

MANALAPAN ZONING BOARD OF ADJUSTMENT
MINUTES OF THE REGULAR MEETING

Thursday, March 3, 2022
TOWNSHIP OF MANALAPAN
Manalapan, NJ 07726

PUBLIC MEETING~ HD OFFICE SUITES

Open Public Meetings Act: Stephen Leviton

Roll Call: Janice Moench

In attendance at the meeting: Robert Gregowicz, Robert DiTota, Terry Rosenthal, David Schertz, Adam Weiss, Joshua Shalakar, Stephen Leviton

Absent from the meeting: Larry Cooper, Basil Mantagas, Joseph Iantosca

Also, present
Ronald Cucchiaro, Zoning Board Attorney
Dustin Glass, Zoning Board Attorney
Brian Boccanfuso, Board Engineer
Janice Moench, Recording Secretary

MINUTES:

A Motion was made by Mr. Schertz, Seconded by Mr. Gregowicz, to approve the Minutes of February 3, 2022 as written.

Yes: Gregowicz, DiTota, Rosenthal, Schertz, Weiss, Shalakar, Leviton
No: None
Abstain: None
Absent: Cooper, Mantagas, Iantosca
Not Eligible: Mantagas, Iantosca

RESOLUTIONS:

A Motion was made by Mr. Rosenthal, Seconded by Mr. Shalakar, to approve the Resolution of memorialization for Application ZBE2138~Aung

Yes: Rosenthal, Shalakar, Leviton
No: None
Abstain: None
Absent: Cooper, Mantagas, Iantosca
Not Eligible: Cooper, Gregowicz, DiTota, Schertz, Weiss, Mantagas, Iantosca

Public Hearings

Application No. ZBE1917

Applicant: Englishtown Business Park (Ambe Holding)
Proposal: Proposed office/warehouse
Request: Use/Preliminary & Final Major Site
Location: Freehold Road & McGellairds
Block/Lot: 20/70-74 and Block/Lot: 2013/1 & 2
Zone: R20

Please see the attached transcription.

ADJOURNMENT:

A Motion was offered by Mr. Weiss to adjourn the meeting at 9:35 PM. All were in favor and none opposed.

Respectfully Submitted,


Janice Moench

Recording Secretary

A RECORDING OF THE ZONING BOARD OF ADJUSTMENT IS AVAILABLE FOR REVIEW, IN THE PLANNING/ZONING BOARD OFFICE BY APPOINTMENT.

TOWNSHIP OF MANALAPAN
ZONING BOARD OF ADJUSTMENT
CASE NO: ZBE1917

IN RE: :
:
ENGLISHTOWN BUSINESS :
PARK (AMBE HOLDING) :
FREEHOLD ROAD AND :
MCGELLAIRDS :
BLOCK/LOT: 20/70-74 :
and 2013/1&2 :
ZONE: R20 :
:
(Via Zoom Video :
Conference) :
:

ORIGINAL

TRANSCRIPT OF PROCEEDINGS:
THURSDAY, MARCH 3, 2022

B E F O R E:

CHAIRMAN STEVEN LEVITON
ROBERT GREGOWICZ
ROBERT DITOTA
TERRY ROSENTHAL
DAVID SCHERTZ
ADAM WEISS
JOSHUA SHALIKAR

DUSTIN GLASS, ESQ., BOARD ATTORNEY
JANICE MOENCH, RECORDING SECRETARY
NANCY DEFALCO, ZONING OFFICER
BRIAN BOCCANFUSO, PE, BOARD ENGINEER
JENNIFER BEAHM, PP, BOARD PLANNER

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

2 SONNENBLICK, MEHR, AND LICATA, PC
3 3 Monument Street
4 Freehold, New Jersey 07728
5 BY:William Mehr, ESQ.
6 Attorney for applicant

7 CONCEPT ENGINEERING CONSULTANTS
8 123 NJ-33 #204
9 Englishtown, New Jersey 07726
10 BY:BHASKAR HALARI

11 MCDONOUGH AND REA ASSOCIATES
12 1431 Lakewood Rd, # C,
13 Manasquan, New Jersey 08736
14 BY:JOHN REA

15 JAMES W. HIGGINS ASSOCIATES
16 901 W Park Avenue
17 Ocean Township, New Jersey 07712
18 BY:JAMES HIGGINS

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

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NONE		

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DIRECTIONS NOT TO ANSWER

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1 CHAIRMAN LEVITON: And now, it's time
2 for our public hearing. First, let me welcome Mr.
3 Cucchiaro to the proceedings. Tonight, we're going
4 to be hearing application number ZBE1917, Englishtown
5 Business Park, AMBE Holdings, and from the
6 professional corporation of Sonnenblick, Mehr, and
7 Licata, Mr. Mehr, on behalf of the applicant. Mr.
8 Mehr?

9 MR. CUCCHIARO: Just before we get
10 started, Mr. Chairman, I wasn't able to count when
11 you were taking the votes, but how many board members
12 do we have tonight that are eligible, because this is
13 not the first time we've heard this application.

14 CHAIRMAN LEVITON: That's correct, it
15 was heard on November 7, 2019, and everyone in
16 attendance, this evening, has either heard the
17 initial application, or certified that they listened
18 to it, since.

19 MR. CUCCHIARO: Okay, I just wanted to
20 make sure.

21 MS. MOENCH: Seven in total.

22 MR. CUCCHIARO: Okay.

23 MR. MEHR: Okay, thank you, thank you,
24 Ron. Okay, we, you know where we're going tonight on
25 this, we need site plan approval, obviously, and

1 there are use variances involved as well as bulk
2 variances. We will present tonight Bhaskar Halari,
3 who will do the engineering related items, he will be
4 followed by John Rea, who will do a very quick
5 traffic report, because as you know, all of the
6 traffic on this project goes out into Englishtown,
7 and Mr. James Higgins will do the planning testimony,
8 so we'll have three witnesses today.

9 MR. CUCCHIARO: Would you like us to
10 begin with Mr. Halari?

11 MR. HALARI: Yes.

12

13 B H A S K A R H A L A R I, having first been duly
14 sworn, testified under his oath as follows:

15 MR. CUCCHIARO: Please state and spell
16 your name for the record.

17 MR. HALARI: Sure, name is Bhaskar Halari,
18 H-A-L-A-R-I, Concept Engineering Consultant,
19 Manalapan, New Jersey.

20 CHAIRMAN LEVITON: Mr. Halari, before
21 you continue with your testimony, would you please,
22 either Mr. Glass or Mr. Cucchiaro, swear in the
23 board's professionals?

24

25 B R I A N B O C C A N F U S O, having first been

1 duly sworn, testified under his oath as follows:

2

3 J E N N I F E R B E A H M, having first been duly
4 sworn, testified under her oath as follows:

5

6 CHAIRMAN LEVITON: Mr. Halari, you may
7 continue.

8 MR. HALARI: Thank you very much,
9 Chairman. This is an application for a property
10 that's located on Harrison Avenue and Center Street
11 in Englishtown. The rear portion of the property is
12 located in Manalapan, which also fronts on
13 McGellairds Crossing Road. I think I can share the
14 screen, right?

15 CHAIRMAN LEVITON: Yes.

16 MR. HALARI: Okay, let me just open up the
17 aerial drawings.

18 MS. MOENCH: Bhaskar, I'm leaving it in
19 your hands because unfortunately I can't access my
20 drive for some reason, so.

21 MR. MEHR: Bhaskar, has put this up, can
22 you please describe the existing location and
23 conditions of the property?

24 MR. HALARI: Sure, everybody can see my
25 screen share?

1 MS. MOENCH: I'm sorry, is this one of the
2 exhibits?

3 MR. HALARI: Yes, this is exhibit A-1.

4 MS. MOENCH: Thank you.

5 MR. HALARI: Okay, going back to the
6 description, the site is located on Harrison Avenue
7 in Englishtown where my cursor is moving right now,
8 and on Sanders Street in Englishtown. The rear
9 portion of the property, part of it, fronts on
10 McGellairds Crossing Road, which is an existing
11 residential street behind the property.

12 The site is about 30 acres that you see
13 on yellow in this map rendering, this is an aerial
14 photograph of the site taken from Google, because
15 that was more recent. The access to the site is
16 provided only through Englishtown through Center
17 Street and Harrison Avenue access, and it loops
18 around the side. You go through Harrison Avenue and
19 then go to the rear of the site and then you can exit
20 on to Center Street. So, there's a loop system for
21 the access. The site is about eight acres in
22 Englishtown, that is located in the industrial zone,
23 and about 22 acres is located in Manalapan.

24 MR. MEHR: This was the old Washington
25 Forge property, is that correct?

1 MR. HALARI: Correct. This was the old
2 Washington Forge Industrial Complex. The township
3 line is basically runs from northwesterly corner of
4 the site to the southeasterly corner of the site, you
5 can see the light gray line on this plan, and it kind
6 of runs through some existing buildings.

7 So, the development, as I said, about 8
8 acres is located in Englishtown, about 22 acres in
9 Manalapan. The Englishtown section is located in the
10 industrial zone, the Manalapan portion of the
11 property is located in a residential zone. There is
12 two different residential zones that the property
13 falls into. The northeasterly portion of the
14 property is located in RE zone, while the
15 southeasterly portion of the property is located in
16 the R20 zone.

17 The site is surrounded by residential use
18 to the north, to east, and to the south. Along
19 Harrison Avenue, there is a Verizon office building,
20 and school administration building and a church
21 facility on Harrison Avenue.

22 The site is serviced by sewer and water.
23 There is about 136 thousand square feet of flex space
24 located on the site in five different buildings.
25 There is two existing single family dwellings on

1 Center Street, that is what currently occupies the
2 site. What we are proposing here, is additional two,
3 let me go to the proposed plan.

4 MR. MEHR: Before you do that, would you
5 describe what types of uses are currently on the
6 property?

7 MR. HALARI: Yeah, so the current uses on
8 the site is like contractor's office, some people
9 doing online sales, we also have a home improvement
10 company, a restoration company where your flooding
11 and your basements, they come and restore your
12 property, a sign manufacturer, we have furniture
13 restoration company, we have a lawn sprinkler
14 company, we have a pool service company, a small
15 manufacturing, we have one of the tenant who does
16 spatial cable manufacturing for US Defense
17 agreements. So there is like an office distributor,
18 those are the type of use we have on the site
19 currently.

20 MR. MEHR: And what is the size, the
21 number of employees that most of these companies
22 have?

23 MR. HALARI: Two to five, I would say.
24 Most of the spaces are one or two employees, but like
25 I say, these larger tenants may have five or six

1 employees. The site has more than adequate parking
2 as you can see on the aerial pictures, there is more
3 than adequate parking on and around the site.

4 MR. MEHR: What is their current hours
5 of operation?

6 MR. HALARI: 7 a.m. to 6 p.m. for most
7 time, there is one existing tenant, which is an
8 indoor sports complex, and he has hours until 10
9 p.m., but they have a spatial variance from
10 Englishtown to have that.

11 Besides that, so this is the proposed
12 design, I zoomed in a little bit so you can see a
13 little better. We are basically proposing two
14 buildings, there is one building located along the
15 easterly portion of the site, which is like divided
16 into three modules, that total building consists of
17 46 thousand square feet, including the mezzanine
18 space, and the building that is located along the
19 Center Street, that is about 24 thousand square feet
20 with some mezzanine space.

21 Both of these buildings will have a
22 similar uses, obviously in Manalapan, the flex space
23 is not permitted, therefore we require a use
24 variance. We do have some bulk variance and some
25 waivers on this application which I will discuss a

1 little further.

2 MR. MEHR: The building that's on the
3 north side there, is that actually split between two
4 towns?

5 MR. HALARI: Correct, yes, part of the
6 building, I would say, one-third of the building is
7 in Englishtown, and two-thirds of the building is in
8 Manalapan.

9 We are keeping the site circulation the
10 same way as currently exists, we will add about 95
11 additional parking to the site. The site requires
12 about 261 spaces, we have in excess of 400 parking on
13 the site. Out of the proposed parking, we have about
14 85 spaces of 10 by 18, which is primarily located in
15 front of the building one, and some of the parking is
16 also provided in front of building number two, and we
17 do have 12 handicap spaces that is scattered
18 throughout the site near each building. We have
19 about 18, 10 by 30 spaces, and the rest are 9 by 18
20 spaces.

21 The site is primarily accessed by the
22 employees or the owner, or the tenants that occupies
23 the space. We rarely have some visitor to the site,
24 so we did provide a significant portion of the
25 parking, that is 10 by 18 to accommodate that.

1 We do have three loading areas for each
2 module on this building located to the east, the
3 building located on the Center Street in the smaller
4 building, and anticipate to have a smaller tenant.
5 So we have parking along the front of the building
6 that would be etched accordingly.

7 Again, the site is serviced by sewer and
8 water. The sanitary sewer exists at the end of the
9 Center Street, which will be extended in front of the
10 building one, so the building one can be connected to
11 sanitary sewer. Also, the water also be connected
12 from the Center Street, which currently is a water
13 main, and we will extend that and connecting to an
14 existing data main in the Mechanic Street. So,
15 basically we will provide a lube system throughout
16 the site, so both the prices and the well will
17 improve for both of those Center Street and Mechanic
18 Street as part of the improvements.

19 MR. MEHR: What about the loading
20 spaces?

21 MR. HALARI: I discuss that, I did say
22 there are three loadings.

23 MR. MEHR: Okay.

24 MR. HALARI: We have a significant
25 improvement as far as the drainage goes. The site

1 currently has no drainage improvements at all, it's
2 basically everything runs over land and half of the
3 site, eastern half towards the rear of the site and
4 western half comes to the Harrison Street with a
5 runoff.

6 What we are proposing to do is provide a
7 number of inlets in this proposed parking area in
8 front of the building one, as well as in front of
9 building two, and provide an underground connection
10 of this inlet into a proposed storm water basin,
11 which is located on the northeasterly side of the
12 building one. The basin is designed to reduce the
13 peak runoff to the site, the site is designed to meet
14 storm water rules. We already have obtained the NJ
15 DEP wetlands and flood hazard area and they have
16 reviewed our storm water design and it is already
17 approved by them.

18 So, this will provide a significant storm
19 water improvement to the site. Even in Englishtown
20 area, we are proposing some storm inlets to collect
21 surface runoff and connect into existing inlet where
22 the runoff is currently draining to.

23 We also provided a recharge system behind
24 the building one to take a clean runoff from the
25 building one roof, and that will be recharged into

1 the ground and any overflow will go into proposed
2 storm water basin. Because of the poor drainage on
3 the site, the parking and paving is not been able to
4 be maintained properly, this will significantly
5 improve the paving and the drainage condition of the
6 site.

7 MR. MEHR: So, you will be repaving the
8 driveway?

9 MR. HALARI: Yes, the -- of the rear
10 portion of the site where the parking lot will be
11 completely resurfaced and improved, some existing
12 areas will also be improved. I think the extent of
13 the milling and repaving is gonna be reviewed by
14 Brian's office, and then we may modify this increase
15 depending on the need that Brian sees regarding that
16 improvement, so that is still open.

17 We have three address enclosures for
18 building one, one at each end of the building, and
19 then one at the front of the building two. We have
20 one trash enclosure on southeasterly corner of that
21 building two, on that building. I will show that
22 view of this building to the board now.

23 MS. BEAHM: Bhaskar, before we get to the
24 architecture, can you provide a detail of the trash
25 enclosure to my office?

1 MR. HALARI: Oh, yeah, sure, actually,
2 Brian has asked us to provide a masonry trash
3 enclosure, so we will provide that detail and also,
4 Brian has asked us to provide some additional
5 landscaping around the trash enclosure, which we will
6 agree to do.

7 MS. BEAHM: Great.

8 MR. HALARI: Just going back to the site
9 plan for a moment, the rear of this building number
10 one has only fire exit, there is no activity proposed
11 behind the building number one. I'll go to the, can
12 you see the building or you can see the word?

13 MS. BEAHM: I can see it, not anymore,
14 now it's gone.

15 MR. HALARI: There we go. Okay, so
16 basically we designed a contemporary, modern design
17 building. Jennifer had asked us to improve the front
18 elevation of this building by providing some
19 additional office to the building, which we will
20 agree to provide and we will revise this design to
21 Jennifer's satisfaction.

22 But, the idea is to provide some
23 contemporary building with a canopy at the entrance
24 of the building, and with some additional features
25 around the windows and some wood paneling in the

1 front of the building to give it an attractive look.
2 We will have a signage that comes up -- the building
3 at each door, so the person driving in the front can
4 see each sign appropriately.

5 MR. MEHR: The garage doors that you
6 show there, are they big enough to allow standard
7 trucks --

8 MR. HALARI: Sure, a box truck can easily
9 access that, the garage doors are 10 feet wide by 12
10 feet high, so it can accommodate all kinds of box
11 trucks. We have 45 foot clearance in front of that
12 garage door so the truck can easily maneuver into
13 this space. So, I would like to now further review
14 the landscaping behind building number one, where we
15 had provided 50 feet landscape buffer along
16 McGellairds Crossing Road, which we accept to the
17 residential use that's located behind us. I have
18 prepared a cross-section of that area so you can see
19 exactly how we try to provide significant buffering
20 to the residents on McGellairds Crossing Road. This
21 is the section of, of the area, I'll just review the
22 plan a little bit.

23 MS. BEAHM: Bhaskar, we're still seeing
24 the elevation.

25 MR. HALARI: You can see this plan view,

1 now. This is a small blowup of the portion of the
2 area where you see the proposed flex space of the
3 building one. I have a station section line that
4 runs from left to right where I just moved my cursor,
5 the existing home is shown where my cursor is, the
6 plan view, this is McGellairds Crossing Road, and
7 here is our 50 feet landscape buffer.

8 When I go into the cross-section area
9 below it, let me zoom in a little more, what you see
10 here from the left, this is the proposed building, it
11 is a 30-feet high in the front and it's pitch to the
12 back, so the rear wall would be about 25 feet. Then
13 we have a berm that's located behind the building,
14 this vertical line is a center line off an existing
15 McGelliards Crossing Road. It seems like in the
16 past, McGelliards Crossing Road was anticipated to be
17 a bypass for Englishtown. So, that part of the road
18 has 80 feet right-of-way, normally you will have only
19 50 feet right of way for the road. And there is an
20 existing berm that's located right to the west of the
21 existing McGelliards Crossing Road.

22 Within the right-of-way, there is a six
23 feet high berm, and what you are proposing is a
24 continued solid line of fence that would be six feet
25 high. Behind it, we have a staggered row of

1 evergreen trees, and then we have some more deciduous
2 trees located on our side. I see on this plan, I
3 have shown a little human walking on a walkway on the
4 right side of that McGelliards Crossing Road, and let
5 me just zoom a little more so it's more clear. So,
6 here is, and I'm showing a line of sight for the
7 person walking on top of the evergreen trees and you
8 won't be able to see this building because of the
9 grading.

10 Also, the McGelliards Crossing Road is
11 six feet above the first floor of our proposed
12 building. So, in practically, from that point of
13 view, this building first floor is six feet below, we
14 have a six feet high berm from a six feet high fence,
15 so right there is about 18 feet of clear blockage of
16 the view of that proposed building, plus being even
17 the height of the berm and the trees, the line of
18 sight is even blocked further.

19 To show that a little more, we have
20 prepared the rendering, I will show this existing
21 condition. This is a picture we have taken at the
22 bend at the south end of the McGellairds Crossing
23 Road, so you basically turning, going towards the
24 north, and what this does is shows you the existing
25 trees and the berm that is located along the

1 right-of-way right there.

2 This is the portion of the property where
3 there is no trees and there is a grass area, and I'll
4 show you what this shows on this plan on our existing
5 condition map. Can you see the aerial picture right
6 now? I'm not sharing.

7 MS. MOENCH: Then no, we can't either.

8 MR. HALARI: So, this picture is taken
9 from where my cursor is right now, which is basically
10 the southerly point of McGellairds Crossing Road, and
11 this is the turn that shows on the picture. And here
12 is where the existing vegetation starts, this is an
13 open area, which is basically grass area, so there is
14 no buffering there, that is what the picture shows,
15 but once you pass that point, there is a continuous
16 berm and continuous vegetation on the entire land of
17 McGellairds Crossing beyond that point. The main
18 purpose I selected this picture is because I wanted
19 to show the improvement we are doing in this area
20 where the grass is. Where we are planting, we are
21 creating additional buffer, I'm sorry, additional
22 berm, and planting and fencing. So, this area which
23 is currently, doesn't provide any screening to the
24 homes here, we can really see all the houses on
25 Mechanic Street here, that area will also be screened

1 in our proposed condition.

2 So, now I'll go back to the picture that
3 I was trying to show first, and then I'll show you
4 what we have. So, this is the picture location, you
5 can see this existing home that's located on Mechanic
6 Street, and this is the existing vegetation that
7 continues as we receive towards the north from
8 McGellairds Crossing. It's hard to see on this
9 picture, but there is an existing chain link fence
10 right along the property line, which really doesn't
11 provide any screening, but identifies the property
12 boundary right in this area, you can see right there.

13 So, what would happen is, this would be
14 replaced by a six feet high solid line of fence so
15 you would have complete blockage of that view. Now,
16 we have prepared a rendering of that location, what
17 it will look like after you do the proposed
18 improvement, and I can show you that.

19 So, this is A-6. This rendering doesn't
20 do it justice to existing vegetation that is within
21 the right-of-way, actually you see some trees here on
22 the right and to the left of the picture, but the
23 same vegetation continues across this berm that's
24 there now, that you saw on the picture that I show
25 you previously. So, this solid vinyl fence is

1 located where the chain link fence was on the
2 previous picture. Right behind that, we are showing
3 you a staggered row of evergreen trees that we are
4 planting. So, basically, from this angle, you won't
5 be able to see the buildings because the height
6 elevation difference is so much that actually just
7 the fence and the berm probably just blocks the view.
8 But the evergreens are there because of the winter
9 condition, the trees will be similar to what you saw
10 on a previous picture, and they don't give you
11 year-round screening. So, these pictures give you an
12 idea of what we are trying to do in this area to
13 provide a year-round buffer for the residents.

14 Now, actually, an existing condition if
15 you see the area in the summertime, in the summertime
16 this is a picture that I got from Google Streetview,
17 and it shows all those existing vegetation having
18 leaves on, and you can't really see anything through
19 this area, that's how dense that gets in the
20 summertime.

21 MR. MEHR: Now, you're not proposing to
22 take this out?

23 MR. HALARI: No, whatever is in this
24 right-of-way you see is going to stay there, but what
25 I'm trying to say is in the wintertime and these

1 trees have no leaves, you can probably see through,
2 so we are proposing evergreens on our side to provide
3 year-round screening of this.

4 On top of this, given that we are
5 providing this building which is continuous building
6 for about 550 feet, which is 30 feet in height, it's
7 really also provides a continuous barrier, a 30-foot
8 high barrier that will provide any screening of the
9 sound or the lighting, or anything like that from the
10 site, if there is any noise or sounds they hear from
11 the site is gonna be blocked by this proposed
12 building.

13 So, we think that what we are proposing
14 in this area provides a very good separation between
15 the residential use and our flex use, all activities
16 contained in the front of these buildings, and having
17 a continuous building and the buffering and the
18 elevation difference, and fencing, and evergreens
19 going to be much more screening to the homeowners
20 than what currently exists there.

21 Now, going back to the southern portion
22 of the site as I discussed previously, on the
23 picture, you can see that this area is all grass.
24 Now, what we are proposing is there is gonna be,
25 obviously this fencing will continue, go around the

1 parking, and go around all the property line. We
2 also going to extend the berm which kind of stops
3 where the radius of the grass starts, we're gonna
4 extend that berm to this parking area, and then we
5 have obviously, the staggered row of evergreen all
6 around this proposed parking area.

7 So, this is also going to continue all
8 around. So, what this will do is obviously, the area
9 that is currently open and people can see through all
10 the way into the Mechanics Street, this will provide
11 that screening as well. So, we think this basically
12 improves this existing condition significantly.

13 So, we will go over some waivers that we
14 are requesting. One of the waiver is foundation
15 planting around the building, what we are able to
16 achieve is the rear of the building as we said, as no
17 activity, we are going to have a significant
18 landscaping and buffering to the rear of this
19 building. We don't see any need to provide any
20 foundation planting in the back because it's not
21 going to be visible to anybody.

22 MR. MEHR: Plus, it's also easier to
23 maintain?

24 MR. HALARI: Correct. Also, what we have
25 done on both side of the loading zone, we are

1 providing a three-foot wide strip of grass area where
2 we can provide a foundation landscaping on both side
3 of the building. The front of the building,
4 primarily have garage doors, entrance doors, and all
5 that, so we are not able to provide anything in the
6 front, but in the sides of the building we will
7 provide.

8 This building has a loading right next to
9 it, we will try to provide buffering on this side as
10 well by moving that loading zone a little further
11 away and creating the green street on their side as
12 well. So, we will provide additional foundation
13 planting.

14 On this building, building two, we will
15 have a similar thing, obviously on the right side of
16 the building is open, so we will provide a foundation
17 planting there, and the rear part of this building is
18 -- it's all wooded behind there, so there is no
19 benefit in providing any foundation planting back
20 there.

21 The second thing was providing trees and
22 vegetation in the parking area, 70 percent of this
23 parking existing quite honestly, this is the edge of
24 the existing parking lot and given, being a
25 commercial use, we felt that putting more trees in

1 this area, the survival chances would be less. So,
2 we prefer to put, instead of putting the same
3 required number of trees and planting in this buffer
4 area around the buildings and the parking, I think,
5 we think that is a better use of that space than
6 trying to put in the middle of this max space. So,
7 we are requesting a waiver for that.

8 We have, we doing some, obviously as I
9 said on the northerly property line, we have
10 McGelliards Crossing, I'm sorry, McGelliards Brook,
11 and there is a flood plane associated with it and
12 some stream corridor buffer and we are providing
13 compensation for the stream corridor that's for the
14 building number two, there is a small area right
15 there, and there is a small area, that existing
16 paving, we are repaving that area, but obviously that
17 is in the stream corridor so, we had provided an
18 averaging for that. And a small portion of the base
19 is located in a small area of the stream corridor
20 buffer. We have provided that averaging right in
21 this area, preserving existing vegetation.

22 We reduce the basin going further towards
23 the east and capped it behind that one home in a
24 small area. So, this waiver is allowed subject of
25 approval of the ordinance, allows us to do an

1 averaging subdivision of the board's approval.

2 There is a couple of comments in Brian's
3 report that I would like to specifically address.

4 One of these actually, servicing this building, the
5 plan shows a window HVAC units because most of these
6 space have a small office in the front so that can be
7 accommodated using HVAC unit. If we do need to put
8 any condenser unit, we can put it on the side scape
9 of the building that have held vegetation in case if
10 we need it in the future, but we don't anticipate it.

11 We have obtained a preliminary approval
12 from Borough of Englishtown for this application, and
13 obviously that primary approval requires us to get
14 the approval from Manalapan and then go back to them
15 for final. And so, at that time we will comply with
16 all the conditions of the engineer's report from
17 Manalapan as well as Englishtown and anything that we
18 need to do for Jennifer's review and report as well.

19 That concludes my testimony, if there is
20 any items that I have missed, that Brian or Jennifer
21 thinks I should address, I would like to.

22 CHAIRMAN LEVITON: Thank you, Mr.
23 Halari. Mr. Mehr, if it pleases you, I would like
24 you to continue with your presentation and have our
25 professionals question yours after.

1 MR. MEHR: I would appreciate that also,
2 that's very good. The next person testifying is Mr.
3 John Rea, who is our traffic consultant. John?

4 CHAIRMAN LEVITON: Welcome back, Mr.
5 Rea. Mr. Glass, you still want to swear --

6 MS. GLASS: Was Mr. Rea sworn at the
7 previous hearing?

8 MR. REA: I do not believe so.

9 MR. HALARI: John, your phone is on, you
10 need to turn off your phone.

11 MR. REA: I shut it off, okay, done.

12 MR. HALARI: You still have something on,
13 John, you have a second thing that's connected.

14 MR. REA: No, there's nothing
15 connected, Bhaskar.

16 MS. BEAHM: John, you have two boxes
17 shown, there's you with your face, and then there's
18 another box with your name.

19 MR. REA: I see. I don't know why.

20 CHAIRMAN LEVITON: It's causing the
21 sound to bounce back.

22 MR. REA: I hear it. Should I leave
23 and get back on?

24 MR. HALARI: Yeah, but you need to find
25 out what is the other instrument that's connected.

1 If you don't figure that one out, it will be a
2 problem.

3 MR. REA: My phone is shut off.

4 MR. HALARI: Okay, shut it off and
5 reconnect.

6 CHAIRMAN LEVITON: Why don't we move on
7 to Mr. Higgins in the interim?

8 MR. MEHR: That's fine.

9 MS. BEAHM: Mr. Mehr, I don't really need
10 to tell you how to do your case, but isn't Mr.
11 Higgins testimony going to be based on all your
12 witnesses previously?

13 MR. HALARI: We should wait for him.

14 MR. MEHR: Yes, actually, yes, but to be
15 honest with you, Mr. Rea's testimony is really very
16 slight.

17

18 J O H N R E A, having first been duly sworn,
19 testified under his oath as follows:

20 MR. REA: John Rea, R-E-A, a licensed
21 professional engineer with McDonough and Rea
22 Associates, 1431 Lakewood Road, Manasquan, New
23 Jersey.

24 CHAIRMAN LEVITON: The board accepts
25 his credentials, he's been here many times.

1 MR. MEHR: Thank you, Mr. Chairman.
2 John, you're very familiar with this site, aren't
3 you?

4 MR. REA: Yes, I represented the
5 applicant during the meetings in Englishtown where
6 they got their approval for the Englishtown portion
7 of the project, and I'm familiar with the project,
8 yes.

9 MR. MEHR: And at that meeting,
10 basically the testimony was regarding the traffic on
11 to and off of the site, which is really the same as
12 it presently exists?

13 MR. REA: And the access to the
14 property is all through the Borough of Englishtown
15 through Harrison Street, and Center Street.

16 MR. MEHR: And there's no direct access
17 to the Manalapan site?

18 MR. REA: No, there is not.

19 MR. MEHR: Okay, and with the proposals
20 that are made and such, will there be any significant
21 change in the traffic pattern, or amount of traffic
22 going through Englishtown.

23 MR. REA: Well, there will be an
24 increase of approximately 40 peak hour movements
25 through the Borough of Englishtown streets, based on

1 the traffic counts we conducted, there are
2 approximately 60 driveway movements during the
3 morning and afternoon peak hours, entering and
4 leaving the property, and there will be an additional
5 40 movements entering and exiting the property, but
6 it will all be through the borough of Englishtown
7 street system.

8 MR. MEHR: The circulation plan that
9 exists on the property, Bhaskar has indicated that it
10 would not be changing with the addition of these
11 building construction. Is that system adequate to be
12 able to handle the traffic generated?

13 MR. REA: It is, I've been to the site
14 on numerous occasions, and as Bhaskar indicated in
15 his initial comments, the typical user in the
16 business park is a contractor, a small business
17 owner, there is very little, if any, tractor trailer
18 traffic. As a matter of fact, I don't recall seeing
19 a tractor trailer on the property during my site
20 visits. It's mostly contractors, small businesses,
21 box trucks, things of that nature.

22 MR. MEHR: Is there any traffic related
23 item regarding the proposal that should be brought to
24 the attention of the Manalapan Zoning Board?

25 MR. REA: There is nothing that really

1 impacts the Manalapan Municipal street system, and
2 the only other thing I would say is, as Bhaskar
3 indicated up front in his testimony, we are a little,
4 I wouldn't say over parked, but we meet and exceed
5 the parking requirements. So parking is not an
6 issue.

7 MR. MEHR: I just want to, regarding
8 that, there is a certain number of parking spaces
9 that exist on this site, mainly that currently exist
10 on the site, that are 9 by 18s, whereas the ordinance
11 in Manalapan Township requires --

12 MR. HALARI: 10 by 20.

13 MR. MEHR: 10 by 20.

14 MR. HALARI: But for employees, they are 9
15 by 18, but for the customer --

16 MR. MEHR: So, in the provision as when
17 you listen to the testimony, is that Bhaskar is
18 adding 10 by 18s in front of the building, the new
19 building, and the 9 by 18s mainly presently exist on
20 this, is really used solely for employee parking and
21 such, which means once in and once out during the
22 daytime.

23 Is the size of the, this development as
24 it has been described to you, is the parking provided
25 adequate to service the various types of use?

1 MR. REA: I believe it is, the number
2 of parking spaces is adequate and the existing 9 by
3 18 spaces have proven to be adequate. We're not in a
4 shopping center or a big box store where we have big
5 packages coming and going into and out of those cars
6 that are in those parking spaces, so the 9 by 18
7 spaces have been working appropriately.

8 MR. MEHR: I have nothing else of this
9 witness.

10 CHAIRMAN LEVITON: Thank you, Mr. Rea.

11 MR. MEHR: All right, my last witness is
12 Mr. James Higgins.

13 CHAIRMAN LEVITON: He was sworn last
14 time, Mr. Cucchiaro.

15 MR. CUCCHIARO: Okay, I'll just remind
16 you, you remain under oath.

17 MR. HIGGINS: No, I was not sworn last
18 time, I was not at the prior hearing.

19 CHAIRMAN LEVITON: My mistake.

20
21 J A M E S H I G G I N S, having first been duly
22 sworn, testified under his oath as follows:

23 MR. CUCCHIARO: Please state and spell
24 your name for the record.

25 MR. HIGGINS: James Higgins,

1 H-I-G-G-I-N-S, and I'm a licensed planner in the
2 state, I have been licensed for well over 40 years,
3 and I've testified before this board as an expert in
4 planning on a number of occasions.

5 MR. MEHR: Were you really a planner
6 before there was paved streets in Manalapan?

7 MR. HIGGINS: I don't know about that,
8 but I was thinking between you, Mr. Mehr, and the two
9 engineers, the three engineers on the job, and
10 myself, we probably have 200 years experience.

11 MR. MEHR: You did prepare a planner's
12 report on this?

13 MR. HIGGINS: Yes, sir, I prepared a
14 testimony outline, I think really, Mr. Halari really
15 described the site and all of the details of the
16 surrounding uses and so on, so I don't think I need
17 to go into that. I think really, I should go into
18 the heart of the matter, both to be expeditious, and
19 also to not duplicate what's been said earlier.

20 This site is a very difficult site
21 because of the circumstances. It's not only located
22 in two different municipalities, but it has three
23 separate zoning designations, two of which are in
24 Manalapan, and the ones, the zoning designations in
25 Manalapan, the AE zone, and the R20 zone, don't

1 permit flex space.

2 The site itself is an existing industrial
3 site, it's been used for very heavy industrial use
4 for years. I think in the more recent years, the
5 intensity of the industrial use has been reduced
6 somewhat. When you look at it, this is an
7 application that can be looked at as either a D(1)
8 for creation of a use that's not permitted, or a D(2)
9 for expansion of a preexisting nonconforming use, but
10 because some of the uses on the existing site are not
11 flex space, and the applicant is proposing just flex
12 space, I think the more conservative, and the correct
13 approach is to approach this as if it's a D(1)
14 variance. But I think it's necessary to understand
15 that the real elements of both a D(1) and a D(2) to
16 this application, it doesn't fit neatly into either
17 category. So, my testimony is going to be basically
18 addressing both. You also have a technical --

19 MR. CUCCHIARO: Before you go on, let's
20 just talk about that for a moment, I mean I agree
21 with one-half of what you said, it's a use variance
22 under the D(1), are you saying you're going to make
23 the case under D(1) and D(2)?

24 MR. HIGGINS: I'm gonna give testimony
25 with regards to substantial improvements on the site

1 that are being proposed, and how they advance the
2 purposes of the Municipal Land Use Law.

3 MR. CUCCHIARO: Well, that's part of the
4 positive criteria for a D(1).

5 MR. HIGGINS: It's also part of the
6 positive criteria for a D(2). For a D(2), it should
7 show that the site is being improved either
8 aesthetically or functionally. So, that's what I'm
9 saying, there are elements of both, but it's, I'm
10 approaching it as if it's a D(1).

11 MR. CUCCHIARO: So, Mr. Chairman, just
12 for members of the board, the applicant asked for a
13 D(1) variance, and they have the ability to put on
14 whatever testimony they want, but I would counsel the
15 board to just consider it under D(1) and not some
16 kind of hybrid, but certainly you can place on the
17 record anything you would like.

18 MR. HIGGINS: And I don't disagree with
19 that, Mr. Cucchiaro, what I'm saying is from a
20 practical standpoint looking at it, there are
21 elements that fall into both, but it should be looked
22 at as a D(1) variance.

23 MR. CUCCHIARO: Okay, sorry to interrupt.

24 MR. HIGGINS: Okay, you also have a
25 D(4) variance because the floor-area ratio in the

1 R-20 portion of the site is exceeded, and I'll also
2 discuss that issue and why I think that's an
3 appropriate variance to be granted.

4 D(1) variance, really there are two
5 positive elements. One is whether or not the site is
6 particularly suited for the use, and another is
7 whether or not the purposes of the Municipal Land Use
8 Law are being advanced by the granting of the
9 variance.

10 In addition, we have to show that there
11 is no substantial negative impact to surrounding
12 properties, and no substantial negative impact to the
13 zone plan or the zoning ordinance. What I'll go into
14 first, is in terms of the particular suitability, the
15 site, first of all, as it exists, is really not
16 conducive for being developed in either the AE or the
17 R-20 zone permitted uses, particularly single family
18 residences.

19 The site is currently developed for
20 intensive industrial purposes, and that is something
21 that's an existing situation, it's not going to
22 change, it includes a water tower, a very large water
23 tower which is in Englishtown, and a very large
24 chimney, which is in Manalapan. As I said, the
25 history of the site is for industrial use and

1 industrial development, and the developed portion of
2 the site has significant storm water runoff issues
3 with it, and I think it will impact residential
4 development if the residentially zoned and
5 undeveloped portion of the site were to be developed.

6 But I think more importantly, if the
7 section of the site that's not currently developed,
8 but is zoned for residential purposes, were to be
9 developed, and this is in particular, the R-20
10 section of the site, what would be necessary would
11 first of all be a subdivision of that portion off of
12 the balance of the site, then you would have to
13 remove the berm that separates this site, the
14 residential uses from the industrial uses on this
15 site, which I think would substantially have a
16 negative impact, not only on the existing residences,
17 but when you construct new residences on this site,
18 the protections for those residences from the
19 existing uses of the site would be very minimal, and
20 there would be substantial impact on those
21 residences. So, clearly, in my opinion, the site is
22 really not reasonably be developed for residential
23 purposes.

24 The particular suitability of the site
25 clearly, the bulk of the site is developed for

1 industrial purposes. It's been used for industrial
2 purposes for many, many years, and the applicant is
3 proposing to continue to development the site, expand
4 somewhat for industrial purposes, but in doing so, to
5 create a situation where the properties, the
6 residential properties in Manalapan, are being
7 protected even more so than they are now. And the
8 reason I say that is he's proposing not only to
9 construct a building that will provide a substantial
10 sound barrier between the existing and proposed
11 operations on the site, and the residences to the
12 east, but also provide a substantial visual barrier
13 in terms of putting the fencing on top of the berm,
14 putting landscaping inside that fencing that will
15 eventually grow up and completely obscure most of the
16 uses on the site that currently exist, and are
17 proposed.

18 So, you'll have a building that provides
19 a substantial sound barrier, you have a landscaping
20 that will provide even more substantial visual
21 barrier that will eventually, and maybe even
22 initially completely obscure the proposed building
23 from sight. So, I think there is substantial
24 benefits to having this development as far as the
25 impacts on the adjacent residences.

1 As far as the purposes of the Municipal
2 Land Use Law being advanced, I think there are a
3 number of them. The first is to encourage municipal
4 action to guide the appropriate use or development of
5 all lands in the state in a manner which will promote
6 the public health, safety, morals, and general
7 welfare, and again, when you look at the improvements
8 that are being proposed on this site, I think the
9 building constructed that is gonna provide a more
10 substantial sound barrier than what currently exists,
11 extending the berm on the east side of the site to
12 the south to provide a substantial screening and
13 buffering for the other residences to the south that
14 currently don't have that screening and buffering
15 from not only this site, but the other uses in
16 Englishtown, I think is an extremely important issue.
17 The attractive fence that will be put on the top of
18 the berm as opposed to what exists now, which is a
19 chain link fence that is in a state of disrepair,
20 it's not really very attractive at all, and the
21 landscape screening. And the construction of a
22 modern, attractive building on the site that's gonna
23 generate more income to the site which will allow the
24 applicant to then put more money, hopefully put more
25 money into the balance of the site to improve the

1 overall appearance of the site.

2 So, I think that purpose of the land use
3 law is advanced. In addition to secure safety from
4 fire, flood, panic, other natural and manmade
5 disasters, the drainage improvements that are being
6 proposed are significant, and I think will advance
7 that purpose of the land use law.

8 Another is to ensure the development of
9 individual municipalities, does not conflict with the
10 development and general welfare of neighboring
11 municipalities, the county, or the state as a whole.
12 And again, by this development would actually create
13 better land use relationships between Manalapan and
14 Englishtown, and also protect better the residences
15 that exist in Manalapan over what currently exists at
16 this point in time, particularly with regard to the
17 noise being emanated from the site. The building
18 will substantially reduce that noise.

19 To provide sufficient space in
20 appropriate locations for a variety of uses including
21 industrial uses, and again, this is an industrial
22 site, it's been utilized as an industrial site for
23 many, many years by, probably before I became a
24 planner, maybe even before I was born, I don't know
25 when this site was actually initially developed for

1 industrial purposes, but it's been industrial site
2 for as long as I can remember, and expansion of it
3 and improvement of it, I think is an appropriate use
4 of this site, and this location. So I think it
5 advances that purpose of the land use law.

6 To promote a desirable, visual
7 environment through creative development techniques,
8 and good civic design and arrangement, again, the
9 aesthetic improvements to the site, the buffer, the
10 construction of the fence, which will be much more
11 attractive for the residences in Manalapan than what
12 currently exists, I think advance that purpose of the
13 land use law.

14 And then to promote the conservation of
15 historic sites, districts, open space, energy
16 resources, and valuable, natural resources in the
17 state, to prevent urban sprawl, and degradation of
18 the environment through the improper use of land,
19 again the development of the site as zoned, I think,
20 would be contrary to that purpose by developing this
21 site, and making the improvements to the perimeter of
22 the site as proposed, I think advances that purpose,
23 and will actually be a benefit of the surrounding
24 properties in Manalapan.

25 The final one would be to encourage the

1 coordination of various public and private procedures
2 and activities, shaping land development with a view
3 of lessening the cost of such development, and to the
4 more efficient use of land. And clearly, you have a
5 section of this site that is unutilized, and the
6 applicant's proposing to utilize that to use the land
7 more efficiently, and again in a manner that is going
8 to provide better protections for the residential
9 properties in Manalapan.

10 So, when I look at all those, I think
11 that clearly the positive criteria for the D(1)
12 variance is met. With regard to the floor-area
13 ratio, the intent of the floor-area ratio is to
14 control the intensity of use, and the floor-area
15 ratio requirement in the R-20 zone of 15 percent is
16 geared towards residential uses, it's not geared
17 towards the intensity of uses, the industrial uses.

18 The ordinance is unusual in that there's
19 different ways of calculating floor-area ratios in
20 your industrial areas, and your residential areas,
21 trying to compare one to the other, in my opinion, is
22 like trying to compare apples and oranges. What I
23 did do, is I looked at your LI zone and the building
24 coverage is permitted, not floor-area ratio, but just
25 building coverage is 25 percent. What's being

1 proposed in the R-20 section of the site is the
2 building coverage of 22 percent, and then the 26.4
3 percent that's being proposed as a result of the
4 mezzanines that are being proposed in the building so
5 that, clearly, what's being proposed here, is within
6 what I consider to be a reasonable calculation for
7 industrial uses, and the fact that it can't be seen
8 from the surrounding residential uses, the intensity
9 of the use is not going to be substantially impacted,
10 the site can accommodate the use despite the
11 deviation from the floor-area ratio requirement,
12 which is the standard that is necessary for a
13 floor-area ratio variance.

14 There's adequate parking in the buffers,
15 and those areas where they're most necessary are
16 being adhered to and are being planted very heavily.
17 The parking is being improved, and the drainage is
18 being improved, and the environmentally-sensitive
19 areas of the site are being adequately protected. So
20 the site can accommodate the use despite the need for
21 the deviation from this variance under one small
22 section of the site in the R-20 zone.

23 In terms of the impact on the surrounding
24 areas, again, I've said a number of times, I'll
25 repeat it again, I think there's actually a benefit

1 as far as the impact on to the adjacent residential
2 uses, particularly as it deals with the noise from
3 the site being screened by the proposed building, and
4 the proposed building being screened by the fencing,
5 the berm and the landscaping.

6 I don't see any substantial detriment to
7 the zone plan. Again, the zone plan, it's a
8 difficult site, and I don't know what I would have
9 done if I were developing a master plan in the zoning
10 board for this, I may have done the same exact thing
11 with the idea that when this applicant of the site
12 would come in, we would have to come in for a use
13 variance, and the roles would be much stricter than
14 if it was just zoned industrial, and any use
15 permitted in an industrial zone could be allowed on
16 the site.

17 So there's more controls for the uses on
18 the site and I think clearly, it's not appropriate
19 for the uses I zoned, for the reasons I gave earlier.
20 So, I don't think there's any substantial detriment
21 to your zone plan.

22 Bhaskar went over the variances for
23 parking space size, I don't think it's necessary to
24 repeat that testimony. There is a variance necessary
25 for building coverage in the R-20 zone portion of the

1 site, again 15 percent is permitted, and again,
2 that's geared towards a residential use, and that's
3 an appropriate standard for a residential use. When
4 you have an industrial type of use, particularly a
5 warehousing and flex space, I think a higher standard
6 is more appropriate, and as I said, the LI zone,
7 which permits flex space as a standard of 25 percent,
8 what's being proposed is 22 percent.

9 So, I think that really given the factors
10 of the use variance, and we should be looking at the
11 standards for this type of use and the impacts that
12 this proposed use would have on the surrounding
13 properties, I think what's being proposed here for 22
14 percent is an appropriate lot coverage for the site,
15 and I don't think there's any substantial detriment
16 to granting that.

17 I think that about covers everything.

18 CHAIRMAN LEVITON: Thank you, Mr.
19 Higgins. Mr. Mehr?

20 MR. MEHR: That's basically the case on
21 the direct testimony portion. I expect that there
22 must be questions from the board and of course
23 board's experts.

24 CHAIRMAN LEVITON: Yes, we're gonna go
25 to our experts first and then we're gonna go out to

1 the board and we're gonna start with Ms. Beahm since,
2 Brian, most of it is going to wind up in your lap,
3 tonight.

4 MS. BEAHM: I just have a couple of
5 things, Bhaskar, can you provide me with a detail of
6 the sign as well?

7 MR. HALARI: Sure, sure, the sign is
8 located in Englishtown, but I will provide the sign.

9 MS. BEAHM: Yeah, I understand that, I
10 just want to have a detail for our file so we can
11 anticipate what it's gonna look like.

12 MR. HALARI: The reason I mentioned is so
13 the board knows where the sign is located, so.

14 MS. BEAHM: So, I really don't have any
15 other questions for Bhaskar, but I do have a couple
16 of questions for Mr. Higgins. I don't take any
17 exception to the testimony you provided with respect
18 to particular suitability, but I do have a question
19 related to the FAR. It got a little muddled there,
20 quite honestly towards the end, you started talking
21 about 25 percent coverage and 26.4 percent because of
22 the mezzanine. Coverage and FAR are not the same
23 thing.

24 MR. HIGGINS: That's correct.

25 MS. BEAHM: So, you're at 22 percent

1 coverage.

2 MR. HIGGINS: Yes.

3 MS. BEAHM: Where 15 percent in the R-20
4 is required, you're requesting the relief and the
5 testimony is that a typical industrial zone is 25
6 percent, and given the location of the site, your
7 position would be that that is a de minimus
8 deviation, and the benefits outweigh the detriments?

9 MR. HIGGINS: Yes.

10 MS. BEAHM: The only thing, you know, I
11 don't disagree with you that residential at this
12 location, given how this site is developed over time
13 would be inappropriate and I know you were talking
14 about all the reasons why, but wouldn't access also
15 become problematic for a residential use at this
16 location given topography to the neighborhood behind,
17 and that anybody would have to drive through the
18 industrial zone to get to a residential use at this
19 location?

20 MR. HIGGINS: At this location, no,
21 because you have McGellairds Crossing Road, they
22 would access it from that.

23 MS. BEAHM: Right, but I think the
24 testimony that Bhaskar had given earlier was that
25 there was significant topography between the road and

1 the site and that would be challenging in terms of
2 providing access.

3 MR. HIGGINS: That's the berm that's
4 there. That berm would have to be removed in order
5 to provide access, absolutely. You couldn't drive up
6 over that berm to get to a residence, so just another
7 reason it's not practical.

8 MS. BEAHM: Right, that's where I'm going
9 with this. So, I don't take any exception to the
10 testimony provided with respect to the positive and
11 negative criteria associated with the D(1) variance.
12 I also don't take exception to the testimony
13 regarding the FAR. The one thing that I don't think
14 we touched on, I know Bhaskar you did touch on how
15 the buffer was gonna work, but I do think that there
16 is still relief from that buffer along the property
17 line coincident with that basin that the 50 feet is
18 not provided at that location. Can you touch on that
19 a little bit?

20 MR. HALARI: I'm sorry, yeah, I'm sorry, I
21 forgot about that.

22 MS. BEAHM: That's okay.

23 MR. HALARI: I'm gonna do a screen share
24 so we can show that area again. So we are proposing
25 that the property is in a residential zone, and in a

1 residential zone, you are allowed to have a storm
2 water basin within 15 feet of a property line. So
3 this storm water basin is within 15 feet of the
4 property line to the rear of this home. But, because
5 this is not going to be developed as a flex space,
6 what determination is made that you need to provide a
7 50 foot buffer here, but for practical purpose, the
8 use of this space is the same, even if this is
9 developed as a residential, this basin would be here
10 at the same location with the same configuration.
11 So, we don't think that having a basin in this area
12 would necessarily impact the homeowners because you
13 could have the basin there if this was developed as a
14 residential property.

15 Secondly, we do provide a staggered row
16 of evergreen trees behind this home as well to screen
17 the basin itself, and basin is pretty small in size
18 quite honestly. So, it's not going to have any
19 impact, negative impact to these homeowners, and I
20 have talked with them and met with them and explained
21 to her what we are proposing here.

22 MS. BEAHM: Thank you, I just wanted
23 something on the record, that's all.

24 MR. HALARI: Sure, sure, and second thing
25 was, in this area where, thanks for brining this up

1 again, actually I focused too much on one side and
2 forgot about mentioning this. The one homeowner on
3 the Englishtown, that lives in Englishtown, there is
4 a 30 feet buffer because of the access that comes
5 behind the building, there is an access road that
6 comes behind the building that wraps around. So,
7 that homeowner was present at the Englishtown
8 hearing, and we provided a staggered row of evergreen
9 as well as, there is an existing vinyl fence that is
10 part of the, that ends before his property so we're
11 going to continue that and connect that vinyl fence
12 with the vinyl fence we are proposing and he was
13 satisfied with that.

14 So, that area, we have a 30 feet buffer
15 in a small portion there that was wider and then it
16 was 30, and then the dead end of the street comes in,
17 but the building itself is more than 50 feet away
18 from the property line. So, yes, these are the two
19 areas. Thanks, Jen, for bringing this up.

20 MS. BEAHM: No problem, and then the one
21 last question I have, and I guess it's for you,
22 Bhaskar, as well, is this gonna be done in any kind
23 of phasing or is it gonna be one phase?

24 MR. HALARI: Right, so the development we
25 are proposing in a two phase, the phase two would be

1 the building located on the Center Street, this would
2 be a phase two and this parking you see in the front
3 of it and a couple -- that's in this area will be
4 part of a phase two, but everything else that's on
5 this plan will be part of phase one.

6 The construction of this basin, the
7 construction of all this parking area, and the storm
8 water in Englishtown because we won't really improve
9 the site, the current condition of the site is very
10 poor, and we need to have a drainage before we can do
11 any significant improvement. The construction of
12 this building one, the purpose of showing these three
13 modules is that that we can build the module as
14 properties being leased. So that's what the
15 construction of this building would be, the 1.3 as
16 the leasing progresses. But, the site improvement
17 and everything will be done in phase one altogether.

18 MS. BEAHM: And is the pavement
19 improvement that you're gonna work with Brian's
20 office, is that phase one as well, or phase two?

21 MR. HALARI: The only paving that is in
22 the front of building two, this parking in front of
23 building two will be part of phase two.

24 MS. BEAHM: Okay.

25 MR. HALARI: But, all of the improvement

1 to the existing site, in front of the building one,
2 as well as any other area that Brian and we
3 identified will be part of phase one.

4 MS. BEAHM: Thank you, that's all I have,
5 Mr. Chair.

6 CHAIRMAN LEVITON: Thank you, Ms.
7 Beahm. Mr. Boccanfuso?

8 MR. BOCCANFUSO: Thank you, Mr. Chair.
9 The first question I have is for Mr. Higgins. Mr.
10 Higgins, when you're providing your testimony, you
11 provided some comparisons to the LI zone and the
12 zoning requirements of that zone. Is there any
13 particular reason why you chose that zone to use as a
14 comparison?

15 MR. HIGGINS: No, I just quickly looked
16 at the ordinance and I looked for a zone that
17 permitted the types of uses that are being proposed
18 here. What Manalapan viewed in terms of industrial
19 uses as opposed to residential uses.

20 MR. BOCCANFUSO: Okay, so if I'm
21 understanding it correctly, you felt that that was an
22 appropriate comparison, because the uses permitted in
23 that zone are comparable to what's proposed here?

24 MR. HIGGINS: Yes.

25 MR. BOCCANFUSO: Understood. Bhaskar,

1 when presented your exhibits, I think it was exhibit
2 A-6, which was the rendering as well as the cross
3 sectional exhibit which you had previously submitted
4 to the board for review by myself and Jen, if you
5 could bring up one of those exhibits, that would be
6 helpful.

7 MR. HALARI: Sure, no problem.

8 MR. BOCCANFUSO: Either one is fine, the
9 question is gonna be the same.

10 MR. HALARI: Okay, I'm just trying to look
11 for the one.

12 MR. BOCCANFUSO: Okay, this one was A-6,
13 right?

14 MR. HALARI: This is A-6, yes.

15 MR. BOCCANFUSO: Okay, so I agree with you
16 with your statement when you first introduced this
17 exhibit, it doesn't do it justice, I would agree
18 because it doesn't show the existing plantings around
19 there.

20 MR. HALARI: Yes, right there, yes.

21 MR. BOCCANFUSO: But, I understand what
22 you're trying to present here was that there is gonna
23 be a fence at the top of the hill with plantings
24 behind it.

25 MR. HALARI: Yes, there is a sample of the

1 existing vegetation right behind this car that is
2 shown, so that is the singular vegetation that kind
3 of continues all across the front here. What
4 happened is it's hard to do a rendering by keeping
5 something that is old in front of it, so the renderer
6 tried to do the best job because it's easier to do
7 the new rendering than to try to --

8 MR. MEHR: But, effectively any existing
9 trees in the first 30 feet, I guess it is --

10 MR. HALARI: First 25 feet from the curb
11 will be all preserved.

12 MR. MEHR: Yeah, that's not coming down.

13 MR. BOCCANFUSO: Understood, and I think
14 that I'll get right to the question. The question is
15 with this exhibit and the cross sectional exhibit,
16 with the evergreen plantings that are shown in the
17 background, those are at, correct me if I'm wrong,
18 but I believe those are at a mature height, is that
19 correct?

20 MR. HALARI: No, these are about 14 feet
21 high so it's not a mature height, we just said like a
22 couple years down the line, the maturity of these
23 trees will be like 20 feet high but we don't show 20
24 feet high, we only show like 14 feet or 12 to 14
25 feet. The front trees are shown like 12, the back

1 trees are 14, something like that.

2 MR. BOCCANFUSO: Okay, so they're not
3 quite mature, but they are taller than what they
4 would be installed at, is that correct?

5 MR. HALARI: Yes, that is correct. They
6 are installed 8 to 10, and in a couple of years we
7 expect it to get to this one.

8 MR. BOCCANFUSO: Understood, and I don't
9 take any exception to the representation, I just
10 wanted to be sure that board and any interested
11 members of the public that are participating are
12 clear that what is being shown may not represent the
13 height of the plantings when they are installed, but
14 within a couple of years, we would expect them to be
15 at that height.

16 MR. HALARI: Yes, thank you for pointing
17 that out.

18 MR. BOCCANFUSO: Of course. So, with
19 regard to the waivers, you spoke about the foundation
20 landscaping waiver that you guys need. Generally, I
21 don't take any exception to the waiver, I think that
22 you presented testimony necessary for it, I don't
23 think it's practical around the entirety of the
24 building, and one thing I would add is in the rear of
25 the building, where you're not proposing any

1 foundation landscaping, there's also drainage
2 improvements which you touched on in the form of a
3 recharge system and a drainage swale with drainage
4 inlets. So, I think that the foundation plantings,
5 if installed, could interfere with those drainage
6 improvements, and vice versa, you know you're gonna
7 have a wet area after storms unless you're very
8 careful about the plantings that you chose, there is
9 a potential for the wet conditions to have an adverse
10 impact on that. So, I think that that further
11 supports the request for the waiver, and as I
12 indicated, I don't have any issue with the waiver
13 back there, nobody is really going to see it and I
14 don't see it benefit.

15 Now, in response to a comment we had in
16 our reports, you spoke about the mechanical equipment
17 and you indicated that they would be window units,
18 but you did have some areas where you could provide
19 them alongside the loading areas, or on the sides of
20 the building. I don't really have an issue with
21 that, but I just want to be clear, is it your
22 representation that those mechanical units would not
23 be ever installed on the roof or on the rear of the
24 building? Is that something that you can agree to as
25 a condition?

1 MR. HALARI: Yes, yes, that was my intent
2 of bringing that out, because currently our plan does
3 not show -- but in case in the future if we do need a
4 space, like somebody takes a bit of space and he has
5 a little bigger office and we cannot handle it, then
6 we will put any condenser unit on the side of the
7 loading zone but not in the back, of course not, not
8 on the rooftop or in the back.

9 MR. BOCCANFUSO: Fair enough, and I'm fine
10 with that, I don't have any issue with that, and I
11 think that's important, I think that's something that
12 the board wants to know, and I thought that was the
13 intent, I just wanted the record to be clear.

14 MR. HALARI: Sure.

15 MR. BOCCANFUSO: So, you talked about your
16 approval in Englishtown, that you have preliminary,
17 you'll need to go back for final if and when you're
18 approved here. Were there any conditions of their
19 approval that you believe would require substantial
20 modifications to the design that's been presented?

21 MR. HALARI: No.

22 MR. BOCCANFUSO: Okay, great. As far as
23 the milling and resurfacing, what is shown on the
24 plan, I don't have any issue with it generally, I
25 think that if there is an approval prior to

1 construction, we can meet with you in our capacity as
2 the municipal engineer and determine exact limits, I
3 mean, there may be some pavement joints that we want
4 to match, and things of that nature, but generally I
5 think what's shown on the plan here shaded in gray is
6 a sensible and reasonable limit of milling and
7 resurfacing, so I'm fine with that.

8 As far as the waiver or the variance,
9 rather, I believe it's a variance for the parking
10 space sizes. I know that you probably don't have
11 tenants for all of these units, but given the types
12 of uses that are proposed, would you anticipate that
13 the bulk of the people visiting this site and coming
14 to this site are going to be employees, and therefore
15 the 9 by 18 space would more often than not be the
16 applicable standard?

17 MR. HALARI: Definitely, yes. That is the
18 situation that currently exists, and we expect a
19 similar uses to be on these buildings.

20 MR. BOCCANFUSO: Okay, so I think that
21 requesting the relief is probably the safe way to go,
22 and I think it's appropriate, but it seems to me that
23 most of the people coming here, you're not going to
24 have a lot of retail, you're not going to have any
25 retail, you're not going to have a lot of customers

1 coming here, so most of the time, the 9 by 18 would
2 be the applicable standard.

3 MR. MEHR: In front of the building
4 they're 10 by 18 so they actually have the additional
5 width.

6 MR. BOCCANFUSO: With regard to storm
7 water, as we started out discussing it, the
8 application's been around for several years, there's
9 been a number of resubmissions, you and I have spoken
10 about the storm water, generally I don't take any
11 issue with it, particularly given that the DEP has
12 already approved it. Usually, when we hear an
13 application, the DEP permit is pending, or it may not
14 even have been submitted, so it's always a guessing
15 game how they're going to interpret their own
16 regulations and what restrictions they might apply.
17 In this case, they have fully approved it, so a few
18 minor technical nips and tucks aside, I think the
19 storm water, it works, and the fact that it's been
20 approved by DEP confirms that it complies with the
21 storm water management regulations.

22 I think the last thing that requires some
23 specific testimony is the stream corridor buffer
24 averaging that you're proposing, I think you did a
25 good job summarizing it that it doesn't require

1 relief, it is permitted by ordinance subject to
2 approval by the board.

3 MR. HALARI: That's what I said.

4 MR. BOCCANFUSO: And just so the board is
5 aware, I'll read what the criteria is if you just
6 bear with me one second here, I had the ordinance
7 open and it closed. So, the ordinance permits under
8 the section that talks about location of activities
9 on tracts partially within stream corridors, it says
10 the municipal agency, which in this case is the
11 zoning board of adjustment, may allow an average
12 stream corridor buffer width of a hundred feet from
13 the hundred year flood line, thus allowing, and I
14 think this is the important part, reasonable
15 flexibility to accommodate site planning when
16 necessitated by the size and shape of the tract and
17 the physical conditions thereon. And then it goes on
18 to say that the minimum is 75 feet, and you have to
19 average it and so forth, which you have, based on my
20 review you can comply with that averaging provision.

21 So, I don't necessarily know that
22 additional testimony is required, perhaps the board
23 will want it, we'll know when we hear from them, but
24 I just wanted the record to be clear that that is the
25 threshold that the board is gonna have to consider in

1 determining whether or not to grant that relief. And
2 those areas are shown on the exhibit that is before
3 us right now, is that correct? The averaging
4 compensation areas?

5 MR. HALARI: Yes, I went over all those
6 areas, I kind of showed them where the well water is.
7 You can see the whole side, there is probably, the
8 averaging we're doing is probably one percent of the
9 stream corridor that exists on site. Look at the
10 area that is being preserved by the stream and stream
11 corridor in this here. So, this little dot that you
12 see here, there is a little bit over here, and a
13 little bit by these basins.

14 While we're adding the stream corridor
15 buffer right where my finger is now, where my arrow
16 is now, and basically, this adding here preserves
17 more vegetation behind this one single family home,
18 and this particular area, actually, if we go to the
19 existing condition plan, all this is already
20 disturbed. And there's a development on both sides
21 of these two existing building right here. So on
22 both side of this small area is developed already, so
23 this makes sense to just square off. So this is
24 pretty much the amount of this -- which is, just by
25 looking at it, I can say like maybe one percent or

1 two percent of the total stream corridor.

2 MR. BOCCANFUSO: And then the small area
3 that is just to the, I'm not sure of the orientation
4 of this plan, I would say to the north of the
5 building right there, that is also disturbed, that's
6 an existing parking area, correct?

7 MR. HALARI: Yes, this is actually, I was
8 surprised that I needed to quite honestly do an
9 averaging that I'm repaving the existing parking
10 area, but you said that would be considered a
11 disturbance, so we include it. I did not have that
12 included originally, because if I'm repaving my own
13 parking lot which is there now, I probably don't need
14 it. But we do still comply, we did that rating for
15 that, and we provided additional buffering at other
16 locations. So, basically we complied with the
17 requirement.

18 MR. BOCCANFUSO: Yeah, I did review the
19 revised compensation and disturbance areas, I agree,
20 you do comply with the averaging provision as long as
21 the board agrees that you meet the standard. In my
22 opinion, the fact that those areas are previously
23 disturbed, I think that that meets the threshold
24 requirement of the physical conditions thereon part
25 of the ordinance section that I read earlier, but

1 it's gonna be up to the board, we'll see if they have
2 any questions on it.

3 Beyond that, Mr. Chairman, I don't have
4 any other specific questions, and the resubmission,
5 Mr. Halari has indicated that they can work with us
6 to address all the detailed technical comments if
7 there's an approval. As always, I'm available for
8 questions from the board if you have any.

9 CHAIRMAN LEVITON: Mr. Boccanfuso,
10 thank you, sir, you correctly stated this application
11 has been with us for a few years now. Initially,
12 when they appeared before us, issues that you
13 identified and Ms. Beahm identified weren't being
14 adequately addressed and the applicant adjourned and
15 has since then responded to several iterations of
16 your report. They have met with you and Ms. Beahm at
17 technical review meetings and professionals to ensure
18 that everyone has been on the same page, and tonight
19 testimony is offered to address any remaining
20 concerns that were written in the latest report which
21 was submitted just last week. My question to you,
22 sir, is are there any concerns left?

23 MR. BOCCANFUSO: From an engineering
24 standpoint, no, Mr. Chairman, I mean, nothing aside
25 from the minor technical issues that Mr. Halari has

1 agreed to address, and I wouldn't qualify those as
2 concerns, I would just say loose ends is a more
3 appropriate description of it. But I don't think
4 that there is anything from an engineering standpoint
5 that is really of issue here. I think the question
6 that the board has to answer is, if they believe that
7 the stream corridor buffer averaging is acceptable as
8 per the ordinance requirement, and whether they think
9 that the buffer relief is appropriate. I mean,
10 beyond that and the planning issues which I'll refer
11 to Jen, I think that's what we've been left with
12 here.

13 CHAIRMAN LEVITON: And before I go to
14 Jen, Englishtown's resolution expressed concern about
15 the brook flooding and it indicated that mitigating
16 the flooding problems on the property would be
17 addressed as part of our application in Manalapan.
18 Are you satisfied that the storm water management
19 plans meet storm water regulations and that there's
20 no adverse impact on adjoining properties?

21 MR. BOCCANFUSO: Yes, I am for a couple of
22 reasons. First of all, our review, our technical
23 review of the storm water management system design
24 confirms that aside from a few minor revisions as I
25 noted, the design largely complies with the storm

1 water, or it does comply with the storm water
2 management regulations that has also been confirmed
3 by the DEP by virtue of the fact that they have fully
4 approved the application.

5 In addition to that, the applicant has
6 proposed a recharge system behind the building that
7 is shown on the exhibit. Now, I forget what the name
8 of that building is, the three part building, but, in
9 the rear of that, there is a recharge system that is
10 going to collect and infiltrate the runoff directly
11 from the rooves of this building. And not to mention
12 the fact that the area of disturbance is physically a
13 substantial distance from the stream, so in addition
14 to meeting the requirements, you also have the
15 benefit of distance whereby runoff is going to have
16 an opportunity to naturally infiltrate into the
17 ground and those wooded areas before it actually
18 reaches the floodway associated with the McGelliards
19 Brook.

20 So, I have no concerns at all relative to
21 drainage on the application, and I think the
22 applicant's done a good job in addressing that, both
23 in meeting the requirements, and also from a
24 practical standpoint in milling and resurfacing the
25 parking area, introducing drainage structures, all

1 things that Bhaskar discussed directly in his early
2 testimony.

3 CHAIRMAN LEVITON: Thank you, Brian.
4 Jen, I know you already testified you don't take
5 exception to the deviation from the floor-area ratio
6 requirement, I just wanted to talk to you a little
7 bit about the rendering of the new fence on top of
8 the berm. I believe that that was mocked up at your
9 suggestion and I want to compliment you.

10 MS. BEAHM: Yes, Bhaskar, can you pull
11 that up for me?

12 MR. HALARI: Yes, I'll do that right now.

13 CHAIRMAN LEVITON: I want to compliment
14 you on that, Jennifer. It does make a difference,
15 and Mr. Higgins testified that the site will advance
16 the purposes of the Municipal Land Use Law, but to
17 me, it seems that the fence, the staggering of the
18 evergreen trees along McGellairds Crossing Road, are
19 going to block the view from Manalapan residents and
20 therefore improve the overall conditions on our side
21 and I just want to know, is that your understanding
22 as well?

23 MS. BEAHM: Yes, it is.

24 CHAIRMAN LEVITON: All right, then I
25 have nothing further. Let's go out to the board. I

1 see Terry first, and I can't see anybody else.
2 Terry?

3 MS. ROSENTHAL: Yeah, I initially had
4 some concerns about the noise level being above the
5 allowable decibels, but I think Mr. Higgins's
6 testimony convinced me that that is not an issue.
7 So, that's all I had.

8 CHAIRMAN LEVITON: Oh, that's a good
9 point, it was a definite concern because they talked
10 about the, our health department talked about
11 accepting complaints regarding noise generated by
12 commercial and mixed uses for our communities, but
13 the testimony by Mr. Higgins is that there is going
14 to be a sound barrier, more substantial than what
15 currently exists.

16 MS. ROSENTHAL: Correct.

17 CHAIRMAN LEVITON: So, that was good
18 for me, too, and definitely a concern. Okay, I see
19 next, Bob.

20 MR. GREGOWICZ: I have no questions.

21 CHAIRMAN LEVITON: Thank you, Bob.
22 David, and then Adam.

23 MR. SCHERTZ: The only question regards
24 the retention basin, how deep is it?

25 MR. HALARI: Three and a half feet.

1 MR. SCHERTZ: Three and a half feet?

2 MR. HALARI: Right, yes.

3 MR. SCHERTZ: Does it have a protection
4 fence around it?

5 MR. HALARI: No, it doesn't have a
6 protection fence around it.

7 MR. SCHERTZ: Do retention basins
8 typically have fences around them?

9 MR. HALARI: This is not a retention, this
10 is a detention, so it's a dry basin, it's not a
11 constant water in it, so this just renders a rain
12 storm, you will see the water for a certain amount of
13 time, and then it will be dry for most other times.
14 If the board thinks --

15 MS. BEAHM: Bhaskar, before, just can I
16 just interrupt you for a second?

17 MR. HALARI: Sure, sure, yes.

18 MS. BEAHM: So, what I would submit is if
19 this was a basin that was part of a major subdivision
20 where we're anticipating a lot of kids or what have
21 you in that area, and it was gonna be a wet basin, I
22 would perhaps say split rail with a mesh. But here,
23 we're in the back of an industrial area, there's a
24 fence, I think Bhaskar testified there's gonna be a
25 fence along that rear property line coincident with

1 the residents, not to mention landscaping in that
2 area, and because it's gonna be a dry basin, I would
3 take no exception to no fencing, however, if it's
4 something you feel strongly about, I'm sure the
5 applicant would provide it.

6 CHAIRMAN LEVITON: David?

7 MR. SCHERTZ: The fact that it's a dry
8 basin, I'm, I guess it's fine the way it's presented
9 right now. The only question I had was the property
10 residential house with the pool in the backyard, that
11 they had direct access to it.

12 MR. HALARI: There is going to be a fence
13 behind that property. So, the vinyl fencing that you
14 see is gonna continue to the end of the detention
15 basin.

16 MR. SCHERTZ: Okay, good. Thank you.

17 MR. HALARI: There is an existing fencing,
18 also those neighbors have the existing fencing back
19 there also.

20 MR. SCHERTZ: Okay, thank you.

21 CHAIRMAN LEVITON: Thank you, Mr.
22 Halari. Adam?

23 MR. WEISS: Thank you, I think it was a
24 very good presentation on a property that's in need
25 of redevelopment, so I think that everyone did a good

1 job. My only issue, and it's rather minor in the
2 grand scheme of things, is with regard to exhibit A-6
3 which is currently on the screen, we have the long,
4 white vinyl fencing with, the vinyl fencing would be
5 on the side of the residential, if you will, with the
6 staggered trees behind it. My thought would be
7 perhaps to reverse it, to have the white vinyl
8 fencing behind the trees so that the residential area
9 is looking at trees as opposed to a long, white,
10 sterile vinyl fence that eventually will turn green
11 as a result of grass being cut and everything like
12 that. So, that's really my only suggestion would be
13 to just flip it, have the trees on the residential
14 side and the fence behind it, more adjacent to the
15 property.

16 MR. HALARI: I would like to address that.
17 What it is quite honestly, this picture doesn't do it
18 justice to what is existing out there. Let me just
19 explain to you the reason for what we did. If you
20 really look at the existing picture of the existing
21 condition, there is a lot more trees that is in that
22 25 feet area.

23 So, if you see this, the area in the
24 front of the fence has a good amount of exist ing
25 vegetation. So, what is happening is, if you put the

1 planting in the front of the tree, in order to put
2 the planting, you're going to have to remove the
3 existing vegetation that is there, which is not
4 positive. On our side of the property, beyond the
5 fence, we have to regrade it so that area is going to
6 be disturbed anyway, so putting the trees on that
7 side is a better option. Second thing as I showed
8 you, let me go back to the screen share of the
9 picture I showed you --

10 MR. WEISS: Mr. Halari, before you switch
11 to the other screen, I have a question about the view
12 you just showed, I mean, we can come back to it, I
13 just don't want to --

14 MR. HALARI: No problem, I hear you.

15 MR. WEISS: So, you would then not have
16 to disturb any of the vegetation as it currently
17 exists in order to put that white vinyl fencing?

18 MR. HALARI: Correct, so we would not be
19 touching, our fencing is on our property line, so
20 there is going to be 25 feet from the curb to the
21 fence, so that 25 feet, so you see these, the white
22 fencing that we are going to propose is gonna be
23 where the chain link fence --

24 MR. WEISS: Where the current chain link
25 fence, okay.

1 MR. HALARI: So, this already is in the
2 front, but obviously this is the winter so you don't
3 see any leaves, but if I showed you during the
4 presentation --

5 MS. BEAHM: Bhaskar if I could just, I
6 think, Adam, the issue was that we asked for that
7 rendering just to show what they were proposing in
8 order for them to create that exhibit, like that's
9 what it looks like in the summertime.

10 MR. HALARI: So, you will not even be
11 seeing the fence, probably.

12 MR. WEISS: In view of Mr. Halari's
13 explanation and Ms. Beahm's clarification, I have no
14 issue, so thank you.

15 CHAIRMAN LEVITON: Adam, even though
16 they had a good explanation, that was a darn good
17 point.

18 MS. BEAHM: I agree, it was a very good
19 observation.

20 MR. WEISS: Thanks.

21 CHAIRMAN LEVITON: Rob.

22 MR. DITOTA: I thought the testimony was
23 great and I think it's an upgrade to the property, I
24 just want to make sure that there is no activity that
25 is going to be held behind the buildings at all, no

1 equipment, I know you mentioned no air conditioning
2 units, but there's not gonna be any equipment storage
3 or machinery, or anything behind the building,
4 correct?

5 MR. HALARI: Correct, there is nothing,
6 there is only, as I mentioned previously, a fire exit
7 road, that's the only thing that's gonna be in the
8 back there.

9 MR. DITOTA: Yeah, I know.

10 MR. HALARI: You can put that in the
11 resolution so we can make sure that we will comply
12 and we will make sure that every tenant who occupies
13 the space knows that nothing behind the building
14 would be stored.

15 MR. BOCCANFUSO: You will have to mow the
16 lawn back there though, right?

17 MR. HALARI: Yes, no, landscaping, that is
18 true.

19 MR. BOCCANFUSO: I just want to make sure
20 the record is clear.

21 MR. HALARI: Yes, I'm sorry, there will be
22 no storage of anything outside, but obviously we have
23 to go there to maintain the property, correct.

24 CHAIRMAN LEVITON: Rob, anything else?

25 MR. DITOTA: That's it, I'm sorry.

1 CHAIRMAN LEVITON: Mr. DiTota, thank
2 you, sir, and Mr. Shalika?

3 MR. SHALIKAR: No questions and
4 excellent testimony.

5 CHAIRMAN LEVITON: Okay, thank you
6 Josh. All right, so before I go out to the public, I
7 want to thank the boards's secretary and everyone's
8 friend, Ms. Moench for addressing the public and
9 letting them know that they were gonna get their
10 turn. God bless you, Janice, you see everything.
11 Let us go out to the public at this time. If there
12 is anyone from the public who wants to either
13 question one of the applicant's witnesses or one of
14 the board's experts, you may raise your hand now.
15 You will need to be on camera.

16 MS. MOENCH: So, I just see Karen has her
17 hand up first, I believe.

18 CHAIRMAN LEVITON: And then I see
19 Jarred as well. Karen, you're gonna need to be on
20 camera. We don't see you at this time, and we don't
21 hear you, because you are muted.

22 MS. MOSKOWITZ: Okay, I'm trying to get
23 on camera.

24 CHAIRMAN LEVITON: We hear you now.

25 MS. MOSKOWITZ: Yeah, okay.

1 CHAIRMAN LEVITON: It's a law, Karen,
2 so.

3 MS. MOSKOWITZ: No, it's no problem, I'm
4 just trying to -- oh, there I am.

5 CHAIRMAN LEVITON: We got you.

6 MS. MOSKOWITZ: You made me get dressed,
7 actually, Susie next door. Here's my question --

8 CHAIRMAN LEVITON: Hold up, our board
9 attorney is gonna swear you in and then we're happy
10 to hear -- we lost her. Did she disappear? Oh,
11 there she is.

12

13 K A R E N M O S K O W I T Z, having first been duly
14 sworn, testified under her oath as follows:

15 MR. CUCCHIARO: Please state and spell
16 your name and give us your address.

17 MS. MOSKOWITZ: Karen Moskowitz, I have
18 to spell it?

19 MR. CUCCHIARO: Yes.

20 MS. MOSKOWITZ: M-O-S-K-O-W-I-T-Z 26
21 Hearthstone Drive, Manalapan, New Jersey.

22 MR. CUCCHIARO: Okay, Ma'am, go ahead.

23 MS. MOSKOWITZ: Okay, I owned the
24 property many years ago with my dad, Washington
25 Forge, and I don't know if you're still aware that

1 there is a TCE, we haven't settled yet with it, in
2 the whole back and side of the factory. Do you know
3 about the TCE? It's been going on about 25 years and
4 we have not been released from the state. The one
5 who's in charge of trying to get us released and
6 they're doing borings periodically to make sure that
7 the plume has gone off the property, it's TRC.

8 MR. HALARI: Correct.

9 MS. MOSKOWITZ: I think I explained, I
10 told you that, right?

11 MR. HALARI: I know, I'm in communication
12 with TRC as well, I talked to them, we send these
13 plans to them to make sure what we are trying to do,
14 and we are going to have their blessing on this plan
15 before we do anything. And currently they're working
16 in an area where there is a second building we are
17 proposing that's on Center Street, they're working in
18 that area, rest of the property is okay.

19 MS. MOSKOWITZ: Right.

20 MR. HALARI: And that is why there is a
21 phase two of this project, last I talked to them,
22 they said to me that beginning of this year, they are
23 going to submit some kind of REA to DEP.

24 MS. MOSKOWITZ: Oh my God, I would like
25 to be released, it's been over, close to 25 years on

1 that.

2 MR. HALARI: I know.

3 MS. MOSKOWITZ: On that end, because if
4 you don't want to disturb anything and bring it up to
5 the surface, especially the plume. You understand,
6 yeah, okay.

7 MR. HALARI: Yes.

8 MS. MOSKOWITZ: And I came in on the tail
9 end of this because I wasn't paying attention to it
10 was supposed to be today until next door told me and
11 I know, I think Susie has her hand raised also, I'm
12 not sure. But, I didn't know anything about this,
13 prior. I'm also the one who owns the property on
14 Harrison Avenue, 21, 30, and 32, and in fact we're
15 not, and 34, and right now we are not allowed to
16 build on, I was thinking of building on 34, a home,
17 and I'm not allowed to because it disturbs all of the
18 TCE environmental problems, and he claims it would
19 negate our contract in that area and that made me
20 really nervous. And then I thought of doing a
21 higher, off the ground. He said any time you move
22 anything, we could be responsible as an owner.

23 MR. HALARI: I understand. So, I have
24 talked to them, as I said, I'm in constant touch with
25 them, and I understand the extent of the cleanup that

1 they're doing. Where we doing building 1 -- there is
2 no problems in that area. They talked about the
3 building two where they're doing the cleanup activity
4 right now.

5 MS. MOSKOWITZ: They are cleaning up?

6 MR. HALARI: Yes, yes.

7 MR. MEHR: And that's why we're not
8 starting to build on that until the LSRP signs off
9 that everything is okay, and there's no reason not to
10 go ahead. That's why it's phase two.

11 MS. MOSKOWITZ: And then back of my home,
12 the 26 hearthstone Drive, it's going to be a pleasant
13 view for us, when it's that.

14 MR. HALARI: Yes, you will have, we are
15 gonna replace the existing fence with a vinyl board
16 on board fence and then we're gonna have a similar
17 evergreens on your home as well, staggered evergreen
18 planting.

19 MS. MOSKOWITZ: Yeah, I like, the
20 staggered is good. Is there gonna be a berm there?

21 MR. HALARI: No, there is gonna be a
22 basin, so it's gonna go down. It's not going to be
23 any higher berm, then.

24 MS. MOSKOWITZ: Okay, so there's no need
25 for a berm, we won't see anything?

1 MR. HALARI: No, there is nothing, there's
2 no building or anything, it's just a basin, so it's
3 gonna be grass and trees, we'll put evergreen trees
4 there.

5 MS. MOSKOWITZ: Evergreen, so it's all
6 year round. Because, the berm, I did the berm on the
7 other side for my dad, McGelliards Crossing, and is
8 that gonna remain like that?

9 MR. HALARI: That is gonna remain within
10 the right of way, just the way it's there up to the
11 fence, it's gonna stay the same.

12 MS. MOSKOWITZ: Because now we don't see
13 anything, originally, 40 years ago, you could see
14 everything, and when I moved in here, we put up the
15 berm. So, as long as our backyard also, because it
16 will reduce the value of our property on Harrison --
17 not on Harrison, on Hearthstone Drive.

18 MR. HALARI: Understood, and that is why
19 we are doing the evergreen planting and we are
20 replacing the fence.

21 MS. MOSKOWITZ: Okay, and that fence is
22 actually on your property, right?

23 MR. HALARI: Yes, we are going to replace
24 that fence, the chain link fence.

25 MS. MOSKOWITZ: Yeah, even though we put

1 it up and I did go to the township in Manalapan and
2 we got the use of the fence, somehow, I forget what
3 we did, but Steven Levinson, I think I was there with
4 him.

5 MS. MOENCH: You came before this board
6 for a variance.

7 MS. MOSKOWITZ: Yeah, and I think we were
8 grandfathered in or something because it's been
9 there, we have that up there over 50 years or so.
10 He'll just replace that, then.

11 MR. HALARI: Yes, we are proposing to
12 replace that.

13 MS. MOSKOWITZ: And I dealt with you, I
14 always think you're wonderful, so I know I can
15 entrust everything that you're gonna do. I was just
16 concerned about the TCE.

17 MR. HALARI: No problem, thank you, very
18 much.

19 CHAIRMAN LEVITON: Karen, are you
20 Adam's mom?

21 MS. MOSKOWITZ: Yes.

22 CHAIRMAN LEVITON: I knew Adam 35 years
23 ago.

24 MS. MOSKOWITZ: You're Steven, correct?

25 CHAIRMAN LEVITON: Yes, I am.

1 MS. MOSKOWITZ: Can I stop this for one
2 second?

3 (Whereupon a discussion was held off the
4 record)

5 MR. CUCCHIARO: Mr. Chair, just before we
6 do that, just one comment, not about being the
7 substitute teacher or anything, but one comment
8 relating to that discourse with Bhaskar. So, if
9 during the RAO process, it turns out that any of the
10 proposed improvements that you've shown this board
11 have to be modified, moved, or something different
12 happens with the plan, you're gonna have to come
13 back, just for the record.

14 MR. HALARI: Of course, we understand.

15 CHAIRMAN LEVITON: Thank you, Ron. Mr.
16 Marcu, I know I'm butchering your last name. How do
17 you say it?

18 MR. MARCU: Marcu.

19

20 L E N M A R C U, having first been duly sworn,
21 testified under his oath as follows:

22 MR. CUCCHIARO: Please state and spell
23 your name for the record and give us your address.

24 MR. MARCU: My name is Len Marcu,
25 M-A-R-C-U, I reside at 11 Vanard Drive in Brick, New

1 Jersey.

2 MR. CUCCHIARO: And what's your relation
3 to this project?

4 MR. MARCU: I'm a tenant of Bhaskar's.

5 MR. CUCCHIARO: Mr. Mehr, any objections?

6 MR. MEHR: No.

7 MR. CUCCHIARO: Okay, go ahead, sir.

8 MR. MARCU: Okay, I'm really just here,
9 I'm a volunteer, I asked Bhaskar to let me know when
10 this would be so I could just support him in his
11 endeavor. I've been a tenant of Bhaskar's in this
12 facility for about eight years, I think just after he
13 became the owner of the place, or soon thereafter
14 anyway. He has been super supportive of me and my
15 business, he listens to the tenants, and has just
16 done whatever he can to make life easier there, and
17 to make it more comfortable for those of us that rent
18 from him. I know many of the tenants around me very
19 much appreciate what he does and how he keeps the
20 property, and I just thought it important that the
21 board know that he takes care of the place very well
22 and he listens to what goes on. He's there fairly
23 often, but he still listens to many of us about
24 anything that we may see that we pass on to him.
25 He's just like super cooperative and a great guy,

1 honest man, and I just wanted to pass that along.

2 CHAIRMAN LEVITON: Thank you for those
3 remarks, Mr. Marcu. Chris? Chris, you'll need to
4 unmute yourself, and then Mr. Cucchiaro will swear
5 you in.

6 MR. MEGNA: Okay, I'm actually Christine,
7 but I'm gonna defer to my husband, Paul.

8
9 P A U L M E G N A, having first been duly sworn,
10 testified under his oath as follows:

11 MR. CUCCHIARO: Please state and spell
12 your name for the record and give us your address.

13 MR. MEGNA: Paul Megna, last name is
14 spelled M-E-G-N-A, residing at 25 Hearthstone Drive
15 in Manalapan.

16 MR. CUCCHIARO: Go ahead.

17 MR. MEGNA: All right, so my first
18 question, the most concerning one that I have,
19 they've already stated that they are adding
20 additional parking that is not required based on the
21 space, and the parking lot that's on the south side
22 would be pretty much directly adjacent to, I think
23 it's Farm Tree, what is to stop them from coming back
24 later on to request an opening in that area to
25 connect to the parking lot as a passthrough? Just

1 because we all know Englishtown, and those roads are
2 not very wide as opposed to the streets that we have
3 here in this development, and there are some concerns
4 that I have specifically about traffic in the
5 neighborhood that they may later on request like some
6 sort of ordinance change or something like that so
7 that the road can connect into their parking.

8 MR. CUCCHIARO: Well, as it relates to
9 our process at the zoning board, let's assume there's
10 an approval, there's been no vote yet, but let's
11 assume there's an approval. If they change anything
12 that was approved, they would have to come back and
13 they would have to make proofs, and you would get a
14 notice, or if you're beyond 200 feet there would be a
15 notice in the newspaper you can see. So, because
16 it's a use variance context, it's very specific to
17 what it is that they have presented to us. So, they
18 would have to come back and we would have another
19 public hearing to assess the merits of that proposal.

20 MR. MEGNA: What would Manalapan consider
21 on the merits on that, considering how the traffic
22 pretty much is just affecting Englishtown now? So
23 what would they really consider towards approving
24 that or not? Because in all honesty, I know it's
25 getting ahead, but I want to see the benefit to

1 Manalapan to approve it.

2 MR. CUCCHIARO: And again, you can come
3 to a subsequent hearing, but the board can't
4 prospectively say that it's going to deny a
5 hypothetical application that hasn't been filed.
6 That's just not something that the law permits us to
7 do.

8 MR. MEGNA: There would be no way to
9 restrict, like there will be at no time any future
10 approvals for opening, like opening that up?

11 MR. CUCCHIARO: You can't do that, they
12 always have a right. Well, it's gonna be a condition
13 of this approval that they have to build what they
14 said they're gonna build, which includes that design.
15 But, they have a right to come back at any time they
16 want and ask for relief from that condition, but
17 there's a public hearing associated with it and there
18 would be very close attention paid to, what is it
19 that you want? Why does it benefit the public and
20 not just yourself? And there would be this session
21 as well for the public to come and ask questions and
22 also make statements.

23 But, the Municipal Land Use Law, which
24 guides us, it's a state statute, doesn't allow us to
25 prospectively get into something that is not even

1 being proposed at this time. But, rest assured,
2 there would be another public hearing if they tried
3 to do that in the event of an approval.

4 MR. MEGNA: Okay, my next question is,
5 what are the hours like, the parking lights and
6 everything as far as light pollution? Would there be
7 any restrictions on how late those lights are gonna
8 be on, things like that?

9 MR. CUCCHIARO: Let's listen to Bhaskar,
10 Bhaskar, do you have an answer to that?

11 MR. HALARI: Yeah, yeah, can you hear me?

12 MR. CUCCHIARO: Yes.

13 MR. HALARI: The lights are less than the
14 height of the building, so it will be lower lighting.
15 We put some lights out after like 9:00 at night, but
16 you would need to keep some security lighting on
17 during the nighttime. But, besides that, we can work
18 with the township engineer and identify certain
19 lights that can be turned off at a certain hour and
20 we can basically put it on a timer that way.

21 MR. MEGNA: Okay, and I do have a concern
22 about that because I have windows in bedrooms that
23 are on that side of the house that are facing that
24 area, and I wouldn't want that necessarily being an
25 issue at night.

1 MR. HALARI: Yeah, but given the buildings
2 are 30 feet tall, the lights are 25 maximum. The
3 buildings are going to completely block any lighting,
4 even if you are seeing now, there will be no lighting
5 you will see.

6 MR. MEGNA: All right. My next two
7 questions are about the fence. Behind, I know that
8 you're gonna put the water basin behind the other
9 houses, the vinyl fence is gonna extend how far like
10 down that property line?

11 MR. HALARI: Let me just put, we are going
12 to extend behind the two houses. So, we are going to
13 have here a second house, basically. The first
14 house, Karen's house, and then the house next to it,
15 because after that, it's all natural vegetation in
16 the back, we are not disturbing anything beyond that
17 point.

18 MR. MEGNA: Okay, and now just as a
19 course of practicality, because we have vinyl fences,
20 I see that they get damaged. In the event that one
21 of the fence is damaged, how do we go about making
22 sure that that gets repaired? Because the fence
23 that's there now is in disrepair by, I think Mr.
24 Higgins said himself, you know, we want to make sure
25 that there is recourse that this fence doesn't fall

1 into disrepair as well, otherwise everything that is
2 proposed, while it may look nice now, if in five
3 years damage from rocks being kicked up from the
4 landscapers, or the deer that are in the area, we
5 want to make sure that there is some ability to make
6 sure that those repairs are made timely.

7 MR. HALARI: You can call the township or
8 call me, but the township zoning officer many times
9 calls me with like an issue, like recently there was
10 dead trees on my property that was falling onto the
11 neighbors, and I got a call from the township saying
12 that we need to take selective dead trees and remove
13 them, which we did, like a month and a half ago. So,
14 there is a way of communicating. I can give you my
15 number, you can contact me directly, or township
16 always have a zoning officer which will take care of
17 this.

18 MS. BEAHM: Bhaskar, do you have a
19 property manager that manages the property?

20 MR. HALARI: I am the manager.

21 MS. BEAHM: Okay, so, there you go.

22 MR. HALARI: That's what I'm saying, I can
23 give you guys the number and e-mail address and you
24 can contact me any time. You can, I can give you my
25 cellphone number right now and then later on you can

1 text me and then I'll give you my information.

2 MR. MEGNA: That would be good, thank
3 you.

4 MR. HALARI: 732 --

5 MR. BOCCANFUSO: Wow, that's bold,
6 Bhaskar.

7 MRS. MEGNA: Yeah, but we're all
8 neighbors, here.

9 MR. HALARI: No problem. 732-841-6876.

10 MRS. MEGNA: Thank you.

11 MR. MEGNA: Thank you. And that's all we
12 got.

13 MR. HALARI: Sure.

14 CHAIRMAN LEVITON: Thank you, folks.

15 Mr. Halari, congratulations, that was a first.

16 Anthony, you're gonna need to unmute yourself.

17 MS. BEAHM: John, can you mute yourself?

18 MR. REA: They want me to mute myself.

19 CHAIRMAN LEVITON: Anthony, you're not
20 muted any longer but we can't see you.

21 MR. PACE: Can you hear me?

22 CHAIRMAN LEVITON: I can, but you need
23 to be on camera.

24 MR. PACE: Absolutely, I'm trying to get
25 the camera on.

1 CHAIRMAN LEVITON: I don't see any more
2 hands.

3 MS. BEAHM: There's one, it's Jarred
4 Lyons.

5 MR. PACE: You can let Jarred go.

6

7 J A R R E D L Y O N S, having first been duly sworn,
8 testified under his oath as follows:

9

10 S U S I E L Y O N S, having first been duly sworn,
11 testified under her oath, as follows:

12 MR. LYONS: Jarred Lyons, L-Y-O-N-S, 24
13 Hearthstone Drive.

14 MR. CUCCHIARO: Go ahead, sir.

15 MRS. LYONS: I'm Susie, S-U-S-I-E, Lyons
16 and again, 24 Hearthstone.

17 MR. CUCCHIARO: Okay.

18 MRS. LYONS: Thank you. Just a couple of
19 points I wanted to mention. The information that we
20 received via mail was of the wrong information, so I
21 just wanted to point that out that we had to find
22 this, thankfully for our neighbor who pointed it out,
23 that the information that was mailed to us was
24 incorrect, it had the wrong date of the meeting, and
25 the wrong information, the wrong, on the mail letter.

1 The information that's online is correct, but what
2 was mailed to us at our home was the wrong
3 information, I just wanted to say that. It's neither
4 here nor there at this point.

5 I just wanted to address again the fence
6 behind our property. So, again, we're 24, Karen is
7 26, and so what I hear you saying is that the fence
8 is going to go beyond 24 and 26, but the fence has
9 been in disrepair, and you really haven't fixed the
10 fence previously, you just kind of patched up a
11 couple of holes.

12 And so my concern is that for the
13 remaining, my neighbor to my, on the other side, 22,
14 that that fence is already in pretty terrible
15 disarray, and I would think that perhaps some sort of
16 extension would be a better use of the area,
17 especially for the wildlife. We are concerned about
18 that as well, and the followup question is about the
19 basin, we have a small child, and we are concerned
20 about that not being fenced in additionally.

21 MR. HALARI: Okay, we will extend the
22 fence. Basically, we will replace the existing
23 fence.

24 MRS. LYONS: Thank you, and can you just
25 clarify for us that that would be the white PVC fence

1 all the way?

2 MR. HALARI: Yes, there would be a white,
3 vinyl fence that we show on the picture of the
4 rendering.

5 MRS. LYONS: And again, I know you brought
6 it up, I do appreciate that you addressed the tree
7 issue. You didn't remove the trees, they were just
8 kind of knocked over, so I just want to understand
9 that when the fence is going to go up, if that would
10 be cleaned, I mean, obviously we wouldn't see it as
11 much, but how would that affect our property?

12 MR. HALARI: Those trees are going to get
13 removed, but at that moment, the contractor could
14 remove the trees itself, but it was emergency to
15 preserve taking down the dead trees. So we needed to
16 have it taken down right away and then we going to,
17 he's gonna come back again and then we gonna chip
18 them and take them away.

19 MRS. LYONS: Okay, I appreciate that,
20 thank you for that. So, is there any reason that
21 there would be any access to this from our properties
22 from 22, 24, 26? So this is completely, we would not
23 be asked to have access, you wouldn't have to access
24 anything on our property?

25 MR. MEHR: I don't think he heard that

1 question fully.

2 MRS. LYONS: It didn't seem that way. I
3 was just wondering if there would be any reason for
4 you to access our property for any of the work that
5 would need to be done in installing the fence.

6 MR. HALARI: Probably not, but in case if
7 I have to, I would knock on your door and tell you
8 what we need to do. But, as long as the fence is on
9 our property and nothing is on your property, if
10 there is a tree that is right on the fence that grew
11 part on your property and part on our property, then
12 we may have to get on your property to do something,
13 but besides that, I don't see a reason.

14 MRS. LYONS: I understand that and again,
15 I just wanted to bring up just the second point about
16 the fence on the basin. Again, we have a small
17 child, obviously, I know there would be a very small
18 chance of anything, him getting over the fence, but I
19 just want to make sure that you can ensure that the
20 basin is A, at the proper distance, and B, properly
21 secured, that that would be not be an issue for our
22 family and any potential future homeowners on either
23 side of ours as well.

24 MR. HALARI: We are going to, as I say,
25 replace the fence, that should give you pretty good

1 security, right?

2 MRS. LYONS: Okay, and again, just the
3 environmental concerns are big for us, so my only
4 other question is just as a point of maybe just to
5 repeat, that nothing would go into production or
6 anything like that, no building will occur until it
7 is completely signed off on any environmental
8 concerns, is that correct?

9 MR. HALARI: Yes.

10 MRS. LYONS: Okay, then I think we have no
11 further questions, and I appreciate the flexibility
12 in the fence and I'm sure Anthony will agree with
13 that as well when he comes on, but I just want to
14 thank you for your flexibility on that.

15 MS. MOENCH: Can I just ask your address
16 because --

17 MRS. LYONS: 24 Hearthstone.

18 MS. MOENCH: I don't see you on the 200
19 foot list.

20 MRS. LYONS: We did receive the notice, we
21 had a certified letter that we received in the mail.
22 What I was just stating is that it was the wrong
23 letter was mailed to us, it had the wrong date, the
24 wrong Zoom link, and I was just bringing that, we
25 just picked it up at the post office last week, we

1 received the information in the mail. We are the
2 properties, so that would not make sense that we
3 would not receive that.

4 MS. BEAHM: You're lot 36.

5 MR. CUCCHIARO: Correct.

6 MS. BEAHM: It's like where the basin is,
7 pretty much.

8 MR. CUCCHIARO: I need to address this
9 before we move on because this is a jurisdictional
10 issue. I have a copy of the notice, the one that I
11 have says the hearing is gonna be held March 3rd at
12 7:30 and that will be held remotely, and then it has
13 the instructions.

14 MRS. LYONS: The login link was wrong, it
15 was from the February one. It's fine, we're here, I
16 just wanted to -- I'm sorry, what?

17 MS. MOENCH: I don't think anything went
18 out that said February.

19 MR. LYONS: The login link had a February
20 pin code.

21 MS. MOENCH: Oh, I understand, but you can
22 click on the link, I understand.

23 MRS. LYONS: Yeah, I was just saying that
24 because that was our form of communication and we
25 were trying to get on and then thankfully our

1 neighbors -- -

2 MR. CUCCHIARO: I understand what you're
3 saying, but it's an issue of jurisdiction for the
4 board if it was incorrect, so we need to resolve it.

5 MR. MEGNA: There was another neighbor
6 who said they were trying to get on, they were using
7 that and they couldn't get on. We did try to provide
8 them the information that we had pulled from online,
9 but I don't know if they got on or not.

10 CHAIRMAN LEVITON: Mr. Halari, were you--

11 MR. HALARI: My mistake.

12 CHAIRMAN LEVITON: Okay, Mr. Cucchiaro,
13 where do we stand?

14 MRS. LYONS: Any other questions that you
15 have for us? No? Thank you.

16 CHAIRMAN LEVITON: I appreciate your
17 remarks, and again, I'll echo their sentiments, Mr.
18 Halari, your flexibility is much appreciated.

19 MRS. LYONS: Thank you.

20 CHAIRMAN LEVITON: Mr. Cucchiaro, where
21 are we, sir?

22 MR. CUCCHIARO: I don't know the correct
23 link to the conference, Janice, do you know if the
24 link in the notice was correct?

25 MS. MOENCH: The link was correct, but the

1 password, so if you click on the link, you should be
2 fine, but the password is 021722, it should be 0303,
3 but we don't require a password anymore, so it
4 shouldn't be a problem. That's the only issue --

5 MRS. LYONS: I understand, what I'm trying
6 to explain to you, we did not click on the link, we
7 were using the letter that was mailed, we were trying
8 to manually type it in, I understand, I'm on Zoom
9 calls all day. What I'm saying to you --

10 MR. CUCCHIARO: Hold on, we understand,
11 we're not gonna debate, I just need to figure out the
12 implications.

13 MS. MOENCH: The notice says 3/3.

14 MR. CUCCHIARO: I understand, however you
15 can't -- first, I would ask Mr. Mehr, and I am sure I
16 know what your answer is gonna be, do you have a
17 legal position on this?

18 MR. MEHR: I believe if you have access
19 to what's here, the fact that the password might have
20 been incorrect is, and that's not necessarily to get
21 into the meeting, but I don't see any problem at all.

22 MR. CUCCHIARO: Well, here's my problem,
23 notices were sent out to people, and it tells people
24 how to get onto the meeting, and if you follow the
25 directions that are on the notice, you don't get into

1 the meeting. To me, that's a problem.

2 MR. MEHR: I thought the secretary said
3 you do get to the meeting.

4 MR. CUCCHIARO: No, if you click it. If
5 you type it in, you're not going to get into the
6 meeting.

7 MS. MOENCH: If you click the hyperlink,
8 then you would get into it, but if you manually type
9 it in like Mrs. Lyons said she did, manually typing
10 it in, then you might have a problem, but I don't
11 believe that we require a password anymore.

12 MRS. LYONS: But that's what I'm saying to
13 you, if there was, you did need it, manually typing
14 it in, so I appreciate the clarification.

15 MR. CUCCHIARO: Here's what I suggest,
16 Mr. Chair, I suggest we finish the public portion
17 tonight, and then carry it to a date specific before
18 you vote on it, and that the applicant renote to
19 that next day. And if there is more people that want
20 to participate, they can participate, if there are
21 none, there are none, and you can vote at that time.
22 But, you can't put out a notice under the Municipal
23 Land Use Law that has very specific directions and
24 when you follow the directions, it doesn't work, you
25 just can't.

1 MR. MEHR: Ron, we agree with you, we'll
2 switch that, that makes sense.

3 MR. CUCCHIARO: So, Mr. Chair, we can
4 continue with the public that is here tonight.

5 CHAIRMAN LEVITON: Is there anyone else
6 in attendance who wishes to address the board or
7 cross examine the expert testimony that was offered
8 by the applicant?

9 MS. MOENCH: I have Anthony on as well,
10 with his hand raised.

11 MR. CUCCHIARO: Is he on camera:

12

13 A N T H O N Y P A C E, having first been duly sworn,
14 testified under his oath as follows:

15 MR. CUCCHIARO: Can you please state and
16 spell your name for the record and give us your
17 address?

18 MR. PACE: Anthony Pace, P-A-C-E,
19 address is 22 Hearthstone Drive.

20 MR. CUCCHIARO: Go ahead, sir.

21 MR. PACE: So, Susie touched, Susie and
22 Jarred touched a little bit on what I was gonna ask.
23 So, the chain link fence, I can see that the basin
24 stops before 22 and they were saying, now they're
25 saying they're gonna extend the fence. So yes,

1 because the chain link fence stops at my property, on
2 the far side of my property. So, it actually covers
3 most of my property. So that was already addressed.
4 My other question is, now, as far as this basin goes
5 with the water, now, I understand that the water will
6 go there, and then seep out through natural
7 passageways, correct?

8 MR. HALARI: Correct.

9 MR. PACE: My problem, it's not a
10 problem, my question is this, right now back there
11 with the water that is there now that gathers there,
12 the mosquitos are, the infestation, I can't tell you
13 the amount of money I spent to spray the back. Now,
14 with that water pooling there, besides drainage, is
15 there gonna be sort of like a leach field put there
16 for the basin? How are you doing the basin?

17 MR. HALARI: The basin is basically,
18 extending into the ground, we are not building
19 anything, any berms, or anything, so they don't go
20 high. So actually in my opinion, this basin, once we
21 dig below the grade, should allow any water that is
22 around it to seep into the basin because now it has a
23 positive way of draining it. But, we can look at
24 your particular situation, I can come and visit you,
25 and I can look at what your situation is.

1 MR. PACE: I mean, as far as the
2 situation goes, it's no different than my other two
3 neighbors. So, my only question, so, you're gonna
4 dig it out, are you putting any Crustown, or you're
5 just gonna dig the earth and leave the earth alone
6 and that will basically form a natural pool, for lack
7 of better terms?

8 MR. HALARI: No, no, we are going to dig
9 it out, and then we are going to put a concrete
10 channel at the bottom of the basin, and then we're
11 gonna have an under drain, there's gonna be a six
12 inch under drain in the ground. Any water that's
13 below that will also will collect under drain and
14 then discharge. So, actually it should be, that
15 under drain also should help your system there.

16 MR. PACE: Understood, it's like a -- I
17 understand completely. Okay, no, I mean, that's all
18 I had and then, the chain link you said, because as I
19 said, the chain link ends at mine, so you're gonna
20 extend the white PVC, and you said there's gonna be
21 evergreens back there, correct?

22 MR. HALARI: Yes, I just don't know where
23 your house is because we're only putting evergreens
24 where the basin is. Basin is only behind Karen's
25 house. Out there, there is no basin, so after that

1 is gonna be the woods that is there, it's gonna be
2 preserved, we're not touching that.

3 MR. PACE: Okay, understood, but to
4 Susie's point, those trees that were knocked down,
5 that will be cleaned up?

6 MR. HALARI: Oh yes, yes, of course. The
7 timing was bad, the guy couldn't bring the machine --

8 MR. PACE: Okay, I was just asking,
9 understood, I'm good. That's all I had, thank you.

10 MR. BOCCANFUSO: Bhaskar, if I could just
11 jump in very quickly, it looks like Mr. Pace's
12 property is the third one from McGelliards Crossing,
13 is that right?

14 MR. PACE: Yes.

15 MR. BOCCANFUSO: So, I just want to point
16 out that the basin is not behind his property. The
17 area behind his property is actually regulated as a
18 flood hazard area, and I think wetlands as well. So,
19 you really wouldn't be able to do anything back there
20 as far as grading or anything like that in order to
21 mitigate the conditions. I mean, obviously, I don't
22 take any exception and don't disagree with everything
23 you said about the basin itself, but that's not gonna
24 be behind Mr. Pace's property, the area behind his,
25 aside from the removal of the hazard trees and things

1 of that nature. You can't do any grading work out
2 there unless you were to modify your DEP permit,
3 which I don't think is on the table at this point.

4 MR. HALARI: No, we will be replacing the
5 fence. What I meant to say is, because we not
6 building any berms and excavating into the ground,
7 any water that he has currently is on the ground high
8 if it can't drain out anywhere, maybe us -- it out on
9 our basin may help underground draining somewhere in
10 that area.

11 MR. PACE: Oh yeah, no, the water behind
12 my house isn't bad at all. It's further out where
13 it's, to your point. I was more just wondering if
14 let's say we get an influx of rain and snow, I mean
15 we didn't get much snow this year, but we did get a
16 lot of rain. You said three and a half feet, I know
17 three and a half feet is a lot of water, I understand
18 that, but I just want to make sure that it would
19 drain out at every time that it comes in. I don't
20 want to have the pooling water because that just
21 starts a whole other issue, and that's basically why
22 I asked what would be underneath and you answered it,
23 so thank you.

24 CHAIRMAN LEVITON: Thank you, Brian.
25 Is there anyone else who wants to address the board

1 or ask a question of a witness? Seeing none, I am
2 going to close public and on advice of counsel, there
3 will be no vote this evening. The applicant is going
4 to re-notice, and when we reconvene at the date that
5 we're going to name in a moment, we will open back up
6 to public, and anyone who has not spoken or wishes to
7 speak again, will be invited to do so, and at that
8 time a vote will be taken. Janice, let's offer the
9 applicant some dates.

10 MS. MOENCH: I have our next date of,
11 well, it should be rather quick, so I think the next
12 date we have available is 3/17. We have a pending
13 application, but I would imagine that we could do
14 this prior to.

15 MR. CUCCHIARO: I guess my only question
16 is, how many days in advance does the Asbury Park
17 Press require --

18 MR. MEHR: That would be awful quick, I
19 think we would be better off going to the following
20 meeting at least. Only because, are we notifying the
21 public, all of the property owners again?

22 MR. CUCCHIARO: Yes, because every single
23 one got the wrong notice.

24 MR. MEHR: That's fine, and we're also
25 publishing, too.

1 MS. MOENCH: I think what happened was --

2 MR. MEHR: It was published in February,
3 that's why.

4 MR. HALARI: No, no, no, they kept the
5 February meeting and then --

6 MS. MOENCH: Yeah, they kept the February
7 meeting information and just put the regular. So, we
8 can go to 4/7.

9 MR. MEHR: I think that's better, Chair.

10 MR. CUCCHIARO: Okay, so then the
11 application will be carried to April 7. There will
12 be new notice to both property owners and the
13 newspaper, and I think that will remedy any
14 potential.

15 MR. MEHR: Just one question, Ron, I'm
16 not changing the substance other than the --

17 MR. CUCCHIARO: That's correct.

18 MR. MEHR: Yeah, I'm not changing that
19 because otherwise it's gonna get hairy.

20 MR. CUCCHIARO: No, no.

21 CHAIRMAN LEVITON: And he's not gonna
22 have to put on any testimony, I'm just gonna open up
23 the public.

24 MR. CUCCHIARO: That's correct. I mean,
25 Mr. Halari, and please have your professionals

1 available in case anybody has questions. But we're
2 not opening it back up for direct, unless you want
3 to, Mr. Mehr. We don't anticipate opening it up for
4 any more direct, just questions.

5 MR. MEHR: I believe that's fine.

6 MS. MOENCH: Mr. Mehr, I'll supply your
7 office with the information for the noticing.

8 MR. MEHR: Please do, thank you very
9 much.

10 CHAIRMAN LEVITON: Thank you, Janice.

11 MS. MOENCH: You're welcome.

12 MR. HALARI: Karen has her hand up,
13 somebody still want to talk.

14 MR. MOSKOWITZ: Hi, I'm Karen's husband,
15 my name is William Moskowitz, I had a question about
16 the water table.

17 CHAIRMAN LEVITON: Mr. Moskowitz, I
18 already closed public, but, Mr. Cucchiaro, I have no
19 problem.

20 MR. CUCCHIARO: I just need to swear you
21 in first.

22

23 W I L L I A M M O S K O W I T Z, having first been
24 duly sworn, testified under his oath as follows:

25 MR. CUCCHIARO: Just give us your name

1 and address, again.

2 MR. MOSKOWITZ: William Moskowitz,
3 M-O-S-K-O-W-I-T-Z, 26 Hearthstone Drive.

4 MR. CUCCHIARO: Go ahead, Mr. Moskowitz.

5 MR. MOSKOWITZ: So, we have a very high
6 water table, we're the house with the pool that backs
7 up to the property, and taking this basin, I was
8 curious how deep the basin was gonna be, and what
9 that effect on the surrounding water table will have
10 by building this basin.

11 MR. HALARI: Three and a half feet deep,
12 as I said, and actually covering this basin and
13 putting the under drain and doing this improvement,
14 it should reduce, if anything help reduce the
15 groundwater table, if you have a groundwater table
16 because there is gonna be a drain at the lower level
17 now.

18 MR. MOSCHOWITZ: So, now there is a stream
19 that goes by the back of our house and the water is
20 gonna be diverted, where is it gonna actually, where
21 is the water gonna go?

22 MR. HALARI: The water is gonna go on the
23 north side of the basin, it's gonna go towards the
24 stream all the way in the back. From the basin, the
25 water will go towards the north.

1 MR. MOSKOWITZ: Towards the north?

2 MR. HALARI: Away from your house, let's
3 put it that way, away from your house towards the
4 stream that is further in the back.

5 MR. MOSKOWITZ: Okay, that was my
6 question.

7 CHAIRMAN LEVITON: Thank you, Mr.
8 Moskowitz.

9 MR. MOSKOWITZ: Thank you for taking my
10 question.

11

12 (Hearing was adjourned at 9:53 p.m.)

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C E R T I F I C A T E

I, DEANNA WIZBICKI, a Registered Court Reporter of the State of New Jersey, certify that the foregoing is a true and accurate verbatim transcript of testimony provided under oath by and before me on the date and place hereinbefore set forth.

I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.

Deanna Wizbicki

DEANNA WIZBICKI,
Registered License No: 30CY00001700
Notary ID No: 2330518

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