

**TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
REGULAR MEETING MINUTES
JULY 23, 2018**

Call to Order

The regular meeting of the Township of Morris Board of Adjustment was called to order on Monday evening, July 23, 2018, at 7:30 P.M. in the Municipal Building, 50 Woodland Avenue, Township of Morris.

Statement of Adequate Notice

Chairman Kronk issued the following:

"I hereby announce and state that adequate notice of this meeting was provided by the Secretary of this Board of Adjustment by preparing a notice dated July 17, 2018 specifying the time, date and place of this meeting, posting such notice on the bulletin board in the Municipal Building; filing said notice with the Clerk of the Township of Morris; forwarding the notice to the Morris County Daily Record and the Morris News Bee, and forwarding, by mail, the said notice to all persons on the request list, and I hereby hand a copy of such notice to the Secretary of the Board of Adjustment for inclusion in the minutes of this meeting, all of the above actions being in accordance with N.J.S.A. 10:4-6, et seq., Open Public Meetings Act."

The Pledge of Allegiance was led by Timothy Kronk, Chairman

Roll call of Board Members and Professionals

Members Present

Mr. Timothy Kronk, Chairman
Mr. Paul Woodford
Mr. Paul Staudt
Mr. John Christensen

Members Absent

Ms. Kathleen Kalaher
Ms. Joen Luy Ferrari
Mr. Donnell Williams
Mr. Jeremiah Loughman, Alternate #2

Also Present

Mr. Richard Oller, Board Attorney
Mr. Paul Phillips, Board Planner
Mr. James Slate, Township Engineer
Ms. Sonia Santiago, Board Secretary

Resolution

Consideration of the following resolutions thereby memorializing the action taken by the Board at the June 25, 2018 meeting.

BA-05-18

Mary Geary

Block 9607, Lot 14, 22 Chimney Ridge Drive, RA-15 zone, Section C.

Applicant proposes a second story addition creating a side yard setback of 15.1 feet on the northerly side where 20 feet is required and 27.4 feet on the southerly side where 30 feet is required. Applicant also seeks a combined side yard setback of 42.5 feet where 50 feet is required.

Mr. Woodford moved, seconded by Mr. Christensen, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the June 25, 2018 meeting.

Approval

Roll Call: (Voting Members) Mr. Staudt, Mr. Christensen, Mr. Woodford, Mr. Kronk

BA-19-17

John Anzul

Block 3906, Lot 6, 136 Western Avenue, RB-11 zone. Section C and D.

Applicant proposes construction of a two story addition to an existing dwelling which also includes a second floor apartment. The applicant also seeks bulk variance relief for building coverage of 29.3% where 25% is required, building height of 36 feet where 35 feet is required and front yard setback on Locust Street of 6.76 feet where 35 feet is required.

Mr. Oller informed the Board that the resolution was not ready and asked that it be carried to the next meeting.

BA-12-14

Morristown Unitarian Fellowship

Block 9401, Lot 6, 21 Normandy Heights Rd, RA-25 zone.

Applicant requests for extension of approval.

Mr. Staudt moved, seconded by Woodford, roll call as indicated that resolution of approval, attached hereto and by reference made part of the official minutes of this meeting, be adopted as presented, memorializing the action taken by the Board at the June 25, 2018 meeting.

Approval

Roll Call: (Voting Members) Mr. Staudt, Mr. Woodford, Mr. Kronk

Public Hearings

BA-07-18

Marcio & Blanca Salas

Block 7302, Lot 3, 349 South Street, RA-15 zone. Section C.

Applicant proposes construction of a 24 x 24 two car garage creating a side yard setback of 6 feet where 20 feet is required and a combined side yard setback of 13.71 feet where 50 feet is required.

Mr. Oller informed the Board and members of the public that the notice requirement was deficient and for this reason the Board had no jurisdiction to hear the application and the applicant requested to be adjourned to the next Board hearing.

Mr. Christensen moved seconded by Mr. Staudt and unanimously carried the application is carried to the August 27, 2018 Board meeting. Applicant is to notify the Morristown neighbors and all other entities.

**Certified shorthand reporter present for the following application
See attached transcript.**

BA-02-18

122 Mt. Kemble, LLC

Block 10308, Lot 13, 241 Martin Luther King Avenue, RB-7 zone, Section C.

Continuation from the June 25, 2018 public hearing, applicant proposes construction of a two family dwelling which requires bulk variance relief for pre-existing, non-conforming conditions including deficient lot area, lot width and accessory building side yard setback of 5.6 feet where 10 feet is required and a front yard setback for the principal structure on Walnut Street of 14.7 feet where 25 feet is required.

Ms. Nancy Lottinville, attorney for the applicant entered her appearance and presented the application to the Board.

The following professionals being sworn in by the Board Attorney appeared to be heard.

Catherine Mueller, Professional Engineer
Thomas Baio, Professional Architect
Phillip Abramson, Professional Planner

The following exhibits were submitted as evidence.

A-7 Garage elevation superseding A-3
A-8 Front & Rear elevation superseding A-4
A-9 Floor Plans Superseding A-5
A-10 Side elevation superseding A-6
A-11 Conforming Parcel Analysis
A-12 Photograph of Walnut Street Frontage
O-1 Consisting of Three Photographs of Parking Congestion
O-2 Consisting of Six Photographs of Commercial Vehicles and Lighting

The meeting was opened to the public for questions of the Engineer; the following persons appeared to be heard.

Kimberley Brown	2 Carlton Street
Jennie McKay	10 Walnut Street
Lee Goldberg	10 Arrowhead Road

Public portion closed at 8:05 pm

Summary of Testimony – Thomas Baio, Professional Architect

Mr. Baio stated that the garage exists on the property and is 30.8 feet deep and 24.6 feet wide. It's in good conditions and it will be upgraded with new doors, roof and siding and it is our intent to match the new proposed house. The proposed two-family house will be approximately 2,270 square feet. It is made up of two units which are now fronting on Walnut Street. The left unit is 884 square feet not counting the basement. The right unit is 1,486 square feet not counting the basement. Both units have internal staircases and have the bedrooms on the second floor. The building will be clad with siding

materials, which are going to articulate the first floor from the second floor in a fairly contemporary way as you see in some of the newest architecture around. This building, unfortunately, is unable to be built within the building envelope, which is only 10 feet wide and we are here for a bulk variance.

Both units are two-bedroom units. The larger unit has the benefit of an office. The first floor consists of a kitchen, family room, bathroom and they also have an unfinished basement.

The meeting was opened to the public for questions of the witness; the following person appeared to be heard.

Kimberly Brown	2 Carlton Street
Lee Goldberg	10 Arrowhead Road
Charlene Anderson	7 Emmet Avenue

Public portion closed at 8:20 pm

Summary of Testimony – Phillip Abramson, Professional Planner

Mr. Abramson stated that this is 241 MLK the zone here is RB-7 which allows a two family home. One of the main variances that we are here for is the fact that a two family home is only allowed on a 10,000 sq ft lot. We have a 7,500 square foot lot. We are in the main corridor on MLK, and we are surrounded by other RB-7 zone properties. The other thing that has not been mentioned is the fact that we have three front yards according to the zoning ordinance definition of a front yard. This creates some strange outcomes when you begin to apply the zoning to this parcel. The three yards are Walnut, MLK and the alley way. We need to provide three front yard setback. We are talking about a 25 foot yard setback on these three frontages whereas 10 feet is required on a side yard.

Existing lot area is 7500 feet for the building we are proposing where 10,000 square feet is required. Minimum lot width for a corner lot is 100 ft, under the ordinance, existing is 50 feet, the same for the alleyway. This adds up to another three existing nonconforming conditions. The front yard setback from the garage to Walnut is 14.7 where 25 ft is required. It's less than 1 foot from the alleyway where 25 feet is required. The side yard setback to the north is 5.6 feet where 15 ft is required. The accessory building height existing is 20 feet where 15 feet is required. None of those are impacted by this application, exacerbated or minimized. They are what they are and they are not changing or proposed to be changed.

The new variances that we need to demonstrate is the lot area per family, where 5,000 square feet is required and we are proposing 3,750. What we need to prove to the Board comes down to the C variances. There is the C1 variance which talks about the hardship and the C2 variance which is what we call the flexible C variance or the better zoning alternative. The C1 argument speaks to a specific aspect of the property, a specific characteristic, typically topography, dimensions that created undue hardship to build a permitted use on the property. In this case, the things like width and the things, like the preexisting nonconformity are not setbacks, but the existing lot width these things are hardships, you might say what if it was just a single-family home? These are setbacks for the district. They are not setbacks specific to this use. Single and two family homes have the same setback. It's not like we are going towards the variance or we are choosing a use that creates a variance, in that case you cannot have a self-created hardship and I couldn't justify that to you. In this case it is specific to the district.

The positive criteria asks, is this a good thing to do? Does this advance the master plan? Does it advance the purpose of zoning? The Master Plan Re-examination was done in 2017. Some of the things that it talks about is in-fill development, protecting the sanctity of the neighborhoods, protecting the character of neighborhoods. The Master Plan talks about in-fill development that's appropriate for the context. This is very appropriate and this is very contextual regardless of the variances, and one of

the few places where multifamily development is permitted as of right per the zoning ordinance in the Township. The Municipal Land Use Law is the Statute that governs all zoning in the State and how municipalities are supposed to be regulating the use of land. The ones that this project will advance are: Purpose A is the appropriate use or development of all lands in the State. This is an appropriate use in this location, where adequate light and air is being provided here, and in terms of locations where do you want to see it, you want to see it in walkable locations, which this is. You want to see it in areas that have existing traffic where whatever impact this little two family house will have, will be unnoticeable. We are talking about an appropriate density.

The negative criteria says, does this project impair the zone plan? What is really out there? Mr. Abramson proceeded to review with the Board and members of the public exhibit A-11 which consisted of Conforming Parcel Analysis. We have looked at properties within 200 ft and 400 ft. of the subject parcel. One-family homes are 50%. So this is not a predominately single-family area. It is 50 percent of the dwellings in this area. Three within 200 feet or 25 percent are two-family. And then the others are non-residential. Of those two-family homes, 100 percent are non-conforming with regard to the lot area. Just like what we are asking to do. While there is a variance that is required, it will not negatively impact the cohesiveness of this neighborhood, because this is a condition that is out there uniformly among two-family homes in this neighborhood. And 50% of the single-family homes are also non-conforming with regard to lot size.

With regard to the Master Plan Re-examination there is nothing in the document that I was able to identify that specifically is offended in this or by this project and that's consistent with the actual uses in the neighborhood. And finally is there going to be a negative or detrimental impact on the surrounding land uses or the surrounding community? What are the types of things that we look for when we are dealing with undersized parcels or even higher densities? We look for things like traffic, light and air, can the site accommodate the use and the purpose, such as trash and vehicular parking. The fact that this site can do all of the things, that it can park four vehicles and meet your parking ordinance, the fact that the yards will be sufficient from a light and air standpoint.

Mr. Abramson proceeded to reviewed exhibit A-12 which consisted of a photograph taken 6-26-18 of the Walnut Street frontage of the property; he further stated that beyond the property line there were another 10 to 15 feet to the edge of the curb. The negative impact of having some of these yard variances is diminished because you are not right up on the property line. A discussion was carried regarding the properties within the neighborhood lot width and the setbacks.

The meeting was opened to the public for questions of the witness; the following persons appeared to be heard.

Kimberley Brown	2 Carlton Street
Lee Goldberg	10 Arrowhead Road
Jennie McKay	10 Walnut Street
Elizabeth Molinski	23 Highland Avenue

Public portion closed at 9:12 pm

The meeting was opened to the public for questions and comments of the witnesses; the following persons appeared to be heard.

Kimberley Brown	2 Carlton Street
Charlene Anderson	7 Emmet Avenue
Lee Goldberg	10 Arrowhead Road
Jennie McKay	10 Walnut Street
Ingrid Davidsen	119 Woodcrest Drive

Elizabeth Molinski
Elnora Solomon

23 Highland Avenue
38 Highland Avenue

Public portion closed at 9:47 pm

Recess taken at 9:48 pm
Meeting reconvened at 9:55 pm


The applicant's attorney stated that due to the extensive comments made by the public and photographs that have been entered into evidence as well as Mr. Grants unavailability is causing me to request that we carry this meeting to the next regular meeting, also in view of the fact that the Board membership is small this evening. She felt a full consideration with the transcripts available would be the best avenue to take.

On a motion made by Mr. Woodford seconded by Mr. Christensen and unanimously carried the application is carried to the August 27, 2018 meeting without further notice.

Other Matters – none to be heard.

With no further business for consideration by the Township of Morris Board of Adjustment, on motion duly made, seconded and unanimously carried, the meeting was adjourned at 10:02 P.M.

Respectfully submitted,


Sonia Santiago, Secretary
Township of Morris Board of Adjustment
Approved: November 26, 2018

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TOWNSHIP OF MORRIS
BOARD OF ADJUSTMENT
MONDAY, JULY 23, 2018
COMMENCING AT 7:56 P.M.

.....
IN THE MATTER OF : TRANSCRIPT
: OF
CASE NO. BA-02-18 : PROCEEDING
122 MT. KEMBLE, LLC :
241 Martin Luther King Avenue :
Block 10308, Lot 13, RB-7 Zone :
Section C :
.....

B E F O R E:

TOWNSHIP OF MORRIS BOARD OF ADJUSTMENT

THERE BEING PRESENT:

- TIMOTHY M. KRONK, CHAIRMAN
- PAUL A. WOODFORD, MEMBER
- PAUL STAUDT, MEMBER
- JOHN CHRISTENSEN, MEMBER

1

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

RICHARD OLLER, ESQUIRE
Counsel to the Board

PRIME LAW

BY: NANCY A. LOTTINVILLE, ESQUIRE
14000 Horizon Way, Suite 325
Mount Laurel, New Jersey 08054
Counsel to the Applicant

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

SONIA SANTIAGO
SECRETARY

PAUL PHILLIPS
BOARD PLANNER

JAMES SLATE
BOROUGH ENGINEER

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1 CHAIRMAN KRONK: Next application,
2 BA-02-18. Ms. Santiago, will you please read that
3 summary into the record.

4 MS. SANTIAGO: Yes, Mr. Chairman. This
5 is BA-02-18, 122 Mt. Kemble, LLC, Block 10308, Lot
6 13, 241 Martin Luther King Avenue, in the RB-7 zone,
7 Section C. A continuation from the June 25th, 2018
8 public hearing. Applicant proposes construction of a
9 two-family dwelling, which requires bulk variance
10 relief for preexisting, nonconforming conditions
11 including deficient lot area, lot width and accessory
12 building side yard setback of 5.6 feet, where 10 feet
13 is required and a front yard setback for the
14 principal structure on Walnut Street of 14.7 feet
15 where 25 feet is required.

16 CHAIRMAN KRONK: Thank you.

17 MR. Oller, do we have continuing
18 jurisdiction on this application?

19 MR. OLLER: Yes, Mr. Chairman. The
20 date was properly announced at the last meeting. We
21 have continuing jurisdiction.

22 CHAIRMAN KRONK: Okay, thank you.

23 MS. LOTTINVILLE: Thank you. Good
24 evening --

25 CHAIRMAN KRONK: Good evening.

1 MS. LOTTINVILLE: -- Mr. Chairman and
2 Members of the Board. My name is Nancy Lottinville
3 with Prime Law. I'm here representing
4 122 Mt. Kemble, LLC this evening. A continuation
5 hearing from June 25th.

6 Last time we were here we introduced
7 the project through the principal Jay Grant and we
8 provided the engineering testimony of Catherine
9 Mueller, PE. We both were cross examined by the
10 board and the public. And we marked Exhibits A-1
11 through A-6, which are here this evening.

12 MR. OLLER: Yeah, but, Ms. Lottinville,
13 I agree that we completed Mr. Grant, but my notes are
14 indicating that Catherine Mueller is about to be
15 crossed by the public.

16 MS. LOTTINVILLE: Okay.

17 MR. OLLER: The public hasn't crossed
18 her yet.

19 MS. LOTTINVILLE: All right. Thank you
20 for the correction. We do have Catherine Mueller
21 here. I wasn't sure if we had completed her
22 testimony.

23 So, we will begin with Catherine
24 Mueller and we would have two additional expert
25 witnesses, Thomas Baio who is our architect who

1 prepared the floor plans and the architectural
2 elevations. And Phillip Abramson, he's our licensed
3 professional planner.

4 So, with your permission we'll begin
5 with Ms. Mueller.

6 CHAIRMAN KRONK: Please, proceed.

7 MS. LOTTINVILLE: Thank you.

8 MR. OLLER: Ms. Mueller, I'm just
9 reminding you that you are still under oath.

10 MS. MUELLER: Thank you.

11 C A T H E R I N E M U E L L E R,

12 having been previously sworn, continues to
13 testify as follows:

14 CHAIRMAN KRONK: Do you have any
15 additional testimony or are we just opening up to the
16 public?

17 MS. MUELLER: Just opening it up for
18 questions.

19 CHAIRMAN KRONK: Okay. Okay. Public,
20 at this time if you have any questions of the
21 engineer's testimony that she provided at the end of
22 the last meeting, please come forward.

23 This is for questions only at this
24 time. Nobody in the public?

25 (No response.)

1 CHAIRMAN KRONK: Hearing none, seeing
2 none, close the public portion for the engineer.

3 I'm sorry, what? Somebody --

4 MR. GOLDBERG: Somebody had a question,
5 I believe.

6 MS. BROWN: I'm not sure what --

7 MR. OLLER: Can you come up to the
8 microphone, please.

9 MS. BROWN: I'm sorry.

10 MR. OLLER: And just give us your name
11 again, please.

12 MS. BROWN: Kimberly Brown.

13 How is everybody doing tonight?

14 CHAIRMAN KRONK: We're doing fine,
15 thanks.

16 Yes, the engineer testified at the end
17 of the last meeting. We ran out of time. So, we had
18 cut off the public portion and said we were going to
19 start with the public portion, questioning her
20 testimony from the last time. So, that's where we're
21 at.

22 MS. BROWN: Right, I got that.

23 CHAIRMAN KRONK: Okay.

24 MS. BROWN: My question is this: Not
25 to make her go through everything that she said last

1 time, but does she want to just do a quick review or
2 anything so if we do have questions, we can ask them?

3 MR. OLLER: She doesn't have to. She's
4 already done that.

5 MS. BROWN: She doesn't have to, but...

6 MR. OLLER: You had a month to think
7 about what your questions would be.

8 CHAIRMAN KRONK: And we have more
9 witnesses. You know, we still have the architect and
10 the planner that you could ask those questions from.

11 I'm sorry. I thought the direction at
12 the end of the last meeting was clear that we were
13 opening tonight with the questions.

14 MS. BROWN: Yes, sir.

15 MS. McKAY: Hi, I have one question.

16 MR. OLLER: Sure, your name, please.

17 MS. McKAY: Jeannie McKay, 10 Walnut
18 Street, Morristown.

19 MR. OLLER: I'm sorry, your name again.

20 MS. McKAY: Jeannie McKay.

21 (Whereupon, a short recess is held.)

22 MS. McKAY: My name is Jeannie McKay,
23 10 Walnut Street, Morristown.

24 Okay. I really -- we spoke with you on
25 June 25th, back in the meeting room and you explained

1 the new floor plan and everything.

2 My one question is: Is the square
3 footage still the same as the first proposal? It was
4 5,000 square feet required, 3750-square-feet per unit
5 proposed?

6 MS. MUELLER: That's relative to --
7 that's relative to the area of the lot. So, the
8 existing area of the lot is 7,500 square feet.

9 MS. MCKAY: Yeah, that includes the
10 garage.

11 MS. MUELLER: That's the area of the
12 land. That's not relative to the building. That's
13 just the length and width of the property, itself.

14 MS. MCKAY: Okay. Well, the proposal
15 said the exact same thing as the first, 5,000 square
16 feet required, 3,750-square-feet per unit proposed.

17 MS. MUELLER: Correct. The area of the
18 property is 7,500 square feet. That's how big the
19 lot is. That has not changed; the size of the lot
20 has not changed as part of this application.

21 MS. MCKAY: Right.

22 MS. MUELLER: The lot is still 7,500
23 square feet.

24 MS. MCKAY: I understand.

25 MS. MUELLER: Divided by the two-family

1 house, would be the 3,750-square-feet per unit on the
2 lot.

3 MS. MCKAY: Now, the last plan that we
4 saw, the affordable unit you made smaller. So did
5 that change?

6 MS. MUELLER: Our architect will be our
7 next witness that can talk to the size of the units.

8 MS. MCKAY: Okay, thank you.

9 CHAIRMAN KRONK: Thank you.

10 MR. GOLDBERG: Lee Goldberg, 10
11 Arrowhead Road.

12 Questions related to the bulk variance
13 relief that you're seeking, would those be
14 appropriate questions for you or is that for --

15 MS. MUELLER: I have identified them on
16 my plan with the zoning information, but we do have a
17 planner that will go into depth for the explanation
18 of the variances.

19 MR. GOLDBERG: Will that be happening
20 this evening?

21 MS. MUELLER: Correct.

22 MR. GOLDBERG: Thank you very much.

23 CHAIRMAN KRONK: Okay, anybody else in
24 the public that has questions for the engineer,
25 please come forward at this time.

1 (No response.)

2 CHAIRMAN KRONK: Seeing none, hearing
3 none, close the public portion.

4 Next witness.

5 MS. LOTTINVILLE: Thank you,
6 Mr. Chairman.

7 At this time -- thank you, Ms. Mueller.
8 At this time I'd like to call Mr. Thomas Baio as our
9 architect.

10 Mr. Baio, we need to swear you in.

11 MR. BAIIO: Yep.

12 MR. OLLER: Raise your right hand,
13 please.

14 Do you solemnly swear that the
15 testimony you will give to this board will be the
16 truth, the whole truth and nothing but the truth so
17 help you God?

18 MR. BAIIO: I do.

19 T H O M A S B A I O,

20 having been duly sworn, testifies as follows:

21 MR. OLLER: Spell your last name,
22 please.

23 MR. BAIIO: Thomas Baio, B-A-I-O.

24 MR. OLLER: Thank you.
25

1 DIRECT EXAMINATION

2 BY MS. LOTTINVILLE:

3 Q. Mr. Baio, would you give the board the
4 benefit of your licensing and experience in the field
5 of architecture?

6 A. Certainly.

7 CHAIRMAN KRONK: Actually, I think the
8 board can stipulate to your qualifications since we
9 have accepted you on prior applications.

10 THE WITNESS: Great, thank you.

11 MS. LOTTINVILLE: Thank you.

12 BY MS. LOTTINVILLE:

13 Q. Would you then give the board the
14 benefit of your description of the plans? We had
15 previously marked four pages of your plans, Exhibits
16 A-3, -4, -5 and -6. You can begin with them in any
17 order you see fit and tell the board about the
18 architecture.

19 A. Sure.

20 The garage that we're proposing is the
21 same structure that was there, clad in the same
22 manner that we had previously testified to. It did
23 not get bigger or smaller and it remains one of the
24 variances being in the front yard, as described.

25 Q. Just for the record, Mr. Baio, this is

1 considered a new application. So, if you could just
2 briefly put on the record what those finishes are.

3 A. Okay. So, we have a garage, which
4 exists on the property. The garage is 30 feet 8
5 inches deep. Yeah, 30 feet 8 inches deep by 24 feet
6 6 inches wide. The garage is in decrepit condition.
7 It will be upgraded with new siding, with new garage
8 doors, with new roofing and it's our intent to have
9 it characteristically match the new proposed
10 two-family home.

11 Q. And you're referring to Exhibit A-3?

12 A. Yes.

13 Q. Thank you.

14 A. The garage exhibit is A-3. And if you
15 don't mind, I can go right to the two-family home.

16 Q. Absolutely.

17 A. So, the proposed two-family home on
18 this application is a structure of 2270 square feet.
19 It is made up of two units which are now fronting on
20 Walnut. The left side unit is exactly 884 square
21 feet, not counting the basement. The right unit is
22 1486 square feet not counting the basement. Both
23 units have an internal staircase and have the
24 bedrooms on the second floor.

25 The building is clad with siding

1 materials, which are going to articulate the first
2 floor from the second floor in a fairly contemporary
3 way as you may see in some of the newest architecture
4 around. This building is, unfortunately, unable to
5 be built within the building envelope, which is only
6 10 feet and, henceforth, we're here for bulk
7 variances.

8 Q. And the floor plan you're referring to
9 is marked already as --

10 A. Your exhibit was marked as A-5.

11 Q. A-5.

12 A. I'm pointing to my drawings, which are
13 the --

14 Q. Which are the same.

15 A. Quite honestly to scale. The previous
16 exhibit mounted by Jay Grant wasn't to scale.

17 Both units are two-bedroom units. The
18 larger of the units has the benefit of an office.
19 And the first floor, they feature kitchens and
20 bathrooms and they have unfinished basements and
21 family rooms on the first floor.

22 MS. LOTTINVILLE: Are there any
23 questions from the board?

24 MR. OLLER: Well, before we do that, I
25 have a question about what we marked as an exhibit

1 that's not to scale.

2 MS. LOTTINVILLE: Yeah, let's
3 straighten that out. Yeah.

4 MR. OLLER: Can you tell us what's
5 different and maybe we should just supercede it with
6 this plan?

7 MS. LOTTINVILLE: I agree, we should
8 supercede each one.

9 THE WITNESS: They were printed by our
10 client and he did it on his small machine, so he fit
11 it on foam boards that he was able to fit them on.
12 Mine are a quarter of an inch equal to scale. They
13 are identical.

14 No other information on the two
15 exhibits vary between the new exhibits and the
16 previously testified to exhibits.

17 MS. LOTTINVILLE: I would suggest,
18 Mr. Oller, that what we do is alter or substitute the
19 two-scale drawings provided by the architect,
20 one-by-one.

21 CHAIRMAN KRONK: Let's just leave the
22 original one and just identify the original Grant
23 exhibit as not to scale and leave both of them in the
24 package.

25 MS. LOTTINVILLE: Fine.

1 MR. OLLER: So just mark these. I
2 think we're up to seven.

3 MS. LOTTINVILLE: Okay. So, we should
4 start at 7. So, let's mark --

5 MR. OLLER: So A-7.

6 MS. LOTTINVILLE: A-7 would be --

7 THE WITNESS: Well, just could I make
8 all the sheets -- these are the same sheets that were
9 submitted to the board members. So as a collective
10 whole, maybe A-7?

11 MR. OLLER: No, I don't want to do it
12 that way, because I want A-7 to say that it's
13 superseding A-4.

14 THE WITNESS: I understand.

15 MR. OLLER: So I want the elevations to
16 be A-7. I want to go in the same order he marked the
17 others, so...

18 MS. LOTTINVILLE: Well, in the same
19 order then the garage was A-3. So A-7 should be the
20 garage elevations, sheet C-2.

21 THE WITNESS: So, the new garage
22 elevation will be marked as A-7.

23 MS. LOTTINVILLE: That's correct.

24 THE WITNESS: And today's date is July?

25 MS. LOTTINVILLE: July 23rd.

1 THE WITNESS: 23rd.

2 (Whereupon, Garage Elevation
3 Superseding Prior Exhibit A-3 is received and
4 marked as Exhibit A-7 for identification.)

5 THE WITNESS: Okay. I have marked our
6 garage drawing as A-7 and they supercede the
7 previously marked exhibit A-3.

8 MS. LOTTINVILLE: Correct.

9 A-4, was the front and the rear
10 elevation sheet. So, the new A-8 will be the front
11 and rear elevation sheet, dated today's date.

12 (Whereupon, Front and Rear Elevation
13 Sheet Superseding Prior Exhibit A-4 is
14 received and marked as Exhibit A-8 for
15 identification.)

16 THE WITNESS: Okay. I have marked my
17 front and rear elevations as sheet A-8 and that
18 supercedes the prior exhibit of A-4.

19 BY MS. LOTTINVILLE:

20 Q. So, A-9 will be the floor plans, which
21 was previously marked A-5. So A-9 would be floor
22 plans, dated today's date.

23 (Whereupon, Floor Plans Superseding
24 Prior Exhibit A-5 is received and marked as
25 Exhibit A-9 for identification.)

1 THE WITNESS: Okay. I marked my floor
2 plans as A-9 and they supercede the prior exhibit of
3 A-6.

4 MS. LOTTINVILLE: A-5?

5 THE WITNESS: A-5.

6 MR. OLLER: A-5.

7 MS. LOTTINVILLE: That should do it for
8 the architecture exhibits.

9 CHAIRMAN KRONK: Mr. Oller, just so we
10 have it clear for the record, those original exhibits
11 presented by Mr. Grant we're now going to identify as
12 not to scale.

13 MS. LOTTINVILLE: Right.

14 MR. OLLER: Right.

15 MS. LOTTINVILLE: Now, so, then we
16 would also offer A-10, it would be the side elevation
17 drawing provide by Mr. Baio, which was not previously
18 entered not to scale.

19 (Whereupon, Side Elevation Drawing is
20 received and marked as Exhibit A-10 for
21 identification.)

22 THE WITNESS: Okay. So I've marked
23 exhibit A-10, the side elevations facing both MLK and
24 the garage on the other side of the property.

25 CHAIRMAN KRONK: Got it.

1 MS. LOTTINVILLE: At this point, I
2 would --

3 MR. OLLER: Thank you.

4 MS. LOTTINVILLE: Would the board have
5 any questions?

6 CHAIRMAN KRONK: Board members, any
7 questions for the architect?

8 MR. STAUDT: No.

9 CHAIRMAN KRONK: No?

10 (No response.)

11 CHAIRMAN KRONK: Board professionals,
12 any questions?

13 MR. SLATE: I have no questions.

14 MR. PHILLIPS: No questions.

15 CHAIRMAN KRONK: Okay. Then at this
16 time I will open up to members of the public.

17 Anybody in the public with questions,
18 questions only for the architect and his testimony
19 this evening, please come forward?

20 MS. BROWN: Hi, and I'll say my name
21 again, for the first time. My name is Kimberly
22 Brown. How's everybody?

23 I live at 2 Carlton Street. That is
24 Morris Township.

25 First question I have is: Is it usual

1 not to have up-to-scale drawings? Is it usual for an
2 architect not to have to scale drawings?

3 THE WITNESS: No, it is not usual,
4 ma'am. It's unusual.

5 MS. BROWN: I didn't think so. Okay.

6 THE WITNESS: But to have the testimony
7 of an architect, I bring my own presentational
8 boards, I scale them, I mount them and I bring a
9 scale. They were previously testified by my client
10 and he had the limitation of printing them on sheets
11 that he could print them on without the benefit of
12 having any direct testimony from me.

13 MS. BROWN: Okay. Second question is:
14 Is it possible instead of black and white, maybe to
15 have a more truer version of what the building is
16 going to look like, so that we, the laymen or
17 somebody like me can sort of really look at it and
18 see?

19 THE WITNESS: So, this is a true
20 version.

21 MS. BROWN: I'm not saying that that's
22 not true. I'm not trying to say that.

23 What I'm saying is, since we don't have
24 a digital view of it and we're sitting back here and
25 you're -- I find that kind of -- is it possible to

1 have that in color? Maybe that's a better way to say
2 it.

3 THE WITNESS: It is possible.

4 MS. BROWN: Is it possible to have it
5 be a truer version of what it's going to look like?

6 THE WITNESS: Yes, it is possible,
7 ma'am.

8 MS. BROWN: Okay.

9 THE WITNESS: I don't have a
10 availability tonight to present to you an exhibit
11 that is colored. I can stress the shape of the
12 building a little bit more, perhaps. We have a
13 gable-ended structure, which means the roof faces one
14 side and then the other. And on the ends it appears
15 to the gable end. It is quite a simple rectangular
16 structure that's articulated with different material
17 shape both horizontal on the first floor to a
18 vertical delineation of materials on the second
19 floor.

20 MS. BROWN: I'm not trying to give you
21 a hard time. I'm just saying it might be better for
22 the people who are living in the neighborhood and
23 wondering about this, if we could have a more -- a
24 color, more truer version of what you have planned.
25 Okay?

1 THE WITNESS: The answer is --

2 MS. BROWN: For the future.

3 THE WITNESS: Right, yes.

4 MS. BROWN: I think that was it.

5 Thank you.

6 THE WITNESS: Thank you.

7 CHAIRMAN KRONK: Thank you.

8 MR. GOLDBERG: Lee Goldberg, 10

9 Arrowhead Road.

10 You had mentioned -- the only variance
11 I heard you mention I believe in your presentation
12 was related to the garage. Is that the front yard
13 setback?

14 THE WITNESS: There's a few variances
15 that could be reintroduced by the engineer, if you
16 want to hear them. My building, as the architect,
17 the new building, would have to fit within a very,
18 very tight envelope. I have presented to you a
19 building which cannot comply with this tight
20 envelope. I'm sorry, I'm going to point to an
21 exhibit that I think -- oh, there it is. I'm sorry.
22 Based on the narrowness of the property, it's a very
23 tight envelope.

24 BY MS. LOTTINVILLE:

25 Q. A-1? You're referring to A-1?

1 A. I'm sorry.

2 I'm referring to Exhibit A-1,
3 previously entered into the record.

4 The black area shown here (indicating)
5 is our new building, which is smaller than the
6 previous application, but that's a little sidebar.

7 So, to just have a building which is
8 plausible and not appears as if it's just a trailer
9 dropped on the property, we are here for variances
10 that cover front yard setback and side yard setback.

11 Q. And that would be three front yard
12 setbacks; is that correct?

13 A. Because there's three front yards and
14 the garage is what relates to the third, correct?

15 Q. Right, the alley.

16 MR. OLLER: Mr. Baio, you should
17 explain what the green line is in the middle?

18 THE WITNESS: The green line is the
19 required building setback envelope. If this property
20 is ever to be developed, that is the minimum -- the
21 maximum that you could build on this property.

22 BY MS. LOTTINVILLE:

23 Q. Without a variance?

24 CHAIRMAN KRONK: Without a variance?

25 THE WITNESS: Without any bulk

1 variances. Given the proximity of the building
2 envelope to the front yard, to the side yard, it
3 requires a building that would fit no more than 10
4 feet.

5 MR. GOLDBERG: And the materials you're
6 referencing there, that footprint of that building, I
7 think I see the green line going through a portion of
8 the building.

9 So, you're extending over a little bit
10 into that maximum area going to be developed.

11 THE WITNESS: No, this is the area of
12 potential development. We're not going to have a
13 building that is very, very long and very, very
14 narrow. We are producing a building which is more
15 rectangular and more in keeping in the vernacular of
16 the neighborhood, as a rectangular structure, not a
17 super rectangular structure that's 10 feet wide. So,
18 that's the buildable area that is allowed.

19 MR. GOLDBERG: And what were the other
20 two variances that --

21 THE WITNESS: We have three. We have
22 front yard setback off of Walnut. We have side yard,
23 because it's a corner property, it's a side yard
24 setback from a neighboring property and then we have
25 a preexisting garage on the property which is in the

1 front lawn.

2 MALE AUDIENCE MEMBER: Lot area, is the
3 third one.

4 THE WITNESS: Oh, the lot area is the
5 third one.

6 So the preexisting garage is not a
7 variance. So, the lot area. The combined -- the
8 combined coverage of all the buildings together
9 exceed the maximum permitted in this zone for lot
10 area.

11 MR. GOLDBERG: So, then the garage is
12 not impacting anything, it's fine as is. It doesn't
13 require any variance at all?

14 MS. LOTTINVILLE: I think we will defer
15 these questions to the licensed planner. Mr. Baio is
16 the architect and his charge is to design the
17 building.

18 MR. GOLDBERG: Okay. Yeah, I was just
19 trying to get a sense of what as the architect he has
20 to account for in terms of the variances when he's
21 doing his architectural drawing. The three you
22 referenced, but I guess he thinks that you have to
23 control for.

24 THE WITNESS: Yeah, so clearly we came
25 up with the building. We're here for the smaller

1 version of such. And it still has those same two
2 variances that effect the new structure.

3 MR. GOLDBERG: Thank you very much.

4 CHAIRMAN KRONK: Thank you.

5 MS. ANDERSON: Charlene Anderson, 7
6 Emmett Avenue.

7 With the setbacks that are being
8 requested, does that mean that the building, itself,
9 will be out of line with the rest of the buildings on
10 Martin Luther King or Walnut? I'm presuming the
11 existing buildings are the standard setback.

12 MS. LOTTINVILLE: Again, I'd like to
13 defer --

14 CHAIRMAN KRONK: Yeah, I think that's
15 better for -- a better question for the planner.

16 MS. LOTTINVILLE: This is a question
17 for the next witness. That's a good question for the
18 next witness.

19 MS. ANDERSON: Okay. Thank you.

20 MS. BROWN: I don't know if this is an
21 architect-type question.

22 MR. OLLER: I'm sorry, can you just --

23 MS. BROWN: Kimberly Brown, 2 Carlton
24 Street, Morris Township.

25 Listen, I don't know if this is an

1 architect question, how many people do you planning
2 to park in that garage? How many cars do you plan to
3 have put in that garage?

4 THE WITNESS: The garage is -- as it
5 stands, it's two cars. They're depicted on this
6 exhibit A-1. So there's only two cars that could fit
7 within that garage.

8 MS. BROWN: Okay. And this is just --
9 do you think that garage is -- might be a little too
10 big for the lot size?

11 THE WITNESS: It's an existing
12 structure.

13 MS. BROWN: I realize that.

14 THE WITNESS: On the property.

15 MS. BROWN: Just a thought.

16 And a second thought, are you happy
17 yourself as an architect with the way this has been
18 planned out.

19 THE WITNESS: I love the new structure.
20 I happen to be doing quite a few two-family homes in
21 other towns and the trend, not just in Morristown or
22 in Millburn where I'm from, a reduced sense of
23 living. People are willing to accept smaller
24 habitation in exchange for proximity to walkable
25 amenities.

1 This is a great example of how small
2 homes could yield tremendous benefits for someone who
3 can't afford a big home. And yet bring a vitality to
4 a setting that right now is an empty lot. I'm very
5 satisfied with this. I would live here myself.

6 MS. BROWN: All right, thank you.
7 Yeah, sure you would.

8 CHAIRMAN KRONK: Anybody else in the
9 public have any questions of the architect?

10 (No response.)

11 CHAIRMAN KRONK: Seeing none, hearing
12 none, close the public portion.

13 Your next witness.

14 MS. LOTTINVILLE: Thank you, Mr. Baio.

15 THE WITNESS: Thank you.

16 MS. LOTTINVILLE: At this time I would
17 like to call Mr. Phillip Abramson, licensed
18 professional planner.

19 MR. OLLER: Raise your right hand,
20 please.

21 Do you solemnly swear that the
22 testimony you will give to this board will be the
23 truth, the whole truth and nothing but the truth, so
24 help you God?

25 MR. ABRAMSON: I do.

1 P H I L L I P A B R A M S O N ,

2 having been duly sworn, testifies as follows:

3 MR. OLLER: State your full name for
4 the record, please.

5 MR. ABRAMSON: My first name is
6 Phillip, last name Abramson, A-B-R-A-M-S-O-N.

7 DIRECT EXAMINATION

8 BY MS. LOTTINVILLE:

9 Q. Mr. Abramson, would you give the board
10 the benefit of your education and experiences and
11 license?

12 CHAIRMAN KRONK: Actually, the board
13 will accept Mr. Abramson's qualifications. He has
14 been accepted by this board on numerous occasions.

15 MS. LOTTINVILLE: Thank you,
16 Mr. Chairman.

17 THE WITNESS: Thank you very much.

18 BY MS. LOTTINVILLE:

19 Q. Mr. Abramson, would you proceed with
20 your analysis and describe to the board your
21 understanding and opinion on the subject matter.

22 A. Sure, sure.

23 Good evening everybody, thank you for
24 your time this evening. I know it's a summer
25 evening. So, I appreciate your time.

1 So, what we are talking about here is
2 241 Martin Luther King Avenue. It is Block 10308,
3 Lot 13. The zoning district is RB-7, which permits
4 one- and two-family homes.

5 So, the proposed use as a two-family
6 home is permitted in the district. One of real main
7 variances that we're here for, you heard a lot of
8 people talking about variances this evening, is the
9 fact that two-family homes are only permitted on
10 10,000-square-foot lots. We have a 7,500-square-foot
11 lot. And that's one of the main variances, but I'll
12 get into those shortly.

13 So, the neighborhood context, this is
14 one of the smaller parcels in the neighborhood, but
15 no where near the smallest.

16 I will speak about that this evening,
17 but we are on a main corridor, Martin Luther King,
18 Jr. Avenue and we are surrounded really by other RB
19 zone, RB-7 zone properties.

20 Some of the things that are unique
21 about this parcel; we've heard about some of these
22 dimensions and the hardships that they're causing.

23 The other things that really haven't
24 been mentioned this evening, at least, is the fact
25 that we have three front yards according to the

1 zoning ordinance definition of a front yard.

2 This creates some strange outcomes when
3 you begin to apply the zoning to this parcel. The
4 three yards are MLK, Walnut and then the alleyway
5 through an abundance of caution, if you read the
6 definition of front yard, this would qualify.

7 So, we needed to provide three front
8 yard setbacks, which are more significant than a side
9 yard setback. So, you're talking about a 25-foot
10 yard setback on these three frontages whereas only 10
11 feet is required on a side yard, parcel.

12 So, I'm going to go over some of the
13 additional existing nonconformities. Existing lot
14 area is 7500 feet where for the building that we're
15 proposing 10,000 square feet are required. Minimum
16 lot width for a corner parcel, it's existing 50 feet,
17 95 feet is required under the ordinance. The same
18 with the alleyway. That these are corner parcels, so
19 these add up to another three existing
20 nonconformities. Minimum front yard setback.

21 So, for the accessory structure, which
22 is the old garage, which will be maintained and
23 rehabilitated, the front yard setback from the garage
24 to Walnut is 14.1, where 25 feet is required. It's
25 under 1 foot from the alleyway where 25 feet is

1 required.

2 From the other side yard of the
3 adjacent parcel to the north is 5.6 feet, where 15
4 feet are required. And then the accessory building
5 height existing is 20 feet where 15 feet is required.
6 None of those things are impacted by this
7 application, exacerbated or minimized. They are what
8 they are and they are not changing or proposed to be
9 changed.

10 So, the new variances that we need to
11 demonstrate are proofs for this evening is minimum
12 lot area where -- minimum lot area per family, where
13 10,000-feet or 5,000-square-feet per lot area is
14 required and we're providing 3,750. So it's a
15 1500-foot deficiency there per family.

16 Minimum front yard setback for the new
17 principal structure from Walnut, which is basically
18 this dimension in here as it overhangs from that
19 green gashed area and then the minimum side yard
20 setback from the adjacent property to the north is
21 only 10 feet, where 15 feet is required.

22 As you can see the front yard setback
23 from MLK is being respected and adhered to. So that
24 is not a variance that is being requested this
25 evening.

1 So, what do we need to prove to you per
2 the New Jersey Municipal Land Use Law why you should
3 be comfortable granting this variance and why it
4 would be legal for you to do so?

5 Really, it comes down to what we call
6 the (c) variance test. I'm sure you're all board
7 members, you've heard about this 100 times, but I'll
8 just try to quickly reiterate what we're talking
9 about here. N.J.S.A. 40:55(d), 70(c). Then there's
10 (c)(1), which talks about hardships and (c)(2), which
11 is what we call the flexible (c)variance or the
12 better zoning alternative. The (c)(1) argument
13 speaks to a specific aspect of the property, a
14 specific characteristic, typically topography,
15 dimensions that created undue hardship to build a
16 permitted use on the property.

17 In this case, the things, like, width
18 and the things, like, the preexisting nonconformity
19 are not setbacks, but the existing lot width, these
20 things are hardships and, you know, you might say and
21 I thought to myself, okay, well, what if it was just
22 a single-family home? And, you know, would that make
23 it any better?

24 And the answer is no. These are
25 setbacks for the district. They're not setbacks

1 specific to this use.

2 So, single- and two-family homes have
3 the same setback. So, it's not like that we're going
4 towards the variance or we're choosing a use that
5 creates a variance, because in that case you cannot
6 have a self-created hardship and I couldn't sit here
7 and justify that to you. In this case it is specific
8 to the district.

9 And then going to the (c)(2) arguments,
10 there is really two main roman numeral factors there.
11 There's the positive criteria and the negative
12 criteria. The positive criteria asks, is this a good
13 thing to do? Does this advance? Does this advance
14 the master plan? Does it advance the purposes of
15 zoning?

16 And, so, the first one, the purposes of
17 zoning in the Municipal Land Use Law statute, I
18 looked at the master plan reexamination for the
19 township, very nice and well-written documents. So,
20 kudos to your planner.

21 The master plan reexamination was done
22 about a year ago in 2017. And there's not much on
23 this neighborhood specifically. The master plan does
24 speak to the properties directly across the street,
25 which as far as I know over the years have been used

1 for overflow from a car dealership. I think a Toyota
2 dealership parks their cars in the back there. It's,
3 like, a former industrial building and the master
4 plan does recommend, let's get that use out of this
5 residential neighborhood, but that doesn't exactly
6 address our site. Some of the things that it does
7 talk about is in-fill development is protecting the
8 sanctity of the neighborhoods, protecting the
9 character of neighborhoods.

10 And one of the things in the planning
11 literature and as a best practice, vacant sites are
12 breeding grounds for bad things.

13 So, number one, the existing use that's
14 out there, does not advance the master plan.

15 It is unsightly and it is non-policed.
16 It is difficult to police. So, from a crime
17 prevention through environmental design standpoint,
18 the existing use does not and development of a vacant
19 site of this nature would advance the purposes of the
20 master plan.

21 The master plan reexamine talks about
22 in-fill development that's appropriate for the
23 context. And as I will talk to you shortly, this is
24 very appropriate and this is very contextual
25 regardless of the variances frankly.

1 And multifamily development in select
2 locations, only in select locations and this happens
3 to be one where it is permitted. One of the few
4 places where multifamily development is permitted as
5 of right per the zoning ordinance in Morris Township.
6 So, those purposes are advanced here.

7 The Municipal Land Use Law is the
8 statute that governs all zoning. The reason why this
9 board can exist and it governs all the zoning in New
10 Jersey and how municipalities are supposed to be
11 regulating the use of land. And it says -- and
12 there's a bunch of purposes when that statute starts
13 off with. And I have to tell you the ones that this
14 project will advance.

15 Purpose A is the appropriate use or
16 development of all the lands in the state. This is
17 an appropriate use in this location.

18 Adequate light and air, did we look at
19 the origins of zoning and it was sort of
20 anti-tenement type of stuff where people were in
21 cities and they were too close and they weren't able
22 to, you know, get sunlight into apartments and there
23 are light wells and things like that.

24 That is not the case we have here. So,
25 these yards, even though there might be some yard

1 deficiencies, we are not running afoul of that sort
2 of purpose of zoning and then appropriate densities
3 and concentrations.

4 I'm the planner for Morristown. So,
5 I'm your neighboring planner. If I am going to --
6 and one of the things that I've been pushing for in
7 Morristown is development along corridors, because
8 inside and the deeper into town and deeper into
9 neighborhoods you get, the more cars you're going to
10 be getting into neighborhoods and more traffic and
11 that's something -- those are impacts that we don't
12 want to see.

13 So, in terms of locations where you do
14 want to see it, you want to see it in walkable
15 locations, which this is. You want to see it in
16 areas that have existing traffic where whatever
17 impact this little two-family house will have, will
18 be negligible or unnoticeable. So, I think from that
19 perspective we're talking about an appropriate
20 density and an appropriate concentration in the right
21 location.

22 So, then the other Roman numeral that I
23 need to demonstrate to you is the negative criteria.
24 The first part of that is two prongs also. And it
25 says, does this project impair the zone plan? Does

1 it -- will it stick out like a sore thumb? Will it,
2 you know, negatively effect what you've tried to do
3 and what your governing body has tried to do in
4 creating a zoning ordinance here?

5 And from this perspective, one of the
6 things that we look at typically is; so we know what
7 the zoning says, but what does the reality say?
8 What's really out there?

9 MR. OLLER: Phil, has that been marked?

10 THE WITNESS: No.

11 MS. LOTTINVILLE: And that would be --

12 MS. SANTIAGO: A-11.

13 MS. LOTTINVILLE: 11.

14 THE WITNESS: A-11?

15 BY MS. LOTTINVILLE:

16 Q. Yes. And let's call it conforming --
17 what are we going to call this?

18 A. The conforming parcel analysis.

19 Today's date is the --

20 Q. The 23rd.

21 (Whereupon, Conforming Parcel Analysis
22 is receive and marked as Exhibit A-11 for
23 identification.)

24 THE WITNESS: Now, it is yours. I've
25 had this for too long.

1 So, I'm going to hand out some smaller
2 copies of this, so you can examine it more closely.

3 MR. OLLER: Thank you.

4 THE WITNESS: All right. So, we
5 through a combination -- methodology-wise through a
6 combination of GIS data, which stands for geographic
7 information systems, it's a certain sort of mapping
8 software that planner's use, and going out and doing
9 field inspections of properties, counting doorbells,
10 counting mailboxes, counting utility meters, we got
11 an idea about how many families were living in these
12 different parcels.

13 What I can tell you is that I'm just
14 going to sort of go through it. We looked at
15 properties within 200 feet and 400 feet of the
16 subject parcel. Overall, there was 12 buildings in
17 200 feet and 46 dwelling units in 32 buildings in 400
18 feet.

19 The surrounding land uses, let's just
20 stick with 200 feet for now so to not confuse things.
21 If you have questions if we go out wider, I can
22 answer them. One-family homes are 50 percent. So,
23 this is not a predominately single-family. It is 50
24 percent of the dwellings in this area. Three within
25 200 feet or 25 percent are two-family. And then the

1 others are non-residential, other uses.

2 Now, I'm talking about nonconformity.
3 Of those two-family homes, 100 percent are
4 nonconforming with regard to lot area. Just like
5 what we're asking to do here, just like the proposal
6 here. So, would this negatively affect the zone
7 plan, the zone plan and what's out there are two
8 different things. So, while there's a variance that
9 is required, it will not negatively impact the
10 overall cohesiveness of this neighborhood, because
11 this is a condition that is out there uniformly among
12 two-family homes in this neighborhood.

13 And 50 percent of the single-family
14 homes are also nonconforming with regard to lot size.

15 So, then with regard to the two-family
16 homes, when you go out 400 feet, let's say maybe they
17 were just cherry picking, 100 percent of the ones in
18 400 feet are also nonconforming with regard to lot
19 size in the RB-7 zone. I could get means and
20 averages and stuff. I don't think it's completely
21 necessary at the moment.

22 So, if you do have additional
23 questions, I will be happy to get into that level of
24 detail.

25 So, with regard to the master plan

1 reexamine, which is another thing that we need to
2 sort of make our peace with, there's nothing in that
3 document that I was able to identify that
4 specifically is offended in this or by this project
5 and that's consistent with the actual uses in the
6 neighborhood.

7 And then, finally, the last thing that
8 I need to demonstrate to you is is there going to be
9 a negative or detrimental impact on the surrounding
10 land uses or the surrounding community? And what are
11 the types of things that we look for when we're
12 dealing with undersized parcels or even higher
13 densities? Which informally is what you have here is
14 density. You look for things, like, traffic. You
15 look for things, like, light and air. You look for
16 things, like, can the site accommodate the use and
17 the purpose. Trash, vehicular parking, things like
18 that. And the fact that this site can do all those
19 things, that it can park four vehicles and meet your
20 parking ordinance, the fact that the yards will be
21 sufficient from a light and air standpoint.

22 THE WITNESS: And one other thing that
23 I'll just enter into evidence is a photograph. It
24 was taken June 22, 2018. It will be A-12?

25 MS. LOTTINVILLE: A-12.

1 THE WITNESS: And we're at 7/26?

2 MS. LOTTINVILLE: 7/23.

3 THE WITNESS: 7/23/18.

4 (Whereupon, Photograph is received and
5 marked as Exhibit A-12 for identification.)

6 THE WITNESS: So I only have one copy,
7 so, I'm going to pass it around; I apologize.

8 MR. OLLER: Can you just describe it a
9 little more for the record, please?

10 THE WITNESS: Yeah, sure.

11 So, what I have here is a collection of
12 site photographs. I'm going to show you one. And
13 what this photograph is, is a photograph of the
14 Walnut Street frontage of this property. One of the
15 arguments that I've always thought here is that while
16 the parcel, the right-of-way, the property line is
17 all the way up here, you have another 10, 15 feet
18 until you get to the edge of pavement or the curb.

19 So, nobody walks around looking at and
20 seeing these invisible property lines or seeing
21 invisible zone boundaries. People experience the
22 real world based on the artifacts that we are
23 familiar with, like the edge of pavement and
24 everything beyond the edge of pavement in most
25 people's minds, the way that the most of the world

1 experiences it is a yard. Even though it may be
2 owned by the municipality and may be part of the
3 right-of-way.

4 So, in talking about negative impact,
5 the negative impact of having some of these yard
6 variances here is diminished because you're not --
7 your curb and your edge of pavement is not right up
8 on the property line. Those things are, again, 10 to
9 15 feet away, which gets you much closer to what was
10 envisioned by the ordinance.

11 Here's that. So, that's all I have.
12 I'm happy to answer questions. Thank you for
13 listening to me.

14 CHAIRMAN KRONK: So, if 100 percent of
15 these two-family homes are nonconforming, what are we
16 doing wrong?

17 THE WITNESS: I'm not here to say what
18 you're doing right or what you're doing wrong. You
19 guys do a great job.

20 BY MS. LOTTINVILLE:

21 Q. Is it the fact that it's an older and
22 established neighborhood? And that is why the lots
23 are what they are?

24 A. Yeah, I mean you look at the pattern.
25 Did I put it up?

1 FEMALE AUDIENCE MEMBER: It's behind.

2 THE WITNESS: You look at the pattern
3 and like, you know, it's weird planners, when they
4 see maps like this and tax maps, it's, like, almost
5 there's, like, a storybook behind them that you can
6 see, like, oh, this one probably got cut a little bit
7 when they built the right-of-way for Walnut Street
8 and these folks, you know, had this lot got a little
9 too close and then they cut those lots, because those
10 are not as shallow and there was maybe a subdivision
11 here at one point and they didn't know how to handle
12 it. So we see these things, it is an older
13 established neighborhood, as was mentioned by
14 counsel. So, all the reds are nonconforming
15 (indicating).

16 I didn't differentiate between two- or
17 one-family, but you could see that it's -- this won't
18 be, like, the shining example of, like, what are
19 they doing.

20 So, I don't think there's anything
21 wrong. When planners zone, we paint with a broad
22 brush. We deal with districts at a time. Districts
23 can be hundreds of acres. So, we're picking out this
24 one little spot here, 200 feet, a few parcels across
25 the street from a -- I think it used to be a

1 Friendly's or something. So, there's unique
2 conditions here. It's on a corridor. So, those are
3 probably some of the factors that lead to the
4 conditions that are out there historically.

5 CHAIRMAN KRONK: Board members,
6 questions?

7 (No response.)

8 CHAIRMAN KRONK: Board professional
9 questions?

10 MR. PHILLIPS: Do you have any?

11 MR. SLATE: I have no questions.

12 MR. PHILLIPS: I have a couple.

13 CHAIRMAN KRONK: Mr. Phillips.

14 MR. PHILLIPS: So I think you answered
15 the question I was going to ask, which I think would
16 have been helpful if you had indicated which of the
17 red lots are the one-family and which are two-family.
18 And you indicated that 100 percent of the
19 two-families were nonconforming. Can you give us
20 some magnitude of how many of the red lots are
21 two-family?

22 THE WITNESS: Sure.

23 MR. PHILLIPS: Even if it may not be
24 exacting or you didn't show it on the exhibit, I
25 think it would help the board and the public to know

1 how many we're talking about.

2 THE WITNESS: Sure. Within 200 feet
3 there are three.

4 MR. PHILLIPS: Uh-huh.

5 THE WITNESS: And within 400 feet there
6 are eight; all nonconforming.

7 MR. PHILLIPS: So, almost half of the
8 red lots, 8 of 17, am I doing the math right?

9 THE WITNESS: If you counted, I'm not
10 going --

11 MR. PHILLIPS: 19, maybe it's 19. So
12 it's 8 out of -- a little over 40 percent.

13 THE WITNESS: Yeah.

14 MR. PHILLIPS: Okay. When you say
15 nonconforming, you strictly looked at the lot size.
16 So, the two families don't meet the 10,000. You
17 didn't look at lot width. It looks like some of
18 these also may not meet the lot width.

19 THE WITNESS: Yes. So, we did look at
20 lot width. The RB-7 requirement is 70 feet in width.
21 We're at 50 feet. The average among the entire RB-7
22 district within 400 feet is 49 feet. That's the
23 mean. The mean lot width on corner properties only
24 is 44 feet.

25 So, we're actually a little wider than

1 the typical parcel in this district; corner parcel.

2 MR. PHILLIPS: So, it looks like some
3 of the red lot widths, and again, I don't know which
4 are the one-family and the two-family --

5 THE WITNESS: Yes.

6 MR. PHILLIPS: -- but it looks like some
7 of the lot width, some of the -- and ultimately the
8 lot sizes of some of the reds may be -- the lot width
9 may be a little bit larger than 50 feet, maybe 60
10 feet on some of these just eyeballing it.

11 THE WITNESS: Um-huh.

12 MR. PHILLIPS: But the lot depths are
13 -- all seem to be the same, which are about 150 feet.
14 So, they would still be under that 10,000. They
15 might be 9,000 and we're 7500.

16 THE WITNESS: Right. There are a few
17 that are not as shallow and that are particularly
18 narrow towards Jersey Avenue. Even up on Erin Avenue
19 you can see a similar condition in terms of the
20 required parcels in particular.

21 MR. PHILLIPS: Right.

22 THE WITNESS: And then the gray parcels
23 are nonresidential.

24 MR. PHILLIPS: Okay. And it looks like
25 -- one parcel at least looks like the same size as

1 one of the red parcels. I don't know if it's a one-
2 or two-family.

3 THE WITNESS: On Erin Avenue?

4 MR. PHILLIPS: No, the one just above
5 us between Walnut and Harvey that's above the green
6 parcel doesn't look like it.

7 THE WITNESS: That could be a -- that
8 could be a two, I apologize.

9 MR. PHILLIPS: And I think you answered
10 also my other question, which was the -- and it looks
11 this way from the exhibit that most of the corner
12 properties don't meet the enhanced lot width
13 requirement.

14 THE WITNESS: Correct.

15 MR. PHILLIPS: And many of them don't
16 even meet the basic lot width requirement --

17 THE WITNESS: Correct.

18 MR. PHILLIPS: -- and there's an
19 enhanced per a corner lot?

20 THE WITNESS: Correct.

21 MR. PHILLIPS: Okay. That's all I
22 have, Mr. Chairman.

23 CHAIRMAN KRONK: Thank you.

24 Okay. At this time we'll open up to
25 members of the public. Questions of the planner's

1 testimony this evening, please come forward at this
2 time.

3 MS. BROWN: Kimberly Brown again, 2
4 Carlton Street, Morristown, New Jersey, part of the
5 Morris Township community.

6 I just have a few questions here.
7 First of all, isn't most of Morristown older and
8 established? An older and established community;
9 wouldn't you say?

10 THE WITNESS: I haven't done a study of
11 it, but I would say that there's --

12 MS. BROWN: I'm not saying study, but
13 --

14 THE WITNESS: My knee-jerk, growing up,
15 I grew up in Randolph. I know this area pretty well.
16 I would say that there's a lot of diversity in terms
17 of housing stock, housing styles, neighborhood
18 styles.

19 You have everything from kind of more
20 recently built, like McMansions --

21 MS. BROWN: Yes.

22 THE WITNESS: -- to townhomes at the
23 Moore estate to over Normandy, which is older, yes.

24 But this neighborhood is somewhat
25 unique in terms of it being a compact, walkable,

1 older established neighborhood. More like you'd see
2 in Morristown and some of the more spread out areas
3 in Morristown.

4 MS. BROWN: True.

5 And I want to say we spoke with the --
6 one of the police chief's representatives the other
7 night.

8 I guess about maybe a week-and-a-half,
9 two weeks ago, and you mentioned vacant lots as being
10 crime ridden and problems, that lot has been empty
11 for a very, very long time.

12 THE WITNESS: Yes.

13 MS. BROWN: We've never had problems
14 there.

15 And Collinsville, I'm proud to say is
16 one of the least crime ridden areas in Morristown and
17 Morris Township. I just want to mention that.

18 THE WITNESS: I was speaking generally
19 just for the record.

20 MS. BROWN: I know you were, but I
21 thought I would bring that up.

22 THE WITNESS: Thank you.

23 MS. BROWN: And I find also that a lot
24 of Morristown as the population grows and as more
25 companies move in and more people move in, more of it

1 is becoming walkable, because not everybody --
2 because for many reasons. I won't even go into the
3 reasons. More and more of it is becoming walkable
4 not just our community, okay.

5 THE WITNESS: Sure.

6 MS. BROWN: I don't even want to really
7 talk about the tenant issues you brought up. I don't
8 know what that was about. I just -- I don't know,
9 maybe I'll say at the end too what I would like to
10 see happen to that lot. I don't think it's what you
11 all have planned.

12 CHAIRMAN KRONK: Thank you.

13 MR. GOLDBERG: Lee Goldberg, 10
14 Arrowhead Road. For the lot size variance that you
15 were discussing, I think the lot size required is
16 10,000 square feet and this is for 7500?

17 THE WITNESS: Yes, sir.

18 MR. GOLDBERG: When those limits are
19 established, those requirements are established, like
20 from a planning perspective point, is there sort of
21 detriment or downgrade experience of whoever is going
22 to end up living in these two units because it is a
23 smaller area, like what's the impact of just daily
24 living?

25 THE WITNESS: No, it's a good question.

1 There's a few things to say. You know, our architect
2 testified that dwellings and habitable space and
3 lifestyles are changing and evolving. Things are
4 happening now just speaking locally. People selling,
5 you know, their estates in Mendham and moving into
6 townhomes in Morristown, which was unthinkable a few
7 years ago or 10 years ago. These -- I don't know
8 when the zoning ordinances were written, but there's
9 a lot of bias, suburbanite bias in zoning codes that
10 larger front yards are better and larger parcels are
11 better.

12 So, just to give you an idea that
13 sometimes where these larger lot sizes come from,
14 even though we've demonstrated that that's not what's
15 out there today.

16 So to answer your question directly,
17 the types of things that we would look for, in terms
18 of undersized lots or this is a larger project, it
19 would be a density discussion. And the question
20 there is does the site function? You know, is there
21 a place to put the trash and can it be serviced by
22 trash collection? Is there a place to park vehicles
23 or are you going to be, you know, clogging up the
24 streets? And these are all the ancillary controls
25 that planners and zoners use to control the

1 development of land, because, you know, lot size is
2 one thing, but also requiring two parking spaces on
3 the site requires yet another 400 or whatever square
4 feet of lot area and taken up.

5 So, in my opinion in terms of a
6 multifamily home, there's nothing happening here that
7 a tenant in that property would not sort of expect.
8 You come to a certain property and you know that it's
9 not five acres, you -- there's always going to be
10 tradeoffs in life with everything and being in a
11 walkable place like this, you're going to deal with
12 smaller parcels and just a different lifestyle than
13 others choose.

14 So, my opinion, the site will function
15 and the building will function normally.

16 MR. GOLDBERG: And the rooms and such
17 and the structure will just be a lot smaller maybe
18 even?

19 THE WITNESS: What we heard about was a
20 two-bedroom that was 870 or something square feet,
21 which --

22 MR. GOLDBERG: It's all relative.

23 THE WITNESS: It's all relative and I
24 can take you to --

25 MR. GOLDBERG: If you were in Jersey

1 City, they'd say this is a palace.

2 THE WITNESS: That's true.

3 Yeah, so it's a matter of choice and
4 the other parcel, the other parcel unit is actually
5 quite large for a two bedroom.

6 MR. GOLDBERG: Thank you.

7 I just want to follow-up. I believe I
8 heard you say when you were looking at the master
9 plan re-examination you referenced a lot across the
10 street, the Toyota dealer uses to stock, you know,
11 cars as they come in off trucks. And did you
12 indicate that that master plan re-examination
13 actually calls for the removal of that type of zoning
14 from this neighbor type -- from this zoning plan.

15 THE WITNESS: It talked about replacing
16 that nonconforming use or non-residential use.

17 MR. GOLDBERG: Okay. Did it speak to
18 what it wanted -- what it would want to see it
19 replaced with or it doesn't go that far?

20 THE WITNESS: I don't want to testify
21 to it.

22 MR. GOLDBERG: Okay.

23 THE WITNESS: I could give you a page
24 reference.

25 MR. GOLDBERG: Okay. That would be

1 fine. I'll follow up on it afterwards, because I
2 think it was this board, if I'm not mistaken that
3 actually was involved in rezoning for that purpose
4 from its prior use.

5 So, to see that -- all that in the
6 master plan reexamination will be of interest of
7 there's another intended use for that.

8 THE WITNESS: I can't speak to that.

9 MR. GOLDBERG: Yeah, okay, that's fine,
10 but you recall seeing some reference to it.

11 THE WITNESS: There was.

12 MR. GOLDBERG: Thank you.

13 MR. OLLER: It's actually not this
14 board, just so the record is clear.

15 MR. GOLDBERG: What's that?

16 MR. OLLER: It's not this planning that
17 gets involved with that.

18 MR. GOLDBERG: So, that was at the
19 planning board level on that rezoning?

20 MR. OLLER: Right.

21 MR. GOLDBERG: Thank you. Thank you
22 for that clarification.

23 I guess Mr. Grant was here at the last
24 two meetings. I know he had taken -- had a sidebar
25 with a bunch of us and explained the overall

1 application and the process in the other room at the
2 last meeting, that was very -- we appreciate the
3 openness and transparency of those discussions. I
4 was hoping that he was going to back here to maybe
5 answer some questions based on the information he
6 provided that evening.

7 Is he going to be reappearing in the
8 future?

9 CHAIRMAN KRONK: Public portion for
10 Mr. Grant was concluded at the last meeting.

11 THE WITNESS: He's on vacation.

12 MR. GOLDBERG: So the public portion
13 for Mr. Grant has concluded?

14 CHAIRMAN KRONK: Yes.

15 MR. GOLDBERG: So should I feel free to
16 ask any of his team here a question --

17 CHAIRMAN KRONK: I'm just telling you
18 the public portion of --

19 MR. OLLER: You can ask Mr. Abramson
20 about his testimony.

21 MR. GOLDBERG: So, only about his
22 testimony; is that correct?

23 MR. OLLER: Correct.

24 MR. GOLDBERG: Okay, thank you.

25 MS. MCKAY: Jeannie McKay, 10 Walnut

1 Street, Morristown.

2 Hi, I have a couple of questions.

3 The lot at 241 MLK, there's been a site
4 study, right.

5 THE WITNESS: What?

6 MS. MCKAY: Like visual, like coming
7 out, turning right?

8 THE WITNESS: Oh, lines of sight.

9 MS. MCKAY: Right. Was that testified
10 to?

11 THE WITNESS: It was testified to by
12 our civil engineer.

13 MS. MCKAY: So, what was the outcome?

14 THE WITNESS: I don't want to testify
15 to her testimony.

16 MR. OLLER: Yeah, the engineer has
17 testified already, she was cross examined.

18 MS. MCKAY: Oh, that was an engineering
19 question?

20 MR. OLLER: Yeah, that's engineering.

21 MS. MCKAY: Well, just so that you
22 know, I already know the outcome. There was
23 paperwork written on it on the township paper and it
24 says -- should I read the whole thing?

25 MR. OLLER: No. It's actually maybe

1 more appropriate when you can come up and make
2 comments as opposed to just questions right now for
3 Mr. Abramson based on his testimony.

4 MS. MCKAY: All right. So, just to
5 maybe answer that myself, there was a sight problem.
6 The restaurant doesn't allow parking with the two
7 front spaces. I think you mentioned that. The two
8 front spaces since the first hearing actually in
9 March and April has been blocked off for no parking
10 and I actually have a picture of it too, if you want
11 to see it?

12 CHAIRMAN KRONK: Not now. Right now
13 we're just doing questions of the planner's
14 testimony.

15 MS. MCKAY: Okay. So, there's been
16 acknowledgment that there's a sight issue.

17 Okay. So if there was -- if it's been
18 acknowledged and there's a sight issue with nothing
19 there, does it become more dangerous for the house or
20 unit to be built there?

21 THE WITNESS: So, here's what I'll say
22 as a planner on the matter, is that is a control for
23 your ordinance. We're not asking for any waivers
24 from the requirements of sight distance. It was
25 testified to affirmatively by our engineer that

1 they're not in violation, they're not compromising
2 the sight triangles.

3 You know, what I'll say is that these
4 triangles, the way that they measure corner
5 clearance, it's very -- it's specific to corners,
6 right, and it's specific to certain locations, the
7 edges of properties and the edges where rights-of-way
8 meet each other.

9 So, yes, while the restaurant shouldn't
10 be parking cars in those two locations, because other
11 people can't see what's coming, oncoming traffic, it
12 doesn't mean that, you know, 80 feet down the road,
13 that you have the same condition or that it would
14 implicate the same regulations.

15 Ms. McKAY: Okay. But I'm not talking
16 about 80 feet. I'm talking right across the street
17 on that lot.

18 THE WITNESS: All I'll say, I think the
19 driveways are probably further apart. It probably is
20 like 80 feet. I don't know, I don't want to --

21 MR. OLLER: That's not his testimony.
22 That's engineering.

23 MS. McKAY: All right. Okay.

24 CHAIRMAN KRONK: You're going too far
25 with that with the planner.

1 MS. McKAY: All right. So, the
2 engineering handled the congestion and the traffic
3 and all that stuff? So, I guess I missed my
4 opportunity to ask her those questions.

5 All right. Another question, you just
6 mentioned about the Toyota automotive storage that's
7 across. If I'm not mistaken, in another meeting that
8 area was designated for overlay with the affordable
9 housing?

10 THE WITNESS: Okay.

11 MS. McKAY: I don't know if they're
12 going to build units there on Erin Avenue or behind
13 this. You said they're trying to get rid of that
14 Toyota facility?

15 THE WITNESS: What I said -- what I
16 testified to was that the master plan reexamination
17 from 2017 recommends a more conforming use or getting
18 rid of the nonresidential use.

19 Yes, I would need -- if you wanted me
20 to quote from it exactly, I would need it in my hand.

21 MS. McKAY: So, that's what that --
22 that's what that overlay was about in the affordable
23 housing hearing?

24 THE WITNESS: The affordable housing
25 compliance is a separate matter. That has --

1 sometimes can intersect with the master plan
2 reexamination, but not necessarily. The things do
3 not necessarily need to talk to each other.

4 MS. MCKAY: All right. Now, on that
5 conforming lot size, the red and green?

6 THE WITNESS: Yes, ma'am.

7 MS. MCKAY: I noticed that's all MLK.

8 THE WITNESS: Correct.

9 MS. MCKAY: The front is going to be on
10 Walnut?

11 THE WITNESS: Correct.

12 MS. MCKAY: Did you do the conforming
13 study for Walnut? Did you do the study for Walnut?

14 THE WITNESS: So, what we did was we
15 looked at the district, the zoning district in which
16 it's located. The reason why all of those parcels
17 appear along MLK is because that's where the RB-7
18 zone is. Once you go behind this parcel, it goes
19 into an RA-7 zone, which, I guess is a single-family
20 district.

21 This is a very common zoning technique,
22 like corridor-type zoning where along corridors you
23 have more intense land uses and as you move away into
24 neighborhoods, you, like, feather down into
25 single-family and potentially larger parcels and

1 things like that.

2 So, we did not look down Walnut,
3 because that's not the same, it's not
4 apples-to-apples, but we did look at other corner
5 parcels in this overall corridor that are in the same
6 zone and that would be similarly situated.

7 MS. MCKAY: So you're not required to
8 look down Walnut since the front is going to be on
9 Walnut?

10 THE WITNESS: In my opinion, in terms
11 of the type of negative -- the impact to the zoning
12 ordinance and the types of things about, you know,
13 what is good planning, that the (c)(2) variance asks
14 us to do in terms of that negative criteria, I think
15 that based on the way that this place functions and
16 the way that it lives, that the parcels on MLK,
17 particularly because you're separated by a
18 right-of-way or an alley, particularly because you
19 have commercial uses directly across the street on
20 Walnut function very differently than the parcels
21 deeper into the neighborhood.

22 So, you asked, do I need to?
23 Technically, this is a tool. This is not a
24 requirement. This is to demonstrate that we're not
25 negatively impacting the way that the properties are

1 laid out in this area or the patterns that have
2 developed in this area.

3 So, I think that if we're going to be
4 analyzing patterns, I'd want to analyze along this
5 corridor and because the streets, once you get down
6 past the one parcel, the identity of these
7 neighborhoods are so different than the identity
8 along MLK, I'm my opinion.

9 MS. MCKAY: So most of the houses in
10 that area were probably built in the early 1900s and
11 a lot of them were single-family homes and as people
12 moved out and people bought, they were converted,
13 some into multiple houses, two-family -- I actually
14 live in a two-family, 10 Walnut is a two-family.

15 But the difference between where I live
16 and what you're planning on building, that's a corner
17 lot.

18 THE WITNESS: Uh-huh.

19 MS. MCKAY: Okay. I don't know if this
20 is a question for you or not or maybe a comment I can
21 make at the end, I guess you'll let me know. I have
22 a lot of pictures here from the last meeting on June
23 25th. I think you said you took a picture. I took a
24 picture every day of the week for maybe two weeks and
25 at different times. In the morning, mid-morning,

1 afternoon, mid-afternoon, early evening, late at
2 night.

3 CHAIRMAN KRONK: Okay, I think if you
4 don't have a question for him, then that would
5 probably be something you would want to save for your
6 comments at the end of the application.

7 MS. MCKAY: All right, I'll do that.

8 CHAIRMAN KRONK: Thank you.

9 MS, MCKAY: Thanks.

10 CHAIRMAN KRONK: Anybody else,
11 questions only for the planner?

12 MS. BROWN: Do I need to say my name
13 every time?

14 MR. OLLER: Yes, you do.

15 CHAIRMAN KRONK: And your address.

16 MS. BROWN: Okay, Kim Brown. What is
17 my address? Two Carlton Street in Morristown, New
18 Jersey.

19 One question I have is: Why you say --
20 and I hate to hear this in my head. Why do you say
21 that property has three -- what do you call it, three
22 --

23 THE WITNESS: Front yards.

24 MS. BROWN: Three front yards, because
25 you can enter it from any side?

1 THE WITNESS: So --

2 MS. BROWN: It drives me nuts.

3 THE WITNESS: I don't mean to do that,
4 I'm sorry.

5 MS. BROWN: No, no, I knew that.

6 THE WITNESS: So, it's really a
7 definitional thing. We can go back and forth.

8 MS. BROWN: Just make it simple.

9 THE WITNESS: So, a front yard is any
10 parcel boundary that abuts a right-of-way. Put it
11 that way, all right. So MLK, one right-of-way.
12 Walnut, one right-of-way.

13 MS. BROWN: Right-of-way, meaning a car
14 can enter, a person can enter?

15 THE WITNESS: I don't know the exact
16 language, but we decided with your engineer that the
17 alleyway here met the definition of a right-of-way to
18 which the parcel boundary that abuts that alley
19 right-of-way, whatever you want to call it, is a
20 front yard.

21 And all that does is mean that we have
22 exaggerated setbacks in that circumstance and that's
23 why you end up with something that looks like this
24 (indicating), because everything on one -- against
25 one of those requires a 25-foot setback and that's

1 why those variances wracked up.

2 MS. BROWN: But it's because you can
3 walk in on any side; is that what that means?

4 THE WITNESS: It's definitional. There
5 could be no doors on any of the things and it would
6 still be a front yard, because the front yard, if you
7 think about it, more traditional parcel that's not a
8 corner property like this and not a corner property
9 with an alleyway in the back, like think about this
10 one, right here, mid-block parcel, it only has one
11 front yard and then the one furthest from the front
12 yard typically is the back yard.

13 MS. BROWN: Right.

14 THE WITNESS: And then the ones
15 perpendicular are the side yards. So, that's a nice
16 neat box to fit definitions in.

17 MS. BROWN: So, if you're going to
18 place your front door on Walnut Street, wouldn't the
19 alley be the side yard?

20 THE WITNESS: That's not how it's --
21 that's not how it's interpreted or written in your
22 ordinance.

23 MS. BROWN: My last -- I hope this is
24 my last question, I think of things all the time.
25 And now I forgot what it was.

1 Oh, this is what I wanted to ask too:
2 You showed that red -- that colored map, saying that
3 the zoning is not correct on a lot of the properties
4 that you have shown. Let me ask you this: Is it
5 possible that the zoning was different when those
6 homes were built and things have changed quite a bit
7 since then.

8 THE WITNESS: I want to be clear, I
9 never said the zoning wasn't correct. That's not my
10 testimony.

11 MS. BROWN: Well, I'm not saying that.
12 I'm saying, was it maybe to today's standards, maybe
13 I should say it that way? Is it because back in the
14 day, old school was different than now there's new
15 school --

16 THE WITNESS: It's possible.

17 MS. BROWN: -- zoning.

18 THE WITNESS: I don't have. I can't --

19 MS. BROWN: Maybe he can answer that.

20 Mr. -- what's your name?

21 MR. PHILLIPS: Phillips. Hello?

22 Yes, so the zoning has been in place
23 for a reasonably long time. We're dealing with a
24 particular property on a particular block within a
25 larger zone, RB-7. This area may or may not be in

1 -- it appears to be not in compliance based the study
2 that Mr. Abramson did with the minimum lot sizes for
3 the district, but, again, it's part of a larger
4 district and we don't know the extent to which the
5 larger district reflects the standards that must be
6 applied by this applicant, because this applicant's
7 property fits within the zoning district.

8 So, without doing a complete study of
9 every particular property in the RB-7 zone, it would
10 be hard for me to opine as to whether or not that
11 zoning does not reasonably reflect the character of
12 the district in its entirety.

13 MS. BROWN: Well, do you know whether
14 the zoning has changed over the years, right?

15 MR. PHILLIPS: The zoning has -- I've
16 been here for probably the better part of 7 or 8
17 years. The zoning has not changed within that
18 timeframe. I can defer to our engineer Jim Slate,
19 but I think I can say with confidence that that
20 zoning has been in place for the good number of years
21 in this particular area; is that correct, Jim?

22 MR. SLATE: I would agree with that,
23 yes.

24 MS. BROWN: Okay, thank you.

25 MR. PHILLIPS: You're welcome.

1 MR. GOLDBERG: Lee Goldberg, one last
2 question. The single -- the lot size for a -- if
3 there was going to be a single-family home on this
4 lot, the lot size is sufficient, right, because 5,000
5 square feet is required?

6 THE WITNESS: I think it's 7500.

7 MR. GOLDBERG: Oh, 7500 is required for
8 a single-family home on this lot, I believe.

9 MR. PHILLIPS: That's correct.

10 MR. GOLDBERG: That is correct. So, in
11 essence, would all this drop away all these
12 variances, if you were just to be proposing building
13 a one-family home there?

14 THE WITNESS: One variance would drop
15 away.

16 MR. GOLDBERG: Which one would that be?

17 THE WITNESS: The lot.

18 MR. GOLDBERG: The lot size?

19 THE WITNESS: Yeah.

20 MR. GOLDBERG: That would be the only
21 one that would drop away?

22 THE WITNESS: Correct.

23 MR. GOLDBERG: Okay, thank you.

24 MS. MCKAY: Jeannie McKay, 10 Walnut
25 Street.

1 On June 25th -- we're asking
2 Mr. Phillips?

3 THE WITNESS: He's Phillips. I'm
4 Philip. That's my first name.

5 MS. MCKAY: Phillip, you and Mr. Grant
6 invited a bunch of us residents in back of the
7 meeting room before his proposal was called and you,
8 yourself, you let us know that Mr. Grant had proposed
9 eight units on Mt. Kemble and you said within that
10 proposal, he asked to put in affordable housing there
11 and the board told him no; okay.

12 MR. OLLER: That's not correct. That's
13 just not correct.

14 MS. MCKAY: Do you remember talking
15 about that?

16 THE WITNESS: I didn't testify to it
17 this evening. It's not part of this record. And,
18 you know, what discussions were had in the backroom,
19 we had in the backroom and you know, I'm not going to
20 speculate on that discussion right now.

21 MS. MCKAY: Okay. Well, what you told
22 us was that he proposed right units --

23 CHAIRMAN KRONK: Questions of the
24 planner, please.

25 MS. MCKAY: But we spoke with the

1 planner, Phillip, okay?

2 Another question, okay, we received a
3 letter for the residents within 200 feet of the
4 property from Prime Law, Teaneck, New Jersey, I guess
5 that's where you are.

6 MS. LOTTINVILLE: That's correct.

7 MS. MCKAY: And in the letter it
8 says -- I've got the letter here that was mailed to
9 me. It says one of the residential units on the
10 property may be an affordable housing unit.

11 That's kind of misleading to me. Does
12 Mr. Grant have an option? I thought he was required,
13 if he builds over five units to --

14 THE WITNESS: So, he absolutely has the
15 option.

16 MS. MCKAY: So, he doesn't have to do
17 affordable there?

18 THE WITNESS: He would not have to.
19 And it's really -- it actually should not enter this
20 discussion whatsoever, if that unit's affordable
21 housing or not. It is improper and it's
22 discriminatory.

23 MS. MCKAY: But we've been talking
24 about that on every proposal.

25 THE WITNESS: That's the way that the

1 law -- the law does not want us talking about whether
2 they're owners, renters, affordable, market. That is
3 -- the decisions that this board makes cannot be
4 based on those factors. Imagine if it could.

5 MS. MCKAY: Okay. So why did we get
6 the first letter we got, mentioned that. We talked
7 about it the first proposal. We even described
8 different levels of affordable housing.

9 THE WITNESS: The point that they were
10 making was with regard to policy, with regard to that
11 positive criteria that I talked about, the positive
12 things that this application is doing, the provision
13 of affordable housing is seen as a benefit and that's
14 why it was mentioned in those notices, but I don't
15 think that this application requires that in terms of
16 meeting the proof -- the legal proofs that are out
17 there.

18 MS. MCKAY: Thank you.

19 CHAIRMAN KRONK: Thank you.

20 MS. BROWN: That's how this all
21 started.

22 CHAIRMAN KRONK: Anybody else in the
23 public, questions of the planner?

24 MS. MILINSKI: Elizabeth Milinski, 23
25 Highland Avenue in Collinsville, Morris Township.

1 In your opinion or in your professional
2 --

3 THE WITNESS: Opinion.

4 MS. MORISKY: Whatever you -- what is
5 advantage of a two-family structure on that property
6 versus a one-family structure that does not require
7 as many variances?

8 THE WITNESS: So, it requires one less
9 variance and I think the reason for it is the
10 provision of appropriate population densities, all of
11 those positive criteria things that I talked about,
12 that, if you are going to have it, this is the best
13 place to have housing dwelling units.

14 That it supports the purposes of the
15 statute from that perspective. The fact that it is a
16 permitted use in this district and that the
17 municipality when zoning it this way determined that
18 they did want to see multifamily along these
19 corridors. So, I think from that perspective it
20 advances the positive criteria.

21 Do I have to acknowledge or justify
22 that one is better than the other? That's not the
23 way that the statute is set up and that's not the way
24 the proofs are set up. The proofs are set up that's
25 basically a balancing, do the positive attributes

1 outweigh the negative impacts.

2 MS. MILINSKI: Okay, thank you.

3 CHAIRMAN KRONK: Thank you.

4 Anybody else in the public with
5 questions for the planner?

6 (No response.)

7 CHAIRMAN KRONK: Seeing none, hearing
8 none, close the public portion.

9 Any other witnesses?

10 MS. LOTTINVILLE: I have no other
11 witnesses.

12 I was about to say since all of our
13 witnesses are here, I would wonder if the board has
14 any additional questions, concerns or points that
15 they would like to review with any of the witnesses
16 who are here present.

17 CHAIRMAN KRONK: Okay. Are you
18 planning on having us open up to the public for
19 comments tonight?

20 MR. OLLER: In other words, which do
21 you want to do first?

22 MS. LOTTINVILLE: Well, I think we
23 should open to the public first. That might engender
24 further conversation.

25 CHAIRMAN KRONK: Okay. Now, this time

1 we're going to open up to the public, but this one is
2 not just questions, you can make comments, you could
3 provide testimony at this time. So, anybody with
4 comments, questions, testimony, please come forward.

5 MR. OLLER: And I would add that your
6 testimony shouldn't be repetitive of testimony that
7 may have occurred ahead of you and you can come up
8 one time. One time, so think it through.

9 MS. BROWN: You know, I need more than
10 once.

11 Kim Brown, 2 Carlton Street,
12 Morristown, New Jersey, it's part of the Collinsville
13 program in Morris Township. I think you already got
14 the idea that we're not real happy about this
15 project.

16 MR. OLLER: Ms. Brown, would you raise
17 your right hand? This is testimony, so we have to
18 swear you in.

19 Do you solemnly swear that the
20 testimony you will give to this board will be the
21 truth, the whole truth and nothing but the truth so
22 help you God?

23 MS. BROWN: I don't lie.

24 K I M B E R L Y B R O W N,

25 2 Carlton Street, Morristown, New Jersey,

1 having been duly sworn, testifies as follows:

2 MR. OLLER: Is that a "yes," ma'am?

3 MS. BROWN: I'm sorry?

4 MR. OLLER: Does that mean "yes".

5 MS. BROWN: That means yes. I do.

6 MR. OLLER: Thank you.

7 MS. BROWN: I think you all understand,
8 even though just a small group of us show up every
9 time to these meetings, I think you all know how we
10 feel about this lot, how it's been in our family for
11 decades and how we think this two-family house is too
12 small for the lot that -- the size of the lot. I
13 think the garage is too big to put the house beside
14 it. I think it's going to create traffic problems,
15 more traffic problems. I think it's going to create
16 parking problems. I think there are a whole number
17 of issues here and I don't understand, number one,
18 why one of the Mt. Kemble townhouses can't be
19 affordable housing, even though you don't want me to
20 say that. I don't understand that part. I don't
21 understand a whole lot, but I think that you all get
22 the drift that we're not real happy about it and if
23 we could -- if we had the power and hopefully we have
24 created the power, that we don't want this.

25 Thank you.

1 CHAIRMAN KRONK: Thank you.

2 MS. ANDERSON: Charlene Anderson, 7
3 Emmet Avenue. I, too --

4 MR. OLLER: I'm sorry. Would you raise
5 your right hand?

6 Do you solemnly swear that the
7 testimony you'll give to this board will be the
8 truth, the whole truth and nothing but the truth so
9 help you God?

10 MS. ANDERSON: Yes.

11 C H A R L E N E A N D E R S O N,
12 7 Emmet Avenue, Morristown, New Jersey,
13 having been duly sworn, testifies as follows:

14 MR. OLLER: Thank you.

15 MS. ANDERSON: The first thing I would
16 like to say, make a spelling correction, it's Hervey,
17 H-E-R, not Harvey, H-A-R as you have. That Walnut
18 Street lot I know has been vacant.

19 First I know because my mom is 93 and
20 it's been vacant ever since she was born. So,
21 nothing has ever been there. I am concerned about
22 the setbacks. It seems to me as though it's going to
23 be so close to the street in a very busy area and
24 also that business across the street currently most
25 of the -- a fair amount of the customers who come to

1 the restaurant park on Walnut Street and it's just
2 adding -- there's just so much congestion there
3 especially with the stuff on Hanover Avenue.

4 Thank you.

5 CHAIRMAN KRONK: Thank you.

6 MR. GOLDBERG: Lee Goldberg, 10
7 Arrowhead Road.

8 Actually, Mr. Oller --

9 MR. OLLER: Would you raise your right
10 hand, please?

11 Do you solemnly swear that the
12 testimony you will give to this board will be the
13 truth, the whole truth and nothing but the truth, so
14 help you God?

15 MR. GOLDBERG: I do.

16 L E E G O L D B E R G,

17 10 Arrowhead Road, Morristown, New Jersey,

18 having been duly sworn, testifies as follows:

19 MR. GOLDBERG: Mr. Oller, you
20 procedural questions that's on the running of this
21 meeting today, I know the agenda wasn't made
22 available to the public on the township website until
23 approximately about 9:45 this morning. So, I don't
24 know if that calls into any open meeting conflicts
25 and then my second question --

1 MR. OLLER: It does not.

2 MR. GOLDBERG: It does not.

3 Now, given that this is -- it does not,
4 okay. And given that this is as a new application,
5 correct?

6 MR. OLLER: Right.

7 MR. GOLDBERG: I believe I heard at the
8 last meeting.

9 MR. OLLER: It is.

10 MR. GOLDBERG: This would be considered
11 a new application, was written notice required to
12 residents within 200 feet of the property?

13 MR. OLLER: Yes. And they provided it.

14 MR. GOLDBERG: They provided that?

15 FEMALE AUDIENCE MEMBER: No, they did
16 not.

17 MS. LOTTINVILLE: It was carried. We
18 gave written notice for the meeting in June and the
19 meeting in June was carried by this board accordingly
20 the notice was given.

21 MR. OLLER: Yeah, they provided it.

22 MR. GOLDBERG: So there's no
23 requirement. So I'm trying to establish because it
24 is a brand new application, there's no requirement
25 that residents be notified via a hardcopy letter

1 because you carried it?

2 MR. OLLER: I think you just heard the
3 answer to that that there was and I have a copy of
4 it.

5 MS. LOTTINVILLE: Notice was delivered
6 --

7 MR. OLLER: I have it. There was
8 notice provided --

9 MS. LOTTINVILLE: Ten days prior to the
10 June --

11 MR. OLLER: It was mailed 10 days
12 prior.

13 MS. LOTTINVILLE: To the June 25th
14 meeting.

15 MR. OLLER: Yeah, to the June 25th
16 meeting, right, not for tonight's meeting, for the
17 first meeting, which was June 25th.

18 MR. GOLDBERG: So for the June 25th
19 meeting, notice was given --

20 MR. OLLER: There was notice, written
21 notice was provided and published in the Daily
22 Record.

23 MR. GOLDBERG: Correct. So that's what
24 --

25 MR. OLLER: That's all they have to do

1 and then at the last meeting we announced tonight's
2 meeting date so that the notice continues.

3 MR. GOLDBERG: So there's a process for
4 a notice to continue from one application to another?

5 MR. OLLER: No, from one hearing date
6 to the next. They noticed the June 25th hearing
7 date. Okay? That was mailed and published in the
8 newspaper. That's all they had to do.

9 MR. GOLDBERG: Okay. So that's the
10 requirement? Okay, that's what I'm trying to
11 understand.

12 MR. OLLER: Yeah, they satisfied that
13 --

14 MR. GOLDBERG: The new application is
15 invoked, these people that live within 200 feet would
16 not receive another --

17 MR. OLLER: No, you're not hearing me.
18 There is a notice requirement and they satisfied it.
19 They mailed by certified mail a notice to all of the
20 homeowners within 200 feet of this lot and they
21 published the notice in The Daily Record.

22 MS. LOTTINVILLE: For the --

23 MR. OLLER: All of that occurred at
24 least 10 days prior to the June 25th hearing. And
25 then at the conclusion of the June 25th hearing we

1 announced that it would continue at tonight's
2 hearing. They didn't -- there's no requirement that
3 they issue a second notice or a third notice for a
4 second or a third continuing meeting. As long as we
5 announced the date, which we did.

6 MR. GOLDBERG: Okay. Thank you.

7 I'm sorry, the -- Ms. May, is it, the
8 attorney's name?

9 MS. LOTTINVILLE: Lottinville.

10 Mr. GOLDBERG: Lottinville, I'm sorry,
11 Ms. Lottinville. You had said that you have all your
12 witnesses here tonight to answer any additional
13 questions.

14 Was Mr. Grant -- he was sworn in as a
15 witness at one point in time; is that correct?

16 MS. LOTTINVILLE: Yes, he was. If I
17 misspoke, I apologize.

18 MR. OLLER: I'm sure she meant all the
19 professionals.

20 MS. LOTTINVILLE: My professional
21 witnesses.

22 MR. GOLDBERG: Oh, so he was -- so what
23 kind of witness was he sworn in?

24 MS. LOTTINVILLE: He is the -- he is
25 the principal of the applicant LLC. He gave a

1 presentation that was an overview of the application.
2 He is the principal owner of the LLC developing the
3 property, the owner and the developer.

4 MR. GOLDBERG: Okay.

5 I think another resident alluded to it
6 earlier this evening and this is part of my public
7 commentary, there was a separate meeting held with
8 Mr. Grant, the developer, and members of his team
9 prior to the last meeting. Information that was
10 spoken of on the evening was that he originally
11 wanted to put the affordable unit over on the Mt.
12 Kemble project, but the township, whether at the
13 committee level, we can look into where this was told
14 that he couldn't do that.

15 But my question is: There's something
16 else going on here that doesn't really tie out to,
17 you know, why he's now building over there.

18 MR. OLLER: First off, I want to
19 clarify something for the record, when Mr. Abramson
20 mentioned some conversations in the backroom --

21 MR. GOLDBERG: Yeah.

22 MR. OLLER: He was referring to
23 whatever conversation Mr. Grant had with neighbors.

24 MR. GOLDBERG: Correct. There was many
25 of us there.

1 MR. OLLER: There was no such
2 conversation with any board members.

3 MR. GOLDBERG: That's correct. That's
4 absolutely correct.

5 MR. OLLER: Right.

6 MR. GOLDBERG: There was no board
7 member, but I would like -- it would be great if
8 Mr. Grant could reappear to maybe answer some of the
9 questions, even though the testimony wasn't given in
10 the public.

11 MR. OLLER: And when I indicated to
12 that woman that that was incorrect, is that this
13 board never issued an edict to the applicant that the
14 affordable housing unit that's required for his other
15 project couldn't be in that project, that just isn't
16 correct.

17 MR. GOLDBERG: That's correct.

18 Well, the messaging we were getting
19 from him was that somewhere within the township
20 administration they didn't want to allow it and his
21 preference was to put it over there and now he's
22 stuck having to put it and come up with this plan.

23 MR. OLLER: Again, he's not here and
24 that's just a conversation that took place between
25 other people.

1 But I can tell you that is not correct.

2 MR. GOLDBERG: Ms. Lovinett [sic], is
3 it Ms. Lovinett?

4 MS. LOTTINVILLE: Lottinville.

5 MR. GOLDBERG: Lottinville, sorry,
6 Ms. Lottinville, would it be -- would Mr. Grant be
7 amenable to coming back next month to perhaps answer
8 questions that based on the information that was
9 provided on unofficial sidebar to residents?

10 MS. LOTTINVILLE: First of all, I have
11 to say that while I was in the room, I don't know
12 that I heard every portion of the conversation, but I
13 do not recall that he ever said that he could not put
14 the affordable housing in the prior application,
15 which was really a question of a prior application
16 and another time and not something that's before this
17 board.

18 So first of all, I did not hear that
19 statement. I believe that I understood that he
20 talked about the economics of the two situations and
21 that an affordable unit is owed as part of the
22 resolution for the Mt. Kemble application.

23 That being said, I don't -- I really
24 don't believe that as Mr. Abramson has said this
25 evening that the fact that it -- that the second unit

1 is a COAH unit or not a COAH unit is --

2 MR. GOLDBERG: That's not for this
3 board to decide?

4 MS. LOTTINVILLE: That's correct. And
5 it is, in fact, discriminatory to object to a
6 two-family home on the simple basis that one unit may
7 become an affordable unit.

8 MS. BROWN: That's not why we object to
9 it.

10 MR. GOLDBERG: Yeah, I'm trying
11 understand the history of this and sort of the
12 opposite of what Mr. Grant was saying about the --
13 you know, he wanted it on Mt. Kemble. The township
14 here forced him to go there and -- so I don't -- he
15 got strong messaging.

16 MS. LOTTINVILLE: I cannot agree with
17 any of your characterizations about what he wanted or
18 what the board insisted upon.

19 MR. GOLDBERG: I think it would be
20 great if he can come back and answer some of those
21 questions.

22 MS. LOTTINVILLE: I don't know that
23 it's relevant.

24 MR. GOLDBERG: It casts a new light on
25 the application and it would great if he can make

1 himself available to answer some of the questions
2 about what he communicated to the public.

3 Thank you.

4 CHAIRMAN KRONK: Thank you.

5 MS. MCKAY: Jeannie McKay, 10 Walnut
6 Street.

7 MR. OLLER: Raise your right hand,
8 please.

9 Do you solemnly swear that the
10 testimony you will give to this board will be the
11 truth, the whole truth and nothing but the truth, so
12 help you God?

13 MS. MCKAY: Yes, I do.

14 J E A N N I E M c K A Y,
15 10 Walnut Street, Morristown, New Jersey,
16 having been duly sworn, testifies as follows:

17 MR. OLLER: Thank you.

18 MS. MCKAY: I just have a couple of
19 things. Back to what I was asking Mr. Abramson
20 about, the site study and the conclusion of it and it
21 was noted that there is a sight problem on that
22 corner and the restaurant has to allow for two
23 spaces. They don't allow parking there anymore.
24 This was from the very first proposal from March and
25 April. And I also mention that if there's a sight

1 problem there now with no unit there, no housing
2 there, I'm thinking it would be worse and I want the
3 know if there were any other studies, like. Parking,
4 congestion, heavy traffic, I don't know if you want
5 them now, but I have pictures showing all of that.

6 MR. OLLER: Now would be the right
7 time.

8 CHAIRMAN KRONK: Actually, maybe
9 Mr. Slate, could you just clarify how the situation
10 on the commercial property across Walnut Street would
11 be different than the proposal which is before the
12 board?

13 MS. MCKAY: I understand the
14 difference. I understand somebody mentioned too
15 about the front not being able to have parking
16 spaces. It's actually in this letter on the township
17 letterhead.

18 But my thing is when you come to that
19 corner, you have to go into the crosswalk to see to
20 get out, whether you're turning left or right. So --
21 and it has been acknowledged.

22 MR. OLLER: Because of the existing
23 restaurant building?

24 MS. MCKAY: Yes.

25 MR. OLLER: Right? Okay. So the

1 applicant doesn't have any control over that
2 property. He can only control his property.

3 MS. MCKAY: So his property is going to
4 be back far enough so there won't be visual --

5 MR. OLLER: That is what his engineer
6 has testified to and I believe Mr. Slate has already
7 confirmed.

8 MR. SLATE: That is correct.

9 MS. MCKAY: So I guess I'll give this
10 to you, Mr. Slate.

11 MR. SLATE: That door has to stay open.
12 You can tell them to pipe down in the hallway.

13 MS. MCKAY: Should I give these to
14 Mr. Slate?

15 MR. OLLER: No, you can bring them
16 here. But before you do that, can you just tell what
17 it is we're going to be looking at.

18 MS. MCKAY: Okay. There are three
19 pictures here and they're showing the congestion at
20 different times of the day, the morning, mid-morning,
21 afternoon of the parking on Walnut Street.

22 MR. OLLER: Okay. So for the record,
23 we're going to mark these as O-1. It's an exhibit
24 consisting of three photographs of the parking near
25 of the subject property.

1 (Whereupon, Three Photographs are
2 received and marked as Exhibit O-1 for
3 identification.)

4 MS. MCKAY: Okay. Across the street
5 from both properties, there's a restaurant and 241
6 MLK, there's a Toyota automotive storage place. That
7 restaurant is open seven days a week, okay? It's
8 open from 11:30 a.m. to 9 p.m., okay? That's seven
9 days a week. Some restaurants only open six days a
10 week, they have one day off, but we have seven days
11 with that restaurant.

12 Now, the property that Mr. Grant has
13 goes out. There's a picture where it has a fence
14 around his property and I think his goes just a
15 little before that. The property that's graveled and
16 pretty much unpaved is the township property. Are
17 people going to be able to park there at any time of
18 the day once the house -- if the house is built? Is
19 that going to be a no parking zone? Because if not,
20 I want to show pictures that that area, I'll call it
21 the shoulder --

22 CHAIRMAN KRONK: Well, I think
23 Mr. Slate probably can address that issue as well.

24 MR. SLATE: There's no plan to make
25 that a no parking zone.

1 MS. McKAY: Okay. Well, on any given
2 day, I have pictures, there's 18-wheelers that park
3 there and sleep. They keep their motors going, they
4 keep it cool. I have a picture of that. I even
5 called the Morris Township Police Department on one
6 truck that was there early that morning until
7 mid-afternoon. The police officer said he spoke with
8 the driver. They told him, I guess DOT rules, you
9 can't drive certain hours, he needed another hour to
10 sleep, okay, to park and rest. Okay? This is one of
11 those pictures of that 18-wheeler parked there. This
12 is the middle of the day. He was there early in the
13 morning before the restaurant even opened. Okay?
14 And there's other cars parked.

15 This is just a different angle of it.
16 This also shows throughout the day how commercial
17 vehicles come, they park, they block the driveway and
18 the existing garage on that 241 location. This goes
19 on constantly. People block my driveway. If I'm
20 going in or out, I have -- hopefully I'm lucky enough
21 to catch them to ask them to move, okay? And this is
22 just not in the day. I have a picture of an
23 18-wheeler at night, overnight. The restaurant is
24 closed. Parked on that gravel area sleeping. Okay?
25 It leaves about -- it may leave about 3 or 4 in the

1 morning. You hear the parking of the truck, the
2 backup beeping and the loud gear changing. Okay?

3 This -- and also, there's an alley,
4 that alleyway that you guys keep talking about with
5 the garage going across the street, there's a
6 mechanic garage there. They have private sanitation.
7 Their pick up is at 2 and 3 a.m. in the morning where
8 the trucks pick up the dumpsters, bang them to make
9 sure they're clean. This is every week. Not just
10 sometimes, every week. Okay? All right?

11 This is a picture of a lot of
12 commercial vehicles just randomly parking wherever
13 they want. It happens all the time.

14 MR. OLLER: Ms. McKay, can I just ask,
15 those photographs, are those the same that you just
16 gave us to look at?

17 MS. MCKAY: No, these are different.

18 MR. OLLER: Okay. We're going to need
19 those when you're done to look at.

20 Ms. MCKAY: Okay. And also, there's a
21 picture of the restaurant that's closed. It has this
22 bright light that stays on overnight that keeps the
23 area lit like it's midafternoon. Okay? I mean, I
24 sleep. My -- where I live is -- well, the proposed
25 property, that property, the garage, there's another

1 house and then where I live. Okay? This light is on
2 overnight. There's a picture of that. Okay?

3 I just wanted to also say that
4 Mr. Grant, I know he's a builder, he proposes -- he
5 proposed -- well, his last proposal, he said he was
6 investing almost \$1 million dollars. Okay? Not one
7 residential property in Collinsville has ever sold
8 for that amount.

9 Can you please explain the economics in
10 that? Who would talk?

11 MR. OLLER: See, that's an appropriate
12 question for Mr. Grant when he testified, but --

13 MS. MCKAY: Well, his attorney was here
14 the last time. And he said he was investing almost
15 \$1 million. Okay? Why would someone invest \$1
16 million in that knowing that you're never going to
17 get it back?

18 MR. OLLER: Ms. McKay, this is a time
19 for your comments and questions of all the witnesses
20 is really completed.

21 MS. MCKAY: Okay, all right, okay.

22 MS. BROWN: It's a question, though,
23 isn't it?

24 MS. MCKAY: The area, the Collinsville
25 area, the homes there, the people there, some are

1 rentals, some are owners. Families they take pride
2 in trying to preserve their property value and what
3 is proposed in my opinion is going to kill our value,
4 property value. It's undersized, there's parking
5 issues. He's making something cheap and small and
6 not worth it. I'm sure no one in here would want to
7 live there. The architect said he would love to.
8 You would not love to live there. With all these
9 things, tractor trailers parking in front of your
10 home overnight, motors running, okay.

11 And like one of the residents said, we
12 met with the Morris Township Police Department on
13 July 12th at the Collinsville playground. One of the
14 representatives told us that our area is one of the
15 lowest crime ridden areas in Morris Township. So
16 that vacant lot, I don't think there's ever been any
17 crime on it ever. Okay? And he's promising
18 something beautiful, but it's just simply not the
19 right location. I'm sure he does beautiful work. I
20 went on his website. I've seen the homes. They're
21 monstrous, big mansions, they're beautiful, but that
22 location is just not the right location. And like
23 Mr. Abramson said, it's going to stick out like a
24 sore thumb.

25 And here are the pictures. I will give

1 them to you. Like I said, there's some from evening,
2 there's pictures of vehicles blocking the garage and
3 the driveway.

4 MR. OLLER: How many photographs are
5 there?

6 MS. McKAY: One, two, three, four,
7 five, six.

8 MR. OLLER: Thank you.

9 MS. McKAY: One is of the 18-wheeler
10 parked during the day sleeping. One is the
11 18-wheeler parked at night, overnight sleeping. Just
12 random commercial vehicles parked there and the
13 bright light that's on overnight from the restaurant.
14 So I don't know. Myself, if I was looking for new
15 property, that wouldn't be it.

16 MR. OLLER: Thank you.

17 CHAIRMAN KRONK: Thank you.

18 MR. SLATE: A lot of those issues you
19 raised are not related to this particular application
20 and I will refer them to the enforcement people that,
21 you know, deal with garbage pick up, the light at the
22 restaurant and, you know, talk to the police
23 department to see if there's something that can be
24 done about, you know, tractor trailer parking,
25 because obviously if a tractor trailer is sitting

1 there running, you know, in my opinion that shouldn't
2 be occurring, but I don't know how that's, you know,
3 controlled or governed, you know, by the police
4 department.

5 MS. MCKAY: Well, I called, I called
6 the police department on that one blue truck. He let
7 him stay there for another hour.

8 MR. SLATE: Yeah, and I just want to
9 have further conversation on it, is there some other
10 way? You know, can it be put on a list where it's
11 posted that you can't have tractor trailer parking,
12 you know, but there can be parking, you know, during
13 the day so it doesn't effect the residents or, you
14 know, someone's going to the restaurant. I don't
15 know. I don't know the answer to that, but that's
16 not really an issue, you know, that the applicant's
17 created. It's an existing issue that should be
18 addressed regardless of what happens with this
19 application.

20 MS. MCKAY: I understand that, but what
21 I'm just trying to pointing out is, who wants that in
22 front of their house? Would you want that in front
23 of your house?

24 MR. SLATE: No. And that's why I'm
25 going to do some follow-up on it.

1 MS. MCKAY: Okay. So anyone who buys
2 this property, I'm thinking with the size and
3 everything, they may be a first time home buyer, but
4 when you develop properties like this, you get people
5 who are desperate, who will live anywhere, come from
6 anywhere and that corner is just not a good place.
7 That's all I have to say.

8 MR. OLLER: Thank you.

9 CHAIRMAN KRONK: Thank you.

10 MR. OLLER: Jim, I had a question to
11 follow up on something she mentioned. There was some
12 discussion at one point about continuing the curb
13 line down Walnut. And I guess extending that front
14 lawn area to the new curb, so continuing that curb
15 line from MLK, down to the driveway.

16 CHAIRMAN KRONK: It was on the original
17 application.

18 MR. OLLER: But that's not on this
19 plan. Are you suggesting that that be --

20 MR. SLATE: What my suggestion would be
21 that rather than have the applicant install, you
22 know, that curbing, as I looked closer, there's I
23 think some more work that needs to be done on that
24 roadway and to put that curb in and then take it out
25 a year or two later to design the road properly so it

1 has the proper slope or width, you know, to allow
2 parking on one side or both sides, it makes more
3 sense to -- for the applicant to contribute rather
4 than install those improvements, contribute with an
5 escrow contribution towards the future road
6 improvements and my thoughts were there's a couple of
7 other issues to, you know, put some other --
8 recommend some other funding we put in place by the
9 township committee and properly reconstruct the
10 roadway, not just stick curb along this frontage.

11 So having to make contribution towards
12 that improvement.

13 MR. OLLER: Okay.

14 CHAIRMAN KRONK: Please come forward.

15 MR. OLLER: Raise your right hand.

16 Do you solemnly swear that the
17 testimony you will give to this board will be the
18 truth, the whole truth and nothing but the truth, so
19 help you God?

20 MS. DAVIDSON: I do.

21 I N G R I D D A V I D S O N,

22 119 Woodcrest Drive, Morristown, New Jersey,

23 having been duly sworn, testifies as follows:

24 MR. OLLER: And would you state your
25 full name, please?

1 MS. DAVIDSON: Ingrid Davidson, 119
2 Woodcrest Drive.

3 I just wanted -- two things I just
4 wanted to testify that I was in the room with the
5 side discussion and it was very appreciated, but I do
6 remember Mr. Grant saying that he originally wanted o
7 honor his Mount Laurel obligation and building the
8 affordable housing on Mt. Kemble and I don't know
9 where, but he said he was told. So I just wanted to
10 say that I heard that also.

11 And then the second thing I just wanted
12 to say is just as a resident who drives up and down
13 Martin Luther King a lot, every time I pass it, I
14 mean, it's a personal observation, but it's just so
15 small. And I just -- I heard all the testimony and
16 it's been great testimony and, you know, appreciated,
17 but I just -- also, I cannot envision this being on
18 this lot and I absolutely appreciate that the people
19 who live in Collinsville are very concerned about it.
20 So that's what I'm going to say.

21 MS. SANTIAGO: Could you repeat your
22 address, please?

23 MS. DAVIDSON: 119 Woodcrest Drive.

24 MS. SANTIAGO: Thank you.

25 MS. DAVIDSON: Thank you.

1 CHAIRMAN KRONK: Thank you. Wait,
2 you're already done.

3 MR. GOLDBERG: Lee Goldberg. Is it
4 alright if I come back for another question?

5 MR. OLLER: We're not -- let's see what
6 else we have.

7 MR. GOLDBERG: Oh, okay.

8 MR. OLLER: I'm sorry.

9 Do you solemnly swear that the
10 testimony you give to this board will be the truth,
11 the whole truth and nothing but the truth, so help
12 you God?

13 MS. MILINSKI: Yes, sir.

14 E L I Z A B E T H M I L I N S K I,
15 23 Highland Avenue, Morristown, New Jersey,
16 having been duly sworn, testifies as follows:

17 MR. OLLER: And your full name, please?

18 MS. MILINSKI: Elizabeth Milinski, 23
19 Highland Avenue.

20 MR. OLLER: Thank you.

21 MS. MILINSKI: Now, I heard Phillip --
22 I'm sorry, I forget your last name. I just
23 remembered your first name is Phillip, saying that
24 the two-bedroom units being 800 and how many square
25 feet?

1 MR. ABRAMSON: I can't speak from here.

2 MS. MILINSKI: That's extremely -- I
3 just wanted to say that I was struck by how tiny that
4 is. Like that's a really small --

5 MR. OLLER: I think his testimony was
6 884 square feet for one unit and 1,486 square feet
7 for the other.

8 MS. MILINSKI: Yeah, the 800, that's
9 really small. That just seems like an incredibly
10 small space to cram how many bedrooms?

11 FEMALE AUDIENCE MEMBER: Two.

12 MS. MILINSKI: Two. That is an
13 incredibly small space for a two-bedroom apartment,
14 like, unless it's -- unless the rooms are -- there's
15 not many and they're really large, that's an
16 incredibly small space and it just doesn't seem like
17 -- it seems -- my question is --

18 MR. OLLER: You don't have to have a
19 question. You can just have a comment.

20 MS. MILINSKI: Or my comment, it's like
21 a comment/question, it's kind of s rhetorical
22 question.

23 Why not just put a single-family home
24 on this property? I'm still questioning the
25 builder's reasoning behind this, whether they're just

1 looking for the financial gain of a two-bedroom or a
2 two-family where they can rent it out or they're
3 really trying to add something to the community.
4 That is my issue that is coming -- that keeps coming
5 to my mind.

6 Thank you.

7 CHAIRMAN KRONK: Thank you.

8 MR. OLLER: Is there anyone else other
9 than Mr. Goldberg?

10 Okay, ma'am. Would you raise your
11 right hand, please.

12 Do you solemnly swear that the
13 testimony you will give to this board will be the
14 truth, the whole truth and nothing but the truth so
15 help you God?

16 MRS. SOLOMON: Yes.

17 E L E A N O R S O L O M O N,

18 38 Highland Avenue, Morristown, New Jersey,
19 having been duly sworn, testifies as follows:

20 MR. OLLER: And state your name,
21 please.

22 MRS. SOLOMON: My name is Eleanor
23 Solomon at 38 Highland Avenue, Morristown, New
24 Jersey.

25 My comment and what I have to say is I

1 think the house is too small.

2 We live at 38 Highland Avenue and one
3 of our bedrooms is the one my son had when he was
4 small and that's like a 7 by 9, was it? Is that a 7
5 by 9.

6 MR. SOLOMON: It's 11 by 12.

7 MRS. SOLOMON: Oh, 11 by 12. And
8 you're talking about a two-family house there and
9 those bedrooms there in that two-family house is
10 going to be small and I don't see how you're going to
11 have it. If it's just two couples, you never know
12 when they might come in, some children in there and I
13 think they need more than two bedrooms.

14 I just think it's too small for that
15 lot and too much other things there with the parking
16 and driving and being able to see when you come out
17 that way. A lot of times I won't even go that way,
18 which might be shorter for me, but only if there's
19 traffic on Martin Luther King, then I have to go
20 sometimes that way when I leave Highland Avenue to go
21 down to get to Calvary at the railroad track there.

22 But I think it's just too small there.
23 I think the man should try to get something else
24 somewhere else or put a one-family house there
25 instead of a two-family. That's my suggestion.

1 Thank you.

2 CHAIRMAN KRONK: Thank you.

3 MR. OLLER: Is there anyone else other
4 than Mr. Goldberg?

5 (No response.)

6 MR. OLLER: So Mr. Goldberg -- oh, we
7 do. Okay.

8 So I think we heard from everyone in
9 the audience who has a comment to make and has
10 requested to make a comment and everyone's had an
11 opportunity to question all of the witnesses.

12 CHAIRMAN KRONK: Okay. If there's
13 nobody else in the public, at this time I'll close
14 the public portion.

15 MR. GOLDBERG: I'm sorry.

16 MR. OLLER: I'm sorry, but you've had
17 an opportunity to testify through the board and you
18 cross examined all of the witnesses.

19 MR. GOLDBERG: I just had two quick
20 questions for Mr. Slate that he might be able to
21 answer, if that's possible.

22 If you'd like, I'd sit down, but I just
23 have two quick questions.

24 CHAIRMAN KRONK: Okay.

25 MR. OLLER: Okay. The board's always

1 generous with allowing.

2 CHAIRMAN KRONK: Yes.

3 MR. OLLER: We just don't want this to
4 go on all night with repetitiveness.

5 CHAIRMAN KRONK: And since it's our
6 engineer and not the applicant.

7 MR. GOLDBERG: No, it's not repetitive.
8 I would not put this board through that.

9 CHAIRMAN KRONK: Okay.

10 MR. OLLER: Okay. It's of the
11 engineer, not of the applicant?

12 MR. GOLDBERG: That is correct.

13 MR. OLLER: Go ahead.

14 Mr. GOLDBERG: Mr. Slate, can you just
15 confirm because it is a corner lot that fences are
16 not allowed; is that correct? I believe on some of
17 the drawings it was referenced, I think it was a
18 picture of a fence, but can you -- is there a way to
19 have a fence on a corner lot that's acceptable?

20 MR. SLATE: Certain fences are allowed.
21 You know, a split rail fence is permitted in the
22 front yard. It can't be located in the sight
23 triangle.

24 MR. GOLDBERG: It can't be. Okay.

25 And my second question is on the sight

1 triangle. I believe it was this engineer's testimony
2 that there was no interference with the sight lines
3 if you're coming up Walnut and making a right onto
4 Martin Luther King. Do you concur with that? Did
5 you also look at the study?

6 MR. SLATE: That is correct. There is
7 adequate sight distance along the property frontage
8 on this particular property.

9 MR. GOLDBERG: And what is the process
10 or what happens if when they build the structure they
11 get it based on, you know, tractor trailer, size of
12 vehicles, whatever it may be that it's found that the
13 sight line is obstructed, what happens then next?

14 MR. SLATE: There's a sight triangle
15 that's shown on the plan. A portion of that sight
16 triangle falls on this property and an easement, it
17 was granted to the township that insures that that
18 sight triangle will not be planted on or nothing will
19 go in that sight triangle.

20 But majority of the sight triangle is
21 in the township's right-of-way, but the portion that
22 is on this property, if there is some sort of
23 approval on this application by the board, one of the
24 conditions of approval will state that an easement,
25 sight triangle easement is provided on that portion

1 of the property that falls within the sight triangle.

2 MR. GOLDBERG: And that easement
3 accomplishes the guarantee of the sight triangle
4 being maintained?

5 MR. SLATE: It allows some enforcement
6 on that area.

7 MR. GOLDBERG: Okay, great. Thank you
8 very much. Thank you for the follow up.

9 CHAIRMAN KRONK: At this time I'll
10 close the public portion of the meeting.

11 Board professionals, anything else
12 before I hand it off to the applicant?

13 All set, Paul?

14 MR. PHILLIPS: No questions.

15 MR. SLATE: I have nothing else.

16 MS. LOTTINVILLE: May we see the
17 photographs that the objector --

18 MR. OLLER: Oh, I'm sorry. Yeah.

19 CHAIRMAN KRONK: At this time the board
20 will take a five-minute recess.

21 (Whereupon, a short recess is held.)

22 CHAIRMAN KRONK: Okay. The Board of
23 Adjustment is back in session. Counselor?

24 MS. LOTTINVILLE: Mr. Chairman, I think
25 given the extensive comments made by the public and

1 photographs that have been entered into evidence this
2 evening by the objectors, as well as Mr. Grant's
3 unavailability is causing me to request that we carry
4 this meeting to the next regular meeting -- this
5 hearing to the next regular meeting, also in view of
6 the fact that the board membership is a bit --

7 CHAIRMAN KRONK: Bit late.

8 MS. LOTTINVILLE: Bit small, shall we
9 say this evening. I think a full consideration with
10 the transcripts available would be the best avenue to
11 take at this point.

12 CHAIRMAN KRONK: Certainly, understood.

13 Okay. Ms. Santiago, what do we have
14 available for a meeting date?

15 MR. OLLER: So the plan would be go to
16 the next available meeting at which time you would do
17 your summation and ask for the vote.

18 MS. LOTTINVILLE: That is correct.

19 MR. OLLER: It would be helpful if you
20 can get us a transcript sooner rather than later.

21 MS. LOTTINVILLE: Yes, I agree.

22 MS. SANTIAGO: Ms. Lottinville, I need
23 both transcripts.

24 MS. LOTTINVILLE: Yes, you do. I
25 understand the other one came in, the last meeting

1 came in this morning and I didn't get it in time.

2 MS. SANTIAGO: Okay. Next available
3 one is August 27th.

4 CHAIRMAN KRONK: Okay. August 27th
5 works for you?

6 MS. LOTTINVILLE: Yes, it will.

7 CHAIRMAN KRONK: Board Members, can I
8 have a motion to carry Application BA-02-18 to the
9 August 27th, 2018 meeting date?

10 MR. WOODFORD: So moved.

11 CHAIRMAN KRONK: Okay. Mr. Woodford.
12 Do we have a second?

13 MR. CHRISTENSEN: Second.

14 CHAIRMAN KRONK: Thank you,
15 Mr. Christensen.

16 All in favor?

17 (Whereupon, all Board Members respond
18 in the affirmative.)

19 CHAIRMAN KRONK: All opposed?

20 (No response.)

21 CHAIRMAN KRONK: Motion carries.

22 Application is carried to August 27th.

23 MR. OLLER: So, those of you in the
24 public with respect to this application, it is being
25 carried to August 27th at 7:30 in this room. There

1 will be no further notices mailed to you from the
2 applicant. You can always check with the town if
3 something changes, but there's no further notices
4 being mailed.

5 (Whereupon, the matter is continuing at
6 a future date. Time noted: 9:57 p.m.)

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C E R T I F I C A T E

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #15855, Notary
Expiration Date March 1, 2019

Dated: _____