

1 BOROUGH OF GARWOOD PLANNING BOARD
2 COUNTY OF UNION - STATE OF NEW JERSEY

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5 REGULAR MEETING FOR:

6 604-608 WILLOW AVENUE, LLC
7 BLOCK 302, LOTS 11 & 12
8 604-608 WILLOW AVENUE

9 CASE NO. PB19-03

10 - - - - -

11

 TRANSCRIPT OF PROCEEDINGS
 PUBLIC HEARING

12

 WEDNESDAY, MARCH 13, 2019

13

 B E F O R E:

14

- 15 STEPHEN GREET, Chairman
- 16 KATHLEEN VILLAGGIO
- 17 KEN CAPOBIANCO
- JOHN MALCOLM
- RICHARD McCORMACK (Recused)
- WILLIAM NIERSTEDT
- SARA TODISCO, Mayor (Recused)
- MICHAEL VENA

18

 A L S O P R E S E N T:

19

- 20 DONALD B. FRASER, JR., ESQUIRE, Board Attorney
- 21 VICTOR E. VINEGRA, P.E., P.P., Board Engineer
- 22 ADELE LEWIS, Board Clerk

23

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1 TRANSCRIPT of the stenographic notes
2 of the proceedings in the above-entitled matter, as
3 taken by and before ANGELA C. BUONANTUONO, a
4 Certified Court Reporter, Registered Professional
5 Reporter, Certified LiveNote Reporter and Notary
6 Public of the State of New Jersey, held at THE
7 BOROUGH OF GARWOOD MUNICIPAL BUILDING, 403 South
8 Avenue, Garwood, New Jersey 07027 on Wednesday,
9 March 13, 2019, commencing at 7:30 in the evening.

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14

15 A P P E A R A N C E S:

16

17 HEHL OFFICES OF JAVERBAUM WURGAFT HICKS KAHN
18 WIKSTROM & SININS, P.C.

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-- Counsel for the Applicant

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I N D E X

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PUBLIC COMMENT:

(None)

A P P L I C A N T E X H I B I T S

EXHIBIT DESCRIPTION

PAGE

(None Marked.)

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6

1 CHAIRMAN GREET: We originally had two
 2 applications scheduled for tonight, the first one
 3 being 2 North Avenue and that was for seeking a
 4 preliminary and final site plan with associated
 5 variances for a two-story mixed-use building
 6 containing four residential units and over 7,070
 7 square feet of ground floor retail space. The
 8 applicant in two different formats, one received on
 9 the 11th, is requesting to reschedule which is fine,
 10 we can reschedule, but in the March 11th memo she
 11 had made reference that she wanted to see if the
 12 notice could be carried. In an email that was
 13 received she stated that she would have to renotece
 14 due to significant changes in design.

15 MR. HEHL: That's correct, Mr.
 16 Chairman.

17 CHAIRMAN GREET: We happen to have the
 18 attorney here so I would like that...

19 MR. HEHL: Yes.

20 MR. FRASER: Mr. Hehl and I have
 21 discussed this issue a couple of weeks ago. Right,
 22 Steve?

23 MR. HEHL: Right. So I had an
 24 opportunity to speak to Mr. Fraser. The original
 25 request was we were not quite sure of the extent of

1 updated or revised or amended application, has that
 2 yet been submitted for review?

3 MR. HEHL: -- we actually received the
 4 plans and we should be able to get them over
 5 probably by tomorrow.

6 MR. FRASER: All right. So it might
 7 have been questionable for the 27th, for there to be
 8 a completeness review and notice for the 27th
 9 anyway.

10 Is there any reason we shouldn't
 11 provisionally lock in April 24; assuming that Victor
 12 deems everything complete and appropriate, any
 13 reason we shouldn't all say that should work?

14 CHAIRMAN GREET: Kathy will be running
 15 the meeting for that night.

16 MR. FRASER: I know Mr. Hehl --
 17 because I sometimes, in matrimonial law, will have
 18 clients that do this also -- but I find in my
 19 practice that when clients, in addition to having
 20 very able counsel send their own separate
 21 communications, that sometimes wires get crossed and
 22 it's not a great idea. So, obviously, your client
 23 has the absolute right to submit if she wants, but
 24 in terms of there being effective communication with
 25 the board and there not being any further confusion

5

7

1 the changes in the plans, and then based upon a
 2 meeting that Mr. Waga had with Victor it was
 3 confirmed that there would be significant enough
 4 changes that would warrant re-notification. So
 5 that's why the second request or notification that
 6 we would, in fact, be re-noticing for the upcoming
 7 meeting.

8 CHAIRMAN GREET: And in that memo that
 9 I received a copy of by email there was a request,
 10 if they could, to have it scheduled for March 27.
 11 That will not be able to be provided. So we'll have
 12 to reschedule that at a later time. That will be
 13 noticed in the future.

14 MR. HEHL: Okay.

15 MR. FRASER: Maybe we should discuss
 16 what we are aiming for and what's realistic so we
 17 don't have any further confusion about this subject.

18 So after March 27, Adele, when is the
 19 next meeting?

20 MS. LEWIS: April 24.

21 MR. FRASER: And what does our agenda
 22 look like for April 24?

23 MS. LEWIS: Currently there's nothing
 24 scheduled for it.

25 MR. FRASER: Okay. Mr. Hehl, the

1 perhaps you might counsel your client to let
 2 communications go through your office.

3 MR. HEHL: Oh. So there was one
 4 directly from the client?

5 CHAIRMAN GREET: Through Adele. And I
 6 got a copy of it.

7 MR. HEHL: I don't know -- I doubt
 8 they even copied us.

9 MR. FRASER: Now it really sounds just
 10 like my matrimonial practice. Just an idea, Mr.
 11 Hehl.

12 MR. HEHL: Yes, that's fine. And,
 13 yes, if we could the 24th. We'll do a submission
 14 and get everything over to Adele and to Victor and
 15 we can well in advance of the hearing publish and
 16 notice.

17 MR. FRASER: Okay. And just to be
 18 clear we're considering it to be an amended
 19 application so that there will not have to be
 20 reapplication. Right, Mr. Chairman?

21 CHAIRMAN GREET: Right.

22 MR. HEHL: Okay, that's great. I
 23 truly appreciate it. I think there were some people
 24 from the public. And the Chairman and I mentioned
 25 that there would be, and Victor, that there would be

8

1 renotification, but just for courtesy of them...

2 MR. FRASER: So if anybody is here on

3 the Dittrick's application, it's not going to be

4 heard this evening.

5 MR. HEHL: And there will be

6 renotification.

7 CHAIRMAN GREET: Thank you.

8 MR. HEHL: Great, thank you.

9 CHAIRMAN GREET: Okay. We will now

10 proceed to PB19-03, 604-608 Willow Avenue, Block

11 302, Lots 11 and 12. The applicant is 604/608

12 Willow Avenue, LLC. Seeking minor subdivision.

13 MR. FRASER: Preliminary and

14 procedural note that my colleague, Mr. Vena, is

15 raising sitting next to me is, there is, in fact, a

16 "d" Variance request as part of this; correct, Mr.

17 Hehl?

18 MR. HEHL: Correct, an FAR variance.

19 MR. FRASER: Right. So I think it

20 would behoove us to discuss the question of how many

21 voting members of the board do you have on this

22 application here this evening? Recognizing the

23 applicant will require five affirmative votes and if

24 we do not have seven voting members the applicant

25 may have a decision to make.

9

1 MR. VINEGRA: I think you have to find

2 that it is a "d" Variance associated with this

3 application.

4 MR. FRASER: So how many voting

5 members do we have here?

6 MR. VENA: Six.

7 MR. FRASER: It's your pleasure, Mr.

8 Hehl.

9 MR. HEHL: Well, what I would like to

10 do is, because we did get Mr. Vinegra's review

11 letter, is to begin our presentation, address the

12 issues that are in Mr. Vinegra's letter and

13 depending upon how far we get, we can probably carry

14 it to --

15 MR. FRASER: In other words, decide

16 prior to the vote whether you're going to push for a

17 vote this evening?

18 MR. HEHL: Yeah, but I would think

19 that, based upon the comments, that we would most

20 likely not be seeking a vote this evening, but we

21 did want to begin our presentation to the board.

22 MR. FRASER: I have no problem with

23 that. I want to be clear at the outset.

24 MR. HEHL: That's great.

25 MR. FRASER: The floor is yours.

10

1 MR. HEHL: Very good. Well again,

2 Stephen Hehl representing -- okay. Thank you,

3 Mayor.

4 MAYOR TODISCO: I have to recuse

5 myself.

6 MR. FRASER: It's your fault we can't

7 vote.

8 MAYOR TODISCO: That's right. It's my

9 brother's birthday and I will be able to celebrate

10 the evening with him.

11 MR. HEHL: You can tell your brother

12 it was because of us.

13 MAYOR TODISCO: Thank you, appreciate

14 that.

15 MR. HEHL: Thank you for your time.

16 CHAIRMAN GREET: Rich can sit but not

17 vote?

18 MR. FRASER: He should not sit on the

19 dais while we consider the application but he's

20 welcome to watch from the audience if he wishes.

21 MR. HEHL: Sorry again, Councilman.

22 The dictates of the MLUL.

23 MR. FRASER: Oh, yes. I'm not making

24 a particular ruling that it's directed to you, it's

25 just, it's the rule. He can sit up here, we have

11

1 room.

2 MR. HEHL: All right. Again, good

3 evening. Stephen Hehl representing the applicant,

4 604-608 Willow, LLC. My clients are the contract

5 purchasers of these two lots in question and what

6 they're looking to do is to subdivide the

7 properties. Actually at times people call it lot

8 line adjustments because right now there's an

9 over-sized lot and there's an undersized lot, so

10 they would like to balance out those lots into two

11 conforming size lots and then to construct two

12 two-family homes.

13 The two-family homes are permitted in

14 the zone. And we're going to have testimony from

15 our professionals explaining why we feel that the

16 homes that are proposed here are or would be a very

17 nice additions to Garwood. And the properties have

18 been vacant -- other than some smaller structures, a

19 garage and the like -- for quite some time, and we

20 feel this is a nice opportunity to develop those

21 properties.

22 We realize that, as Mr. Fraser

23 indicated at the outset, this is a "d" Variance

24 because of the FAR variance. We feel that there

25 will be testimony to justify that variance.

1 Also, we're seeking a design that --
 2 in your ordinance you will allow the two families
 3 but the structure itself, although this would deem
 4 to be a "c" variance, the structure itself is
 5 supposed to be an up-and-down two-family whereas
 6 we're proposing a side-by-side two-family, a duplex
 7 if you will. We feel that that type of structure --
 8 and you will hear testimony from our architect, the
 9 applicant and our planner -- we feel that that
 10 design makes for a much more marketable and rentable
 11 and perhaps saleable structure. You don't have the
 12 noise associated with someone upstairs. And it's a
 13 nicely designed building and, again, provides for
 14 some good space for the interior with a nice size
 15 unit.
 16 We have received, as I mentioned, Mr.
 17 Vinegra's letter. We have had an opportunity to
 18 review it. Our professionals will address Victor's
 19 letter in detail, but it's a good starting point for
 20 us to identify and discuss it.
 21 Does everybody have Victor's letter?
 22 Was it emailed? When was it sent, Vic?
 23 MS. LEWIS: Yesterday or the 11th. I
 24 could make copies.
 25 MR. FRASER: You can continue, Mr.

1 Hehl.
 2 MR. HEHL: Okay, great. And again we
 3 can -- our professionals will address his letter in
 4 more detail. And certainly if the board needs to
 5 wait until there's more additional copies, but if
 6 there's no preliminary questions what I would like
 7 to do is call upon Mr. James Watson.
 8 MR. FRASER: I have just one or two
 9 preliminary questions, Mr. Hehl. First of all, you
 10 said it's going to be a duplex. We're talking about
 11 two duplexes?
 12 MR. HEHL: That's correct, designed on
 13 both.
 14 MR. FRASER: I understand that is a
 15 variance. I understand the FAR is a "d" Variance
 16 the other big one is the curb cuts, right?
 17 MR. HEHL: Yes. And again Mr. Watson
 18 will address those also.
 19 MR. FRASER: Okay.
 20 MR. HEHL: Thank you. So I would like
 21 to call upon Mr. James Watson.
 22 J A M E S W A T S O N, having been
 23 duly sworn, testified as follows:
 24 MR. FRASER: Mr. Watson is being
 25 produced as an expert in the field of engineering

1 correct, Mr. Hehl?
 2 MR. HEHL: Well, actually Mr. Quinn
 3 was but he had a family emergency. Mr. Watson is,
 4 in fact, a licensed land surveyor therefore he can
 5 address -- and a professional planner, and therefore
 6 he can address both the subdivision and the site
 7 layout.
 8 MR. FRASER: And all your licenses
 9 are current, correct, Mr. Watson?
 10 THE WITNESS: Yes.
 11 MR. FRASER: Certainly you have
 12 appeared before this board on multiple occasions.
 13 THE WITNESS: Yes, I have.
 14 MR. FRASER: I would recommend that
 15 Mr. Watson be accepted as an expert in the field of
 16 planning, surveying and engineering.
 17 CHAIRMAN GREET: So be it.
 18 THE WITNESS: Thank you.
 19 MR. HEHL: Technically he's not an
 20 engineer.
 21 MR. FRASER: Did I miss that?
 22 MR. NIERSTEDT: He's not an engineer.
 23 MR. HEHL: Tom Quinn is our engineer
 24 but, again, had a family emergency.
 25 MR. FRASER: All right, I retract my

1 comments.
 2 MR. HEHL: The other two are good.
 3 E X A M I N A T I O N
 4 BY MR. HEHL:
 5 Q. Mr. Watson, obviously you heard my
 6 opening statement and dialogue with the board and
 7 counsel. If you can take us through, first, an
 8 overview of the site and then the existing
 9 conditions and then what's proposed by way of
 10 improvements.
 11 A. Sure. You have a set of plans in your
 12 packets. It's a four-sheet set. It's labeled Minor
 13 Subdivision Tax Lots 11 & 12, Block 302. Typical of
 14 our sets you have a tax map in the center with the
 15 zoning criteria overlaid on that. Upper left-hand
 16 corner is a list of owners within 200 feet. General
 17 notes below that. Key map is in the upper right
 18 center of the sheet on the right side. The
 19 signature block for the owners, the applicant and
 20 the approvals. Our title block with a Table of
 21 Contents is in the lower right-hand corner.
 22 The guts of the application is in the
 23 center of the sheet at the bottom. Your scheduled
 24 general requirements for the RB, which is your
 25 two-family residential zone. It shows any

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16

1 variances, existing and proposed, and we have a
2 parking requirement calculation to the right of
3 that.

4 With this application we are proposing
5 four spaces with each duplex. So it will be eight
6 spaces total, one in the garage and one behind the
7 garage in the driveway. So there will be two for
8 each unit.

9 Moving on to Sheet 2, entitled "Minor
10 Subdivision," dated November 5, 2018. The existing
11 lot today has a 40-foot-wide lot on the interior and
12 a 60-foot-wide lot on the corner. We're proposing
13 to even them out thereby creating two conforming
14 lots of 50 by 100. Again Maple Street is to the
15 east, Willow Avenue to the south of the lot.

16 General notes again in the upper right-hand corner.
17 And again we repeat with the parking calculations
18 and the zoning table. We also show the appropriate
19 building envelopes on the proposed lots. So
20 without creating a setback violation we get a
21 40-by-40 footprint in there.

22 Next we come -- come to our site plan
23 entitled "Site Plan Major Subdivision, Tax Lot 11 &
24 12, Block 302," dated November 5, 2018. We show the
25 two proposed dwellings. We do not show any grading

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18

1 approximately four and a half feet onto our lot.
2 It's been there for a number of years. We will deal
3 with that if we get approval we'll work something
4 out to get that relocated.

5 Basically it's a vacant lot. You see
6 a couple of trees in here. General drainage pattern
7 is from the northwesterly corner towards the
8 southeasterly corner, everything sheet flows across
9 and goes to the corner of Maple and Willow.

10 It's a pretty simple set of plans.
11 Like I said there's not much here with the design on
12 the site plan. If anybody has questions about what
13 I have just gone through I would be happy to answer
14 it, especially on the drainage.

15 MR. VENA: The drainage. How are you
16 going to address that if it's running from say South
17 Avenue on down through the property?

18 THE WITNESS: Well, it's going on
19 diagonal so you can kind of make the same corner of
20 each house the high point and get the water to go
21 around it. We can alter the grade. You have a fall
22 of about three to three-and-a-half feet from one end
23 to the other so you do have pitch across there and
24 we can grade it.

25 MR. VENA: I'm thinking -- right now

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1 on this. This is more conceptual right now.

2 We show the driveways on the outsides
3 with a common entrance in the middle. That we can
4 talk about later when we go through the letter. But
5 right now we're showing a 40-by-40 structure on the
6 interior lot and a 32-by-40 structure on the corner
7 lot.

8 We were playing around at one time with
9 equalizing the building envelopes but it just got
10 too cumbersome so we abandoned that idea. The only
11 improvements are like I said the dwellings that are
12 proposed, the driveways with the center entrances
13 and staircases down the back to the rear yard.
14 Again we repeat the scheduled general requirements
15 for the RB-Zone and again we repeat the parking
16 calculations.

17 The fourth sheet is titled Boundary and
18 Topographic Survey, Tax Lots 11 and 12, Lot 302,
19 which is dated July 30 of 2018. It shows the
20 existing conditions. If you went out there today
21 this is what it would look like. You have an
22 existing masonry garage that fronts on Maple Street.
23 It's an older structure. You also have a masonry
24 garage with the block behind us which would be tax
25 Lot 9 which faces South Avenue. That encroaches

JAMES WATSON, P.E.

19

1 it's a vacant lot -- put families in there and
2 backyards, you're going to have a mud pit back
3 there.

4 THE WITNESS: Well, in the beginning,
5 yeah. They have to seed it and stabilize it. This
6 whole thing is going to get torn up. But they will,
7 you know, during the course of construction they
8 either sod it or seed it and it does grow in.
9 Everybody's house was like that at one point.

10 MR. VENA: Okay.

11 MS. VILLAGGIO: Is there any -- with
12 regard to what Mike said also, is there any
13 retention basins or anything submitted that would
14 retain the water? Because I don't think you
15 submitted any, you know --

16 THE WITNESS: Calculations, yeah.

17 MS. VILLAGGIO: -- calculations, no
18 storm retention plans.

19 THE WITNESS: We will address that if
20 you approve this layout. We can put it in here in
21 the back and overflow it or put it under the
22 driveways and outlet it into the gutters. There's
23 enough room and enough pitch in this lot where we
24 can do it, it shouldn't be that hard.

25 MR. HEHL: If there's no more

JAMES WATSON, P.E.

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1 preliminary questions I'm going to, after Mr. Waga
 2 testifies, re-call Mr. Watson as our planner.
 3 BY MR. HEHL:
 4 **Q.** But, if you can, take us through the
 5 site plan and variances, identify the variances. We
 6 can, again, provide more detailed planning testimony
 7 after the testimony of Mr. Waga.
 8 **A.** Some of the variances that we're
 9 asking for tonight, the first one is an obvious one,
 10 is your ordinance requires that you have an
 11 up-and-down two-family. We're proposing side to
 12 side. That is what most of the two-families, that's
 13 how they're constructed these days. Almost
 14 everything we do is a duplex. People tend to prefer
 15 that.
 16 MR. NIERSTEDT: Are we getting into
 17 the variances; so are we going to stick with
 18 engineering now?
 19 MR. HEHL: Not yet. He's just
 20 identifying --
 21 THE WITNESS: I'm trying to identify
 22 the variances.
 23 MR. HEHL: Identify the variances,
 24 yes.
 25 MR. NIERSTEDT: Since it's a use

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22

1 correct?
 2 MR. VINEGRA: Yeah, Floor-Area Ratio.
 3 MR. NIERSTEDT: First of all, how can
 4 lot coverage be Floor-Area Ratio?
 5 MR. HEHL: No, it's actually -- it's
 6 identified on the sheet as maximum building coverage
 7 but, in fact, it's FAR.
 8 MR. FRASER: I think it's just an
 9 erroneous reference, correct?
 10 MR. HEHL: Yes.
 11 THE WITNESS: And the maximum
 12 impervious coverage for the entire lot we do
 13 conform.
 14 And Mr. Vinegra just notes some of
 15 the -- he notes the encroachment of the masonry
 16 garage from the interior. I think that's pretty
 17 much it.
 18 Off-street parking we do conform. If
 19 you approve this layout we do have one space in the
 20 garage and we do have one space behind it that is
 21 entirely on the property. We don't encroach into
 22 the right-of-way with the second car.
 23 MR. HEHL: I think Mr. Fraser noted
 24 about the --
 25 THE WITNESS: The curb cuts, yeah.

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1 variance I was just wondering.
 2 MR. HEHL: Yes.
 3 THE WITNESS: We conform with lot
 4 area, width, depth, front yard setback.
 5 For Lot 11.02, which is the interior
 6 lot, the porch across the front is 42 square feet.
 7 That pushes you into -- you have to have that
 8 included in your front setback because of the square
 9 footage. I will have Mr. Waga explain the need for
 10 a 42-square-foot front porch. Other than that we
 11 would conform. The building is behind the setback,
 12 it's just that the porch kicks us back to this
 13 variance. Sideyard we're conforming. Rear is fine.
 14 Maximum number of stories. If you
 15 look at the architectural you will see that because
 16 the garage is a garage under with a downward
 17 driveway that qualifies as not a story. So they can
 18 do two-and-a-half stories as you see on the
 19 architect's plans. And he can go into that in much
 20 more detail.
 21 Maximum building coverage required for
 22 the lots, that would be the FAR.
 23 MR. HEHL: That's our FAR, correct.
 24 MR. VINEGRA: Excuse me?
 25 THE WITNESS: It's really the FAR,

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23

1 We're proposing a center entrance with the driveways
 2 on the outside. The architect can get into this a
 3 little more, but basically if you have two sets of
 4 stairs you would have more coverage.
 5 We thought it would be better to have
 6 a center entrance with separate driveways. It keeps
 7 things simple and separate for each side of the
 8 duplex because, again, you're not up and down, it's
 9 separate units, and that way it works better and
 10 keeps everything as an individual. Use and
 11 occupancy, we have enough parking, driveways and
 12 space.
 13 I think that's it.
 14 BY MR. HEHL:
 15 **Q.** We can skip Section E with Variances
 16 and Waivers. Some of this has been addressed
 17 already, you said you could supply drainage. But on
 18 Page 8 of 10 the Engineering Review Comments.
 19 **A.** Sure. Totally agree with the
 20 statement in number one. We will provide all the
 21 data if we get past preliminary approval. Again we
 22 will submit a Grading Plan if we can get that far
 23 with this application. That's two, three, four,
 24 five, they're all the same. That will be shown on a
 25 Grading Plan for the individual buildings that we

JAMES WATSON, P.E.**24**

1 can submit with the -- for final approval if we get
 2 past preliminary.
 3 Maybe we can discuss the driveways. I
 4 would like to get a little input from the board if
 5 you're dynamically opposed to separate driveways we
 6 can flip the design around and make it work, but
 7 this is the preference that we have right now. If
 8 you're dead set against it please let us know, we're
 9 not going to finish tonight anyway. If we have to
 10 come back I would like to come back with things that
 11 you prefer. That was seven.
 12 That's the garage under and again that
 13 was the client's choice, they wanted to try and get
 14 the extra floor because that gives them the third
 15 bedroom. And again the architect will go into that
 16 in more detail, how this house was set up and how
 17 the plan was formulated.
 18 Again nine, we'll do that with the
 19 grading plan, the stormwater detention system. And
 20 we just talked about the driveways.
 21 Keep in mind that I know we're taking
 22 up some parking here but this is a corner lot, you
 23 do have 100 feet of frontage on Maple Street that is
 24 available for parking. That will be uninterrupted.
 25 We'll be taking the depressed curb out that is about

JAMES WATSON, P.E.**25**

1 20, 22 feet long. So we'll pick up a space on Maple
 2 and you're going to lose some out on Willow.
 3 And then general comments, again just
 4 reiterating some of the stuff we just talked about.
 5 The driveway under the third floor, you know the two
 6 driveways per lot. And again the FAR which we're
 7 going to ask for guidance at the end of this.
 8 Regulatory approvals we have no
 9 problem with, it's standard and usually they're
 10 conditions of approval.
 11 CHAIRMAN GREET: At this time I'll
 12 bring it back to the board for questions of this
 13 witness.
 14 MR. NIERSTEDT: We might as well start
 15 with Number 6. I mean, Victor, maybe you can help
 16 provide answers, too. Simple question why are we
 17 proposing not the garage location -- sorry, not the
 18 driveway location, but why are we proposing
 19 underneath? And why do we have such a slope?
 20 And I would go back to Mr. Vinegra's
 21 report. I would question if, indeed, you do not
 22 need a parking variance because what he's saying is
 23 that the slope actually prohibits a car from being
 24 parked on it. I wonder why are we counting it?
 25 And, in my mind, why are we not asking for a

JAMES WATSON, P.E.**26**

1 variance for the second parking space for each of
 2 these units?
 3 I'm not locked in any way, I just
 4 wanted it explained. Why are we doing that?
 5 THE WITNESS: Why are we doing the
 6 garage under? Reason for the garage under is it
 7 allows you to get that half story and that gives you
 8 the third bedroom which is extremely desirable in
 9 today's market.
 10 Two-bedroom houses are very, very hard
 11 to rent, sell or whatever. If you have two kids,
 12 you know, most people try to split the kids up and
 13 one room for the parents.
 14 MR. FRASER: It's a four-bedroom.
 15 You're proposing a six-bedroom house.
 16 THE WITNESS: Well each unit has three
 17 bedrooms.
 18 MR. FRASER: Right. So it's a
 19 six-bedroom house.
 20 THE WITNESS: Okay, for a total
 21 two-family, yes. Six bedrooms for two families,
 22 yes. I'm talking about units but that's okay.
 23 MR. FRASER: You're talking about
 24 selling them.
 25 MR. NIERSTEDT: I understand. Are we

JAMES WATSON, P.E.**27**

1 talking about selling four three-bedroom units; is
 2 that correct?
 3 MR. FRASER: That's what it sounds
 4 like to me.
 5 THE WITNESS: The owners are here,
 6 they can address what their plan is. I'm saying
 7 when you market a unit, whether it's --
 8 MR. NIERSTEDT: I'll take you out of
 9 -- get you back into engineering.
 10 Could the property be designed with an
 11 at-grade garage?
 12 THE WITNESS: Yeah, yes. Without a
 13 doubt.
 14 MR. NIERSTEDT: Will you agree -- I
 15 don't want to phrase it that way. Do you think a
 16 13 percent slope should be -- I don't want to put
 17 you in that position either.
 18 THE WITNESS: I know what you're going
 19 to say and I agree with you. Okay?
 20 MR. NIERSTEDT: Okay. I do not like
 21 the garage.
 22 MR. FRASER: How many parking spaces
 23 are you losing on Willow?
 24 THE WITNESS: Frontage on Willow is
 25 100 feet, 24 feet for each one, so you would

JAMES WATSON, P.E.**28**

1 probably lose four.

2 MR. FRASER: But you won't be able to

3 park that close to the curb, right, to the corner?

4 THE WITNESS: If you're going this

5 way, ten feet from the corner. So the curbs are --

6 MR. CAPOBIANCO: Twenty-five from the

7 corner? Fifteen feet from a crosswalk.

8 MR. FRASER: So if you had no curb

9 cuts you would be able to park three cars in front?

10 THE WITNESS: Three, correct.

11 MR. FRASER: And if you had the

12 permissible number of curb cuts you would be able to

13 park two, right?

14 THE WITNESS: If you're going -- I

15 would say probably one because when you squeeze

16 these like that you're not going to be able to get

17 one here a full 24 feet, you get one in between the

18 driveways but you won't have -- using some of this

19 property you would probably get one more here, but

20 if you just count your frontage I would say you

21 would get one.

22 MR. FRASER: For the two lots you get

23 one for the 100 feet, you get one car?

24 THE WITNESS: Right, because you're

25 squeezing the two driveways 18 to 20 feet wide at

JAMES WATSON, P.E.**29**

1 least.

2 MR. FRASER: Unless you're moving to

3 the backyard with the garage.

4 THE WITNESS: Oh separate? You could,

5 yeah. If you're going to do that, yes.

6 MR. NIERSTEDT: Let's take Mr.

7 Fraser's question and frame it a different way.

8 What if you were, indeed, to put the

9 driveways together and have the entrances on the

10 side. In terms of Mr. Fraser's question about

11 parking what would that do, on-street parking?

12 THE WITNESS: I'm sorry, put these two

13 together and switch these to this side?

14 MR. NIERSTEDT: No, no, no. Take the

15 two -- have the two residential entrances on the

16 outside rather than the inside. So you flip the

17 driveways and the residential entrance. So you

18 would have the garage -- you would have the

19 driveways adjacent to one another, and so you could,

20 indeed, have just one curb cut per two-family --

21 THE WITNESS: Per lot?

22 MR. NIERSTEDT: Appreciate that, per

23 lot.

24 THE WITNESS: Correct.

25 MR. NIERSTEDT: And if you only have

JAMES WATSON, P.E.**30**

1 two curb cuts in total, how many parking spaces

2 would you be able to provide in the street then?

3 THE WITNESS: Again I would say one.

4 MR. NIERSTEDT: Just in between?

5 THE WITNESS: In between -- it would

6 be straddling the new lot line. It would be in

7 between the double driveways for each.

8 MR. FRASER: I don't understand. If

9 you went on the left and you put the first double

10 driveway on the far left, it's 18 feet, right?

11 THE WITNESS: Yeah.

12 MR. FRASER: So you have 32 feet left

13 on the left lot, correct? The left lot is 50 feet

14 across.

15 THE WITNESS: Right.

16 MR. FRASER: So if the left 18 feet

17 were a driveway you would have 32 feet of space left

18 over on the left lot, wouldn't you?

19 MR. NIERSTEDT: That was not my

20 question, that's a third question.

21 MR. FRASER: I forget how many spaces

22 you're missing. So if you did that, right, and you

23 had 32 feet there. And how much space do you need

24 for a parking space?

25 THE WITNESS: 24 feet.

JAMES WATSON, P.E.**31**

1 MR. FRASER: So you need a total of

2 48 feet to make two spaces, right? So you would

3 have 32 feet there. You could put 16 feet on the

4 left part of the right lot, so you could have

5 48 feet in a row, right?

6 THE WITNESS: Let me grab a pencil

7 here.

8 MR. FRASER: I just don't see how you

9 don't have two spaces.

10 MR. NIERSTEDT: You're talking about

11 25 feet from the corner, right? Then you have an

12 18-foot-wide driveway?

13 MR. FRASER: Okay. Then you have --

14 MR. NIERSTEDT: Hang on a second, 25,

15 18, 12 -- 43. Well 50-foot-wide lot, so then you

16 have -- you have to take another 18 on the far side.

17 MR. FRASER: Is the rule you have to

18 be able to have a driveway, you have to be 25 feet

19 from the corner for that? I don't think so.

20 MR. NIERSTEDT: No.

21 THE WITNESS: I'm trying to understand

22 what it is. So you're saying then you have a

23 driveway to the right-hand side, as far to the right

24 as you can; is that what you do?

25 MR. VENA: From the corner to the edge

JAMES WATSON, P.E.**32**

1 of the house is 14 feet.
 2 MR. FRASER: There's no way you don't
 3 have 48 feet.
 4 THE WITNESS: All right, quick sketch.
 5 What I did was came down the center, went ten feet
 6 each side for the pavement because you have a
 7 driveway in here and a driveway in here. Okay?
 8 MR. NIERSTEDT: No.
 9 MS. VILLAGGIO: You have to put them
 10 together.
 11 THE WITNESS: But each side has to
 12 have ten feet to get into their garage. You have to
 13 have -- you have a garage here and here so you're
 14 going to have a wall between them, roughly two feet
 15 wide.
 16 MR. FRASER: At the end of the day
 17 you're just saying that the driveway has to be
 18 centered on each building?
 19 THE WITNESS: Right. And it's going
 20 to be 20 feet wide to serve both units on each lot.
 21 MR. FRASER: Okay.
 22 THE WITNESS: When I lay that out I
 23 come up with --
 24 MR. FRASER: I understand what you're
 25 saying, the driveway has to be center for each

JAMES WATSON, P.E.**33**

1 building. You're correct.
 2 THE WITNESS: And I have 25 feet. So
 3 I would get one space between. And I couldn't get
 4 one here because I'm short with the 25-foot
 5 restriction from Maple Street.
 6 MR. FRASER: Because you're saying you
 7 can't put the driveways to the outside because they
 8 have to be centered on the buildings?
 9 THE WITNESS: Correct.
 10 MR. VENA: You can't push the garages
 11 to one side or the other?
 12 MR. FRASER: He wants them centered
 13 on each house so that it conveniently serves the two
 14 side-by-side units. And if he pushes it to the side
 15 it's going to be unbalanced and that's not what he
 16 wants.
 17 MR. VENA: Got you.
 18 MR. NIERSTEDT: It also creates the
 19 need for some type of -- I don't know if I want to
 20 say it's not an easement per se, but you wouldn't
 21 have the --
 22 MR. VENA: Conformity.
 23 MR. NIERSTEDT: -- well you wouldn't
 24 have the conformity in terms of looks, but you would
 25 have -- how do I phrase this? The two driveways --

JAMES WATSON, P.E.**34**

1 they wouldn't be identical. The buildings wouldn't
 2 be identical. But there's nothing to prohibit you
 3 from doing that.
 4 I understand what you're saying about
 5 having them centered, but you don't have to have
 6 them identical.
 7 THE WITNESS: Make each unit identical
 8 like driveway, stairs, driveway, stairs?
 9 MR. NIERSTEDT: I want to go where Don
 10 was.
 11 MR. FRASER: A driveway, stairs, per
 12 unit, stairs, driveway.
 13 THE WITNESS: That's what we're doing
 14 now.
 15 MR. NIERSTEDT: Mr. Watson, how about
 16 this?
 17 MR. FRASER: No driveway, space in the
 18 middle, then a double driveway.
 19 MR. NIERSTEDT: How about this,
 20 starting from Maple you have a 13-foot sideyard,
 21 right?
 22 THE WITNESS: Right.
 23 MR. NIERSTEDT: And let's just say --
 24 I'm not advocating it, let's just say you then have
 25 18-foot, as Don said, or a 20-foot double driveway.

JAMES WATSON, P.E.**35**

1 That would be 33, right?
 2 THE WITNESS: Okay.
 3 MR. NIERSTEDT: And then you have 50
 4 minus 33, you would have a 17-foot area at the curb
 5 in the street, correct?
 6 THE WITNESS: Okay.
 7 MR. NIERSTEDT: You would have the
 8 same thing if you were to take the driveway, flip it
 9 on the next property all the way over to the
 10 left --
 11 MR. FRASER: You don't have to put
 12 15 feet, you would have more.
 13 MR. NIERSTEDT: Well, that's true.
 14 What is the side yard, Mr. Watson? What's the side
 15 yard?
 16 THE WITNESS: Five feet.
 17 MR. NIERSTEDT: Okay, that's a good
 18 point. So you would have 25 plus 17, so you would
 19 end up with 42 feet at the curb line.
 20 THE WITNESS: Okay.
 21 MR. NIERSTEDT: I'm not advocating
 22 doing that but, I mean, that could be done.
 23 MR. FRASER: I wasn't advocating
 24 either. I'm asking.
 25 MR. NIERSTEDT: I appreciated the

JAMES WATSON, P.E.**36**

1 question, it made me think.

2 You wouldn't have the perfect parallel

3 parking spaces, you would have 21 for each, right?

4 THE WITNESS: Well you need 24 for

5 parallel.

6 MR. NIERSTEDT: I've had surveyors and

7 engineers come testify 20 is enough, but we won't go

8 there.

9 THE WITNESS: Another variance.

10 That's fine.

11 MR. NIERSTEDT: Right. So again I'm

12 not -- and I apologize to the court reporter, we're

13 going back and forth -- but I'm not advocating it,

14 but you could end up with 42 feet in between the

15 driveways. So you could end up with two parallel

16 parking spaces on the street. You would end up

17 reducing the number of curb cuts, but what you would

18 have is two mirror -- you would have two mirror

19 houses, one would have a garage to the right and one

20 a garage on the left.

21 MR. FRASER: Right. And it would also

22 be the case that while you may technically need

23 24 feet for a space, adjacent to both of these

24 parallel spaces is a curb cut for the driveway.

25 So in terms of maneuvering in and out

JAMES WATSON, P.E.**37**

1 not like you will have a car on both ends of you, so

2 you really have 21 feet spaces on each side that you

3 have free entry to from either side. So you have

4 enough room to park two cars if you wanted to.

5 CHAIRMAN GREET: You finished that

6 portion of this?

7 MR. NIERSTEDT: I'm sure we'll come

8 back, but yes.

9 CHAIRMAN GREET: I'm sure we will.

10 Anyone else from the Planning Board?

11 You want to leave the porches to the

12 architect?

13 MS. VILLAGGIO: Yes. I have questions

14 but I will wait for the architect.

15 THE WITNESS: No problem.

16 CHAIRMAN GREET: If no one else has

17 any other questions of this witness then we'll open

18 it up to the general public for just questions

19 specific to this witness.

20 Seeing none, I'll close that portion.

21 Thank you.

22 MR. HEHL: Thank you, Mr. Watson.

23 He'll be back.

24 MR. NIERSTEDT: Don't run away.

25 MR. HEHL: I would now like to call

GREGORY WAGA**38**

1 upon Mr. Gregory Waga.

2 MR. FRASER: Mr. Chairman, as I

3 mentioned in the past when Mr. Waga has come to

4 testify, Mr. Waga has -- now it's more than a year,

5 Mr. Waga has done personal work for me. He was the

6 architect, who did very fine work, for my house at

7 615 Center Street.

8 I don't believe that it poses a

9 conflict that disqualifies me from sitting while Mr.

10 Waga testifies, but I think it's incumbent on me to

11 disclose that.

12 MR. HEHL: And I discussed this with

13 Mr. Fraser before, and on behalf of the applicant

14 there's no objection either.

15 G R E G O R Y W A G A, having been

16 sworn, testifies as follows:

17 MR. FRASER: State and spell your

18 name.

19 THE WITNESS: Sure. Gregory Waga,

20 W-A-G-A. 2129 Saint Georges Avenue, Rahway, New

21 Jersey 07065.

22 MR. FRASER: Mr. Waga is being

23 presented as an expert architect?

24 MR. HEHL: Correct.

25 MR. FRASER: And your licenses are

GREGORY WAGA**39**

1 current, Mr. Waga?

2 THE WITNESS: All current.

3 MR. FRASER: He has testified before

4 this board previously, Mr. Chairman. I recommend

5 that you recognize him as an expert.

6 CHAIRMAN GREET: Accepted.

7 THE WITNESS: Thank you very much.

8 MR. HEHL: Thank you very much, Mr.

9 Fraser and Mr. Chairman.

10 E X A M I N A T I O N

11 BY MR. HEHL:

12 **Q.** Mr. Waga, you heard again the

13 testimony now of Mr. Watson with respect to the site

14 layout?

15 **A.** Yes.

16 **Q.** If you can now take us through the

17 design of the home both by way of floor plans and

18 elevations?

19 **A.** Sure. Thanks for the time this

20 evening. On behalf of the client I'm representing

21 the two structures which are similar in concept but

22 different sizes.

23 The corner property as we know due to

24 the setback requirements is required to have a

25 32-by-40-foot footprint. The interior lot to its

GREGORY WAGA**40**

1 left will have a 40-by-40-foot footprint. The
 2 habitable portions of each of the homes, for the
 3 corner lot each side will have a habitable portion
 4 of 1,632 square feet, for the interior lot will be
 5 1,822 square feet. And that is again habitable, not
 6 inclusive of the garage because that's not
 7 conditioned space, nor the basement portion which is
 8 primarily utilized for storage and utilities.

9 It does include the first floor, the
 10 second floor and the partial attic level which again
 11 is designed to act as a half story. But by the
 12 building codes set forth and established by the
 13 State of New Jersey is only permitted to be
 14 30 percent of the floor area of the floor directly
 15 below. So we comply with the international
 16 residential code for building.

17 The homes are standard frame, wood
 18 framed. Very nicely accruemented with nice features
 19 along the facade. As my colleague, Mr. Watson,
 20 alluded to in his testimony they will complement the
 21 neighborhood, they will enhance the neighborhood.

22 And again it's our thought that the
 23 side-by-side provision would allow for greater
 24 privacy elements as well as creating a better sense
 25 of identity for each of the four units that we're

GREGORY WAGA**42**

1 MR. FRASER: Thank you.
 2 THE WITNESS: The second floor which
 3 I'm referring to now as A-2B again is a proposed
 4 second floor on the left and a proposed attic floor
 5 plan on the right.

6 The proposed second floor plan again
 7 provides for two bedrooms, humble in size, modest in
 8 nature, and two full bathrooms along with a laundry
 9 room and sufficient closet space for each of the
 10 bedrooms.

11 As we proceed to the third floor level
 12 we have a small bedroom approximately 16-by-11. And
 13 again, self-sufficient with its own full bath.

14 So each of these units will be three
 15 full baths, laundry room, three bedrooms, living
 16 area, dining area and a kitchen area.

17 MR. FRASER: Wait a minute, there's
 18 three full baths?

19 THE WITNESS: Three full baths.
 20 There's one on the attic level and then two on the
 21 second floor. One common and then one for a master
 22 suite for the rear bedroom.

23 MS. VILLAGGIO: One in the back.

24 THE WITNESS: And this is the 40-by-40
 25 model. The 40-by-32 model varies slightly and we

GREGORY WAGA**41**

1 creating -- or the two units, dividing each into
 2 two.

3 We've satisfied the height
 4 requirements. We've satisfied the footprint
 5 requirements. Again the other areas that have been
 6 recognized to be in need of a variance have been
 7 addressed by my colleague and in Mr. Hehl's opening
 8 comments.

9 That being said, we are a very modest
 10 three-bedroom units, living room, dining area,
 11 kitchen. On the ground level with a powder room for
 12 access to the lower level, which would include the
 13 garage, the utility portion and the storage area for
 14 the storage component of the basement.

15 The second floor which is -- I'm going
 16 to switch boards here.

17 **Q.** By the way, are you referring to a
 18 mounted version?

19 **A.** I'm referring to Sheet A-1B. These
 20 boards are -- these presentation sheets are exactly
 21 what you have in front of you. There are no
 22 additional exhibits on my behalf this evening.

23 MR. FRASER: You said A-1B?

24 THE WITNESS: That's the 40-by-40

25 unit.

GREGORY WAGA**43**

1 can get into that if we need to, but again there are
 2 great similarities here between the two so I was
 3 hoping to achieve greater testimony on behalf of the
 4 40-by-40 model.

5 MR. FRASER: So there's
 6 three-and-a-half baths?

7 THE WITNESS: Three-and-a-half baths,
 8 I'm sorry. The powder room on the ground level.

9 MR. FRASER: That's why...

10 THE WITNESS: I apologize.

11 MR. FRASER: The attic space that is
 12 referenced here how is that accessible?

13 THE WITNESS: A full set of stairs
 14 from the second floor which lines up. They stack
 15 directly above the stairs coming up from the garage
 16 level on the interior court.

17 MR. VENA: I have a question.

18 THE WITNESS: Sure.

19 MR. VENA: You said common bathroom.
 20 There's no common bathroom in here. Each bedroom
 21 has its own bathroom.

22 THE WITNESS: Well the common bathroom
 23 that I'm alluding to is off of the hallway.

24 MR. VENA: What I'm referring to as a

25 common bathroom would be not in a bedroom not access

GREGORY WAGA**44**

1 to a bedroom, just the hallway is what I'm saying.
 2 THE WITNESS: Correct.
 3 MR. VENA: So each bedroom basically
 4 has their own bath. And looking at this plan who's
 5 going to be in the hallway on the second floor when
 6 there's no other room but a bedroom? What I'm
 7 getting at is your common bathroom is usually on
 8 your floor where your living room is, the dining
 9 room, the kitchen. The second floor there is no
 10 other room up there but the bedroom. You have a
 11 laundry room but I mean, it's -- that's a closet is
 12 what I'm saying.
 13 THE WITNESS: Understood.
 14 MR. VENA: Basically you have a
 15 bathroom for each bedroom is what I'm talking about.
 16 So the word "common" just threw me. It's not common
 17 ground. Nobody is going to be hanging out in the
 18 hallway. You're not going to get four adults up
 19 there hanging out.
 20 THE WITNESS: I understand.
 21 MR. VENA: That's what I was getting
 22 at. No problem.
 23 THE WITNESS: As we move forward to
 24 Sheet A-3B, we have the front elevation and the
 25 right side elevation. Again, the front elevation

GREGORY WAGA**45**

1 alludes to the ability to provide that separate
 2 identity for each of the tenancies with the garages
 3 flanking the central entry, again which is a shared
 4 stair and platform.
 5 And what we thought we created, just
 6 again as a separate identity, we did create a little
 7 -- a little extension on each of the left side of
 8 the entry door on the left unit and the right side
 9 of the entry door on the right unit to allow for
 10 just a simple planter or maybe a small chair for the
 11 residents to sit out there and again provide that
 12 neighborhood environment of a covered porch with a
 13 small seating area.
 14 That porch can always -- that covered
 15 platform can always be reduced in size if need be.
 16 We can minimize it and reduce it by 18 inches on
 17 both left and right. But that would again eliminate
 18 that ability to provide for a chair or a planter or
 19 something of that nature on that -- on each side.
 20 MR. FRASER: Now this is the bigger of
 21 the two units?
 22 THE WITNESS: Yes, sir.
 23 MR. FRASER: And this is the one that
 24 protrudes into the front yard setback, correct?
 25 THE WITNESS: I believe so.

GREGORY WAGA**46**

1 MR. FRASER: By four feet or
 2 something?
 3 THE WITNESS: I believe so.
 4 MR. FRASER: Is there any reason why
 5 this protrudes into the front yard setback other
 6 than you want to make it this big?
 7 MR. NIERSTEDT: What protrudes is the
 8 porch.
 9 THE WITNESS: The porch.
 10 CHAIRMAN GREET: Why are you
 11 indicating that that should be the case?
 12 THE WITNESS: Well, again, it's based
 13 upon the style and the nature of the house. We're
 14 looking, the way the interior was configured, we
 15 were able to modify and manipulate the ground floor.
 16 There were a lot of things that we took into
 17 consideration on the lower level. And by the
 18 placement of the stair it just fell into place in
 19 this regard.
 20 MR. FRASER: This house is 32 or 3,300
 21 square feet, correct?
 22 THE WITNESS: Correct, 1,800 square
 23 feet per side.
 24 MR. FRASER: That's the small one. So
 25 it's 3,200 square foot house.

GREGORY WAGA**47**

1 And it's due to the size of that house
 2 that you have a porch that will protrude into the
 3 front yard setback, correct?
 4 THE WITNESS: Correct.
 5 MR. FRASER: And with a house that was
 6 not 3,600 square feet you wouldn't have any need to
 7 protrude into the front yard setback?
 8 THE WITNESS: Correct.
 9 MR. NIERSTEDT: Could you not propose
 10 a porch on a house regardless of the size of it?
 11 THE WITNESS: Sure.
 12 MR. NIERSTEDT: So I don't really
 13 understand the question. I'll be very upfront, I
 14 support the porch. I wish the porch were bigger. I
 15 wish it were on both units. So having said that, I
 16 don't understand.
 17 MR. FRASER: I'm making the point or
 18 asking the question. And I have no issue with it, a
 19 porch is nice. But I'm just saying isn't it correct
 20 that you could have as big a porch as you wanted, as
 21 nice a porch as you wanted, the only reason it's
 22 stretching into the setback is because the house is
 23 so big?
 24 And you can build instead of a 3,600
 25 square foot house you can build a 3,400 square foot

GREGORY WAGA**48**

1 house and don't go into the setback. I'm not saying
2 it's bad but...

3 MR. NIERSTEDT: I understand. And I
4 understand what you're saying about the size of the
5 house, but as you said earlier the four units are
6 1,800, 1,800 -- I'm sorry, 1,600, 1,600, 1,800,
7 1,800.

8 THE WITNESS: 1,822, 1,632 -- 1,822
9 square feet on the 40-by-40 per unit, and that's
10 habitable area. And 1,632 square feet habitable on
11 the corner unit.

12 MR. VENA: The depth of both houses
13 are the same, correct?

14 THE WITNESS: Correct, 40 feet. The
15 widths are different.

16 MR. VENA: I understand the width is
17 going to change.

18 MR. FRASER: Because it's a corner
19 lot, right.

20 MR. CAPOBIANCO: How does that make
21 the porch have to be different?

22 THE WITNESS: In what way?

23 MR. CAPOBIANCO: That's what I'm
24 asking. How does it make that porch have to
25 protrude four feet into the front setback?

GREGORY WAGA**49**

1 If the house isn't deeper, one is
2 wider than the other, it has nothing to do with the
3 porch being deeper.

4 THE WITNESS: Right.

5 MR. CAPOBIANCO: I don't understand
6 why that comes into play at all. Why is that put on
7 there at all?

8 MR. VENA: It looks like the setbacks
9 are -- the setback is the staircase on the inside
10 too. The setback is different.

11 MR. NIERSTEDT: If I can phrase the
12 question a different way, Mr. Waga, the porch is
13 only proposed on the corner lot, correct?

14 MR. FRASER: Interior.

15 MR. CAPOBIANCO: The wider one.

16 MR. NIERSTEDT: So you would have the
17 same issue with the other one if you were to propose
18 a porch, right?

19 MR. VENA: The corner lot, the whole
20 porch is 6'8".

21 MR. FRASER: Deep?

22 MR. VENA: Deep. And this is over
23 seven foot, so you get an extra foot.

24 MR. FRASER: It's four-foot
25 differential.

GREGORY WAGA**50**

1 MR. VENA: I don't understand where
2 that comes from.

3 MR. CAPOBIANCO: Is the interior --

4 THE WITNESS: The reason and I have a
5 specific answer now to --

6 MR. HEHL: Let's refer to a specific
7 exhibit and page so the board can follow along.

8 THE WITNESS: The answer to your
9 question, the differential is because of the width
10 of the home has been reduced, we've had to modify
11 the proportion of the 32-foot unit's wide access
12 because now we've lost 8 feet in proportion to the
13 interior lot. So we have had to make the necessary
14 adjustments to reflect -- still allow for the
15 minimum requirements to gain entry and access to the
16 living levels from ground level, but that whole
17 component we have had to take four feet off of each
18 of the units and that's why that porch on the
19 sideyard -- on the corner lot complies. It's less
20 in area.

21 We took advantage of the width of the
22 50 wide and the 40 wide to, once again, allow for
23 that type of neighborhood environment with a larger
24 porch.

25 MR. FRASER: Is there anything that

GREGORY WAGA**51**

1 would block you from, giving that you're starting
2 from scratch with fully conforming lots, to
3 designing these structures to fit within the
4 building envelope?

5 THE WITNESS: No, we could have
6 probably reduced somewhat the footprint of the body
7 of the house not taking into consideration the
8 platform of the stair and recessed that.

9 MR. FRASER: But you're saying reduced
10 as though that the starting point is the size of the
11 house that you're looking for rather than the size
12 of the conforming lot and the ordinance.

13 You're starting with a blank slate of
14 a fully conforming level lot, that there's nothing
15 weird or shallow or narrow or any problems with but
16 you have a regular, normal rectangle lot. And if
17 I'm wrong, please correct me.

18 Is there anything at all that stopped
19 you from just designing a house that meets the
20 ordinance?

21 THE WITNESS: No.

22 CHAIRMAN GREET: And keeping along
23 those lines, and I guess as far as the "d" Variance
24 which is really what we're talking about, the FAR --

25 THE WITNESS: Yes.

GREGORY WAGA**52**

1 CHAIRMAN GREET: -- you have three
 2 definitive criteria that has to be met by the FAR
 3 and it's usually significant. It's not something
 4 that as a "c" variance you could -- you might
 5 adjust. With a "d" Variance you have to be specific
 6 and come up with reasoning behind it. And the first
 7 one would be beneficial to the public good, that's
 8 number one. Number two, you would have to show the
 9 benefit by placing the building where it's proposed
 10 and not going with a conforming building. And
 11 Number three, what hardship are you coming up with?
 12 MR. FRASER: He's the architect not
 13 the planner.
 14 CHAIRMAN GREET: Well, okay, but I'm
 15 just saying under those three criteria, I don't see
 16 anything being met that you couldn't just come up
 17 with a conforming design for those two subdivisions
 18 if, in fact, you get the subdivisions.
 19 THE WITNESS: Understood. Understood.
 20 MS. VILLAGGIO: I agree with Steve and
 21 Don that -- that you should be able to do these
 22 houses, or these multi-family homes, as what it says
 23 in the ordinance and get the same result.
 24 THE WITNESS: Okay.
 25 MS. VILLAGGIO: And the other thing

GREGORY WAGA**53**

1 that I'm not too thrilled on is the use of the
 2 attic. I don't feel that is necessary and it's not
 3 in keeping with -- with the neighborhood.
 4 THE WITNESS: We'll take that into
 5 consideration.
 6 MR. VENA: I don't see any detail
 7 about a firewall separating the units.
 8 THE WITNESS: That's generally
 9 required and all these will comply with the building
 10 code requirements. So when we submit them to Mr.
 11 Belluscio for permit, he will make sure that we
 12 would abide by all codes.
 13 MR. VENA: The answer to the question
 14 is, is this a block firewall?
 15 THE WITNESS: We haven't decided yet
 16 whether we're going to do block or a combination of
 17 block and gypsum board, but it will satisfy the
 18 rating required for the separation not only for fire
 19 but for sound.
 20 MR. VENA: Thanks.
 21 THE WITNESS: You're welcome.
 22 MR. CAPOBIANCO: One clarification,
 23 the two houses that you're proposing --
 24 THE WITNESS: Yes.
 25 MR. CAPOBIANCO: -- are going to be

GREGORY WAGA**54**

1 built along Willow, right?
 2 THE WITNESS: Correct.
 3 MR. CAPOBIANCO: They're going to be
 4 put in the same spot in relationship to the lots?
 5 THE WITNESS: Correct.
 6 MR. CAPOBIANCO: So they're both
 7 40-foot deep. One is 40-foot wide, one is 32-foot
 8 wide?
 9 THE WITNESS: Yes, sir.
 10 MR. CAPOBIANCO: So one is not a
 11 little ahead of the other; they're both straight
 12 lines right across?
 13 THE WITNESS: Right across. We've
 14 satisfied -- there's no offset. The only
 15 differential will be, again, the width.
 16 MR. FRASER: What you mean when you
 17 say "offset" is front to back. Because actually the
 18 left house is centered on the left lot, the right
 19 house, because you have the street on the side, is
 20 pushed to the left of the right house.
 21 THE WITNESS: No, understood. I think
 22 I interpreted your question by the --
 23 MR. CAPOBIANCO: I was --
 24 THE COURT REPORTER: I'm sorry,
 25 there's too much cross-talking. I'm so sorry, go

GREGORY WAGA**55**

1 ahead.
 2 THE WITNESS: It's okay. I was
 3 presuming that your -- I was interpreting your
 4 question as though you meant the alignment across
 5 the front yard setback, correct?
 6 MR. CAPOBIANCO: Correct. So my
 7 question is why is there an issue with the porch
 8 area? What is the difference? Because one house
 9 being a little thinner than the other doesn't make
 10 one house have to have a deeper porch. I don't
 11 understand what that's about.
 12 THE WITNESS: Do we want to gather
 13 together on that one?
 14 MR. HEHL: Mr. Watson, you're better
 15 able to answer that question.
 16 MR. WATSON: Give me a second. I'm
 17 going to take credit for this one.
 18 MR. HEHL: We'll re-call Mr. Watson.
 19 MR. FRASER: He's sworn, that's fine.
 20 MR. WATSON: We did not update the
 21 house with the porch. These are supposed to be
 22 identical. We're supposed to pull out to match
 23 this. And I apologize, this was going quickly and
 24 we did not make the change on the corner lot.
 25 MR. FRASER: So you actually want,

GREGORY WAGA**56**

1 then, the variance for the front yard setback on
 2 both lots?
 3 MR. WATSON: On both, right. And this
 4 is for an open porch not enclosed. It's got a roof
 5 over it to keep you out of the rain.
 6 Again, my apologies.
 7 MR. CAPOBIANCO: My next question is,
 8 is this an anesthetic reason or is there a physical
 9 reason why this should be done that way?
 10 THE WITNESS: It's both. As Mr.
 11 Watson alluded to it keeps the inclement out, it
 12 covers you, gives you a nice covered entry. And
 13 again it's the practicality of having an open
 14 covered porch to enter and cover your entry.
 15 CHAIRMAN GREET: How do you access
 16 that entry if your garage is on a slope going down?
 17 Are you going to have stairs going from the sloping
 18 parking area that you call it?
 19 THE WITNESS: No, you are going to
 20 walk up the driveway parallel to a retaining wall
 21 and then around the sidewalk and up to the front.
 22 CHAIRMAN GREET: So you're going to
 23 have to walk out in inclement weather and then walk
 24 down?
 25 THE WITNESS: Well if you're the

GREGORY WAGA**57**

1 homeowner you're going to have -- that individual
 2 owner, you're going to have direct access to your
 3 garage and you're going to be able to enter your
 4 home from the garage and up the stairs.
 5 CHAIRMAN GREET: That's my point is
 6 what real purpose does the covered porch have
 7 if -- for the owner if, in fact, he is going to have
 8 access directly through the garage? That's the
 9 question.
 10 THE WITNESS: It just provides -- and
 11 I will answer Part B of the question. Yes, there
 12 are aesthetics involved in the application of this.
 13 You know, we have got something that is balanced
 14 that is not necessary, but it's a level of comfort I
 15 believe. It's an enhancement not only to the facade
 16 but to the design of the entry system itself.
 17 MR. FRASER: But wait a minute. So if
 18 you're presuming that the owner is going to be in
 19 the garage so he's got interior access from the
 20 garage to the upstairs. And I'm the owner and I
 21 come home, if my tenant's home first and my tenant's
 22 parked on this slanty driveway, I have a problem.
 23 THE WITNESS: Yeah, but that won't be
 24 the case, again, because we said each unit has been
 25 arranged so that this will be one tenant, this will

GREGORY WAGA**58**

1 be the other tenant, so that will never happen.
 2 MR. FRASER: I got you. I got you.
 3 Dumb question. I missed it.
 4 THE WITNESS: That's okay.
 5 MS. VILLAGGIO: We said before we
 6 didn't like the separate parking garages.
 7 MR. FRASER: What I'm saying as
 8 proposed. I know I'm -- I got confused because each
 9 unit has an interior and exterior space. It's just
 10 stacked parking for the one unit itself not with the
 11 other unit?
 12 THE WITNESS: Right. And again, and
 13 as I was diligently listening to your questioning of
 14 Mr. Watson regarding creating a larger apron, again
 15 the singular aprons seem to fall in line with the
 16 neighborhoods, those are narrow aprons. The double
 17 apron at that point, in answering your question, Mr.
 18 Fraser, would be that each tenant of that particular
 19 unit would be the left side tenant would have the
 20 left side access to the driveway and the garage.
 21 The right side tenant -- and that would be an
 22 agreement that would be made and probably placed in
 23 the lease and so on and so forth. I will have to
 24 defer the management of the units to my client.
 25 MR. FRASER: Right, but it's still two

GREGORY WAGA**59**

1 stacked spaces per unit so the same thing. Okay.
 2 CHAIRMAN GREET: Just, and this has
 3 nothing to do with you, just talking -- just as a
 4 paperwork for the application itself, I don't know
 5 who I would address this to but you do have other
 6 items, Item Number 24, which may be required and in
 7 the plans submitted you have a "No" next to sanitary
 8 sewer connection permits. You do need sanitary
 9 sewer permits. You need to pay fees for that not
 10 only to our town, which is \$750 at this time per
 11 unit, but also to the RVSA which is our sewer
 12 authority that governs the 14 municipalities.
 13 THE WITNESS: Okay. Again that is a
 14 question that is something that will be addressed
 15 through the clients themselves.
 16 MR. NIERSTEDT: Mr. Chairman and Mr.
 17 Fraser and Mr. Hehl, tell me if I'm going in the
 18 wrong direction --
 19 MR. HEHL: I would never do that,
 20 Bill.
 21 MR. NIERSTEDT: Yes, sir, you would --
 22 because I'm not sure if I'm asking a planning
 23 question or architect's question. I thought I came
 24 to this meeting tonight thinking there were two
 25 applications and I was hoping to get through two.

GREGORY WAGA**60**

1 Then we said we won't get through one and I was
 2 sitting here wondering. And now I'm beginning to
 3 really agree that we're not going to get through
 4 that. The reason I say that is because I see a lot
 5 of contradictions. And I thought Mr. Fraser's
 6 question was right on in terms of why can't we build
 7 two conforming two-family houses on here, maybe side
 8 by side as opposed to up and down, but you can -- I
 9 did go up and down Willow Avenue, I don't know the
 10 answer to this question I'm sure other members do --
 11 the other houses across the street, the two
 12 families, are they up and down or are they side by
 13 side?

14 CHAIRMAN GREET: They're up and down.

15 MR. NIERSTEDT: They're up and down?

16 CHAIRMAN GREET: They also have a
 17 garage.

18 MR. NIERSTEDT: So you're right, Mr.
 19 Waga, that they have a smaller driveway but it's a
 20 shared driveway that goes back to a two-car garage.
 21 I'm not advocating that.

22 If you go down towards west, there's a
 23 two-family house that is the reverse of this,
 24 meaning the two garage doors are on the
 25 inside -- the two garage doors are in the inside and

GREGORY WAGA**62**

1 I have no objection to that. It comes to design.
 2 I would encourage you to go back, take
 3 a look. We're talking about one structure being
 4 3,600 or one structure being 3,400. They're big
 5 units. I'm sitting here saying they're bigger than
 6 my house. I don't know if it's bigger than Kathy's
 7 but we won't go there.

8 Mr. Hehl, I know there's marketing
 9 behind this. I know you have to build a certain
 10 amount to get your money back and everything else
 11 but they're big units. And I think it's the big
 12 unit that is actually driving these variances. And
 13 I think you actually can, I know it goes back to the
 14 sales, you can only reduce it down so much, but if
 15 you reduced the size of the units a little bit. I
 16 don't have a problem with the use of the attic, I
 17 really don't. And I do understand the need for
 18 three bedrooms. As I indicated earlier, I like the
 19 porches and I would rather have two separate
 20 entrances and two porches. I don't even mind if
 21 they project a little bit into the front yard.

22 But now I understand the question that
 23 fellow board member Mr. Fraser asked in terms of
 24 what is forcing you to request the variances are
 25 basically the size of the units, and to me that's

GREGORY WAGA**61**

1 the residential entrances are on the outside. And I
 2 have been going past that a lot and I looked upon it
 3 and said, gee, I hope I wasn't on the board when
 4 that was approved because it doesn't match the
 5 neighborhood, but it's there. And I have looked at
 6 it and switched it in my mind and I do kind of like
 7 that better, the center. Combined driveway?

8 THE WITNESS: Yeah.

9 MR. NIERSTEDT: And it doesn't even
 10 have to be combined, they have a little separation,
 11 I think the curb cut -- I think they have the curb
 12 cut but I think the driveways are actually separated
 13 which I think does make sense in terms of
 14 maintenance and what have you.

15 I guess what I want to say, and I
 16 don't know if this is directed towards Mr. Watson in
 17 terms of planning testimony or yourself, but I would
 18 encourage you to go back to the neighborhood in
 19 terms of looking at the other houses. I would
 20 recommend that. I realize the owner is I'm sure
 21 here. I am very glad that this property is being
 22 proposed to be developed and I don't want the
 23 applicant to think in any way or form that -- I
 24 don't speak for the rest of the board, but in my
 25 mind, hey, I don't want two two-family houses here.

GREGORY WAGA**63**

1 self-imposed. So I kind of question that.

2 Also, I don't want to jump too far,
 3 but I know there's a statement on here about them
 4 being condominiumized -- is that a word?

5 MR. FRASER: I didn't know that was a
 6 verb.

7 MR. NIERSTEDT: -- which I'm happy in
 8 one regard meaning that they're going to be
 9 owner-occupied. And the other -- Mr. Hehl, I
 10 concede to you, usually two-family condos are
 11 difficult.

12 MR. HEHL: They are for having
 13 done them. I have done them and then I get a call
 14 from my clients saying can you undo them. And a lot
 15 of that is driven by the ability to get financing,
 16 the complexities in dealing with an association of
 17 two people, the issues of maintenance. You have to
 18 fix the roof, one side doesn't. So they are
 19 problematic.

20 I would offer to say that it's
 21 generally held that that's not a -- not a zoning
 22 issue, but as a practical matter they do present a
 23 lot of marketing/financing issues probably and
 24 maintenance issues.

25 CHAIRMAN GREET: Staying on that

GREGORY WAGA**64**

1 subject, staying on that subject just for a quick
 2 moment, so some of the issues you had mentioned, one
 3 of the issues said that you had some clients that
 4 wanted to un-condominium their unit --
 5 MR. HEHL: Yes.
 6 CHAIRMAN GREET: -- which in
 7 essence -- two-fold question. Number one is that
 8 can you do that?
 9 MR. HEHL: Can you condo them?
 10 CHAIRMAN GREET: Can you condo and
 11 de-condo? Can you separate them again into
 12 individual units or houses?
 13 MR. FRASER: Can you recombine them?
 14 MR. NIERSTEDT: Recombine them.
 15 CHAIRMAN GREET: Yes.
 16 MR. HEHL: Can they be condoed?
 17 MR. NIERSTEDT: No, can the
 18 condominium be removed?
 19 MR. HEHL: Yeah, you can do that.
 20 MR. FRASER: All you have to do is buy
 21 both halves.
 22 CHAIRMAN GREET: Okay, so you have to
 23 buy it as a package?
 24 MR. HEHL: If you buy both halves.
 25 And I'll give you, for example, the one that was --

GREGORY WAGA**65**

1 somebody that I had condoed a couple of units and
 2 then one person wound up buying both and had it
 3 -- wanted to have his daughter and son-in-law occupy
 4 the other side. And the taxes on two units was much
 5 greater than it was on a two-family house so he said
 6 can you dissolve the master deed.
 7 MR. NIERSTEDT: Good work.
 8 MR. FRASER: The answer is you can?
 9 MR. HEHL: Yes.
 10 MR. NIERSTEDT: But that then -- I
 11 always find that interesting because you haven't
 12 subdivided the property into two different lots.
 13 MR. HEHL: Correct.
 14 MR. NIERSTEDT: But you removed the
 15 market feature, but they aren't though -- they're
 16 not condo or not rental; what are they?
 17 CHAIRMAN GREET: They have to be
 18 packaged in order to make a sale. You can't just
 19 buy one unit.
 20 MR. VENA: If it's a condo...
 21 MR. NIERSTEDT: He's right.
 22 MR. FRASER: Hold on. It's a
 23 two-family. If they later comply with all the
 24 aspects of the condominium law, which Mr. Hehl knows
 25 much more about than I ever will, but you would

GREGORY WAGA**66**

1 ultimately be allowed to do it and you would be
 2 allowed to purchase two condos if you wanted. And
 3 then they would each be separately taxed.
 4 And if you ended up that you owned
 5 both of them and you wanted to undue the condo and
 6 turn it back into a two-family and you owned both
 7 halves of it, you would get a good lawyer like Mr.
 8 Hehl instead of somebody like me, and you would
 9 undue it and you would ultimately be able to get
 10 that done.
 11 Does that really matter here? No.
 12 But it is an interesting question.
 13 MR. NIERSTEDT: The other reason I
 14 brought it up is because you go back then to rental
 15 units.
 16 MR. FRASER: Or family member.
 17 MR. NIERSTEDT: Or family member.
 18 Then you would forego the...
 19 MR. VENA: You have a two-family like
 20 anybody else.
 21 MR. NIERSTEDT: I understand.
 22 MR. VENA: You can also abandon the
 23 use if it's a two-family house and you're not
 24 renting, right or wrong?
 25 MR. FRASER: Yeah, but nobody is going

GREGORY WAGA**67**

1 to do that in this kind of unit.
 2 MR. VENA: That's what I'm saying. We
 3 have been going through with our two-family houses,
 4 if you abandon the use for so many years you're not
 5 actually renting the house.
 6 MR. NIERSTEDT: Good God.
 7 MR. VENA: You know what I'm talking
 8 about?
 9 MR. NIERSTEDT: Now I do, yeah.
 10 MS. VILLAGGIO: My question also is
 11 with regard to that if each -- if each of the units
 12 are sold, okay, that wouldn't -- then you would
 13 need -- you would need a variance per
 14 Victor's -- didn't you indicate that?
 15 MR. VINEGRA: No.
 16 MR. FRASER: No, it's not. It's
 17 condominium.
 18 MR. VINEGRA: The answer is no. It's a
 19 separate piece, condominium.
 20 MR. NIERSTEDT: What the tax office
 21 does, it draws a line around each unit and then they
 22 draw a third line around the property. So you end
 23 up with two units that are taxed individually and
 24 then an association that are taxed.
 25 MR. HEHL: It's actually quite common

GREGORY WAGA**68**

1 to do that in strip centers. Sometimes you don't
 2 even realize it, if somebody takes a four-unit strip
 3 center and condos it up. But again you run into
 4 those same problems, now you have four-unit owners
 5 and who is going to decide on snow plowing and
 6 landscaping and all that as opposed to one common
 7 owner that seems to insist on maintenance.

8 MR. VENA: I see it every day going to
 9 work. I work in Elizabeth. When I leave this town
 10 and go through Cranford, Roselle and into Linden and
 11 Elizabeth you see the duplexes and you see how --
 12 you know that they're separately owned because you
 13 have a brown roof on one side and a black roof on
 14 the other side. You have a white storm door and a
 15 brown storm door. I'm not saying this would ever
 16 turn into that because it's a new house but it could
 17 down the road.

18 MR. FRASER: Exists in Westfield. I
 19 used to live in one. On Myrtle Avenue in Westfield,
 20 over where the old inspection station was at the end
 21 of that street those houses were designed side by
 22 side, two-family. They're actually under separate
 23 ownership and a number of them they were not painted
 24 identically. I lived in one. People tried to keep
 25 the color constant but if you painted your house one

GREGORY WAGA**70**

1 done from a not only an aesthetic standpoint but
 2 again having lived in two-family houses, it is when
 3 you have the up/down there's a lot of negatives
 4 associated with that. And you will find that your
 5 modern designs do have it where there's the privacy
 6 associated with the side by sides.

7 CHAIRMAN GREET: But again, even if
 8 you were going to do side by side, you could come in
 9 with a conforming design that could possibly work.

10 My only comment --

11 MR. FRASER: Or less non-conforming.

12 CHAIRMAN GREET: Less non-conforming.

13 But my only comment from a standpoint of putting
 14 these two units on the corner of Maple and Willow is
 15 that that entire block of Willow is old style, one
 16 over one, with a garage, separate garage. And now
 17 you're putting these two units that are obviously
 18 very, very updated and modern in that same -- that
 19 same element. And I just -- personally, I think it
 20 just doesn't fit.

21 I just don't think it's -- it gives
 22 the perspective that I would like to see from
 23 looking at that block in general. And especially
 24 when it's right on the corner, it's in your face
 25 every time you drive past. So that's my comment.

GREGORY WAGA**69**

1 year and your neighbor painted his house - the other
 2 half of the same building - two years later, the
 3 color never matched.

4 And you can look at it, you can see,
 5 you know, exactly what happens. You don't have to
 6 go to Elizabeth for it, you can walk to Westfield.

7 MR. NIERSTEDT: Mr. Waga, just an
 8 aside, total aside, because I don't think we're
 9 going to finish tonight, do you know the area Mr.
 10 Fraser is talking about? Talk about eclectic --

11 THE WITNESS: I'm very familiar with
 12 that area.

13 MR. NIERSTEDT: -- in terms of
 14 consistency of character of neighborhood. I don't
 15 know what you would say?

16 THE WITNESS: That I'm very familiar
 17 with exactly where he's talking about.

18 MR. FRASER: Myrtle Avenue in
 19 Westfield.

20 THE WITNESS: Yes, I know it well.
 21 The cut through of the central to the south.

22 MR. FRASER: Yes.

23 MR. HEHL: This is being done -- and I
 24 would like to briefly call upon my client, I would
 25 just like to address the board -- but it's being

GREGORY WAGA**71**

1 THE WITNESS: Sure, thank you.

2 MR. CAPOBIANCO: Just one quick
 3 question. Going back to the board, I notice in the
 4 plans that we have that there is designations for
 5 washer and dryer --

6 THE WITNESS: Yes.

7 MR. CAPOBIANCO: -- in the basement
 8 area of each building, of each apartment I will say,
 9 and also a designation for washer and driver on the
 10 second floor of each building.

11 THE WITNESS: Which sheet are you
 12 looking at?

13 MR. CAPOBIANCO: A-1A.

14 THE WITNESS: Let me switch that out.
 15 Please give me a minute.

16 MR. FRASER: The one unit he has --

17 MR. CAPOBIANCO: I might be wrong with
 18 that.

19 MR. VENA: The corner house has it in
 20 the basement.

21 MR. FRASER: If you look at A-1A it's
 22 in the basement.

23 THE WITNESS: And we have a different
 24 set because, again, we were confined to an
 25 eight-foot narrower structure, we had to accommodate

GREGORY WAGA**72**

1 the washer/dryer down in the basement of each unit.
 2 We could not afford the space on that second floor.
 3 MR. CAPOBIANCO: I didn't
 4 differentiate between the page numbers, I'm sorry.
 5 MR. NIERSTEDT: It's not even the page
 6 number so much as you're saying the narrower
 7 structure has it in the basement whereas the wider
 8 structure has it on the second floor.
 9 THE WITNESS: Correct. Because again
 10 the space allotment, again we have about
 11 six-and-a-half feet for the laundry room at the
 12 second floor. We lose four feet on each. That's
 13 the amenity on that unit that becomes a sacrificial
 14 lamb so to speak and we have to accommodate it down
 15 in the basement level.
 16 MR. CAPOBIANCO: Thank you.
 17 THE WITNESS: You're welcome.
 18 CHAIRMAN GREET: Anyone else from the
 19 Board have any questions of this witness?
 20 If not I will open it up to the
 21 general public for any questions specific to this
 22 witness.
 23 Seeing none, I will close that
 24 portion.
 25 THE WITNESS: Thank you.

NAZAR ALTUN**74**

1 a second, you're the contract purchasers of this
 2 property meaning you don't own it yet. If you get
 3 the approvals you will be purchasing and developing
 4 this property?
 5 **A.** That is correct.
 6 **Q.** And if you could give the board a
 7 brief background as to what you're looking to do
 8 here, recognizing the questions that the board had
 9 on why is it this size, why is it this design. I
 10 know you had professional testimony by Mr. Watson
 11 and Mr. Waga so far, but from an applicant's
 12 standpoint & partner's standpoint.
 13 **A.** So our approach was that we saw this
 14 empty lot and obviously we wanted to build a
 15 two-family on it. Our approach was to build
 16 something that we felt we would want to live in. I
 17 found that we find the side-by-side design versus
 18 the up-and-down design, you know, to be
 19 aesthetically more pleasing. It gives you a lot
 20 more outdoor space both in the front and in the
 21 back. Both units can have their own outdoor space.
 22 When it's up and down it's tougher for the top units
 23 to share that outdoor space. Obviously there's
 24 noise concerns.
 25 And the porch was something that we

NAZAR ALTUN**73**

1 MR. HEHL: Thank you, Mr. Waga.
 2 I would now like to call upon Nazar
 3 Altun.
 4 MR. ALTUN: Nazar Altun, N-A-Z-A-R,
 5 short for Nazareth.
 6 MR. FRASER: Last name?
 7 MR. ALTUN: A-L-T-U-N, Altun.
 8 N A Z A R A L T U N, having been
 9 sworn, testified as follows:
 10 MR. FRASER: And you spelled your name
 11 already. The address?
 12 THE WITNESS: 9 Hamilton Court,
 13 Paramus, New Jersey.
 14 MR. FRASER: Your witness.
 15 MR. HEHL: Great.
 16 E X A M I N A T I O N
 17 BY MR. HEHL:
 18 **Q.** Mr. Altun, you're one of the
 19 applicants in this case with part of the LLC?
 20 **A.** That's correct. I'm one of three
 21 partners in the LLC. My other partners are also
 22 here, Louis Magrone and Kevin Mitchell.
 23 **Q.** And you obviously heard the comments
 24 from the board. First of all, just give us a little
 25 background as to -- and, by the way, backing up for

NAZAR ALTUN**75**

1 actually really wanted. We felt it added to the
 2 neighborliness between the two tenants and also kind
 3 of gives you a portal to the whole neighborhood, the
 4 whole house.
 5 I feel at my house, when you sit on
 6 the front porch, you're talking to the people around
 7 you, walking the dogs, what have you. That was the
 8 impetus behind the design, why we wanted it side by
 9 side.
 10 **Q.** And as far as the size of the units, I
 11 know that Mr. Fraser commented on this and I think
 12 Mr. Nierstedt, as far as the size and marketability
 13 of these units?
 14 **A.** Obviously the size that they're
 15 designed provides for more marketability, 1,800
 16 square feet and 1,600 square feet when you look at
 17 them per unit. As one house when you add them
 18 together it's a large number. But as an 1,800 unit,
 19 square feet unit, we felt it was quite modest, three
 20 bedrooms, and one we could easily market to families
 21 in Garwood.
 22 **Q.** And you've heard the board's comments
 23 and I know we have to address a number of the items
 24 that came up here this evening from the board and
 25 from Mr. Vinegra. One of the comments was with

NAZAR ALTUN**76**

1 respect to the driveway configuration and, for lack
 2 of a better phrase, garage underneath the driveways.
 3 **A.** Just, you know, one of the reasons we
 4 wanted to do a driveway that went down is because we
 5 felt we had to have a basement. The reason for that
 6 is there's an old easement from the early 1900's on
 7 the property that required a cellar if you built a
 8 dwelling. It also prohibits us from building a farm
 9 on the property or a nail house. But that was kind
 10 of how we started thinking why we thought about a
 11 basement.

12 But we're happy to, you know, to the
 13 extent it makes sense from Mr. Waga's standpoint,
 14 we're happy to move the garage doors in whatever way
 15 works for this board and not do the incline into the
 16 garage but build it level, on grade.

17 MR. FRASER: Two questions. At the
 18 outset are you saying that your contract is
 19 contingent on approval?

20 THE WITNESS: Yes.

21 MR. FRASER: And then I lost my train
 22 of thought as to the second question.

23 MR. HEHL: It will come back.

24 MR. FRASER: It will, but I apologize.

25 MS. VILLAGGIO: You mentioned about

NAZAR ALTUN**78**

1 means we don't know.

2 MR. VENA: Basement.

3 MR. FRASER: What is it, Mr. Hehl?

4 MR. HEHL: It looks like it was the
 5 original developer of the property. And I know we
 6 have had these discussions, remember doing one 15,
 7 20 years ago where there were lot sizes specified
 8 and you say no, we can't have old deed restrictions
 9 override current zoning, zoning provisions.

10 MS. VILLAGGIO: So we don't know?

11 MR. FRASER: Well it's an interesting
 12 question. Somebody would have to address it in
 13 court which the applicant would certainly prefer not
 14 to have to incur the expense to do.

15 MR. NIERSTEDT: You mentioned the
 16 square footage. I'm just curious, did you compare
 17 it to other units in the area? I know there was a
 18 new two-family constructed further down on Willow
 19 between Center and West. I'm sure we have the plans
 20 for that. I would like to see what that -- the size
 21 of that structure was. As I said earlier I mean I
 22 would like to see the two two-families, a positive
 23 development, but it's that size that is just driving
 24 these other variances.

25 The porch, one of the reasons I would

NAZAR ALTUN**77**

1 the level now, not going down driveway. But then
 2 you would have a -- then if you do that wouldn't the
 3 height of the building be too --

4 THE WITNESS: We would have to work
 5 on, Mr. Waga, on conforming the building.

6 MS. VILLAGGIO: To conform the height
 7 of the building?

8 THE WITNESS: Correct.

9 MS. VILLAGGIO: I just wanted to make
 10 sure.

11 CHAIRMAN GREET: Which would reduce
 12 your FAR.

13 THE WITNESS: Which would reduce our
 14 FAR. Again we would have to look at Mr. Waga's new
 15 design and see if that makes sense economically
 16 speaking, but we're willing to explore it.

17 MR. FRASER: I remembered my question.
 18 What is this about a deed?

19 MR. HEHL: There's actually an old
 20 deed restriction that specifies that among the
 21 things that --

22 THE WITNESS: Can't build a nail
 23 house, a farm, you can't keep goats on the property
 24 and you have to have a cellar. If you build a
 25 dwelling there has to be cellar. What "cellar"

NAZAR ALTUN**79**

1 like to flip the driveways -- and look for Mr. Waga
 2 to have input on this, not bring it up now but in
 3 the design. Porches are great when they're usable.
 4 I understood what he said putting in a lawn chair.
 5 I would rather have -- I know we can't do this
 6 obviously, you know, I won't mention wraparound
 7 porch, but I would rather have a longer porch and a
 8 deeper porch that you can actually use.

9 I agree with you, front yard porches
 10 are fantastic. I do not speak to the rest of the
 11 board but I will put it out there. I would rather
 12 see a legitimate porch as an encroachment into a
 13 required front yard than have a -- I'm exaggerating
 14 -- a 4-by-3 porch for a lawn chair. I just mention
 15 that in your redesign.

16 MS. VILLAGGIO: I would agree with Mr.
 17 Nierstedt with regard to that suggestion. I think
 18 that would look nice.

19 CHAIRMAN GREET: Anyone else have
 20 questions from the Board? Seeing none I'll open it
 21 up to the general public. Seeing none I'll close
 22 that portion.

23 Any discussion?

24 MR. FRASER: Does he have more
 25 witnesses? Does he want to call Mr. Watson,

1 probably?
 2 MR. HEHL: Well I do have Mr. Watson
 3 for planning testimony. But maybe if we could take
 4 a five-minute break and I could talk to my clients
 5 and discuss the feedback that we received from the
 6 Board this evening and Mr. Vinegra's letter?

7 MR. FRASER: Sure.

8 CHAIRMAN GREET: Five minutes.

9 MR. HEHL: Thank you, Mr. Chairman.

10 (Brief recess is now taken at 9 p.m.)

11 (The record resumes at 9:20 p.m.)

12 CHAIRMAN GREET: Okay, folks, back in
 13 business.

14 MR. HEHL: Thank you very much.

15 Appreciate you giving us a few minutes to speak to
 16 the partners and our professionals.

17 What we would like to do at this time,
 18 rather than call on Mr. Watson to provide the
 19 planning testimony, we've certainly, and truly
 20 appreciate this, received some great feedback from
 21 the board and board professionals, both Mr. Fraser
 22 and Mr. Vinegra. We would like to go back and
 23 modify the plans to address a number of the concerns
 24 of the board. That is the great process, and in
 25 particular this board has always given applicants

1 guidance in their thoughts and comments, as have
 2 their professionals. So at this time we
 3 respectfully request that the matter be carried.

4 I think at this point if it could be
 5 carried to the next meeting, we would like to have
 6 an opportunity to submit some plans quickly to the
 7 board and its professionals. I think we had some
 8 good direction.

9 And so that would be our request. I
 10 don't know what the agenda is right now.

11 MR. FRASER: Don't we have Dittrick's
 12 on?

13 MR. HEHL: That's now for April.

14 MS. LEWIS: We do have a meeting in
 15 two weeks.

16 CHAIRMAN GREET: Could you be prepared
 17 in two weeks?

18 MR. HEHL: Yes, and if not I would
 19 appear on the 27th and request further, but I have
 20 been told that the amazing W and W Team can turn it
 21 around in a couple of days.

22 MR. NIERSTEDT: And you believed them?

23 CHAIRMAN GREET: Well we appreciate
 24 you coming and giving us the overview of what you
 25 have -- what you have done up to this point. I'm

1 sure, you know, it didn't go exactly how you...

2 MR. FRASER: Nobody voted on anything
 3 yet, so let's not go...

4 CHAIRMAN GREET: That's true. But it
 5 sounds like you were going to revise your plans?

6 MR. HEHL: Correct.

7 MR. FRASER: Let's address the
 8 scheduling issue for just a second. Because if the
 9 meeting is two weeks from this evening, that means
 10 for everything to be submitted ten days before, that
 11 means Friday. That is the day after tomorrow.

12 MR. NIERSTEDT: I don't think W and W
 13 can do that.

14 MR. FRASER: I think they could but in
 15 the real world is that real?

16 And I have no problem at all, Mr. Hehl
 17 -- and if everybody can do it, God bless -- and
 18 having this on for March 27, but does that actually
 19 make any sense? Because that's a Wednesday. That
 20 means if you get us this stuff by Monday that's only
 21 nine days before the hearing. And if there's going
 22 to be some sort of substantial redesign I can just
 23 see it being an issue.

24 Does that make a lot of sense? Or
 25 does it make more sense to have this on the April

1 meeting when you're here anyway and that gives your
 2 superb team of W and W sufficient time to get it to
 3 this board, you know, with at least ten days before
 4 the hearing? Because otherwise it's Friday, day
 5 after tomorrow. Is that real?

6 MR. WATSON: Not this time of year.

7 MR. HEHL: Are you guys okay? I see
 8 the three partners saying that makes a lot of sense.

9 MR. FRASER: So, Adele, other than Mr.
 10 Hehl's other application with Dittrick's do we have
 11 anything else on for April?

12 MS. LEWIS: No, I don't.

13 MR. FRASER: So my suggestion, Mr.
 14 Chairman, would be that we carry this application to
 15 April. My suggestion would be that the board would
 16 not have to require additional notice if the board
 17 didn't want to, and we can just carry the
 18 application until then.

19 CHAIRMAN GREET: Would it -- would
 20 that be predicated on the amount of changes that are
 21 going to be made to this application?

22 MR. FRASER: No, because it's going to
 23 be I think a less intensive, less variance-laden
 24 application than is presently before the board so I
 25 don't see an issue. And we would be giving notice

1 to the public this evening, anybody who is here who
2 is interested in the application, and they would
3 have opportunity to review the plans if they so
4 sought.

5 CHAIRMAN GREET: Okay. Is that your
6 desire to do that?

7 MR. HEHL: Yes.

8 MR. NIERSTEDT: We're going to get
9 transcripts.

10 MR. FRASER: Listen, if you care
11 because you think it's necessary or desirable to be
12 here, you're the Chairman, you make the decision,
13 but from a legal standpoint it doesn't matter. Mr.
14 Hehl is going to get us the transcript in advance so
15 we can have a full member board review that
16 transcript and have whatever benefit of what we said
17 tonight, if that's relevant.

18 If you want to be personally present
19 as chairman you can offer it to them. Legally
20 speaking we don't have a problem.

21 MR. NIERSTEDT: Mr. Chairman, before
22 we review it, either before or after we go there, I
23 would like to raise three site issues for Mr. Watson
24 to address before he comes back.

25 MR. FRASER: Yes, I think if there's

1 something else that's out there let's throw some out
2 there, I agree.

3 MR. NIERSTEDT: You didn't propose any
4 street trees, so particularly along Maple there are
5 none. We would appreciate -- there are overhead
6 wires on both Willow and Maple, so please propose
7 appropriate street trees. We require one every 40
8 feet, so at least three on this side of the street.

9 Two, I did take note on your exhibit
10 that you are proposing to install -- I'll say a
11 full-depth curb along where the current driveway is
12 but you did not indicate -- and you're proposing new
13 sidewalk. Did you not indicate you have to remove
14 pavement in between? So please, if you can, just
15 make sure you are indeed removing the new pavement
16 between the new curb and sidewalk.

17 And third, while I'm very appreciative
18 to the applicants they propose to remove the fence,
19 the four foot fence. I think "ugly" has to go
20 before "chain link". I'm glad you're removing it.
21 I did not see the same note for the fence along the
22 western border. If you can discuss that with your
23 client and see if they're removing that also, that
24 would be appreciative.

25 MR. WATSON: That won't be a problem,

1 it's on our side of the lot.

2 MR. NIERSTEDT: Great. Thank you, Mr.
3 Chairman. Thank you, Mr. Watson.

4 CHAIRMAN GREET: I would like to
5 propose the possibility of having a second meeting
6 in May and that would be May 8. And that
7 would -- that would be preferable if we could have
8 your application, as opposed to the 24th, appear on
9 the 8th of May; is that a possibility?

10 MR. ALTUN: Under our contract it
11 might be an issue.

12 MR. HEHL: We have been battling
13 getting extensions on the contract. What we can do
14 is perhaps carry it to the April meeting, see if we
15 can negotiate an extension.

16 MR. FRASER: And your issue is you
17 want to be here?

18 MR. WATSON: I have a conflict on the
19 8th.

20 MR. FRASER: The point, though, is if
21 we're going to have a special meeting what is the
22 advantage of having it in May rather than April?

23 MR. NIERSTEDT: We have one May 8,
24 that's a regular meeting.

25 MR. VENA: Yeah, but --

1 MR. NIERSTEDT: I'm sorry, wrong
2 board. My fault.

3 MR. VENA: We only have one meeting in
4 April that's the 24th. What about having one on the
5 10th? Instead of having two in May have two in
6 April and just the one in May.

7 MR. FRASER: I'm just saying if you're
8 going to do a special meeting to accommodate the
9 Chairman and they have a contract issue, have a
10 special meeting earlier.

11 CHAIRMAN GREET: April 10; how is
12 that?

13 MR. NIERSTEDT: April 10?

14 MR. HEHL: What do you have there,
15 Bill?

16 MR. NIERSTEDT: I'm not going to say
17 what I have here. I have a medical procedure that
18 day. I'll leave it at that. But I should be fine,
19 it should be fine.

20 Everybody okay with April 10?

21 MR. MALCOLM: I'll be in Florida.

22 MR. HEHL: We're going to get to that
23 point.

24 MR. VINEGRA: Mr. Chairman, I think
25 the design team needs some direction because

1 I'm -- what I see on the plans I don't agree with
 2 whatsoever. The steep driveway, when you transition
 3 from 13 percent to zero percent -- because my car
 4 couldn't do that, you would drag bottom, you would
 5 drag front.
 6 I think the FAR we have never given
 7 that density. A two-family zone was created not for
 8 two three-bedrooms, it was for a two-family. A
 9 number of people here have lived in two families,
 10 you owned one, you owned one. And they're normally a
 11 one bedroom for the tenant with a small den or a
 12 small second bedroom. They're not three-bedroom
 13 units. And that's why the ordinance was written the
 14 way it was. It wasn't to create six bedrooms on a
 15 50-by-100 lot. It was created for owner/occupant to
 16 get some income from the third level. It wasn't
 17 created to permit such density.
 18 So that FAR is something, once you
 19 give an FAR variance the next -- you're going to
 20 be -- because this is not exceptional narrowness,
 21 there's no special reason besides -- and financial
 22 gain is not a special reason. So you have to
 23 remember if they come in with an FAR variance and
 24 this board allows it, the person next door can come
 25 in with an FAR variance and then we have a case of

1 haven't permitted a side by side. That's the one
 2 thing.
 3 MR. FRASER: But that's -- that is a
 4 variance request.
 5 MR. VINEGRA: Is this board amenable?
 6 MR. NIERSTEDT: The one on Willow.
 7 MS. VILLAGGIO: That was before the
 8 ordinance was changed.
 9 MR. NIERSTEDT: That was before the
 10 ordinance?
 11 MS. VILLAGGIO: That was before the
 12 ordinance was changed, specifically changed.
 13 MR. NIERSTEDT: I don't know. Wasn't
 14 the original ordinance top and bottom? I don't
 15 think that was changed.
 16 MR. VINEGRA: The way the ordinance is
 17 is that you have to have a ceiling.
 18 MR. NIERSTEDT: I'm trying to
 19 remember, wasn't that in the original?
 20 MR. VINEGRA: Probably not because you
 21 have by, Mr. Vena, you have a number of sides by
 22 sides which are quite cute. The brick ones, there's
 23 some side by sides.
 24 MR. VENA: All up and down. Only side
 25 by side is two houses down from Lorenzo's, the guy

1 law here. That's why.
 2 MR. NIERSTEDT: I agree. I think we
 3 got that through. If they are raising the garage to
 4 grade, you're going to start -- Mr. Waga is going to
 5 have fun figuring out how to get three bedrooms
 6 within three stories, maximum 35, with the garage
 7 now at grade.
 8 MR. VINEGRA: But it's not this
 9 board's job to get three bedrooms.
 10 MR. NIERSTEDT: Oh, I understand.
 11 MR. FRASER: I think, Victor, the
 12 point has been communicated to the applicant that
 13 the applicant --
 14 MR. VINEGRA: Clearly.
 15 MR. FRASER: -- that the applicant
 16 needs to potentially rethink the size of these
 17 structures. And they have a very, very capable
 18 design team for this applicant. The applicant and
 19 its professionals have listened this evening. I
 20 don't think that we want to overly direct them as to
 21 how they wish to proceed.
 22 Let them come back with their new
 23 revised application having heard what they have
 24 heard.
 25 MR. VINEGRA: The one thing, we

1 that -- the prefab foundation.
 2 MR. WATSON: There's one across the
 3 street.
 4 MR. FRASER: I still think the
 5 applicant has heard -- the applicant wants to come
 6 in, come in with a side-by-side application they can
 7 appropriately fit onto the lot. I'm not an
 8 engineer. It's an interesting question but the
 9 applicant can come up with something, he's entitled
 10 to have his day in court or day before the board.
 11 MR. VINEGRA: I just wanted to make
 12 sure that we don't -- they do it and they do all
 13 this time and then the board doesn't like side by
 14 sides at all, that's all. Just trying to get a
 15 feeling of the board, what they feel of side by
 16 side. But I guess it's considered what the
 17 submittal is.
 18 MR. FRASER: It is a question. I
 19 think it's ultimately a question of how big is the
 20 side by side, how violative of the ordinance it is
 21 of the other issues. If you had a side by side that
 22 you didn't have any FAR questions, you didn't have
 23 any of these other setback issues, the board might
 24 look at it one way.
 25 I didn't hear a lot of outrage about

1 the side-by-side part, it's everything that goes
2 with it and what else is it causing. And when you
3 say "side by side" where each unit is in excess of
4 1,800 square feet, so you try to ultimately put a
5 3,700 square-foot six-bedroom house on a 50-wide
6 lot; isn't that the problem more than the side by
7 side, Vic?

8 MR. VINEGRA: Well the board, as far
9 as the developer is looking to mirror the two
10 garages so they will be next to each other, there's
11 only a single curb opening.

12 MR. NIERSTEDT: Well we discussed
13 that, too.

14 MR. VINEGRA: Correct.

15 CHAIRMAN GREET: And that being said
16 that doesn't eliminate them coming up with a one
17 over design.

18 MR. VINEGRA: Yes. Because it still
19 will be a "c" variance. Even if it was conforming
20 on all other counts it would still be a "c" variance
21 from the design tables with the side by sides, so it
22 still would need a variance.

23 MR. FRASER: Right.

24 MR. NIERSTEDT: The side by side, yes.

25 MR. VINEGRA: Even if everything else

1 conforms they would still need to come before -- it
2 would be the planning board then, it would no longer
3 be the board of adjustment.

4 MR. HEHL: Right.

5 MR. VINEGRA: It would be the planning
6 board. So then the notice would have to be redone.
7 So then what happens is we're taking -- if they take
8 out the FAR now they're going to the planning board.

9 MR. FRASER: I was going to suggest we
10 don't get overly torn into the weeds on this until
11 we see what they submit.

12 MR. VINEGRA: No, I'm telling them so
13 if they come back with a combination and it meets
14 the FAR now it has to be re-noticed with a planning
15 board application.

16 MR. FRASER: I don't know if I agree
17 with that.

18 MR. VINEGRA: The Zoning Board would
19 have the jurisdiction.

20 MR. FRASER: I don't know that I agree
21 with that. I'll discuss it with Mr. Hehl and I'll
22 discuss it with you privately.

23 MR. VINEGRA: Okay.

24 CHAIRMAN GREET: So, Mr. Hehl, would
25 April 10 be appropriate?

1 Is it good for our board, except for
2 Bill? We'll give you a special seat.

3 MR. HEHL: That would be a Special
4 Meeting on April 10?

5 MR. FRASER: Do you care to miss it?

6 MR. MALCOLM: No.

7 CHAIRMAN GREET: Then our next meeting
8 would be, to hear this particular application, will
9 be April 10. We do have a meeting on March 27
10 though, as well.

11 MR. HEHL: That's right, we have one.

12 CHAIRMAN GREET: With that, again,
13 thank you.

14 MR. HEHL: Thank you. And really
15 appreciate your time and consideration this evening.
16 See you soon.

17 CHAIRMAN GREET: Very good.

18 MR. HEHL: Have a great night. Thank
19 you, again.

20 (Application adjourned at 9:30 p.m.)

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C E R T I F I C A T E

I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witnesses were duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the hearing as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither a relative nor employee nor attorney nor counsel of any of the parties to this action, and that I am neither a relative nor employee of such attorney or counsel, and that I am not financially interested in the action.

Angela C. Buonantuono, CCR, RPR, CLR
License No. 30X100233100
Dated: April 17, 2019

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