In my opinion the most
21 sanitary manner to maintain the site is the way
22 that it's been designed. We had these
23 discussions at the citizens' meeting, Frank, and
24 I know you asked me to take 300 square feet out
25 of the building and put them inside. I will once

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1 again say as an expert in the area of site design
2 that a building of 12 units can be safely and
3 properly accommodated with an exterior pad with a
4 an area that's 18-by-13 as we've designed it to
5 take care of garbage. So that was my testimony,
6 and that's what I maintain.
7 And one more thing. And I also
8 mentioned at the meeting when we were together
9 the residents will be able to take their garbage
10 from the side and go the shortest distance from
11 the sidewalk that's in between our properties to
12 the new enclosure. If you were to take out a
13 piece of the building where you have suggested
14 it, how would the residents get there?
15 MR. KELLY: Through a chute like most
16 apartment buildings have. Will this apartment
17 have a chute, a trash chute?
18 MR. TSAPATARIS: Sure, on the other
19 side.
20 MR. KELLY: Can you show us where that
21 would be located?
22 MR. TSAPATARIS: It will be
23 incorporated on the right-hand side as we
24 discussed at that meeting adjacent to the new
25 stairwells that goes down to the basement. We're

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1 removing the basement stair that is there and
2 putting a new stair that would go down.
3 MR. KELLY: Could you show us, because
4 I don't think there was a chute there in the
5 December plan.
6 MR. TSAPATARIS: There wasn't.
7 MR. KELLY: Correct.
8 MR. TSAPATARIS: These are the
9 construction drawings, but I will affirm that
10 there will be a chute from the fourth, the third
11 and the second floors to the basement area, and
12 from there it can be taken out to the back for
13 the carter.
14 MR. KELLY: Where? Could you?
15 MR. TSAPATARIS: Look at A2, and look
16 at the closet that's at the corridor adjacent to
17 the steps.
18 MR. KELLY: So it's going to the
19 basement?
20 MR. TSAPATARIS: Yes.
21 MR. KELLY: And how is it getting from
22 the basement to the dumpsters?
23 MR. TSAPATARIS: Management will take
24 it out.
25 MR. KELLY: Management will take it

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1 out?
2 MR. TSAPATARIS: Yes. That was your
3 suggestion.
4 MR. NIERSTEDT: Mr. Chairman, a
5 question, Mr. Tsapatsaris. The plan shows the
6 first floor.
7 MR. TSAPATARIS: Yes.
8 MR. NIERSTEDT: You're testifying that
9 you'll take it down to the basement?
10 MR. TSAPATARIS: Yes.
11 MR. NIERSTEDT: Okay.
12 MR. KELLY: Well, wouldn't it make
13 sense to have the chute in the middle of the
14 building equally accessible to everyone and drop
15 into a dumpster?
16 MR. TSAPATARIS: I'm sorry to interrupt
17 you, Frank. I testified to this before. There
18 is no basement on the left-hand side, I took the
19 basement out.
20 MR. KELLY: No, on the first floor
21 right where the dumpster would be. So it would
22 drop into a dumpster like most apartment
23 buildings.
24 MR. TSAPATARIS: Again, to accommodate
25 your concerns we said we'd put a chute in, so

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1 that's been done.
2 MR. KELLY: That's not my concern. Was
3 concern was never a chute, Nick, you
4 misunderstood. My problem was rats and rodents
5 and exterior refuse, so you bring it inside.
6 That's my issue. A chute is a given in a
7 four-story building, you have to have a chute.
8 People don't, you'd have garbage bags breaking
9 all over the hallways, you have to have a chute.
10 MR. SCHMIDT: Objection.
11 MR. FRASER: Well, I agree. Perhaps I
12 might not, if I was your witness, have invited
13 that.
14 MR. KELLY: I asked, too, that we
15 understood, as it came out here, what the
16 variance was. Is the variance 18 or is it 21?
17 MR. TSAPATARIS: I'd leave that for my
18 experts. I have another two experts that I'd
19 like to have answer those questions.
20 MR. KELLY: I understand. So you're
21 contending it's 18?
22 MR. TSAPATARIS: I have a traffic
23 expert and planner here that can speak much
24 better to that than I can.
25 MR. FRASER: But, in fairness,

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1 Mr. Tsapatsaris' testimony was clear. He says
2 it's 18. Mr. Vinegra doesn't agree with it. But
3 that was his testimony, the application says he
4 needs a variance for 18.
5 MR. KELLY: Okay, thank you.
6 THE CHAIRMAN: I'd like to take a
7 five-minute break somewhere along the line here.
8 So if you'd like to go before that, that's fine.
9 MR. PRIETO: Anthony Prieto, 336 Willow
10 Avenue. First of all, I was unable to attend the
11 meeting, and I think I asked previously at the
12 last meeting, and I'll ask again, could you
13 provide me with a copy of the plans?
14 MR. TSAPATARIS: I hope you got a phone
15 call from me today, I hope. I was trying to
16 reach you at your office, but absolutely I'd love
17 to provide you with a set of plans. You're
18 welcome to come to my office. I apologize for
19 the misunderstanding. Before I designed this
20 building I went door-to-door personally at Willow
21 and I went and dropped off a set of plans.
22 MR. PRIETO: I don't want to interrupt
23 you. We discussed that last time. I talked to
24 my mom, she got the plans, they're gone.
25 MR. TSAPATARIS: My door is open.

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1 MR. PRIETO: And I told Mr. Schmidt I
2 can't attend the meeting, can I get a copy of the
3 plans? I was invited to come to his office to
4 look at the plans, I'd like to have a copy. I'm
5 asking for a copy of the new plans because I
6 understand there's new plans now. Right?
7 MR. TSAPATARIS: Absolutely, yes.
8 MR. PRIETO: So thank you.
9 Number two, did you discuss at any time
10 my concern last time with putting in mature trees
11 along the back border of my property with your
12 property?
13 MR. TSAPATARIS: Yes.
14 MR. PRIETO: And what was the
15 consensus?
16 MR. TSAPATARIS: Yes.
17 MR. PRIETO: With respect to the snow
18 that Mr. Kelly was just talking about, have you
19 been over to the property in the last couple of
20 days?
21 MR. TSAPATARIS: Not in the past couple
22 of days.
23 MR. PRIETO: Since the big snowstorms
24 have you been over there?
25 MR. TSAPATARIS: No.

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1 MR. PRIETO: When is the last time you
2 were over there?
3 MR. TSAPATARIS: I would say three
4 weeks ago.
5 MR. PRIETO: Okay.
6 MR. TSAPATARIS: When I saw photos that
7 were covering some of the debris I again asked
8 for somebody to remove them, they could not
9 remove the debris with the snow being there. So
10 now is our first opportunity to remove it.
11 MR. PRIETO: Well, how much snow was
12 there?
13 MR. TSAPATARIS: It was a very
14 difficult winter, a lot of snow.
15 MR. PRIETO: A considerable amount of
16 snow?
17 MR. TSAPATARIS: I don't know how much,
18 but there was more snow than usual.
19 MR. PRIETO: And there's still snow
20 there even after all the melting; correct?
21 MR. TSAPATARIS: I haven't been there
22 for a few days.
23 MR. PRIETO: Do you know how that
24 impacts the parking situation that you're
25 proposing in this plan? Let's say we have

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1 another difficult winter, as you say.
2 MR. TSAPATARIS: Yes.
3 MR. PRIETO: What happens to those few
4 parking spots that you have?
5 MR. TSAPATARIS: In the event that the
6 spaces are reduced below 18 I would stipulate
7 that it would be removed.
8 MR. PRIETO: How is it going to be
9 removed and in what time frame?
10 MR. TSAPATARIS: It will be removed
11 when there are not 18 spaces on the property.
12 MR. PRIETO: Okay. But, for example,
13 we live on Willow, and as you've heard members of
14 the public testify, there was no parking on one
15 side of the street for the better part of two
16 weeks. And I just left my parents over there
17 when I dropped them off, I couldn't even turn
18 into my driveway because somebody's van is parked
19 partially blocking my driveway. So the problem
20 becomes with the snow that there's nowhere to
21 park, as they've testified to. And when you say
22 a timely manner being moved, the borough didn't
23 even get the snow removed from Willow in a timely
24 manner.
25 THE CHAIRMAN: Are you still asking

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1 questions?
2 MR. PRIETO: My question was what's he
3 going to do and when is he going to do it?
4 THE CHAIRMAN: I lost the gist.
5 MR. TSAPATARIS: As I answered before,
6 I will, I testified to the fact that if there are
7 less than 18 spaces as a result of any snowstorm
8 I will have the snow removed. However, on this
9 specific site plan and as a result of your
10 comments last time I listened to your comments,
11 Mr. Prieto, and I did remove a piece of the
12 building that you were concerned about.
13 MR. PRIETO: I haven't seen the plans,
14 so I don't know if that's the case.
15 MR. TSAPATARIS: I took out the whole T
16 section based on your commentary last time.
17 MR. PRIETO: Well, I appreciate that.
18 MR. TSAPATARIS: Notwithstanding that,
19 the distance between the building and the first
20 space is 29.5 feet, where in most two-way traffic
21 scenarios there are 24 required. On the other
22 side there are 25.5 feet with an increased buffer
23 of 6.85 feet, as well as the southeast corner
24 where snow can be piled.
25 One thing that was unfortunately

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1 slightly misleading with the photograph that I
2 saw is that it showed the snowbank but it didn't
3 show the distance between the back of the car and
4 the greenhouse, which was more than sufficient to
5 allow a vehicle to safely pass in and out. So in
6 this specific site plan the way it's been
7 designed, even though it's a little tight, the
8 distance between the back of the space where you
9 live and the curb is 25.5 feet.

10 MR. PRIETO: And I appreciate your --

11 MR. TSAPATARIS: And even more, I'm
12 sorry. I take that back, it's 28.5 feet. So,
13 therefore, my conclusion is, to answer your
14 question, if snow were piled up against that part
15 of the site it would still leave a buffer under
16 any normal standard of, in excess of 5 feet for
17 snow. And there are properties of this type that
18 are 18 feet, we're at 24. Even at 24 there's
19 more space. So we're not a narrow lot.

20 MR. PRIETO: I appreciate you taking
21 into consideration one of my comments. But as I
22 understand your testimony, you went now from
23 14,000 to 23,000 square feet; right?

24 MR. TSAPATARIS: Correct.

25 MR. PRIETO: Okay. So when you took

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1 away one of my concerns you now impacted another
2 concern, which was my view, as being now my view
3 here with the structure that's there now where
4 your proposal before, now I have a four-story
5 monolith, right? So thank you very much.

6 With respect to the Casale parking that
7 you proposed, let me just understand, you said
8 it's about 800 feet away?

9 MR. TSAPATARIS: I would prefer that
10 our traffic expert testify to that.

11 MR. PRIETO: But your testimony was
12 it's 800 feet away; right?

13 MR. TSAPATARIS: Approximately.

14 MR. PRIETO: So that's approximately in
15 layman's terms three football fields. So we're
16 about 100 feet shy of three football fields.

17 MR. TSAPATARIS: I'm not an expert in
18 football fields.

19 MR. PRIETO: I'd ask the Board to take
20 notice of what a football field is.

21 And so what's your proposal then for
22 getting your tenants from this property you
23 propose to three football fields away? And with
24 that I'll sit down.

25 MR. TSAPATARIS: Before they go to the

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1 Casale property they will go to The Rest, which
2 is 350 feet away.

3 MR. PRIETO: Fine, one last question.
4 What's going to happen when, as Mr. Schmidt
5 said -- you haven't been in discussion with the
6 Casale lawyers or bankruptcy people; correct?

7 MR. TSAPATARIS: My counsel has been
8 retained to do so.

9 MR. PRIETO: Your lawyer has. You
10 haven't, right? You haven't spoken to them?

11 MR. TSAPATARIS: No.

12 MR. PRIETO: So what's going to happen
13 when somebody through the bankruptcy practices or
14 through a sale buys that property and comes to
15 this Board and proposes something similar to this
16 and that's approved? Instead of Mr. Schmidt's
17 plans of being three or four years let's say it
18 happens in two years or even if it happens in
19 four years, and now all those spaces that you've
20 delineated, those 15 spaces, they're now gone
21 because somebody is doing exactly what you're
22 doing. What's going to happen then?

23 MR. SCHMIDT: We could lose those
24 spaces. We're not hiding that fact. This is a
25 bankruptcy position.

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1 MR. TSAPATARIS: But, even more
2 important, I would defer that answer to the
3 expert who will explain why the number of parking
4 spaces in our opinion is sufficient. So I would
5 defer that answer.

6 MR. PRIETO: Thank you.

7 THE CHAIRMAN: Okay. Anyone else from
8 the public?

9 MS. PICARELLI: Karen Picarelli, 351
10 Willow Avenue. You mentioned before about the
11 lease, that you're going to tell the tenants that
12 they have to park either at The Rest or the
13 Casale. How are you going to enforce so that
14 they don't go to Willow? They don't go to --
15 what's the penalty that you're going to use to
16 make somebody go there?

17 MR. TSAPATARIS: We have a lot of
18 leases in place in urban areas where we ask the
19 tenants. It's a matter of enforcement through
20 the lease. I believe that the only way that I
21 can, can best answer that question is perhaps
22 through my lawyer and the Board lawyer putting
23 together language that could potentially be
24 inserted in every lease that would ensure that
25 there's enough teeth, for lack of a better word,

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1 to enforce.
2 So, in other buildings that I own if
3 they're not parked there there are ramifications
4 within the lease, there are critical conditions
5 within the lease. Because we don't want
6 employees parking in the best spaces.
7 MS. PICARELLI: Because I see where it
8 says two-hour limit and that's never the case.
9 THE CHAIRMAN: That's a comment kind of
10 for the end.
11 MS. PICARELLI: That's why I wanted to
12 make sure, how he's going to stop somebody from
13 going to Willow and going everywhere else.
14 THE CHAIRMAN: Okay. At this time
15 we're going take a five-minute break.
16 (A break is taken.)
17 THE CHAIRMAN: Okay.
18 MR. FRASER: We're back in session.
19 Mr. Schmidt, I see you standing. Just one
20 second, Mr. Schmidt, before we get to it.
21 MR. SCHMIDT: Sure.
22 MR. FRASER: You want to address. We
23 were, I think at the conclusion of the
24 cross-examination of Mr. Tsapatsaris by members
25 of the public. I think everybody who wanted to

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1 question him had a chance to do so, but I don't
2 think the chairman formally closed that portion
3 out.
4 THE CHAIRMAN: So at this point --
5 MR. KELLY: May I?
6 THE CHAIRMAN: Yes, you may.
7 MR. FRASER: Just for the record,
8 usually everybody gets once chance and after
9 somebody else goes you don't get to go again, but
10 I'm sure we'll make another exception, Mr. Kelly.
11 MR. KELLY: Okay. Mr. Tsapatsaris, did
12 you mention earlier that if other properties in
13 the area were for sale you would look to buy
14 them?
15 MR. TSAPATARIS: Yes.
16 MR. KELLY: Have you engaged in any
17 conversations with any of your neighbors,
18 adjoining properties or otherwise, to do that?
19 To purchase those properties?
20 MR. TSAPATARIS: Yes.
21 MR. KELLY: And who was that?
22 MR. TSAPATARIS: You.
23 MR. KELLY: Me. Okay. And I did offer
24 my properties abutting the property for sale?
25 MR. TSAPATARIS: You did at a certain

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1 number, which I would prefer not to negotiate a
2 number here, but, yes, I called you before
3 anything, and you responded with a number that I
4 could not accept.
5 MR. KELLY: Okay. Was it the, was your
6 response not of the value but that it just wasn't
7 in your budget?
8 MR. SCHMIDT: Objection. You know --
9 MR. FRASER: I don't even know what
10 that question means.
11 MR. SCHMIDT: We're now talking about
12 what the value of the property is.
13 MS. CUCCARO: Fair market value as
14 opposed to what he wants to spend.
15 MR. SCHMIDT: With all due respect, we
16 don't think it was fair market value he was
17 asking for his property. If we're going to get
18 into this, let's open it up.
19 MR. FRASER: No, this is not part of
20 the Planning Board hearing.
21 MS. CUCCARO: Right. It has nothing to
22 do with it.
23 MR. KELLY: Just for the record, we
24 did --
25 MR. FRASER: That's a statement. I can

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1 already hear that one coming.
2 MR. KELLY: One more thing. Back to
3 the snow and the pictures, that's a big problem.
4 MR. FRASER: That's a statement.
5 MR. KELLY: How high is the tallest
6 point in the opening going through the archway
7 there?
8 MR. TSAPATARIS: Nine feet.
9 MR. KELLY: And you later, did you give
10 testimony that you would have the snow removed by
11 backhoe or some other machinery if, in fact --
12 MR. SCHMIDT: He never said a backhoe.
13 He never testified it would be removed from a
14 backhoe.
15 MR. KELLY: I heard a yes.
16 MR. TSAPATARIS: Yes, but you didn't
17 get the end of my answer. My answer was yes with
18 a bobcat. So if you would have let me finish you
19 would have seen the mechanism which it would have
20 been brought forward.
21 MR. KELLY: That's what he just said.
22 I heard bobcat.
23 MR. FRASER: Is there a point to this?
24 MR. KELLY: Yes. The vehicles
25 necessary to remove the snow, they may not fit

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1 through that opening?

2 MR. TSAPATARIS: Rephrase that?

3 MR. FRASER: I'll rephrase the question

4 for him. Isn't it possible that some snow

5 removal vehicles couldn't fit through that?

6 MR. TSAPATARIS: Some could not, but

7 some could.

8 MR. FRASER: And would you use those or

9 would you use the type that would fit?

10 MR. TSAPATARIS: I would use the ones

11 that would fit.

12 MR. FRASER: That's what I thought.

13 MR. KELLY: Objection.

14 MR. FRASER: Overruled. All right. Is

15 there anyone else or can the record reflect that

16 everyone who wanted to has had a chance to

17 question this witness?

18 THE CHAIRMAN: Okay. With that we have

19 now closed this portion of the meeting.

20 MR. FRASER: We've closed the

21 cross-examination of that witness and I think Mr.

22 Schmidt now wants to address the Board.

23 MR. SCHMIDT: Yes. Mr. Chairman,

24 Mr. Fraser, members of the Board. During the

25 break my client and I have had an opportunity to

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1 reflect upon the feeling of the Board. You know,

2 as we said the first time we were here, we're

3 trying work with this Board to come up with a

4 plan that we think will fit the best interests of

5 the community, fit this property and is

6 economically feasible and will be doable by my

7 client.

8 And, as a result of that during the

9 break, we're going to repropose at the next

10 meeting, unfortunately there's going to be

11 another change in the plans, but we don't think

12 it's going to be a major issue. What we're

13 talking about doing is coming back with a

14 revision of just simply taking out the second

15 floor. We'll drop the entire structure one

16 floor, and we're going to propose seven

17 one-bedroom units and six two-bedroom units --

18 the other way around, six one-bedroom units,

19 seven two-bedroom units. Will be using the lofts

20 because the lofts will now become part of the

21 second floor bedrooms. But we're going to come

22 back with a reduced plan. Taking the temperature

23 of this Board we think it's going to be hopefully

24 more acceptable.

25 MR. FRASER: All right. Now I'm just

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1 going to clarify one or two things, if I might

2 Mr. Schmidt, because this will bear on the issue

3 whether there needs to be renote and

4 republication.

5 As I understand this now, it will be

6 the same footprint, it will be a lower building

7 with essentially the same configuration of the

8 lot and the site plan with 13 apartments, the

9 same number that you have now. The apartments

10 will be smaller than the application the Board

11 has seen this evening, albeit probably larger

12 than the one we heard at the prior application,

13 and in all other respects the application will be

14 substantially similar?

15 MR. SCHMIDT: That's correct.

16 MR. FRASER: In my opinion, based upon

17 those representations, no additional publication

18 or notice is necessary, but that the applicant's

19 existing notice and publication constitutes

20 sufficient notice to the public. We'll get into

21 when we're going to continue this application as

22 so amended in a minute.

23 Obviously the plans and specifications

24 of the changes should be gotten in as soon as

25 possible so that Mr. Vinegra will have ample

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1 opportunity to comment on them and for any

2 members of the public who want to review them.

3 But subject to that, I'm prepared to opine that

4 no additional notice and publication is

5 necessary.

6 MR. SCHMIDT: Okay. And in light of

7 that, we would like to reserve the testimony of

8 our traffic expert and our planner to the next

9 meeting. We think it would be more appropriate

10 after the Board had the opportunity to look at

11 the revised plans.

12 MR. FRASER: It only makes sense, plus

13 it's 10:24.

14 MR. SCHMIDT: The other reason.

15 MR. FRASER: All right. So before we

16 depart this subject, Mr. Chairman, I suggest it

17 would be appropriate to discuss the date when

18 this is going to be continued.

19 THE CHAIRMAN: Yes. And I think given

20 the fact that there were several Board members

21 that are here currently that will not be able to

22 make the March 12th meeting, I think we will

23 carry this over to the 26th is the next

24 meeting, Adele?

25 MADAM SECRETARY: Well, the Board meets

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1 twice in March, the 12th and the 26th.
 2 THE CHAIRMAN: So if we eliminate the
 3 12th, we can pick it up on the 26th.
 4 MADAM SECRETARY: Yes.
 5 MR. FRASER: All right. So then if the
 6 Board so elects to carry it out to the 26th
 7 there's no further notice. Mr. Chair, I suggest
 8 you entertain a motion.
 9 THE CHAIRMAN: Do I hear a motion to
 10 carry this applicant?
 11 MR. SCHERER: I'll make the motion.
 12 MR. TARANTINO: I'll second that.
 13 MR. FRASER: With no notice?
 14 MR. SCHERER: With no notice. Any
 15 discussion? All those in favor.
 16 (All aye.)
 17 THE CHAIRMAN: Any negatives? Any
 18 holdoffs?
 19 Okay, motion carries. Our next meeting
 20 for the applicant will be the 26th of March.
 21 MR. FRASER: All right. So for members
 22 of the public, this application will be continued
 23 on March 26th, 2014, at 7:30 here. You will
 24 not receive further notice. This oral statement
 25 is your notice if you want to be heard on this

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1 application further.
 2 (The proceedings concluded at 10:25 p.m.)
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1 CERTIFICATE

2
 3 I, SUSAN M. STYRON, Notary Public,
 4 R.P.R., C.S.R., of the State of New Jersey,
 5 License No. XIO1704, do hereby certify that the
 6 foregoing is a true and accurate transcript of
 7 the proceedings as taken stenographically by and
 8 before me at the time, place and on the date
 9 hereinbefore set forth.
 10 I DO FURTHER CERTIFY that I am neither
 11 a relative nor employee nor attorney nor counsel
 12 of any of the parties to this action, and that I
 13 am neither a relative nor employee of such
 14 attorney or counsel, and that I am not
 15 financially interested in the action.
 16
 17
 18
 19 Notary Public of the State of New Jersey
 20 My Certificate expires January 25, 2019
 21 Dated: March 3, 2014
 22
 23
 24
 25

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0 11:13,16 14:8 38:17	14,379 82:11	23,000 82:17 110:23	4,900 12:8
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