

BOROUGH OF GARWOOD

PLANNING BOARD

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IN THE MATTER OF:

TRANSCRIPT

Case No. PB15-04
R & P HOLDINGS, LLC
245 South Avenue

of

PROCEEDINGS

-----x

Wednesday, September 23, 2015
Garwood, New Jersey
Commencing at 7:37 p.m.

BOARD MEMBERS PRESENT:

STEPHEN GREET, Chairman
MAYOR CHARLES LOMBARDO (Recused)
BRUCE PATERSON (Recused)
WILLIAM NIERSTEDT (Recused)
KATHY VILLAGGIO
ROBERT SCHERER
PAUL TARANTINO
GENE JANNOTTI
TIM HACK
PAUL NIEVES

ADELE C. LEWIS, Board Secretary
VICTOR VINEGRA, Board Planner/Engineer

A P P E A R A N C E S

PERROTTA, FRASER & FORRESTER, LLC
BY: DONALD FRASER, ESQ.
Attorneys for the Board

BARISONEK & DOOLEY, ESQS.
BY: THOMAS E. DOOLEY, JR., ESQ.
Attorneys for the Applicant

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13 (No exhibits presented)

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17

18 BRUCE PATERSON.....Page 125

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1 CHAIRMAN GREET: We've got enough.

2 Okay. Thank you.

3 MR. DOOLEY: I seem to be losing

4 everybody.

5 BOARD MEMBER VILLAGGIO: Do you two

6 gentlemen want to move up here?

7 CHAIRMAN GREET: Yeah, why don't you

8 move up.

9 MR. FRASER: Customarily what we would

10 do is if we have less than seven is we usually let

11 the applicant elect whether or not the applicant

12 wishes to proceed with less than seven because of

13 the obvious requirement, the five affirmative

14 votes, but we're not faced with that question.

15 MR. DOOLEY: There we go. Okay. Are we

16 ready?

17 All right. My name is Thomas Dooley

18 from the law firm of Barisonok & Dooley in

19 Cranford, New Jersey. I represent the applicant,

20 R & P. I would like to just address a few things.

21 We had the opportunity to review

22 Mr. Vinegra's report to the Board and we

23 appreciate that we were able to do that. We just

24 had a couple of items that we wanted to address

25 directly.

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1 CHAIRMAN GREET: Under new business, we

2 have an application tonight PB15-04 and that's for

3 245 South Avenue. The applicant, R & P Holdings,

4 LLC, seeking amended preliminary and final site

5 plan and use variance to permit construction of

6 mixed-use residential units above retail.

7 Is the applicant ready?

8 MR. DOOLEY: Ladies and gentlemen, my

9 name is Thomas Dooley --

10 BOARD MEMBER NIERSTEDT: Before we get

11 into this, Mr. Chairman, as you know, the mayor

12 and I cannot vote on this, so we will be excusing

13 ourselves -- recusing ourselves.

14 CHAIRMAN GREET: Okay. Thank you.

15 BOARD MEMBER NIERSTEDT: Thank you.

16 BOARD MEMBER PATERSON: Mr. Chairman,

17 I'm going to recuse myself only because I -- for a

18 long time I was having lunch, like mornings, with

19 Preston, one of the applicants, and I felt that I

20 couldn't deliberate properly.

21 CHAIRMAN GREET: Okay. Thank you.

22 MR. DOOLEY: Well, now I have a

23 question, Mr. Fraser.

24 MR. FRASER: One, two, three, four,

25 five, six, seven.

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1 Mr. Vinegra refers to a couple of

2 variances that may be required. We would submit

3 that pursuant to various case law, that they are

4 subsumed or become part of the "D" variance

5 application, which is the application in this

6 case, the use variance.

7 I'm not going to get into all of the

8 legalities of it. I'll leave that to your

9 attorney to advise you, but I would refer the

10 Board to Kessler and Bowker, O'Donnell and Koch,

11 and Puleo and North Brunswick regarding the idea

12 that when you're considering these things, that

13 the "C" variance -- there's a specific reference

14 to a side yard variance or a buffer variance, and

15 there's also a bulk variance reference in the

16 report.

17 I would put the position in front of you

18 that they're subsumed and should be considered as

19 part of the overall "D" variance because otherwise

20 the use -- if you grant the use, the use only

21 makes sense if the variances are included as

22 Mr. Vinegra indicated that there might be

23 involved.

24 So having said that, I'd like to bring

25 up our planner, and that is Robert Hudak.

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1 ROBERT HUDAK, having been
 2 duly sworn, was examined and testified as
 3 follows:
 4 MR. FRASER: Would you please state and
 5 spell your name.
 6 THE WITNESS: Robert Hudak. The last
 7 name is H-U-D-A-K.
 8 MR. FRASER: And your address?
 9 THE WITNESS: 1208 Third Avenue, Toms
 10 River, New Jersey.
 11 MR. FRASER: Okay. Your witness.
 12 DIRECT-EXAMINATION
 13 BY MR. DOOLEY:
 14 Q. Mr. Hudak, would you please provide your
 15 qualifications to the Board?
 16 A. **Okay. I'm a New Jersey licensed**
 17 **professional planner. In addition, I'm certified**
 18 **by the American Institute of Certified Planners.**
 19 **I serve as the director of planning and zoning for**
 20 **the Township of Cranford; served as the zoning**
 21 **officer and quasi planner for the Borough of Fair**
 22 **Haven in Monmouth County. I also teach courses at**
 23 **the Center for Government Services, Rutgers**
 24 **University.**
 25 Q. All right. Now, Mr. Hudak, you're

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1 familiar with the property, correct?
 2 A. **I am.**
 3 Q. And you've had an opportunity to observe
 4 the property and the surrounding environment?
 5 MR. FRASER: Before we get to that,
 6 Mr. Dooley, I'm assuming you're tendering
 7 Mr. Hudak as an expert?
 8 MR. DOOLEY: Oh, I'm sorry. Yes. Will
 9 you accept him as a qualified witness?
 10 MR. FRASER: Okay. And your testimony
 11 has, in fact, been accepted before planning
 12 boards, correct, Mr. Hudak?
 13 THE WITNESS: Yes, it has.
 14 MR. FRASER: And your licenses are all
 15 current?
 16 THE WITNESS: Current, correct.
 17 MR. FRASER: And you're being proffered
 18 as an expert in the field of planning?
 19 THE WITNESS: Correct.
 20 MR. FRASER: Mr. Chairman, I recommend
 21 that Mr. Hudak be so designated an expert in the
 22 field of planning.
 23 CHAIRMAN GREET: So be it.
 24 THE WITNESS: Thank you.
 25 MR. DOOLEY: Thank you.

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1 BY MR. DOOLEY:
 2 Q. Okay. You're familiar with the property
 3 and the surrounding area, is that correct?
 4 A. **Yes.**
 5 Q. All right. With regard to this, will
 6 the building plan as submitted be compliant with
 7 the zone?
 8 A. **Yes, for the most part. There are, of**
 9 **course, the variances and design waivers you**
 10 **mentioned; however, by and large, the building is**
 11 **compliant.**
 12 Q. Okay. Now, are there any special
 13 reasons why this particular application should be
 14 granted?
 15 A. **Well, the statute talks about a number**
 16 **of things. And, if I may, I'm going to use my**
 17 **report. I don't know, did you give this to the**
 18 **Board?**
 19 Q. Yes.
 20 A. **Okay. The report I had compiled for the**
 21 **applicant on this. And, of course, as the Board**
 22 **is well aware, "D" variances, there's a number of**
 23 **criteria for granting them, including -- the**
 24 **statute goes into detail about when a proposed**
 25 **project carries out the purposes of zoning as**

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1 **defined in the statute itself. And I talk about**
 2 **in my report "to encourage municipal action to**
 3 **guide appropriate use and development of all lands**
 4 **in the state in a manner which would promote the**
 5 **public health, safety, morals and general welfare;**
 6 **to promote the establishment of appropriate**
 7 **population densities and concentrations, that will**
 8 **contribute to the well-being of persons,**
 9 **neighborhoods, communities and regions and the**
 10 **preservation of the environment; and to promote a**
 11 **desirable visual environment through creative**
 12 **development techniques and good civic design and**
 13 **arrangement."**
 14 Q. So what proofs can you offer to the
 15 Board that would substantiate those special
 16 reasons?
 17 A. **Well, I'm going to start with the**
 18 **general welfare and the population issues. I'm**
 19 **going to discuss the fact that these types of**
 20 **uses, when you have apartments on second and third**
 21 **floors, are very popular uses with our older**
 22 **populations and millennials. There's been**
 23 **numerous studies that have been compiled. There's**
 24 **some articles from the AARP regarding older folks**
 25 **and, of course, from the New York Times and other**

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1 various papers and agencies talking about
 2 millennials, how they prefer to live in these
 3 types of environments. And particularly with
 4 older folks, there's a general desire to retire in
 5 place. And, of course, these provide those
 6 opportunities for these folks to remain in the
 7 community which actually has proven out to be a
 8 benefit to their health as well.

9 Q. You use the term "millennial." Will you
 10 please explain that?

11 A. That generally is people --

12 BOARD MEMBER TARANTINO: Can I interrupt
 13 for one second? It's interesting how you started.
 14 For us up here and maybe the audience, what is it
 15 that you're doing, first?

16 CHAIRMAN GREET: The project.

17 MR. DOOLEY: Well, I guess we felt that
 18 everything was reviewed, but there was --

19 BOARD MEMBER TARANTINO: Well, the
 20 bottom line is --

21 CHAIRMAN GREET: Quite honestly, under
 22 normal situations, when an applicant comes
 23 forward, yes, we start with -- absolutely, he's
 24 right.

25 MR. DOOLEY: Well, we're starting with

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1 the use. And the application is -- and, you're
 2 right, I didn't say that. What we're doing is
 3 we're taking down a noncompliant single-family
 4 home. We're taking it down. It's been there,
 5 it's an eyesore, we're taking it down. The object
 6 of the application is to put in a compliant retail
 7 use on the first floor, retail trade or business,
 8 compliant. The second floor, an apartment,
 9 compliant. The third floor, an apartment. This
 10 is where it's not compliant in the zone and where
 11 the use variance comes in.

12 So I apologize. I didn't mean to --

13 BOARD MEMBER TARANTINO: I think we
 14 could have interpreted it, but I think you should
 15 have --

16 MR. DOOLEY: No, but that's what it is.
 17 That's what it is. So what we did is we looked at
 18 that, and we're in the GB zone right next to the
 19 central business zone. This would not be --

20 CHAIRMAN GREET: GB is business,
 21 correct?

22 MR. DOOLEY: I know, but it's not the
 23 central business. This wouldn't even be a
 24 variance if it was in the central business, which
 25 is a half a block away from us.

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1 So because of that second apartment, we
 2 felt that we needed to come in on this use
 3 variance. We comply with all the height
 4 requirements. Our feeling is that even though
 5 there may be some issues about the, quote, bulk
 6 variance, the "C" variance, and the width, the
 7 buffer variance on the side, we feel that this is
 8 100 percent compliant in all other respects.

9 The problem we had with the side yard
 10 variance, the buffer zone variance, which is a
 11 10-footer, we don't have 10 feet. But the reason
 12 we don't have 10 feet is because the next-door
 13 neighbor is entirely noncompliant. It's a
 14 residential use. It's an oversaturation of the
 15 property. And the building that exists is
 16 actually too close to the property line as it is
 17 now. It's less than 5 feet from the property
 18 line. Yes, sir.

19 THE WITNESS: If I may.

20 MR. DOOLEY: Mr. Hudak can address
 21 this.

22 THE WITNESS: The building -- let me
 23 just back up for a minute and kind of bring you
 24 through the fact pattern.

25 So what the applicant is seeking to do

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1 is to construct a mixed-use building in the GB
 2 zone, which is not permitted as of right. That's
 3 why they're seeking the use variance.

4 CHAIRMAN GREET: And that includes the
 5 first-floor apartment.

6 THE WITNESS: Correct. The whole
 7 building is going to be a mixed-use building.
 8 You're going to have a commercial use on the first
 9 floor, which will be compliant with the zone, and
 10 you'll have two apartments above.

11 CHAIRMAN GREET: And neither apartment
 12 is compliant in the zone.

13 THE WITNESS: Correct. Correct.

14 CHAIRMAN GREET: Got you.

15 BOARD MEMBER JANNOTTI: That's a
 16 clarification.

17 MR. DOOLEY: No, the second floor
 18 apartment is not compliant.

19 THE WITNESS: Right, the second floor
 20 apartment.

21 MR. DOOLEY: No, no, the second
 22 apartment. The first apartment is compliant.

23 MR. VINEGRA: How is the first apartment
 24 compliant?

25 MR. FRASER: Excuse me, we're going to

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1 be all over the place on the record.
2 THE WITNESS: Correct.
3 MR. FRASER: And this will be completely
4 unusable. Let's clarify this.
5 All right. Mr. Hudak, this is going to
6 be a three-floor building, correct?
7 THE WITNESS: Correct.
8 MR. FRASER: And you're going to put
9 commercial space on the first floor, on the second
10 floor there's going to be an apartment, and on the
11 third floor there's going to be an apartment,
12 correct?
13 THE WITNESS: Yes. Why don't we start
14 with this.
15 MR. FRASER: One second before you do
16 that.
17 Now, as I understood what Mr. Dooley was
18 saying, he was saying that the first-floor
19 commercial use is compliant with the zone. He was
20 saying that the second-floor residential use is
21 compliant with the zone, but that the third-floor
22 residential use makes it noncompliant.
23 Did I understand that correctly?
24 MR. DOOLEY: That was my understanding
25 of it, yes.

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1 MR. FRASER: Okay. Mr. Hudak, is that
2 your testimony or is your testimony something
3 different?
4 THE WITNESS: I thought it was the
5 commercial -- the residential uses. And,
6 Mr. Vinegra may be able to correct me on that.
7 The residential uses is what was not permitted.
8 MR. VINEGRA: That's correct.
9 MR. DOOLEY: Okay. I misspoke. I
10 misspoke.
11 MR. FRASER: So forget what Mr. Dooley
12 said.
13 MR. DOOLEY: Yes, I misspoke.
14 MR. FRASER: So the commercial use is
15 allowed under the zone and the two apartments,
16 neither of them is allowed under the zone, is that
17 correct?
18 THE WITNESS: Yes, Mr. Fraser.
19 MR. FRASER: So the applicant is
20 requesting a use variance to put the two
21 apartments there, correct?
22 THE WITNESS: Yes.
23 MR. FRASER: And then you also have some
24 bulk requests for relief that Mr. Dooley in his
25 opening remarks said maybe he doesn't need a

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1 variance for. I'm not sure that that's right or
2 it's wrong. I'm not going to get there, but you
3 have some requests for bulk relief that are kind
4 of part of this as well, correct?
5 THE WITNESS: Yes.
6 MR. FRASER: All right. So why don't
7 you proceed with your testimony.
8 THE WITNESS: We're going to start off
9 with the use variance because that's the driving
10 force here.
11 Okay. So what the applicant -- again,
12 as Mr. Fraser pointed out -- is looking for a
13 compliant -- and these are the plans, by the way.
14 I don't know if you want to introduce them into
15 evidence at this point or --
16 MR. FRASER: Are they already part of
17 the package?
18 THE WITNESS: I believe so, yes.
19 MR. FRASER: Okay.
20 THE WITNESS: So you're starting out
21 with a first-floor use which will be compliant
22 with the zone, and you have these upper-floor
23 residential uses. Now, of course, any "D"
24 variance, as I'm sure you're all aware as a
25 Zoning Board, you need to fulfill certain

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1 qualifications or certain burden of proof or
2 burden of production, as I like to say, and
3 produce evidence to demonstrate why the Board
4 should allow such use.
5 And as I said in my -- in my previous
6 statement, I talked about the purposes of zoning
7 and the statute outlines certain purposes of
8 zoning.
9 Do you want me to reiterate those,
10 Counselor?
11 MR. FRASER: No. You referenced a
12 report.
13 Do we have the report or has the report
14 not been sent?
15 MR. DOOLEY: No, the report was provided
16 for our personal use.
17 MR. FRASER: All right. So Mr. Hudak is
18 going to testify --
19 MR. DOOLEY: Yes.
20 MR. FRASER: -- as to the positive and
21 negative criteria --
22 MR. DOOLEY: Correct.
23 MR. FRASER: -- in support of this
24 application, right?
25 MR. DOOLEY: Correct.

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1 THE WITNESS: Correct, and the special
 2 reasons since it's a use variance.
 3 MR. FRASER: Go for it.
 4 THE WITNESS: So I talked about the
 5 apartment use as being beneficial to the -- to the
 6 community as a whole. I'm talking about the fact
 7 that you have millennials and seniors that would
 8 be interested in these units.
 9 And from my own personal experience in
 10 the neighboring town, that's what we've seen.
 11 Folks have moved into these type of developments.
 12 It's not been families with school children. It's
 13 intended to be the millennials who are moving into
 14 their first home or it's seniors who are looking
 15 to retire in place.
 16 That, of course, is a benefit to the
 17 community, of course, because you do have an
 18 older population, like much of the county, and
 19 these are the types of developments that would
 20 allow them to stay in place, retire in place,
 21 which has found to actually be beneficial to their
 22 health since they're familiar with the community
 23 and there's been numerous studies on that. That's
 24 my first point.
 25 My second point is, as Mr. Dooley has

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1 alluded to, to the east of this subject property
 2 you have a property that is nonconforming due to
 3 the size, due to the use, and due to the location
 4 of the building on that property.
 5 This, the current building on the
 6 subject property also has -- is noncomplying due
 7 to use and -- correct me if I'm wrong,
 8 Counselor -- also nonconforming due to location.
 9 Is that correct?
 10 MR. DOOLEY: I don't know what you mean
 11 by that.
 12 THE WITNESS: Does it have a side yard
 13 setback?
 14 MR. DOOLEY: Oh, the side yard is less
 15 than 5 feet.
 16 THE WITNESS: Yes, so it's a
 17 nonconforming building with a nonconforming use.
 18 What the applicant is seeking to do is
 19 construct a more conforming building, more in line
 20 with the character of the neighborhood, something
 21 that will serve as a buffer. Now, your master
 22 plan talks about the GB zone being a buffer
 23 between the commercial zone across the street and
 24 the residential zone, which is located behind the
 25 subject property.

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1 In the subject case you also had this
 2 residential home that is immediately adjacent to
 3 the subject property. So, in essence, this mixed
 4 use will serve as a transition from the
 5 residential uses to the rear, residential uses to
 6 the side, and the commercial uses to the north and
 7 west of the subject property.
 8 And if I may refer to the arch -- to the
 9 engineering plans of Mr. Mastronardy here. As you
 10 can see, you also have a commercial structure to
 11 the west of the subject property that is also
 12 nonconforming due to side yard setback.
 13 MR. FRASER: Which lot is that?
 14 THE WITNESS: That is lot -- does it say
 15 the lot number? It's a commercial masonry
 16 structure.
 17 BOARD MEMBER SCHERER: You left out the
 18 whole piece of property.
 19 THE WITNESS: Yeah. I guess that's lot
 20 2?
 21 BOARD MEMBER SCHERER: Sheet 7.
 22 THE WITNESS: Yes. Yeah, lot 2. Yes.
 23 I'm sorry. Yeah, lot 2.
 24 BOARD MEMBER JANNOTTI: Do they know
 25 that's Garwood Rest?

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1 THE WITNESS: No, the Garwood Rest is on
 2 the corner. It's one in from that.
 3 BOARD MEMBER JANNOTTI: Yes. Thank you.
 4 BOARD MEMBER SCHERER: The repair,
 5 hospital surgical table --
 6 THE WITNESS: Yes, that use. So you
 7 have nonconformities on either side of this
 8 property. So what I'm saying is this use would
 9 serve as a transition from those residential uses
 10 to the south and east; to the commercial uses to
 11 the west and north.
 12 BY MR. DOOLEY:
 13 Q. So with regard to you were talking about
 14 the seniors and the millennials and we kind of got
 15 off track with that. So you got on to that. So
 16 we're looking at the appearance.
 17 How does that affect this particular
 18 project?
 19 **A. Well, the current building on the**
 20 **subject site, again, is nonconforming. It's a**
 21 **single-family house. I believe it's two and a**
 22 **half stories in height. Obviously most of the**
 23 **neighborhood, as the Board understands, is**
 24 **commercial. They have commercial-style buildings**
 25 **there. The applicant intends to construct a**

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1 **commercial style building that will be in line**
 2 **with the other buildings in the neighborhood, save**
 3 **the one immediately adjacent to it, which is a**
 4 **single-family home.**
 5 Q. Right. And is this site suitable to
 6 that kind of development?
 7 **A. Yes, it would be.**
 8 Q. All right. Now, you addressed the
 9 buffer zone.
 10 Can you talk to the negative criteria
 11 involving this kind of a development?
 12 **A. Well, again, based on what I said**
 13 **before, too, you know, is it an infringement upon**
 14 **the zone plan or the code? Really it isn't.**
 15 **Again, you are complying more than you were, as**
 16 **one issue.**
 17 **Secondly, your master plan talks about**
 18 **this being a transition zone. This clearly is a**
 19 **transition type of use. You have a nonconforming**
 20 **use immediately adjacent to this so this would**
 21 **bring it into better conformity with the**
 22 **appearance of the zone. So clearly it seems to**
 23 **satisfy the negative criteria in those ways.**
 24 Q. Is there any impairment of the purpose
 25 of the zoning ordinance?

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1 **A. No, clearly it actually furthers that**
 2 **use as a buffer zone.**
 3 Q. And what would be the impact on
 4 neighboring properties?
 5 **A. I don't think there really would be any**
 6 **negative impact on it. Again, the question is**
 7 **whether the impairment is substantial. I doubt**
 8 **there will be any substantial detriment.**
 9 Q. Okay.
 10 MR. DOOLEY: At this point I have no
 11 further questions of this witness.
 12 Does the Board have any questions or
 13 does Mr. Fraser?
 14 MR. FRASER: I have a few questions.
 15 MR. DOOLEY: Sure.
 16 MR. FRASER: So if I understand you,
 17 Mr. Hudak, and I was listening to Mr. Dooley
 18 before as well, there was some discussion about
 19 the location of the structure on the neighboring
 20 property.
 21 Could you explain to me what the
 22 location of the structure on the neighboring
 23 property has to do with whether or not this
 24 applicant can comply with the bulk requirements
 25 for this lot?

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1 THE WITNESS: I don't think there's any
 2 question about that. I mean, like I said
 3 before, the building on the adjacent lot is
 4 nonconforming due to the building location use and
 5 the lot size.
 6 MR. FRASER: But what does that have to
 7 do with the bulk requirements for a new building
 8 that will be constructed on this lot?
 9 THE WITNESS: I don't think -- we
 10 only -- I only addressed the use issue at this
 11 point, Counselor. If you want me to talk about
 12 the "C" variance, I'd be happy to do that. I
 13 could talk about those, which really doesn't
 14 relate necessarily to the building next door.
 15 MR. FRASER: I'm completely confused.
 16 BOARD MEMBER VILLAGGIO: You testified
 17 with regard to the setback because one of the --
 18 one of the -- one thing you did mention was that
 19 the house or the residential on the one side
 20 wherein you were not able to have the necessary
 21 setback. That's what I heard.
 22 THE WITNESS: I think I misspoke on
 23 that. I think I misspoke. What I meant to say
 24 was that -- again, addressing only the "D"
 25 variance at this point, that you had a

Page 25

1 noncompliant building on the -- on the adjacent
 2 lot.
 3 MR. FRASER: Okay.
 4 THE WITNESS: And I was trying to prove
 5 out those -- what the --
 6 MR. FRASER: But you also talked about
 7 the location of the building on the adjacent lot.
 8 THE WITNESS: In relation to the "D"
 9 variance. That's what I intended. I'm sorry if I
 10 misspoke.
 11 MR. FRASER: What is the look -- we're
 12 talking about lot 2, correct?
 13 THE WITNESS: Yes. Lot 4.
 14 MR. FRASER: Lot 4. Okay.
 15 THE WITNESS: But I also spoke about
 16 the -- and let me take a step back here. I talked
 17 about the fact that with respect to the "D"
 18 variance, you already have two nonconforming
 19 buildings adjacent to this lot.
 20 MR. FRASER: Buildings or uses?
 21 THE WITNESS: In this case it would
 22 be -- on lot 2 it would be the building that's
 23 nonconforming.
 24 MR. FRASER: And what's nonconforming
 25 about it? The location?

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1 THE WITNESS: The location of the
 2 building, correct.
 3 MR. FRASER: And what does the location
 4 of the building on lot 2 have to do with whether
 5 this use should or should not be approved for lot
 6 3?
 7 THE WITNESS: I guess what I'm trying to
 8 point out is there are other nonconformities in
 9 the zone.
 10 MR. FRASER: The nonconformities that
 11 you're talking about right now are locational
 12 nonconformities rather than use nonconformities,
 13 correct?
 14 THE WITNESS: Correct, it has nothing --
 15 well, on lot 2, correct. There is no issue --
 16 MR. FRASER: On lot 2 the building, it
 17 violates the setback, right?
 18 THE WITNESS: That's pretty much it,
 19 yes.
 20 MR. FRASER: It violates the side yard
 21 setback so the building is too close to your lot,
 22 right?
 23 THE WITNESS: Correct.
 24 MR. FRASER: All right. Now, on lot 4,
 25 what's the problem?

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1 THE WITNESS: Lot 4 you have a
 2 nonconforming use.
 3 MR. FRASER: What's the use there?
 4 THE WITNESS: Single-family.
 5 MR. FRASER: Okay.
 6 THE WITNESS: The building itself is
 7 nonconforming due to location. It doesn't have
 8 the side yard setback, the minimum side yard
 9 setback required.
 10 MR. FRASER: It's too close to your
 11 property, the building.
 12 THE WITNESS: Correct.
 13 MR. FRASER: All right.
 14 THE WITNESS: And then 3, the lot itself
 15 is nonconforming.
 16 MR. FRASER: Agreed.
 17 THE WITNESS: Okay.
 18 MR. FRASER: Now, hold to the side for a
 19 second the issue of the uses of lots 2 and 4 and
 20 just for the moment let's focus on the bulk
 21 violations of lots 2 and 4.
 22 THE WITNESS: Okay.
 23 MR. FRASER: What do those bulk
 24 violations have to do with your request for use
 25 variance relief for lot 3, if anything?

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1 THE WITNESS: I don't think it really --
 2 I think it just goes to the fact that there are
 3 other nonconformities in the zone. And
 4 particularly with respect to lot 4, you have a
 5 nonconforming use. You have a single-family use.
 6 MR. FRASER: But a setback violation for
 7 lot 2 has nothing to do with your request for a
 8 use variance, is that fair to say?
 9 THE WITNESS: Correct, yes.
 10 MR. FRASER: All right. That's what I
 11 thought.
 12 THE WITNESS: That's correct.
 13 MR. FRASER: Now, you have a
 14 70-foot-wide lot that you're putting a brand new
 15 structure on if this is approved, correct?
 16 THE WITNESS: Correct.
 17 MR. FRASER: All right. What violations
 18 of the bulk requirements of the ordinance are
 19 going to be coming into play?
 20 THE WITNESS: The one that we -- as far
 21 as the "C" variance request, it was for the side
 22 yard setback -- I'm sorry, it was for the -- it
 23 was for the minimum required square footage of the
 24 building.
 25 MR. FRASER: Okay.

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1 THE WITNESS: As per Section 106 -- hold
 2 on -- 96(c)(7), building coverage. "The minimum
 3 lot coverage of a principal structure shall be 30
 4 percent of the total lot area."
 5 MR. FRASER: And how much is yours going
 6 to cover?
 7 THE WITNESS: Ours is going to be --
 8 MR. DOOLEY: Seventeen percent
 9 approximately.
 10 THE WITNESS: Seventeen percent
 11 approximately.
 12 MR. FRASER: And why is it that you
 13 can't comply with that?
 14 MR. DOOLEY: Actually, I intended to
 15 have the engineer testify to that.
 16 MR. FRASER: Okay.
 17 MR. DOOLEY: And I will have him
 18 testify, but I can say straight up here's what the
 19 situation is. If you look at all of your other
 20 ordinances that surround that particular
 21 ordinance -- and let me just give you the
 22 numbers --
 23 MR. FRASER: Well, if the engineer's
 24 going to testify to it, that's fine.
 25 MR. DOOLEY: Well, but I'll quickly say

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1 the problem is we've got a catch 22. If we build
 2 to 30 percent, you can't possibly have the parking
 3 that the ordinance requires. It can't happen.
 4 MR. FRASER: Is that because it's a
 5 residential use?
 6 MR. DOOLEY: No, it's because it's in
 7 the zone it's in. If you do a business use, a
 8 retail trade, you have to have a minimum of one
 9 parking space per 300 feet. If you go to 30
 10 percent, you take the building from 1200 square
 11 feet to 2100 square feet. And at 2100 square
 12 feet, you need seven spaces, but now you've
 13 eliminated 900 square feet of parking. And we
 14 already have -- we have a compliant number of
 15 spaces. By application, seven spaces, which is
 16 compliant. But if you take that footprint away
 17 and make us -- there's no place to put the
 18 parking. Now you can't comply with the parking.
 19 So it's -- you know, we're stuck with a catch 22.
 20 MR. FRASER: All right. Your engineer
 21 is going to testify to that.
 22 MR. DOOLEY: He will testify to that,
 23 correct.
 24 MR. FRASER: Okay. Mr. Hudak, other
 25 than the minimum lot size -- excuse me, the

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1 minimum building size, what other bulk
 2 requirements do you not comply with?
 3 THE WITNESS: Do you have Mr. Vinegra's
 4 report? There were several design waivers that
 5 were in question.
 6 MR. FRASER: Are there any other bulk
 7 requirements that you can't comply with?
 8 THE WITNESS: No, the bulk requirements
 9 are satisfied.
 10 MR. FRASER: The design waivers, is the
 11 engineer going to address that?
 12 MR. DOOLEY: Yes.
 13 MR. FRASER: All right. Mr. Hudak, can
 14 you explain to me why you can't build a building
 15 that would comply with the use contemplated by the
 16 zone?
 17 THE WITNESS: Again, I think one of the
 18 reasons is that, again, based on what we discussed
 19 with parking, it would up the parking requirements
 20 significantly.
 21 MR. DOOLEY: Correct.
 22 THE WITNESS: As a result, you'd end up
 23 with another type of variance relief in relation
 24 to parking. That would force parking off site,
 25 which would create other issues. There could also

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1 possibly be other bulk variances associated with
 2 that.
 3 MR. FRASER: Is that because the
 4 commercial use would require more parking than a
 5 residential use?
 6 THE WITNESS: Yes.
 7 MR. FRASER: Okay.
 8 CHAIRMAN GREET: Okay. You mentioned
 9 earlier about the benefits to having retail -- or
 10 a residential, especially in particular for
 11 elderly. And that was -- I think you mentioned it
 12 was a popular way that the elderly would like to
 13 go to stay in the area and it was the preferred
 14 way to go. I would think that the majority of
 15 elderly folks would not want to do a walk-up in
 16 any type of residential area, number one.
 17 Number two, the preferred and the -- you
 18 know, the preferred would like to move into is not
 19 necessarily helping the elderly or helping any
 20 kind of specific group in this town or, for that
 21 matter, in this area. So I kind of have a hard
 22 time with that particular part of it.
 23 MR. FRASER: Are you planning for an
 24 elevator for these elderly tenants?
 25 THE WITNESS: That's what I'm asking the

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1 applicant.
 2 Are you planning for an elevator there?
 3 MR. DOOLEY: It wasn't part of the
 4 original design, but we would have to approach
 5 that with the applicant and the architect.
 6 MR. FRASER: Did you factor into your
 7 analysis of the desirability of these apartments
 8 for elderly people whether they would have an
 9 elevator or not?
 10 THE WITNESS: I mean, I didn't really
 11 factor in too much. I've seen this type of
 12 development in other towns and, like I said, it is
 13 popular with folks of different ages. Again,
 14 millennials and --
 15 MR. FRASER: But you talked about
 16 elderly.
 17 THE WITNESS: Yes.
 18 MR. FRASER: Would it be your
 19 experience --
 20 THE WITNESS: Yes, with older -- I don't
 21 want to --
 22 (Indiscernible crosstalk; reporter
 23 requests one speaker)
 24 MR. FRASER: Would it be your experience
 25 that frequently if you're designing apartments for

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1 use for elderly people you might have an elevator?
 2 THE WITNESS: You may have an elevator,
 3 yes. You may have an elevator.
 4 MR. FRASER: Would you commonly see that
 5 in your experience when you're looking at
 6 something designed for seniors?
 7 THE WITNESS: I've seen it in both cases
 8 that there have been rentals for, again, both age
 9 categories with or without elevators.
 10 MR. FRASER: But it's your contemplation
 11 that seniors would be desired tenants for this to
 12 walk up two flights?
 13 THE WITNESS: Perhaps for the first
 14 apartment they would walk up.
 15 MR. FRASER: So the top floor is for the
 16 millennials and the second floor is for the
 17 seniors?
 18 THE WITNESS: You could say that I
 19 guess.
 20 MR. FRASER: Well, I'm asking. I
 21 wouldn't say that. Is that --
 22 THE WITNESS: I mean, I can only testify
 23 that I've seen it -- I've seen it before in my
 24 experiences, so...
 25 BOARD MEMBER JANNOTTI: I have a

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1 question and I don't know if this is the correct
 2 witness. But what I was wondering, why aren't you
 3 able to move the building 10 feet from the line?
 4 You now have it showing as 5 feet from the line.
 5 And I was wondering what are the reasons why you
 6 can't move the building so it's in compliance with
 7 the 10-foot space?
 8 MR. DOOLEY: That's for the engineer, I
 9 think.
 10 BOARD MEMBER JANNOTTI: Okay.
 11 MR. DOOLEY: And we'll address that
 12 through the engineer. Yes, we will take care of
 13 that.
 14 BOARD MEMBER HAK: One of the questions
 15 I had, the 241 lot, the building that's there, I'm
 16 looking for a comparison of height. One of my
 17 thoughts were that if this is going to look like
 18 it's going to match the residential around it, the
 19 height of this new building compared to the height
 20 of the buildings around it, if that is a much
 21 shorter building, I don't have anything to compare
 22 it against. That would kind of stand out. I was
 23 wondering as far as height is concerned is it
 24 comparative?
 25 MR. DOOLEY: That will again be

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1 addressed through -- in that case we'll have the
 2 architect address that issue, but I will say that
 3 we're compliant with the height requirements of
 4 the zone. So that wasn't -- you know, we weren't
 5 thinking about that too much, but I know that the
 6 architect did take a look at the various
 7 structures nearby.
 8 BOARD MEMBER HAK: So it looks like it
 9 fits in.
 10 THE WITNESS: It's more or less within
 11 the height areas, we believe, and the architect
 12 can address those questions.
 13 CHAIRMAN GREET: I have a question now
 14 based on the fact that you mentioned it's
 15 conforming to the zone. It's conforming to a
 16 business zone. It's not conforming to a
 17 residential zone. So at 36 and 1/2 feet, which is
 18 what your building is proposing, or what your
 19 builder is proposing, that's 10 feet higher than
 20 any other building in that area.
 21 MR. DOOLEY: But those buildings -- when
 22 you're talking about the residential buildings,
 23 they're noncompliant.
 24 CHAIRMAN GREET: Well, what I'm talking
 25 about is residential is not permitted to go up 36

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1 and a half. Businesses are permitted to go up to
 2 40 feet. So if you want to conform to a size
 3 representing a building, absolutely 40 feet would
 4 be appropriate. You're not.
 5 MR. DOOLEY: Well, it's com -- again,
 6 it's compliant within the zone as to height.
 7 You're talking about directly a residential
 8 building. If you're talking about multi-family
 9 and two-family, we have to look at that. But also
 10 we have the issue that, you know, a half a block
 11 away we have the central business district which
 12 allows those apartments.
 13 CHAIRMAN GREET: Different zone.
 14 MR. DOOLEY: And I understand it's a
 15 different zone and we're talking about a
 16 transitional zone working your way into the
 17 residential.
 18 CHAIRMAN GREET: Well, that's what that
 19 CC zone is, not the business zone. The business
 20 zone is not a transitional zone.
 21 MR. DOOLEY: Oh, yes, I beg to disagree.
 22 Specifically it was said that in Mr. Vinegra's
 23 report, that this is deemed to be a transitional
 24 zone between business and residential.
 25 CHAIRMAN GREET: Okay.

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1 MR. DOOLEY: So what we're having here
2 is we're trying to -- you know, we're trying to
3 give you something that, in fact, is transitional
4 and works its way into the residential zone in an
5 appropriate way and gives you a business property,
6 which is what the zone is designed for, with some
7 apartments which will be available to the
8 millennials and to the -- well, to anybody,
9 actually, but we feel it's very beneficial to
10 those two particular elements of the population as
11 Mr. Hudak testified.
12 And I understand your concern about
13 walk-ups. The question is, what do we mean by
14 elderly? And, you know --
15 CHAIRMAN GREET: Well, that's one
16 concern I had and it was a concern that you
17 surfaced, quite honestly, that I picked up on
18 before. But I have other concerns besides a
19 walk-up and having an elevator, quite honestly.
20 MR. DOOLEY: Well --
21 CHAIRMAN GREET: I mean, when we -- when
22 we had this whole proposal for developing our
23 area, we zoned it correctly, we thought, correctly
24 set up different zones, that we would like to see
25 certain businesses, residential, nonresidential,

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1 two-family be allowed or permitted. And I would
2 like to see us stick with our plan, our master
3 plan, to that effect.
4 MR. DOOLEY: Well --
5 CHAIRMAN GREET: And that's where I have
6 a bit of a problem because, quite honestly, when
7 you're talking about rental units and the rental
8 per square foot for residential versus business
9 and the amount for a business to purchase or to go
10 in and lease a property for a specific amount of
11 money, it's preferential for a business to go into
12 a business area because it's less expensive for
13 that business to start up with.
14 When you're talking about retail and a
15 combination of retail and residential, that kicks
16 up the actual rental of that building for business
17 per se.
18 MR. DOOLEY: Again, this is not part of
19 the testimony, and I understand you're expressing
20 an opinion and how you view this. So I would kind
21 of say this. We get caught in, again, the catch
22 22 here. If we were to build this building
23 strictly as the area requires, as retail trade or
24 service, then if you build it up and make it two
25 or three floors, you have no parking. You can't

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1 get the parking in.
2 You know, if we take this building up to
3 three stories, to the height that's allowed in the
4 zone, we take it up three stories, and we end up
5 with 3600 square feet, we end up with needing at
6 least 12 spaces.
7 MR. VINEGRA: But that math --
8 MR. DOOLEY: And you won't -- you won't
9 be able to fit them in there.
10 MR. VINEGRA: But that math is flawed
11 because your ordinance doesn't require you to
12 build three stories.
13 MR. DOOLEY: No, it doesn't, but --
14 MR. VINEGRA: It gives you -- it gives
15 you the capability if you want to, but it doesn't
16 require you to. So you can build the square
17 footage. That square footage requirement in an
18 ordinance is so you don't have -- a lot of towns
19 have that requirement in business zones that you
20 don't have small footprints. So that you don't
21 have a used car dealer with a small building or
22 the old photo labs that we had tiny buildings. So
23 that component is in an ordinance.
24 A 7000-square-foot lot -- it's hard to
25 work with 3000 square foot, but on larger lots

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1 it's not hard to work with 30 percent. That's why
2 it's there, so you don't have a small footprint
3 and a large parking area. And so it has to do
4 with more building footprint, so...
5 MR. DOOLEY: And, you know, I agree
6 there's no requirement to go up, but on one hand
7 the ordinance allows for it, allows for that kind
8 of height, which only makes sense in a
9 three-story. But even, let's say, if it was a
10 two-story building. You're not allowing -- that
11 zone doesn't allow for professional offices. You
12 would have to get a variance there. So now you're
13 looking at that kind of variance.
14 Who's going to be more likely to take a
15 second or third floor space? So you're looking at
16 those kinds of uses, which are also variances.
17 And even if we only go to the second floor, we
18 still end up needing a minimum of eight spaces.
19 And if you go to a professional office use, it's
20 even more intense than that because then it's one
21 for every 400 square feet.
22 So you end up with -- you know, you're
23 getting into more and more of these, you know,
24 more intensive uses in terms of parking and where
25 are you going to put the cars? Whereas this use

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1 gives you an absolute perfect use of the parking
 2 area and it gives you a perfect use in the
 3 transitional zone. It allows you to let people
 4 come and go. You've got your shopping in your
 5 central district, which is all nearby. You're
 6 close to the train. It's around the corner, for
 7 goodness sake, and the buses and so forth. So
 8 this is a real good property for that.

9 Alternatively, you're leaving a use that
 10 is a totally nonconforming use in there, which is
 11 not what you want. And so this begins the
 12 transition, as Mr. Hudak described and as your
 13 ordinance requires.

14 Now, I get it, the residential part of
 15 it is a difficult issue and I understand why it is
 16 for you. But when we look at how we're going to
 17 deal with this property, you know, if we create
 18 what the zone allows, we're going to have a
 19 parking issue and we're also going to have an
 20 issue on the uses on the second floor.

21 MR. FRASER: Can I make a suggestion?
 22 MR. DOOLEY: That's how I feel about
 23 that.
 24 MR. FRASER: Can I make a suggestion?
 25 MR. DOOLEY: Yes, sir.

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1 MR. FRASER: It's fascinating argument,
 2 but that's what that is. That's argument. That's
 3 your summation.

4 MR. DOOLEY: Well, and that was -- but
 5 he was giving me a --

6 MR. FRASER: I understand. But
 7 that's --

8 MR. DOOLEY: I was responding to that,
 9 that's all.

10 MR. FRASER: I understand.

11 MR. DOOLEY: And I'm ready to continue
 12 with testimony.

13 BOARD MEMBER VILLAGGIO: I have a
 14 question. I have a question. My question is what
 15 zone was this when the house was built?

16 MR. DOOLEY: Oh, God, that house was
 17 built --

18 BOARD MEMBER VILLAGGIO: I mean, what --
 19 what -- because this is a residential house. All
 20 right? I have seen it. It's not in good shape.

21 MR. DOOLEY: Right.

22 BOARD MEMBER VILLAGGIO: The yard is not
 23 in good shape either. How'd it get there?
 24 THE WITNESS: It probably predates the
 25 zoning. That's what I would assume.

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1 MR. DOOLEY: I'll have the owner testify
 2 to that. I would have to have the owner testify
 3 to that, as to the approximate age of the house.
 4 And he's here.

5 MR. FRASER: Mr. Chairman, my suggestion
 6 would be that we focus on letting the applicant
 7 get his testimony in.

8 CHAIRMAN GREET: Yes.

9 MR. DOOLEY: All right. Unless there
 10 are any specific questions of Mr. Hudak, then I
 11 would like to bring Mr. Mastronardy on. He's our
 12 engineer.

13 MR. FRASER: Before we do that --

14 CHAIRMAN GREET: Prior to doing that,
 15 I'd like to open it up to the general public for
 16 any specific questions regarding this witness.
 17 Yes.

18 MR. TRUSDELL: What's the house used for
 19 now?

20 THE WITNESS: Single-family use.

21 MR. TRUSDELL: But is it occupied? Is
 22 it rented on a regular basis?

23 UNIDENTIFIED SPEAKER: They have --
 24 (Indiscernible crosstalk; reporter
 25 requests one speaker).

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1 CHAIRMAN GREET: You have to tell us
 2 your name and address.

3 MR. TRUSDELL: Brian Trusdell,
 4 T-R-U-S-D-E-L-L, 240 Second Avenue. Westfield
 5 Leader, also.

6 Is it -- all I'm asking for, is it
 7 occupied? Is it vacant? And it's been vacant for
 8 how long?

9 MR. DOOLEY: The full testimony for
 10 that, if you want to --

11 MR. FRASER: If the answer is he doesn't
 12 know, that's the answer.

13 MR. DOOLEY: He doesn't know.

14 MR. FRASER: Then that's the answer.

15 MR. DOOLEY: He's the planner. He does
 16 not know the answer to that. The owner does. And
 17 when the owner is available for testimony, which
 18 he will be, you can ask the question.

19 MR. FRASER: It's certainly a legitimate
 20 question.

21 MR. DOOLEY: It is. Oh, it is, yes.

22 MR. FRASER: Because in the context of
 23 preparing his planning report, he might have found
 24 that information out. So Mr. Trusdell's question
 25 is proper. The answer is this witness doesn't

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1 know.
2 Are there any other questions from
3 members of the audience?
4 CHAIRMAN GREET: No, you're not part of
5 the audience.
6 MR. PATERSON: Yes, I am.
7 CHAIRMAN GREET: Oh, yes, you are,
8 correct. Who are you?
9 MR. PATERSON: Bruce Paterson, 325
10 Willow Avenue.
11 The commercial portion, I thought there
12 was a movement towards 12-foot floor heights? I
13 see you have 10 foot.
14 MR. DOOLEY: You mean as far --
15 MR. FRASER: Is that a question?
16 MR. PATERSON: Yeah, for retail.
17 THE WITNESS: Retail? I mean, it's
18 really a preference, I believe, of the applicant
19 at this point. So we attempted to comply with the
20 height requirement.
21 MR. PATERSON: All right. It seems like
22 other applications are always pushing, like, a
23 12-foot retail height.
24 All right. Thank you.
25 CHAIRMAN GREET: Okay. Anyone else from

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1 the general public?
2 Hearing none, present your next witness.
3 MR. DOOLEY: Mr. Mastronardy.
4 JAMES MASTRONARDY,
5 having been duly sworn, was examined and testified
6 as follows:
7 MR. FRASER: Please state and spell your
8 name.
9 THE WITNESS: James Mastronardy,
10 M-A-S-T-R-O-N-A-R-D-Y.
11 MR. FRASER: And your address?
12 THE WITNESS: 29 South 23rd Street,
13 Kenilworth.
14 MR. FRASER: Go ahead.
15 DIRECT-EXAMINATION
16 BY MR. DOOLEY:
17 Q. Mr. Mastronardy, would you please give
18 your qualifications to the Board?
19 A. **I've been working in the site planning
20 aspect of engineering since the late '80s. I got
21 my PE license in 1989. I've been before many
22 boards, testified before many planning boards
23 throughout New Jersey.**
24 Q. Are your licenses presently in place?
25 A. **Yes.**

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1 MR. FRASER: Okay. And you're being
2 putting put forth as an expert in the field of
3 professional engineering?
4 THE WITNESS: Yes.
5 MR. FRASER: Mr. Chairman, I recommend
6 Mr. Mastronardy be recognized as an expert in the
7 field of engineering.
8 CHAIRMAN GREET: So be it.
9 BY MR. DOOLEY:
10 Q. All right. Mr. Mastronardy, you've had
11 the opportunity to -- you prepared the plans and
12 you've had the opportunity to review Mr. Vinegra's
13 report, is that correct?
14 A. **Yes. Yes.**
15 Q. Now, with regard to the 30 percent bulk
16 variance issue, that issue, when we deal with that
17 versus the parking and other issues, what do you
18 have to comment on that?
19 A. **Well, it says building coverage 30
20 percent minimum. That personally strikes me as
21 odd because I don't believe I've ever seen a
22 minimum. I've only seen maximum. But if that's
23 the case, as you mentioned before, if there were
24 30 percent minimum, that would be a
25 2100-square-foot footprint of a building which is**

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1 **900 square feet more than what's proposed and
2 which would require seven spaces. We barely fit
3 seven spaces in there now. And if it were to be
4 900 square feet additional, we'd be able to
5 provide at the most, I'd say, four, maybe five.
6 Four. Four spaces. And that would need a parking
7 variance for sure.**
8 Q. All right.
9 A. **So...**
10 Q. Now, with regard to the side yard
11 issues, and we were talking about the reference in
12 the report to needing a 10-foot buffer, there were
13 a lot of questions about why we don't have that
14 buffer in there. And I note that the property to
15 the east, 241, is only approximately 3.39 feet
16 from the property line, is that correct?
17 A. **Right, but that 10-foot -- well, we meet
18 all the bulk requirements except for that 30
19 percent minimum coverage. We meet the side yard
20 setback.**
21 Q. So with --
22 A. **So to provide some sort of buffer there
23 is not practical. A 10-foot buffer, I mean, we
24 can't do that. But to provide a buffer -- a
25 vegetative buffer wouldn't be practical because --**

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1 **well, you got two buildings that are a total of**
 2 **7.6 feet, you know, apart and you wouldn't get any**
 3 **sunlight and a buffer probably wouldn't make sense**
 4 **anyway. A fence could make sense, though.**
 5 Q. So would it be -- in the event that the
 6 Board felt that a buffer of some sort is required,
 7 would it be your recommendation that it be done in
 8 a fencing manner?
 9 **A. Yes.**
 10 Q. Okay. So now when we look at that, I
 11 know that somebody had a question from the Board
 12 as to why we couldn't move the proposed building
 13 over.
 14 How would that affect the driveway?
 15 Would that be a problem with the driveway?
 16 **A. Yes, it would. You would not -- you**
 17 **would not have a functional two-way driveway if we**
 18 **were to move it another 5 feet.**
 19 Q. All right. So that was the primary
 20 reason for siting it, was to provide a functional
 21 driveway, is that correct?
 22 **A. Given the size of the structure, yes.**
 23 Q. Okay. All right. Now, the -- there was
 24 an issue raised about shade trees in the back of
 25 the property. Or, I'm sorry, actually it was a

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1 shade tree -- we were to provide one shade tree
 2 per every four parking spaces.
 3 Now, I note the plan doesn't
 4 particularly have any shade trees proposed, but
 5 can that be done?
 6 **A. Yes. We -- there's 4 feet between the**
 7 **property line and the back of the curb and it's**
 8 **possible to provide shade trees in that strip if**
 9 **required.**
 10 Q. Okay. If we took the plan, and I don't
 11 exactly have a Board here, but if we put the shade
 12 trees -- and I'm actually looking at the lighting
 13 portion of the plan. And if you can see what I'm
 14 doing here is that you have these areas, these
 15 cut-outs along the parking lot. And what we could
 16 do is we could put shade trees in any position you
 17 want along those cut-outs. So you would have two
 18 shade trees on either side of the parking.
 19 **A. Right.**
 20 Q. And it wouldn't be in the parking lot.
 21 Now, with regard to shade trees in the
 22 parking lot, is that really something that's
 23 proposed for a parking lot of this size?
 24 **A. Oh, within the parking lot?**
 25 Q. Yes.

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1 **A. No, of course that wouldn't make any**
 2 **sense.**
 3 Q. Okay.
 4 **A. But we could provide a couple of them**
 5 **towards the rear.**
 6 Q. On either side.
 7 **A. In those two strips.**
 8 Q. Okay.
 9 **A. It could be done.**
 10 Q. We can do that. Okay. Let's see what
 11 we have here.
 12 There was an issue raised about the
 13 lighting requirements. And I noted the lighting
 14 plan and we do note with Mr. Vinegra's suggestion
 15 that there's spillage over into the property on
 16 either side, particularly the residential property
 17 which is, again, lot 241.
 18 Is there a way to alleviate that issue?
 19 **A. Yes. I actually -- I agree that there's**
 20 **significant spillage onto lot --**
 21 **Q. 241.**
 22 **A. -- 2, I believe it is. Is that right?**
 23 **Lot 4. Lot 4, sorry, to the east.**
 24 Q. Yeah.
 25 **A. The way the -- this plan was a**

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1 **continuation that I picked up. I did not do the**
 2 **original lighting. I do concur with the comment**
 3 **that there's significant spillage onto the lot to**
 4 **the east. This type of -- looking at the lighting**
 5 **plan with the layout of the footcandles, it**
 6 **appears that a Type 2 light distribution was used,**
 7 **which is more -- throws the light more to the**
 8 **sides rather than forward. A Type 3 will throw it**
 9 **a little more forward and thereby reduce the --**
 10 **significantly reduce the footcandles onto the**
 11 **adjacent property.**
 12 **However, the ordinance does say that 1**
 13 **to 2 footcandles are required throughout the**
 14 **parking lot. It's virtually impossible to get**
 15 **exactly at least 1 footcandle on the east side of**
 16 **the lot and then 2 feet away where you have the**
 17 **property line to drop down to .2 footcandles.**
 18 **So there's going to be some kind of**
 19 **compromise where there may be, let's say, .7 or .8**
 20 **on the edge of the parking lot and then maybe .2**
 21 **to .3 spillage onto the property. Then again, if**
 22 **we put a fence, continued the fence all the way**
 23 **down, a 6-foot-high fence, that -- if it's .3 or**
 24 **.4, let's say, very close to the property line on**
 25 **the adjacent property, it would not be that, in**

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1 **fact, because the fence would block the light for**
 2 **probably 10 feet or so. So you would have no**
 3 **spillage for 10 feet. So in reality you would**
 4 **meet the requirements for spillage that way.**
 5 Q. So as part of the building plan, is that
 6 something that can be adapted to the building plan
 7 once -- if this application were to be approved as
 8 part of the building plan, that can be dealt with
 9 between engineers --
 10 A. Yes.
 11 Q. -- and the building department?
 12 A. Yes.
 13 Q. Okay. Okay. Now, there was also a
 14 question about loading area.
 15 Since the proposed use is as residential
 16 for two floors and retail trade or business on a
 17 relatively small footprint, is a loading area
 18 necessary?
 19 A. I don't believe so, but that -- I don't
 20 know the -- I can't really speak to that because I
 21 don't know exactly how it's going to be used.
 22 Q. So that's really a matter of -- an issue
 23 of the use.
 24 A. Yes.
 25 Q. So we would have to talk to the specific

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1 tenants actually.
 2 A. Yes.
 3 Q. Because if we have tenants that are just
 4 retail service, they're not going to have --
 5 A. Right.
 6 Q. -- loading issues, are they?
 7 A. And maybe that can be accommodated by
 8 timing, when the loading truck comes, but I'm not
 9 speaking to that.
 10 Q. Okay. All right. Stormwater control
 11 was another question. Is that part of the -- once
 12 the development goes in -- if this were to be
 13 approved, once the development goes into phase,
 14 that would be something that would be clarified by
 15 the engineer?
 16 A. Yes, and this is comment number 8. The
 17 comment said that basically should there be a
 18 stormwater line along the curb in South Avenue,
 19 that we connect to it. And whether we -- if there
 20 is one there, it doesn't show it on this plan.
 21 The survey didn't pick up anything. But if there
 22 is one there, then we could connect into that.
 23 We could work that out with Mr. Vinegra
 24 how to directly connect into the storm sewer -- a
 25 possible storm sewer line along South Avenue.

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1 Q. So that's doable?
 2 A. Yes.
 3 Q. Okay.
 4 A. Possibly.
 5 Q. Then there was a question about signs.
 6 And since we don't know what the use is
 7 going to be, signage would be done in accordance
 8 with the local ordinances, correct?
 9 A. The site signage?
 10 Q. The site signage for the businesses.
 11 A. Yes.
 12 Q. Yes, okay.
 13 There was a comment about curbing.
 14 Would you consider that a construction
 15 issue that would be dealt with at the time of
 16 development?
 17 A. What was the comment on the curbing?
 18 Q. The curb.
 19 BOARD MEMBER VILLAGGIO: Ten.
 20 A. Oh, yes, that's during construction. If
 21 there's a -- "the approval shall be based on a
 22 physical inspection of all existing sidewalks and
 23 curbing during construction. If the Board
 24 engineer is of the opinion that the curb and
 25 sidewalk needs replacing, then the applicant

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1 should agree to such." And that's for the
 2 applicant to agree to and I agree with that.
 3 MR. DOOLEY: With regard to that, I
 4 would -- I would say to you that those are the
 5 types of things that this applicant is total
 6 amenable to. We understand that there are going
 7 to be construction issues that would come up
 8 should you approve the site plan with the
 9 variance.
 10 So those construction issues and
 11 whatever the Board were to recommend, my client is
 12 amenable and he will come up to testify to that in
 13 due time.
 14 All right. I'm done with my direct.
 15 Are there any questions for
 16 Mr. Mastronardy?
 17 CHAIRMAN GREET: Bob.
 18 BOARD MEMBER SCHERER: Yeah. Is it
 19 possible to move the handicapped spot, number six,
 20 over to where number seven is? All right? And
 21 then you could add maybe another parking space
 22 there. Even if we could push those little strips,
 23 you know, take a foot off each one of those little
 24 strips.
 25 THE WITNESS: Right. As long as --

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1 BOARD MEMBER SCHERER: I'm thinking of
2 the parking. We can get more parking there.
3 THE WITNESS: I'm thinking of the aisle.
4 Then the -- because, you know, with an
5 11-foot-wide space in a 5-foot aisle for the
6 handicapped, we're coming well into the parking
7 space -- I mean into the aisle, the aisle being
8 used. So...
9 BOARD MEMBER SCHERER: Yeah.
10 MR. VINEGRA: You can't do it.
11 THE WITNESS: I don't think it can be
12 done.
13 MR. VINEGRA: Per the regulations, it
14 doesn't fit.
15 BOARD MEMBER SCHERER: And there's no
16 other way we could find any more parking spaces in
17 here?
18 THE WITNESS: Nope.
19 BOARD MEMBER SCHERER: None you can
20 think of?
21 THE WITNESS: No way.
22 BOARD MEMBER SCHERER: Is there going to
23 be a basement?
24 MR. DOOLEY: Yes. The architect will
25 testify to that, but, yes. The answer is yes.

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1 You can ask him and he'll be able to answer those
2 direct questions.
3 BOARD MEMBER SCHERER: That's all I got.
4 I just wanted to see if we could find another
5 potential.
6 BOARD MEMBER NIEVES: I didn't
7 understand why you can't move the structure 5 feet
8 over. I think you indicated that 5 feet taking
9 the structure away from the driveway would make it
10 too short. I just looked up the average width of
11 a vehicle is about 6 and 1/2 feet.
12 MR. DOOLEY: Well, right now --
13 BOARD MEMBER NIEVES: So two vehicles
14 going in the driveway, you would need about 15
15 feet.
16 MR. VINEGRA: No. Normally you don't
17 want a driveway anything less than, say, 18 feet.
18 You want 9 and 9. You can pitch it down a little
19 bit. To make the buffer work, you just have to
20 make the building smaller. The building's not set
21 in stone. It doesn't come delivered on a slab.
22 This building does not exist so.
23 MR. DOOLEY: Actually, you raise a great
24 question and Mr. Vinegra's comments are very
25 illuminating.

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1 So, Victor, as I understand what you
2 just said is that, you know -- we tried to make,
3 by the way, the driveway a workable in-and-out
4 driveway, 20 foot wide, feeling that that was
5 plenty adequate to allow people to get in and out
6 without slamming into each other.
7 But I think I'm hearing Victor
8 correctly, if we narrowed that down by about 2
9 feet and maybe took a couple of feet off the
10 building, that would work?
11 MR. VINEGRA: Yeah, but right now I
12 don't want to design the building during the
13 testimony.
14 MR. DOOLEY: No, you're not designing
15 the building.
16 MR. VINEGRA: We've done driveways down
17 to 18 feet on low-volume offices, at low volume.
18 This is a low volume. So you can go down to 18
19 feet on a low-volume building, but you don't also
20 want to put the driveway directly against the
21 building. Then the building gets whacked.
22 BOARD MEMBER JANNOTTI: But that was
23 because of -- previously I did ask the question
24 about moving the building, but that was going to
25 be my next question about reducing the size of the

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1 building so that we could fit it into the 10 feet.
2 And I wanted to know if you had any objection to
3 that or what the issue was regarding the size of
4 the building to make it conform to the code.
5 MR. DOOLEY: The architect and the owner
6 will testify as to that. However, because this is
7 raised and we're trying to get all this out and
8 try to make this work, if we were to move the
9 building 2 feet, you still have -- if you look at,
10 you know, the openings, what you do is you end up
11 with an 18-foot-wide driveway, which then gives us
12 a 9- versus the 10-foot buffer. We would be 9 and
13 .39, which would be pretty darn close.
14 BOARD MEMBER JANNOTTI: Seven.
15 MR. DOOLEY: So, yeah, because if we
16 move it, we pick up 2 feet on our side which gives
17 us 7, and the 3.39 on the other guy's side. So
18 that gets us pretty close to the --
19 BOARD MEMBER JANNOTTI: I don't think we
20 count the 3.39. It's 10 foot from the line,
21 right?
22 MR. VINEGRA: Right. It's 10 foot from
23 the property line.
24 BOARD MEMBER JANNOTTI: That's what I
25 thought.

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1 MR. DOOLEY: All right. Okay. I mean,
 2 if we're going that -- again, I understand where
 3 you're going with that, but it gives us a little
 4 more space. And I'm just pointing out that
 5 actually, for a real practical matter, it would
 6 give us 10 feet. I know you mean property line.
 7 I get it. But if we go with a fence there, that
 8 also gives us a true buffer if we go with a fence
 9 designed according to your recommendations.
 10 MR. VINEGRA: Also you're not addressing
 11 the parking lot. Just by moving the building
 12 over, the parking lot is within 3 feet -- is
 13 within 2 feet of the property line. So the
 14 parking lot's in the buffer too.
 15 BOARD MEMBER JANNOTTI: Yeah, that was
 16 my next question, Victor -- you're ahead of me a
 17 little bit -- was this design of this parking lot.
 18 There's a bump-out here that's only 2 feet from
 19 the property line. I didn't understand that.
 20 MR. DOOLEY: Well, obviously we were
 21 trying to make this comply with the number of
 22 parking spaces needed. If we move that in, then
 23 we lose a parking space. Either we lose the
 24 handicap space or we lose a space altogether.
 25 THE WITNESS: We could eliminate the

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1 bump-out.
 2 BOARD MEMBER JANNOTTI: Why would you
 3 lose the handicap space if the --
 4 MR. DOOLEY: Because the handicap space
 5 has to be the 11 plus the 5.
 6 BOARD MEMBER VILLAGGIO: And you need a
 7 handicap space.
 8 MR. DOOLEY: And we have to have that.
 9 THE WITNESS: Okay.
 10 BOARD MEMBER JANNOTTI: I understand
 11 that, but then it would be 4 and 1/2 feet, right?
 12 If you could move this 2 foot in, then this whole
 13 thing would be 4 and 1/2 feet. Then you would --
 14 THE WITNESS: Right. In other words,
 15 remove the bump-out.
 16 BOARD MEMBER JANNOTTI: Then you would
 17 be asking for a variance just for the --
 18 THE WITNESS: We could remove the
 19 bump-out. I mean, is it really necessary?
 20 MR. VINEGRA: But then you also -- well,
 21 it's your plan. So --
 22 THE WITNESS: Yeah. What I'm saying --
 23 MR. VINEGRA: He's asking you -- you
 24 could remove the bump-out, but you also have 4
 25 feet, 4.5 feet instead of 5. You have to give the

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1 reason for that.
 2 CHAIRMAN GREET: I have a question. I
 3 understand, you know, the engineer specified this
 4 or drew this up or came up with these plans
 5 obviously for a mixed use, for retail and with
 6 residential above.
 7 THE WITNESS: Right.
 8 CHAIRMAN GREET: Had you -- had you --
 9 or were you asked at all to pursue just abiding by
 10 the zoning law or regulation that we have for
 11 business and specifically try to make an attempt
 12 to design a business building on that property?
 13 THE WITNESS: No, we just tried for what
 14 is proposed.
 15 CHAIRMAN GREET: So that wasn't even
 16 entertained.
 17 THE WITNESS: Not by me, no.
 18 CHAIRMAN GREET: Thank you.
 19 MR. DOOLEY: Again, the owner and
 20 architect can address that.
 21 BOARD MEMBER VILLAGGIO: I have a -- I
 22 have a question.
 23 MR. DOOLEY: Sure.
 24 BOARD MEMBER VILLAGGIO: Number 4 on
 25 Victor's report with regard to the refuse.

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1 Where's that going to be? Number 4, Section
 2 106-116. 116.B, "All outdoor storage areas shall
 3 be completely enclosed by a decorative fence, wall
 4 or plantings."
 5 MR. DOOLEY: That's actually in the
 6 plan.
 7 BOARD MEMBER VILLAGGIO: But the -- but
 8 then Victor goes "Applicant to address where
 9 the" --
 10 MR. DOOLEY: Where is it in the plan?
 11 BOARD MEMBER VILLAGGIO: Yes.
 12 MR. DOOLEY: It's in the back right-hand
 13 part of the property. It says "Property 6 by 6
 14 trash enclosure."
 15 BOARD MEMBER JANNOTTI: With an arrow.
 16 MR. DOOLEY: There's an arrow pointing
 17 right to it.
 18 BOARD MEMBER VILLAGGIO: What page is
 19 that?
 20 MR. DOOLEY: It's on the second page.
 21 BOARD MEMBER SCHERER: Right above where
 22 it says "lot 4."
 23 MR. DOOLEY: Yeah, it's right there.
 24 BOARD MEMBER VILLAGGIO: Okay. Oh,
 25 where --

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1 BOARD MEMBER JANNOTTI: Where the little
2 dots are. The line with the dot.
3 MR. DOOLEY: It's there.
4 BOARD MEMBER VILLAGGIO: How is it --
5 okay. What -- what will it be enclosed with?
6 MR. DOOLEY: It will be enclosed
7 according to ordinance. Whatever you require, it
8 will be enclosed with. So if you have a fencing
9 requirement, that's the design. We'll take into
10 account whatever the design requirement is.
11 That's -- we'll do whatever you want.
12 THE WITNESS: There's no detail for
13 that.
14 BOARD MEMBER VILLAGGIO: Yeah, I
15 understand. You know, looking at what was
16 submitted, I don't see -- I don't see, like, items
17 that we usually see when people come before us
18 with a use variance.
19 THE WITNESS: Well, that's a smaller
20 item, but there's no detail for that.
21 BOARD MEMBER VILLAGGIO: Okay.
22 MR. DOOLEY: You're correct. And the
23 answer to that is that we'll abide by whatever
24 your recommendations are or whatever the
25 building -- your building department requires.

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1 It's intended to be enclosed and we understand
2 that it needs to be enclosed.
3 BOARD MEMBER JANNOTTI: So I just have
4 another question.
5 MR. DOOLEY: Sure.
6 BOARD MEMBER JANNOTTI: On this space
7 number seven, according to the diagrams, the
8 access to the apartments upstairs is through the
9 back which is next to space seven.
10 MR. DOOLEY: Correct.
11 BOARD MEMBER JANNOTTI: And I'm trying
12 to -- how much space is there between the building
13 and space seven?
14 THE WITNESS: Two feet.
15 MR. DOOLEY: Approximately 2 feet.
16 BOARD MEMBER JANNOTTI: Two feet?
17 MR. DOOLEY: Approximately, yeah.
18 BOARD MEMBER JANNOTTI: It says 24
19 inches. I'm thinking of opening a car door, if
20 I'm going to park my car there, is there enough
21 space to actually get in and out of a car and
22 enter the building in a parking space that that's
23 close?
24 MR. DOOLEY: As far as I know, there's
25 no design requirement on that. However, I

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1 understand your concern.
2 MR. VINEGRA: Yes, there is.
3 MR. DOOLEY: There is?
4 MR. VINEGRA: There's building code
5 issues. And that's a good point because the
6 handicap accessibility to the first floor is
7 supposed to be the closest doorway and that should
8 be the doorway for the handicap. So actually
9 seven can't exist because there has to be ramp-up
10 for handicap access to the building.
11 MR. DOOLEY: But we have that in the
12 rear here, directly behind the handicap. That was
13 exactly the design.
14 MR. VINEGRA: It doesn't show that. The
15 handicap depressed area, it doesn't show that.
16 MR. DOOLEY: Okay. That was the
17 intention.
18 MR. FRASER: In number seven, can you --
19 MR. VINEGRA: Well, you can't
20 inference --
21 MR. FRASER: Can you --
22 (Indiscernible crosstalk; reporter
23 requests one speaker)
24 MR. VINEGRA: As I was saying, you can't
25 inference on a plan. The intention is not -- you

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1 can only vote on what you have before you. You
2 can't vote on a hypothetical driveway, a
3 hypothetical handicap ramp, a hypothetical this...
4 CHAIRMAN GREET: Anyone else from the
5 Board?
6 THE WITNESS: Can I comment?
7 CHAIRMAN GREET: Go ahead.
8 THE WITNESS: Just a comment. I think
9 personally that that sidewalk should be increased
10 to 3 feet, if not 4. Three feet at least, right?
11 MR. VINEGRA: If it's increased, then
12 it's sticking out into the back-up area.
13 THE WITNESS: Right, but then we come
14 back, if that's possible, a foot -- instead of 10
15 feet from the rear property line, we go 9 feet.
16 MR. VINEGRA: But I think building code
17 and fire code, you can't have a car 2 feet from a
18 door from a building. You can't get in the
19 doorway. The car would be parked here and that
20 would be the door. You can't get in the doorway.
21 BOARD MEMBER TARANTINO: Victor, I would
22 think that these doors have to swing out.
23 MR. VINEGRA: I think they can swing in,
24 at least clear -- as long as they have clear
25 space. But you have to have clear space in front

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1 of the doorway to enter the doorway. Especially
2 the secondary fire doors would be in the back.
3 THE WITNESS: We have another
4 possibility of --
5 MR. VINEGRA: Yeah, but the problem is
6 the Board doesn't have that plan.
7 THE WITNESS: Okay.
8 MR. FRASER: I'm sorry, there's not a
9 plan that shows where the door is in relationship
10 to the parking lot?
11 MR. VINEGRA: Mr. Meeks' plan shows the
12 door. The architect's plan has a door on it, but
13 it doesn't show --
14 MR. FRASER: The architect's plan
15 doesn't show the parking lot.
16 MR. VINEGRA: Correct.
17 THE WITNESS: Correct.
18 MR. FRASER: So there's no plan that
19 shows both the parking lot and the door, is that
20 correct?
21 THE WITNESS: That's correct.
22 MR. VINEGRA: Really, you can't have
23 parking space number seven. Based on this plan,
24 it can't be there. So now you have a parking
25 variance.

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1 MR. DOOLEY: Well, if there's not a door
2 there, then what's the issue?
3 BOARD MEMBER JANNOTTI: There is --
4 there is two doors there.
5 MR. VINEGRA: Access to the apartments.
6 BOARD MEMBER JANNOTTI: Access to the --
7 if you look on your door --
8 MR. DOOLEY: No, I know that on the
9 architectural plan, that's correct.
10 BOARD MEMBER JANNOTTI: That's right.
11 MR. DOOLEY: My question is, if we move
12 that door to the parking lot -- to the driveway
13 side, then there's no issue.
14 BOARD MEMBER JANNOTTI: Well, I see two
15 doors. I see one that goes to the staircase to go
16 upstairs --
17 MR. DOOLEY: Correct.
18 BOARD MEMBER JANNOTTI: -- and one that
19 goes into the back, rear of the first floor retail
20 space.
21 MR. DOOLEY: Correct. And there's a
22 second -- there's a second door that goes into the
23 back of there too.
24 BOARD MEMBER JANNOTTI: Yes.
25 MR. DOOLEY: Which is the door directly

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1 behind the handicap spot.
2 BOARD MEMBER JANNOTTI: No -- yes,
3 behind the handicap spot.
4 MR. DOOLEY: It is.
5 BOARD MEMBER JANNOTTI: The other two
6 are behind number seven.
7 MR. DOOLEY: That is correct, a hundred
8 percent correct. So the issue there becomes if
9 that's -- if that is an issue, is there a problem
10 with moving that door? And, you know, that would
11 be a question that we'd have to deal with. If
12 that would be a recommendation that we do that,
13 that can be done. Again, I have to -- we'll have
14 to have the architect address that, but I think
15 that can be done.
16 As far as -- Victor references the fact
17 that there's no ramp shown behind -- directly
18 behind the handicap space. Again, a ramp --
19 that's intended to be an entryway into the
20 building and that could be easily ramped. It's
21 not an issue.
22 THE WITNESS: So, Victor, if we keep the
23 space here.
24 MR. VINEGRA: You can move the doorway
25 over here.

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1 THE WITNESS: Over here? Decrease to 18
2 feet and we have a 3-foot --
3 MR. VINEGRA: Or you could put the door
4 in the front.
5 THE WITNESS: And you put the handicap
6 space here instead.
7 MR. VINEGRA: I don't want to...
8 THE REPORTER: You're on the record.
9 MR. VINEGRA: Again, I don't want to
10 design this plan now. So it could be
11 reconfigured, yes. It could be reconfigured,
12 yes.
13 CHAIRMAN GREET: Okay. Do we have any
14 other questions?
15 BOARD MEMBER VILLAGGIO: Wait. Wait.
16 Victor, what did you say? I didn't hear
17 you.
18 MR. VINEGRA: The engineer is asking me
19 a question. If they kept this parking space
20 there, moved the doorways, fiddled with -- we can
21 fiddle a little bit with the -- with the trash
22 area, which is quite small. A 6 by 6 is a very
23 small trash area for two apartments and a retail.
24 That doesn't meet code. I think normally it's 10
25 by 10 is the code requirement.

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1 And if that got -- and that trash area
 2 is also in the buffer. Normally we try to keep --
 3 I guess the applicant has not performed this type
 4 of application in this Borough before, and our
 5 ordinance is not an overly restrictive ordinance.
 6 I mean, there's municipalities where you'll have
 7 volumes just on every minutia. We're not an
 8 overly restrictive ordinance.

9 The one thing this Board has been very
 10 disciplined about and requests it is this buffer.
 11 We just came up on the last apartment complex
 12 where the residents came out. And this Board has
 13 been very tough on the buffer between commercial
 14 uses and residential. The only problem they have
 15 is that residential is a nonconforming
 16 residential, but it doesn't matter. It's still a
 17 residential.

18 So, you know, what some people do is
 19 they buy that building too and make it a bigger
 20 project, you know, but that's not what we have
 21 here tonight. What we have here is a commercial
 22 use, proposed commercial use which is permitted in
 23 the zone, next to a residential use. It doesn't
 24 matter how close the residential use is. If it
 25 was very far away, sure, you know, but it happens

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1 to be -- you know, it's something this Board has
 2 always kept.

3 So when we looked at the buffers on
 4 other projects, we moved everything out of the
 5 buffer because people normally came. You know,
 6 the residents normally came and we had to protect
 7 the residences next door.

8 And lighting can also be done properly.
 9 If you move the parking lot over, you wouldn't
 10 have a problem with the lighting. There's a lot
 11 of spillover with the lighting. And there's ways
 12 to do the lighting properly. If you put more
 13 lighting near the property line and pointed it
 14 away from the residential area, you won't get this
 15 type of spillover, but right now we do have a
 16 spillover. But some of the spillover reasons is
 17 that the parking lot is close to the residential
 18 property.

19 So if the buffer was honored, then the
 20 spillover wouldn't be a problem.

21 BOARD MEMBER VILLAGGIO: But if -- but
 22 if -- but if the buffer was honored, would
 23 seven --

24 MR. VINEGRA: It would be a different
 25 application.

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1 BOARD MEMBER VILLAGGIO: -- would it
 2 allow them to have seven spots?
 3 MR. VINEGRA: No. No.
 4 MR. DOOLEY: Mr. Vinegra, we have -- our
 5 traffic expert has looked at this and looked at
 6 this design and he thinks he might be able to
 7 testify to that issue. So I would defer that to
 8 him for the moment.

9 BOARD MEMBER VILLAGGIO: Okay.
 10 MR. DOOLEY: And I'll bring him up and
 11 he can possibly give us some illumination on how
 12 we can address that issue. So the idea being is I
 13 think, as I'm hearing Victor talk, is that
 14 obviously we need to -- you want us to move that
 15 parking lot a little further away from the
 16 property directly to the east. And we could very
 17 well do that. The issue is, you know, do we do it
 18 by 2 feet, 3 feet, 4 feet, whatever it is, and
 19 still maintain our parking? Because no matter how
 20 we look at it, we figure we got to have seven
 21 spaces including the handicap space.

22 And in addition to that, I think -- we
 23 think we have a solution to the handicap access to
 24 a ramped doorway. So we think we can do that, but
 25 I need to have him testify to that.

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1 CHAIRMAN GREET: Okay. Do we have any
 2 other questions from the Board of this witness?
 3 BOARD MEMBER VILLAGGIO: But let me --
 4 let me -- I'm not sure if the engineer -- I just
 5 wanted to make sure. What the -- what the -- why
 6 you need the seven spots. You need the seven
 7 spots, four for the retail -- I mean -- yeah. No.
 8 MR. DOOLEY: Four for the retail. Four
 9 for the retail.

10 BOARD MEMBER VILLAGGIO: Four for the
 11 retail and 1.5 each --

12 MR. DOOLEY: For the apartments.

13 BOARD MEMBER VILLAGGIO: -- for each
 14 apartment.

15 MR. DOOLEY: Correct.

16 BOARD MEMBER VILLAGGIO: That you're
 17 asking for the use variance for.

18 MR. DOOLEY: Correct.

19 THE WITNESS: Right. Four stalls for
 20 the retail; three for the apartments.

21 MR. DOOLEY: Correct. Correct.

22 CHAIRMAN GREET: Okay. Anyone else from
 23 the Board have any questions?

24 BOARD MEMBER SCHERER: Well, I got one.
 25 It's probably for the parking guy, though.

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1 CHAIRMAN GREET: Then hold it for him.
 2 BOARD MEMBER SCHERER: Well, I'm not
 3 sure, though. This is the design of the building.
 4 If you move the building to the middle of the lot,
 5 come in one side and go out the other side. Now
 6 you just pushed the building over 10 feet.
 7 CHAIRMAN GREET: And then if you raised
 8 it, you could have parking underneath and then you
 9 could conform to the business area.
 10 BOARD MEMBER SCHERER: The basement.
 11 CHAIRMAN GREET: The ground floor. I
 12 like that idea.
 13 BOARD MEMBER HAK: Put a ramp in on top.
 14 CHAIRMAN GREET: Okay. Any other
 15 questions?
 16 MR. DOOLEY: Well, the answer to -- I
 17 guess the answer to that is how much -- how much
 18 the in and out is required. And we did consider
 19 that and I think the issue was that we felt that
 20 doing an in and out, as you just -- that that
 21 might be a little more difficult in terms of
 22 traffic. But, again, we can have the traffic
 23 expert testify to that. If that's what you want
 24 to hear, we'll have him address that issue.
 25 CHAIRMAN GREET: Okay. Anyone else on

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1 the Board? Last time.
 2 Okay. Hearing none, I'll open it up to
 3 the general public for any questions of this
 4 particular witness as the engineer.
 5 Bruce, please tell us your name and
 6 address.
 7 MR. PATERSON: Bruce Paterson, 325
 8 Willow Avenue.
 9 On Mr. Mastronardy's sheet number 2 of
 10 2, there's a note there. I guess it's just an
 11 errant note that wasn't deleted. It's right --
 12 right on the building footprint. It says existing
 13 two-and-a-half-stories framed building.
 14 Is that just an errant note you forgot
 15 to delete? On the left-hand side of the drawing.
 16 THE WITNESS: That is an error. That's
 17 the existing building, yeah. That shouldn't be
 18 there.
 19 MR. PATERSON: You're not -- you're not
 20 utilizing any of the original structure.
 21 THE WITNESS: No, no.
 22 MR. PATERSON: That's completely --
 23 THE WITNESS: It's completely gone,
 24 yeah.
 25 MR. PATERSON: I don't know if it's for

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1 you or not, but is there a basement in this? It
 2 kind of -- these drawings kind of tend to tell me
 3 there's a basement here.
 4 THE WITNESS: Wait, the existing
 5 building or the new one?
 6 MR. PATERSON: The new building.
 7 THE WITNESS: Ask the architect about
 8 that.
 9 MR. PATERSON: And it was an interesting
 10 note, I thought, at the bottom center. It talks
 11 about the detention basin is not proposed and it
 12 didn't require a soil permeability test. I guess
 13 that's acceptable. I would think the neighbor
 14 would have to get involved, our engineer.
 15 THE WITNESS: That's to be discussed.
 16 MR. PATERSON: Oh, you did discuss it
 17 already?
 18 THE WITNESS: No, no, to be discussed.
 19 MR. PATERSON: Oh, because you didn't
 20 show any drainage whatsoever.
 21 THE WITNESS: You mean drainage
 22 control?
 23 MR. PATERSON: Yeah, any
 24 construction --
 25 THE WITNESS: Well, no, there's a trench

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1 grade -- a trench drain.
 2 MR. PATERSON: Yeah, you just say "rock"
 3 on the bottom.
 4 THE WITNESS: Right, and there's a
 5 detail of that on the first sheet.
 6 CHAIRMAN GREET: Okay.
 7 MR. PATERSON: Wait a minute.
 8 CHAIRMAN GREET: Okay, Bruce.
 9 THE WITNESS: Bottom left.
 10 MR. PATERSON: Yeah, I saw it.
 11 CHAIRMAN GREET: That's it?
 12 MR. PATERSON: That's it.
 13 CHAIRMAN GREET: Okay. Anyone else from
 14 the general public?
 15 Hearing none, seeing none, I'll close
 16 this section.
 17 Do you have another witness?
 18 MR. DOOLEY: I do. This is Mr. Dean.
 19 He's our traffic engineering expert.
 20 G A R Y D E A N, having been duly
 21 sworn, was examined and testified as follows:
 22 MR. FRASER: Would you please state your
 23 name and spell it.
 24 THE WITNESS: Gary Dean, D-E-A-N.
 25 Professional address is 792 Chimney Rock Road in

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1 Martinsville, New Jersey.
 2 DIRECT-EXAMINATION
 3 BY MR. DOOLEY:
 4 Q. Would you please give your
 5 qualifications to the Board?
 6 **A. Yes. I'm a 1983 graduate of Lehigh**
 7 **University with a Bachelor of Science degree in**
 8 **civil engineering. I'm a former member of the**
 9 **faculty of Lehigh University and Lafayette**
 10 **College, having served as an adjunct professor**
 11 **teaching transportation engineering.**
 12 **I've been a licensed professional**
 13 **engineer in New Jersey since 1987, and I've been**
 14 **qualified as an expert in traffic engineering**
 15 **before roughly 300 to 350 different planning and**
 16 **zoning boards throughout the state. In Union**
 17 **County I've had the privilege to serve as a**
 18 **municipal traffic consultant some years back for**
 19 **Mountainside and for Kenilworth, but this is my**
 20 **first appearance in Garwood.**
 21 MR. FRASER: And your licenses are
 22 current?
 23 THE WITNESS: Yes, it is.
 24 MR. FRASER: Mr. Chairman, I recommend
 25 Mr. Dean be accepted as an expert in the field of

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1 traffic engineering.
 2 THE WITNESS: Yes.
 3 CHAIRMAN GREET: Okay. Accepted as
 4 such.
 5 THE WITNESS: Thank you very much.
 6 MR. DOOLEY: Before I start the
 7 questioning of Mr. Dean, I'd like to have a
 8 clarification. One of the Board members asked
 9 about an in-and-out driveway kind of a setup,
 10 which would move the building over off of the line
 11 between the currently existing single-family home
 12 to the east.
 13 My question, I guess, is are we
 14 considering that movement to be creating the -- if
 15 we moved it 10 feet, is that the buffer that's
 16 required? Is that -- is that going to be a
 17 required buffer?
 18 I'd like to ask Mr. Vinegra if he would
 19 comment on that.
 20 MR. FRASER: Well, but this is really
 21 your application.
 22 MR. DOOLEY: I understand that. I do,
 23 but there's been a lot of questions on that,
 24 Mr. Fraser, and I get it. We just want to do
 25 what makes the Board comfortable with this

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1 application. And if that's one of the things
 2 that's going to be a comfort to the Board --
 3 MR. FRASER: But there may not be a
 4 unanimity of opinion on that subject amongst the
 5 Board.
 6 MR. DOOLEY: All right. We'll, then,
 7 we'll just move along with that.
 8 DIRECT-EXAMINATION
 9 BY MR. DOOLEY:
 10 Q. Now, Mr. Dean, one of the things that
 11 was mentioned in previous testimony, in previous
 12 questions, had to do with the setup of the parking
 13 in the back lot.
 14 Do you have a solution that would
 15 address that issue?
 16 **A. I do.**
 17 Q. And would you please describe that
 18 solution to the Board?
 19 **A. I'll describe, but I find a visual cue**
 20 **is sometimes beneficial. I'll do my best to**
 21 **support it on the easel. For reference I'm**
 22 **referring to sheet 2 of Mr. Mastronardy's site**
 23 **plan. It depicts -- oh, gosh, this is going to be**
 24 **tough. It depicts on the left-hand side of the**
 25 **exhibit the site plan. And I've indicated in red**

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1 **an alternative parking layout. Again, hopefully**
 2 **it's visible from the dais.**
 3 **And what I've done is -- hopefully the**
 4 **Board can see it. What I've done is I've**
 5 **considered the easterly end of the parking field,**
 6 **and all of the parking was intended under the**
 7 **current design to head south. That leaves a**
 8 **corner of nothing but blacktop in the northeast or**
 9 **the eastern end of the parking lot.**
 10 **And in looking at the dimensions, I've**
 11 **been able to actually get eight parking spaces**
 12 **with two of them heading in and facing east, one**
 13 **of which is the handicap spot that could be**
 14 **adjacent to the building. And immediately after**
 15 **or behind or west of that handicap spot would be**
 16 **the appropriate ramp that leads to the sidewalk**
 17 **that's directly next to the handicap spot that**
 18 **would allow access into the -- you haven't heard**
 19 **or seen the architectural, but there's a door**
 20 **in the midpoint of the eastern end of that**
 21 **building.**
 22 **It also allows a substantial green**
 23 **corner, if you will, where the parking spaces**
 24 **face east and then face south that would allow a**
 25 **larger refuse container. My expectation is given**

1 **the small size of this building -- and just to put**
 2 **it into scale, this retail footprint is not much**
 3 **bigger than this room. So by the time it's fit up**
 4 **with rest rooms, stockroom, fixtures, a cash**
 5 **register and the like, there's, candidly, not a**
 6 **whole lot of space left. The point being is there**
 7 **wouldn't be a lot of refuse. And my expectation**
 8 **it they would be standard roll-out residential**
 9 **containers that could easily be picked up away**
 10 **from the store and not adjacent to the building,**
 11 **but that's something we can discuss with**
 12 **Mr. Vinegra. But under this scheme, we pick up**
 13 **one extra parking space.**

14 MR. FRASER: Where are the parking
 15 spaces going to be?

16 THE WITNESS: Well, that's part of this
 17 dialogue. We have -- under my revision there are
 18 five spaces facing south; two spaces facing east,
 19 one of which is the handicap space; and one space,
 20 number seven, that is preserved from your plan.
 21 If the Board feels the side yard buffer is more
 22 valuable, we can eliminate one of the spaces and
 23 the two spaces shift further west. We can
 24 increase the buffer between lot 4 to the east and
 25 we still have seven spaces.

1 So it's really part of this dialogue as
 2 to whether you would like more parking spaces or I
 3 think it's 3 feet more buffer to the adjoining
 4 property owner.

5 MR. FRASER: What about the parking
 6 space seven that's adjacent to the two doors?

7 THE WITNESS: And that's where I'm at a
 8 disadvantage because I don't know where the doors
 9 are. Parking spaces are normally 9 feet wide.
 10 And in an individual parking space, like right out
 11 here in the lot, there's enough room, roughly a
 12 foot and a half, to open a car door and not hit
 13 the car next to you.

14 MR. FRASER: If you park in the middle
 15 of the space.

16 THE WITNESS: Correct.

17 BOARD MEMBER JANNOTTI: But the fact
 18 that you've just added another space on this side,
 19 you can take number seven away.

20 THE WITNESS: I could do that, yes.

21 BOARD MEMBER JANNOTTI: Eliminate number
 22 seven and you still have seven parking spaces.

23 THE WITNESS: Correct, but I only have 2
 24 feet of buffer from the parking lot which, in
 25 terms of buffering, things like fences that have a

1 permanent blockage of, say, headlights to the
 2 adjacent residential use for however long that
 3 remains. That's probably a little more effective
 4 than shrubbery.

5 So a solid wood fence at least screening
 6 the parking lot, I think good fences make good
 7 neighbors, that might be an alternate. Seven
 8 spaces. You know, the individual who are in those
 9 spaces, they just need to back up a little bit
 10 further. But once they back up, they can then
 11 proceed out the driveway. It's only at that point
 12 a distance of 27 feet instead of the usual 24
 13 given that the aisle behind the spaces is
 14 typically 24 feet.

15 So I think it's a more efficient use of
 16 that area. It does create a nice little green
 17 corner. And if this space number seven is
 18 troubling the Board and that allows an
 19 opportunity, for example, to square off and have
 20 more sidewalk area adjacent to that corner of the
 21 building, that certainly -- it all fits.

22 So I recognize -- and Mr. Vinegra is
 23 seeing this for the first time. We would need to
 24 submit a revised plan for your consideration. But
 25 in terms of moving the pieces around and in terms

1 of what it does at least for buffering -- it also
 2 gives us, I should point out, an opportunity to
 3 change the location of the lighting fixtures. And
 4 those lighting fixtures can have what are called
 5 house shields that effectively cut off the back
 6 edge of the light so that there's no spillage on
 7 to neighboring properties. And by having that
 8 flexibility in that green area, we can improve
 9 that concern as well.

10 CHAIRMAN GREET: Any questions of the
 11 Board for this witness?

12 MR. FRASER: Do you have an opinion
 13 about the suggestion of Mr. Scherer that the
 14 traffic circulation could be changed if the
 15 building were moved toward the middle so you have
 16 an in on one side and out on the other?

17 THE WITNESS: I do.

18 MR. FRASER: What is that opinion?

19 THE WITNESS: It is something we
 20 evaluated at the project inception. My, I'll say,
 21 concern as a traffic engineer is, to me, having
 22 green space, a fence, vegetation between two
 23 buildings is better in terms of buffering than a
 24 driveway which carries traffic. I'm not saying it
 25 would be very noisy, but it would literally have

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1 to be a foot off the easterly edge of the property
2 because we would have to have at least 10 feet of
3 an inbound lane, 10 feet of an outbound lane, and
4 it provides no opportunity for buffering between
5 the buildings other than blacktop.
6 MR. FRASER: Would you lose parking if
7 that were the situation?
8 THE WITNESS: I haven't laid it out, but
9 my guess is, yes, we would only because -- and I'd
10 have to revisit it only because if the building
11 were to shift, it may --
12 MR. FRASER: It looks like this whole
13 new plan wouldn't work.
14 BOARD MEMBER VILLAGGIO: No.
15 THE WITNESS: I think there would be --
16 I'd have to square off the corner of the building
17 where it's an L shape now, but I would lose the
18 two spaces that I just found.
19 MR. FRASER: That's what I thought.
20 CHAIRMAN GREET: Okay. Anyone else?
21 BOARD MEMBER VILLAGGIO: What -- what
22 type of impact will this have along South Avenue?
23 Because isn't that what you're testifying to?
24 You're an expert, right, in traffic?
25 THE WITNESS: Correct. In terms of

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1 traffic impact, obviously the commercial use is
2 permitted so that's -- in other words, the traffic
3 associated with that use is something that
4 constituted as Planning Board, and the governing
5 body ultimately said that's a good idea. We
6 believe a commercial use should go in this zone.
7 And its traffic, we're okay with it. But now the
8 question is, what do the apartments do in terms of
9 traffic? With two apartments, my professional
10 opinion, in very simplified terms, is next to
11 nothing. It will have no effect on traffic moving
12 along South Avenue.
13 That is one concern I had about the dual
14 driveway use in evaluating it is pedestrians along
15 the sidewalk. And the general practice in traffic
16 engineering is fewer driveways means fewer
17 conflicts. And instead of having a pedestrian
18 have to worry about one driveway, now that same
19 individual has to worry about two driveways. So
20 in general the whole philosophy in traffic
21 management is keep the number of driveways as
22 limited as possible.
23 So the residential use or residents we
24 would expect to leave in the morning, almost no
25 traffic, and then come home at night. The retail

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1 or service use would be more in and out during the
2 day, but then in the evenings and on the weekends,
3 I would expect minimum. I mean, I don't know who
4 the tenants would be --
5 MR. FRASER: I think -- I'm sorry,
6 Kathy, go ahead.
7 BOARD MEMBER VILLAGGIO: No, I was just
8 wondering, you know, what you were going to say
9 because you were speaking with regards to the --
10 with regards to the extra spaces you found, but
11 that's just something new that we just did right
12 now. And I was wondering what you were going to
13 testify to.
14 THE WITNESS: You know, this isn't
15 Kings, this isn't Home Depot. This is a very
16 low-traffic generator.
17 BOARD MEMBER VILLAGGIO: No, I
18 understand that. I was just wondering what kind
19 of traffic study there was going to be.
20 THE WITNESS: We didn't do a study, per
21 se, or count.
22 BOARD MEMBER VILLAGGIO: I know. Or the
23 expert testimony that you were going to do, that's
24 all.
25 THE WITNESS: And I think through this

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1 dialogue, and if I'm reading the tea leaves
2 correctly, we're still going to keep seven spaces
3 because that's what your ordinance requires.
4 On-street parking is permitted directly on this
5 frontage so that's very convenient for whatever
6 retail or service tenant may go in the front.
7 CHAIRMAN GREET: So if theoretically
8 there were -- instead of residential it was
9 strictly a business and you had a two-story
10 business operation, say the size of this room, one
11 on top of the other, eight parking spaces would
12 suffice, correct?
13 THE WITNESS: No.
14 CHAIRMAN GREET: Oh.
15 THE WITNESS: It wouldn't. Well, let me
16 rephrase. I believe we have four for the first
17 floor that's required, and then we would have four
18 for the second floor, which may fit or may not.
19 In terms of traffic activity, commercial uses
20 generate more traffic than residential uses.
21 CHAIRMAN GREET: And we understood that
22 when we did a master plan.
23 THE WITNESS: So the trend is -- and I'm
24 certainly seeing a lot of village-type infill.
25 It's desirable where we have retail on the first

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1 floor and second floor apartments. And it's in
 2 keeping in making the community more
 3 pedestrian-friendly as opposed to sticking them
 4 out into the quarter-acre, half-acre lots, where
 5 it's more automobile oriented.
 6 BOARD MEMBER TARANTINO: So the answer
 7 to the question is, yes, eight spots would
 8 suffice.
 9 THE WITNESS: Yes, correct, in two
 10 stories.
 11 CHAIRMAN GREET: Anybody else?
 12 THE WITNESS: That's all I have.
 13 MR. FRASER: Or if you had one
 14 apartment, you would need six.
 15 THE WITNESS: Correct. Well, you can't
 16 do one and a half, so...
 17 MR. FRASER: That's what I figured.
 18 Five and a half became six.
 19 THE WITNESS: Correct.
 20 MR. FRASER: All right.
 21 CHAIRMAN GREET: Anybody else on the
 22 Board?
 23 Okay. Hearing none, I'll open it up to
 24 the public.
 25 Any questions of this witness?

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1 MR. FRASER: It's not required.
 2 MR. PATERSON: Oh, it's not? I didn't
 3 realize that, but I'll ask a question.
 4 CHAIRMAN GREET: Go through the routine.
 5 MR. PATERSON: Bruce Paterson, 325
 6 Willow Avenue.
 7 It's probably more for Vic, but the
 8 handicap spot -- I didn't see the alternate plan.
 9 But the handicap spot is in a comfortable
 10 situation both on the existing and the alternate
 11 proposed?
 12 THE WITNESS: I'm not --
 13 MR. VINEGRA: Your question is to --
 14 BOARD MEMBER PATERSON: I guess to the
 15 traffic expert probably.
 16 THE WITNESS: Under the ADA
 17 requirements, the handicap space must be, I'll
 18 say, equally if not more accessible to the nearest
 19 entrance than any other space. Because it doesn't
 20 fit in space number seven, I'll say it's a gray
 21 area under the ADA regulations. The way it's been
 22 laid out, it is closer to a building entrance than
 23 generally the other spaces. So the whole ADA
 24 premise is that any individual shall not be
 25 disadvantaged in terms of parking or building

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1 access, so they comply.
 2 I will say my suggested revision
 3 brings us much closer, if not 100 percent
 4 compliant.
 5 MR. PATERSON: The original layout, I
 6 was just looking, maybe number one would be
 7 better. It might be a couple of feet.
 8 THE WITNESS: You know, for example, I
 9 know right outside -- and it struck me as odd --
 10 there's a handicap space right outside the door,
 11 but there's one on the other end of the parking
 12 lot. So, you know, and I don't think the
 13 Borough's been sued over that.
 14 So as long as there is at least one,
 15 and it needs to be van accessible, which it is,
 16 when there's only a single space, I would submit
 17 that it's compliant under the current design.
 18 MR. PATERSON: He had the size of the
 19 parking lot to back up and --
 20 THE WITNESS: Correct.
 21 MR. PATERSON: Thank you very much.
 22 CHAIRMAN GREET: Okay. Anybody else
 23 from the public?
 24 Hearing none, I will close this portion
 25 of the meeting.

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1 I will request a five-minute recess, but
 2 let's keep it to five minutes and get back,
 3 please.
 4 (Whereupon, a recess is taken.)
 5 CHAIRMAN GREET: Okay. Do we have
 6 another witness?
 7 MR. DOOLEY: We do.
 8 CHAIRMAN GREET: Okay.
 9 MR. DOOLEY: I'm about to present
 10 Mr. Meeks. He's our architect.
 11 Mr. Meeks, can you please submit to
 12 being sworn in there?
 13 R O N A L D M E E K S, having been
 14 duly sworn, was examined and testified as
 15 follows:
 16 MR. FRASER: State and spell your name.
 17 THE WITNESS: Ronald Meeks, M-E-E-K-S.
 18 MR. FRASER: Address?
 19 THE WITNESS: 404 Central Avenue,
 20 Cranford, New Jersey.
 21 DIRECT-EXAMINATION
 22 BY MR. DOOLEY:
 23 Q. Can you present your qualifications to
 24 the Board, please?
 25 A. Yes, I can. I have a five-year bachelor

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1 of architecture degree from Syracuse University.
 2 I'm a registered architect in New Jersey, New
 3 York, Connecticut and Pennsylvania. I'm a
 4 licensed planner in New Jersey; a member of the
 5 American Institute of Architects. I have over 30
 6 years' experience working for architectural firms,
 7 real estate developers. I was in the hotel and
 8 rent-a-car industry for 15 years. I have 15
 9 years' experience as the principal of my own
 10 architectural firm on a part-time basis and
 11 currently seven years on a full-time basis.
 12 I'm certified as a Zoning Officer by
 13 Rutgers University, with three and a half years of
 14 experience as the planning and zoning officer for
 15 Cranford and the zoning officer for Garwood. I
 16 fulfill my continuing education requirements
 17 through lectures, corporate seminars and classes
 18 at Harvard University School of Design.
 19 MR. DOOLEY: We would submit Mr. Meeks
 20 as our expert architect.
 21 MR. FRASER: And your licenses are
 22 current, right, Mr. Meeks?
 23 THE WITNESS: Yes, they are.
 24 MR. FRASER: All right. Mr. Chairman, I
 25 recommend Mr. Meeks be recognized as an expert in

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1 architecture.
 2 CHAIRMAN GREET: Accepted as such.
 3 BY MR. DOOLEY:
 4 Q. Mr. Meeks, you designed the proposed
 5 architectural plans for this site, correct?
 6 A. That's correct.
 7 Q. All right. And with regard to the
 8 height requirements of the building, were you able
 9 to ascertain whether or not this building met the
 10 height requirements of the zone?
 11 A. This building is 3 and 1/2 feet below
 12 the maximum.
 13 Q. How does that relate to others buildings
 14 in the area? Were you able to site those?
 15 A. The building adjacent on the westerly
 16 side is 26 and 1/2 feet tall, where this building
 17 is 36 and 1/2 feet tall.
 18 Q. Are there any other buildings in the
 19 neighborhood of a comparable height or size?
 20 A. Yes. The new structure across from the
 21 shopping mall is approximately 35 feet tall.
 22 Q. So you don't see any problem with the
 23 height requirements at all?
 24 A. I do not.
 25 Q. All right. And in the design of the

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1 building, there's been a lot of a questions about
 2 the parking space that was listed in the plan as
 3 parking space number seven immediately adjacent to
 4 the rear of the building. And one of the issues
 5 was that there were doors there.
 6 A. Correct.
 7 Q. Can either or both of those doors be
 8 relocated?
 9 A. Both doors can be relocated.
 10 Q. And where would you relocate them to, if
 11 necessary?
 12 A. I would relocate the door to the stairs
 13 to the side of the building, and the door to the
 14 retail area could be eliminated or moved over
 15 further towards the center of the building.
 16 Q. All right. With regard to the design,
 17 is the design in keeping with the new developments
 18 in and near the area?
 19 A. I would say yes, it is.
 20 MR. DOOLEY: Okay. I have no further
 21 questions of this witness.
 22 BOARD MEMBER JANNOTTI: I have a
 23 question. What is the square footage of the
 24 apartments?
 25 THE WITNESS: The apartments are over

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1 the footprint of the building, which is
 2 approximately 1200 square feet, minus the stairway
 3 which varies from the second floor to the third
 4 floor.
 5 BOARD MEMBER JANNOTTI: So let's start
 6 with the second floor. What is the square
 7 footage?
 8 THE WITNESS: I do not have the square
 9 footage in front of me.
 10 BOARD MEMBER JANNOTTI: Approximately?
 11 THE WITNESS: Less than 1200 square
 12 feet.
 13 BOARD MEMBER JANNOTTI: Is there a
 14 basement to this building?
 15 THE WITNESS: Yes, there is, an
 16 unfinished basement for storage only.
 17 BOARD MEMBER JANNOTTI: Okay. It's not
 18 shown on any of the diagrams here.
 19 THE WITNESS: It's an open space with
 20 the exception of the stairs.
 21 BOARD MEMBER JANNOTTI: Is that where
 22 the utilities would be, the --
 23 THE WITNESS: Correct.
 24 BOARD MEMBER JANNOTTI: -- furnace
 25 and --

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1 THE WITNESS: Correct. Some of it will
 2 be in the basement; some of it will be in the
 3 attic. Again, it's only unfinished storage, not
 4 living space.
 5 MR. FRASER: Is there a reason that's
 6 not on the plan?
 7 THE WITNESS: It wasn't considered at
 8 the time of the drafting.
 9 MR. FRASER: You mean when you drafted
 10 this, it was not going to be a basement?
 11 THE WITNESS: When I drafted it, there
 12 was going to be a basement. We did not include it
 13 in the presentation. The stairs do indicate at
 14 grade level that one section goes up, another
 15 section goes down.
 16 BOARD MEMBER JANNOTTI: And there'll be
 17 no other egress from the basement than just this
 18 one door?
 19 THE WITNESS: That's correct.
 20 BOARD MEMBER VILLAGGIO: I have a
 21 question. You're proposing the first floor
 22 retail, second and third floor apartments.
 23 THE WITNESS: That's correct.
 24 BOARD MEMBER VILLAGGIO: Both of them
 25 with a couple of bedrooms, two bedrooms apiece?

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1 THE WITNESS: Two bedrooms each.
 2 BOARD MEMBER VILLAGGIO: With regard to
 3 the square footage, I know you said that you don't
 4 have that.
 5 THE WITNESS: I don't have the overall
 6 square footage for the two apartments.
 7 BOARD MEMBER VILLAGGIO: Overall square
 8 footage of each apartment.
 9 THE WITNESS: Correct.
 10 BOARD MEMBER VILLAGGIO: Okay. My
 11 question to you is if -- if -- could -- or could
 12 two apartments fit just on the second floor? Not
 13 saying two bedroom. I'm saying two apartments,
 14 one bedroom each?
 15 THE WITNESS: Two studio apartments
 16 perhaps. It would be cramped, I think, and you
 17 would need to carve out a hallway to the furthest
 18 apartment which would reduce the square footage
 19 even further.
 20 BOARD MEMBER VILLAGGIO: And the reason
 21 why I'm asking that question is -- is -- you
 22 referred to the recent apartments that are being
 23 built on South Avenue. Basically that's what you
 24 referred to.
 25 THE WITNESS: Yes, that's what I

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1 referred to.
 2 BOARD MEMBER VILLAGGIO: We knocked off
 3 one floor. Not we. The build -- the person who's
 4 building it, he came back with the apartments on
 5 just the one floor. He wanted originally, you
 6 know, second and third floor apartments and then
 7 we knocked, you know...
 8 BOARD MEMBER JANNOTTI: It looks like an
 9 extra room -- it looks like an extra room in
 10 the...
 11 BOARD MEMBER VILLAGGIO: Yeah. So would
 12 it fit two studio apartments?
 13 THE WITNESS: It would fit two tight
 14 studio apartments, 500 square feet each
 15 approximately.
 16 BOARD MEMBER SCHERER: Yeah, probably
 17 about that.
 18 BOARD MEMBER JANNOTTI: Where would be
 19 the entrance to the attic from? I don't see any
 20 drawing on the third floor, any access to the
 21 attic.
 22 THE WITNESS: There would be pull-down
 23 stairs to the attic. But the attic, again, is
 24 not living space. It's only mechanical space.
 25 MR. FRASER: Where's that access from?

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1 THE WITNESS: A pull-down set of stairs.
 2 MR. FRASER: From the second apartment?
 3 THE WITNESS: From the second apartment.
 4 MR. FRASER: The top floor apartment?
 5 THE WITNESS: Correct. Correct.
 6 MR. FRASER: You're not showing that.
 7 CHAIRMAN GREET: I have a question and I
 8 asked it of the engineer. I'll just ask it of you
 9 as well.
 10 Were you ever approached on any aspect
 11 of having this strictly commercial and trying to
 12 design it as such?
 13 THE WITNESS: No, I was not approached
 14 that way.
 15 CHAIRMAN GREET: Okay. Thank you.
 16 MR. FRASER: In your design of the
 17 building originally, did you take into account the
 18 location of the parking spaces when you were
 19 designing the doors?
 20 THE WITNESS: Yes. I'm going to say
 21 yes.
 22 MR. FRASER: And knowing that that
 23 parking space seven was going to be located where
 24 it was, you nonetheless put the doors right next
 25 to that space?

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1 THE WITNESS: Correct.
 2 MR. FRASER: Why?
 3 THE WITNESS: It seemed like a
 4 reasonable location for it at the time.
 5 MR. FRASER: Does it seem reasonable
 6 now?
 7 THE WITNESS: To a certain degree.
 8 MR. FRASER: What part of the degree
 9 does not seem reasonable?
 10 THE WITNESS: Well, when I can relocate
 11 one of the doors or both doors --
 12 MR. FRASER: No, Mr. Meeks, what I'm
 13 saying -- and we discussed this privately before.
 14 When I look at the design of the apartments, your
 15 work that's on the board right now next to you, it
 16 almost seems to me as though nobody ever thought
 17 about superimposing that on the site plan and
 18 looking at the two combined.
 19 Did anybody look at that at all?
 20 THE WITNESS: I'm sure it was looked at,
 21 but it was not addressed in the drawings.
 22 BOARD MEMBER NIEVES: All of this spot
 23 was an afterthought. The parking spot was an
 24 afterthought.
 25 MR. DOOLEY: Actually, I can address

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1 that.
 2 MR. FRASER: Sure.
 3 MR. DOOLEY: We looked at that.
 4 BOARD MEMBER JANNOTTI: Let me ask you a
 5 question, also, about the second floor apartment
 6 windows. They're on another page.
 7 THE WITNESS: Yes.
 8 BOARD MEMBER JANNOTTI: They seem a very
 9 strange size to me, unusual proportioned windows
 10 compared to normal apartment windows.
 11 THE WITNESS: Is there a normal?
 12 BOARD MEMBER JANNOTTI: Well, yeah.
 13 Look at the second floor. It looks to be more
 14 normal to me than the windows on the third floor
 15 which are so high up. They're the top half of
 16 the -- of the wall.
 17 THE WITNESS: Well, in this particular
 18 design we're trying to create a hierarchy of
 19 larger on the bottom, smaller on the top. Those
 20 windows would need to meet the building code
 21 requirements as far as egress goes.
 22 MR. FRASER: What's the size of the
 23 windows on the top?
 24 THE WITNESS: Approximately 3 foot by 3
 25 feet.

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1 MR. FRASER: Does that comply with the
 2 code?
 3 MR. VINEGRA: No.
 4 BOARD MEMBER JANNOTTI: No?
 5 MR. VINEGRA: No.
 6 THE WITNESS: Excuse me. The windows --
 7 wait, wait, wait. The windows on the side of the
 8 building will meet the egress requirement as
 9 casement windows. The windows in the front of the
 10 building are for aesthetics and light.
 11 MR. VINEGRA: Don't you have to have
 12 egress windows in the bedrooms?
 13 THE WITNESS: Correct. And the bedrooms
 14 are located on the left -- yes, the left-hand side
 15 of the building.
 16 BOARD MEMBER JANNOTTI: Bedrooms are --
 17 I can't tell from the -- one bedroom is in the
 18 front of the building and one bedroom is in the
 19 back of the building.
 20 MR. FRASER: But they're both on the
 21 side.
 22 BOARD MEMBER JANNOTTI: They're both on
 23 the side. Okay. I gotcha.
 24 MR. FRASER: So the egress windows are
 25 both on the side, right, Mr. Meeks?

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1 THE WITNESS: That's correct.
 2 MR. FRASER: And those are the windows
 3 that will comply with the size requirements?
 4 THE WITNESS: For the building
 5 requirement, yes.
 6 MR. VINEGRA: But don't they have to be
 7 closer to the floor? You have them high, by the
 8 roof line. The egress --
 9 MR. FRASER: On the side?
 10 MR. VINEGRA: Yes.
 11 THE WITNESS: Yes. There's a
 12 minimum/maximum height from the floor to the
 13 bottom of the egress that we will be complying
 14 with.
 15 MR. VINEGRA: It's shown -- by the looks
 16 of it, it doesn't look like it complied.
 17 MR. FRASER: Are you looking at the side
 18 one?
 19 MR. VINEGRA: Yeah, there it is. Left
 20 side elevation. They're almost in line with the
 21 roof line.
 22 MR. FRASER: I agree with you, Vic, that
 23 is what it looks like.
 24 MR. VINEGRA: You have an 8-foot roof
 25 that comes down 3 feet, it's 5 feet off the floor,

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1 that's not going to comply with egress. That can
 2 be fixed, though.
 3 THE WITNESS: Correct.
 4 MR. FRASER: So you don't plan to put
 5 the windows where it's depicted on the plan?
 6 THE WITNESS: They might be lower, yes.
 7 BOARD MEMBER NIEVES: They have to be
 8 lowered.
 9 MR. FRASER: It's 3 and 1/2.
 10 MR. DOOLEY: They'll be lowered to
 11 comply. I agree with whatever's necessary.
 12 MR. VINEGRA: But I'm just curious. I
 13 didn't bring in my letter. On the third-floor
 14 apartment, don't you have to have a secondary form
 15 of ingress and egress that's not window?
 16 THE WITNESS: No, we do not.
 17 MR. VINEGRA: Is the building going to
 18 be sprinklered?
 19 THE WITNESS: No, it is not.
 20 BOARD MEMBER JANNOTTI: Does the fire
 21 department review the drawings?
 22 MR. VINEGRA: I haven't seen any letters
 23 from the fire department. You only review a third
 24 floor where you have a secondary form of ingress
 25 and egress for fire.

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1 BOARD MEMBER VILLAGGIO: It's the
 2 stairs, though, right?
 3 MR. VINEGRA: It's a single form of
 4 ingress and egress.
 5 CHAIRMAN GREET: Any other questions?
 6 BOARD MEMBER JANNOTTI: Yeah. If the
 7 alternate proposal of parking spaces were to be
 8 considered by you as the architect of this
 9 building, would you then consider using that
 10 space that was designated as parking space number
 11 seven? Would you have the ability to use that
 12 space at all to increase the size of the building
 13 or would that be some thought that you might have
 14 or not?
 15 THE WITNESS: I would not expand the
 16 building into that space. That space will be
 17 utilized for accessible ramps based on the sketch
 18 that I saw that was presented earlier.
 19 BOARD MEMBER JANNOTTI: I'm sorry. The
 20 exterior of the building, you're proposing
 21 clapboard?
 22 THE WITNESS: Correct.
 23 BOARD MEMBER JANNOTTI: And what is this
 24 faux ledge stone?
 25 THE WITNESS: Ledge stone is the narrow,

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1 long stone. In this case it's a faux stone so
 2 it's made out of cement. The clapboard siding can
 3 be either cedar or Hardie board. And there's
 4 portland cement stucco above that, not the EIFS
 5 system.
 6 BOARD MEMBER TARANTINO: The one item
 7 that always seems to get overlooked is where do --
 8 where do the exterior air handlers go around the
 9 building?
 10 THE WITNESS: They can be self-contained
 11 in a PTAK -- a PTAK unit where everything is in
 12 one package with grille work on the exterior.
 13 MR. FRASER: Where?
 14 THE WITNESS: It's not been determined
 15 yet by the mechanical engineer.
 16 BOARD MEMBER VILLAGGIO: But you're here
 17 for both a final site approval also, site plan
 18 approval? Preliminary and final?
 19 MR. DOOLEY: It was -- it was submitted
 20 as a first and final. Yes, it was.
 21 BOARD MEMBER VILLAGGIO: I have -- I
 22 have a really hard time with --
 23 MR. DOOLEY: We do, too.
 24 BOARD MEMBER VILLAGGIO: -- not having
 25 the right information in front of us with regard

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1 to, you know --
 2 MR. DOOLEY: Well, we saw these -- I'm
 3 sorry.
 4 BOARD MEMBER VILLAGGIO: You know, to
 5 have both -- you're asking us to determine first
 6 the use, which is a -- which is a very important
 7 part of this application, but then you're also
 8 asking us for the other. You know, for a final
 9 site approval, site plan approval.
 10 MR. FRASER: Well, let's address that.
 11 Let's address that.
 12 BOARD MEMBER VILLAGGIO: Both
 13 preliminary and site plan approval.
 14 MR. FRASER: Is the applicant -- is the
 15 applicant still seeking final site plan approval
 16 this evening?
 17 MR. DOOLEY: Under the circumstances,
 18 the answer is no. We understand that there are
 19 concerns that need to be addressed.
 20 MR. FRASER: All right. So the
 21 application is presently then for the use, for the
 22 variances -- for the bulk variances and for
 23 preliminary site plan approval at this juncture.
 24 MR. DOOLEY: Correct. We would make
 25 that a motion to amend our application in that

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1 way.

2 BOARD MEMBER VILLAGGIO: Okay.

3 MR. FRASER: I think we can agree that

4 the motion is deemed so amended.

5 BOARD MEMBER VILLAGGIO: Okay. Thank

6 you, because --

7 MR. DOOLEY: We were looking at these as

8 more things for the building inspector and for the

9 code enforcement and we see that you have concerns

10 about them and we're going to address your

11 concerns as best we can.

12 CHAIRMAN GREET: Okay. Anybody else on

13 the Board, any questions?

14 BOARD MEMBER JANNOTTI: I guess I just

15 have a preference. I guess I don't like the

16 windows, but that's a personal preference.

17 CHAIRMAN GREET: Well, that will be part

18 of the discussion before we submit to a vote.

19 Hearing none, I'll open it up to the

20 general public for any specific comments -- or

21 questions for this witness.

22 Hearing -- Bruce.

23 MR. FRASER: Good thing you recused.

24 CHAIRMAN GREET: Go ahead, Bruce. State

25 your name.

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1 MR. PATERSON: Bruce Paterson, 325

2 Willow Avenue.

3 The PTAC units, I know you don't have

4 the full layout of the building, but are they

5 going to be per floor or in the attic or in the

6 basement?

7 THE WITNESS: Most likely in the

8 basement or the first floor. Possibly the second

9 floor will have its own units as will the third

10 floor.

11 MR. PATERSON: All right. Because the

12 layout of the apartments as they are -- you don't

13 show, like, a little mechanical room, do you?

14 THE WITNESS: No, I do not.

15 MR. PATERSON: But you're saying

16 somewhere there will be a mechanical room layout?

17 THE WITNESS: I've not gone in that

18 direction yet.

19 MR. PATERSON: So the attic or basement

20 essentially is what you're saying?

21 THE WITNESS: Correct.

22 MR. PATERSON: And I was looking at -- I

23 was looking at the exterior doors. You have them

24 at a 96-inch height. Is that what you're going to

25 do?

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1 THE WITNESS: Very possible, yes.

2 MR. PATERSON: And 36 inches wide which

3 is fine.

4 THE WITNESS: Yes, minimum 36.

5 MR. PATERSON: Okay. Thank you very

6 much.

7 CHAIRMAN GREET: Okay. Anybody else

8 from the general public?

9 Hearing none, I'll close that portion.

10 Now it's open for our comments.

11 MR. FRASER: Do you have any further

12 witnesses?

13 MR. DOOLEY: The developer, Mr. Preston

14 Terrell.

15 P R E S T O N T E R R E L L, having

16 been duly sworn, was examined and testified as

17 follows:

18 MR. FRASER: Please state and spell your

19 name.

20 THE WITNESS: Preston Terrell,

21 T-E-R-R-E-L-L, 33 West Holly Street, Cranford, New

22 Jersey.

23 DIRECT-EXAMINATION

24 BY MR. DOOLEY:

25 Q. Mr. Terrell, there was a question

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1 earlier in the hearing asking the age and use of

2 the building, so let's get that out of the way.

3 How old, approximately, is that

4 building?

5 **A. I would say it was built in the '20s.**

6 Q. It was built in the '20s. And it's

7 currently unoccupied, correct?

8 **A. It is.**

9 Q. All right. And have you had an issue

10 with being able to rent that property?

11 **A. It rents, but they don't pay their rent.**

12 Q. Okay. Now, again, you've heard a lot of

13 the testimony regarding the buffer area.

14 And would you be willing with regard to

15 the buffering between you and the existing

16 building to the east to move the building over a

17 couple of feet if that is --

18 **A. Absolutely.**

19 Q. You would do that. Okay.

20 And with regard to providing an adequate

21 buffer, would you be willing to put fencing along

22 that --

23 **A. Yes.**

24 Q. And you would do that and comply with

25 whatever --

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1 **A. Yes.**
2 Q. -- the ordinance is?
3 Do you have a preference with regard to
4 the rear yard buffering? What would you like to
5 do?
6 **A. I'd like a fence with shrubs.**
7 Q. A fence with shrubs. You would
8 prefer --
9 **A. Right across the back of the property**
10 **too.**
11 Q. So you feel that that would provide
12 adequate shielding and --
13 **A. It would look nicer also.**
14 MR. DOOLEY: Okay. I have no further
15 questions of Mr. Terrell.
16 CHAIRMAN GREET: Okay. Anybody from the
17 Board?
18 I have a question for you. And I'll
19 ask the same question I asked two of your
20 witnesses.
21 Was there any thought that you had to
22 making this a business as opposed to a mixed --
23 THE WITNESS: I had originally thought I
24 would like office space there, but that's also --
25 you need a variance for that. And being the

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1 environment for renting office space now, and then
2 it was a parking issue, because I thought there
3 was seven parking spots.
4 The rentals for apartments are what
5 rents. The retail space was something to do for
6 the compliance because --
7 CHAIRMAN GREET: So basically you're not
8 into it for retail. You're basically into it for
9 rent, residents.
10 THE WITNESS: Yeah, because the retail
11 is going to be tough to rent too.
12 CHAIRMAN GREET: Okay.
13 THE WITNESS: And I don't think that
14 having apartments above is going to make the
15 retail space more expensive. I think it will make
16 it less expensive.
17 CHAIRMAN GREET: All right. Thank you.
18 THE WITNESS: In general.
19 BOARD MEMBER JANNOTTI: Have you done
20 any other development work similar to this
21 before?
22 THE WITNESS: Not to this size, no, but
23 I've been in the construction business for 42
24 years.
25 BOARD MEMBER SCHERER: And he does good

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1 work. I've seen it.
2 CHAIRMAN GREET: Anybody else?
3 MR. FRASER: Are you building --
4 planning on building this yourself?
5 THE WITNESS: Yes.
6 BOARD MEMBER VILLAGGIO: Yourself?
7 THE WITNESS: With help.
8 MR. FRASER: You're going to be the
9 contractor yourself.
10 THE WITNESS: I do both new homes and
11 things like that. I haven't built anything this
12 size, you know. I've worked on projects many --
13 you know, larger.
14 MR. FRASER: No, I just didn't know you
15 were a contractor until I heard what Mr. Scherer
16 said. He complimented your work.
17 THE WITNESS: We've worked out of the
18 building for years, you know. It's an eyesore and
19 I'm embarrassed to stand in front of you, you
20 know, and say I own a piece of property. I'd like
21 to make a nice -- something nice there. I really
22 would.
23 MR. FRASER: And in your experience, I'm
24 guessing, it's not desirable to -- desirable to
25 tenants because it's located where it is.

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1 Correct?
2 THE WITNESS: I don't know, it's just
3 been -- and it's so hard to get people out, you
4 know. If it's a nicer place, you're going to get
5 a nicer -- you know, I could raise the rent and
6 get a nicer -- someone who will keep up the
7 property. I mean, it's simple.
8 MR. FRASER: Okay.
9 BOARD MEMBER VILLAGGIO: Like I said
10 before, I drove -- I've seen this property. I
11 agree, it's run down.
12 THE WITNESS: Yeah.
13 BOARD MEMBER VILLAGGIO: You have
14 vehicles in the back, I've noticed, when I drove
15 by.
16 THE WITNESS: Single.
17 BOARD MEMBER VILLAGGIO: You have shrubs
18 that are overgrown. It's just -- it's just that
19 we have to look at this, you know, with the type
20 of zone that it's in. And your backyard is, you
21 know -- in back of you is Willow Avenue.
22 THE WITNESS: Yes.
23 BOARD MEMBER VILLAGGIO: Residential.
24 THE WITNESS: Yes.
25 BOARD MEMBER VILLAGGIO: In back -- the

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1 houses that are immediately in back of you that
 2 are on Willow, are those single-family homes or
 3 are those the two-families?
 4 THE WITNESS: I think there's one
 5 single-family and kind of -- two single-families
 6 that kind of catty-corners the --
 7 BOARD MEMBER VILLAGGIO: Those brick are
 8 two-families?
 9 THE WITNESS: Yeah, I believe so.
 10 CHAIRMAN GREET: Any other questions?
 11 BOARD MEMBER VILLAGGIO: That's all I
 12 got.
 13 CHAIRMAN GREET: With that, hearing
 14 none, I'll open it up to the general public for
 15 specific questions of this witness.
 16 Go ahead, Bruce.
 17 MR. PATERSON: Bruce Paterson, 325
 18 Willow Avenue.
 19 What's going to become of that white
 20 van?
 21 THE WITNESS: I've had two offers
 22 recently on it.
 23 MR. PATERSON: Have you really?
 24 THE WITNESS: Yeah. I'm going to -- I'm
 25 going to -- breaks my heart, but I'll have to get

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1 rid of it.
 2 MR. PATERSON: And I brought this up
 3 before and they said to refer it to the developer
 4 when he comes up.
 5 The 12-foot retail space, 12-foot
 6 height, it seems to be a movement towards that.
 7 It's come into play here in a couple of
 8 developments. If you do 12 foot, you'll still be
 9 under the 40 feet height?
 10 THE WITNESS: Yeah, but what would be
 11 the reason? Retail space height?
 12 MR. PATERSON: The reason why they
 13 increase the height over the point, the retail
 14 section of the point, they were saying, like,
 15 large-name retailers coming in want to see a
 16 higher ceiling to rent more space, deal with more
 17 space.
 18 THE WITNESS: Yeah, I wouldn't say in a
 19 small place like that. I think 10 foot is plenty
 20 high. I would actually lower it to 9 myself.
 21 MR. PATERSON: Okay. Thank you very
 22 much.
 23 THE WITNESS: I can't imagine -- you
 24 know, I don't know who -- it's going to be a tough
 25 one, though, to rent.

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1 CHAIRMAN GREET: Okay. Go ahead.
 2 MR. TRUSDELL: Brian Trusdell, 240
 3 Second Avenue.
 4 You said you're really not looking to --
 5 that the retail's not your main focus, but what
 6 ideally would you like to have as a retail
 7 operation in that?
 8 THE WITNESS: Well, everything's bought
 9 on-line nowadays. I think maybe an antiques store
 10 or something like that. I've had some inquiries
 11 about that, a person that owned a store in town
 12 years ago.
 13 MR. TRUSDELL: Thank you.
 14 CHAIRMAN GREET: Anyone else from the
 15 public, specific questions?
 16 Hearing none, I'll close that portion
 17 up.
 18 We'll reopen it right to the public so
 19 that we can get general comments -- or just
 20 general comments across the board for this
 21 application if anyone has any.
 22 Hearing none --
 23 MR. DOOLEY: We have no further
 24 witnesses.
 25 CHAIRMAN GREET: Hearing none -- go

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1 ahead, Bruce.
 2 MR. PATERSON: Bruce Paterson, 325
 3 Willow Avenue.
 4 MR. FRASER: Bruce, are you going to be
 5 testifying?
 6 MR. PATERSON: Yeah, okay.
 7 MR. FRASER: Then I'll be sworn in.
 8 B R U C E P A T E R S O N, having
 9 been duly sworn, was examined and testified as
 10 follows:
 11 MR. PATERSON: Obviously we all know
 12 that the parking situation around the center of
 13 town is horrible. Preston has some forethought
 14 about that and he's meeting -- you know, he's
 15 meeting as best as he can what our zoning
 16 requirements and parking requirements are -- are
 17 to be.
 18 The other choices he had, if it's all
 19 commercial, you know, we're looking at maybe cars
 20 going out to the street. And this -- everybody's
 21 complaining. Everybody's complaining. We're
 22 here, it's a major issue. The council has been
 23 discussing it. Councilwoman Tarantino was hot on
 24 it for a good year and a half trying to solve the
 25 parking problem, which is obviously unsolvable,

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1 but at least trying to ameliorate it a little bit.
 2 It appears Preston, in his -- the issues
 3 becomes it's residential versus general business.
 4 But he is meeting, in essence, the spirit of
 5 trying to conserve our parking spots as best as he
 6 can and address our parking issue, which is good.
 7 And I feel that maybe it has a lot of
 8 issues. I don't know. You guys are going to
 9 talk about it and vote on it, of course, but at
 10 least he's trying to maintain the essence of
 11 saving parking spots and not pushing cars out into
 12 the street. I appreciate what he's doing for
 13 Garwood.
 14 Thank you very much.
 15 CHAIRMAN GREET: Okay. Anyone else from
 16 the public?
 17 Hearing none, I'll close that and we can
 18 discuss.
 19 My feeling is that there never was a
 20 thought to making this a reality, a retail
 21 operation, as the witness had just stated. He's
 22 doing this almost as a secondary thought. And
 23 that's really not what the master plan, our master
 24 plan that we came up with, wanted for that area.
 25 We wanted business. We wanted business to grow.

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1 And parkingwise, it was testified to
 2 that if you went up two levels with a commercial
 3 building, you could have eight spots. That would
 4 suffice for adequate parking.
 5 Now, all I see is that we're -- we're
 6 just submitting to the fact that we will not be in
 7 a business area in that zone. You're going to
 8 have other apartments or other buildings coming up
 9 and doing basically the same thing because
 10 obviously you get a lot more money for apartments
 11 when you rent. I mean, that's common sense. And
 12 as you pay more for the property, a builder, so a
 13 business is going to be reluctant to try to
 14 purchase that property to develop a business on
 15 his own.
 16 And I thought the master plan was taking
 17 that into consideration when we looked at that
 18 area. So, yeah, I'm really reluctant specifically
 19 for the use because, as testified by everyone
 20 involved, it was never -- it was never a thought
 21 to have a business, a business entered into on
 22 these premises, I mean, and it's in the business
 23 zone.
 24 I mean, I think -- I think -- I think
 25 we're hurting ourselves by doing this because I

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1 think ultimately if you do approve this use, that
 2 you will have others coming up with the same
 3 requests for not only this area, but other areas
 4 that people aren't satisfied with the amount of
 5 money that they'll get in a particular zone. So
 6 they're going to push the issue and come up with
 7 the most lucrative concept that they can for
 8 themselves. I have yet to hear of any hardship on
 9 this property at all.
 10 With that, I mean, I can only tell you
 11 that, you know, I'm not in favor of the use -- of
 12 the use variance in any aspect for this property.
 13 Forget the proposals and, for lack of a better
 14 word, the workmanship that came by us as proposing
 15 to make this a final. I think that was a bit far
 16 stretched.
 17 That's my comment.
 18 BOARD MEMBER HAK: Well, speaking as a
 19 person who's been in business and does have a
 20 property in Cranford, which is a very similar
 21 town, I can kind of feel for him. There's not a
 22 lot of things you can do that are in retail
 23 anymore. There's not a lot of options. You know,
 24 you've got banks and nail salons. Kind of running
 25 out of ideas.

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1 He's at least trying to put in a retail
 2 store along with something that he can actually
 3 generate funds with this property with, property
 4 that he's paid taxes on for -- I don't know how
 5 long you've owned the building.
 6 MR. TERRELL: A long time.
 7 BOARD MEMBER HAK: I understand what
 8 you're saying, that we don't want to cave in, but
 9 he's not totally caving in. He is putting in a
 10 retail place. And the idea of him putting in a --
 11 it's a big risk, a big gamble and it might not pay
 12 off. If you say, well, fine, go ahead and make it
 13 a retail business or make it a manufacturer,
 14 whatever can be manufactured anymore, I don't
 15 know, but it's tough. And I think he's trying to
 16 make a pretty good effort of it.
 17 And, you know, I mean, I put it to you,
 18 what kind of business is doing well that you'd
 19 open up? You got the money, here's \$50,000, start
 20 a business. It sounds nice. It's not easy.
 21 CHAIRMAN GREET: Well, I understand
 22 that. And I would -- and I would -- personally, I
 23 mean, if that were the case, I might not go
 24 specifically with retail, but maybe I'd come up
 25 with another commercial endeavor that I could come

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1 before the Board with a package to make it more
 2 appealing as from a business standpoint and maybe
 3 put something different in that area with a
 4 variance for that particular use. And I think
 5 that might, from my own perspective, that might
 6 sell a little better.

7 I don't find -- you know, you're going
 8 into a -- you know you're in a business zone. You
 9 don't even entertain, really, a business. You
 10 went in there for strictly, you know, what you
 11 want, which is to make money and do whatever and
 12 disregarding what our own -- you know, what we did
 13 with the master plan. We paid a lot of money and
 14 a lot of thought went into that. I think Kathy
 15 did a lot of work on that and so did a lot of
 16 townspeople.

17 So I just think -- I just think it's --
 18 I think from our standpoint we should really look
 19 closer at some of these applications that come
 20 up.

21 BOARD MEMBER HAK: I'm not trying -- I'm
 22 just looking forward.

23 CHAIRMAN GREET: And I'm conversing with
 24 you.

25 BOARD MEMBER VILLAGGIO: No. Like Steve

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1 said, you know, this is the -- this type of zone
 2 that we looked at. And now -- the master plan was
 3 2009, I think.

4 CHAIRMAN GREET: Coming up for another
 5 one soon.

6 BOARD MEMBER VILLAGGIO: 2009/2010.
 7 What we looked at, what we saw, what we did in
 8 2009 and 2010 is a little bit different now in the
 9 atmosphere with regard to business. I understand
 10 what Steve is saying. We have to look at this
 11 zone.

12 I don't -- I don't want something there
 13 that's going to be not appealing. I don't want
 14 him -- I don't want somebody to take an old
 15 building and knock it down and make it a used lot.
 16 You know, just put like a big lot, you know, a
 17 used car lot or whatever, which I'm not sure if
 18 that's permitted there anyway. But -- but to
 19 have the building -- and I'm not saying this
 20 one building, but there's a couple buildings
 21 over there that -- that are run down and not
 22 appealing.

23 Do I like the second floor? No. I
 24 mean, the second floor apartment. No. But that
 25 has nothing -- that is something that we could

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1 look at if this gets okayed because you have to
 2 come back.

3 I -- you know, this is a tough decision
 4 for us to look at, you know. It really is. And
 5 you, as the owner, are taking a chance. You're
 6 taking a chance with us, just like everybody else
 7 who comes before us. It will be a lot better than
 8 what's there now. It's just I'm not happy about
 9 the height. I know it's within the -- I know it's
 10 within the zone.

11 Do I mind, you know -- and the
 12 atmosphere now with regard to retail space and
 13 office space is a lot different than it was back
 14 when we had the master plan. And I understand
 15 Steve's reasonings. I understand a hundred
 16 percent. Tim, I understand yours too. I just --
 17 I just wanted to say, you know, you want to dump a
 18 lot of money into it. It's an endeavor that's not
 19 going to be \$30,000.

20 So I am -- I am still making up my mind,
 21 but I am leaning towards okaying it. That's my
 22 personal -- I just want to let you know the
 23 reasons.

24 CHAIRMAN GREET: Anybody else?
 25 BOARD MEMBER JANNOTTI: Yeah. First

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1 off, I certainly think that -- I'm obviously in
 2 agreement that a change in the location of the
 3 building that's there now is needed. I wasn't
 4 here when the master plan was created, and so I
 5 defer to those experts here on the panel that are
 6 more familiar with the master plan development
 7 than I have been.

8 But when I look at a couple of the items
 9 where I think the minimum footage coverage was
 10 supposed to be 30 percent in this zone and yet the
 11 testimony was, well, if we did that, we would have
 12 needed more parking. And it's almost to me, and I
 13 don't quite understand, that one seemed to negate
 14 the other. And that's why they went with a
 15 smaller footprint so they could get more parking.
 16 So I'm not quite sure I understand that.

17 So I believe that what you're doing will
 18 make an improvement to the area. It's not that
 19 far out of line with what's only a block away,
 20 which we approved a year ago. So I don't think
 21 it's much different, though, again, I would defer
 22 to Steve and others who were here with the master
 23 plan and the fitting of this.

24 But I think certainly my questions
 25 tonight were a lot about what the specifics were

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1 of this plan and how they fit in with the zoning
 2 and the variances. And so I think that the
 3 presentation was not as good as it could have
 4 been. I just think that there was some lacking in
 5 detail and sufficient information for us to look
 6 at that.

7 So I'm mulling it over myself what needs
 8 to be done, but certainly something's got to be
 9 done with that property and I applaud you for
 10 taking the opportunity.

11 Regarding retail, there are, I believe,
 12 three empty retail first floor locations today in
 13 Garwood. One has been in the -- I call it the CVS
 14 mall. I don't know if we have a better name for
 15 it, but one has been over there for a long time.

16 BOARD MEMBER SCHERER: The Plaza.
 17 BOARD MEMBER JANNOTTI: The plaza.
 18 BOARD MEMBER SCHERER: That's the mall
 19 and that's the Plaza.

20 BOARD MEMBER JANNOTTI: Thank you. You
 21 got it.

22 So the plaza's had an empty space for a
 23 very long time and there's two empty spaces on
 24 Central Avenue. So retail has undergone a
 25 tremendous change in the last five years. I think

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1 that we all recognize that the growth of the
 2 internet is affecting retail business. If you
 3 look at Downtown Westfield, you'll see they have
 4 the largest number of empty retail spaces than
 5 they've had in probably ten years.

6 So I think the gentleman is taking a
 7 risk in trying to rent this out for retail. But I
 8 applaud him for that and I'll have to make a
 9 decision which way I want to go.

10 MR. VINEGRA: Just one clarification.
 11 This is not just a retail zone, it's a business
 12 zone. It's a business zone too.

13 BOARD MEMBER JANNOTTI: Right.
 14 MR. VINEGRA: And so you could have a
 15 carpentry shop. You can a -- an electrician can
 16 be there. It's not strictly retail.

17 BOARD MEMBER VILLAGGIO: A lawyer. A
 18 lawyer.

19 MR. VINEGRA: A real estate agent. It's
 20 not just a -- it's not a retail zone. It's a
 21 general business zone.

22 BOARD MEMBER JANNOTTI: Thank you.
 23 CHAIRMAN GREET: That's an important
 24 aspect.
 25 BOARD MEMBER JANNOTTI: I thank you for

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1 clarifying that. I appreciate it.

2 CHAIRMAN GREET: Anybody else?

3 BOARD MEMBER TARANTINO: I think one of
 4 the biggest concerns that I have is really the
 5 mass of this building reads residential. The
 6 property that, Gene, you were referencing across
 7 from Crunch, that was a much larger building.
 8 It's probably easily three times larger than this
 9 building. I feel like we're going to be knocking
 10 down a house and just putting up a larger house.

11 So my concern is just maybe this reads
 12 residential. I don't know how the rest of the
 13 Board feels, that if we wanted to see a different
 14 rendering.

15 BOARD MEMBER VILLAGGIO: Well, that's
 16 why --

17 BOARD MEMBER TARANTINO: Something
 18 that's more appropriate to a business zone.

19 BOARD MEMBER VILLAGGIO: And like I
 20 said, the most important aspect of what -- of what
 21 we have to think about is whether or not to look
 22 at the use. All right?

23 CHAIRMAN GREET: That's actually what
 24 we're voting on tonight.

25 BOARD MEMBER VILLAGGIO: Yes, that's the

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1 important vote. Okay?

2 CHAIRMAN GREET: And that's tonight.

3 BOARD MEMBER VILLAGGIO: You know, what
 4 it's going to look like, they're going to have to
 5 come back because I personally --

6 BOARD MEMBER TARANTINO: If the use is
 7 approved.

8 BOARD MEMBER VILLAGGIO: If the use is
 9 approved. Because, and I said this a couple of
 10 times, I haven't seen anything that we usually see
 11 when it comes to, you know, preliminary. Even
 12 that, you know.

13 So, Paul, you're absolutely correct, but
 14 it's the actual use.

15 BOARD MEMBER TARANTINO: Okay.
 16 CHAIRMAN GREET: And that's what puzzles
 17 me about the whole presentation is that there was
 18 never an intended business use of that property
 19 brought before us. It was basically brought here
 20 on the pretense that it was going to be
 21 residential. That's basically the testimony. And
 22 that's where I have -- that's where I have a
 23 significant problem with approving this use as
 24 requested. It's just -- there wasn't even a
 25 thought.

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1 BOARD MEMBER NIEVES: I guess my
 2 response to that, respectfully, is that if we're
 3 acknowledging that the master plan may have been
 4 done at a date or contemplated at a date where our
 5 economy was different and that maybe it has become
 6 slightly outdated or maybe we need to reconsider
 7 whether that property could be purely commercial.
 8 And I think if the answer to that
 9 question is that it would be, then we should tweak
 10 it and consider that. It may not be as practical
 11 as it was believed to be back in '09. That's why
 12 the residential use of the property should be
 13 approved.
 14 BOARD MEMBER VILLAGGIO: And that's the
 15 reason why you need to look at it every five
 16 years.
 17 MR. VINEGRA: You redo it every ten
 18 years. But you don't change your master plan --
 19 BOARD MEMBER VILLAGGIO: No.
 20 MR. VINEGRA: -- because one market
 21 force is strong one day and the next market force
 22 is strong the other. If we did that, we would
 23 have zoned the entire State of New Jersey office
 24 parks 20 years ago, which are all empty now, and
 25 we would have designed it McMansions 10 years ago,

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1 15 years ago, which that market is dead now.
 2 You don't constantly change -- you don't
 3 chase the market with the master plan, but you
 4 kind of look at your master plan how your town
 5 wants to be developed and then the developers are
 6 supposed to come in and develop it. You don't
 7 change it because one market died six months ago
 8 that may come up next week. You don't do it that
 9 way. We do it every ten years. We do them every
 10 ten years.
 11 BOARD MEMBER NIEVES: This plan, I'm
 12 new, but this was done in '08 or '09? So it's
 13 already been six years. And there's also been
 14 testimony that there's commercial property now
 15 that has not been rented. I don't know how long
 16 that property has not been rented, but I think
 17 that's telling.
 18 MR. VINEGRA: There's a lot of legal
 19 presentation they have to do to prove that this
 20 meets -- it's not a detriment to the master plan,
 21 it's not a detriment to the zoning ordinance and
 22 it's not a detriment to the surrounding --
 23 MR. FRASER: And that they've made the
 24 special reasons for the grant of a use variance.
 25 MR. VINEGRA: Correct. The Medici test.

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1 MR. FRASER: Which is a high standard.
 2 MR. VINEGRA: Correct.
 3 CHAIRMAN GREET: Okay.
 4 BOARD MEMBER SCHERER: Okay. I don't
 5 mind this project. You talk about the master
 6 plan, all the things we passed in the last few
 7 years. I'm not even going to stick with that.
 8 I'm going to see what we think is good right now.
 9 We'd be better off.
 10 He should clean up his property. He's
 11 not doing -- he's even doing a better job than all
 12 these other people we approved to do. He has all
 13 the parking. We can maybe get another spot out of
 14 that.
 15 Like I said, I don't see any problem
 16 with this at all except, you know, they'll come
 17 back with a new site plan, other than that, for
 18 final. But for the use, I don't see any problems
 19 at all. It's exactly what we've all been doing
 20 all along.
 21 CHAIRMAN GREET: Okay. I think are we
 22 ready for a vote?
 23 MR. VINEGRA: What you can do is
 24 bifurcate the application. Just vote on the use
 25 and not the site plan.

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1 CHAIRMAN GREET: Well, that's what we're
 2 doing.
 3 MR. FRASER: I mean, clearly --
 4 MR. VINEGRA: Okay. No preliminary.
 5 BOARD MEMBER VILLAGGIO: No.
 6 MR. VINEGRA: No preliminary. You know,
 7 if you wanted, you can bifurcate it to the point
 8 whether you want two floors of residential or one
 9 floor of residential. You do have that power to
 10 decide that too. So you can vote on two levels of
 11 residential or one level of residential above a
 12 business. You have that power.
 13 MR. DOOLEY: Actually, can I comment on
 14 that?
 15 MR. VINEGRA: But he'd have to agree to
 16 it.
 17 MR. DOOLEY: I lost my voice for a
 18 second.
 19 I understand, I'm hearing the concerns
 20 about the third floor. And I'm not quite sure, is
 21 it about the fact that it's a second apartment or
 22 is it about the fact it's a third floor? Which is
 23 it, or is it both?
 24 BOARD MEMBER VILLAGGIO: It's my opinion
 25 it's the third floor.

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1 MR. DOOLEY: Just the fact that it even
 2 exists.
 3 BOARD MEMBER VILLAGGIO: Correct.
 4 MR. DOOLEY: It wouldn't matter whether
 5 it was one apartment two floors high.
 6 BOARD MEMBER VILLAGGIO: (Indicating.)
 7 MR. DOOLEY: I'm just trying to get a
 8 sense of where this was -- what was coming here.
 9 I appreciate you telling me that.
 10 BOARD MEMBER VILLAGGIO: Because of the
 11 residential that's in back of it also. I just
 12 didn't like -- I don't, you know...
 13 MR. DOOLEY: I didn't understand which
 14 it was. I was just asking you for a
 15 clarification.
 16 BOARD MEMBER VILLAGGIO: That's just my
 17 opinion.
 18 MR. DOOLEY: I understand, but you were
 19 the one addressing that issue so I wanted a
 20 clarification. Thank you.
 21 MR. VINEGRA: Also, Paul brought up the
 22 massing of the building. That's also massing.
 23 Mass of a building is also the third story too.
 24 MR. DOOLEY: Okay.
 25 BOARD MEMBER VILLAGGIO: And that's the

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1 reason why I asked before whether or not you could
 2 put two apartments on that one floor.
 3 MR. DOOLEY: Two apartments, yeah.
 4 BOARD MEMBER VILLAGGIO: Now, Victor
 5 asked a question, whether or not you will agree to
 6 just the use, right?
 7 MR. VINEGRA: Yeah, it's a legal
 8 question.
 9 MR. DOOLEY: I actually moved that
 10 earlier. I said that's where we were headed, yes.
 11 I understood that. Let's talk about the use
 12 variance. If you're going to let us go, then it
 13 makes -- then we'll go for the planning.
 14 MR. FRASER: We'll wait.
 15 MR. DOOLEY: Yeah, that's what we'd be
 16 looking at.
 17 MR. FRASER: I think this does become a
 18 tricky question. I think, Vic, you're right.
 19 Realistically from what's happened, you're going
 20 to end up bifurcating this and you're going to end
 21 up having a motion to approve or deny the grant of
 22 the use variance. Okay? Somebody's going to make
 23 a motion to either approve or deny. If it's a
 24 motion to approve, you need five affirmative votes
 25 to get it.

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1 As situated, the present application is
 2 for one floor of commercial topped by two floors
 3 of residential. The applicant is entitled to have
 4 a vote on that application. Without the applicant
 5 affirmatively saying vote on it as one and one,
 6 you should vote on it as one commercial and two
 7 residential.
 8 Let's just say what if that were to not
 9 pass? That would not stop the Board from then
 10 taking another vote that says we would approve one
 11 and one. If that didn't pass either, I guess that
 12 would be the end of it.
 13 If one of them passed and it had been
 14 bifurcated, then I guess the applicant's going to
 15 be sent back to the literal and figurative drawing
 16 board to come back to get a better or more
 17 complete site plan put together with, perhaps, the
 18 parking change or whatever else the applicant
 19 thinks is prudent in light of what has been said
 20 tonight.
 21 But I would think that somebody from the
 22 Board should make a motion to either approve the
 23 use of one commercial topped by two residential or
 24 to deny that use on a bifurcated basis and then
 25 see where it goes from there.

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1 BOARD MEMBER SCHERER: Okay. I'll make
 2 a motion. I make a motion we approve the use with
 3 the two apartments on top.
 4 MR. FRASER: So one commercial on the
 5 first floor, two floors of residential above, but
 6 the use only with everything else reserved?
 7 BOARD MEMBER SCHERER: Yes.
 8 BOARD MEMBER HAK: Second.
 9 BOARD MEMBER VILLAGGIO: Oh, this is --
 10 CHAIRMAN GREET: Make sure we
 11 understand.
 12 BOARD MEMBER VILLAGGIO: This one is
 13 retail, apartment, apartment.
 14 MR. FRASER: Correct. Three floors:
 15 Residential on the first floor topped by two
 16 floors of commercial.
 17 BOARD MEMBER HAK: No.
 18 MR. FRASER: I said it backwards, you're
 19 right. Commercial on the first floor topped by
 20 two floors of residential. And it's been moved
 21 and seconded. It's a use variance application.
 22 Therefore, out of the seven-member board, it
 23 requires five affirmative votes to pass.
 24 CHAIRMAN GREET: Roll call.
 25 BOARD SECRETARY: Stephen Greet?

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1 CHAIRMAN GREET: No.
 2 BOARD SECRETARY: Kathy Villaggio?
 3 BOARD MEMBER VILLAGGIO: No.
 4 BOARD SECRETARY: Robert Scherer?
 5 BOARD MEMBER SCHERER: Yes.
 6 BOARD SECRETARY: Paul Tarantino?
 7 BOARD MEMBER TARANTINO: Yes.
 8 BOARD SECRETARY: Gene Jannotti?
 9 BOARD MEMBER JANNOTTI: Yes.
 10 BOARD SECRETARY: Paul Nieves?
 11 BOARD MEMBER NIEVES: Yes.
 12 BOARD SECRETARY: Tim Hak?
 13 BOARD MEMBER HAK: Yes.
 14 MR. FRASER: Okay. That's five
 15 affirmative votes. The use variance has been
 16 approved. Nothing else has been approved.
 17 There's actually an application before us for
 18 certain bulk variances and for preliminary site
 19 plan approval.
 20 MR. VINEGRA: Actually, normally I don't
 21 get that involved, but since they presented
 22 evidence that's different than what you have --
 23 MR. FRASER: Yeah, I know.
 24 MR. VINEGRA: -- they should just
 25 resubmit for preliminary and final. They have

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1 their zoning approval. They can tweak it and do
 2 it all in one night. They can't get building
 3 permits anyway.
 4 MR. FRASER: Well, I mean, I agree. I
 5 don't get to vote, but certainly with regard to
 6 the parking and so forth, it's changed on the fly
 7 somewhat.
 8 MR. VINEGRA: Yeah.
 9 BOARD MEMBER HAK: Even the doors,
 10 moving the door around the corner.
 11 BOARD MEMBER TARANTINO: I would feel
 12 more comfortable with --
 13 MR. FRASER: I think that -- I think
 14 they're entitled to a vote, but the vote can be to
 15 tell them to come back.
 16 MR. DOOLEY: I thought -- I thought I
 17 meant that we would come back on the --
 18 MR. FRASER: That's for final. You're
 19 asking for preliminary approval now.
 20 MR. DOOLEY: I thought my motion really
 21 was to withdraw that at this time.
 22 MR. FRASER: Oh, okay. That's fine. I
 23 misunderstood then.
 24 MR. DOOLEY: I understand what is needed
 25 here. I do have one comment, though, that you

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1 said was that we have other bulk variances. The
 2 bulk variances are subsumed into the D as part of
 3 case law, which I cited right in the beginning.
 4 If you want me to -- if you want me to brief it or
 5 give you a memo, I will.
 6 MR. FRASER: If you want to do that,
 7 you're certainly welcome to do that. In my
 8 opinion, I don't know that this Board just voted
 9 to say that all those bulk variances were granted.
 10 I don't think that the Board did. And if you have
 11 a different opinion, you're welcome to pursue
 12 that.
 13 MR. DOOLEY: I actually think the case
 14 law says when they do it, they're meeting the
 15 standards. I'll give you a letter memo on that.
 16 How's that?
 17 MR. FRASER: That's fine.
 18 MR. DOOLEY: Are you okay with that?
 19 MR. FRASER: I'm okay with that. I'm
 20 just saying to you I'm inclined --
 21 MR. DOOLEY: You don't agree --
 22 MR. FRASER: -- not to agree.
 23 MR. DOOLEY: Okay.
 24 MR. FRASER: And I don't think this
 25 Board, in just having voted the way they did and

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1 having the statements that were made on the record
 2 that they were, I don't believe that this Board
 3 was sitting here voting on buffers and distances
 4 and stuff like that.
 5 MR. DOOLEY: Okay.
 6 MR. FRASER: I don't agree with that in
 7 any way, shape or form. You can submit your memo,
 8 but I'm telling you I think you would be very
 9 hard-pressed for you to convince me otherwise.
 10 MR. DOOLEY: We'll have to go look at
 11 the record.
 12 MR. FRASER: That's fine.
 13 MR. DOOLEY: I'm okay with that. I
 14 understand where you're coming from. Okay.
 15 MR. FRASER: All right. So then -- So,
 16 Mr. Dooley, then the applicant is not seeking
 17 further approval or action by this Board this
 18 evening.
 19 MR. DOOLEY: Of the plan, correct.
 20 MR. FRASER: I think that's prudent.
 21 Mr. Chairman, I would recommend that --
 22 do you want to come back -- when do you want to
 23 come back for this?
 24 MR. DOOLEY: I don't know how fast we
 25 can tune this up. I'll have to discuss it with my

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1 client. May I notify Adele and let her know?
 2 MR. FRASER: No, you have to tell the
 3 public unless you want to re-notice.
 4 MR. DOOLEY: I don't want to re-notice
 5 again.
 6 MR. FRASER: I don't want to have that
 7 debate with you again. I don't mean that in a
 8 mean way, but I don't want to --
 9 MR. DOOLEY: I was like -- I was so
 10 agitated.
 11 How fast could we do this?
 12 BOARD MEMBER SCHERER: When's the next
 13 meeting?
 14 MR. DOOLEY: Four weeks.
 15 MR. FRASER: What are the October
 16 meetings? Because if you're going to say October
 17 23rd, I'm not here.
 18 BOARD SECRETARY: We do have items
 19 scheduled, though, for October, so it might be
 20 best to carry it to November.
 21 MR. FRASER: October 14 they can't make.
 22 MR. DOOLEY: No.
 23 MR. FRASER: They can't make October
 24 14th.
 25 BOARD SECRETARY: Well, that's a full

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1 agenda anyway.
 2 MR. FRASER: October 23rd I'm not going
 3 to be here. I don't think this should be one when
 4 I'm not here.
 5 BOARD SECRETARY: Then November 12.
 6 MR. FRASER: November 12.
 7 MR. DOOLEY: All right.
 8 MR. FRASER: Is that okay, Mr. Dooley?
 9 MR. DOOLEY: It will have to be.
 10 MR. FRASER: All right. And I'm
 11 assuming, Mr. Dooley, that you're requesting that
 12 any notice be carried and waived.
 13 MR. DOOLEY: Please, would you carry and
 14 waive, no further notice.
 15 CHAIRMAN GREET: Okay.
 16 MR. VINEGRA: Now, some questions did
 17 come up from the Board members about the massing
 18 and the architectural. So tell them now or do
 19 you want some tweaking of the architectural
 20 elevations at all or materials?
 21 BOARD MEMBER VILLAGGIO: We want the
 22 plans like we usually see plans.
 23 MR. VINEGRA: Materials, yeah. Full
 24 materials.
 25 BOARD MEMBER HAK: Materials, the HVAC,

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1 stairs are going downstairs --
 2 (Indiscernible cross-talk; Reporter
 3 requests one speaker)
 4 MR. FRASER: They want the full-blown
 5 plans including all the architectural, including
 6 the basement, including the materials, including
 7 where the mechanicals are going to be. All the
 8 stuff that is normally part of a site plan
 9 application the Board will expect to see as part
 10 of the consideration of the site plan.
 11 Now, there were also comments that were
 12 made by individual Board members regarding the
 13 mass of the building, regarding the placement and
 14 size of certain windows. There's no specific
 15 requirement as to what the applicant has to do
 16 with respect to those, but the applicant has a
 17 seasoned team of many professionals who have heard
 18 the test -- or the comments of the Board this
 19 evening and may wish to take some of those
 20 comments into account when the applicant works
 21 further on this plan prior to submission.
 22 BOARD MEMBER SCHERER: Agreed.
 23 MR. FRASER: The other thing for the
 24 young court reporter, realistically, the applicant
 25 is probably going to want the memorialization of

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1 this resolution to occur prior to the November
 2 12th hearing date, because we're going to have two
 3 meetings in between now and then. So if I get the
 4 transcript within the next ten days or so, I won't
 5 have a problem getting that to you, Mr. Dooley.
 6 MR. DOOLEY: Thank you.
 7 MR. FRASER: And I'll make an effort to
 8 make sure that I do.
 9 MR. DOOLEY: Thank you.
 10 MR. FRASER: So the other thing,
 11 Mr. Chairman, is I think there should be a quick
 12 vote as to whether the Board wishes to carry
 13 notice.
 14 BOARD MEMBER VILLAGGIO: I think that --
 15 I think that he should notice again.
 16 CHAIRMAN GREET: You think they should
 17 notice again?
 18 BOARD MEMBER VILLAGGIO: Because let the
 19 residents -- in case they wanted to know what the
 20 building's going to look like, you know, at that
 21 time. I was surprised that nobody was here today
 22 because the other time that -- like, you were
 23 supposed to be here, but you couldn't get your
 24 people to come, there were people here who lived
 25 around there.

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1 CHAIRMAN GREET: I mean, I obviously
 2 wasn't in favor of the use, allowing the use to go
 3 through, but I mean even more so, in my opinion, a
 4 36-and-a-half-foot-high building sitting next to a
 5 26-and-a-half-foot-high building, both
 6 residential, I would be a little upset if I were
 7 next door. And I think it just looks kind of very
 8 strange, but that's just a comment.
 9 MR. FRASER: Well, the question is right
 10 now whether or not the Board wishes to carry
 11 notice or to require notice.
 12 CHAIRMAN GREET: So require notice or
 13 carry notice?
 14 BOARD MEMBER NIEVES: Require.
 15 BOARD MEMBER VILLAGGIO: Well, it's
 16 November, you know.
 17 CHAIRMAN GREET: We need a motion.
 18 BOARD MEMBER VILLAGGIO: It's November.
 19 I think that they should notice and I'll make that
 20 motion.
 21 BOARD MEMBER NIEVES: I second it.
 22 CHAIRMAN GREET: Okay. Roll call.
 23 BOARD SECRETARY: Stephen Greet?
 24 CHAIRMAN GREET: I agree that --
 25 MR. FRASER: "Yes" is to require more

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1 notice.
 2 CHAIRMAN GREET: Yes.
 3 BOARD SECRETARY: Kathy Villaggio?
 4 BOARD MEMBER VILLAGGIO: Yes.
 5 BOARD SECRETARY: Robert Scherer?
 6 BOARD MEMBER SCHERER: Yes.
 7 BOARD SECRETARY: Paul Tarantino?
 8 BOARD MEMBER TARANTINO: Yes.
 9 BOARD SECRETARY: Gene Jannotti?
 10 BOARD MEMBER JANNOTTI: Yes.
 11 BOARD SECRETARY: Paul Nieves?
 12 BOARD MEMBER NIEVES: Yes.
 13 BOARD SECRETARY: Tim Hak?
 14 BOARD MEMBER HAK: Aye.
 15 MR. DOOLEY: All right. I actually have
 16 a question on that. Are you going to require me
 17 to get a new certified list or can I work off the
 18 list I have?
 19 MR. FRASER: I'll make an executive
 20 decision. You can use the list.
 21 BOARD MEMBER VILLAGGIO: Yeah.
 22 MR. DOOLEY: Thank you.
 23 BOARD MEMBER SCHERER: I don't think
 24 anybody moved since then.
 25 MR. DOOLEY: I mean, I've noticed these

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1 people twice but, okay, we'll do it again. It's
 2 all good.
 3 MR. FRASER: You got your use variance.
 4 MR. DOOLEY: It's all good. It's all
 5 good.
 6 MR. FRASER: Right now, Mr. Dooley, you
 7 got your use variance.
 8 MR. DOOLEY: Okay. It's all good.
 9 MR. FRASER: And I tried for you on the
 10 notice, all right?
 11 MR. DOOLEY: It's all good. I'm okay
 12 with it. Thank you.
 13 (Whereupon, the hearing was adjourned to
 14 November 12, 2015, at 7:30 p.m.)
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1 CERTIFICATE
 2
 3 I, BRIDGET LOMBARDOZZI, Notary Public and
 4 Certified Shorthand Reporter of the State of
 5 New Jersey, do hereby certify that the
 6 foregoing is a true and accurate transcript of
 7 the testimony as taken stenographically by and
 8 before me at the time, place and the date
 9 hereinbefore set forth.
 10 I DO FURTHER CERTIFY that I am neither a
 11 relative nor employee nor attorney nor counsel
 12 of any of the parties to this action, and that
 13 I am neither a relative nor employee of such
 14 attorney or counsel, and that I am not
 15 financially interested in the action.
 16
 17 -----
 18 BRIDGET LOMBARDOZZI,
 19 Certified Shorthand Reporter
 20 C.S.R. License No. XI01201
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