

BOROUGH of GARWOOD
PLANNING BOARD

MEETING of May 28, 2014



Vice-Chair Kathy Villaggio 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, , Kathleen Villaggio, Gene Jannotti, Georgia Mac Indoe Timothy Hak (Alt 1), Craig McCarrick (Alt II), Ileen Cuccaro (Alt III), Paul Tarantino (Alt IV)

Absent: None

Excused: Stephen Greet

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

MINUTES

• **MINUTES OF THE APRIL 23, 2014 MEETING**

On a motion by Mike Vena and seconded by Robert Scherer, the Board voted by general consent to adopt the minutes of the April 23, 2014 Planning Board meeting as revised. It was noted that the vote on pg 2 was incorrect. It was a nine member vote, Mr. Hak was listed incorrectly as voting on the application.

RESOLUTIONS

Case #PB13-05 **105 Center Street- Block 404 Lot 34** C/I Zone-

Applicant: Ermina Savino Livieri
Granting Final Site Plan Approval
with parking variance for apartments

On a motion by Robert Scherer and seconded by Mike Vena, the Board voted by Affirmative (8) Mayor Quattrochi, William Nierstedt, Michael Vena, Georgia Mac Indoe, Gene Jannotti, Kathleen Villaggio, Bruce Paterson, Robert Scherer to memorialize the wording of the Resolution granting Final Site Plan Approval for 105 Center Street. The deed will be amended to include the specific Block and Lots.

It was noted that the same incorrect vote was repeated in the Resolution. Mr. Hak was listing incorrectly as voting on the application. Mr. Fraser will correct the error.

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

Applicant: LAND of NJ, INC.

Granting of 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 (8 one bedroom units and 4 two bedroom units)

Don Fraser stated that he was not able to complete the Resolution as the application spanned several meetings and the Resolution will be lengthy and complex. He was in contact with John Schmidt, Esq. who represented the applicant. They discussed the possibility of a special meeting. Mr. Fraser stated that he is in agreement with this and proposed either June 4th or June 11th.

On a motion by Kathy Villaggio and seconded by Mike Vena, the Board voted by general consent to hold a special meeting on Wednesday, June 4th 7:30 p.m. to adopt the resolution. Board Secretary Lewis will inform the applicant and advertise the special meeting.

APPLICATIONS

Case #PB13-03 22-32 Willow Ave Block 504 Lots 9 & 10

Applicant: Hirsch

Minor Subdivision and Use Variance

ATTACHMENT # 1

TRANSCRIPT FROM CASE # PB 13-03

22-32 WILLOW AVENUE

Thomas Dooley, Esq. represented the applicant.

The Board discussed the relief required to determine the composition of the Board. It was determined that the application requires a D /Use Variance therefore necessitating *Mayor Quattrochi and William Nierstedt to step down from the dais. They left the meeting.*

Mr. Joseph Ragonese, owner of the property was sworn in and testified to current conditions.

Mr. Sam Mikhal, president of 7 South Ave was sworn in. He described his use of a portion of the subject property and his intended use of the property he will acquire.

James Watson, L.S., P.P of EKA Associates, 328 Park Avenue Scotch Plains was sworn in and qualified. He testified to the current use and reviewed the variances associated with the application. He provided planning testimony stating that the use is particularly suited to this area as it is mostly commercial and industrial.

Frank Hirsch, Jr. 409 Maple Street, Garwood NJ was sworn in. He explained the operation of his mason business. He was asked if he would be willing to shorten the building by two ft thereby eliminating one variance. He stated that he would be willing to do this.

THERE WERE NO MEMBERS OF THE PUBLIC ASKING QUESTIONS OF ANY WITNESS OR PROVIDING COMMENT ON THE APPLICATION.

Victor Vinegra stated that lot 9.02 should be merged by deed into lot 7. Donald Fraser restated the conditions discussed such as compliance with Victor Vinegra's review letter dated 5/28/14 and the rear yard setback be amended to 10 ft.

On a motion by Robert Scherer and seconded by Georgia MacIndoe, the Board voted

Affirmative (7) Michael Vena, Georgia Mac Indoe, Gene Jannotti, Kathleen Villaggio, Bruce Paterson, Tim Hak, Robert Scherer Negative (0) to grant a Use Variance and Minor Subdivision and related variances in the matter of 22-32 Willow Ave Block 504 Lots 9 & 10

RECESS 8:30 -8:35 pm.

Case #PB14- 01

484 Fourth Ave Block 102 Lot 10

Applicant: Angela & Sandro Villaruat

Use Variance for a multi family development consisting of nine townhouses

ATTACHMENT # 2
TRANSCRIPT FROM CASE # PB 14-01
484 FOURTH AVENUE

Ileen Cuccaro recused herself as she resides within 200 ft. of the subject property.

Stephen Hehl, Esq. of Hehl & Hehl represented the applicant. He provided an overview of the application and explained that this is a bifurcated application which would return for site plan approval. He added that this development will have a 55 and over restriction.

Thomas Quinn, P.E. of EKA Associates, 328 Park Avenue Scotch Plains. He described the subject property stating that it is a bit over an acre in size and described the conceptual design of the nine proposed townhouses. He added that there would be a Homeowner's Association.

MARKED INTO EVIDENCE

- **A-1** Color Rendering

Joseph Steigar, P.E., P.P. was sworn and qualified as a as a licensed professional traffic engineer.

Glenn Potter, R.A. of Potter Architects was sworn and qualified.

MARKED INTO EVIDENCE

- **A-2** Rendering prepared by Potter Architects

John McDonough, P.P of 101 Gilbralter Drive, Morris Plains, NJ was sworn and qualified as a professional planner.

MARKED INTO EVIDENCE

- **A-3** Three part Exhibit aerial views of subject property

QUESTIONS FROM THE PUBLIC:

Horrace Corbin 403 Union Street
John Uzarski, 415 Union Street
Dave Dougert, 309 Walnut Street
Lauren McComb, 419 Brookside Place
Roger Sousa, 490 Fourth Avenue
David Lobe, 900 Union Street
Debra Banic, 421 Fourth Avenue
Joe McComb, 419 Brookside Place

Board Attorney Fraser stated that the application had reached the point of public comments.

TESTIMONY FROM THE PUBLIC: (each member of public was sworn in prior to speaking)

Ileen Cuccarro, 348 Third Avenue
Lauren McComb, 419 Brookside Place
David Lobe, 900 Union Street
Horrace Corbin 403 Union Street

MARKED INTO EVIDENCE-C1 through C-7 7 photos of various views of subject property

Al DelConte,
John Uzarski, 415 Union Street
Dave Dougert, 309 Walnut Street
Roger Sousa, 490 Fourth Avenue
Debra Banic, 421 Fourth Avenue
Joe McComb, 419 Brookside Place

Noting that it was approaching 11:00 p.m., Kathy Villaggio stated that she would need a motion to extend the time of the meeting to exceed the time limit of 11:00 pm per the By-laws of the Board.

On a motion by Mike Vena and seconded by Paul Tarantino, the Board voted unanimously to continue on with the application past 11:00 pm as outlined in the Board by-laws.

Mr. Stephen Hehl summed up the application.
DELIBERATIONS OF THE BOARD

*On a motion by Mike Vena and seconded by Georgia MacIndoe, the Board voted Affirmative (5) Michael Vena, Georgia Mac Indoe, Gene Jannotti, Kathleen Villaggio, Tim Hak, Negative (2) Robert Scherer Bruce Paterson to grant a Use Variance to allow the construction of the nine townhouses plus the associated bulk variances that the Applicant has requested on a bifurcated basis subject to later site plan approval. **MOTION CARRIES 5-2***

CLAIMS

On a motion by Mike Vena and seconded by Robert Scherer the Board voted to approve the following payments to Victor Vinegra/Harbor Consultants:

- *from Westfield Senior Housing escrow account in the amount of \$297.50 invoice # 20117*
- *from 105 Center Street escrow account in the amount of \$287.50 for invoice # 20138*
- *from the escrow account of LAND Inc, for invoice # 20139 in the amount of \$575.00*

Invitation to Address the Board

It was noted that the recorder had malfunctioned. The court reporter was asked to stay in order to be compliant with the Municipal Land Use Law requiring either a verbatim recording or transcript.

ATTACHMENT # 3

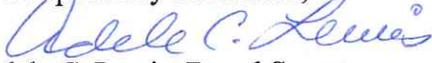
TRANSCRIPT FROM INVITATION TO ADDRESS THE BOARD

Sandra Sep inquired as to the procedure for filing an interpretation or appeal regarding the response she received from Mr. Vinegra in regards to her property on 304 Center Street.

ADJOURNMENT

There being no further business, the Board adjourned 11:45 p.m.

Respectfully Submitted,


Adele C. Lewis, Board Secretary

BOROUGH OF GARWOOD
PLANNING BOARD
MUNICIPAL BUILDING
403 SOUTH AVENUE
GARWOOD, NJ 07027
WEDNESDAY MAY 28, 2014
7:30 P.M.

x ----- x

RE: Case #PB13-03 TRANSCRIPT
22-32 Willow Avenue OF
Block 504, Lots 9 & 10 PROCEEDINGS
Applicant: Hirsch
Minor Subdivision

x ----- x

B E F O R E:
PATRICIA QUATTROCHI - MAYOR
BRUCE PATERSON - BOARD MEMBER
WILLIAM NIERSTEDT - BOARD MEMBER
GENE JANNOTTI - BOARD MEMBER
GEORGIA MacINDOE - BOARD MEMBER
KATHY VILLAGGIO - CHAIRPERSON
ROBERT SCHERER - BOARD MEMBER
MICHAEL VENA - BOARD MEMBER
TIMOTHY HAK - BOARD MEMBER
CRAIG McCARRICK - BOARD MEMBER
ILEEN CUCCARO - BOARD MEMBER
PAUL TARANTINO - BOARD MEMBER

DONALD B. FRASER, JR., ESQUIRE
VICTOR VINEGRA, BOARD CONSULTANT
ADELE LEWIS, BOARD SECRETARY

A P P E A R A N C E S

BARISONEK and DOOLEY, ESQUIRES
BY: THOMAS E. DOOLEY, JR., ESQUIRE
20 North Avenue East
Cranford, New Jersey 07016
Attorneys for Applicant

DEBRA-ANN BALSAMO
CERTIFIED COURT REPORTER

1 **CHAIRPERSON VILLAGGIO:** Now we
2 start the application Case number PB13-03. 22-32
3 Willow Avenue.

4 **MR. DOOLEY:** Good evening,
5 everyone. My name is Thomas Dooley from Barisonek and
6 Dooley in Cranford. I represent the Applicant in this
7 matter, Frank Hirsch. Mr. Hirsch is sitting right
8 here. However, I'd like to begin by calling up the
9 owner of the property, Joseph Ragonese. Mr. Ragonese,
10 please come up.

11 **MR. FRASER:** Mr. Dooley, a
12 preliminary matter we were having, I know you briefly
13 approached me prior to the meeting and a question has
14 arisen as to whether or not this is a use variance.
15 And in as much as that will effect the composition of
16 the Board who will vote on it, I think we should talk
17 about that as a preliminary matter.

18 **MR. DOOLEY:** Yes, sir. A use
19 variance was granted on this property back in 1998.
20 It was never perfected. We're bringing this back to
21 perfect it, but there is a slight change in that
22 there's a third lot involved which is a non conforming
23 lot. However, that lot is being subsumed by the
24 property owned by Seven South Avenue Corp. There's an
25 agreement between Mr. Ragonese and Mr. Mikhail, the

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I N D E X

WITNESS	DIRECT
JOSEPH RAGONESE	
By Mr. Dooley	10
SAM MIKHAIL	
By Mr. Dooley	15
JAMES WATSON	
By Mr. Dooley	21
FRANK HIRSCH, JR.	
By Mr. Dooley	37

EXHIBITS MARKED FOR IDENTIFICATION

EXHIBIT	DESCRIPTION	PAGE
	NOTHING MARKED	

ATTACHMENT # 1
5/28/14 PB
MEETING

1 president of that corporation, to takeover that lot
2 and absorb it into the Prestige Auto Body shop
3 property. That will leave two lots which are still in
4 terms of area-wise, they're still conforming.

5 **MR. FRASER:** Alright. So I
6 gather you're taking the position that the use
7 variance survives from.

8 **CHAIRPERSON VILLAGGIO:** 1998.

9 **MR. FRASER:** Was it 1998?

10 **MR. DOOLEY:** It was '98, yes,

11 sir.

12 **MR. FRASER:** Notwithstanding the
13 fact that the subdivision previously approved was not
14 perfected, would that be a fair summary?

15 **MR. DOOLEY:** That's a fair
16 summary, yes, sir.

17 **MR. FRASER:** Okay.

18 **MR. DOOLEY:** Alright. We still
19 could make the original arguments based on the nature
20 of the neighborhood, but, yes, that's the short of it.

21 **MR. FRASER:** And the use that was
22 approved under the 1998 resolution has, in fact,
23 pertained since the granting of that use variance?

24 **MR. DOOLEY:** Actually, it has.
25 It's basically the storage of equipment for the

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1 construction trades. Mr. Ragonese is in the
 2 construction trade. Mr. Hirsch is in the construction
 3 trade, but he's most particularly a mason.
 4 **MR. FRASER:** Well, Madam
 5 Chairperson, it's my opinion --
 6 **MR. NIERSTEDT:** Can I ask a
 7 question. Mr. Fraser, the question is, also, on the
 8 site plan there's an indication of the proposed
 9 building. So I assume the application also requires
 10 site plan approval.
 11 **MR. DOOLEY:** I would assume so.
 12 **MR. NIERSTEDT:** So if it requires
 13 site plan approval, I guess what I'm wondering is why,
 14 how can you request a site plan approval without a use
 15 variance request if the use variance that was granted
 16 back in 1998 did not include that building.
 17 **MR. FRASER:** It didn't include
 18 that building?
 19 **MR. DOOLEY:** It included an
 20 envelope of the exact same side of what we're using.
 21 **MR. NIERSTEDT:** Alright. So the
 22 site plan itself hasn't changed?
 23 **MR. DOOLEY:** The building
 24 envelope remains the same. It's sited a little
 25 different. When you look at the old site plan, I

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1 believe the buildings are -- well, actually, they're
 2 shown in the plans.
 3 **MR. VINEGRA:** There's also one
 4 other issue here is they're looking to subdivide a
 5 third lot for auto body related uses and it's an
 6 undersized lot which was not permitted in the previous
 7 application, so that's what --
 8 **MR. FRASER:** But that's the
 9 subdivision application, we're having a preliminary
 10 discussion really to determine whether --
 11 **MR. VINEGRA:** The lot sizes are
 12 also different, too. Actually, the lot was never put
 13 together which would have an effect -- the other
 14 approval was never perfected via subdivision.
 15 **MR. FRASER:** I understand that,
 16 Victor. We're having a different discussion.
 17 **MR. NIERSTEDT:** No pun intended
 18 it's all part and parcel. The use variance seems to
 19 be granted under different -- the use variance was
 20 granted under different circumstances and that's the
 21 question.
 22 **MR. DOOLEY:** I'm sorry, I didn't
 23 hear a question.
 24 **MR. NIERSTEDT:** If the
 25 subdivision is different than 1998 --

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1 **MR. DOOLEY:** Yes.
 2 **MR. NIERSTEDT:** -- the lots are
 3 different in 1998 --
 4 **MR. DOOLEY:** Yes.
 5 **MR. NIERSTEDT:** -- and the
 6 building is altered since 1998, it would seem to me
 7 that a use variance was granted under different
 8 circumstances than you're requesting tonight. And I
 9 want to be very upfront, I don't have an issue with
 10 the use variance, that's not the issue, the issue is
 11 whether the Mayor and I can vote, that's all we're
 12 trying to figure out. We can't participate in a use
 13 variance and I don't want to taint your application.
 14 **MR. DOOLEY:** No, I understand.
 15 And we believe that you have to come back and look at
 16 that use variance because we're saying you granted it
 17 once, it's the same use and, you know, we're talking
 18 about the same use. The problem is is now what we've
 19 done is we've taken the property and we've added that
 20 third smaller lot which is then being assumed into,
 21 like I said, into the Prestige Auto Body property.
 22 **MR. FRASER:** Bill, I'm looking at
 23 it in a different way. If you disagree, tell me.
 24 Here's how I'm looking at it. They got a use
 25 variance, they're are operating their business

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1 presently in conformance with an existing use variance
 2 which they're allowed to do so they now have --
 3 **MR. NIERSTEDT:** No, I disagree
 4 with that because that use variance is involved in
 5 constructing a building which they never constructed.
 6 **MR. FRASER:** So then you're
 7 saying that they've been illegally operating all these
 8 years?
 9 **MR. NIERSTEDT:** Well, I'm sure
 10 they don't have a CO to operate the way they are
 11 today. And they're also operating the property across
 12 the street which isn't even part of this application.
 13 **CHAIRPERSON VILLAGGIO:** But this
 14 is also a subdivision and that's the planning end of
 15 it.
 16 **MR. FRASER:** But before we get to
 17 the subdivision we have to decide is this -- does this
 18 sufficiently involve an issue of use such that the
 19 Mayor and Bill are disqualified, that's our
 20 preliminary question.
 21 **MR. NIERSTEDT:** If I can ask Mr.
 22 Dooley, the key thing here is we don't want to taint
 23 your application. I mean do you have an opinion on
 24 whether the Mayor and I vote?
 25 You still have a quorum; you

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1 still have the membership that you need to vote.
 2 **MR. DOOLEY:** No, I understand.
 3 My opinion, based on what we're talking about here, is
 4 that when he we come in with this new site plan is
 5 that we have to revisit the use issue. What I'm
 6 saying is what should be considered by the Board is
 7 that the use was previously granted and not perfected
 8 and the circumstances of the neighborhood have not
 9 changed. In fact, they're pretty much the same if not
 10 even more intensely commercial.
 11 **MR. FRASER:** Alright. That's an
 12 evidentiary argument. So then if you're in agreement
 13 with that, then I'm going to rule that it's a use
 14 variance application and, Bill, you and the Mayor
 15 cannot sit. And you're proceeding with the request
 16 for a use variance. I see you have your Reporter and
 17 you need your five affirmative votes out of seven and
 18 we'll see you guys later.
 19 **MR. NIERSTEDT:** Actually, you
 20 won't see us later because the next one is a use
 21 variance, too.
 22 **MR. FRASER:** I thought you would
 23 be coming back for post-application participation.
 24 Victor may have some vouchers or something you want to
 25 vote on.

10

1 (William Nierstedt and Mayor
 2 Patricia Quattrochi are excused.)
 3 **MR. FRASER:** Now that we've
 4 gotten that procedural quagmire resolved, Mr. Dooley,
 5 I assume you want to call a witness.
 6 **MR. DOOLEY:** I do. Mr. Ragonese
 7 is my first witness.
 8
 9 JOSEPH RAGONESE, residing at 502 West
 10 Street, Garwood, New Jersey, being first duly sworn,
 11 testified as follows:
 12 **MR. FRASER:** Please state and
 13 spell your name.
 14 **MR. WITNESS:** Joseph Ragonese.
 15 R-A-G-O-N-E-S-E.
 16 **MR. FRASER:** And your address,
 17 sir.
 18 **THE WITNESS:** 502 West Street,
 19 Garwood.
 20
 21 **DIRECT EXAMINATION BY MR. DOOLEY:**
 22 **Q.** Mr. Ragonese you own the property that's
 23 the subject of this application, correct?
 24 **A.** Yes, I do.
 25 **Q.** You've entered into an agreement with

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1 the Applicant, Frank Hirsch, to sell him a portion of
 2 the property subject to a subdivision; is that
 3 correct?
 4 **A.** Yes, I have.
 5 **Q.** In addition to that, there is also
 6 another segment of the subdivision which is a small
 7 lot, measuring 30 by 100 which you have an agreement
 8 with Mr. Mikhail, the president of Seven South Avenue
 9 Corp, to swap property giving him that property and
 10 taking over property that he owns across the street;
 11 is that correct?
 12 **A.** That's correct, yes.
 13 **Q.** His property is known as lot five on
 14 Willow; is that correct?
 15 **A.** Yes, five, yes.
 16 **Q.** Lot five. Okay. So now and currently
 17 and for many years, you've allowed Prestige Auto Body,
 18 which is owned by Seven South Avenue Corp to maintain
 19 a storage shed back in there?
 20 **A.** I have.
 21 **Q.** And the attended use is to continue to
 22 do that; isn't that correct?
 23 **A.** To stay the same, yes.
 24 **MR. DOOLEY:** Alright. No further
 25 questions. Any questions of my client?

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1 **CHAIRPERSON VILLAGGIO:** Does
 2 anybody have any questions?
 3 **MR. FRASER:** Well, does lot five
 4 have anything to do with this application other than
 5 it conforms the consideration.
 6 **MR. DOOLEY:** That's all. That's
 7 it. We understand and expect that there to be a
 8 condition and grant, if we get it, that that is a
 9 swap-out situation. That this property meaning -- I'm
 10 sorry, it doesn't have to be a swap, but that the
 11 property, the 30 by 100 foot lot, which will be Lot
 12 .902, would be subsumed into the Prestige Auto Body
 13 property which would -- that's a conforming property
 14 in a preexisting property and use.
 15 **MR. FRASER:** Which lot number is
 16 Prestige?
 17 **MR. DOOLEY:** Prestige --
 18 actually, Prestige is lot 7.
 19 **BOARD MEMBER PATERSON:** Is that
 20 lot 7 go all the way back to the Cranford line?
 21 **MR. DOOLEY:** According to the
 22 plan that I have it does.
 23 **CHAIRPERSON VILLAGGIO:** That is
 24 partially in Cranford. We had that application here
 25 once before.

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1 **BOARD MEMBER PATERSON:** Lot 7 is
 2 a deep lot.
 3 **MR. DOOLEY:** Yeah.
 4 **MR. FRASER:** So lot 7 which is
 5 basically front to back a double lot, and that's
 6 Prestige.
 7 **MR. DOOLEY:** Right.
 8 **BOARD MEMBER PATERSON:** And a
 9 piece of 9.01 is going to go to Prestige if this is
 10 approved and consideration is lot five, but that's not
 11 part of the application.
 12 **MR. DOOLEY:** It's not. That's
 13 what the parties intended, but it could be something
 14 different. But that's what they're looking at at the
 15 moment.
 16 **MR. FRASER:** But that doesn't
 17 require Board approval?
 18 **MR. DOOLEY:** No.
 19 **MR. FRASER:** Alright.
 20 **BOARD MEMBER PATERSON:** It will
 21 be an L-shaped lot?
 22 **MR. DOOLEY:** You mean lot 7?
 23 **BOARD MEMBER PATERSON:** Lot 7.
 24 **MR. DOOLEY:** Well, almost. It
 25 will be sort of like that, yes.

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1 **MR. FRASER:** Okay.
 2 **MR. DOOLEY:** And the use wouldn't
 3 change because actually Prestige is using that portion
 4 of the lot anyway.
 5
 6 **CHAIRPERSON VILLAGGIO:** Alright.
 7 Does any other member of the Board have any other
 8 questions for this witness? Nobody?
 9 Does any resident have any
 10 questions of this witness?
 11 Let the record reflect there was
 12 none. There was no public comment or questions.
 13 **THE WITNESS:** Okay.
 14 (Witness excused.)
 15 **MR. DOOLEY:** Our next witness is
 16 Sam Mikhail, he's the president of Seven South Avenue
 17 Corp, who are the owners of the Prestige Auto Body.
 18 Sam, will you please step up.
 19
 20 S A M M I K H A I L, residing at 133 Copper Tree
 21 Court, Edison, New Jersey 08820, being first duly
 22 sworn, testified as follows:
 23 **MR. FRASER:** Please state your
 24 name and address, sir.
 25 **THE WITNESS:** Sam Mikhail,

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1 M-I-K-H-A-I-L.
 2 **MR. FRASER:** And your address,
 3 sir?
 4 **THE WITNESS:** 133 Copper Tree
 5 Court, Edison, New Jersey 08820.
 6 **MR. FRASER:** Your witness, Mr.
 7 Dooley.
 8
 9 **DIRECT EXAMINATION BY MR. DOOLEY:**
 10 **Q.** Mr. Mikhail, you were the president of
 11 Seven South Avenue Corp, correct?
 12 **A.** Yes.
 13 **Q.** And Seven South Avenue Corp owns the lot
 14 7 immediately adjacent to the property that's the
 15 subject of this application; is that correct?
 16 **A.** Yes.
 17 **Q.** You've been using a portion of the this
 18 property owned by Mr. Ragonese --
 19 **A.** Yes.
 20 **Q.** -- for a storage shed and so forth,
 21 correct?
 22 **A.** Yes.
 23 **Q.** Do you have an agreement with Mr.
 24 Ragonese to acquire the lot that we're now designating
 25 or proposing to designate as Lot 9.02 which is shown

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1 on page three of the plans submitted, you've agreed to
 2 acquire that property from Mr. Ragonese?
 3 **A.** Yes.
 4 **Q.** The current understanding as it would be
 5 an agreement for a swap of that lot five that you also
 6 own, correct?
 7 **A.** Yes.
 8 **Q.** And I'll show you again, just to be
 9 certain, here's tax lot five on Willow Avenue shown on
 10 the first page of the plan. That's yours, correct?
 11 **A.** Yes.
 12 **Q.** And, so, the current idea is that you
 13 would swap that out for the new Lot 9.02, correct?
 14 **A.** Yes.
 15 **MR. DOOLEY:** Okay. No further
 16 question.
 17 **CHAIRPERSON VILLAGGIO:** Does any
 18 member of the Board have any questions for this
 19 witness?
 20 **MR. FRASER:** Is there going to be
 21 any change in the use of the property on proposed lot
 22 9.02?
 23 **THE WITNESS:** No.
 24 **MR. FRASER:** What is the present
 25 use of that property?

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1 **THE WITNESS:** Storage.
 2 **MR. FRASER:** And your company is
 3 the parties doing the storage there?
 4 **THE WITNESS:** Yes.
 5 **MR. FRASER:** And that's going to
 6 continue?
 7 **THE WITNESS:** Yes.
 8 **MR. FRASER:** Thank you.
 9 **BOARD MEMBER JANNOTTI:** What's
 10 the use of lot five today?
 11 **THE WITNESS:** It's vacant.
 12 Nothing on it.
 13 **MR. FRASER:** By the way, Mr.
 14 Dooley, is it proposed that the new lot, 9.02, is
 15 going to merge into the existing Lot 7?
 16 **MR. DOOLEY:** My understanding is
 17 once that's conveyed, that that would be an automatic
 18 merger. I don't see how it wouldn't be.
 19 **MR. FRASER:** Okay.
 20 **MR. DOOLEY:** If that's a
 21 condition that it's considered to be a merger which
 22 you have no objection to that. Do you?
 23 **THE WITNESS:** No.
 24 **MR. DOOLEY:** Mr. Ragonese, you're
 25 still under oath, do you have any objection to that?

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1 MR. Ragonese: No, I don't.
 2 **MR. FRASER:** Otherwise, it's a
 3 fairly undersized lot.
 4 **MR. DOOLEY:** Well, we know it's
 5 way undersized. The whole point was to merge it into
 6 Lot 7, sure.
 7 **MR. FRASER:** Okay. Thank you.
 8 **MR. DOOLEY:** We understand that.
 9 Thank you.
 10 **MR. VINEGRA:** The current use of
 11 the storage I link it to, if the Board does find this
 12 agreeable, that it be permitted to do auto body and
 13 related storage there.
 14 **MR. DOOLEY:** That is true. I
 15 mean but he's been doing that anyway. But his
 16 business is that auto body business, so that's what's
 17 going to be the type of storage; it would be the
 18 equipment that he uses in connection with that
 19 business.
 20 **CHAIRPERSON VILLAGGIO:** So then
 21 it wouldn't be the actual auto body work, just
 22 storage.
 23 **MR. DOOLEY:** Oh, no, it's a
 24 storage area.
 25 **MR. VINEGRA:** Auto body related

19

1 uses. I'd like it so the Board doesn't put
 2 restrictions on it, so he would be able to use it for
 3 auto body related uses. Currently, he only uses it to
 4 stores vehicles waiting for repair, but it would be
 5 auto body related, which is also makes it a D
 6 variance.
 7 **BOARD MEMBER JANNOTTI:** Is that
 8 space, is it paved, what is it today that the cars are
 9 being stored on?
 10 **MR. VINEGRA:** It's half paved.
 11 It's about half paved. If you look at the site plan
 12 -- the engineer's here, I don't want to take his
 13 thunder. It's about half-paved with an existing shed
 14 on it.
 15 **BOARD MEMBER JANNOTTI:** Thank
 16 you.
 17 **CHAIRPERSON VILLAGGIO:** Victor?
 18 How about any member of the public have any questions?
 19 I'll open it up to the public.
 20 Seeing none, the record will
 21 state that no member of the public asked questions of
 22 this witness.
 23 (Witness excused.)
 24 **MR. FRASER:** Mr. Dooley, do you
 25 have another witness?

20

1 **MR. DOOLEY:** Yes, Mr. Watson.
 2
 3 J A M E S W A T S O N, with offices at 328 Park
 4 Avenue, Scotch Plains, New Jersey, being first duly
 5 sworn, testified as follows:
 6 **MR. FRASER:** Please state and
 7 spell your name.
 8 **THE WITNESS:** Sure. James
 9 Watson, W-A-T-S-O-N, EKA Associates, 328 Park Avenue,
 10 Scotch Plains, New Jersey.
 11 For the record, I'm a licensed
 12 land surveyor in New York and New Jersey. I'm a
 13 license planner in New Jersey. In the last year I
 14 think I've been here three or four times; Westfield Y,
 15 a subdivision on New Street I think were the last two.
 16 **MR. FRASER:** Mr. Watson, do you
 17 propose to provide expert testimony in the field of
 18 surveying and planning?
 19 **THE WITNESS:** Yes, I do.
 20 **MR. FRASER:** Is have there any
 21 other area of expertise that you propose to provide
 22 such testimony?
 23 **THE WITNESS:** No, I do not.
 24 **MR. FRASER:** And your licenses
 25 that you've just referenced are all current?
 26 **THE WITNESS:** Yes, they are.

21	<p>1 MR. FRASER: And you have, of 2 course, been recognized by this Board on prior 3 occasions as an engineer in the field of surveying and 4 planning and, Madam Chairperson, I would recommend 5 that Mr. Watson again be so qualified. 6 CHAIRPERSON VILLAGGIO: Okay. 7 You are qualified. 8 THE WITNESS: Thank you very 9 much. 10 MR. FRASER: Mr. Dooley, go 11 ahead. 12 13 DIRECT EXAMINATION BY MR. DOOLEY: 14 Q. Mr. Watson, and your company prepared 15 this plan and in reviewing the plan and the 16 neighborhood, could you please describe the similarity 17 of use that the proposed use would be to what's 18 actually in existence in this neighborhood. 19 A. What's in existence today is contractor 20 storage yards and commercial enterprises up and down 21 South Avenue and Willow. This application is almost 22 identical to the prior approval and to make it short 23 and sweet, I'll give you a couple, a little discussion 24 on the proofs needed for the use variance. 25 First thing we have to talk about is</p>	23	<p>1 are here, the water main, everything is here. 2 Your Master Plan and objectives, there 3 are several of them. This is from your section seven, 4 I believe I, talks about what I just said before with 5 item E from the special reasons, it's the same exact 6 wording and we have the same reasons. 7 Item number eight is to continue to 8 recognize North and South Avenue as the primary areas 9 for business serving the community. 10 Items A, B, C and E all mirror this 11 application. We are -- well, we are renovating and 12 rehabbing. We are encouraging maintenance, we're 13 maintaining this. We're upgrading everything. We're 14 discouraging parking in the front yards as far as 15 eight of the nine used spaces. We're showing one in 16 front of the building line, but everything else is 17 behind that. 18 In addition to that, I believe that you 19 conform to ten which is to promote, again, a 20 desirable, visual environment through creative 21 development techniques and good civic design and 22 arrangement. I made those arguments. 23 The other thing you have to look at is 24 is this site particularly suited for this use. I 25 think the answer is pretty obvious, it's a yes. This</p>
22	<p>1 special reasons, that's from the Municipal Land Use 2 Law. I believe that we conform to items E, I and M. 3 If you want, I can read them, I think you'll go to 4 sleep if I do. 5 E basically says that you have to 6 preserve existing neighborhoods and areas and match 7 what's there with existing uses. I believe we're 8 preserving the existing neighborhood. All like uses 9 surround us. The Master Plan recognizes this and only 10 residential uses that are allowed in the zone are at 11 the end of the street, at the westerly end of the 12 street. 13 Item I is to promote desirable, visual 14 environment through creative engineering and design 15 techniques. Reconfiguring the lot lines to the 16 proposed uses is a good idea. We're fitting the 17 building and parking lot to the lot that's proposed. 18 Everything is engineered to conform to modern 19 standards and this is a considerable upgrade from the 20 plan that had just the storage yard there. 21 M is basically to encourage coordination 22 and a lot of things, but the main thing that you want 23 to focus on is to develop sites with the idea to use 24 the land more efficiently. Basically, what we're 25 saying is all the infrastructure's here; the sewers</p>	24	<p>1 has been in existence since 1998, probably prior to 2 that. The car auto repair and auto body use has been 3 in existence, that is also on a, I don't want to call 4 it a thru-lot because they only have like five or six 5 feet that actually front on Willow Avenue, but their 6 lot goes through past the zone line so you have that 7 two-zone effect where you should technically buffer 8 each -- the recommendation would be when you guys look 9 at your Master Plan next time, think about changing 10 your zone line in this area because everything here is 11 commercial or industrial. 12 Finally, the things that you have to 13 look at are the negative criteria and there's two ways 14 to look at this. What's associated with the noise, 15 light, traffic, those are normal uses that are 16 anticipated anywhere. To this degree, I think it's 17 been in place for so long, you haven't had any 18 complaints, the police department didn't reference any 19 problems with the contractors using this street the 20 way that they are, so I think that you can be 21 rest-assured that there aren't really no new 22 negatives. This is not intensifying anything. 23 They're not inviting more people into this area. 24 The other negative I think you have to 25 look at, which is really not a negative on our part,</p>

25

1 is what happens if you today viewed this application.
 2 Alright. It goes back to an R-2 that means the only
 3 use that you can put here is a to two-family use in
 4 the middle of contractor yards, auto bodies, the
 5 Knights of Columbus, the parking lots that are back
 6 there. I think it makes no sense to push this into an
 7 R-2 by denying this application. I think you have the
 8 proofs you need for the use.
 9 The other thing you have to consider are
 10 the bulk variances, all the C variances that we're
 11 talking about tonight. Without boring you with a lot
 12 of details, just keep in mind that seven of the
 13 variances that we're asking for are all associated
 14 with that Lot 9.02, the small lot, and that's being
 15 merged with Lot 7.
 16 The main reason for creating a new lot
 17 is for title purposes so that when somebody goes and
 18 they sell Prestige's lot, you can go back through the
 19 chain of title, you can find where that lot came from,
 20 you can find out how it was created and how it got
 21 absorbed into Lot 7.
 22 The other two I think are minor and they
 23 are all against the Prestige Auto Body property. All
 24 these variances are on that side. Both parties know
 25 about these things, they willing agree to it because

26

1 they put the application together and brought it to
 2 you tonight.
 3 With that in mind, I think you can
 4 safely grant those variances without any substantial
 5 detriment to your Zoning Plan or your Master Plan.
 6 That's the zoning testimony. If you need more I can
 7 hash-up a little more.
 8 **CHAIRPERSON VILLAGGIO:** Okay.
 9 Does anybody have any questions for this witness?
 10 **MR. FRASER:** With regard to the
 11 variances then for the proposed lot 9.02, so if that's
 12 merged whether by deed or by operation of law --
 13 **THE WITNESS:** 7.
 14 **MR. FRASER:** -- Lot 7, what
 15 variances will still be applicable to that
 16 newly-created larger lots?
 17 **THE WITNESS:** The setbacks along
 18 the sideline you have a three foot proposed and five
 19 feet or ten percent of the lot width so that would be
 20 9.5, we're proposing three. And the rear yard we are
 21 proposing eight, where 25 percent of the lot width,
 22 lot depth is required with a 35 foot minimum. So
 23 we're proposing to go back, to push the building back
 24 within eight feet of the rear line which abuts a very
 25 similar use, Garwood Public Works is back there. I

27

1 see no real reason to hold the 35 because that's to
 2 keep you away from residential areas and create a
 3 larger buffer. But you have like uses on the two
 4 lots. They're almost identical. There's construction
 5 equipment in the GPW, there's construction equipment
 6 here. We're actually kind of buffering a little bit
 7 by putting a building in between some of this stuff.
 8 Again, the C2 proofs, I think when you
 9 weigh the positives versus the negatives you'll see
 10 this is a much better application by allowing that
 11 building to go back a little further. And, like I
 12 said before, the three-foot side yard variance that
 13 we're asking for is up against our co-applicant, if
 14 you will. So they all know about it, they all agree
 15 to it, that's why we're here.
 16 **MR. DOOLEY:** Mr. Fraser, may I
 17 have a moment with the witness, please.
 18 **MR. FRASER:** Sure.
 19 **MR. DOOLEY:** Mr. Fraser, I have a
 20 question. I think there is a misunderstanding in your
 21 question to the witness.
 22 **Q.** Mr. Watson, I think Mr. Fraser was
 23 asking you what happens to the variances associated
 24 with Lot 9.02 which is the substandard lot, what
 25 happens once they are subsumed and incorporated into

28

1 Lot 7, what happens to those variances?
 2 **A.** They all go away.
 3 **MR. FRASER:** That was the answer
 4 I was looking for.
 5 **CHAIRPERSON VILLAGGIO:** Maybe I
 6 misheard you before, you said there was five variances
 7 on the smaller lot?
 8 **THE WITNESS:** I think there's
 9 seven associated with that, two on the larger lot
 10 that's left.
 11 **CHAIRPERSON VILLAGGIO:** I just
 12 want to --
 13 Victor, in your engineering
 14 report it looks like there's five variances on 9.01.
 15 I just want a clarification on that.
 16 **MR. VINEGRA:** If you look at my
 17 page two of the report front yard because,
 18 technically, you have to use the zone that it's in.
 19 As a residential zone 25 feet, they're proposing 20.
 20 Side five feet, they're proposing three. Rear 25
 21 feet, they're proposing eight. Open space and
 22 impervious coverage.
 23 But don't forget these are sections of a
 24 residential and not of commercial that's why I thought
 25

29

1 I included the GB zone which they closely match the GB
 2 zone requirements except for open space, you know.
 3 But, you know, again, this is improvements to what's
 4 going on there.
 5 **CHAIRPERSON VILLAGGIO:** I just
 6 wanted to clarify that your statement before that you
 7 basically said that most of the variances were on, you
 8 know, the undersized lot --
 9 **THE WITNESS:** Correct.
 10 **CHAIRPERSON VILLAGGIO:** -- but,
 11 you know.
 12 **THE WITNESS:** We do have some
 13 bulk variances on lot 9.01.
 14 **MR. DOOLEY:** Yes.
 15 **CHAIRPERSON VILLAGGIO:** Okay. I
 16 just wanted clarification that there was other
 17 variances on 9.01.
 18 **MR. DOOLEY:** Mr. Vinegra had
 19 identified some things that we didn't jump right onto,
 20 but, yes, they're there. No question about it.
 21 **MR. FRASER:** Before we totally
 22 leave 9.02, I won't ask anything else about 9.02. I
 23 want to understand. 9.02 is eventually going to
 24 merge --
 25 **THE WITNESS:** With 7.

30

1 **MR. FRASER:** Okay. I got that
 2 part. And you then testified in response to Mr.
 3 Dooley's corrective question that the variances all go
 4 away once that merges in. How does the side yard on
 5 9.02 go away?
 6 **MR. DOOLEY:** Here's the shed
 7 right here.
 8 **THE WITNESS:** Well, the side
 9 yard -- you see the building envelope that we have on
 10 the subdivision plan?
 11 **MR. FRASER:** Oh, because the
 12 three feet is on the side facing --
 13 **THE WITNESS:** I'm sorry that was
 14 my fault.
 15 **MR. DOOLEY:** I got it.
 16 **THE WITNESS:** Yes, that's what
 17 that is.
 18 **CHAIRPERSON VILLAGGIO:** Alright.
 19 Does anybody have any other further questions?
 20 **BOARD MEMBER PATERSON:** Yes, I
 21 actually do have one question. Vic listed it as a GB
 22 zone so if it was a GB zone, what kind of variances
 23 are we looking at?
 24 **THE WITNESS:** We still need the
 25 side yard variance and you need -- just the side yard.

31

1 **MR. VINEGRA:** No, you would need
 2 side yard, rear yard --
 3 **THE WITNESS:** Yeah. Eight versus
 4 ten, yeah.
 5 **MR. VINEGRA:** An open space and
 6 impervious coverage. Just open space. You would need
 7 three.
 8 **BOARD MEMBER PATERSON:** Okay.
 9 Thank you.
 10 **CHAIRPERSON VILLAGGIO:** Paul.
 11 **BOARD MEMBER TARANTINO:** What do
 12 you envision the proposed usage of the building of Lot
 13 9.01?
 14 **THE WITNESS:** The Applicant is
 15 here, you can ask him. My understanding is it's just
 16 for his use as a contractor. It stores tools,
 17 equipment, supplies, whatever he needs in there. It's
 18 not open to the general public. We can bring him up
 19 to confirm that, though, if you need to.
 20 **MR. DOOLEY:** I'll bring Mr.
 21 Hirsch up if you choose to. I had stated that in my
 22 opening that the whole idea was to use this and to
 23 continue the use that was previously approved for the
 24 storage of construction equipment and supplies during
 25 the course of their business. In this case Mr. Hirsch

32

1 is a mason, he's a mason contractor, so it would be
 2 his equipment, his vehicles and so forth and that's
 3 pretty much all that would be in there. It's not
 4 intended ever to be an office use in the sense of
 5 being a showroom office. I mean, obviously, he'll
 6 have a desk there so he can do paperwork, but other
 7 than that, it's not going to be a showroom. And,
 8 actually, Mr. Vinegra, in his letter, asked about, you
 9 know, what about a sign. They'll be no sign. If
 10 there is going to be a sign, the application would be
 11 made for a permit within whatever the ordinance is in
 12 Garwood. Nothing special would be asked for. But
 13 right now the intention is just to have this storage
 14 there and nothing else.
 15 **BOARD MEMBER TARANTINO:** Thank
 16 you for the clarification.
 17 **THE WITNESS:** Sure.
 18 **BOARD MEMBER PATERSON:** I have a
 19 question on that. There's parking spots there. What
 20 would the parking spots be used for then?
 21 **MR. DOOLEY:** Employees and Mr.
 22 Hirsch and his employees. I mean occasionally --
 23 Do you have a supplier who comes
 24 in and visits you, Frank?
 25 **MR. FRASER:** Well, if we're going

33

1 to call Mr. Hirsch as a witness --

2 **MR. DOOLEY:** We won't get to

3 that. But I think the sensible answer is occasionally

4 they'll be somebody dropping off, you know, a

5 delivery, but, basically we're talking about

6 employees.

7 **BOARD MEMBER MacINDOE:** I have a

8 question. Are the things that are going to be stored

9 there, is it going to be an increase to what's stored

10 there now?

11 **MR. DOOLEY:** I'd like to bring up

12 Mr. Hirsch.

13 **MR. FRASER:** These questions are

14 going to have to go to Mr. Hirsch.

15 **MS. MacINDOE:** I'm just curious

16 about any increase in traffic.

17 **MR. FRASER:** And I think that Mr.

18 Hirsch is the necessary witness anyway, but why don't

19 we finish with Mr. Watson, then we'll call Mr. Hirsch.

20 **MR. DOOLEY:** If there's any

21 questions on the planning aspects, please, anybody

22 else.

23 **BOARD MEMBER McCARRICK:** I'm just

24 curious about the eight foot rear setback. Why not

25 put a building that's two feet shorter and eliminate

34

1 that variance?

2 **THE WITNESS:** He determined the

3 size that he needs. That was the same size within

4 twenty square feet of the original application. I'm

5 making the assumption, and we can have him clarify

6 this, though, that the interior layout conforms to

7 what he needs. And when you're looking at 35 feet is

8 the requirement and we're going to eight. Eight gives

9 you plenty of room to get around there and service the

10 building.

11 **BOARD MEMBER McCARRICK:** But if

12 it was GB you would require ten and you'd still be too

13 short.

14 **THE WITNESS:** We can talk to him

15 about that, the problem is we're in an R-2 so we have

16 to go with what the R-2 requires.

17 **MR. FRASER:** But you're not doing

18 that either so you could at least come closer.

19 **MR. DOOLEY:** The question is

20 whether my client is willing to shorten the building,

21 that's the question.

22 **BOARD MEMBER McCARRICK:** That's

23 the question.

24 **MR. DOOLEY:** We'll get to that

25 when I get him up here.

35

1 **BOARD MEMBER JANNOTTI:** I have a

2 question. Will the front of the building, the wall of

3 the building that faces the parking lot, will that be

4 garage doors or something to get access into the

5 building for this storage?

6 **THE WITNESS:** Why don't we leave

7 that for Mr. Hirsch when he comes out, that way he can

8 clear-up the whole building.

9 **MR. DOOLEY:** Yeah, and I think

10 that's beyond the scope of this application at the

11 moment. I mean if you give us a building envelope, we

12 have to build it in conformance with your construction

13 codes.

14 **BOARD MEMBER JANNOTTI:** I was

15 just concerned about the parking lot and the ability

16 to get trucks and things into the building and the way

17 the parking lot is designed. So my question really is

18 part and parcel with the use of the building and the

19 parking lot that you have nine spaces there for.

20 **MR. DOOLEY:** Now, I understand

21 your question. So let's ask that. Well, first of

22 all, I think we're going to have to come back to him

23 on that because we have to talk to Mr. Hirsch about

24 that. And I wasn't, I didn't anticipate that

25 particular question. I'd like to bring Mr. Hirsch up.

36

1 **BOARD MEMBER JANNOTTI:** Okay.

2 **MR. FRASER:** Let's finish with

3 this witness.

4 **CHAIRPERSON VILLAGGIO:** Any other

5 members of the Board have any questions? Seeing none.

6 Did anybody member of the audience, the public, have

7 any questions for this witness seeing none, that

8 portion is closed.

9 **THE WITNESS:** Thank you for your

10 attention.

11 (Witness excused.)

12 **MR. DOOLEY:** I just need one

13 minute.

14 (There is a brief recess taken.)

15 **MR. FRASER:** If you need to

16 recall Mr. Watson later to follow-up on something that

17 Mr. Hirsch says, you'll be allowed.

18 **MR. DOOLEY:** Thank you. Just a

19 moment.

20

21 **CHAIRPERSON VILLAGGIO:** Mr.

22 Dooley, are you ready?

23 **MR. DOOLEY:** The next witness is

24 Frank Hirsch Junior. Frank Hirsch Junior runs the

25 business as it exists right now so he can answer

37

1 questions on what's going to go on in the business.
 2
 3 F R A N K H I R S C H, JR., residing at 409 Maple
 Street, Garwood, New Jersey, being first duly sworn,
 4 testified as follows:
 5 **MR. FRASER:** And your name, sir?
 6 **THE WITNESS:** Frank Hirsch.
 7 **MR. FRASER:** Spell Hirsch.
 8 **THE WITNESS:** H-I-R-S-C-H.
 9 **MR. FRASER:** And your address, Mr.
 10 Hirsch?
 11 **THE WITNESS:** 409 Maple Street,
 12 Garwood, New Jersey; south side of town.
 13 **MR. FRASER:** Your witness, Mr.
 14 Dooley.
 15
 16 **DIRECT EXAMINATION BY MR. DOOLEY:**
 17 **Q.** Mr. Hirsch, a question came up of the
 18 previous witness on whether or not there would be
 19 garage doors built on the west side of the building
 20 which accesses the parking lot. Now when you look at
 21 the building envelope, I understand from you you run
 22 the business, right --
 23 **A.** That is correct.
 24 **Q.** -- at this time. And you would be
 25 primarily in charge of the property once its

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1 developed, correct?
 2 **A.** That's correct.
 3 **Q.** Okay. So your intention would be to
 4 construct a building. Now you haven't designed a
 5 building yet?
 6 **A.** No.
 7 **Q.** Until we know what the envelope is going
 8 to be, you haven't designed a building?
 9 **A.** Right.
 10 **Q.** But it's your belief that what would
 11 happen is in the front portion of the building toward
 12 Willow Avenue, you would have some garage doors so
 13 vehicles could enter in out of the driveway?
 14 **A.** Right.
 15 **Q.** That's correct?
 16 **A.** Yes, on the west side.
 17 **Q.** On the west side of the building.
 18 **A.** Yeah.
 19 **Q.** There was another question about whether
 20 or not it would be reasonable to shorten the building
 21 by two feet to create a ten-foot backyard, is that an
 22 issue?
 23 **A.** No.
 24 **Q.** Not an issue?
 25 **A.** No.

39

1 **Q.** Not an issue. Mr. Jannotti, do you
 2 still have a question about the garage door?
 3 **BOARD MEMBER JANNOTTI:** I just
 4 have a question just for clarification. So the access
 5 to the building would be from Willow directly in; from
 6 Willow going into the building, but not go through the
 7 parking lot.
 8 **MR. DOOLEY:** No, no, that's not
 9 what he said. I said it would come through the
 10 parking lot into the front part of the building.
 11 **MR. FRASER:** Can we have the
 12 witness testify, Mr. Dooley.
 13 **MR. DOOLEY:** Well, that's what he
 14 said.
 15 **BOARD MEMBER JANNOTTI:** I thought
 16 he said he would come in from Willow.
 17 **MR. FRASER:** He's entitled to
 18 question the witness and if there's a question
 19 relative to what he said, the witness can answer.
 20 **MR. DOOLEY:** Go, go. Go for it.
 21 **THE WITNESS:** Right now looking
 22 at it now, it would most likely be coming in from
 23 Willow and making a right-hand turn and going
 24 eastbound into the building.
 25 **MR. DOOLEY:** When you say that

40

1 you mean you would have doors put in the west side of
 2 the building?
 3 **THE WITNESS:** On the west side of
 4 the building.
 5 **Q.** Towards the front of the bill?
 6 **A.** Toward the front.
 7 **BOARD MEMBER MacINDOE:** I did
 8 have a question, also. Do you store vehicles or
 9 whatever building materials is it, do you store those
 10 at that site now or are they stored --
 11 **THE WITNESS:** Yes, we do.
 12 **BOARD MEMBER MacINDOE:** Would
 13 there be any increase in the storage?
 14 **THE WITNESS:** No.
 15 **BOARD MEMBER MacINDOE:** Would
 16 there be any increase in traffic going in?
 17 **THE WITNESS:** No.
 18 **MR. FRASER:** Mr. Hirsch, do I
 19 understand that you are not the Frank Hirsch who is
 20 the Applicant, but you are rather his son?
 21 **THE WITNESS:** That's correct.
 22 **MR. FRASER:** And would I be
 23 correct in the assumption that you're here testifying
 24 on behalf of your father and that you have the
 25 authority to bind your father with your testimony?

41

1 **THE WITNESS:** Yes, sir.
 2 **MR. FRASER:** Thank you.
 3 **CHAIRPERSON VILLAGGIO:** Alright.
 4 Does other members of the Board --
 5 **BOARD MEMBER HAK:** I imagine,
 6 being in construction, most of your deliveries
 7 probably go to the job site.
 8 **THE WITNESS:** Most, yeah.
 9 **BOARD MEMBER HAK:** So you
 10 wouldn't probably --
 11 **THE WITNESS:** It would be maybe a
 12 Fed Ex or a UPS truck once in while bring a tool or
 13 something.
 14 **BOARD MEMBER HAK:** There's no
 15 real means for you to have to store a vast amount of
 16 material.
 17 **THE WITNESS:** No, we don't store
 18 nothing hazardous or anything like that; leftover
 19 brick from the job or something like that.
 20 **BOARD MEMBER HAK:** Minimal
 21 amounts of material.
 22 **THE WITNESS:** Yeah.
 23 **CHAIRPERSON VILLAGGIO:** Does
 24 anybody, does any other member of the Board have
 25 questions for this witness? Seeing none.

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1 Does anybody else have questions
 2 for this witness in the audience?
 3 **MR. FRASER:** Let the record
 4 reflect that no members of the audience have taken the
 5 opportunity to question this witness.
 6 (Witness excused.)
 7 **MR. FRASER:** Mr. Dooley, do you
 8 have another witness?
 9 **MR. DOOLEY:** I don't think so,
 10 actually, but let me just do one thing.
 11 Mr. Fraser, we don't have any
 12 witnesses at this time. I just reserve the right to
 13 recall witnesses in rebuttal if I need them for any
 14 reason.
 15 **MR. FRASER:** I think that Mr.
 16 Paterson actually briefly -- Mr. Paterson actually had
 17 a follow-up question for Mr. Watson.
 18 **BOARD MEMBER PATERSON:** No, Mr.
 19 Mikhail, the future owner.
 20 **MR. FRASER:** Could we recall Mr.
 21 Mikhail for one second.
 22 Mr. Mikhail, you're still under
 23 oath.
 24 **MR. MIKHAIL:** Yes, sir.
 25 **BOARD MEMBER PATERSON:** I'm just

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1 wondering once you subsume Lot 9.02 into your Lot 7
 2 you're going to have like 30 foot frontage on Willow,
 3 what were you planning to do with that 30 feet, a
 4 fence or a driveway?
 5 **MR. MIKHAIL:** Just a fence.
 6 **MR. PATERSON:** Just a fence. So
 7 you're not going to really have access with any
 8 automobiles or tow trucks or anything?
 9 **MR. MIKHAIL:** No.
 10 **BOARD MEMBER PATERSON:** That was
 11 it. Thank you very much.
 12 **CHAIRPERSON VILLAGGIO:** Okay.
 13 **MR. FRASER:** Then at that point
 14 with the conclusion of the Applicant's case subject to
 15 summation and rebuttal, at this point it would be
 16 appropriate if anyone, any member of the public wishes
 17 to present evidence or testify either in favor of or
 18 in opposition to the application. So if some members
 19 of the public want to talk about this application.
 20 **CHAIRPERSON VILLAGGIO:** Does any
 21 member of the public? Seeing none, that portion is
 22 closed.
 23 **MR. FRASER:** So we're not going
 24 to have any rebuttal because we had no evidence in
 25 response. Do you wish to sum up, Dooley, or do you

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1 actually waive.
 2 **MR. DOOLEY:** I actually waive
 3 summation. I think everything was pretty clear what
 4 our intentions are here and I would hope that the
 5 Board will take that into consideration.
 6 **CHAIRPERSON VILLAGGIO:** You're
 7 done, Mr. Dooley?
 8 **MR. DOOLEY:** I am.
 9 **CHAIRPERSON VILLAGGIO:** Okay.
 10 Victor, a question for you.
 11 **MR. VINEGRA:** Yes.
 12 **CHAIRPERSON VILLAGGIO:** With
 13 regard to the report that you submitted to us.
 14 **MR. VINEGRA:** Yes.
 15 **CHAIRPERSON VILLAGGIO:** Can we
 16 make that part of the record? That is part of the
 17 record and part?
 18 **MR. VINEGRA:** I guess you can ask
 19 Mr. Dooley, do you have any objection to agreeing to
 20 the items stated in the report?
 21 **MR. DOOLEY:** I have no specific
 22 objection and I believe our engineer and planner had
 23 no objections either. So the answer is no objections.
 24 **MR. VINEGRA:** One thing that's
 25 not in the report and we normally leave it for someone

45

1 else, do we have a tiny bike rack, like a small bike
 2 rack. I wouldn't be doing my job if I didn't ask.
 3 **BOARD MEMBER VENA:** I have
 4 something to say on what you said, Victor. I've lived
 5 around the corner from there, while outside the two
 6 hundred foot area, for 25 years, and I've never seen a
 7 bicycle go down that street.
 8 **BOARD MEMBER McCARRICK:** I have
 9 one final question. Were we provided with a purchase
 10 agreement for or potential purchase agreement?
 11 **MR. DOOLEY:** Actually, you were.
 12 **BOARD MEMBER McCARRICK:** We have
 13 this one which talks about Lots 11 and 12.
 14 **MR. DOOLEY:** Well, those, I think
 15 are old lot numbers. Are you looking at the one --
 16 alright. I see what you're saying.
 17 **BOARD MEMBER McCARRICK:** It
 18 doesn't relate to these lots.
 19 **CHAIRPERSON VILLAGGIO:** We can
 20 make that a condition of it.
 21 **BOARD MEMBER McCARRICK:** Okay.
 22 Thank you.
 23 **MR. DOOLEY:** The intention was
 24 and I don't know when the lot numbers changed when
 25 they originally went into that agreement, I can't tell

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1 you that because I wasn't part of that agreement, I
 2 just know what the two men said.
 3 **BOARD MEMBER McCARRICK:** Okay.
 4 **MR. DOOLEY:** And they said
 5 they're going to do the deal. And it's going to be a
 6 condition.
 7 **MR. VINEGRA:** I would just say if
 8 there was a positive motion for this application, that
 9 there will a restriction on new lot 9.02 that would
 10 have to be merged to its adjoining lot.
 11 **MR. FRASER:** Way ahead of you,
 12 Victor.
 13 **MR. VINEGRA:** I'll let the
 14 attorney be the attorney.
 15 **CHAIRPERSON VILLAGGIO:** Do we
 16 have any discussion up here? Can I have a motion?
 17 **BOARD MEMBER SCHERER:** I have a
 18 motion to grant the Applicant from relief of the
 19 variances and merging with the lot, what is that 9.02.
 20 **CHAIRPERSON VILLAGGIO:** And to
 21 include the engineering report.
 22 **MR. FRASER:** So to restate the
 23 motion, the motion would be to grant the minor
 24 subdivision that's requested together with any use
 25 variance relief that's necessary as requested subject

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1 to the condition that Lot 9.02 shall be merged by deed
 2 with existing Lot 7.
 3 And, further, subject to the
 4 condition that the Applicant will comply with all of
 5 the items set forth in the review letter from Harbor
 6 Consultants dated May 28, 2014.
 7 Is that your motion, Mr. Scherer?
 8 **BOARD MEMBER SCHERER:** Yes, it
 9 is.
 10 **BOARD MEMBER MacINDOE:** Second.
 11 **BOARD MEMBER HAK:** I wanted to
 12 add the ten foot setback to the GPW property.
 13 **MR. FRASER:** And further subject
 14 to the condition that the application be deemed
 15 amended so that the rear yard setback shall be ten
 16 feet where it was eight feet. Is that part of your
 17 motion, too, Mr. Scherer or not?
 18 **BOARD MEMBER SCHERER:** Yes, you
 19 can make that part of it.
 20 **MR. FRASER:** That's Mr. Scherer.
 21 **BOARD MEMBER MacINDOE:** I second.
 22 **CHAIRPERSON VILLAGGIO:** Adele,
 23 roll call, please.
 24 **BOARD SECRETARY LEWIS:** Bruce
 25 Paterson?

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1 **BOARD MEMBER PATERSON:** Yes.
 2 **BOARD SECRETARY LEWIS:** Gene
 3 Jannotti?
 4 **BOARD MEMBER JANNOTTI:** Yes.
 5 **BOARD SECRETARY LEWIS:** Georgia
 6 MacIndoe?
 7 **BOARD MEMBER MacINDOE:** Yes.
 8 **BOARD SECRETARY LEWIS:** Kathy
 9 Villaggio?
 10 **CHAIRPERSON VILLAGGIO:** Yes.
 11 **BOARD SECRETARY MacINDOE:** Robert
 12 Scherer?
 13 **BOARD MEMBER SCHERER:** Yes.
 14 **BOARD SECRETARY LEWIS:** Michael
 15 Vena?
 16 **BOARD MEMBER VENA:** Yes.
 17 **BOARD SECRETARY LEWIS:** And Timmy
 18 Hak?
 19 **BOARD MEMBER HAK:** Yes.
 20 **BOARD SECRETARY LEWIS:** Motion
 21 carries.
 22 **CHAIRPERSON VILLAGGIO:** Motion
 23 carries.
 24 **MR. DOOLEY:** Thank you.
 25 (Hearing is concluded.)

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CERTIFICATE

I, DEBRA-ANN BALSAMO, a Certified
Shorthand Reporter and Notary Public of the State of
New Jersey, certify that the foregoing is a true and
accurate Computerized Transcript of the proceedings as
taken before me stenographically on the date
hereinbefore mentioned.

DEBRA-ANN BALSAMO, C.S.R.

Dated: June 2, 2014
My Commission Expires on
December 6, 2016
License No. X101161

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BOROUGH OF GARWOOD
 PLANNING BOARD
 MUNICIPAL BUILDING
 403 South Avenue
 Garwood, New Jersey 07027
 Wednesday, May 28, 2014
 7:30 P.M.

x-----x
 CASE #PB14-01, TRANSCRIPT
 484 FOURTH AVENUE, OF
 BLOCK 102, LOT 10 PROCEEDINGS
 APPLICANT: ANGELA
 and SANDRO VILLARUAT

x-----x
BEFORE:
 BRUCE PATERSON - BOARD MEMBER
 GENE JANNOTTI - BOARD MEMBER
 GEORGIA MacINDOE - BOARD MEMBER
 KATHY VILLAGGIO - CHAIRPERSON
 ROBERT SCHERER - BOARD MEMBER
 MICHAEL VENA - BOARD MEMBER
 TIMOTHY HAK - BOARD MEMBER
 CRAIG McCARRICK - BOARD MEMBER
 PAUL TARANTINO - BOARD MEMBER

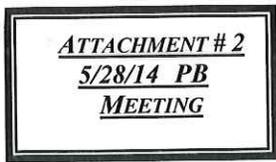
ALSO PRESENT:
 DONALD B. FRASER, JR. - BOARD ATTORNEY
 VICTOR VINEGRA - BOARD CONSULTANT
 ADELE LEWIS - BOARD SECRETARY

A P P E A R A N C E S
 HEHL and HEHL, ESQUIRES
 BY: STEPHEN F. HEHL, ESQ.,
 370 Chestnut Street
 Union, New Jersey 07083
 Attorneys for the Applicant
 DEBRA-ANN BALSAMO
 CERTIFIED COURT REPORTER

1 **CHAIRPERSON VILLAGGIO:** This
 2 application is 484 Fourth Avenue. Case PB14-01.
 3 Mr. Hehl.
 4 **MR. HEHL:** Yes. Good evening.
 5 Stephen Hehl with the firm of Hehl and Hehl
 6 representing the Applicants, Sandro and Angela
 7 Villaruat.
 8 **CHAIRPERSON VILLAGGIO:** Mr. Hehl,
 9 one second.
 10 **MR. FRASER:** Mr. Hehl, one
 11 second. We have a recusal at the outset.
 12 **BOARD MEMBER CUCCARO:** I'll be
 13 recusing myself. I'm within 200 feet of the property.
 14 **CHAIRPERSON VILLAGGIO:** Let the
 15 record reflect that.
 16 **MR. HEHL:** Appreciate that. We
 17 are here this evening for a multi-family project
 18 consisting of nine town homes on the property that I
 19 just mentioned over on Fourth Avenue. We are here on
 20 a bifurcated basis - and, Counsel, if you need to
 21 explain it more - essentially, what we're doing is
 22 we're looking for approval of the use and several of
 23 the variances associated with the application and then
 24 we would come back before the Board for site plan
 25 approval for more details with respect to layout and

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1 the like, so. And we're permitted to do that under
 2 the Municipal Land Use Law and that's how we would
 3 like to proceed before this Board.
 4 The variances that we are seeking are
 5 for the use because it's in a single-family zone and
 6 we are seeking multi-family residential and we also
 7 need a density variance and a height variance and,
 8 also, a floor area ratio, but we'll have our
 9 professionals, and in particular our professional
 10 planner, address those.
 11 The site does meet the requirements
 12 under the RSIS, which is the Residential Site
 13 Improvement Standard, but we do have adequate onsite
 14 parking. We have received the various departmental
 15 comments and we'll be able to address all of those.
 16 What I do plan to do this evening is to
 17 call upon our site engineer first to explain the
 18 layout and any plan that was submitted and then we
 19 would move onto our traffic engineer to explain the
 20 traffic and there was a traffic impact study and then
 21 move onto our architect and then our professional
 22 planner.
 23 There are proposed to have four
 24 three-bedroom units and five two-bedroom units as part
 25 of the application. As I mentioned, we would then



5

1 come back for site plan approval. And in discussions
 2 with my clients, they also would be willing to commit
 3 to make this a 55 and over community; age-restricted,
 4 55 and over.

5 So that's an overview of the
 6 application. If there are no preliminary questions
 7 from the Board, I would like to then call upon Thomas
 8 J. Quinn who is our professional engineer to explain
 9 the plan and we'll go through and mark each of the
 10 exhibits. We're going to be relying mainly upon what
 11 we submitted to the Board in connection with the
 12 application, but we do have some mounted exhibits that
 13 we'd like to mark as we proceed.

14
 15 THOMAS J. QUINN, PE, CME, with offices at
 328 Park Avenue, Scotch Plains, New Jersey, being
 16 first duly sworn, testified as follows:

17 **MR. FRASER:** Please state and
 18 spell your name.

19 **THE WITNESS:** Sure. Thomas J.
 20 Quinn, Q-U-I-N-N.

21 **MR. FRASER:** Your address.

22 **THE WITNESS:** Business address,
 23 328 Park Avenue, Scotch Plains, New Jersey.

24
 25 **DIRECT EXAMINATION BY MR. HEHL:**

6

1 **Q.** Now, Mr. Quinn, if you could please give
 2 the Board the benefit of your work experience, your
 3 area of expertise, whether you've testified before
 4 this or other Boards and been accepted as an expert in
 5 that field.

6 **A.** Certainly. I'm a 1993 graduate of NJIT.
 7 Been a professional engineer in the State of New
 8 Jersey since 1997. I have served as Board Engineer
 9 for probably seven or eight Boards over the course of
 10 that time and now I only serve one Board doing mostly
 11 design work.

12 I have been qualified through numerous
 13 Boards in this area, to name a few: Westfield, not
 14 Garwood yet, Cranford, Union, Hillside, Newark,
 15 Elizabeth, just to mention a few. I've testified
 16 before dozens and dozens of Boards in Union County
 17 alone.

18 **MR. FRASER:** Your licenses are
 19 all current, Mr. Quinn.

20 **THE WITNESS:** Yes, sir.

21 **MR. FRASER:** And solely in the
 22 field of engineering?

23 **THE WITNESS:** That's correct.

24 **MR. FRASER:** Madam Chairperson, I
 25 recommend Mr. Quinn be accepted as an expert by the

7

1 Board in the field of professional engineering.

2 **CHAIRPERSON VILLAGGIO:** Okay.

3 **THE WITNESS:** Thank you.

4 **MR. HEHL:** Thank you very much.

5
 6 **BY MR. HEHL:**

7 **Q.** Mr. Quinn, you've heard my opening
 8 statement. If you can give the Board an overview of
 9 the existing conditions and surrounding area and then
 10 we can move onto what's proposed by way of site
 11 improvements.

12 **A.** Sure. Before I do that, I would make
 13 reference to the exhibits I've brought with me. The
 14 exhibits on the left really is a -- that's the set of
 15 plans that the Board has received. I don't believe,
 16 unless the attorney would like me to, that they
 17 require marking.

18 The exhibit on the right is a colored
 19 rendering of the site plan which is one of the sheets
 20 in your plan set. Since that's been rendered I
 21 probably should color, it's already been colored, I
 22 should mark it.

23 **MR. FRASER:** The colored
 24 rendering put A-1 with today's date.

25 **THE WITNESS:** Yes, sir.

8

1 (Colored rendering is received
 2 and marked A-1 for identification.)

3 **A.** So the subject of the application for the
 4 record is Lot ten, Block 102. It's about a 45,000
 5 square foot lot which is slightly over one acre
 6 located in the RA single-family zone. It's currently
 7 developed by the Five Star Catering business that you
 8 may know located very near the road. It contains a
 9 small parking lot associated with it, access off
 10 Fourth Avenue very close to the Walnut Street
 11 intersection.

12 The front or the southerly third closest
 13 of the property to Fourth Avenue is cleared out, the
 14 remaining two-thirds of the lot are largely wooded.
 15 The site contains a couple of other constraints:
 16 Besides the fact that it's long and narrow, rather
 17 challenging to develop, there is a portion of the
 18 Rahway River known as the Gallows Hill Road branch
 19 that cuts to the extreme northern corner of the
 20 property, it carries a small floodplain with it.

21 There are also wetlands that have been
 22 delineated on this property by virtue of a previous
 23 application that will also be carried with this
 24 particular application. So due to the narrowness of
 25 the northern portion of the lot as well as some of the

9

1 environmental constraints that I had just indicated,
 2 development is precluded from that northern-third
 3 roughly of that lot. And you can see that on our
 4 proposed rendering whereby the buildings are in a
 5 yellowish color, the pavement in the gray color and
 6 the green area represents the undeveloped or wooded,
 7 grassed area. And you can see roughly the rear
 8 one-third of the portion, the triangle portion of that
 9 lot, needs to remain undeveloped because of the
 10 regulated areas and, also, because of the shape of the
 11 property.

12 We also, as you probably know, the
 13 property sits adjacent to the Brookside detention
 14 basin which is a regional basin that's actually
 15 located in Cranford. This property borders Cranford
 16 along the easterly property line. It also touches
 17 upon Westfield Township in the extreme northern
 18 portion of the property.

19 Okay. In the proposed condition, as you
 20 heard, the Applicant's proposing nine three-story
 21 townhouses. They're all accessed via a single 24-foot
 22 wide driveway located off Fourth Avenue in the
 23 position you see there located relatively close to the
 24 Walnut Street intersection. Each unit comprises two
 25 garage spaces and, also, has room in the front of the

10

1 unit for two spaces to park in front of the garage.
 2 So effectively there are four stalls available for
 3 each one of the units.

4 There are also five additional parking
 5 stalls located on the easterly side of that parking
 6 lot essentially for visitors. There's also a refuse
 7 area located along that same curbline adjacent to
 8 those parking stalls and we have a striped turnaround
 9 area also adjacent to those stalls and that's meant to
 10 provide a means for garbage vehicles or larger
 11 vehicles that will be coming on the site. We modeled
 12 the garbage truck so that they can pull in, turn
 13 around and pull out of the site headfirst rather than
 14 backing into the site because the site is not on a
 15 straight unfettered road, it is on a bit of a
 16 curvilinear road. So we're trying to maximum site
 17 distance and safety and we certainly don't want
 18 vehicles backing out at this location which is kind of
 19 currently the way the site occupies now or is
 20 organized now.

21 We have -- there's actually a fair
 22 amount of detail associated with this even though
 23 we're a bifurcated application, which means you're not
 24 voting on the site. Often times we find it difficult
 25 for Boards to make a decision about a use without

11

1 seeing the site and, you know, seeing as much of the
 2 site as we can commit to. Even though I have not run
 3 the numbers for lighting and for drainage and such,
 4 the components that you see on the site plan are the
 5 components that the actual site plan will contain if
 6 this application moves forward. So there's a lot of
 7 detail here that you're seeing so that it helps you
 8 form an opinion about the use.

9 We have all utilities that will be run
 10 from the existing utilities services provided on
 11 Fourth Avenue so there won't be any new utilities run,
 12 just new services. And as you heard the attorney
 13 indicate, we have some relief required from the
 14 ordinance. We have the use. We have the height
 15 whereby 30 feet is permitted, where currently
 16 proposing 36 feet the maximum height for the units.
 17 The maximum floor area we propose is about 20,000
 18 square feet whereas 3500 square feet is what would be
 19 max'd out for the single-family dwelling zone. We've
 20 also got a density, just barely a density issue
 21 whereby the ordinance requires no more than nine use
 22 per acre. We're at just under that. This property
 23 could contain between eight and nine acres so there
 24 will be a density variance as well.

25 Those are, yeah, without getting into

12

1 too much detail because the site has only been sort of
 2 conceptually designed, those are the highlights of the
 3 development plan and I'll gladly walk you through any
 4 additional detail you need or questions you may have
 5 without having me drone on about the site.

6 Q. And, Mr. Quinn, we realize that we do
 7 have our professional planner to address the variances
 8 in more detail, but in your opinion, as an engineer,
 9 can the site accommodate the proposed development?
 10 A. Yes, sir.

11 Q. Thank you.

12 MR. HEHL: I have no further
 13 questions at this time of Mr. Quinn. Certainly, he
 14 will be available for various questions from the Board
 15 and the public after our other witnesses have
 16 testified.

17 CHAIRPERSON VILLAGGIO: Okay.
 18 Does any member of the Board have any questions for
 19 the engineer?

20 BOARD MEMBER HAK: I have just
 21 one. You know, talking about, we just went through a
 22 lot of questions with the new building on South
 23 Avenue, is the site going to be maintained by the, you
 24 know, the original owners for snowplowing and things
 25 of that, things of that nature, you know, pruning and

13

1 trees and things of that.

2 **THE WITNESS:** I can let the

3 Applicant address that. My understanding is that

4 these are going to be for sale units so there may be

5 an association developed as part of this that will

6 maintain the common grounds.

7 **MR. HEHL:** That's what is

8 envisioned. It would be for sale, owned, with an

9 association to deal with, maintenance, and with things

10 such as garbage collection and the like.

11 **BOARD MEMBER HAK:** I think we all

12 know what we've gone through in the past, that's

13 something that needs to be addressed.

14 **MR. VINEGRA:** Actually, for these

15 type of developments, I think it's over six units, has

16 to abide by state law for a homeowners association so

17 they would have to file with the state for an approved

18 homeowners association. Under a certain amount of

19 units you can draft it yourself, over a certain amount

20 of units it has to be state-mandated homeowners

21 association.

22 Also, this would be, the way it's

23 designed, it would have to remain private. It does

24 not comply with our municipal standards for a roadway.

25 So this driveway and parking area could not be turned

14

1 over to the municipality, it would have to remain

2 private.

3 **BOARD MEMBER HAK:** The garbage

4 would have to be brought out for that unit?

5 **MR. VINEGRA:** It could be put our

6 or picked up privately. That can be discussed at the

7 site plan.

8 **BOARD MEMBER HAK:** I don't mean

9 to jump ahead, I'm sorry, it's just that we went

10 through so many --

11 **MR. FRASER:** No, the question is

12 completely proper.

13 **MR. VINEGRA:** This Board has the

14 authority this application to have private trash

15 pickup. They have to do private snow removal.

16 **CHAIRPERSON VILLAGGIO:** Are we

17 going to have Mr. Villaruat as one of your witnesses?

18 **MR. HEHL:** We weren't planning on

19 it, but certainly if there's a particular question --

20 **CHAIRPERSON VILLAGGIO:** Because

21 of the questions that may or may not be asked.

22 **MR. HEHL:** But I can represent at

23 this time, on behalf of the Applicant, that it is

24 proposed to be, again, a for sale product with a

25 private trash removal. There is a trash area

15

1 designated on the plan so it wouldn't be brought out

2 on to the street, it would go to that trash area and

3 there would be snow removal done as far as the

4 association.

5 **CHAIRPERSON VILLAGGIO:** So you

6 have answered the questions.

7 **MR. FRASER:** And there will be a

8 homeowners association, Mr. Hehl?

9 **MR. HEHL:** Correct.

10 **BOARD MEMBER MacINDOE:** I just

11 want to get it straight in my mind. Homeowners

12 associations are mandated for town homes as well as

13 condo associations?

14 **MR. VINEGRA:** Yes, an undersized

15 roadway. Because this property, the homes, will not

16 be fronting on an approved roadway, they have to be

17 part of an association, because this is, the driveway,

18 will not be an approved roadway the way its designed.

19 **MR. FRASER:** Mr. Quinn, can you

20 briefly, have you had a chance to review Mr.

21 Underhill, the police chief's letter?

22 **THE WITNESS:** Yes. I think the

23 traffic consultant was going to opine on this in

24 greater detail.

25 **MR. VINEGRA:** Okay.

16

1 **THE WITNESS:** But I have seen it.

2 **MR. VINEGRA:** So it will be

3 addressed by the traffic consultant?

4 **THE WITNESS:** Yes, sir.

5 **MR. VINEGRA:** How about the fire

6 subcode official.

7 **CHAIRPERSON VILLAGGIO:** Fire

8 chief.

9 **MR. VINEGRA:** The fire chief.

10 **THE WITNESS:** I'm looking at it

11 now.

12 **MR. VINEGRA:** Nothing major.

13 **THE WITNESS:** Truck signage, fire

14 department connection, that shouldn't be a problem.

15 **MR. HEHL:** I think most of the

16 that will be addressed by our, the architect.

17 **THE WITNESS:** Yeah, and this

18 doesn't seem to be any issue. This is typical of

19 multi-family units.

20 **MR. VINEGRA:** Okay.

21 **MR. FRASER:** So the architect

22 will address the fire and Mr. Staigar will address the

23 police?

24 **THE WITNESS:** Correct.

25 **BOARD MEMBER JANNOTTI:** You

17

1 mentioned quickly this would be 55 and over
 2 restricted?
 3 **THE WITNESS:** That's my
 4 understanding, yes, sir.
 5 **CHAIRPERSON VILLAGGIO:** Does any
 6 other member of the Board have any questions for this
 7 witness? Seeing none. Any member of the audience
 8 have any questions for this witness?
 9 **MR. CORBIN:** I have one question.
 10 **CHAIRPERSON VILLAGGIO:** Will you
 11 please stand and state your name and address.
 12 **MR. CORBIN:** My name is Horace
 13 Corbin, 430 Union Street.
 14 **MR. FRASER:** Mr. Corbin, for the
 15 benefit of the Court Reporter, would you please spell
 16 your last name.
 17 **MR. CORBIN:** CORBIN. And Horace,
 18 HORACE.
 19 **MR. FRASER:** Go ahead, Mr.
 20 Corbin.
 21 **MR. CORBIN:** Okay. It's very
 22 difficult to view that property from the Fourth Avenue
 23 perspective looking back toward the creek towards
 24 Westfield.
 25 **THE WITNESS:** Okay.

18

1 **MR. CORBIN:** You show the trees
 2 there in green -- have you been to the property?
 3 **THE WITNESS:** Yes, sir, I have.
 4 **MR. CORBIN:** And those trees
 5 exist?
 6 **THE WITNESS:** Yes, to the rear of
 7 the property, the one's shown in the triangle, yes,
 8 sir.
 9 **MR. CORBIN:** So all the other
 10 property which is adjacent which is 490 that goes
 11 straight back --
 12 **THE WITNESS:** On the right
 13 side?
 14 **MR. CORBIN:** 490 is upper as you
 15 look at the plan.
 16 **THE WITNESS:** Oh, okay. Towards
 17 the west side of the property.
 18 **MR. CORBIN:** Correct. So none of
 19 those trees are on that 490 property?
 20 **THE WITNESS:** That's correct.
 21 **MR. CORBIN:** In your site plans I
 22 also notice that you show the wetlands on the 490
 23 property.
 24 **THE WITNESS:** Yeah, that was
 25 inherited by us, we did not do the wetlands

19

1 delineation. The base mapping for this project, the
 2 survey base mapping that we utilized came from another
 3 project that was approved by this Board in 2011. It
 4 was the base map at that time for another subdivision
 5 that was being sought.
 6 **MR. CORBIN:** That eventually was
 7 withdrawn or did not go through.
 8 **THE WITNESS:** Yes. But those
 9 environmentally-regulated areas were identified at
 10 that time by that engineer.
 11 **MR. CORBIN:** When you show them
 12 on your drawings, you don't claim any inheritance --
 13 **THE WITNESS:** Ownership for them,
 14 yes.
 15 **MR. CORBIN:** Thank you.
 16 **CHAIRPERSON VILLAGGIO:** Is there
 17 any other member of the public? Sir.
 18 **MR. UZARSKI:** Yes. My name is
 19 John Uzarski, U-Z-A-R-S-K-I. I'm a resident of 415
 20 Union Street. And my concern was detail of the
 21 traffic study, is that going to be discussed in
 22 detail?
 23 **CHAIRPERSON VILLAGGIO:** There's
 24 going to be testimony regarding that later.
 25 **MR. HEHL:** Yeah, that actually,

20

1 Mr. Uzarski, will be our next witness.
 2 **MR. UZARSKI:** Okay.
 3 **CHAIRPERSON VILLAGGIO:** Anybody
 4 else?
 5 **MR. DOUGERT:** Dave Dougert, 309
 6 Walnut. D-O-U-G-E-R-T.
 7 Looking at the plans there in the
 8 parking and design layout, is this going to be what
 9 it's going to look like?
 10 **THE WITNESS:** I don't know why it
 11 would change.
 12 **MR. DOUGERT:** Is there any
 13 handicap parking spaces there for anybody 55 and older
 14 who may need handicap including in this design if they
 15 want to live there.
 16 **THE WITNESS:** Actually, we did
 17 not contemplate handicap stalls for visitors. The
 18 architect may discuss how accessibility is provided by
 19 some of these units, but in terms of the site parking,
 20 he did not design it for accessible visitors.
 21 **MR. DOUGERT:** Okay.
 22 **MR. HEHL:** But I will say that
 23 and we will be back for the site plan portion, that we
 24 need to comply with ADA and it certainly would be both
 25 the buildings if required and the lot and parking and

21

1 the like.

2 **MR. DOUGERT:** Okay.

3 **CHAIRPERSON VILLAGGIO:** Any other

4 member of the public? Seeing none, that portion is

5 now closed.

6 **MR. FRASER:** Your next witness,

7 Mr. Hehl.

8 **MR. HEHL:** Yes. I'd like to call

9 upon Mr. Joseph Staigar. Thank you, Mr. Quinn.

10 (Witness excused.)

11

12 **JOSEPH J. STAIGAR**, being first duly

13 sworn, testified as follows:

14 **MR. FRASER:** Please state and

15 spell your name for the record and give your address.

16 **THE WITNESS:** Yes. My name is

17 Joseph Staigar, S-T-A-I-G-A-R.

18 **MR. FRASER:** And Mr. Staigar will

19 be undoubtedly providing testimony as an expert in the

20 field of traffic engineering; is that correct, Mr.

21 Hehl?

22 **MR. HEHL:** Yes, that is correct.

23 **MR. FRASER:** And, Mr. Staigar,

24 your licenses are all still current, I assume?

25 **THE WITNESS:** Yes, they are.

Professional engineer's license in the State of New

22

1 Jersey.

2 **MR. FRASER:** Mr. Staigar's

3 credentials are painfully familiar to all of us and I

4 recommend that he be accepted as an expert in the

5 field of traffic engineering.

6 **THE WITNESS:** Thank you.

7 **MR. HEHL:** Thank you very much.

8

9 **DIRECT EXAMINATION BY MR. HEHL:**

10 **Q.** Mr. Staigar, again, you've heard the

11 testimony so far of Mr. Quinn and my opening statement

12 and you did prepare a traffic impact study. If you

13 could please provide to the Board and the public a

14 general overview of your findings and then, also,

15 please discuss the report that was issued by the

16 police department.

17 **A.** Yes. We prepared a traffic impact study.

18 It is an evaluation of what the potential impacts

19 would be on traffic conditions by the proposal. It's

20 broken down into three parts: The first part is we

21 analyze existing conditions; we go out and take

22 traffic counts and measure roadway widths and turning

23 lanes and so forth. We take an inventory of existing

24 conditions.

25 The second part is the projection of how

23

1 much traffic the proposal would generate and

2 superimpose that onto the existing conditions to

3 determine what the impacts may be. And then the last

4 part being evaluation of the site plan in terms of

5 ingress and egress, internal circulation and parking.

6 First part was we went out we went out in this past

7 January on Thursday the 16th and Thursday the 23rd to

8 take traffic counts. We took traffic counts at the

9 obvious intersection of Fourth Avenue and Walnut

10 Street between the typical peak hours of roadway, 7 to

11 9 a.m., 4 to 6 p.m. which are the peak hours of a

12 residential use as well. We found out that the peak

13 hours occur between 8 and 9 a.m. and actually 4:45 to

14 5:45 p.m. When we take counts, we take them in 15

15 minute increments over the two hours in the a.m. and

16 two hours in the p.m. and the four consecutive 15

17 minute period give us our absolute peak hour during

18 that two-hour time period.

19 Across the site on Fourth Avenue traffic

20 volumes, two-way volumes give the Board a magnitude of

21 volume of 400 vehicles per hour in both directions;

22 that's two-way volume during the a.m. peak hour and

23 during the p.m. peak hour a little bit heavier at

24 about 500 vehicles per hour. Now on average those

25 numbers are one vehicle every nine seconds in either

24

1 direction. There are 3600 seconds in an hour and if

2 you have 400 vehicles per hour traveling either north

3 or south on Fourth, that equates of an average of

4 about one vehicle every nine seconds, again, to give

5 the Board a perception of order of magnitude of the

6 type of volume that we're dealing with on the

7 roadways.

8 The intersection of Walnut and Fourth

9 Avenue operates at a good level. It's a level of

10 service. We have level service A for the left turn

11 from Fourth traveling southbound onto Walnut and we

12 have Walnut operating at B in the morning and C in the

13 evening peak hour.

14 Now the Board has heard me as well as

15 other traffic engineers talk about levels of service

16 and maybe the public not so familiar with it, but

17 levels of service deal with the operational conditions

18 of a roadway network or an entity of the roadway

19 whether it's an intersection or a freeway, ramp or any

20 type of element of a roadway. And in this case we

21 have an unsignalized intersection that's controlled by

22 a stop sign. Traffic on Walnut needs to stop in order

23 to make a left or a right turn, wait for a gap in

24 traffic on Fourth Avenue. In order to make the left

25 turn traveling southbound on Fourth you have to wait

25	<p>1 for a gap in traffic traveling northbound. And that</p> <p>2 all takes time and that's a function of what the</p> <p>3 volume of traffic is on those roadways and it's</p> <p>4 modeled, there's a computer model of the intersection</p> <p>5 and what we can analyze and determine is what the</p> <p>6 average delay is in making those movements either</p> <p>7 rights or lefts. And we categorize the delays into</p> <p>8 levels of service just like in grade school A through</p> <p>9 F, A being the best condition, minimal delay. F being</p> <p>10 congestive, worse condition, with long delays. And we</p> <p>11 are in that upper range of A through C at this</p> <p>12 intersection telling us that it operates at good</p> <p>13 levels of service. These are all very acceptable</p> <p>14 levels of service for peak hour conditions.</p> <p>15 And, again, to relate it to delay such</p> <p>16 as calculated delays of zero to ten seconds as level</p> <p>17 of service A, ten to 20 is B and so forth. And we're</p> <p>18 in that, as I said, A to B -- A to C range.</p> <p>19 The next aspect of the study was to</p> <p>20 analyze and project how much traffic these nine</p> <p>21 townhouses will generate. Townhouses -- well, in</p> <p>22 order to establish that what we utilize is the</p> <p>23 Institute of Transportation Engineers - the ITE is the</p> <p>24 acronym - trip generation manual and this the bible in</p> <p>25 trip traffic engineering that the DOT uses, that your</p>	27	<p>1 network, we still operate in that same realm of level</p> <p>2 of service, A through C. The application, as I</p> <p>3 understand it, is now changed to an age-restricted of</p> <p>4 55 and older development which is a lessor intensity</p> <p>5 than a non age-restricted. We, our firm, has studied</p> <p>6 this pretty extensively existing 55 and older</p> <p>7 developments in northeast Jersey, particularly in</p> <p>8 Union County as well, and what we find is that the</p> <p>9 trip generation intensity is about one half for</p> <p>10 age-restricted from non age-restricted. And I get the</p> <p>11 same kind of question, also, is, hey, 55 years, that's</p> <p>12 a young age, people are still working at that age.</p> <p>13 Well, these are 55 and older; some may be retired,</p> <p>14 some may not be retired. And what we find is that the</p> <p>15 daily volume certainly may remain the same, meaning</p> <p>16 the 24-hour volume for age-restricted units versus non</p> <p>17 age-restricted units, but they're not particularly</p> <p>18 working that nine to five job or leaving, everybody</p> <p>19 leaving in the morning to drop their kids off at</p> <p>20 school or go to work and then the reverse flow in the</p> <p>21 evening, that it's more of a, I'll call it, a</p> <p>22 leisurely pace of exiting in the morning and returning</p> <p>23 back in the evenings so that the volumes are about</p> <p>24 half of what they are for non age-restricted. So that</p> <p>25 four trips per hour relates to about two trips per</p>
26	<p>1 county engineer and even your borough engineer</p> <p>2 utilizes in determining what the trip generation would</p> <p>3 be for various land uses. One of the land uses that</p> <p>4 is study quite extensively by the ITE there are</p> <p>5 townhouse units. Nine townhouse units during the peak</p> <p>6 hour, just that one hour in the morning, the peak</p> <p>7 hour, will generate four trips in the morning peak</p> <p>8 hour and five trips in the evening peak hour.</p> <p>9 The question I'm always asked is, well,</p> <p>10 how does nine townhouses only generate four trips in</p> <p>11 the morning, well, that's just an hourly volume.</p> <p>12 Residents leave their home anywhere from say 5:30 in</p> <p>13 the morning until 9:30 or ten o'clock in the morning</p> <p>14 in order to commute at the reverse over a two or</p> <p>15 three-hour period as well. So people work at</p> <p>16 different locations, they start at different times,</p> <p>17 they have different times of commutation as well. So</p> <p>18 their start and stop times in these nine units will be</p> <p>19 varied throughout those time periods. Statistically,</p> <p>20 those numbers come out for nine townhouses four in the</p> <p>21 morning, five trips in the evening peak hours.</p> <p>22 Now what I did not -- and those are the</p> <p>23 numbers I included in my report which, again, relate</p> <p>24 to good levels of service. When I superimpose that</p> <p>25 relatively low volume of traffic onto the roadway</p>	28	<p>1 hour for age-restricted and the five trips relate,</p> <p>2 again, to about two to three trips per hour.</p> <p>3 I bring this out not that the magnitude</p> <p>4 makes much difference at all because we're still</p> <p>5 talking about very low volumes, but I understand that</p> <p>6 this parcel, this property has most recently been</p> <p>7 approved for a three single-family development and the</p> <p>8 single-family development trip generation is three,</p> <p>9 excuse me, one trip per unit per peak hour. So three</p> <p>10 single-family units generates three trips compared to</p> <p>11 the two to three trips that these nine age-restricted</p> <p>12 townhouses will generate. So the magnitude of traffic</p> <p>13 that will be generated by this site is very similar,</p> <p>14 if not identical, to a three single-family residential</p> <p>15 development in terms of trip generation.</p> <p>16 So the impacts, the point is that just</p> <p>17 by taking the shear numbers, finding that there is no</p> <p>18 impact, that the levels of service remain the same for</p> <p>19 existing and proposed conditions, but, also, making a</p> <p>20 comparison to an approved use on this property which</p> <p>21 generates the same amount of traffic than the nine</p> <p>22 townhouse age-restricted units would generate.</p> <p>23 The last part of the analysis was an</p> <p>24 evaluation of the site plan. As you heard from Mr.</p> <p>25 Quinn and Mr. Hehl, we are a bifurcated application.</p>

29	<p>1 We don't have a fine-tuned or fully engineered site 2 plan, but the elements of the layout are certainly 3 provided to the Board to get a clear understanding of 4 where the driveway is going to be, how the driveway 5 will operate, what the internal circulation will be as 6 well as the parking.</p> <p>7 One of the key safety aspects that this 8 proposal will have is that everyone will enter the 9 site and exit the site will do it fronting in and 10 fronting out. If the existing site, the catering 11 facility has its driveways that unless there's no 12 other cars parked or minimum cars parked in the 13 parking lot that front up to the building, you have to 14 backout onto Fourth Avenue in order to leave the site. 15 The two single-family homes to the north of the site 16 operate the same way; you front up into the driveway 17 where the garages are on the two abutting or adjacent, 18 northerly properties and you have to back out onto, 19 onto Fourth Avenue. The key factor is that further 20 north of the site there is a curve in the road such 21 that those driveways, all three driveways, the two 22 single-family homes and the existing catering facility 23 very difficult to see. Now if you can imagine trying 24 to -- if a vehicle traveling on Fourth Avenue has 25 difficulty seeing you, certainly if you're trying to</p>	31	<p>1 So the point I'm trying to make here is 2 that while there is some impairment to site visibility 3 due to the speed, and I understand there are hidden 4 driveway signs prior to approaching this site, at our 5 site, which is the third property into the curve, you 6 have your two single-family homes and then the 7 Applicant's property is the third property furthest 8 from the intersection. There is a site visibility 9 that matches the speed limit of the roadway such that 10 it will operate safely.</p> <p>11 We will design, certainly they're in 12 site plan, so that any vegetation within our sight 13 that we can control will be trimmed and/or removed. 14 Anything above say 30 inches will be removed. Any 15 limbs that might be hanging over less than seven feet 16 will be removed and within the right-of-way as well. 17 Obviously, needing the township's permission within 18 the right-of-way that the Applicant will be willing to 19 remove or trim or whatever needs to be done that 20 vegetation that impairs site visibility at the 21 driveway. I believe there is some vegetation 22 currently, not on the Applicant's property, but within 23 the right-of-way that could be trimmed or removed to 24 enhance site visibility. 25 The site, as Mr. Quinn has pointed out,</p>
30	<p>1 backout of those driveways, you can't see those 2 vehicles on Fourth Avenue. That situation will be 3 eliminated by the reorganization of the site so that 4 the driveway operates as a front in and a front out.</p> <p>5 There is about 150 feet of site 6 visibility as one tries to leave the proposed site 7 looking to their left into the curve. There is 150 8 feet which relates to a speed limit of 25 miles per 9 hour. The stopping site distance for 25 miles an hour 10 is 150 feet so there is adequate site distance at this 11 driveway. The regulating factor here is that while 12 the curvature of the road impedes or impairs I should 13 say, impairs site visibility further to the south, it 14 also controls the speed of vehicles. That curve is a 15 150 foot radius, a centerline radius, which relates to 16 25 mile an hour maximum speed. If you travel at a 17 higher speed than 25 miles per hour through that 18 curve, you're going to feel very uncomfortable. 19 You're going to feel like the car is going to want to 20 slide off due to the centrifugal force and, therefore, 21 you're going to slow down. So there is a controlling 22 speed factor such that people traveling at 35 or 40 23 miles an hour, although they might be inclined to 24 speed through this intersection will not be able to 25 because of that controlling factor through that speed.</p>	32	<p>1 has been designed to accommodate service vehicles; the 2 garbage truck that would come in say twice a week, 3 fire apparatus and other emergencies as well would be 4 able to utilize this site as well. A hook and ladder 5 truck if it happens to come in would have to backout. 6 But, again, it can front in and get to the emergency 7 immediately, put out the fire that it needs to. After 8 the fire is over, it would have to backout of the 9 site, it wouldn't be able to turn around. But a 10 pumper truck would be, just as a garbage truck would 11 be and all other service vehicles that would be 12 intended on the site.</p> <p>13 Adequate excess area for snow piling, 14 pushing the snowplowing and pushing the snow to the 15 rear or to the sides of the site so that there's no 16 -- there's more than ample room to accommodate that 17 which is somewhat, I would say, unusual in many 18 multi-family developments that I've seen and have 19 analyzed. Many times we've had to have the snow 20 removed because there is no place to pile the snow, 21 but this site certainly has that capability. That's 22 primarily the traffic report.</p> <p>23 Q. Alright. And if you could now turn to 24 the letter that was issued by Chief Bruce Underhill. 25 A. Yes. And I'll go through the items. The</p>

33	<p>1 first item talks about the blind curve traveling I 2 would call it southbound on Fourth Avenue that there's 3 two caution signs warning of hidden driveways and a 4 school crossing at Walnut Streets. These signs shall 5 be upgraded with flashing yellowing LED lights above 6 and below the sign to provide maximum warning to 7 approaching motorists. Well, we can handle that 8 during site plan approval, but I think the key here is 9 that we're fixing our driveway. The reason why there 10 are hidden driveway signs there because the two 11 single-family homes that are further to the north are 12 closer to the or closer to the curve and that you have 13 to backout of those driveways just as you have to 14 backout of the existing site driveway. The existing 15 catering driveway does not have sufficient site 16 visibility for a driver backing out being able to see 17 150 feet down the road. We're fixing that, our 18 situation, by providing a means to front out of that 19 and so that the driver is forward of the vehicle and 20 then able to see out of their left window in order to 21 see ample time or ample time and distance on Fourth 22 Avenue. 23 So I would say that our proposal does 24 not warrant the need for these signs to be enhanced. 25 We're willing to pay for our fair share, if that's the</p>	35	<p>1 on Fourth Avenue, that's what we call the clear zone 2 and there's a way of defining what that clear zone is 3 based on ASHTO and other means. So that barricade 4 would have to be out of the clear zone in order to be 5 safe or we can do it with just signage which I think 6 the officer or the police chief alluded to as well. 7 Again, I think it's something we can work out during 8 site plan, but something that we would certainly 9 entertain. 10 The fourth one deals with a flashing 11 light at the intersection of Walnut and Fourth and, 12 typically, you don't see blinker lights at a T 13 intersection because it's obvious. The Fourth Avenue 14 would have the yellow as it has now the right-of-way 15 and the red light, blinking light, would control 16 Walnut Street. But it's obvious Walnut Street being 17 the stem of the T intersection, it's an obvious feel 18 that I need to stop at that location. If we do put 19 the signs opposite Walnut Street, warning signs that 20 it is a stop condition, that may help causing those 21 people to stop or creating a condition that would have 22 them stop. But, again, a flashing yellow light would 23 not be warranted at this location. 24 And then lastly, number five, again, I 25 think the Chief kind of alludes to that it may not be</p>
34	<p>1 case. I think our fair share would be a certain 2 percentage, a proportionate number, but certainly 3 we're not creating a hidden driveway or a school 4 crossing concern, we're actually fixing that concern 5 by revamping the driveway alignments. 6 Number two deals with foliage being 7 removed and to maximize site lines and we will be 8 willing to do that. That's a yes for sure. 9 Fourth Avenue talks about a fixed 10 barricade opposite Walnut Street and that's probably a 11 good idea. That would protect our, certainly our 12 residents. The only concern that I have is that that 13 barrier if it was to be a barricade would have to be 14 out of what's called a clear zone of Walnut Avenue. 15 When you put a barricade which what the intent is 16 this: Someone traveling on Walnut Street, they don't 17 see the stop sign and they just go barreling right 18 through the intersection and into the property. 19 That's a very unlikely situation that may happen. And 20 if you put a barricade along Fourth Avenue to stop 21 that vehicle, it also becomes an obstacle for people 22 on Fourth Avenue as well. If there was ever a driver 23 that came off the road and was able to recover; 24 travel, come off the road on Fourth Avenue for 25 whatever reason and then able to recover to get back</p>	36	<p>1 feasible. If it's not feasible, a blinking stop sign 2 northbound on Walnut Street replacing the current stop 3 sign should be considered and this would control or 4 reduce rolling stops. I don't think it would control 5 or stop or reduce rolling stops if you put the 6 flashing light there versus a non flashing light. 7 Again, I don't think -- I don't think it's really 8 relative to our application in terms of us having an 9 impact on the operation of Walnut and Fourth Avenue, 10 but, again, it's something we would entertain if there 11 is a means or appropriate means to make things safer. 12 But I think the fact that we are changing the geometry 13 significantly of our driveway certainly makes the 14 intersection much safer than what exists today. 15 MR. HEHL: Thank you, Mr. 16 Staigar. I have no further questions of Mr. Staigar 17 at this time. 18 MR. FRASER: So ultimately, Mr. 19 Staigar, it's your opinion that there's into negative 20 impact on traffic that would be created by this 21 application, correct? 22 THE WITNESS: That is correct. 23 Actually, a positive impact by changing the driveway 24 configuration. 25 MR. FRASER: I agree with that,</p>

37	<p>1 but I'm not even on that part yet.</p> <p>2 THE WITNESS: Okay.</p> <p>3 MR. FRASER: And, ultimately,</p> <p>4 you're saying at worse there's four or five additional</p> <p>5 cars per hour that get added to what's presently an</p> <p>6 acceptable level of service and it's not going to</p> <p>7 materially negatively impact that, correct?</p> <p>8 THE WITNESS: Yes. It won't</p> <p>9 degrade the levels of service.</p> <p>10 MR. FRASER: Degrade. Thank you.</p> <p>11 CHAIRPERSON VILLAGGIO: Does</p> <p>12 anybody else on the Board have any questions for this</p> <p>13 witness?</p> <p>14 BOARD MEMBER HAK: I have one</p> <p>15 question, just because I do pick up my child and it's</p> <p>16 kind of a crazy turn, would the people who are looking</p> <p>17 into this be willing to look into a flashing red light</p> <p>18 or flashing yellow light just to, you know, because it</p> <p>19 is kind of a crazy turn during peak hours with</p> <p>20 children it gets, I don't think it would be such a bad</p> <p>21 idea.</p> <p>22 THE WITNESS: Mm-hmm. No, I</p> <p>23 understand that. I think we would be willing to look</p> <p>24 at it. We're not unwilling to look at it, but.</p> <p>25 BOARD MEMBER HAK: That's my --</p>	39	<p>1 THE WITNESS: No, a yield sign is</p> <p>2 where you may have to come to a stop if someone else</p> <p>3 is in your way. So it's telling you you don't have to</p> <p>4 stop, but you have to yield to whoever. So, no, a</p> <p>5 yield sign would not be appropriate for Fourth Avenue.</p> <p>6 BOARD MEMBER PATERSON:</p> <p>7 Psychologically, though, at least make people think,</p> <p>8 right?</p> <p>9 THE WITNESS: No, confuse people,</p> <p>10 I think.</p> <p>11 CHAIRPERSON VILLAGGIO: Only</p> <p>12 thing you would yield to over there are the deer.</p> <p>13 THE WITNESS: I think the hidden</p> <p>14 driveway, the purpose of the hidden driveway is that</p> <p>15 it may become an expected event as opposed to an</p> <p>16 unexpected event. What happens is as you're driving</p> <p>17 and all of a sudden a deer jumps in front of your car,</p> <p>18 your time to react from your eye to your brain to your</p> <p>19 foot takes longer than if you're sitting there waiting</p> <p>20 for a deer. So once you see that hidden driveway, it</p> <p>21 alerts you there may be somebody coming out of that</p> <p>22 driveway so that your reaction time -- you may slow</p> <p>23 down, that may be one thing, hey, there's a potential</p> <p>24 danger here, but your reaction time also decreases</p> <p>25 when you expect an event.</p>
38	<p>1 you know, be open-minded.</p> <p>2 MR. VINEGRA: Mr. Hak, I think if</p> <p>3 they were to come back, if this Board would deem this</p> <p>4 affirmative and they would come back with a site plan,</p> <p>5 I would like to have a meeting with Bruce Underhill,</p> <p>6 myself and the developer's traffic engineer to, at a</p> <p>7 minimum, at a minimum, create a safe crossing at this</p> <p>8 location, painted, delineated and with handicap ramps</p> <p>9 on both sides of the street to give us a safer</p> <p>10 crossing over there with some warning signs. So I</p> <p>11 think that would be something that I would want to see</p> <p>12 there, too, I think you're right about that, because</p> <p>13 now you have nine units, people who may want to walk</p> <p>14 across the road to go to --</p> <p>15 BOARD MEMBER HAK: They may want</p> <p>16 to go across the street.</p> <p>17 MR. VINEGRA: -- go to Shop Rite</p> <p>18 or to go elsewhere and we want a safe crossing over</p> <p>19 there. I think that's a good recommendation. I agree</p> <p>20 with you.</p> <p>21 CHAIRPERSON VILLAGGIO: Mr.</p> <p>22 Paterson.</p> <p>23 BOARD MEMBER PATERSON: A yield</p> <p>24 sign, would that be a reasonable sign to have coming</p> <p>25 up on the curve, it sounds like it's inappropriate.</p>	40	<p>1 BOARD MEMBER PATERSON: Annually,</p> <p>2 the police do like an accident study per intersection,</p> <p>3 did you get ahold of that?</p> <p>4 THE WITNESS: No, we didn't, but</p> <p>5 I think based on Victor's point meeting with the</p> <p>6 police chief that would be one thing that we would</p> <p>7 look at. Two, if there is a series of events of</p> <p>8 accidents that are occurring that may have an ability</p> <p>9 to be rectified, then that's something that absolutely</p> <p>10 should be looked into.</p> <p>11 MR. VINEGRA: Bruce, we would</p> <p>12 look into that because you don't want to propose a</p> <p>13 crosswalk if we're having high frequencies of</p> <p>14 accidents, now you're just introducing more trouble.</p> <p>15 If the site distance isn't good coming off Fourth</p> <p>16 Avenue and you include a crosswalk, you could be</p> <p>17 jeopardizing the people stepping in the crosswalk. So</p> <p>18 we would have to look at that at the design phase and</p> <p>19 possibly do some signage warning people pedestrian</p> <p>20 crosswalk proceed, you know, slow down, and we would</p> <p>21 like into that at the design phase, not really at the</p> <p>22 zoning. We would look into that at the design phase.</p> <p>23 This is not the design phase.</p> <p>24 BOARD MEMBER PATERSON: And we</p> <p>25 all basically come around that bend, but we turn on</p>

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1 Walnut. But, anecdotically, I mean, you know, I
 2 listened to Mel Shay a lot back when he was a crossing
 3 guard there and it sounded like the people were going
 4 a lot crazier than 25 miles an hour.

5 **MR. VINEGRA:** And the problem,
 6 too, if you introduced something new and someone has
 7 been driving that way for twenty years and they're not
 8 used to a crosswalk, that becomes an issue. So we
 9 would look into that if the Board so thought that we
 10 could go ahead as a townhouse development site. That
 11 would be looked into in the future. This is not a
 12 site plan application whatsoever.

13 **BOARD MEMBER PATERSON:** This
 14 sounds like a crazy concept. This whole thing was
 15 like flipped and the driveway was then closer to
 16 Walnut.

17 **BOARD MEMBER VENA:** Then you're
 18 creating an intersection.

19 **BOARD MEMBER PATERSON:** Well,
 20 wouldn't that be more advantageous because that's what
 21 you're trying to actually do is create an
 22 intersection, it's not an offset.

23 **MR. VINEGRA:** This is not a
 24 municipal roadway. This is a conceptual. This is
 25 only conceptual, the layout. What we're really

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1 looking at is the amount of units and how we would
 2 particularly look in that area. We would look more
 3 into that. But if it was a roadway, yes, you want it
 4 aligned. This is a driveway with only nine units, so
 5 there's a big difference.

6 **BOARD MEMBER PATERSON:** Okay.
 7 Thank you very much.

8 **CHAIRPERSON VILLAGGIO:** Mr.
 9 McCarrick.

10 **BOARD MEMBER McCARRICK:** Mr.
 11 Staigar, is there any concern about a car making a
 12 left out of the proposed driveway at the same time a
 13 car is making a right off Walnut?

14 **THE WITNESS:** No. They see one
 15 another and it's separated far enough.

16 **BOARD MEMBER McCARRICK:** By -- do
 17 you know the distance?

18 **THE WITNESS:** I did measure that
 19 at one time.

20 **BOARD MEMBER McCARRICK:** It's
 21 about 30 feet?

22 **THE WITNESS:** At least 30 feet.
 23 At least. From centerline to centerline, it's more
 24 like 50 feet. Let me get the right number for you.

25 **BOARD MEMBER McCARRICK:** The

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1 scale is one to 30.

2 **MR. FRASER:** If the centerline is
 3 50, it's edge to edge, it's probably close to 30,
 4 right?

5 **THE WITNESS:** You're right.
 6 You're exactly right.

7 **MR. VINEGRA:** It's actually about
 8 50 feet from edge to edge. It's about 50 feet.

9 **MR. FRASER:** You're saying
 10 centerline to centerline, though?

11 **MR. VINEGRA:** No, edge to edge.

12 **BOARD MEMBER McCARRICK:** Victor,
 13 can you give me the southeast corner of Walnut to the
 14 western side --

15 **MR. VINEGRA:** Again, it's not so
 16 much the distance. See, if you don't have it
 17 perfectly aligned, you want it offset as much as you
 18 can --

19 **BOARD MEMBER McCARRICK:** Okay.

20 **MR. VINEGRA:** -- to permit a car,
 21 to see the other car stop and let it pull out. The
 22 biggest key is site distance. So when it comes to the
 23 design phase, I'd want to see this driveway have clear
 24 site distance with only low-growing shrubs, no trees,
 25 no barriers --

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1 **BOARD MEMBER McCARRICK:** The
 2 distance on Walnut is not great either. That's
 3 rolling stops all the time.

4 **MR. VINEGRA:** The problem is
 5 people roll through the stop sign and that's not --

6 **BOARD MEMBER HAK:** You know,
 7 they're breaking the law when they do that.

8 **MR. VINEGRA:** Right. But what we
 9 can do is possibly produce a crosswalk with a striped
 10 line earlier and maybe do a raised section, a raised
 11 crosswalk, but that, again, is something to be
 12 discussed --

13 **BOARD MEMBER McCARRICK:** At the
 14 next go around.

15 **MR. VINEGRA:** -- at the next go
 16 around. If the Board doesn't so see fit tonight, all
 17 this discussion is moot because --

18 **BOARD MEMBER McCARRICK:** They
 19 brought their traffic expert here though, so.

20 **MR. VINEGRA:** We're going to make
 21 him stay involved with the design throughout the
 22 project if this Board so sees that this housing fits
 23 in the neighborhood. So that's what we're looking at;
 24 do these types of housing units fit the neighborhood,
 25 we'll go into that.

45	<p>1 CHAIRPERSON VILLAGGIO: Mr.</p> <p>2 Jannotti.</p> <p>3 BOARD MEMBER JANNOTTI: I just</p> <p>4 have a question. On the dates, you did a study on the</p> <p>5 16th and the 23rd, were they school days?</p> <p>6 THE WITNESS: Oh, yeah. Yes.</p> <p>7 MR. JANNOTTI: Because there was</p> <p>8 a lot of snow and things going on.</p> <p>9 THE WITNESS: We watch the</p> <p>10 weather as well and we watch the holidays and we watch</p> <p>11 the weather so we're not going to be out there in a</p> <p>12 snowstorm.</p> <p>13 MR. JANNOTTI: I assume that but</p> <p>14 I wanted to hear it from you.</p> <p>15 THE WITNESS: Good question.</p> <p>16 Other traffic engineers may do that, but not us.</p> <p>17 BOARD MEMBER McCARRICK: You did</p> <p>18 not study during school hours, the p.m. time?</p> <p>19 THE WITNESS: No, we didn't, no.</p> <p>20 Typically what we always find is the commuter peak</p> <p>21 hours are always the highest, unless you're right next</p> <p>22 to a school or on a quiet street.</p> <p>23 BOARD MEMBER JANNOTTI: You're a</p> <p>24 block away from it.</p> <p>25 THE WITNESS: Yeah, but you're on</p>	47	<p>1 THE WITNESS: When you say a</p> <p>2 study on that, was the site distance -- the only thing</p> <p>3 I'm concerned about --</p> <p>4 MR. UZARSKI: I'm confused about</p> <p>5 that drawing. I know the gentleman said that's a</p> <p>6 rendering and I just don't understand -- I'd like to</p> <p>7 see where the driveway is, but that's coming around</p> <p>8 from the Cranford side, how are people going to slow</p> <p>9 down and make that sharp right into the development</p> <p>10 when people are going 35 miles an hour on the average?</p> <p>11 THE WITNESS: There's a curve in</p> <p>12 the road from the east.</p> <p>13 MR. UZARSKI: Yes.</p> <p>14 THE WITNESS: If Fourth Avenue is</p> <p>15 east west and you're saying how are people going to --</p> <p>16 MR. UZARSKI: If I may, if I may</p> <p>17 approach that. I live right over here, I walk my DOG</p> <p>18 here like three times a day, if you're coming from</p> <p>19 here 35 miles an hour and here's Walnut, I can't</p> <p>20 possibly imagine stopping going 35 and making a right.</p> <p>21 And then the worse part when someone is coming out</p> <p>22 like this and these people are turning right and the</p> <p>23 traffic continues to go this way, these people have</p> <p>24 two ways here and a third there so that's the only</p> <p>25 thing.</p>
46	<p>1 a, I wouldn't call it an arterial road, but you're on</p> <p>2 a commuter road.</p> <p>3 CHAIRPERSON VILLAGGIO: Do any</p> <p>4 other members of the Board have any questions of this</p> <p>5 witness? Seeing none, I open it up to the public.</p> <p>6 Does anybody, does any member of the public have any</p> <p>7 questions for this witness?</p> <p>8 Sir, state your name and address.</p> <p>9 MR. UZARSKI: I'm John Uzarski.</p> <p>10 415 Liberty Street, I'm on the corner.</p> <p>11 MR. FRASER: Could you please</p> <p>12 spell your last name.</p> <p>13 MR. UZARSKI: Sure.</p> <p>14 U-Z-A-R-S-K-I. Your study was very good. But did you</p> <p>15 study any impact when you're coming around from</p> <p>16 Cranford then the speed limit is 25, but most people</p> <p>17 don't go 25, how are they going to slow down and make</p> <p>18 that turn into the development, like was there any</p> <p>19 impact on that? And then the same, because this other</p> <p>20 gentleman had raised the question, when you come out,</p> <p>21 if you're going to come out of this new town home</p> <p>22 development, you're going to go to the left towards</p> <p>23 Cranford, you're dealing with Walnut Street, Fourth</p> <p>24 Street and Benson Place all at the same time. Was</p> <p>25 there a study on that?</p>	48	<p>1 MR. FRASER: We couldn't see any</p> <p>2 of that because the questionnaire was in the way. But</p> <p>3 I think the question is, Mr. Staigar, for the record,</p> <p>4 if people are coming in a westerly direction on Fourth</p> <p>5 Avenue, the question was expressly concerned about how</p> <p>6 those cars are going to have sufficient time to slow</p> <p>7 down and turn into the development, is that correct?</p> <p>8 That was the question?</p> <p>9 MR. UZARSKI: It takes me a good</p> <p>10 five minutes just to crossover when I want to walk</p> <p>11 towards the school with my dog just to wait for the</p> <p>12 traffic to stop.</p> <p>13 MR. FRASER: We're on questions</p> <p>14 so the question is how are they going to have enough</p> <p>15 time or are they going to have enough time to make a</p> <p>16 right-hand turn off of Fourth Avenue into the</p> <p>17 development?</p> <p>18 THE WITNESS: Yeah, I mean you</p> <p>19 know you're turning into that driveway, you're going</p> <p>20 to start to slow down. You're not going to be</p> <p>21 traveling at 35 miles an hour and then make a quick,</p> <p>22 sharp turn.</p> <p>23 MR. UZARSKI: You're not, but the</p> <p>24 people behind you are.</p> <p>25 THE WITNESS: They're not</p>

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1 turning, they're watching you slow down. It's the
 2 same situation that any other driveway along Fourth
 3 Avenue or any other driveway throughout the borough or
 4 throughout the State of New Jersey. If someone wants
 5 to make a right turn into a driveway and you're
 6 following behind them, obviously, you can't be
 7 traveling at the same higher speed, you have to slow
 8 down when you see those brake lights go on and the
 9 blinker goes on.

10 **MR. UZARSKI:** Okay.

11 **THE WITNESS:** It will operate the
 12 same as any other driveway.

13 **CHAIRPERSON VILLAGGIO:** Is there
 14 any other questions from the audience? Seeing none,
 15 this portion is closed.

16 **MR. HEHL:** Now I'd like to move
 17 onto testimony from our architect, Mr. Glenn Potter.
 18 Thank you, Mr. Staigar.

19 (Witness excused.)

20 **MR. FRASER:** We just marked A-2
 21 which is --

22 **MR. POTTER:** These are actually
 23 drawings, copies of drawings that are already in
 24 the --

25 **MR. FRASER:** But A-2 is the

50

1 colored, not the colored, it's the artist's rendering
 2 of the proposed townhouses.

3 (Artist's rendering of proposed
 4 townhouses is received and marked A-2 for
 5 identification.)

6

7 **GLENN POTTER**, with offices at 410 Colonial
 8 Avenue, Union, New Jersey 07083-7347, being first
 9 duly sworn, testified as follows:

10 **MR. FRASER:** Alright. Please
 11 state and spell your name and give your address.

12 **MR. POTTER:** Glenn Potter. 410
 13 Colonial Avenue, Union; Potter Architects.

14 **DIRECT EXAMINATION BY MR. HEHL:**

15 **Q.** And, Mr. Potter, if you could please
 16 give the Board and the public the benefit of your work
 17 experience, your area of expertise, educational
 18 background, licenses that you hold and confirm that
 19 those licenses are in full force and effect.

20 **A.** I am graduate from NJIT 1984 and I'm a
 21 licensed architect since 1988. I've been in the
 22 architectural field for about 27 years. And I've
 23 testified before Westfield, Cranford, Union,
 24 Mountainside, Cedar Grove, Springfield, Scotch Plains,
 25 Millburn, Summit, Highland Park, Somerset and

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1 that's --

2 **MR. FRASER:** We get the picture.

3 **THE WITNESS:** Yeah.

4 **MR. FRASER:** Are your licenses
 5 current?

6 **THE WITNESS:** My licenses are
 7 current.

8 **MR. FRASER:** And you've been
 9 accepted as an expert architect in those various
 10 municipalities?

11 **THE WITNESS:** I have.

12 **MR. FRASER:** Madam Chairperson, I
 13 recommend that Mr. Potter be recognized as an expert
 14 in architecture.

15 **THE WITNESS:** Thank you.

16 **CHAIRPERSON VILLAGGIO:** Okay.

17 **MR. HEHL:** Thank you very much.

18 **Q.** Mr. Potter, again, you've heard the
 19 testimony so far of Mr. Quinn and Mr. Staigar if you
 20 could now give the Board an overview of the elevations
 21 and the floor plans for the proposed structures.

22 **A.** Okay. The artist rendering that we see over
 23 here is a view of the townhouse unit from Fourth
 24 Avenue looking northerly and our proposal, as was
 25 stated previously is for two three-story wood frame

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1 townhouse buildings. The first building located on
 2 the southerly end of the site will have two
 3 three-bedroom town homes flanking three two-bedroom
 4 town homes. So essentially it will be a
 5 three-bedroom, two, two, two, three. And then
 6 northerly there will be four unit which will have a
 7 three-bedroom and then a two, two and a three. The
 8 height of those buildings will be 35 feet in this
 9 proposal.

10 The breakdown of the units are as
 11 follows: There will be no basements, there'll be all
 12 slab on grade units. Each will have a two-car garage
 13 with two interior parking spaces. And as Mr. Quinn
 14 stated previously, they also will have two exterior
 15 parking spaces directly outside the garage doors.
 16 We'll have a covered entry and foyer on that level
 17 which is at the grade. We'll have a family room, an
 18 optional bath area, stairs and these units, every unit
 19 will have an elevator. There was question previously
 20 about ADA and accessibility. By law we're not
 21 required to provide ADA based on town homes as
 22 designed here, but we are taking into account 55 and
 23 older aspect of the project and we are providing
 24 variable accessibility from the garage level up to
 25 we're calling it the upper floor level, but, in fact,

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1 I guess technically it would be your third floor
 2 level. So we have accessibility through all three
 3 areas.
 4 Also, in the rear of the grade level
 5 areas we're going to have exterior patio area. And as
 6 we move up onto the main level, main level living
 7 area -- let me backup. On the grade level slab area
 8 our living area for that level is 484 square feet
 9 proposed. It's a total gross living area of 1062. As
 10 we move up to the main level, our gross living area
 11 for that level will be 1014 and our gross floor area
 12 will be 1082. And on that level we have a living
 13 room, fireplace, kitchen, dining area, half bath,
 14 stairs, elevator and a small exterior rear deck
 15 approximately 10 by 16 is in this proposal.
 16 And then we move to the upper level,
 17 again, we're talking about right here's the three
 18 bedroom unit, we're going to have the master bedroom,
 19 master bath, two bedrooms, house bath, laundry area on
 20 that level, elevator and the stairs.
 21 The two bedroom is essentially exactly
 22 identical. It's slightly smaller in footprint. It's
 23 two feet shallower than the proposed three units.
 24 There will actual be a recess in the middle portions
 25 of both buildings, but the main difference being the

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1 third floor will only have two bedrooms as opposed to
 2 three. But all the other elements essentially are the
 3 same.
 4 As far as exterior finishes, we tried to
 5 give you a sense of how this would look primarily
 6 moving, as you said, down Fourth Avenue. The exterior
 7 finishes themselves are going to be a step above on
 8 what you would typically find on most homes today. By
 9 that I mean we're going to use a timberline shingle,
 10 it's not going to be straight asphalt shingle, there's
 11 going to be Hardy Plank on the outside. I'll just go
 12 through a list of things for you just so you have an
 13 idea. The siding will be Hardy Plank and, again, we
 14 tried to stick with earth tones here. It's a very
 15 good representation of what our final product will
 16 look like. And so we're looking at like what they
 17 call a Navajo beige and a khaki brown for the siding.
 18 Again, it's a Hardy Plank material; it's a fibrous
 19 board. It's much different than a vinyl siding, it's
 20 a much higher quality. Shutters will be a Hardy Plank
 21 and mountain sage, again, is the color we're using,
 22 but it's a hunter green or it's a dark green. The
 23 roof will be GAF timberline shadow as opposed to a
 24 straight asphalt-look roof. Again, we're going to go
 25 with a dark gray on that.

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1 All our gutters and downspouts will be
 2 white aluminum. All downspouts and drainage will be
 3 directed to an area as we develop the site plan with
 4 Victor and the township for retainage, we're going to
 5 have to have site retainage. And we're also providing
 6 a base here of stone veneer. It's, again, it's called
 7 a sterling color, but that is depicted here, again, on
 8 the rendering. All of our exterior deck areas will be
 9 Azek composite decking as opposed to treated wood
 10 decking. It holds up much better, it lasts longer, it
 11 looks better for years. It's nearly indestructible.
 12 Exterior railings will be the same; composite white
 13 Azek railing systems. Our widow accents will be Azek
 14 white which will be like your sunbursts or your
 15 keystones above your windows. Exterior columns,
 16 instead of just being wood columns, it will be wrapped
 17 and it will have Azek white trim on those, also, and
 18 that was also well-depicted here on the rendering.
 19 We've also indicated a few little wing walls just to
 20 add interest and make it blend better with the
 21 surrounding landscaping, if you will.
 22 As far as trash and recyclables, we need
 23 to workout those details. There's be a discussion
 24 about having trash in the units themselves or
 25 utilizing an outside dumpster. The garages are large

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1 enough where we can have internal garbage storage.
 2 **MR. FRASER:** You mean garbage
 3 cans?
 4 **THE WITNESS:** Right, just like a
 5 garbage can. And, you know, recyclables and all that,
 6 we have plenty of room for all that to be handled. So
 7 discussion on that will continue.
 8 Utilities: Each unit will have
 9 their own gas meter, electric meter, HVAC forced air
 10 and so forth. Condensers for the HVAC will be located
 11 in the rear of the building on the grade.
 12 **MR. FRASER:** Mr. Potter and Mr.
 13 Hehl, this is wonderful stuff really for a site plan
 14 application, I just wondered if we're getting a little
 15 too detailed for the use variance application which
 16 you've elected to bifurcate.
 17 **MR. HEHL:** Well, we thought that
 18 because of the quality that the Applicant is committed
 19 to give here, that that would be a fact that the Board
 20 would like to hear. I think he's at the end.
 21 **THE WITNESS:** I'm almost done.
 22 **MR. FRASER:** I'm just saying we
 23 got the gist of it.
 24 **CHAIRPERSON VILLAGGIO:** We got
 25 the gist of it.

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1 **MR. FRASER:** If there is a
 2 question that the Board has, so be it, but if we're
 3 down to the composition of the shutters.
 4 **THE WITNESS:** I have samples if
 5 you'd like to see them.
 6 **Q.** Now, Mr. Potter, if you could also
 7 address the comments from the fire department. I
 8 believe you looked at them prior to our meeting --
 9 **A.** I just saw them.
 10 **Q.** -- and had no problems with complying --
 11 **A.** Yes, but we'll meet all these requirements
 12 without any problems. We're fully suppressed. I
 13 would register with the Division of Fire and Safety as
 14 a light hazard use. There will be a supervised fire
 15 detection system throughout. Appropriate signage in
 16 the stairwells. I'm not sure he commented, he may
 17 have been confused about the layout, whether it was a
 18 public stairwell or private, it's really private, but
 19 I'll work with him and make sure that he's satisfied
 20 and we'll comply. And, like I said, the complex will
 21 be fully suppressed with sprinklers, fire sprinklers.
 22 **MR. HEHL:** Okay. Alright. Thank
 23 you very much. I have no questions, further questions
 24 at this time of Mr. Potter. But, again, as with the
 25 other witnesses, he will be available here to answer

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1 any further questions of the Board or the public.
 2 **MR. FRASER:** I have a question
 3 and, Mr. Hehl, maybe this will be somewhat related to
 4 you, so I'm not sure a bifurcated application is
 5 something you're seeking approval on now or something
 6 you want to wait for the site plan, so I'll ask the
 7 question directly. Why are the units 35 feet high?
 8 **THE WITNESS:** Because the basic
 9 -- we're going with a three-story structure is where
 10 we are. If you can take a look at this, we went
 11 through great pains to try to make it appear to be a
 12 two-story structure. There's 35 feet only for a very
 13 small area and it's probably depicted very accurately
 14 on that triangular portion on the southerly end of
 15 that front building there, that's about the area that
 16 will be above the 35 feet area. Probably from that
 17 white board with those three trim pieces down would be
 18 your 30 foot mark.
 19 **MR. FRASER:** What's the height of
 20 the majority of the structure?
 21 **THE WITNESS:** The majority of the
 22 structure is under 30 feet. Now let me from this
 23 point -- from this point down is 30 feet.
 24 **BOARD MEMBER PATERSON:** But the
 25 whole roof line is 35.

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1 **THE WITNESS:** No, the entire only
 2 in here.
 3 **MR. FRASER:** On the top floor --
 4 **THE WITNESS:** Yes sir.
 5 **MR. FRASER:** -- what is the
 6 height from the ground of the ceiling of the top
 7 floor?
 8 **THE WITNESS:** Probably 31 feet.
 9 I'm guesstimating, but it's close to that. We have an
 10 attic area above that. Aesthetics were a big part of
 11 it. We could flatten it out, but a lot of it was
 12 built. That's why I say I don't think we're going to
 13 have roof trusses because it's being built within the
 14 structure itself. We're using attic area to actually
 15 formulate and develop living area. So we'll have
 16 slope ceilings up there, that kind of thing. We're
 17 trying to really keep it low key, if you will, and
 18 make it delightful.
 19 **MR. VINEGRA:** Just to address
 20 that briefly, we do have a townhouse permitted
 21 ordinance map that when we performed the work for The
 22 Pointe, we created a redevelopment plan and then we
 23 rolled that redevelopment plan into an ordinance. So
 24 now we do have a permitted area with the town. We
 25 call it the mud and mixed use development.

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1 **MR. FRASER:** What's the height?
 2 **MR. VINEGRA:** 35 feet. I don't
 3 know if they knew they matched.
 4 **THE WITNESS:** I knew that.
 5 **CHAIRPERSON VILLAGGIO:** You
 6 testified about some of that you'll not be using,
 7 vinyl, and I know that if the plans that were
 8 submitted to us have on it a vinyl, was that only like
 9 a sample or is that --
 10 **THE WITNESS:** Since then
 11 discussion has occurred and what I am testifying to
 12 right now is what the final plans will show.
 13 **CHAIRPERSON VILLAGGIO:** Okay. I
 14 just wanted to be sure.
 15 **THE WITNESS:** Absolutely. You're
 16 a hundred percent right.
 17 **CHAIRPERSON VILLAGGIO:** That what
 18 was in our packet is not, you know, what you're
 19 testifying to is in fact --
 20 **THE WITNESS:** We've upgraded
 21 materials most definitely since those plans were
 22 submitted. I think they may be three months old at
 23 this point. I think the last date was 2/18 or 2/25.
 24 **MR. FRASER:** So you have amended
 25 it?

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1 **THE WITNESS:** We've amended.
 2 **CHAIRPERSON VILLAGGIO:** Okay. I
 3 just wanted to make sure that that was the case even
 4 though, you know, you testified to the materials.
 5 Does anybody else have any --
 6 does any other member of the Board have any questions
 7 for this witness? Seeing none, how about the
 8 audience, does the audience have any questions for
 9 this witness.
 10 **MR. CORBIN:** I do. My name is
 11 Horace Corbin.
 12 I presume there's downspouts and
 13 all that kind of stuff to collect the rainwater.
 14 **THE WITNESS:** Correct.
 15 **MR. CORBIN:** Where does it go?
 16 **THE WITNESS:** Well, as I stated
 17 we're going to have to work with the site engineer for
 18 site retainage. Retainage is going to be required on
 19 the site we believe and --
 20 **MR. CORBIN:** What do you mean by
 21 "retainage"?
 22 **THE WITNESS:** Underground
 23 retainage; detention basin, underground retainage pit
 24 and so forth.
 25 **MR. CORBIN:** And then where does

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1 it go?
 2 **THE WITNESS:** I think that's
 3 probably a better question to be answered by Tom. But
 4 you have an invert on it, it slowly matriculates back
 5 into the system, recharges the system at a controlled
 6 rate as opposed to a sudden discharge of water and
 7 it's probably more controlled than the way it is
 8 presently at this time.
 9 **MR. CORBIN:** I'm seriously
 10 concerned about the wetlands back there, just so you
 11 know. Somebody's clear-cutted the wetlands back
 12 there, the engineer said it wasn't him, I just need
 13 who it was because it's illegal.
 14 **THE WITNESS:** Okay. I can't help
 15 you with that one.
 16 **CHAIRPERSON VILLAGGIO:** Does any
 17 other member of the audience have a question for this
 18 witness? Sir.
 19 **MR. LOBE:** My name is David Lobe,
 20 L-O-B-E, 900 Union Street, Westfield.
 21 Based on these renderings what do
 22 you expect the pricing to be on these units?
 23 **THE WITNESS:** I couldn't answer
 24 that for you, I'm sorry. It's a question for a
 25 realtor. I don't know what the marketing is going to

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1 be on them, I really don't know.
 2 **MR. LOBE:** Do you have a sense of
 3 what the cost to build them?
 4 **THE WITNESS:** Oh, the cost to
 5 build them?
 6 **MR. LOBE:** Yes.
 7 **THE WITNESS:** Yeah, I would say
 8 they're probably in the area of \$150 to \$200 a square
 9 foot structure cost.
 10 **MR. LOBE:** So project that out to
 11 size of the unit that you measured.
 12 **THE WITNESS:** 3000 square feet
 13 times 200, \$600,000 per unit.
 14 **MR. FRASER:** Not to build.
 15 **THE WITNESS:** No, no.
 16 **CHAIRPERSON VILLAGGIO:** Does
 17 anybody have any other questions? Seeing none, this
 18 portion is closed.
 19 **MR. HEHL:** Alright. I'd like to
 20 call upon now - and thank you very much, Mr. Potter -
 21 John McDonough, our professional planner and landscape
 22 architect.
 23
 24 JOHN McDONOUGH, with offices at 101
 25 Gibraltar Drive, Morris Plains, New Jersey, being
 first duly sworn, testified as follows:

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1 **MR. FRASER:** Please state your
 2 name and spell it and give us your address.
 3 **MR. McDONOUGH:** Hello. My name
 4 is John McDonough. That's spelled M-C capital
 5 D-O-N-O-U-G-H. My address is 101 Gibraltar Drive in
 6 Morris Plains, New Jersey.
 7 **MR. FRASER:** Welcome.
 8
 9 **DIRECT EXAMINATION BY MR. HEHL:**
 10 **Q.** Mr. McDonough, I know you've appeared
 11 before this Board, but, again, briefly give the Board
 12 the benefit of your work experience, educational
 13 experience and degrees that you hold and confirm that
 14 they are in effect.
 15 **A.** My degree comes from Rutgers where I have a
 16 bachelors in environmental planning and design with a
 17 landscape architecture option. I hold a landscape
 18 architecture license, but, more importantly, this
 19 evening I'll be testifying in the capacity of a
 20 professional planner where I've appeared before this
 21 Board before and I've been qualified and, also, in
 22 your neighboring communities including Westfield and
 23 Cranford. We're right on the confluence of those
 24 three towns. And this is essentially what I do on a
 25 nightly basis and during the day I testify in courts

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1 sometimes.

2 **MR. FRASER:** And your licenses

3 are all current?

4 **THE WITNESS:** All current, in

5 good-standing, continuing education, all met, yes.

6 **MR. FRASER:** So the field is

7 professional planning and landscape architecture, did

8 I get that correct?

9 **THE WITNESS:** Yes. I'll probably

10 deal more with landscape architecture when we get into

11 site planning, but really looking at the variance

12 proofs here from a professional planning --

13 **MR. FRASER:** But right now you're

14 going to be qualified as an expert in both of those

15 fields just in case we need it?

16 **THE WITNESS:** Yes.

17 **MR. FRASER:** I recommend the

18 witness be so qualified Madam Chairperson.

19 **CHAIRPERSON VILLAGGIO:** Okay.

20 **MR. HEHL:** Thank you very much.

21

22 **BY MR. HEHL:**

23 **Q.** Mr. McDonough, again, now you've heard

24 the testimony, my opening statement and the testimony

25 of other professionals, if you can now provide the

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1 overview of the site along with the planning criteria

2 for both the use variance and the other variances

3 associated with the application.

4 **A.** Okay. My testimony will follow the roadmap

5 that our Courts have given us with respect to the test

6 for a traditional use variance, here a use not

7 permitted in the zone. We're looking at multi-family

8 in a single-family zone. We're going to look at the

9 positive criteria, we're going to look at the negative

10 criteria. And the three main things that we need to

11 find a nexus with this application is our Municipal

12 Land Use Law, the local Master Plan and zoning

13 ordinance and, of course, the neighborhood that

14 surrounds it.

15 So what I'd like to do, Madam Chair, is

16 just start with a couple of visuals just to take us

17 around the neighborhood and I'll set that as the

18 foundation for planning proofs.

19 **CHAIRPERSON VILLAGGIO:** You can

20 mark that.

21 **MR. HEHL:** That would be, I

22 believe, A-3.

23 **MR. FRASER:** Is this going to be

24 handed out?

25 **CHAIRPERSON VILLAGGIO:** Is it

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1 going to be handed out to each one of us.

2 **THE WITNESS:** This is going to be

3 a handout, Counselor. It's going to be a three-part

4 exhibit, three pages stapled together, file size 11 by

5 17. They're all photographs.

6 **CHAIRPERSON VILLAGGIO:** And it's

7 marked A-3.

8 **THE WITNESS:** We have one marked

9 which I'll give to the Chair.

10 **CHAIRPERSON VILLAGGIO:** To the

11 secretary.

12 (Three photographs reflective of

13 existing conditions of the site are received and

14 marked A-3 for identification.)

15 **MR. FRASER:** Are there one or two

16 extras so the audience can have a few.

17 **THE WITNESS:** There's twenty

18 copies here so there should be plenty.

19 But, for the record, it's

20 reflective of existing conditions which I'm sure the

21 surrounding neighborhood knows.

22 **CHAIRPERSON VILLAGGIO:** Go ahead.

23 **A.** So, for the record, we'll start with the

24 first page of A-3 which is going to be an aerial

25 photograph that I downloaded from the Bing website.

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1 We like to use this not only because it gives us a

2 sense of the pattern of the neighborhood, but the mass

3 and scale as well and a look at how the site and how

4 the building that's going on it will blend with the

5 surrounding neighborhood.

6 We've outlined the property in question

7 in yellow which does have that irregular shape. We've

8 identified municipal boundaries and, again, we're at

9 the confluence of three towns here; your town, the

10 Borough of Garwood, we've got the Township of Cranford

11 which would be to the east and then we've got the

12 township of Westfield which extends to the north. For

13 orientation purpose, north is going to be to the right

14 in this particular photograph.

15 And then we've got the property fronting

16 on a T intersection along Fourth Avenue and along

17 Walnut Street as well. Their local roads under your

18 ordinance, your police chief actually did call Fourth

19 Avenue out as an arterial road or a collective road in

20 your community. All of those characteristics, the

21 fact that we are on a well-traveled roadway, the fact

22 that we are within a thousand feet of the Garwood

23 train station all implies from a planning standpoint a

24 higher intensity of use. This is an area where our

25 state plan and where planning in general would target

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1 a greater intensity of development as support for the
 2 train stations. This is one of 250 train stations
 3 that we have here in New Jersey and our state plan
 4 looks for positive development around those particular
 5 train stations. So we're at T intersection. We're
 6 within that magic quarter-mile ring of a train station
 7 which would imply a higher intensity of development
 8 and we're looking at a property that is somewhat of an
 9 anomaly compared to the surrounding area; presently, a
 10 commercial use in the heart of what is an expanse of a
 11 residential neighborhood. The Applicant is looking to
 12 take this non compatible use and pull it into more
 13 conformity with the surrounding context going from non
 14 residential to residential in a residential zone.
 15 We're looking at a slightly different housing type of
 16 product here, but, again, the nature of the use going
 17 from residential to a residential district, certainly
 18 moves this site more into conformity with the intent
 19 of your zoning ordinance.
 20 The site is also an anomaly in the area
 21 simply by virtue of its size. We're looking at a
 22 property that is nine times greater than what the
 23 zoning requirement allows and you can see that this is
 24 a neighborhood that has established itself with a lot
 25 of small lot, residential development dwellings. Here

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1 we're looking at the potential subdivision of up to
 2 nine based on strict geometry of the site. We know we
 3 have some environmental constraints at the back and I
 4 think the Applicant has done a good job of responding
 5 to those constraints by creating a more compact
 6 development where we get the efficiency of shared
 7 walls and just a better overall housing product.
 8 The condition of the property, as I
 9 said, is unique as well. Not only is it commercial,
 10 we have an apartment there as well, an apartment which
 11 is conducive to even a larger scale family because it
 12 is a larger apartment. The front is also somewhat
 13 unique as we've heard in the context of this
 14 residential neighborhood where we have a full string
 15 of parking along the front, a 75 foot wide open
 16 channel to Fourth Avenue which you've heard about that
 17 being on the inside of the turn, limited sight
 18 distance and cars backing straight out onto the
 19 roadway. The Applicant is looking to fix that by
 20 having cars now face out and channelizing that 75 foot
 21 wide free-for-all into a single access roadway. So
 22 from a planning standpoint that's an improvement as
 23 well. All of these qualities make this site
 24 particularly suitable for the multi-family development
 25 that's before you.

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1 Just to run through the characteristic
 2 of the site in terms of the ground photographs, I took
 3 these photos I'd say within the last month or so.
 4 Frames one and two are panoramic, give us a sense of
 5 the structure on the property. That front parking
 6 entirely paved; cars backing up without any landing
 7 area whatsoever, but for the roadway. We have a
 8 broken up sidewalk along the front. The Applicant is
 9 looking to come in and completely repair and put in a
 10 new sidewalk, so we not only have the improvement of
 11 vehicular circulation, but pedestrian circulation as
 12 well.
 13 Frame number three gives us a sense,
 14 again, of the completely paved condition of the
 15 property which the Applicant is going to replace with
 16 nice greenery along the frontage.
 17 Frames five, six, seven and eight give
 18 us a sense of the surrounding context and the
 19 residential development around us. On the one side in
 20 particular frame number six you can see that the
 21 adjoining residence has absolutely no windows that
 22 would face the property, so that's important from a
 23 use standpoint as well.
 24 Frame number seven we have residences on
 25 the other side. And frame number eight I give a sense

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1 of what has been a real world market example of this
 2 type of a product, that multi-family development right
 3 by the train station has been a model of success that
 4 planners look to mimic. And you can see, looking at
 5 this photograph compared to the photograph in frame
 6 number eight, that we're looking to pull in a product,
 7 a high end product that's certainly going to have the
 8 same elements of quality that you see down here by the
 9 transit hub.
 10 The proposal before you is what I would
 11 call a boutique multi-family development; a very
 12 compact multi-family development. Age 55 or over is
 13 an important enhancement that I think the Applicant
 14 has pulled in as well. We're looking at very
 15 attractive buildings as you can see: Three stories,
 16 nine units; five of which would be two bedroom, four
 17 of which would be three bedrooms and approximately
 18 3000 square feet in size; a range from 2900 to 3100.
 19 And to answer the gentleman's question, I think the
 20 architect was close, we're looking at price points of
 21 in the high five hundreds, if we could get to six
 22 hundred that would be great, but I think more
 23 realistic is probably in the high fives here.
 24 The site has 41 parking spaces which is
 25 twice what the criteria would be under the RSIS.

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1 We've got 18 two-car garages, we've got 18 two-car
 2 driveways and then we've got that added amenity of
 3 visitor parking that you saw on Tom Quinn's plan with
 4 respect to visitor parking. In terms of the
 5 amenities, these floor plans will have elevators in
 6 each one of the units. We're looking at decks or
 7 patios off the back and high end materials including
 8 granite countertops, hardwood floors and the like that
 9 would lend itself to a high quality, high end product.

10 That's the background that's associated
 11 with the site and lays the foundation for the
 12 variances that are before you. We're in the RA
 13 single-family zone which is aimed at moderate density
 14 residential development at eight units per acre. The
 15 permitted uses include single-family dwellings,
 16 accessory uses, home occupations and special needs
 17 housing. So there's a variety of housing that can go
 18 here and, importantly, when we look at a single-family
 19 use, and I'll talk about this a little bit later,
 20 there are things that come with single-family use that
 21 don't come with townhouse development that could
 22 create nuisances that you won't see with a townhouse
 23 development.

24 In terms of the relief, the primary
 25 relief that we're here for is a D1 use variance to

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1 allow for that multi-family product in a single-family
 2 zone. Interrelated with that, we pull in a density
 3 variance; it's a de minimus variance from a density
 4 standpoint. We're looking at 8.8 dwelling units per
 5 acre versus the eight units per acre that would be
 6 allowed under the zoning ordinance and the
 7 interrelated D5 floor area variance which is really a
 8 technicality because the ordinance threshold is 3500
 9 square feet for single-family dwelling, each one of
 10 the units here are less than 3500 square feet. Again,
 11 approximately 3000 square feet. The reason why we're
 12 looking for 28,000 square feet in aggregate is because
 13 we're looking at nine units here. But if there were
 14 multiple single-family dwellings here at that 3500
 15 foot threshold, we'd be looking at a similar floor
 16 area ratio as well. And I think we just resolved the
 17 D6 issue with respect to the height and the fact that
 18 those buildings will peak at 35 feet, whereas 30 feet
 19 is allowed in the zone. Interrelated with that is
 20 what we call a C variance, not a D variance, for the
 21 number of stories and the fact that we have three
 22 stories here, whereas, 2.5 would be allowed in the
 23 zone.

24 I'll run through the positive criteria
 25 associated with the use variance and I think I'll

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1 spend most of my time on that because there are a
 2 number of benefits associated with this. We'll flip
 3 over to the negative, I'll spend a little time on
 4 that, I don't think there are lot of negatives
 5 associated with this and then we'll pull in the proofs
 6 that are associated with some of those ancillary
 7 variances as well.

8 On the positive side, we look for a
 9 nexus with the Municipal Land Use Law and I see the
 10 application advancing multiple purposes here. Purpose
 11 A which is the promotion of the public good is
 12 addressed here with new housing stock that responds to
 13 demand. And if we look at some of the core indicators
 14 of demand for this type of housing product here in New
 15 Jersey, some of the key indicators would be the time
 16 to sale in terms of all the types of residential
 17 submarkets or residential sectors. The townhouse
 18 product, the multi-family product is the one that we
 19 see quickest in terms of time to sale and the time
 20 that it goes up to sale. In terms of its selling
 21 price, the multi-family product is going to hold 95
 22 percent of what that asking price is. We don't see
 23 that with residential as well. And the absorption
 24 rates are extremely high. We're looking at a five
 25 percent vacancy rate here in the county which is

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1 really, from a planning standpoint, an indicator of
 2 undersupply in terms of this particular product.

3 Here in Garwood, the housing stock, this
 4 type of housing stock is less than one percent of the
 5 stock available and your own Master Plan encourages a
 6 variety of residential type of housing products. So
 7 this, I think, addresses the demand and the
 8 undersupply of this type of land use. And, again, I
 9 point to that photograph number eight and the success
 10 of the Mews product just down the street, less than
 11 700 feet from this particular development.

12 I also see the advancement of purpose D
 13 which is to encourage development that advances state
 14 policies. And here in New Jersey are cornerstone
 15 planning document is the state plan and under the
 16 state plan this site has been designated as a PA1,
 17 planning area number one district, which is the
 18 district where the state wants us to redirect the
 19 population growth. Again, one of those 250 transit
 20 hubs in the state where we want to have a ridership
 21 and lessen the reliance on the automobile.

22 Advancement of state policy has been
 23 found to be a special reason under our case law. I
 24 also look at purpose E which is to provide for
 25 appropriate population densities. Your Master Plan

<p style="text-align: right;">77</p> <p>1 from 2009 recognizes the importance of density around 2 transit. The state plan encourages higher density 3 around transit hubs as well. The recommended density 4 in the Master Plan for townhouse development is ten 5 dwelling units per acre, we're looking at nine units 6 here on the site that's approximately an acre. So 7 we're meeting the ordinance, I'm sorry, we're meeting 8 the recommendations under your Master Plan in that 9 regard.</p> <p>10 I also look at compliance with your 11 parking requirements. I doubled the parking 12 requirement as an indicator that this is an 13 appropriate density as well.</p> <p>14 Importantly, residence population also 15 pulls in wallets and spends money here in town. The 16 Nielsen reports, which is a market study, indicates 17 that approximately \$5000 per capita are spent in the 18 local environment so we're looking at a substantial 19 amount of annual earnings being put here into the 20 local economy as well.</p> <p>21 Purpose G is to provide for a variety of 22 uses in appropriate locations according to the needs 23 of all of New Jersey citizens and here, in Garwood, 24 the good news is people are aging, people are living 25 longer, and the cohort shows that your older</p>	<p style="text-align: right;">79</p> <p>1 visual environment. I think that board speaks for 2 itself that this is going to be an attractive 3 development that will certainly not only provide a 4 positive image of the site, but as the community as a 5 whole. Reinvestment indicates confidence in the 6 community and the many amenities that you have here.</p> <p>7 Lastly, purpose M is the efficient use 8 of land. Redevelopment of underutilized sites is 9 favored by our state plan. Our state plan favors 10 compact, clustered, walkable developments which is 11 exactly what this would be here. There are economic 12 efficiencies with those shared walls and that all 13 leads to lessening the cost of development which 14 ultimately gets transformed over to the buyer.</p> <p>15 Lastly, on the positive side, the site 16 is particularly suited for the use by virtue of its 17 condition; an oversized lot that provides an 18 opportunity for a more cohesive form of development. 19 A unified development. It's a linear piece of 20 property which would mean a road has to punch in and 21 structures have to be associated with it. I think the 22 multi-family product is much more conducive to this 23 type of a linear development.</p> <p>24 And then, lastly, again, the site is 25 particularly suitable by virtue of its context within</p>
<p style="text-align: right;">78</p> <p>1 population is stronger than what we see countywide and 2 state-wide as well. And the over 55 cohort is 3 ballooning. In the ten-year span from 1990 to 2000, 4 the 55 and over cohort went from 8.4 percent of the 5 total population to 14.9 percent of the total 6 population. Today, that baby boomer cohort, that 55 7 and over, is now 29.5 percent of the total population 8 here in Garwood, compared to the county which is 24 9 percent or the state which is also at that 24 percent 10 level. So in terms of an age-restricted product, they 11 think that this is proof positive that there is a 12 population here that would certainly be interested in 13 this type of a product. Promotion of senior housing 14 is also a goal under our Municipal Land Use Law as 15 well so that's another purpose of zoning that's 16 advanced.</p> <p>17 Lastly, I look at purpose -- I'm 18 sorry, I got two more. Purpose H to provide for a 19 free-flow of traffic. You just heard Mr. Staigar's 20 testimony about how this is an improvement over 21 existing traffic conditions channelizing that very 22 wide access way and, also, providing a better 23 orientation of the vehicles along the front.</p> <p>24 We're looking at the advancement of 25 purpose I which is the promotion of a desirable,</p>	<p style="text-align: right;">80</p> <p>1 that magic quarter mile radius that would constitute 2 transit-oriented development. The location at the T 3 intersection and the historic use as a commercial site 4 all make this particularly suitable for transformation 5 to multi-family residential.</p> <p>6 On the negative side we counterweigh 7 what we see on the positive side. The negative 8 attributes of the project are very minimal. In terms 9 of public safety, the use creates nothing 10 substantially detrimental to public health, public 11 safety, public welfare. In terms of safety, we're not 12 looking at any substantially dangerous traffic 13 conditions, again, pointing out the improvement to the 14 intersection and, also, the fact that Mr. Staigar 15 testified that the traffic generation would be a wash 16 compared to what we'd see from a single-family 17 standpoint. No substantial detriment from a security 18 standpoint, from a fire safety standpoint, from an 19 emergency access standpoint. No substantial detriment 20 to public health. The use creates no substantial air 21 pollution, water pollutions, solid waste. A lot of 22 these issues will be dealt with at the site plan, but, 23 in particular, the use is not substantially 24 detrimental to the public health. And, of course, 25 public welfare, the so-called nuisance criteria. The</p>

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1 site and the use itself will not generate
 2 objectionable glare, objectionable noise, vibrations,
 3 odors or the like. Bearing in mind we have a
 4 commercial kitchen there right now with the range and
 5 with the hood, with the vent and the odors that would
 6 be associated with that, that would go away, that
 7 vested right would go away as part of this
 8 redevelopment proposal.

9 All the variances can be granted without
 10 substantial impairment to your zone plan and
 11 ordinance. The site is zoned for development. It is
 12 wooded at the back. It's not zoned for a park. I
 13 think that's important here. I think it's also
 14 important that development on this particular piece of
 15 property is inevitable. There's a resolution that I
 16 saw for a development of single-family on this
 17 particular piece of property. So something is going
 18 here and I think this is a better zoning alternative
 19 than what I saw in that resolution as a single-family
 20 development. Multi-family development is certainly
 21 much more compact. It has, what I would call, a
 22 better defined edge then we see in the single-family
 23 product. And what I mean by that is you're dealing
 24 with an association that will control the limits of
 25 disturbance that are associated with this site and we

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1 won't get that what I'll call creep that would be
 2 associated with a single-family development. You
 3 build a house, you get the pool, you get the
 4 trampoline, you get the fire pit, the grill, all these
 5 things start to add on, these accessory uses, that you
 6 don't see with the traditional townhouse-type
 7 development. Generally, less controlled than we would
 8 see in a multi-family environment, certainly
 9 controlled by the association.

10 So the benefit then of this residential
 11 land use is that it takes what I call the unknown out
 12 of the equation. What the public sees in the plans
 13 that have been provided before you is what the public
 14 gets. You're not necessarily sure what you're going
 15 to get with single-family development except for what
 16 you see cutup in the terms of the subdivision lines.

17 The Medici reconciliation, that's a
 18 requirement when we're dealing with a use variance and
 19 the fact that the zoning ordinance recognizes
 20 development on this site or recognizes single-family
 21 development, I think the reconciliation here can be
 22 based on the fact that this Board has a lot more
 23 information before it than the governing body did when
 24 it rendered this site for single-family use. When we
 25 carve out zones in our Master Plans and in our zoning

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1 ordinances, we generally do that in broad strokes and
 2 planners recognize that we can't capture everything.
 3 We can't catch everything. And I think this site is a
 4 classic textbook case of not being able to catch
 5 everything. It's a large site and certainly
 6 appropriate to multi-family development. We're not
 7 looking to change the whole RA zone. This is a very
 8 small portion of the RA zone, it's a very unique piece
 9 of property and in that regard I think we can conclude
 10 from a planning standpoint that a use variance here
 11 would not be tantamount to a rezone that only the
 12 governing body can do.

13 That's the use variance. I think the
 14 weight is clearly on the positive side, very little on
 15 the negative side. Interrelated with that, the
 16 density relief, the core question is not the use per
 17 se, but whether the site can accommodate that density.
 18 Parking is a key indicator of whether a site can
 19 accommodate density and we have more than double here.
 20 So in that regard I believe we're also consistent with
 21 the Master Plan intent and recommendation for
 22 townhouses at ten dwelling units per acre. So density
 23 runs or is inherent to the nature of the use that's
 24 proposed here.

25 Interrelated, as I said, floor area,

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1 we're looking for approximately 28,000 square feet in
 2 floor area in aggregate, but each one of those units
 3 are only 3000 square feet less than the 3500 threshold
 4 for a single-family use.

5 The last part of the test looks at the
 6 height relief and I think all the aspects of height
 7 relief are met as well. The fact that we do have a
 8 zoning ordinance that would allow for 35 feet in
 9 redevelopment zone. None of the purposes of height
 10 control are violated. The added height is not
 11 triggering additional population, additional density.
 12 Added height is not giving one property owner another
 13 height advantage over another property owner. The
 14 added height here is not blocking any scenic views.
 15 It doesn't create any negative runoff effect and
 16 landscaping can be pulled in to soften the mass of the
 17 building and mitigate any visual effect associated
 18 with that additional roof line.

19 The roof line, as proposed, actually
 20 creates a very nice balance product here. I think the
 21 benefit of that added five feet outweighs any
 22 detriment that would be associated with it.
 23 Co-mingled with that is the story relief and the fact
 24 that with all the in's and out's of this building, all
 25 the articulation, it's not going to look like a

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1 massive structure, it's certainly not going to look
 2 like a mid-rise structure which I think is what the
 3 ordinance was looking to control.
 4 That covers all the variance proofs and,
 5 in conclusion, I think this is, simply put, a very
 6 positive, attractive investment in your community.
 7 The overall project is consistent with positive
 8 planning principles for orderly growth, community
 9 development. The statutory test for use are met under
 10 the Medici standard; for density under the Grub
 11 standard; for height under the Grasso standard and for
 12 floor area under what we would call the Randolph Town
 13 Square standard. From a professional planning
 14 standpoint, approval is warranted for all the reasons
 15 that I've given.
 16 **MR. HEHL:** Thank you very much,
 17 Mr. McDonough. I have no further questions at this
 18 time.
 19 **MR. FRASER:** I didn't hear a lot
 20 of questions, Mr. Hehl.
 21 **MR. HEHL:** I did start him out
 22 with --
 23 **CHAIRPERSON VILLAGGIO:** I didn't
 24 hear one question.
 25 **MR. FRASER:** I heard one; what do

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1 you have to say, Mr. McDonough.
 2 **CHAIRPERSON VILLAGGIO:** Mr.
 3 Paterson.
 4 **BOARD MEMBER PATERSON:** I didn't
 5 hear any negatives. Was there a negative in there?
 6 **MR. FRASER:** He said basically
 7 there none.
 8 **THE WITNESS:** Nothing
 9 substantial. Any development is going to have some
 10 sort of impact, but in terms of the criteria that we
 11 have to hit, the safety criteria, the health, the
 12 welfare. It's certainly not undermining the integrity
 13 of the ordinance for the reasons that I've.
 14 **BOARD MEMBER McCARRICK:** I have a
 15 question, Kathy.
 16 **CHAIRPERSON VILLAGGIO:** Go ahead.
 17 **BOARD MEMBER McCARRICK:** Can you
 18 tell me the usable acreage on the property?
 19 **THE WITNESS:** That may be more or
 20 less an engineering question. I know the back third
 21 of the property is constrained by environmental
 22 constraints. I can get that number for you. I don't
 23 have it.
 24 **BOARD MEMBER McCARRICK:** You
 25 spoke about density. Would you say the limit of

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1 disturbance which is .77 acres would be the usable
 2 portion?
 3 **THE WITNESS:** It could well be,
 4 yes.
 5 **BOARD MEMBER McCARRICK:** So if
 6 you put nine units on that, you're actually at about a
 7 density of 12 units an acre?
 8 **THE WITNESS:** Yes. But the
 9 definition of density under our Municipal Land Use Law
 10 is based on gross land area, so we look at the big
 11 picture. Density is dwelling units per gross acre.
 12 **MR. VINEGRA:** That's true,
 13 Craig. Based on an analysis of home builders laws and
 14 litigation about twenty years ago, when you calculate
 15 density you calculate the whole density.
 16 **BOARD MEMBER McCARRICK:**
 17 Wetlands, everything included?
 18 **MR. VINEGRA:** Yeah, because what
 19 is happening, twenty years ago towns were making
 20 buffers, municipal buffers, that made the parcels
 21 smaller and smaller and smaller. So the Courts came
 22 out and said you have to include the entire density.
 23 When you calculate density you include the entire
 24 site.
 25 **BOARD MEMBER McCARRICK:** Sure.

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1 Okay.
 2 **CHAIRPERSON VILLAGGIO:** Does
 3 anybody else have a question?
 4 **MR. JANNOTTI:** I have a question.
 5 I'm not a wetlands expert at all and I just wanted --
 6 I note it's there and there are barriers that I see
 7 and some protection or whatever and I just wanted to
 8 be sure what's in the plans that's going to ensure
 9 that the wetlands are protected?
 10 **THE WITNESS:** Typically, the
 11 state regulation will require that they're deed
 12 redirected; that that is a deed restriction on the
 13 property and that's something that has to go in as
 14 part, part of the contract.
 15 **MR. VINEGRA:** To further answer
 16 that again because I'm a surveyor also, the DEP
 17 requires when you do the proposed technically a buffer
 18 averaging plan, once that boundary line is set it has
 19 to be demarcated in the field and it has to be marked
 20 now, so they ask you to mark it like a surveyor
 21 demarcation for the buffer. So you can't build up to
 22 a wetland, you have to buffer it about 50 feet and
 23 that buffer has to be natural vegetation that you're
 24 not supposed to mow it, it's supposed to be a natural
 25 buffer of non wetlands before the wetlands and that's

89	<p>1 about 50 feet deep.</p> <p>2 MR. JANNOTTI: And you're</p> <p>3 satisfied --</p> <p>4 MR. VINEGRA: Yeah, that was</p> <p>5 already approved by another, yeah, and the DEP has</p> <p>6 already adopted it. I think they're seeking in the</p> <p>7 future if they come back to do a proposed buffer</p> <p>8 averaging, they'd have to go back down to DEP, get an</p> <p>9 approval for that buffer averaging and then part of</p> <p>10 the permit with DEP, we would get a copy which say</p> <p>11 they would have to demarcate that in the field. They</p> <p>12 just can't go there and put -- you can't put a jungle</p> <p>13 gym in there, so.</p> <p>14 MR. JANNOTTI: Okay.</p> <p>15 CHAIRPERSON VILLAGGIO: Anybody</p> <p>16 else?</p> <p>17 BOARD MEMBER PATERSON: Yeah.</p> <p>18 Unfortunately, you did give us this Bing layout and</p> <p>19 you were talking about where you wanted to compare</p> <p>20 massive structures in the very beginning when you</p> <p>21 started introducing this. You know, it would have</p> <p>22 been nice if you actually put the mass of that</p> <p>23 townhouse setup on the layout. I mean I just</p> <p>24 hand-sketches something similar and I'll tell you that</p> <p>25 would be a big negative is that the mass does not fit</p>	91	<p>1 give the owner of the property the ability to</p> <p>2 whatever.</p> <p>3 MR. FRASER: What's the question,</p> <p>4 Bruce?</p> <p>5 CHAIRPERSON VILLAGGIO: The</p> <p>6 question is to the witness.</p> <p>7 BOARD MEMBER PATERSON: I guess</p> <p>8 the question is how did it go from the three houses to</p> <p>9 the nine townhouses?</p> <p>10 MR. FRASER: Because this is the</p> <p>11 application. The Applicant is putting forth this</p> <p>12 application for a use variance to build this</p> <p>13 development.</p> <p>14 BOARD MEMBER PATERSON: But it's</p> <p>15 just that we deemed that it would be nice to see three</p> <p>16 homes.</p> <p>17 MR. FRASER: But that's why they</p> <p>18 need the variance. They need a variance because the</p> <p>19 ordinance does not permit this, so that they're</p> <p>20 requesting a variance.</p> <p>21 BOARD MEMBER PATERSON: That</p> <p>22 makes perfect sense, that they're here for a variance.</p> <p>23 MR. FRASER: That's what we do as</p> <p>24 a Planning Board.</p> <p>25 MR. PATERSON: Sometimes.</p>
90	<p>1 into this neighborhood at all, not even close. It's</p> <p>2 just --</p> <p>3 THE WITNESS: Bear in mind, if we</p> <p>4 were to strike a line of single-family houses along</p> <p>5 the development as well, I'll go back to Mr. Quinn's</p> <p>6 site plan, this is where the single-family dwellings</p> <p>7 would manifest. You would have a roadway and we'd</p> <p>8 have a massive structure as well. Maybe not</p> <p>9 interconnected, but this certainly would be a</p> <p>10 continuous mass along that back portion of the</p> <p>11 property as well.</p> <p>12 BOARD MEMBER PATERSON: Yeah,</p> <p>13 that goes back to actually a comment that you made</p> <p>14 where it was the governing body that agreed to three</p> <p>15 single-family homes.</p> <p>16 THE WITNESS: I didn't say that.</p> <p>17 CHAIRPERSON VILLAGGIO: He did</p> <p>18 not say that. The Planning Board --</p> <p>19 BOARD MEMBER PATERSON: Yeah, but</p> <p>20 the Planning Board -- right.</p> <p>21 CHAIRPERSON VILLAGGIO: It was</p> <p>22 just a proposal back a couple of years ago.</p> <p>23 BOARD MEMBER PATERSON: That was</p> <p>24 to, at least, have developers interested in the land.</p> <p>25 CHAIRPERSON VILLAGGIO: It would</p>	92	<p>1 CHAIRPERSON VILLAGGIO: Anybody</p> <p>2 else have any further questions for this witness?</p> <p>3 MR. FRASER: Bruce, that's what</p> <p>4 we do as a Planning Board, we consider the application</p> <p>5 as they come before us.</p> <p>6 BOARD MEMBER PATERSON: Yes, I</p> <p>7 agree.</p> <p>8 CHAIRPERSON VILLAGGIO: We're</p> <p>9 done up here. If there is no further questions from</p> <p>10 members of the Board, now I'll open it up for any</p> <p>11 other questions of the public to this witness.</p> <p>12 MR. DUGERT: Dave Dugert.</p> <p>13 D-U-G-E-R-T. Will this structure, as beautiful as it</p> <p>14 is, gonna bring down our, the property value in our</p> <p>15 neighborhood? Because our houses are about 50, 60,</p> <p>16 maybe 70 years-old and we're concerned -- well, I'm</p> <p>17 concerned if I want to sell my house who wants to buy</p> <p>18 that old, crappy thing with that nice, new structure</p> <p>19 down there. The would be a negative to me and other</p> <p>20 owners in our area.</p> <p>21 THE WITNESS: Your own Master</p> <p>22 Plan here talks about development around you. First</p> <p>23 of all let me just say, I'm not a real estate expert,</p> <p>24 but as from a planning standpoint, typically we see</p> <p>25 development transit hubs improving property values and</p>

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1 your own Master Plan talks about that as well, about
 2 development around transit enhancing property values.
 3 **MR. DOUGERT:** It's a good thing.
 4 **THE WITNESS:** Yes.
 5 **MR. DOUGERT:** And I'm worried
 6 about the environment itself with the animals and
 7 things that usually roam in this area, where are they
 8 going? At this point with the Master Plan where are
 9 the animals and critters in that area going?
 10 **THE WITNESS:** Oh, you mean the
 11 displacement of the animals that are on the property
 12 now? They will relocate, that's what they do.
 13 **CHAIRPERSON VILLAGGIO:** Any
 14 further questions?
 15 **MR. DOUGERT:** No, that's fine.
 16 **CHAIRPERSON VILLAGGIO:** Is there
 17 any further questions? Yes.
 18 **MS. McCOMB:** Lauren McComb. 419
 19 Brookside Place, Cranford. I was just wondering are
 20 there any plans to put vegetation around the perimeter
 21 of the property so that when we come out of our
 22 backyard, we're not staring at nine other families
 23 looking at us directly into our backyard from the
 24 third floor.
 25 **THE WITNESS:** The answer is yes.

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1 And, again, I'm pointing at the site plan. Basically,
 2 we put three colors on there; the tan is the building,
 3 the gray is the pavement. The green will be wooded by
 4 the triangular pit to the right. The balance will be
 5 vegetated, yes.
 6 **MS. McCOMB:** Wooded. So a full
 7 barrier because right now it's all woods so you're
 8 going to knock down a majority of that to build the
 9 structure.
 10 **THE WITNESS:** I'm not sure where
 11 your house is, ma'am.
 12 **MR. FRASER:** Miss McComb, if you
 13 can show us where your house is so we can all
 14 understand.
 15 **MS. McCOMB:** So we're right here
 16 so when I come out of my backyard, when I come out of
 17 my backyard here, I'm used to seeing all trees, now
 18 I'm going to be staring at --
 19 **CHAIRPERSON VILLAGGIO:** You're
 20 going to see a lot of trees.
 21 **MS. McCOMB:** No, I know, because
 22 I can see my house on that.
 23 **MR. FRASER:** What she's saying is
 24 you're going to see, where you presently see all
 25 trees, you're going to see some trees, then a parking

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1 lot, then a building, correct?
 2 **MS. McCOMB:** If they're going to
 3 plant very high trees here, yes, but I mean I don't
 4 know how high they're going to go.
 5 **MR. FRASER:** But I think the
 6 first part of the question is if the green part of
 7 that, Mr. McDonough, on the easterly side of the
 8 proposed project, between the parking lot and the
 9 property line is the Applicant proposing to leave the
 10 trees that are in that green part or to take them
 11 down?
 12 **THE WITNESS:** To the northern
 13 part of the property the answer is the trees will
 14 remain. To the eastern portion, to the extent that
 15 they can be preserved they will, but in all practical
 16 reality, they'll be planted with an evergreen buffer,
 17 which is a requirement of the ordinance. So when we
 18 get to site plan, we'll deal with that. Again, we do
 19 show little circles which will be trees along that
 20 border. Bear in mind, of course, there's woodlands at
 21 the back of the property as well as on the adjacent --
 22 **MS. McCOMB:** Yeah, this backs up
 23 into my backyard. I'm just asking because I know that
 24 you used the rendering number eight on that sheet that
 25 we all got.

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1 **THE WITNESS:** Yes.
 2 **MS. McCOMB:** So when you look at
 3 those town homes that are now on North Avenue, where
 4 they backup they backup to those fields and the
 5 baseball field, they're all part of one another, so
 6 there's trees there, yes, but they're not very high.
 7 You can see still see into the second and third floor
 8 and when you're walking right below that you can see
 9 directly into our property, so it's going to impact
 10 our property.
 11 **THE WITNESS:** The Applicant has
 12 given enough of a green belt around the property that
 13 we can get a nice screen around the edge.
 14 **MS. McCOMB:** Okay.
 15 **CHAIRPERSON VILLAGGIO:** Is there
 16 any further questions?
 17 **MR. SOUSA:** Roger Sousa,
 18 S-O-U-S-A, 490 Fourth Avenue, Garwood. Before you
 19 said two homes, one on each side you said had no
 20 windows?
 21 **THE WITNESS:** The photo that I
 22 showed was a house on this side that had no windows,
 23 there's a house on this side that has a long backyard,
 24 very long backyard, that's predominately wooded.
 25 **MR. SOUSA:** And there's no

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1 windows in this house?
 2 **THE WITNESS:** No, I was talking
 3 about this.
 4 **MR. SOUSA:** So there's four big
 5 windows in that house that's going to be viewing the
 6 back of one, two, three of these town homes.
 7 **THE WITNESS:** Yes, that house is
 8 right here. And, as I said, there is going to be a
 9 green belt along the property so there will be a
 10 buffer.
 11 **MR. SOUSA:** So from the back of
 12 that patio to the driveway line or the property line,
 13 how many feet is that?
 14 **THE WITNESS:** Your ordinance
 15 requirement is ten feet.
 16 **MR. SOUSA:** From the back of the
 17 house or from the back of the patio?
 18 **THE WITNESS:** A Minimum ten-foot
 19 buffer is required along the back perimeter of the
 20 property.
 21 **MR. SOUSA:** Now that's the back
 22 of the town home or is that the back of the patio?
 23 **THE WITNESS:** The back of the
 24 town home will be further away.
 25 **MR. SOUSA:** So the patio is ten

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1 feet so it will be about 20 feet?
 2 **THE WITNESS:** The actual
 3 structure is measuring 20 plus feet to the building.
 4 **MR. SOUSA:** Alright. And that's
 5 not going to block no views?
 6 **THE WITNESS:** No scenic views,
 7 no. Again, bear in mind, these three colors here,
 8 again, the tan, the dark gray and the green are very
 9 similar to the form of development that we would see
 10 with single-family housing. Same colors --
 11 **MR. SOUSA:** Now this very
 12 beautiful, it's very nice, but does that fit on Fourth
 13 Avenue? Is that something that belongs on Fourth
 14 Avenue I would say because I moved -- I lived in a
 15 community just like this, it looked exactly the same.
 16 I moved away from that to have the pool, to have the
 17 trampoline, to have my kids go to his house or his
 18 house or his house to play in their pool or
 19 trampoline. I didn't move here basically like to live
 20 next to 55 and over which is better than anybody I
 21 would say, but I don't think that belongs in this part
 22 of the neighborhood, plain and simple. You come
 23 around that bend and you're going to have this huge
 24 structure.
 25 **CHAIRPERSON VILLAGGIO:** Is there

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1 any questions, questions of the witness?
 2 **MR. SOUSA:** That was my question
 3 about windows and everything else because there are
 4 four big windows and he kind of skipped over that when
 5 he got to that point.
 6 **CHAIRPERSON VILLAGGIO:** Horace.
 7 **MR. CORBIN:** I just need the date
 8 of this aerial photograph because I see stuff on here
 9 that I don't think it exists.
 10 **THE WITNESS:** Bing photographs
 11 are dated several years; maybe three or four years.
 12 **MR. CORBIN:** So that's not really
 13 representative of the existing condition.
 14 **THE WITNESS:** From a planning
 15 standpoint for my purposes in terms of the form of
 16 development --
 17 **MR. CORBIN:** Well, what about for
 18 my purpose and the Board's purpose?
 19 **THE WITNESS:** I'm the one
 20 testifying.
 21 **MR. CORBIN:** Have you been there?
 22 **THE WITNESS:** Multiple times.
 23 **MR. LOBE:** David Lobe, L-O-B-E,
 24 900 Union Street. The positive factors that you laid
 25 out for this parcel to up-zone it, would you say that

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1 those would also apply to the neighboring parcel which
 2 has a very similar lot; long and skinny and goes into
 3 the back?
 4 **THE WITNESS:** I'd have to look at
 5 the particular attributes of that site. I don't know.
 6 There's a distinct difference; this property is
 7 presently a commercial piece of property which is
 8 clearly in contrast to the neighborhood. The
 9 adjoining property is presently residential which is
 10 compatible with the neighborhood. That non conforming
 11 use that's there now could continue for perpetuity.
 12 It's a lawfully protected land use. It can go on and
 13 on. I think, again, within the context of the site
 14 and its historic use. This is an appropriate rezone
 15 of the property. I don't know if I can say that for
 16 the property next door, I don't know.
 17 **MR. LOBE:** Some more questions,
 18 may I continue?
 19 **THE WITNESS:** Yes.
 20 **MR. LOBE:** So I've read the
 21 Garwood Master Plan and I know that for a zoning
 22 variance the Board has to consider or you have to
 23 consider all the factors, the purposes and the intent
 24 of the zoning plan. So you talked about how this plan
 25 would incorporate, or, sorry, this new construction

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1 would not create undue disruption to the established
 2 character of Garwood and considering the neighboring
 3 areas don't have any townhouses, single-family homes
 4 several blocks around.

5 **THE WITNESS:** I'm repeating
 6 myself, but I think in the terms of the character and
 7 the area of this site, this redevelopment pulls the
 8 site more into conformity with the character of the
 9 area which is a residential area where we now have a
 10 non residential use. So I think that goal does
 11 enhance it.

12 **MR. LOBE:** What about the goals
 13 you've provided affordable housing opportunities for
 14 Garwood residents?

15 **THE WITNESS:** Okay. Again, the
 16 sharing of the walls, the efficiency of the space I
 17 think provides for an affordability element as well.
 18 We're dealing with a full market here. I was just
 19 involved with a low income housing product, this is
 20 another type of housing product here. I do believe it
 21 met that market demand and create an affordable full
 22 market development.

23 **MR. LOBE:** Can you talk a little
 24 bit about how this would conflict with the zoning in
 25 the neighboring communities in Westfield and Cranford?

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1 **THE WITNESS:** The zoning in the
 2 surrounding communities are also residential,
 3 single-family residential. Again, we're looking at
 4 sort of the hole in the donut; this is an oddball lot
 5 right now being non residential so making it
 6 residential, I think, pulls it into conformity with
 7 those surrounding town zoning.

8 **MR. LOBE:** But those towns don't
 9 have town homes on the border of Garwood, they have
 10 single-family homes.

11 **THE WITNESS:** Not all -- they're
 12 zoned for single-family, there's woodlands. This
 13 property as it shows on my photographs backs up to
 14 woodlands.

15 **MR. LOBE:** Okay. What about
 16 limiting development in environmentally sensitive
 17 areas because you'll be building up to the areas of
 18 the wetlands.

19 **THE WITNESS:** All of that is
 20 according to state regulations. We're not asking for
 21 any relief from the state regulations that we're not
 22 allowed to. We're allowed to buffer average around
 23 the wetlands and that's what the Applicant is doing
 24 here.

25 **MR. LOBE:** Okay. Thank you.

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1 **CHAIRPERSON VILLAGGIO:** Any other
 2 questions for this witness?

3 **MS. BANNICK:** Debra Bannick, 421
 4 Fourth Avenue, Garwood. I just have a question. Does
 5 anybody know when that piece of property became
 6 commercial? I know it was Mr. and Mrs. Heidi's home
 7 for years back in the 19, mainly 1900s, and it was
 8 always residential and then it did become commercial
 9 when she opened the little store there.

10 **THE WITNESS:** I know from the
 11 resolution in 2011 it talked about the former use at
 12 least 16 years ago it being a deli.

13 **MS. BANNICK:** Right.

14 **THE WITNESS:** I don't know when
 15 the deli started. I didn't go back in historical --

16 **MS. BANNICK:** That's when it
 17 probably became a commercial piece of real estate in
 18 the middle of the residential area.

19 **THE WITNESS:** At least twenty
 20 years I'd say, yes.

21 **MS. BANNICK:** Okay. Thank you.

22 **THE WITNESS:** You're welcome.

23 **MR. McCOMB:** Joe McComb, 419
 24 Brookside Place, Cranford. M-c-C-O-M-B.
 25 Mr. McDonough, during your

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1 presentation you both did ample time about double use
 2 of the parking. I would assume a lot of that is
 3 attributed to the fact that you have a garage with two
 4 spaces, why the need for that, and that, also, would
 5 help alleviate the height restriction. If you rid
 6 yourself of the garages, you still have parking in
 7 front. You need a road to get in, you're not going to
 8 have people drive on the lawn so any thought about
 9 that.

10 **THE WITNESS:** Well, the garage
 11 becomes an amenity for this type of, again, we're
 12 talking about a high end housing product. We some
 13 weather protection for the vehicles, for the drivers.
 14 It's something that goes with this time of product.

15 **CHAIRPERSON VILLAGGIO:** Any other
 16 questions?

17 **MS. McCOMB:** Lauren McComb. 414
 18 Brookside Place. M-c-C-O-M-B.
 19 Are there any lights planning,
 20 like planning for landscape lights that are high?

21 **THE WITNESS:** We'll come back to
 22 that on site plan.

23 **MS. McCOMB:** Okay. Sorry.
 24 That's not yet. Okay.

25 **THE WITNESS:** To ensure that the

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1 lights are shielded, they don't cast glare on the
 2 neighboring properties.
 3 **MS. McCOMB:** Okay.
 4 **CHAIRPERSON VILLAGGIO:** Any
 5 further questions from the audience, from the public
 6 to this witness? Seeing none, this portion is now
 7 closed.
 8 **MR. HEHL:** We have no further
 9 witnesses at this time. Again, all of our witnesses
 10 that have testified so far are available for further
 11 questions from the Board.
 12 **MR. FRASER:** At this time,
 13 members of the public who wish to testify or provide
 14 argument either in favor of or opposed to the
 15 application or comments about the application are
 16 welcome to do so. You're not limited to questions
 17 now. Anybody from the public who wants to speak.
 18 **CHAIRPERSON VILLAGGIO:** Ileen.
 19 **MS. CUCCARO:** Ileen Cuccaro. 348
 20 Third Avenue. This property, I guess, for the last
 21 almost twenty years --
 22 **MR. FRASER:** Ileen, are you going
 23 to provide testimony? I have a feeling you're going
 24 to be providing testimony.
 25

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1 ILEEN CUCCARO, residing at 348 Third
 2 Avenue, Garwood, New Jersey, being first duly sworn,
 3 testified as follows:
 4 **MR. FRASER:** Spell your last name
 5 for the Reporter.
 6 **MS. CUCCARO:** C-U-C-C-A-R-O. For
 7 the past twenty years I have been trying to sell this
 8 property without much success and, finally, before it
 9 was purchased, they got a three-house subdivision
 10 which I really felt would really enhance the property
 11 values around where we live which was a good thing and
 12 then all of a sudden this came up. I just don't
 13 understand why it was changed from a three-family, you
 14 know, three single-family homes to a big, huge
 15 property that does not fit in within the landscape of
 16 our neighborhood at all, number one.
 17 The traffic studies, they can make all
 18 kinds of testimony about how it does not impact, the
 19 Shop Rite traffic study did not impact, the strip mall
 20 did not impact, the Pointe did not impact, in the
 21 meantime you can barely pull out on Walnut Avenue from
 22 Third Avenue. Fourth Avenue the traffic goes from
 23 Fourth Avenue out past the light, up North Avenue all
 24 the way from Westfield into Cranford. So the traffic
 25 studies to me are meaningless.
 But the main thing is Garwood redid the

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1 Master Plan and changed a lot of the single-family
 2 streets to multi-family streets into single-family
 3 which was what the town wants. Now you're asking it
 4 to be reverted for this one specific piece of property
 5 when the rest of the whole area is residential. I
 6 feel like that's going against what the town just did
 7 with the Master Plan. And I really, I just, I really
 8 can't see how it's going to enhance the neighborhood
 9 at all.
 10 Now like I said, no negative impact for
 11 traffic studies. Doesn't happen, you know, it just
 12 doesn't. So I just don't think that it will enhance
 13 where we're at. And if the Master Plan was just
 14 changed to get rid of the multi-family streets and
 15 this just counteracts what they voted on two years ago
 16 or whenever the Master Plan was changed. That's
 17 pretty much all I have to say on that.
 18 **CHAIRPERSON VILLAGGIO:** Thank
 19 you.
 20 **MR. FRASER:** Mr. Hehl, do you
 21 have any questions?
 22 **MR. HEHL:** I have no questions.
 23 **CHAIRPERSON VILLAGGIO:** Is there
 24 any other comments or testimony?
 25 **MS. McCOMB:** Yes.

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1 LAUREN McCOMB, residing at 419 Brookside
 2 Place, Cranford, New Jersey, being first duly sworn,
 3 testified as follows:
 4 **MS. McCOMB:** I'm just very
 5 concerned that, you know, something that we have
 6 sacrificed living on Brookside Place in Cranford is we
 7 know our street whether or not it's 25 miles per hour
 8 it's like a highway, people are sipping in and out.
 9 Every time I pull in and out of my driveway I have two
 10 kids in the car and it's not a very safe turn.
 11 However, the one thing that we do love is that our
 12 backyard backs up to woods and a basin and, you know,
 13 there's kids playing back there all the time, ice
 14 skating and playing like with the paint balls and
 15 stuff, so when we're coming out of our backyards that
 16 we have tried to make beautiful for our own living
 17 arrangements because our front yard is terrible, I am
 18 very concerned that we're going to lose a lot of the
 19 privacy, we're going to lose a lot of the homey feel
 20 that we have and it's going to be knocked down by a
 21 huge structure. It is beautiful, I'm not saying that
 22 it's not beautiful, I just don't think that it belongs
 23 in the area that it is proposed to be placed. That's
 24 it.
 25 **CHAIRPERSON VILLAGGIO:** Thank
 you.

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1 **MR. FRASER:** Mr. Hehl, any
 2 questions?
 3 **MR. HEHL:** I have no questions,
 4 no.
 5 **CHAIRPERSON VILLAGGIO:** Is there
 6 any others? Okay.
 7
 8 D A V I D L O B E, residing at 900 Union Street,
 Westfield, New Jersey, being first duly sworn,
 9 testified as follows:
 10 **MR. LOBE:** I think if this
 11 variance is approved the Board would have a hard time
 12 turning down and requesting for a variance on an
 13 adjacent property that has a similar layout, maybe not
 14 exactly the same, but a similar layout or similar
 15 variances in adjoining or neighboring parcels. I
 16 think this would set the Board on a slippery slope
 17 towards really fundamentally changing the character of
 18 the neighborhood and I think the proposed plan does
 19 not conform with the neighborhood at all. So I would
 20 caution the Board to think carefully about the
 21 implications of approving this variance.
 22 **MR. FRASER:** Mr. Hehl?
 23 **MR. HEHL:** No questions.
 24 **CHAIRPERSON VILLAGGIO:** Horace.
 25

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1 H O R A C E C O R B I N, 430 Union Street,
 Westfield, New Jersey, being first duly sworn,
 2 testified as follows:
 3 **MR. CORBIN:** Are we going to have
 4 a chance to testify in the future on this issue?
 5 **MR. FRASER:** Not on the use
 6 variance.
 7 **CHAIRPERSON VILLAGGIO:** Not on
 8 the use variance.
 9 **MR. FRASER:** This is the hearing
 10 on the use variance. In the event that the use
 11 variance is denied, this is over. In the event that
 12 the use variance were to be granted, there will
 13 subsequently be a future hearing on the specifics of
 14 the site plan.
 15 **MR. CORBIN:** So this is all or
 16 nothing right now?
 17 **MR. FRASER:** If you want to
 18 oppose that there is going to be nine townhouses,
 19 now's the time.
 20 **MR. CORBIN:** I have photographs
 21 that show that the aerial photograph that Mr. So and
 22 So said is what existed indeed does not.
 23 **MR. FRASER:** Do you wish to put
 24 those photographs into evidence?
 25 **MR. CORBIN:** I do, since this is

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1 my last chance. And it shows that whole area back
 2 there has been clear-cut all the way back to the creek
 3 and it's a mud hole, so.
 4 **MR. FRASER:** Could I make a
 5 suggestion?
 6 **MR. CORBIN:** Yes.
 7 **MR. FRASER:** How many photographs
 8 do you have that you wish to put into evidence?
 9 **MR. CORBIN:** Seven.
 10 **MR. FRASER:** Why don't we mark
 11 those. Give them to Adele and we'll mark them. Your
 12 last name, sir?
 13 **MR. CORBIN:** Corbin.
 14 **MR. FRASER:** We'll mark them
 15 Corbin one through seven.
 16 **BOARD MEMBER TARANTINO:** I think
 17 we should also know the date of these photos.
 18 **MR. FRASER:** I'll ask him. Mark
 19 them Corbin one through seven.
 20 Mr. Corbin, why don't we lay a
 21 foundation for the photographs. Did you personally
 22 take the photographs?
 23 **MR. CORBIN:** I did or my son did.
 24 **MR. FRASER:** When were the
 25 photographs taken?

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1 **MR. CORBIN:** Over the Memorial
 2 Day weekend and today.
 3 **MR. FRASER:** So within the last
 4 week --
 5 **MR. CORBIN:** Correct.
 6 **MR. FRASER:** -- either you or your
 7 son took the seven photographs.
 8 **MR. CORBIN:** That's correct.
 9 Took a lot more, but this is all I brought with me.
 10 **MR. FRASER:** And the seven
 11 photographs that you took or your son took that you're
 12 handing to Adele which are being marked into evidence
 13 or momentarily going into evidence, do they accurately
 14 reflect the condition of the property in question as
 15 it sits today?
 16 **MR. CORBIN:** It's hard to tell
 17 what the property actually is, the property line back
 18 there, and I don't have direct access to it. So I'm
 19 not exactly sure where the property line is that was
 20 discussed here versus what the adjacent property is.
 21 So I can't say that I know exactly where the property
 22 line is.
 23 **MR. FRASER:** Well, the question
 24 is are these the pictures, and for them to go into
 25 evidence I think we need to know, are these pictures

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1 that you're putting in pictures of the Applicant's
 2 property. Because if they are --
 3 **MR. CORBIN:** They are at least in
 4 the background and maybe in the foreground, but I
 5 don't know exactly where the property line is.
 6 **MR. FRASER:** Alright.
 7 **CHAIRPERSON VILLAGGIO:** Can I ask
 8 where did you take these pictures from?
 9 **MR. CORBIN:** From my property
 10 which is adjacent.
 11 **CHAIRPERSON VILLAGGIO:** Which
 12 it's my understanding is you live at the last house --
 13 **MR. CORBIN:** Right on the creek.
 14 **CHAIRPERSON VILLAGGIO:** -- on
 15 Union Street; is that correct?
 16 **MR. CORBIN:** Yes.
 17 **BOARD MEMBER PATERSON:** Right
 18 next to the dotted line.
 19 **MR. CORBIN:** What I'm trying to
 20 show with these photographs is that all this wooded
 21 area that's shown on that aerial photograph doesn't
 22 exist, it's been clear-cut all the way back to the
 23 creek.
 24 **MR. FRASER:** Now hold on, just
 25 hold on.

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1 (Photographs are received and
 2 marked Corbin-1 through Corbin-7 in evidence.)
 3 **MR. CORBIN:** And that's what
 4 these photographs show.
 5 **MR. FRASER:** I understand that
 6 part, but the question would be the part that you
 7 claim is clear-cut, is it on the Applicant's property
 8 or is it not on the Applicant's property.
 9 **MR. CORBIN:** I can't tell and I
 10 asked the engineer that today and he said what he
 11 showed on his drawings the trees were there. I can't
 12 tell from the actual visual whether that's true or
 13 not, that's point one. The other point is all the
 14 water that's going to runoff from the proposed
 15 development is going to go right to the mud hole that
 16 exists there now because all this is clear-cut and
 17 then it goes right into all the properties over there.
 18 And, by the way, cutting all these wetlands is illegal
 19 so I don't know who actually did it.
 20 **MR. FRASER:** Alright. Do you
 21 have anything further?
 22 **MR. CORBIN:** I don't believe that
 23 there's any way they can get any of the water and
 24 everything else that happens from this property. If
 25 you recall I asked the other guy where does water go

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1 and he says it goes into a holding pit and then I said
 2 then what, there was no answer. And I have to say I'm
 3 you also an engineer, if that water is going to go
 4 anywhere, it's going to go down toward that creek and
 5 right through the mud hole and guess what, right
 6 through the wetlands which they say they're not going
 7 to touch. So you have some serious problems here.
 8 **MR. FRASER:** Alright. Anything
 9 further?
 10 **MR. CORBIN:** I'm done before I
 11 get too mad.
 12 **CHAIRPERSON VILLAGGIO:** Mr. Hehl.
 13 **MR. HEHL:** I just have a couple
 14 of questions. I'd like you to take a look at Corbin-1
 15 in this area which appears to be, I'm not sure what
 16 that purple is. Do you know where that is a picture
 17 of?
 18 **MR. CORBIN:** Yes.
 19 **MR. HEHL:** Do you know who's
 20 property that is?
 21 **MR. CORBIN:** I'll show you where
 22 it is on this -- on these other photographs.
 23 **MR. HEHL:** I'm just asking you to
 24 look at Corbin-1, do you have any idea where that is,
 25 whether it's the Applicant's property or the

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1 adjacent --
 2 **MR. CORBIN:** How about this.
 3 **MR. HEHL:** It's a simple
 4 question.
 5 **MR. CORBIN:** It's right there.
 6 You tell me where the property line is.
 7 **MR. HEHL:** If you're pointing to
 8 there, you're pointing to property that is not on the
 9 Applicant's property.
 10 **MR. CORBIN:** Okay. So you're
 11 saying it's not on the Applicant's property, where is
 12 the Applicant's property here?
 13 **MR. HEHL:** I don't know, I'm
 14 asking you, you're the one who took --
 15 **MR. FRASER:** Excuse me. Excuse
 16 me. We're not going to do this.
 17 **MR. CORBIN:** Well, he's asking me
 18 specific questions and he won't answer any.
 19 **MR. FRASER:** Okay, and that
 20 correct, because right now, Mr. Corbin, you're the
 21 witness and he's the attorney cross-examining you. So
 22 right now, with all due respect, the way it works you
 23 don't get to ask him questions, he gets to question
 24 you on testimony you just gave. And it's a legitimate
 25 question where, if you know, was the area --

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1 **MR. CORBIN:** Well, give me copy
 2 of the engineering drawings that are going to be
 3 produced on this and I'll show you exactly where it
 4 is. But without any of the engineering drawings and
 5 without any elevations or anything else, I'm only
 6 guessing with pictures on the wall and attorneys on
 7 the table.

8 **MR. FRASER:** So the answer is
 9 you're guessing or you're not positive?

10 **MR. CORBIN:** No, I am showing you
 11 the photographs in my backyard and exactly where the
 12 property line is I don't know.

13 **CHAIRPERSON VILLAGGIO:** And
 14 that's okay.

15 **MR. FRASER:** "I don't know" is an
 16 okay answer.

17 **CHAIRPERSON VILLAGGIO:** Because
 18 we're not sure, you know, because you're testifying
 19 that this application --

20 **MR. FRASER:** So that the record
 21 is clear, the response to Mr. Hehl's question as to on
 22 who's property is reflected on Corbin-1 the answer is
 23 that you don't know.

24 **MR. CORBIN:** That would be fair.
 25 **MR. FRASER:** That's a legitimate

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1 answer. Next question, Mr. Hehl.

2 **MR. HEHL:** And would that be the
 3 same answer to question --

4 **MR. CORBIN:** For every one of
 5 those photographs.

6 **MR. HEHL:** Okay. Fine.

7 **MR. FRASER:** Anything further,
 8 Mr. Hehl?

9 **MR. HEHL:** I have nothing
 10 further. Thank you.

11 **MR. CORBIN:** You're welcome.

12 **MR. FRASER:** They're going to go
 13 into evidence. They go to Adele.

14 Does any other member of the
 15 public wish to provide testimony either positive or
 16 negatively on the application or argument.

17 **MR. DEL CONTE:** Al DelConte, 545
 18 Locust Avenue, Garwood. D-E-L capital C-O-N-T-E.
 19
 20 AL DEL CONTE, residing at 545 Locust Avenue,
 Garwood, New Jersey, being first duly sworn, testified
 21 as follows:
 22 **MR. DEL CONTE:** I think this
 23 project here is beautiful. Whether it fits in the
 24 neighborhood or not is a little bit better than what's
 25 there right now. I know in the past I believe it was

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1 somebody had come in front of the Board to do five
 2 homes and then walked away from it. You changed it to
 3 the three homes and it's been that way now for a few
 4 years. The real estate market has picked, builders
 5 are building all over. Nobody is biting on this piece
 6 of property. The Applicant has done a couple of
 7 projects in town already, very nice I must say they
 8 turned out to be. He's going to move forward
 9 hopefully with this and it will be a beautiful project
 10 when it's finished. If this is knocked down I guess
 11 we could have a deli open back up over there again,
 12 maybe a little bit more traffic like a 7 Eleven or
 13 Quick Chek you can have back there again. If there's
 14 anybody here who remembers when it used to be Heidi's
 15 when it was open. Maybe if it's not a deli -- we all
 16 kind of know what happened to us or some of us might
 17 know what happened to us over on the St. Ann's
 18 property where it became senior citizens housing. And
 19 if you want to talk about overpopulation density, you
 20 probably will get something that's two times, maybe
 21 three times larger than what you're looking at right
 22 here and it's not going to look anything like this.
 23 Or I think maybe we could get affordable housing that
 24 could get thrown in there and then I think that
 25 becomes like more controlled of what the state says

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1 that gets done there rather than what this Board can
 2 say that can be put there. Now it's not in Garwood,
 3 but it's in Westfield, it borders Spruce Avenue and
 4 Myrtle, they're putting affordable housing in down
 5 there. The site is wetlands. The neighbors have
 6 complained about water runoff and they met all the
 7 requirements, but there's many, many units going in
 8 there. For the density it's way over the top. Here,
 9 again, I think this is a nice project for the town.

10 To move forward with, I'd like to see it
 11 be approved, hopefully tonight, so we're not dragged
 12 on like we have been on previous meetings. And you
 13 all see me, I usually sit here and mind my own
 14 business, but I think tonight it was something that
 15 needed to be brought up that I hope and I know that
 16 the Board realizes what they're up against, what could
 17 go there. I don't know that the public really knows
 18 what could go there if this gets denied. I look
 19 forward to an approval here tonight hopefully. Thank
 20 you.

21 **MR. FRASER:** I'm sure, Mr. Hehl,
 22 you don't want to cross-examine.

23 **MR. HEHL:** No.

24 **CHAIRPERSON VILLAGGIO:** Is there
 25 any other member of the public that wishes to testify?

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1 **MS. CUCCARO:** Just on your case,
 2 I mean the property is purchased and three homes are
 3 approved to go on there, so that's what's already
 4 approve. What else could go on there if that's
 5 already approved currently.
 6 **MR. DEL CONTE:** I agree with you,
 7 yes, but you're a real estate agent.
 8 **MS. CUCCARO:** Correct.
 9 **MR. DEL CONTE:** You see builders.
 10 **MR. FRASER:** The purpose of
 11 providing testimony is not to provide an
 12 opportunity --
 13 **MS. CUCCARO:** Because I just
 14 wanted to make sure that they understand. They can
 15 assume that there was nothing approved there yet or
 16 anything else could go there so I just wanted to make
 17 sure that the people understood that.
 18 **MR. FRASER:** The point is that
 19 ever member of the public has the opportunity to
 20 provide their testimony of their opinions about this,
 21 it's not designed to provide a forum for one --
 22 **MS. CUCCARO:** No, I understand
 23 that, but some people may not know that it's already
 24 been purchased and there's already been an approval,
 25 that's all I was trying to clarify. That's it.

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1 **MR. FRASER:** Very well.
 2 **MS. CUCCARO:** I'm done.
 3 **CHAIRPERSON VILLAGGIO:** Okay. Is
 4 there any other member of the public that wishes to
 5 have testimony? Sir.
 6 **MR. FRASER:** We do have a bylaw
 7 of the Board. The hearing closes at 11 o'clock. So
 8 I'm not going to suggest that you should be cutoff.
 9 I'm going to make a suggestion because what we keep
 10 doing is we keep being redundant and then there's one
 11 more hand and that's fine. Could we just get a show
 12 of hands of how many more people wish to comment on
 13 this application so that the Board can make an
 14 intelligent decision as to what we're going to do in
 15 terms of time. How many more people after this
 16 gentleman want to make a statement or testimony?
 17 **MR. UZARSKI:** John Uzarski. 415
 18 Union Street.
 19
 20 JOHN UZARSKI, residing at 415 Union Street,
 21 being first duly sworn, testified as follows:
 22 **MR. UZARSKI:** If this gets
 23 denied, what will happen to the property?
 24 **MR. FRASER:** That's not really
 25 testimony, but I'll answer it anyway. The answer is
 they don't have approval for this. If there's an

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1 approval for three single-family houses, I guess
 2 somebody could build that or they can come back with
 3 some other application to do something else at some
 4 point in the future.
 5 **MR. UZARSKI:** And you guys make
 6 the final decision?
 7 **MR. FRASER:** Depending on what it
 8 is.
 9 **MR. HEHL:** Other than again, if
 10 there is a preexisting commercial use --
 11 **MR. FRASER:** Nobody has to do
 12 anything, it could stay as it is or there could be
 13 some other application.
 14 Is there anybody else now from
 15 the public who wants to still have a say on this.
 16 **BOARD MEMBER McCARRICK:** I just
 17 have a question, I guess it's more of a legal
 18 question.
 19 **MR. FRASER:** Then I would suggest
 20 that you consult your lawyer.
 21 **BOARD MEMBER McCARRICK:** What
 22 determines the current use of the building because it
 23 was partial residential and partial commercial, does
 24 the commercial supersede by law, is that why we're --
 25 **MR. FRASER:** I'll answer it

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1 partially, okay. It's in a single-family zone, right.
 2 However, the commercial use is what we call a
 3 preexisting non conforming use, in other words, it's
 4 there long enough and it may have predated the zoning
 5 ordinance, there may have been a variance dozens of
 6 years ago, but the point is if it's there long enough,
 7 in layperson's terms, it might be grandfathered and
 8 that gets to stay. And even though it's in a
 9 single-family zone, that commercial use is legal. And
 10 if this doesn't get approved, as Mr. Hehl was just
 11 pointing out, the commercial use can continue and
 12 that's one of the things that Mr. McDonough was
 13 arguing. Does that answer your question?
 14 **BOARD MEMBER McCARRICK:** Yes.
 15 Thank you. Alright.
 16 **CHAIRPERSON VILLAGGIO:** Can I say
 17 that this portion of the meeting has been closed?
 18 **MR. FRASER:** The public portion
 19 is closed. Now we have a decision to make.
 20 Ordinarily, the Board would now -- Mr. Hehl, are you
 21 summing up further or are you done?
 22 **MR. HEHL:** Very briefly.
 23 **MR. FRASER:** You still have the
 24 right to sum up. As soon as Mr. Hehl's sums up, the
 25 Board will take it under advisement, the Board will

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1 discuss amongst itself and the Board will make its
 2 vote. So the question is it's 11 o'clock. The
 3 Board's rule is we don't go past 11 o'clock unless we
 4 want to change that. I'll make one other
 5 observation -- you know, what I'm not going to.
 6 **CHAIRPERSON VILLAGGIO:** So we
 7 would need a motion to extend the time of the meeting;
 8 a motion and a second to exceed the time limit of 11
 9 o'clock.
 10 **MR. FRASER:** Right.
 11 **BOARD MEMBER VENA:** Madam Chair,
 12 I've been sitting on this Board a long time and we
 13 visited the Heidi properties a long time and we've
 14 spent a lot of hours on it so I would like to get the
 15 Heidi properties behind us tonight. So I would make a
 16 motion.
 17 **BOARD MEMBER TARANTINO:** And I
 18 would second that.
 19 **BOARD MEMBER VENA:** I would make
 20 a motion that we stay as long as it takes to complete
 21 this application.
 22 **MR. FRASER:** Well, not as long as
 23 it takes.
 24 **BOARD MEMBER VENA:** It's not
 25 going to take that long.

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1 **CHAIRPERSON VILLAGGIO:** We have a
 2 motion. We have a second. Adele, take a roll call.
 3 **BOARD SECRETARY LEWIS:** Bruce
 4 Paterson?
 5 **BOARD MEMBER PATERSON:** Yes, to
 6 extend the hour.
 7 **BOARD SECRETARY LEWIS:** Gene
 8 Jannotti?
 9 **MR. JANNOTTI:** Yes.
 10 **BOARD SECRETARY LEWIS:** Georgia
 11 MacIndoe?
 12 **BOARD MEMBER MacINDOE:** Yes.
 13 **BOARD SECRETARY LEWIS:** Kathy
 14 Villaggio?
 15 **CHAIRPERSON VILLAGGIO:** Yes.
 16 **BOARD SECRETARY LEWIS:** Robert
 17 Scherer?
 18 **BOARD MEMBER SCHERER:** Yes.
 19 **BOARD SECRETARY LEWIS:** Michael
 20 Vena?
 21 **BOARD MEMBER VENA:** Yes.
 22 **BOARD SECRETARY LEWIS:** Timmy
 23 Hak?
 24 **BOARD MEMBER HAK:** Yes.
 25 **CHAIRPERSON VILLAGGIO:** Motion

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1 carried. Mr. Hehl, you can do your summation.
 2 **MR. HEHL:** Yes. And I will, in
 3 view of the hour and the testimony, I'll be very
 4 brief. I don't think I can sum it up any better than
 5 the testimony of the witnesses that testified here
 6 this evening on our behalf, Mr. Quinn. And we
 7 recognize, again, we are here on a bifurcated basis so
 8 we would, this Board so kind as to grant this
 9 application, we're going to be back and we're going to
 10 address issues of drainage, of lighting of further --
 11 we've already committed to meet with the fire
 12 department, with our architect to address any issues
 13 there to meet with your police department and our
 14 traffic engineer and our site engineer and Mr. Vinegra
 15 to address any questions with respect to traffic
 16 safety and ingress/egress on the site.
 17 And, again, we're here on a bifurcated
 18 basis. I think we've established the proofs for the
 19 grant of this variance. It's a beautiful structure
 20 that's proposed here. There's going to be extensive
 21 landscaping and buffering. There's going to be safety
 22 improvements. We're eliminating the non conforming
 23 commercial use. The property has sat vacant for many
 24 years in that rear portion, but we are going to honor
 25 the buffering and the wetlands that are in place there

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1 and comply with the state regulations.
 2 So I think for all of the reasons and
 3 the reasons that Mr. McDonough highlighted and both
 4 the positive criteria and negative criteria and the
 5 need for this type of housing, the concession of the
 6 Applicant that it would be an age-restricted 55 and
 7 over, I think for all of those reasons that we would
 8 request that the Board grant, again, the bifurcated
 9 application which would be the use variance and the
 10 associated variances and that we come back here before
 11 this Board so this beautiful project can proceed at
 12 site plan approval. So thank you very much.
 13 **CHAIRPERSON VILLAGGIO:** Okay.
 14 Thank you, Mr. Hehl. Members of the Board, do you
 15 have any comments?
 16 **BOARD MEMBER PATERSON:** I'll
 17 comment.
 18 **CHAIRPERSON VILLAGGIO:** Okay.
 19 Mr. Paterson.
 20 **BOARD MEMBER PATERSON:** I
 21 understand that this property and the hardship due to
 22 the size and Mike Vena is right. I mean the Heidi
 23 property came in front of the Board many times, I was
 24 a resident most of the time, but it seemed like we
 25 were moving forward. When Sandy came in and, you

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1 know, she wanted to know what exactly we could do with
 2 the property so she could sell it because, obviously,
 3 she wanted to sell it and the Board kind of agreed
 4 with three homes. There was a flag lot for the third
 5 house, but we kind of have had a direction going on
 6 that and now we're looking at a very massive structure
 7 much like previously came in front of the Board many
 8 times. Like Mike said --

9 **CHAIRPERSON VILLAGGIO:** But those
 10 were a lot more denser --

11 **BOARD MEMBER PATERSON:** Well, and
 12 you're looking at a three-story building, and many
 13 three-story buildings. And the trick here is I mean
 14 -- maybe two blocks away John Monna came with a home
 15 that he wanted similar and it was knocked down, you
 16 know, that three-story was incorrect. Not to mention
 17 other names, but I thought three-story buildings were
 18 not really acceptable in Garwood.

19 I understand, you know, the townhouse
 20 ordinance and to me it seems like townhouses, you
 21 know, the higher density side-by-side townhouses
 22 really should be within the main roads or maybe a
 23 block away, but stuck in the back of a small, quaint
 24 neighborhood, some of the residents did say, it
 25 doesn't fit in there. I tend to agree. I understand

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1 the property shape, you know, not conducive to proper
 2 development.

3 I don't know if Mr. Villaruat actually
 4 owns the property outright. If he did, I mean I would
 5 be maybe more conducive in thinking of trying to, you
 6 know, validate some of his project that he would like.
 7 I mean to me it just seems too big the ten yards --
 8 the ten-foot backyard is a major issue.

9 At this point, you know, I don't, I
 10 can't accept it the way it is. It's unfortunate, like
 11 Mike said, you know, the Heidi property came in front
 12 so many, so many times and I would like to see this
 13 get resolved. But just for me, just voting yes to at
 14 least make it go away --

15 **MR. FRASER:** Mr. Paterson, you
 16 said you don't know if Mr. Villaruat owns the
 17 property, it's right in the application.

18 **BOARD MEMBER PATERSON:** Is it
 19 really?

20 **CHAIRPERSON VILLAGGIO:** The
 21 application says it.

22 **BOARD MEMBER PATERSON:** It's so
 23 much paperwork.

24 **MR. FRASER:** He owns it.

25 **BOARD MEMBER PATERSON:** I'm going

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1 to suggest possibly if he comes back with something
 2 better. You know, maybe not the three homes, but
 3 something in between let's say then maybe I would vote
 4 yes. At this point I can't see it.

5 **CHAIRPERSON VILLAGGIO:** Thank you
 6 very much for your comments. I've been on this
 7 Planning Board for twenty years maybe, as a regular
 8 member, as a Zoning Board member, as an elected
 9 official person up here and now I'm back again. I've
 10 seen applications come in here with 18, 19, 22
 11 apartments, you know, different sections of the
 12 property itself. Having where it would be hard for a
 13 fire engine to even back into a spot, you know, or
 14 even go in there I feel that what we have here is
 15 something that's going to be done smart. It will look
 16 nice. Not just nice, it will look great. But I think
 17 that it has met the burden of use and I am going to
 18 vote for it. Thank you. Any other comments?

19 **BOARD MEMBER MacINDOE:** I came
 20 here tonight and after reading everything, you know, I
 21 thought it was not going to be a good place and
 22 wouldn't fit in the neighbor, but then I heard about
 23 the quality of the materials they're using I changed
 24 my mind. I'll also vote for it.

25 **CHAIRPERSON VILLAGGIO:** Alright.

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1 Thank you.

2 **BOARD MEMBER HAK:** I'm of two
 3 minds. I heard the people who live around there and
 4 their proofs made some very good points. I also
 5 recognize that when someone wants to spend money to
 6 develop it, you know, they're putting themselves out
 7 there and it's going to cost them a lot of money to do
 8 so and they kind of have the right to make money doing
 9 such a project. As much as this small community is
 10 concerned, but it's an odd-shaped piece of property
 11 and I think what could go in there could be the wrong
 12 thing and this seems to me done correctly with the
 13 Counsel's advice and, you know, it could be the best
 14 way to handle this situation. So I'm going to vote
 15 yes on this.

16 **CHAIRPERSON VILLAGGIO:** Mr.
 17 Scherer, I haven't heard from you at all today.

18 **BOARD MEMBER SCHERER:** I'm going
 19 to stick to my old resolution for the three houses.
 20 We spent a long time on that.

21 **CHAIRPERSON VILLAGGIO:** Do you
 22 have any comments?

23 **BOARD MEMBER TARANTINO:** I would
 24 say with my architectural planning and construction
 25 experience, I think this is the appropriate project

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1 for the odd shape piece of property. I hope residents
 2 understand that what you're going to perceive from
 3 Fourth Avenue is the end elevation. The architecture
 4 of this mass is going to make it much smaller than I
 5 think what people are going to, what they experience
 6 from reading the drawings. And if I had the
 7 opportunity tonight, I would vote yes for this
 8 project.

9 **CHAIRPERSON VILLAGGIO:** Thank you
 10 very much, Paul. Gene.

11 **MR. JANNOTTI:** Well, it's an
 12 interesting thing. I'm probably one of the newest
 13 members on the Planning Board and I spend a lot of
 14 time listening to the other more experience Planning
 15 Board members and listening to the audience and
 16 listening to the testimony, as I look at this and I go
 17 back to maybe the three houses, but if I look at the
 18 drawing and I see a house here and if I were to put
 19 like three homes back in here, even if you took the
 20 smaller, little smaller one's, I'm just not
 21 visualizing how that would actually fit. And so I
 22 look at this drawing and I look at what's here and I
 23 think, as you said, what you're going to see from the
 24 street or from Walnut Street is the end of the
 25 building and it's not like that one drawing where

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1 there was on North Avenue where they're all right on
 2 the street. And I look at the shape of this building
 3 and my main concern is the wetlands, but I think the
 4 testimony is that they would conform to all of the
 5 legal requirements to guarantee that the wetlands are
 6 protected. That is probably the most important thing
 7 to me besides the character of the neighborhood.

8 So based on the testimony that that is
 9 going to be satisfied, then I'm looking at, well, I
 10 think that this is a worthy project and one that I
 11 would, at this point, have to, I would go along with,
 12 so.

13 **CHAIRPERSON VILLAGGIO:** Mr.
 14 McCarrick, would you like to make a comment.

15 **BOARD MEMBER McCARRICK:** I
 16 recognize that I would be voting on this tonight. If
 17 I was, I would say that my major issue with this
 18 project is that it's in an RA zone and, Kathy. A lot
 19 of the projects that you talked about are in either
 20 the central business zone or general business zone.

21 **CHAIRPERSON VILLAGGIO:** That was
 22 proposed here, by the way. What I said before, they
 23 were for this property, that's why I mentioned that.

24 **BOARD MEMBER McCARRICK:** I
 25 thought one that came previously.

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1 **CHAIRPERSON VILLAGGIO:** It was
 2 way back.

3 **BOARD MEMBER McCARRICK:** I really
 4 feel that it's surrounded by single-family properties
 5 and if there is any way possible that it could remain
 6 single-family property and a little more green space I
 7 think that would be better, but it's just my opinion,
 8 so.

9 **CHAIRPERSON VILLAGGIO:** Vic, do
 10 you have anything?

11 **MR. VINEGRA:** I'll just go into
 12 that the Applicant is proposing 55 and older and that
 13 is, you know, that stems from HUD had a law in 1988,
 14 fair housing amendments and then that was revised in
 15 1995. What all that said was that someone in the home
 16 had to be 55. That's 80 percent. It's actually the
 17 first time where HUD acknowledged you can have
 18 discrimination in housing. It's age discrimination
 19 that you can't have anyone younger. So someone has to
 20 be 55 an older within the home, no children of school
 21 age can be in the home, but there can be caregivers
 22 and the like, but they can't be of school age, below
 23 17. But twenty percent of the units by federal law
 24 can be less than 55.
 25 And so the federal law came out, the

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1 federal government came out and set standards in 1995
 2 saying that to discriminate 80 percent had to be. So
 3 55, that doesn't mean that the ownership has to be it,
 4 it means you can buy one for your parent and your
 5 parent can live there, but that parent has to be 55
 6 years-old. And I agree with some of the testimony
 7 earlier with Mr. Staigar with traffic, that it's a far
 8 less trip generation because you don't have school-age
 9 children or you don't have -- people who could buy a
 10 home, will buy a home. You don't have people moving
 11 into a housing stock that have children, they'll buy
 12 single-family home for the pool and for the amenities.
 13 And the only thing I'd say is with this Board we, you
 14 know, the first time we experimented we townhouse
 15 uses, with townhouse development was the Pointe and I
 16 think we tipped our toes in the water on the Pointe.
 17 And I've done some subsequent investigation about
 18 housing in Garwood and just as a planner for your
 19 town, just has nothing to do with, just in general
 20 about townhouses, The Pointe has the highest resale of
 21 any residential's in town and they have the highest
 22 tax ratable. So even though they have self-governance
 23 with their homeowners association, they have
 24 self-plowing and self-garbage, they actually have the
 25 highest resales in town. I find that a little odd

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1 because other towns where I'm a planner it's vice
 2 versa; the single-family homes in Garwood actually
 3 sell less than the townhouses. That's telling me that
 4 this market hasn't been fully built-out. That there
 5 is a market in this general, not just Garwood, but in
 6 Westfield and Cranford for a new townhouse development
 7 and that people will overpay for -- to be within an
 8 association, to be within an area where it's
 9 controlled and to not have kids. It seems like the
 10 people who want to live here, they don't want children
 11 running around and they'll overpay. It's just
 12 something I've experienced looking into demographics
 13 and resales within the borough.

14 So, you know, this Board really has to
 15 look at, as a planner, this type of housing is in
 16 need. Now this Board has to decide is it the proper
 17 location, do you feel this is the proper location for
 18 this type of development. I've been at the Pointe,
 19 I've used The Pointe as a litmus test, and I've been
 20 to the residential homes that backup to The Pointe and
 21 I have a close friend that lives backed up to The
 22 Pointe; he was not the happiest when it was being
 23 built, but when it was all said and done it benefited
 24 his home, so. That's the only thing. And because of
 25 that, we have now introduced an ordinance that permits

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1 townhouses, and our ordinance that does permit
 2 townhouses and not in this area, permits up to 12 to
 3 15 an acre where they're going nine an acre. So we do
 4 have a townhouse ordinance. The Pointe ss built at
 5 about 14 units an acre from what I remember and that
 6 was highly successful. And, hopefully, if this
 7 project does go through it becomes as successful as
 8 The Pointe because I think that's been a super project
 9 for the municipality because it brought new people
 10 into town and they seem to enjoy living there and I've
 11 been dealing with them ever since and, you know, it's
 12 been a positive, in my opinion, The Pointe.

13 **BOARD MEMBER VENA:** I'll tell you
 14 what, expanding on The Pointe, I remember going down
 15 North Avenue when the mattress factory was there and
 16 all those old buildings before The Pointe came in and
 17 before Shop Rite came in and it was just, it was an
 18 ugly site. We used to go down there and there was
 19 nothing to look at, you just wanted to rush through
 20 town to get into Westfield. Now when you make that
 21 turn at the Hess station and you go down North Avenue,
 22 it's a majestic sight. It's nice. You see people
 23 milling about. There might be a little more traffic,
 24 but it's just a nice feature. Now when you we go down
 25 Walnut Avenue and you stop at that stop sign, you're

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1 going to see an expanse of a neighborhood in there,
 2 you're not going to look at ugly buildings. If I'm
 3 looking at that from that vantage point at the end of
 4 Walnut Avenue, I'm going to stop a couple of more
 5 seconds at that stop sign and take a look at that.
 6 I'm not going to make a rush right or a rush left. I
 7 think it's going to enhance the neighborhood, so I'm
 8 all for it.

9 **CHAIRPERSON VILLAGGIO:** Alright.
 10 Everybody had a chance to comment?

11 **MR. JANNOTTI:** I also want to
 12 comment on the 55 and older. I think if this was not
 13 a 55 and over development we'd be talking about
 14 families and children and the effect on the Board of
 15 Education and schooling and all the rest of that which
 16 is would take it completely out of the discussion
 17 because the owner has decided to come in with 55 and
 18 older and that's another reason why I support this.

19 **CHAIRPERSON VILLAGGIO:** Okay. I
 20 guess it's time for a motion. Can I have a motion?

21 **BOARD MEMBER VENA:** I'd like to
 22 make a motion that we grant the variances and we
 23 accept this application and send this forward.

24 **MR. FRASER:** So grant the use
 25 variance to allow the construction of the nine

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1 townhouses plus the associated bulk variances that the
 2 Applicant has requested obviously on a bifurcated
 3 basis subject to a later site plan approval.

4 **BOARD MEMBER VENA:** Obviously.
 5 **CHAIRPERSON VILLAGGIO:** We have a
 6 motion, can I have second?

7 **BOARD MEMBER MacINDOE:** I second.
 8 **BOARD MEMBER VENA:** Is
 9 age-restricted part of the motion?

10 **CHAIRPERSON VILLAGGIO:** That's
 11 part of the testimony.

12 **MR. FRASER:** That was part of
 13 your motion, too, right, Mr. Vena?

14 **BOARD MEMBER VENA:** Yes, it was.
 15 **CHAIRPERSON VILLAGGIO:** Adele,
 16 roll call, please.

17 **BOARD SECRETARY LEWIS:** I'm
 18 sorry, who made the second?

19 **CHAIRPERSON VILLAGGIO:** Georgia.
 20 **MR. FRASER:** Alright. There's a
 21 seven member Board voting, five affirmative votes are
 22 necessary to pass.

23 **BOARD SECRETARY LEWIS:** Bruce
 24 Paterson?
 25 **BOARD MEMBER PATERSON:** No.

1 **BOARD SECRETARY LEWIS:** Gene
2 Jannotti?
3 **MR. JANNOTTI:** Yes.
4 **BOARD SECRETARY LEWIS:** Georgia
5 MacIndoe?
6 **BOARD MEMBER MacINDOE:** Yes.
7 **BOARD SECRETARY LEWIS:** Kathy
8 Villaggio?
9 **CHAIRPERSON VILLAGGIO:** Yes.
10 **BOARD SECRETARY LEWIS:** Robert
11 Scherer?
12 **BOARD MEMBER SCHERER:** No.
13 **BOARD SECRETARY LEWIS:** Michael
14 Vena?
15 **BOARD MEMBER VENA:** Yes.
16 **BOARD SECRETARY LEWIS:** Tim Hak?
17 **BOARD MEMBER HAK:** Yes.
18 **BOARD SECRETARY LEWIS:** Motion
19 carries five to two. It passes.
20 **MR. HEHL:** Thank you very much
21 for the time and we appreciate you staying late.
22 (Hearing is concluded at 11:40
23 P.M.)
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7 **CERTIFICATE**
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9
10 I, DEBRA-ANN BALSAMO, a Certified
11 Shorthand Reporter and Notary Public of the State of
12 New Jersey, certify that the foregoing is a true and
13 accurate Computerized Transcript of the proceedings as
14 taken before me stenographically on the date
15 hereinbefore mentioned.
16
17
18 _____
19 DEBRA-ANN BALSAMO, C.S.R.
20
21
22 Dated: June 4, 2014
23 My Commission Expires on
24 December 6, 2016
25 License No. X101161

BOROUGH OF GARWOOD
PLANNING BOARD

MUNICIPAL BUILDING
403 South Avenue
Garwood, New Jersey 07027

Wednesday, May 28, 2014
7:30 P.M.

x ----- x

RE: SANDRA SEPP
304 Center Street
Clark, New Jersey

TRANSCRIPT
OF
PROCEEDINGS

x ----- x

B E F O R E:

- | | | |
|------------------|---|--------------|
| BRUCE PATERSON | - | BOARD MEMBER |
| GENE JANNOTTI | - | BOARD MEMBER |
| GEORGIA MacINDOE | - | BOARD MEMBER |
| KATHY VILLAGGIO | - | CHAIRPERSON |
| ROBERT SCHERER | - | BOARD MEMBER |
| MICHAEL VENA | - | BOARD MEMBER |
| TIMOTHY HAK | - | BOARD MEMBER |
| CRAIG McCARRICK | - | BOARD MEMBER |
| PAUL TARANTINO | - | BOARD MEMBER |

ALSO PRESENT:

- | | | |
|-----------------------|---|------------------|
| DONALD B. FRASER, JR. | - | BOARD ATTORNEY |
| VICTOR VINEGRA | - | BOARD CONSULTANT |
| ADELE LEWIS | - | BOARD SECRETARY |

DEBRA-ANN BALSAMO
CERTIFIED COURT REPORTER

(1) MR. FRASER: So let the record
(2) reflect the following: That we just did all of the
(3) approvals of Victor's invoices. We're going to Court
(4) Reporter transcript because we're having technical
(5) difficulty with the recorder and the Chair has just
(6) opened up the meeting to the public portion where
(7) members of the public are invited to bring concerns to
(8) the Board. An with that --

(9) MS. SEP: Sandra Sep. 340 Valley
(10) Road, Clark, New Jersey. The property is 304 Center
(11) Street.

(12) I would like the Board to
(13) consider putting me on the agenda for June 25th, the
(14) Planning Board meeting, for an interpretation of Land
(15) Use Ordinance 106-123.

(16) MR. FRASER: Are you submitting
(17) an application to that?

(18) MS. SEP: I submitted an E-mail
(19) and it was late because we had a delay with phones and
(20) messages and things and I just wanted to be
(21) considered. Whatever I have to do, I'll do.

(22) CHAIRWOMAN VILLAGGIO: What you
(23) would need to do is to fill out an application --

(24) MS. SEP: Okay.

(25) CHAIRWOMAN VILLAGGIO: a formal

(1) application with a fee. Adele --

(2) MS. SEP: But my one question is
(3) other people have become before this Board for an
(4) interpretation of an ordinance and there is no fee and
(5) they didn't pay a fee so that's being arbitrary.

(6) MR. FRASER: Hold on. Do we have
(7) an application process for interpretation?

(8) MS. LEWIS: On the checklist
(9) there's a part for an interpretation in our ordinance
(10) that requires it's a \$100 fee. Now I think the
(11) distinction is when Victor brings an interpretation --

(12) MR. FRASER: Oh, when Victor
(13) brings it there's no question.

(14) MS. LEWIS: Obviously, right.

(15) MS. SEP: Okay. That's fine.

(16) MR. FRASER: I wanted to respond
(17) to the contention --

(18) MS. SEP: That's okay.

(19) MR. FRASER: -- that it was
(20) arbitrary.

(21) MS. SEP: Well, that's why I
(22) thought it was because it's just that I didn't know
(23) the technicality of that, but I just knew that it had
(24) been done before.

(25) MR. FRASER: Not by any resident,

(1) to the best of my knowledge.

(2) MS. SEP: Yes -- well, no, not by
(3) a resident, I'm sorry. No, no, no, I had to think
(4) about. You're right. You're absolutely right.

(5) MR. FRASER: If the Board
(6) planner --

(7) MS. SEP: You're absolutely
(8) right.

(9) MR. FRASER: If I can finish my
(10) thought, please. If the Board planner brings
(11) something to the attention of the Board and he asks
(12) for our interpretation, he doesn't get charged a fee.

(13) MS. SEP: Okay.

(14) MR. FRASER: I imagine this is
(15) something where you want to challenge some ruling that
(16) Victor has made. You're looking for an
(17) interpretation.

(18) MS. SEP: Right. But on the same
(19) token there was -- oh, but it doesn't matter, whatever
(20) the decision of the Board is, it doesn't matter as
(21) long as he brings it to the Board.

(22) MR. FRASER: Right, correct.

(23) MS. SEP: I just wanted a
(24) clarification.

(25) MR. FRASER: If I can complete

(1) the sentence, please.

(2) I gather you want to challenge
(3) some ruling that Victor has made.

(4) MS. SEP: Yes.

(5) MR. FRASER: And you believe he's
(6) interpreting the ordinance incorrectly and you wish to
(7) interpret it a different way, would I be correct?

(8) MS. SEP: That is correct.

(9) MR. FRASER: Alright. You want
(10) this Board to consider this and potentially to
(11) overrule Victor, correct?

(12) MS. SEP: Yes.

(13) MR. FRASER: Alright. So you
(14) need to submit an application --

(15) MS. SEP: No problem.

(16) MR. FRASER: -- pay the fee. I
(17) don't know exactly what the condition of the agenda is
(18) for June 25th, but I would imagine that if you get it
(19) in quickly, you could probably get on it without much
(20) problem.

(21) MR. VINEGRA: Briefly. I didn't
(22) make any interpretation for Miss Sep. She asked me to
(23) read section 106-123 and make an interpretation and I
(24) said there's no formal application.

(25) MR. FRASER: So there's nothing

(1) to interpret.

(2) MR. VINEGRA:There's nothing to
(3) interpret. So I told her there is nothing to
(4) interpret os --

(5) MR. FRASER:We're not going to
(6) address the merits of the disagreement between Mr.
(7) Vinegra and Miss Sep this evening. The merits of that
(8) disagreement will obviously be available to be
(9) considered at length by the Board at the time that
(10) there's a hearing on the interpretation that Miss Sep
(11) seeks.

(12) By the way, how do you submit any
(13) application at all to Victor for anything?

(14) MS. SEP:For my building, no,
(15) but I have a letter from Victor stating that I can go
(16) ahead with my building, but it can only be a
(17) one-family, it can't be a two-family.

(18) MR. VINEGRA:Okay.

(19) MS. SEP:Based on that
(20) ordinance.

(21) MR. VINEGRA:Well, I didn't know
(22) she was -- okay. But she never submitted a two-family
(23) dwelling.

(24) MR. FRASER:Alright. But she
(25) has a letter from you that tells her that.

- (1) MS. SEP: You said --
- (2) MR. FRASER: Let me finish my
- (3) thought because I'm actually going to agree with you.
- (4) She has a letter from Victor that says that.
- (5) MS. SEP: Sorry.
- (6) MR. FRASER: I think she's
- (7) entitled to ask for an interpretation. So fill out
- (8) the form and then we'll consider it.
- (9) MS. SEP: Thank you. Have a
- (10) wonderful night.
- (11) CHAIRWOMAN VILLAGGIO: Can I have
- (12) a motion since there is no further business.
- (13) MR. FRASER: Most important.
- (14) motion.
- (15) CHAIRWOMAN VILLAGGIO: Can I have
- (16) a motion to adjourn.
- (17) (Hearing is concluded.)
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CERTIFICATE

I, DEBRA-ANN BALSAMO, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate Computerized Transcript of the proceedings as taken before me stenographically on the date hereinbefore mentioned.



DEBRA-ANN BALSAMO, C.S.R.

Dated: June 30, 2014
 My Commission Expires on
 December 6, 2016
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