

**West Long Branch
PLANNING BOARD
Meeting Minutes
February 11, 2020**

Mr. Aria called the meeting to order at **7:30PM** & Mr. Aria read the following statement:

This is the **February 11, 2020** regular meeting of the West Long Branch Planning Board. This meeting is called pursuant to the provisions of the Open Public Meetings Act. This meeting was listed in the Notice of the annual schedule of the regular meetings of this Board, sent to both ASBURY PARK PRESS AND STAR -LEDGER. Said Notice was also posted on the bulletin Board in Borough Hall and had remained continuously posted there as required of such notices under Statute. In addition, a copy of said Notice is and has been available to the public and is on file in the Office of the Borough Clerk. A copy of said Notice has also been sent to such members of the public as have requested such information in accordance with the Statute. Proper notice having been given; the Board Secretary is directed to include this statement in the minutes of this meeting.

1. Roll Call, Members Present:

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| Mr. John Aria | Mayor Tucci |
| Mr. James Miller | Mr. Sarah O'Neill |
| Mrs. Gordon Heggie | Mr. Don Brocklebank |
| Christine Haney | Stephen Bray |
| Anthony Scalise | |

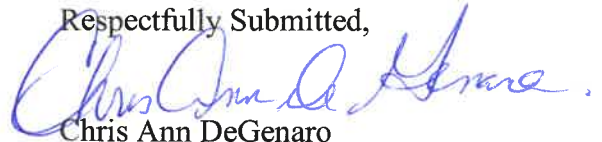
Members Absent:

2. Pledge of Allegiance
Moment of Silence

3. Items of Business: *See attached Transcript of the proceedings incorporated herein by reference.*

4. Adjournment: **9:30 PM**

Respectfully Submitted,



Chris Ann DeGenaro
Recording Secretary

BOROUGH OF WEST LONG BRANCH PLANNING BOARD
COUNTY OF MONMOUTH - STATE OF NEW JERSEY

REGULAR MEETING FOR:

TRANSCRIPT OF
PROCEEDINGS

TUESDAY, FEBRUARY 11, 2020

BEFORE:

SARAH O'NEILL
MAYOR TUCCI
JOHN ARIA, Chairman
STEPHEN BRAY
GORDON HEGGIE
RANDY TRIOLO
ROBERT FERRAGINA
JAMES MILLER
DON BROCKLEBANK
CHRISTINE HANEY
ANTONIO SCALISE

ALSO PRESENT:

MICHAEL A. IRENE, JR., ESQ., Board Attorney
FRANCIS MULLAN, P.E., Board Engineer
CHRIS ANN DEGENARO, Recording Secretary

LISA NORMAN, CCR
15 Girard Avenue
West Long Branch, New Jersey 07764
732-229-5897

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

2 MARK A. STEINBERG, ESQ.
3 2300 Route 66 - Suite 203
4 Neptune, New Jersey 07753
5 732-774-5665
6 Attorney for the Applicant

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| 1 | I N D E X | |
| 2 | WITNESS NAME | PAGE NO. |
| 3 | RICHARD DiFOLCO, P.E. | |
| 4 | By Mr. Steinberg | 36 |
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1 E X H I B I T S

| 2 | EXHIBIT NO. | DESCRIPTION | PAGE NO. |
|---|-------------|-------------|----------|
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| | | | |
|---|--------------|---------------------------|----|
| 3 | Exhibit A-14 | Revised Site Plan | 35 |
| 4 | | consisting of nine sheets | |
| | | revised through 1-20-20 | |

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|---|--------------|--------------|----|
| 6 | Exhibit A-15 | Sheet 6 of 9 | 35 |
|---|--------------|--------------|----|

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| 9 | Exhibit A-16 | Sheet 3 of 9 colored | 36 |
| 10 | | with a fire lane | |

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1 MR. ARIA: This is the February 11th
2 2020 regular meeting of the West Long Branch
3 Planning Board. This meeting is called pursuant
4 to the Provisions of the Open Public Meetings
5 Act. This meeting was listed in the Notice of
6 the Annual Schedule of the Regular Meetings of
7 this Board sent to the Asbury Park Press and the
8 Link News. Said Notice was also posted on the
9 bulletin board in Borough Hall and has
10 continuously been posted there as required by
11 such statute. In addition, a copy is on file of
12 the Office of the Borough Clerk. A copy of said
13 notice has also been sent to such members of the
14 public as have requested such information in
15 accordance with the statute. Proper Notice
16 having been given, the Board secretary is
17 instructed to include in the minutes in the
18 statement of this meeting. Roll call?

19 MS. DEGENARO: Mayor Tucci?

20 MAYOR TUCCI: Here.

21 MS. DEGENARO: John Aria?

22 MR. ARIA: Here.

23 MS. DEGENARO: Sarah O'Neill?

24 MS. O'NEIL: Here.

25 MS. DEGENARO: Stephen Bray?

1 MR. BRAY: Here.

2 MS. DEGENARO: Gordon Heggie?

3 MR. HEGGIE: Here.

4 MS. DEGENARO: James Miller?

5 MR. MILLER: Here.

6 MS. DEGENARO: Anthony Scalise?

7 MR. SCALISE: Here.

8 MS. DEGENARO: Don Brocklebank?

9 MR. BROCKLEBANK: Here.

10 MS. DEGENARO: Randy Triolo?

11 MR. TRIOLO: Here.

12 MS. DEGENARO: Rob Ferragina?

13 MR. FERRAGINA: Here.

14 Pledge of Allegiance.

15 MR. ARIA: First item is an informal

16 meeting for Norwood Avenue.

17 MS. KRIMKO: Good evening.

18 MAYOR TUCCI: Excuse me, before we

19 start, I know we have a few new Members on the

20 Board. May I ask the Planning Board Attorney to

21 please go over exactly what an informal is and

22 what their obligations are of replying and what

23 it means?

24 MR. IRENE: Yes.

25 MAYOR TUCCI: Clarification.

1 MR. IRENE: I would be happy to do so.
2 Frankly, even with the members that have been
3 with us a while, we've only done a couple in my
4 tenure. So, the long and a short of it, an
5 Applicant has a request to an informal hearing,
6 also known as a concept plan. Often times, they
7 will do it just to get a feeling of the Board's
8 sense on a particular application. Some people
9 talk about taking the Board's temperature to see
10 if the Board wants to submit an application.
11 Nothing they submit is binding on them. They
12 don't have to come in with that plan. They
13 could submit a formal application. None of the
14 Board's review or comments are binding on the
15 Board, so it's as informal as you can get, okay?

16 MAYOR TUCCI: May I ask another
17 question?

18 MR. IRENE: Sure.

19 MAYOR TUCCI: Didn't we do this already
20 once?

21 MS. O'NEILL: We did.

22 MR. IRENE: If you mean on this
23 property, Mayor, yeah, I should indicate that I
24 happen to come across a copy of the one that I
25 guess was submitted about 18 months ago for this

1 property. It was prepared by Monteforte
2 Architectural Studio and I did show it to the
3 Applicant's Engineer. I didn't want them to be,
4 excuse me, the informal Applicant's Engineer. I
5 didn't want them to be surprised.

6 MAYOR TUCCI: Okay. That is what I
7 thought. Thank you.

8 MS. KRIMKO: May I, Mr. Chairman?

9 MR. ARIA: Yes.

10 MS. KRIMKO: As I was saying, good
11 evening. Jennifer Krimko from the law firm of
12 Ansell, Grimm and Aaron. The Applicant did come
13 before you informally with a prior plan. What I
14 would like to do is, I am going to give you some
15 broad strokes as to generally what we are
16 looking to do and why we are here and why we are
17 coming back and then I am going to introduce you
18 to Jim Kennedy, who I believe you are familiar
19 with, who can talk about the concept plan that
20 we submitted.

21 As the Board may be aware and as the
22 Mayor and Councilwoman may be aware, this
23 property was not too long ago rezoned with
24 senior housing with an affordable inclusionary.
25 I believe this was done with either a settlement

1 of a co-suit or in furtherance of the
2 co-application in the Town. When you look at
3 what the Ordinance contemplates here, it
4 contemplates three-story structure. The way the
5 setbacks are set and the way that the density is
6 permitted, really the only way to achieve that
7 level of compliance would be in effectively
8 three-story apartment buildings, garden-type
9 flat buildings.

10 The Applicant came before you with a
11 prior plan to get some feedback, as you may
12 remember, it was townhouses and it needed to
13 relieve as it related to the bulk requirements
14 and some of the other standards.

15 When we put pencil to paper and started
16 talking about the marketability of these units,
17 particularly in a town like West Long Branch
18 where you have a high median average income and
19 the property values are higher and you have a
20 relatively affluent community and this property
21 we looked at what would be most marketable not
22 only to potential purchasers and/or renters, but
23 to the neighbors of the development as well as
24 to the tax base of the Town.

25 And what we discovered was, as you will

1 here Jim go through it, first, when you are
2 dealing with a senior housing-type situation or
3 age-restricted, most people of that age group or
4 that demographics want to have a first floor
5 master. And what this means is first floor
6 living, so while the second floor could have a
7 study or could have a loft for guests,
8 essentially all of the things that a senior
9 would need within their home would be on the
10 first floor.

11 Plus, we wanted to include a two-car
12 garage in all of these units. So what that does
13 is, it increases the footprint dramatically
14 which makes it a bigger unit. And when you
15 finally add to that when we want to develop
16 luxury units to reach a luxury and demographics
17 for sale, those units have to be bigger. So we
18 looked at what we could do by way of a compliant
19 plan which would be a number of three-story
20 apartment buildings that likely would be for
21 rental as opposed to a high-end luxury townhouse
22 community that would not only blend in, blend in
23 the use and reduce number of units far reduce
24 from what the Ordinance would permit, it would
25 architecturally resemble the surrounding area.

1 Additionally, as you are going to here, we're
2 not proposing any substantial outside
3 recreation. While it is one of the
4 requirements, again, this is plopped down kind
5 of in the middle of a residential neighborhood
6 and the less outside that goes on there, it's
7 been in my experience, the better received by
8 the surrounding neighbors. So with all of that
9 context what I would like to do is, and I am not
10 going to have him sworn because it is an
11 informal and there is no sworn testimony, is
12 introduce Jim Kennedy. He is the project
13 engineer who helped develop this site and I
14 would like him to talk a little bit about, more
15 specifically, what we are proposing as well as
16 where we meet or don't meet the Ordinance.

17 A. Good evening. So, as Ms. Krimko said,
18 the driving factor here is that this is a two-story
19 luxury building, not three-story walkup apartments.
20 So as she stated, the footprint expands from what you
21 saw 18 months ago and from what was previously
22 proposed. These are larger units, two-car garage,
23 master downstairs, living area basically on the
24 finished floor. So does everyone have, I have the
25 extra 11-by-17. If you have them, if you need more,

1 I have them, but just, generally speaking, under the
2 HS 1 zone recreation and a community clubhouse is
3 required. With the number of units we have, the
4 community clubhouse would be relatively small. It
5 would be 540 square feet.

6 At that point, there is kind of a
7 diminish in return. It becomes like a community room
8 and no community room is proposed under this plan and
9 the recreation area that passive recreation area of
10 about 2,700 square feet is not provided, per se, in
11 the plan either. Although we envision walking paths
12 and that kind of thing along the perimeter or within
13 the site itself.

14 We will start off with the good news.
15 Density is met. This is, approximately, a six-acre,
16 6.4-acre site that the number of units are 10 per
17 acre. We meet the requirements with a total of 56
18 units, so where the property could have either around
19 60 units, we are proposing 54 units.

20 We meet the requirements for density as
21 well as building height. Building height three
22 stories. We are proposing two-story. Now, some of
23 the setbacks are --

24 Q. Let me just jump in for a second. When
25 you say, we, meet, I think it's important for the

1 Board to understand we're not meeting, we are
2 actually less than or exceeding the requirements.
3 So, for example, where we could have three stories,
4 we are only doing two stories. When you think about
5 the impact of the surrounding neighbors, obviously,
6 the reduced height. The Ordinance contemplated how
7 many?

8 A. Either 6 or 6.4. I was just having a
9 discussion with T&M.

10 Q. Approximately, 60 units. We are only
11 proposing 54, 10 of which would be affordable units?

12 A. That is correct.

13 Q. So we are much less than. What we are
14 proposing to you, while you are here, it exceeds some
15 of the requirements as it relates to setbacks. It
16 actually is far more favorable with regard to impacts
17 as it relates to height and density, so I just want
18 to stress that.

19 A. So, the front setback along Norwood
20 Avenue, which is located on the bottom, the north is
21 to the right of the exhibit. The front setback is
22 required to be 75 feet. We vary, because of the
23 angling of the buildings. And what we did was try
24 and mass the buildings, so they are angled to the
25 road and that angling provides a quartering view

1 instead of the long view of the buildings. But at
2 the pinch point here, we are at 14.4. Now, I know
3 that that's close, but the average of the buildings,
4 as you go across, it presents an average of about 37
5 feet -- 37 foot front setback, so about half the
6 required front setback of 75 feet. Similarly, at the
7 rear, 100 feet is required where there is a step in
8 at the southerly southwestern portion of the
9 property. It's about 25 feet, but on average we are
10 about 35 to 40 feet as you go across the back line.

11 On the sides, 50 foot is required. At
12 the minimum here, we are at about 25 feet. And on
13 the other side, we vary between in the 50s to about
14 35 feet in the northwesterly corner.

15 So, we don't meet the side setbacks.
16 And again, this is because of the plan view of the
17 structures. The plan view, as they get higher,
18 obviously, we could pick up some of the massing and
19 put it up in the air, but because it is a lower
20 product, it is a lower home, the setbacks are
21 squeezed.

22 So, in addition, coverage and lot
23 coverage. So building coverage exceeds the permitted
24 lot coverage, exceeds the permitted. The good thing
25 is, we've reserved areas for detention and

1 infiltration, so that we will not have an adverse
2 impact to storm water runoff. Obviously, it's not
3 designed. We did some preliminary numbers to figure
4 out the volume required for storm water management
5 and we do feel that our storm water basin will, it
6 must, but it will achieve the storm water runoff
7 controls. So that, in my mind, offset some of the
8 coverage overage.

9 Landscape buffer is generally 25 feet
10 throughout the entire property which is required,
11 except at the two turnaround areas. In the two
12 turnaround areas, we envision a fence or a visual
13 buffer, but we are about four-and-a-half feet from
14 the property lines in just those two areas. We could
15 do some other things and minimize the width of the
16 turnaround, reduce the width, but at this point we
17 are proposing 5 feet and about 4-and-a-half feet in
18 those limited areas where 25 feet is required.

19 We do envision, you know, full buffering
20 around the perimeter of the site. Your Ordinance
21 provides some guidance, 6-foot solid fence with a
22 landscape buffer 10 feet from the property line which
23 is what we envision for the perimeter. The
24 lower-height buildings allow for effective buffering.
25 If we went to a three-story structure, the buffering

1 becomes a little more difficult as the buildings get
2 taller.

3 So those are, we do meet parking. We
4 have a two-car garage, a driveway combination. We
5 have field parking in this area for 10 affordable
6 units. We have some dispersed parking distributed
7 throughout. We meet parking. The design is in
8 accordance with the Residential Site Improvement
9 Standards, you know, all of the normal site plan
10 things. Really what we are here to find out from you
11 is your take on our deviations from the underlying
12 Ordinance.

13 Q. And just to add to that a couple other
14 things. We anticipate that these units will sell or
15 at least planning on marketing them between \$600,000
16 and \$700,000, depending on what options are chosen.
17 And that equates to, based on your effective tax rate
18 today, about \$12-to-\$14,000 a year per unit with,
19 obviously, as you contemplated, no impact on the
20 schools being that it is the senior housing.

21 And we did also hand out the
22 architecturals. So I believe you should have in your
23 packet, just to look briefly at what's being
24 proposed, with the sloped roofs and the brick front
25 and the varying colors and the other details. All

1 the units, including the affordable housing, will be
2 very residential in nature and not appear like
3 apartment buildings, but rather two or
4 two-and-a-half-story home.

5 Just one last thing to add, as it
6 relates, well, we are meeting the buffer for all
7 practical purposes. As it relates to setbacks, when
8 these setbacks were contemplated, I imagine they were
9 enhanced because of the increased height over what
10 the surrounding single-family homes would be. Where,
11 in this case, since we are lower, I think that
12 certainly mitigates some of the fact that we are
13 coming closer to the property lines that may have
14 been anticipated when the zoning went into effect.

15 MR. ARIA: I have a question. In your
16 proposal where you are talking about maximum
17 building height 35 feet, what you show is less
18 than 35 feet, but you don't show the actual
19 number. How high will they be?

20 MS. KRIMKO: They haven't been fully
21 designed yet. What you see is schematics.

22 MR. ARIA: Okay.

23 MS. KRIMKO: They will be less than the
24 35 feet, depending on the peak, depending what
25 they have around it. We don't have them fully

1 designed.

2 MR. ARIA: We don't know what they would
3 be.

4 MS. KRIMKO: Probably about 27, 28 feet.

5 MR. ARIA: Okay. Thanks.

6 MR. IRENE: To the ridge?

7 MS. KRIMKO: Yeah. But again, if it's a
8 three-story building, I don't believe that this
9 zone or that the Borough has architectural
10 requirements. It could be a 35-foot flat
11 roofed structure.

12 MR. ARIA: Right.

13 MS. KRIMKO: With a wall height up to
14 the flat roof of 35 feet, as opposed to the
15 much lower wall height to the eve with the
16 sloping roof up to the ridge.

17 MR. ARIA: Right. Is that all you are
18 presenting? Are you looking to get a
19 temperature of the Board based on what you --

20 MS. KRIMKO: Yeah, we want to get your
21 feedback. We don't want to fully engineer a
22 set of plans and go through extraordinary
23 expense in designing these and designing the
24 engineering to come in and say there is no
25 way that we are going to grant you that kind

1 of relief as it relates to the setbacks or you
2 have to have a community center. We want to
3 know what you guys think before we engage in
4 this, because, you know, what we are submitting
5 to you is based on this product which is this
6 size unit at this price point with first floor
7 living. This really is close to the least
8 amount of units to be done to make the project
9 work.

10 If the Board is vehemently against this
11 type of unit then we are going to look at a
12 larger building that is three stories that is
13 going to be apartment rentals, as opposed to
14 sale for fee simple.

15 MR. IRENE: What is the square footage
16 of these units?

17 MS. KRIMKO: Twenty-four hundred to
18 2,700 square feet.

19 MR. IRENE: Okay.

20 MAYOR TUCCI: What was the reason there
21 was no clubhouse or community room?

22 MS. KRIMKO: Well, for a couple of
23 reasons. The first is the way the Ordinance is
24 written, it's based on the square footage of
25 the number units and we would be required to

1 have a clubhouse of a minimum of 500 square
2 feet. Well, 500-square foot clubhouse doesn't
3 make a whole lot of sense, particularly when
4 you have these larger units. People are going
5 to entertain in their own homes, as opposed to
6 a clubhouse.

7 Often times, when you have
8 age-restricted housing or small apartment
9 units, you have a clubhouse, you have a
10 community room because you just don't have a
11 room in your own home to entertain.

12 As far as the outdoor recreation, we
13 found that particularly with senior housing,
14 like this, and there would be testimony to this
15 effect from the planner as well as the
16 developer, we found that it's just not used.
17 Even if the townhouses where it is market rate
18 we are finding that it's not an added bonus that
19 the homeowners are looking for. It's not
20 utilized and it's space that could otherwise go
21 towards bigger units or more landscaping.

22 But again, as Jim testified, we have
23 open space where we could meet the passive
24 recreation, whether it be through community
25 garden, whether it be through outdoor seating

1 areas, whether it be through walking paths. We
2 could meet that, if the Board felt it was
3 important.

4 MR. ARIA: I would rather see open space
5 than a community center.

6 MR. BRAY: I agree.

7 MR. ARIA: Community center adds to the
8 impervious surface and like you say I don't
9 think they get used that way.

10 MR. IRENE: People don't want to
11 maintain, pay to maintain either. Open grass
12 area.

13 MR. ARIA: I think we don't have enough
14 grass and trees. I'm familiar with some of the
15 project that guys have done. I think they are
16 very aesthetically-pleasing. They've done great
17 work. I kind of like most of what you are
18 showing. My feeling would be if there is a way
19 you can do a unit or two less and maybe increase
20 your setbacks, that would be great, but I know
21 you are not here for a final answer, but I think
22 that this is better than some of the
23 alternatives. Anybody else have any comments?

24 MAYOR TUCCI: I feel it's a little too
25 dense for me. I am looking at what was proposed

1 before, which seemed to be more pleasing. This,
2 to me, really looks like a lot of units.

3 MS. KRIMKO: What was proposed before, I
4 believe, was actually more units than that's
5 being proposed. They were smaller units and
6 they were more stories. That is the struggle we
7 have. If it has to be senior, you want to have
8 everything on the first floor.

9 MAYOR TUCCI: Right.

10 MS. KRIMKO: You don't want to have a
11 tiny unit, because now it's not going to be a
12 marketable unit, especially in West Long Branch.
13 You have people who are empty nesters who are
14 looking to move to someplace that's equal to the
15 home that they were living in, in West Long
16 Branch, just without the maintenance and without
17 the responsibility. So that's why you have the
18 likes of the Toll Brother's type units coming up
19 to accommodate that.

20 We could construct something like that.
21 It would be more units. It would be less
22 luxury. And it would be harder to market. So
23 it would like end up, who knows how it would end
24 up.

25 MR. ARIA: Are these streets wide enough

1 for on-street parallel parking or is the only
2 parking driveways and garages?

3 MS. KRIMKO: Just the driveways and
4 garages. I think we do meet or exceed the
5 parking.

6 MR. ARIA: How wide are the proposed
7 streets?

8 MS. KRIMKO: Twenty-four feet.

9 MR. ARIA: Is that going to provide for
10 fire engines turning around?

11 MR. KENNEDY: Yeah, the circular street
12 pattern was done, specifically, for fire engine
13 circulation.

14 MR. ARIA: Okay.

15 MR. KENNEDY: And 24 feet meets the 20
16 foot is the fire lane for the fire code.

17 MR. IRENE: Trash removal, also, Jim?

18 MR. KENNEDY: So it would be garage
19 trash, except for the affordable units where
20 there are no garages. So we have a refuse
21 enclosure at the end of one of the turnaround.

22 MR. BRAY: That jumped out at me, the
23 location of that trash enclosure to the backward
24 of the other people on Mitchell Terrace, I don't
25 think they particularly like that.

1 MR. ARIA: The affordable units are
2 those along the northern?

3 MR. KENNEDY: Yep, the 10 units.

4 MR. IRENE: So those would be five units
5 below and five units above, single-story each?

6 MR. KENNEDY: Yes.

7 MS. KRIMKO: Correct. Madam Mayor, I
8 think the question the Board and the Town has to
9 consider really is boils down to what is more
10 important, less density, higher luxury? Lower
11 height unit that look like residential homes?
12 Or the greater setbacks?

13 MR. BRAY: That front setback is
14 particularly tight, though, 14 feet is.

15 MR. ARIA: Yeah. That is the one. If
16 you eliminate that unit, you get a lot more
17 setback there.

18 MS. KRIMKO: Okay.

19 MR. MILLER: And the setbacks that back
20 up to the residential dwellings, just maybe a
21 little bit more of a setback.

22 MR. KENNEDY: All right. Mr. Miller,
23 which ones? Are you talking about in the rear
24 here?

25 MR. MILLER: All portions of the

1 property that have a dwelling behind them.

2 MR. KENNEDY: So the whole property has
3 dwellings behind them.

4 MR. MILLER: Yeah, I think a little bit
5 more.

6 MR. BRAY: Some of them, though, are
7 more affect than others. The ones on the Lots
8 74 and 73, those are deep backyards. That is a
9 different impact.

10 MR. KENNEDY: That is one large estate.

11 MR. MILLER: The northern side.

12 MS. KRIMKO: Yeah, we can take a look at
13 the aerial and where the other homes are. We
14 have them right there.

15 MR. BRAY: That one is tight and that
16 one is tight, right. The back -- that is a big
17 backyard. That is a big estate there.

18 MR. KENNEDY: Yeah. The former home
19 that was there was converted into the pool
20 house. Now the main house is up forward.

21 MS. KRIMKO: And good news is with
22 something like this you are going to have a
23 Master Deed and you are going to have bylaws and
24 it can restrict what can or can't be done in
25 these backyards. So while it's close, it's not

1 particularly tall, as we said, but you are not
2 going to have things like sheds and swimming
3 pools and sports courts and all of the things
4 that could otherwise be in a single-family
5 residential. It's going to be pretty limited as
6 to what can go back there, other than a patio.

7 MR. MILLER: I just don't want the homes
8 towering over the other existing homes.

9 MR. ARIA: Can you give us an idea of
10 what could be done there that would be
11 completely permitted and fit all of the bulk
12 requirements, so that we have an idea what the
13 alternative would be?

14 MS. KRIMKO: Yeah, I can. I think I
15 have it printed out. I don't have it to --

16 MR. KENNEDY: I can describe it.

17 MS. KRIMKO: Yeah, it could be 1, 2, 3,
18 4, three-story buildings with 18 units in each
19 on the different levels, so they would be
20 walk-ups with elevators. Two-story clubhouse, a
21 sports court, a swimming pool, and then lots of
22 parking around the outside and the perimeter.

23 MR. ARIA: And your opinion is that it's
24 just not economically feasible to do something
25 like that?

1 MS. KRIMKO: It's not that it's not
2 economically feasible, I don't think it's
3 desirable in West Long Branch. You are
4 basically creating an apartment complex.

5 MR. ARIA: Right. I agree. I'm trying
6 to understand your thought process in coming up
7 with this.

8 MS. KRIMKO: Yeah, I mean, you know.

9 MR. BRAY: Could you just clarify what
10 landscape buffer versus the setback and the same
11 thing, can you just explain that to us, a little
12 bit? I see the four-and-a-half feet one, they
13 have the trash on this. What is the
14 interpretation of the landscape buffer?

15 MR. MULLAN: Landscape buffer would be
16 by definition for all intents and purposes an
17 area that has plantings more than just grass to
18 create a visual buffer between properties along
19 property lines.

20 MR. BRAY: Okay.

21 MR. MULLAN: So I would expect that as
22 this plan, if it were to go forward and go into
23 design development, that the image you are
24 looking at has basically a single row of planted
25 shrubs or trees or evergreen-type bushes. I

1 would expect that there would be some
2 consideration to increase the planting material,
3 the size, the number of plants to create
4 something closer to 20, 25 feet in width of
5 planted material in a dedicated landscape bed,
6 if you will. That would generally be what I
7 would expect on a plan like this.

8 MR. BRAY: Okay.

9 MR. MULLAN: The setback, by definition,
10 pretty much just tells us, you know, how close a
11 building corner or exterior wall of a building
12 can be from the property line.

13 MR. BRAY: Okay. I am just trying to
14 understand like in that south corner, and I know
15 the setback is not there, but is that able to
16 qualify in the landscape buffer? I'm just
17 trying to understand the interpretation.

18 MR. MULLAN: No. Along the south end of
19 the site, there is a paved T turnaround --

20 MR. BRAY: Right.

21 MR. MULLAN: -- element.

22 MR. BRAY: Forget about that part. How
23 about in the back of those units?

24 MS. KRIMKO: We can get close, but if we
25 want to provide patios, there is 35 feet --

1 well, actually, there is about 35 feet from the
2 building to the property line which would give
3 some room for a patio and then 25 feet of
4 planting.

5 MR. KENNEDY: Well, in the southwest
6 area about 25 feet.

7 MR. BRAY: Right.

8 MR. KENNEDY: Along that line.

9 MR. BRAY: Right. Right.

10 MR. KENNEDY: So your Ordinance has
11 specific requirements for the buffer. It is a
12 10-foot planted width.

13 MR. BRAY: Okay.

14 MR. KENNEDY: A solid fence or a mixture
15 of shrubs and evergreen trees.

16 MR. BRAY: Okay.

17 MR. KENNEDY: We can do that instead of
18 or we can do that, a solid fence. That's what
19 we were participating. I understand Mr. Mullan
20 wants a 25-foot width. Obviously, in that area,
21 we would be looking at that variance with a
22 10-foot width and do a fence with a planted
23 evergreen screen.

24 MR. BRAY: Okay.

25 MS. KRIMKO: We are flexible with the

1 design of landscaping of ways to mitigate. We
2 will look at that unit that is 14.4 in the
3 front, but as Jim had said, the way that is
4 angled, it's just that one corner in the
5 building. It's not this whole massing of the
6 structure addressing that street at that
7 setback, but we will look at that.

8 MR. SCALISE: Yeah, I think, just for
9 me, I think the design is really nice. I think
10 I like this type of building type versus the
11 other. I know the Brothers and I know that they
12 do put out a really nice quality product, so I
13 don't think we have to worry about that. It is
14 a little bit of those spots like where setback.
15 I think the only thing I worry about. I don't
16 know if this would help and just throwing
17 something out there, I don't know if like, I
18 think, where the Board is having some comments,
19 and stop me if I am wrong, is on that south
20 corner where it's really close, maybe it's
21 possible for like some of the two units towards
22 the end to almost be like a cape style where
23 they could still get the second floor and
24 bedrooms, but maybe it's like a little bit
25 lower. I mean, that would make me feel a little

1 bit better just in the spot where it's close.

2 MS. KRIMKO: So work with the
3 architecture to diminish the massing.

4 MR. SCALISE: Maybe in that spot as a
5 way to help. It does feel like, I mean, it's
6 more spread out and I totally understand what
7 you're doing master down. It's very challenging
8 to have living space, the master and all of the
9 amenities to work, so you do have to spread the
10 plan out a little bit, but maybe that helps that
11 issue because it's so close to the property line
12 that if maybe that is, yeah, work with the
13 architecture, drop those roof lines down a
14 little bit. Maybe that helps in that situation.

15 MR. ARIA: It looks like most of these
16 units are almost identical in size. You have
17 some of the ones that is close to the property
18 lines maybe be a little smaller, for instance.

19 MS. KRIMKO: Is that the note I just
20 took, Mr. Irene?

21 MR. ARIA: That southeast corner there
22 where you have 14-foot setback, yeah, that one
23 is a little shorter. Maybe staggered forward.
24 Maybe they are not all the same footprint. You
25 have some a little more expensive and maybe some

1 a little less expensive to get to the setback.

2 MR. MULLAN: Along those same lines, Mr.
3 Chairman, if I could, I am extremely sensitive
4 to the project's efficiency and the number of
5 units that are anticipated or projected for the
6 project to be viable, but when you are thinking
7 about the setbacks on some key locations and
8 most of my interest would be at these two
9 turnaround at the end of the dead end roadways.

10 If, for example, just as a point of
11 reference, you were ever to consider omitting or
12 eliminating the two end units, the two buildings
13 that run along the western property line, if you
14 can envision eliminating the two end units only
15 in the row of seven and the two end buildings
16 became six units instead of seven, you would go
17 a long way in conforming to the setbacks
18 required in that location of the property.

19 You would also create the space for that
20 T turnaround to pull away from the property
21 line, be less offensive to the adjoining
22 properties.

23 MS. KRIMKO: You mean one unit on each
24 end?

25 MR. ARIA: The northern-most and the

1 southern-most.

2 MR. MULLAN: That would create space for
3 the turnaround to place trash, if they needed to
4 relocate it. You would pull it 20, 30 feet away
5 from the property line, create the space for a
6 solid fence. I agree with the comment that
7 solid fence with planting in front of it is a
8 good combination of buffering element. But at
9 those ends where you are going to have the
10 vehicle headlights, you may have trash
11 enclosures, the activity in and out of the trash
12 enclosure, you want to absolutely mitigate the
13 negative impacts to the adjoining properties, so
14 I know density is important to the proposer, but
15 I would think those would add significant
16 benefit if they were to consider eliminating
17 those particular units.

18 MR. BRAY: And it may help with the
19 building and lot coverage.

20 MR. MULLAN: It will absolutely help
21 them in that regard. I think the comment along
22 the front along Norwood with the 14-foot setback
23 is also a very good point of reference. I had
24 that thought as well. I think it helps bring
25 the project into more conformance and the degree

1 of non-conformity is reduced pretty
2 significantly. So if they don't get all the way
3 there to fully conform with all of the setbacks,
4 I think some tradeoffs on their side could bring
5 the project into, you know, a far lower degree
6 of non-conformity.

7 MS. KRIMKO: We appreciate that and we
8 will definitely look at that.

9 MR. SCALISE: That makes sense, yeah.

10 MAYOR TUCCI: Anyone else?

11 MS. KRIMKO: Great. Thank you very much
12 for your time and your consideration.

13 MR. KENNEDY: Thanks for your time.

14 MR. ARIA: Thanks, guys. Goodnight.
15 All right. Next item is SNEU Foods, LLC.

16 MR. IRENE: Mr. Chairman, this matter
17 was carried from an earlier meeting of the
18 Board. We've had two prior meetings. The last
19 meeting date was January 20, 2020. It's Mr.
20 Steinberg's application.

21 MR. STEINBERG: Good evening, Mark
22 Steinberg on behalf of the Applicant.

23 (Fran Mullan and Greg Gitto sworn.)

24 MR. STEINBERG: For some housekeeping,
25 we have amended the plans since we had been here

1 last and maybe offer as A-14 the amended plans
2 consisting of nine sheets. Now all amended
3 through January 20, 2020.

4 MR. IRENE: That is the revised site
5 plan?

6 MR. STEINBERG: Revised site plan.

7 MR. IRENE: Through January 20, 2020.

8 MR. STEINBERG: Correct.

9 MR. IRENE: Thank you.

10 MR. STEINBERG: That would be A-14.

11 MR. IRENE: A-14, thank you.

12 (Whereupon Exhibit A-14 - Revised Site
13 Plan consisting of nine sheets revised through
14 January 20, 2020 was received and marked into
15 evidence.)

16 MR. STEINBERG: As A-15, we have
17 Sheet --

18 THE WITNESS: Sheet 6 of 9 is colored.

19 MR. STEINBERG: Would be offered as
20 A-15.

21 (Whereupon, Exhibit A-15 - Sheet 6 of 9,
22 was received and marked into evidence.)

23 MR. STEINBERG: And as A-16, we have
24 prepared an amended.

25 THE WITNESS: Sheet A3 is colored with a

1 fire lane.

2 MR. STEINBERG: Which is the fire lane?

3 THE WITNESS: Sheet 3 of 9.

4 MR. STEINBERG: Of the same set. A-16.

5 (Whereupon, Exhibit A-16 - Sheet 3 of 9
6 colored with a fire lane, was received and
7 marked into evidence.)

8 MR. STEINBERG: All right. Our Engineer
9 was sworn at the original hearing.

10 MR. IRENE: Mr. DiFolco, you understand
11 you remain under oath, sir?

12 MR. DiFOLCO: Yes.

13 DIRECT EXAMINATION BY MR. STEINBERG:

14 Q. When we left last month, there were, I
15 believe, three issues that the Board wanted to learn
16 more about. We wanted to explore and try to satisfy
17 our neighbors to the east. As a result of that, we
18 have amended the plans. The first amendment would be
19 for the neighbor to the east. What have we proposed?

20 If you may recall, I think he is here
21 tonight, the fence that is on the property now is
22 over further than the property line, our eastern
23 property line. For the gentleman, who owns the
24 property next-door, to access the back house and we
25 have accommodated that by amending our plans and

1 moving our driveway around. Mr. DiFolco will explain
2 it.

3 A. Okay. So, good to see everybody again.
4 The yellow, this map is the area that we have revised
5 to provide a 4-foot wide access way from the front of
6 the building to the back of the building. Right now,
7 the building is a foot from the property line, so you
8 can physically walk without going onto the property.
9 For the last 20 years or so, the fence that's there
10 today provided access on our property for the
11 neighbor. We are agreeing.

12 Q. Right. Adjacent property consists of
13 two units, I mean, more than two units, but two
14 buildings?

15 A. Two buildings.

16 Q. A front building and a back building.
17 And in order to get to the back building where there
18 are tenants, we need to cross our property. There
19 was no existing easement. We've explored that
20 legally.. we don't own the property. We rent it.
21 Actually, we rent it from Dunkin and Dunkin rents it
22 from Saratoga, but we've been able to move the fence
23 and the driveway to accommodate.

24 A. We reconfigured the driveway and the
25 geometry works. We met with the owner before the

1 meeting tonight. He has two concerns. At the front,
2 we have an angle where basically bring the fence back
3 to the property line. He would like that angle to be
4 flatter, since he said he needs a little more wiggle
5 room. We've agreed to do that.

6 To the rear, his sidewalk is presently
7 on our property. Rather than reconstruct the
8 sidewalk, he would like us to relocate the fence
9 about two feet to the west to align with the edge of
10 the sidewalk that's there today.

11 MR. SCALISE: So make it longer to make
12 this access?

13 THE WITNESS: To make that little bump
14 out continue straight back and that would
15 eliminate having him move the sidewalk two feet
16 over onto his property. Now, in doing that,
17 the trees that are buffering him from, there is
18 a six-foot fence and behind the fence there is
19 a row of trees. Those trees would not fit
20 between the curb and the fence. He advised me
21 he doesn't care about trees. He wants the
22 sidewalk. So that is something the Board has
23 to think about. But there is now a physical
24 problem to walk around the house. He goes from
25 lot line to lot line and the access is in the

1 back, so he can't get from the front to the
2 back without crossing the left side of the
3 property or the right side of the property. Or
4 else going through the building.

5 MR. IRENE: Are we talking about
6 recording an easement? Let me ask you a
7 question. So you jog the fence and then a
8 month from now somebody moves the fence
9 parallel onto his property line. How does that
10 solve the problem?

11 MR. STEINBERG: It hasn't been done in
12 20 years.

13 THE WITNESS: I'm sorry.

14 MR. STEINBERG: Why would we move the
15 the fence?

16 MR. IRENE: I don't know, but what if
17 you do?

18 THE WITNESS: It would be a site plan
19 approval based on what the Board's approval is.

20 MR. STEINBERG: Yeah, that be would a
21 violation of our site plan.

22 THE WITNESS: You can't move the fence
23 if we say it is going to be a certain spot.

24 MR. IRENE: I would suggest to the Board
25 then there be a Deed restriction.

1 MR. STEINBERG: I can't give Deed
2 restrictions. I am just saying we rent from
3 Dunkin corporate. Dunkin corporate rents from
4 Saratoga. For us to get a Deed restriction may
5 take six months to a year, if we can get it.

6 MR. IRENE: Well, I suppose if you
7 came back to the Board, the issue becomes, if
8 the fence is moved in the future, one might
9 say, you could say there is a change to the
10 site plan. I don't know. It's not a very
11 large change, so I am concerned about somebody
12 altering that fence. I am just asking. You
13 are talking about moving the fence to
14 accommodate the neighbor, but other than --

15 THE WITNESS: No. We are basically
16 saying, leave the fence where it is to
17 accommodate the neighbor. The fence has been
18 20 years. We are accommodating the neighbor.

19 MR. IRENE: I understand that. There is
20 nothing to be of record that that is the
21 problem, other than is shown on this site plan.

22 THE WITNESS: Other than it's been there
23 20 years.

24 MR. IRENE: Mr. Mullan has the answer.

25 MR. MULLAN: No. No. Can you describe

1 what, if any, physical impediment there are
2 getting around the building on the far side?

3 THE WITNESS: It's closer.

4 MR. STEINBERG: It's closer.

5 MR. MULLAN: Well, that's not what the
6 graphics show us. On the existing Survey
7 over here, this front corner looks closer to
8 the property line on the west side. The front
9 right corner of the building looks closer to
10 the property line on the west side of the lot
11 than the rear left building corner looks to the
12 property line.

13 MR. ARIA: I agree.

14 MR. MULLAN: My real question is, are
15 there any physical impediment? Is the ground
16 flat? Is it easy to walk across to get around
17 the back of the building? What would be the
18 physical impediment? What is blocking the
19 access from that direction?

20 MR. STEINBERG: It's the neighbor's
21 survey. That is our building.

22 MR. MULLAN: All right. So you are
23 explaining that there is a fence that runs
24 along the eastern property line.

25 MR. STEINBERG: Our eastern property

1 line.

2 THE WITNESS: There is also a fence on
3 the western.

4 MR. MULLAN: I'm talking about the
5 western. No, I'm sorry. This is north. This
6 is the eastern property line.

7 MR. STEINBERG: This is our eastern
8 property line.

9 MR. MULLAN: Oh, for Dunkin. I get
10 that.

11 MR. STEINBERG; I don't know what's on
12 his side. He is not under oath.

13 MR. MULLAN: You are describing for the
14 Board's consideration access around the right
15 side of the existing dwelling.

16 MR STEINBERG: That is existing.

17 MR. MULLAN: The question I am rasing,
18 why wouldn't he try to accomplish access around
19 the left side or the east side of the building?

20 MR. STEINBERG: Of the adjacent property
21 owners?

22 MR. MULLAN: Correct, because you are
23 trying to remedy his access impediment.

24 MR. STEINBERG: I'm trying to continue
25 his existing access.

1 MR. MULLAN: That is your proposed
2 remedy to allow the fence to follow the same
3 alignment of the existing fence?

4 MR. STEINBERG: Yes.

5 MR. ARIA: To answer Mr. Mullan's
6 question, to the east side of the adjacent
7 property, there is not enough room to get
8 around that building that way.

9 THE WITNESS: The answer is, there is
10 not enough room. There is a solid fence along
11 this side property line, which is about, I
12 don't know, a foot from the building.

13 MR. ARIA: It looks like. Just to
14 restate what Mr. Mullan said, based on what you
15 are showing here, there is more room to the
16 east side of the that dwelling than there is to
17 the west side of that dwelling.

18 MR. MULLAN: I think the Board should
19 see this. I don't know if they've seen a copy
20 of what I am looking at. It is a photocopy of
21 that Survey of the adjoining property and it
22 has some type of concrete surface along that
23 eastern side of that dwelling, so I don't know
24 who amongst the presenters should describe to
25 you if there is a sidewalk on that far side of

1 the dwelling.

2 MR. ARIA: Can we get to Mr. Roselli at
3 this point?

4 MR. STEINBERG: We would have to get Mr.
5 Roselli sworn.

6 MR. IRENE: Why don't we get the date of
7 the Survey and who prepared it.

8 MR. STEINBERG: Ernst. It's dated
9 August 28, 1996.

10 MR. IRENE: That is of the neighbor's
11 property lot.

12 MR. STEINBERG: That is Mr. Roselli's
13 Survey. Lot 4.01, which is adjacent to our
14 property.

15 MR. IRENE: Okay, Mr. Roselli.

16 MR. STEINBERG: Do you want to mark
17 that?

18 (Joseph Roselli, sworn.)

19 MR. IRENE: Where do you live, Mr.
20 Roselli?

21 MR. ROSELLI: 830 Broadway.

22 MR. IRENE: Is that the property we are
23 discussing now Lot 4.01.

24 MR. ROSELLI: Yes. Yes.

25 MR. IRENE: And this is your Survey?

1 MR. ROSELLI: Yes, that was the Survey
2 when I bought the house.

3 MR. IRENE: And the does Survey continue
4 to fairly and accurately depict the conditions
5 of the property?

6 MR. ROSELLI: Of it now, yes.

7 MR. IRENE: Hold on. I'm sorry. You
8 are going to pass it out. We will make a copy
9 when we are done with it, Mr. Roselli. They
10 have some questions for you about the layout of
11 the sidewalk or the dwelling. I know Mr. Mullan
12 had a question.

13 MR. MULLAN: Simply, my question is, is
14 there space and is it possible to get around to
15 the back of the dwelling on the left side of the
16 building or the east side of that residential
17 unit?

18 MR. ROSELLI: No. The back, the back
19 who is on the east side might be two foot,
20 foot-and-a-half.

21 MR. BRAY: The Survey says 1.8 feet.

22 MR. ROSELLI: Yeah.

23 MR. ARIA: The front of that dwelling,
24 is that garage space?

25 MR. ROSELLI: Yes.

1 MR. ARIA: Where's the front door?

2 MR. ROSELLI: It's in the front and
3 there is another door on the side.

4 MR. ARIA: So there is two dwellings
5 there.

6 MR. ROSELLI: Yeah.

7 MR. ARIA: One of dwellings --

8 MR. ROSELLI: Actually, there is two
9 doors on the right side, one on the front and
10 two on the right.

11 MR. ARIA: Okay. So the two on the
12 right is the one we are talking about access to.

13 MR. ROSELLI: Yes.

14 MR. IRENE: You know the other issue,
15 Mr. Chairman, obviously, we could find no
16 recorded easement as a result of the search that
17 Mr. Steinberg ordered. I don't know whether or
18 not Mr. Roselli has acquired rights as a result
19 of the fact this condition has existed for this
20 period of time at the property, but at the very
21 least, what I would suggest is that there be a
22 specific condition in the Resolution saying that
23 that portion of the fence not be altered without
24 the property owner for the subject property,
25 Dunkin Donuts coming back to the Board.

1 MR. STEINBERG: We have absolutely no
2 problem with that. We are designing the
3 driveway and the fencing to accommodate this.
4 We don't plan to change it anyway.

5 MR. BRAY: One question, so this
6 proposal had the four-foot jog out, so I guess I
7 am just curious why that wouldn't be sufficient
8 to solve the problem.

9 MR. ROSELLI: Right now, it's six foot.
10 They are trying to bring it down to four foot.

11 MR. BRAY: Right. Okay. Would the four
12 foot not work?

13 MR. ROSELLI: No. It is a little tight.

14 MR. BRAY: The value of the jog, like
15 the way it's shown here allow this to have the
16 extra landscaping in there.

17 MR. ROSELLI: The problem with the jog,
18 you are not going to be able to move stuff
19 around there. I was thinking, you know, if we
20 do four-and-a-half foot straight back to the
21 back fence, then it doesn't, the sidewalk is
22 already there, it will line up with the sidewalk
23 and everything. The only problem I'm having,
24 let's say, a year from now, they just take it
25 back and take the fence all the way to my

1 property line. That is what I am worried about.

2 MAYOR TUCCI: In the back, does somebody
3 live there?

4 MR. STEINBERG: Two families.

5 MR. ARIA: What is the difference
6 between a Deed restriction and just having it
7 part of this Resolution that the fence can't be
8 moved?

9 MR. IRENE: The benefit, whether or not
10 you see fit to propose it in this case, the
11 benefit of Deed restriction is that they also
12 put prospective purchasers on notice. If I was
13 going to buy the property and I knew there were
14 approvals, not everybody does. If it's recorded
15 in the form of Deed restriction, it puts the
16 whole world on notice, particularly any
17 prospective purchaser that these run with the
18 land. If it's in the Resolution, it is a
19 commercial property, if it's a specific
20 condition, I think it would be sufficient, in
21 this case, if the Applicant, as a result of the
22 circumstances they described, say they may not
23 be able to go to corporate to get the Deed
24 restriction.

25 We also have, I suppose, the issue that

1 Mr. Roselli, if they started moving the fence
2 around, I assume, well, whether he comes here or
3 he might also retain Counsel and seek to get a
4 judge to decide whether or not he has acquired
5 rights as a result of the fact that that's been
6 that way for, I don't know how many years, but
7 that would be something a judge would have to
8 decide.

9 MR. ARIA: So if Mr. Roselli sold the
10 property and the subsequent owner was not aware
11 of an approval that had that requirement in
12 there, then the fence got moved, they may never
13 know.

14 MR. IRENE: Unless they looked at the
15 Resolution.

16 MR. ARIA: Okay. That is basically the
17 difference between Deed restriction and putting
18 in the Resolution?

19 MR. IRENE: Yeah.

20 MR. STEINBERG: I don't want to argue
21 the point, but we are accommodating Mr. Roselli,
22 and obviously, if he wanted to pursue the
23 matter, he can against the owner of the
24 property. That is Saratoga Trust. And he can.
25 We are only asking the Board for site plan

1 approval. We will accommodate him. He will
2 leave it the way it is we will accept any of the
3 conditions of the Resolution. We have no
4 intention after we construct the drive area and
5 the fence to move it in any way. If we do, and
6 Mr. Roselli tells us that we do, assume he come
7 here in violation of our site plan.

8 Secondly, I think he has an obligation
9 if he is going to sell his property to disclose
10 if he doesn't seek a legal remedy. That is up
11 to him. I think it's -- there is nothing there
12 now. There is no Deed restriction. There is no
13 easement of record. But for expedience I, and
14 for courtesy, we are going to keep it the way it
15 is.

16 MR. IRENE: If you get site plan
17 approval.

18 MR. STEINBERG: Pardon me?

19 MR. IRENE: If you get site plan
20 approval. The issue, the owner signed an
21 owner's consent.

22 MR. ARIA: You say it's going to stay
23 the way it is. Isn't it currently the fence
24 goes back to the property line?

25 Q. How is it currently?

1 A. We are going to keep it the way it is.
2 We are going to keep it close to the way it is. We
3 are going to put a fence on a straight line. That
4 fence is old and falling down. It's close to where
5 it is today, but it's going to be straight. It's
6 going to marry up with his sidewalk which was never
7 survived because it couldn't get on the other side of
8 the fence to survey it, but he has pictures of the
9 sidewalk. It's a straight line on the edge of the
10 sidewalk. The fence can go right up to the sidewalk
11 and then he will have his access without the sharp
12 angle around the building the way we drew it.

13 MR. BRAY: So, approximately, if we take
14 the side of the yellow and take that straight
15 back into the corner?

16 THE WITNESS: Right. By the time you
17 get to the back, it's two feet off the corner.
18 Rather than start at four or so feet. It is a
19 little bit of a skew, that fence. It's not
20 parallel.

21 MR. SCALISE: Could I ask a question?
22 So this puts us in a weird spot, right, it's
23 like we are being the mediator between two
24 neighbors and I don't know if we should be in
25 that specifically, but at the same time, I do

1 understand the circumstances that our attorney
2 brought up and is it possible that if there
3 were to be an approval tonight, just as a
4 speculation, right, that we are granting the
5 approval but in the hopes that somebody find
6 the owner, because there is an owner that
7 exists that is collecting money that deals with
8 this situation so that it's just not, you know,
9 kick the cans, kick down the road. That is
10 what I don't understand.

11 Like why can't we, like if we grant an
12 approval without the Deed restriction today,
13 can we grant it at some point this issue will
14 be resolved? Do you follow me, because I feel
15 we are kicking the can down the road.

16 MR. STEINBERG: For this issue to be
17 resolved, I think Mr. Roselli would have to
18 bring a legal action and claim an easement. If
19 he is satisfied the way it has been built, as
20 he has been for the last 20 years, I don't know
21 if this Board should get involved in that to be
22 honest with you. We accept the conditions in
23 your approving the Resolution. We are going to
24 construct it in accordance with the plans we
25 present to you. If we move it in any way, once

1 the final plans are approved, we are in
2 violation. I'm sure if Mr. Roselli finds a
3 change, he can report it and subject to
4 sanctions here through code enforcement and he
5 can pursue it, if he desires. It's not an
6 inexpensive pursuit through the courts to claim
7 an easement, but he can do that with the
8 owners.

9 MAYOR TUCCI: What are our other
10 options, Mr. Irene?

11 MR. IRENE: You have a range of options,
12 okay?

13 MAYOR TUCCI: These things always come
14 back to bite you. I know because I always get
15 bit.

16 MR. IRENE: And we also, obviously, it's
17 in everyone's best interest to make the record
18 of whatever the Board does and whatever
19 conditions it imposes as clear as possible. So
20 you could, as Mr. Steinberg is saying, just
21 make a specific condition of the Resolution.
22 It is on the Site Plan. It's not a very major
23 situation, so I don't know if some Board in the
24 future, somebody wanted to move that fence
25 would know what was going on. I also don't

1 know if Mr. Roselli would still be there, but
2 presumably, if they change the site plan, they
3 would have to come back. That's why beyond
4 just making it, leaving it as the situation
5 being reflected on the Site Plan, at the very
6 least I would suggest that you include a
7 specific condition in the Resolution.

8 Now, is it possible no one would ever
9 look at the Resolution? It's possible. That's
10 the reason we have these Resolutions with the
11 conditions.

12 The next level is to require either a
13 Deed restriction and some license be recorded
14 which the Applicant is resisting doing for
15 whatever reason. I'm not sure. Apparently, the
16 owner is not inclined to do that, but there is
17 variations on that, too, one could provide there
18 would be a license that it stay for such time as
19 both this facility exists on this property and
20 that dwelling unit in the back continues to
21 exist on the other property. After that, it
22 would go away, but I don't know how deep into
23 the weeds you would want to get. These are the
24 kind of things that would normally, I shouldn't
25 say, normally. Often times, would be worked out

1 between the Applicant and the interested party
2 as part of negotiations. In this case, this is
3 the path they've chosen.

4 MR. STEINBERG: I would further
5 respectfully submit that eventually if we could
6 get a Deed restriction then we are giving away
7 land and if Roselli moves or Mr. Roselli's
8 buildings are destroyed or rebuilt, we can't get
9 that land back.

10 MR. IRENE: Well, I would not suggest
11 that you be required to give the land away
12 because that would require a subdivision and I
13 am not necessarily even saying that you would
14 have to give him an easement that is going to
15 run forever, what you could do is have a
16 restriction that says you are not going to move
17 that fence for as long as that property
18 continues to operate as a Dunkin Donuts or this
19 similar commercial facility and the neighboring
20 property continues to have the dwelling unit in
21 that location.

22 Obviously, if that dwelling unit goes
23 away and if the building burns down and is
24 destroyed then you shouldn't have to abide by
25 that restriction. So there are ways to

1 temperature it as well, but I am doing it on the
2 fly.

3 MR. ARIA: Mr. Steinberg, have you
4 notified the property owner that this situation
5 exists?

6 MR. STEINBERG: Property owner? We
7 don't deal with the property owner. We only
8 deal with the corporate.

9 MR. ARIA: So your answer is no.

10 MR. STEINBERG: I happen to know the
11 property owner on a different basis, but other
12 than anything we've done it's decided through
13 corporate.

14 MR. ARIA: So you haven't discussed this
15 situation with the property owner?

16 MR. STEINBERG: No.

17 MR. ARIA: Do you know if the property
18 owner is aware of it?

19 MR. STEINBERG: I would virtually say
20 the property owner is not aware of anything,
21 other than receiving the checks.

22 MR. IRENE: But I assume the owner
23 signed the owner's consent.

24 MR. STEINBERG: Corporate sent the form
25 to the property owner who is the landlord to the

1 corporate. Corporate, we are subtenants. And
2 corporate obtained the signature of the
3 representative of the LLC or trust. I forget
4 what it was. And that is what was submitted
5 with the application. It turns out that that
6 person is someone I know, but she has really
7 nothing. It is a family trust that was created
8 many, many, many years ago and they don't really
9 know any of the operations. All they know is
10 they have a lease with Dunkin and they get
11 checks. I think that this issue is one that the
12 neighbors could work out maybe later on. I
13 think we are asking for site plan approval. We
14 are moving things around to accommodate the
15 next-door neighbor and we are going to be
16 subject to both a Resolution and a signed plan
17 that we are going to have to abide by. We have
18 no intention of moving the fence.

19 MR. ARIA: It seems, to me, the
20 landlord's only concern is receiving checks than
21 granting an easement.

22 MR. STEINBERG: Now you are asking
23 somebody to give part of their property away.

24 MR. IRENE: Yeah, I wouldn't necessarily
25 suggest that the Board require they grant the

1 easement, but what they could as a Deed
2 restriction, we will not move this fence as long
3 as we have this Dunkin Donuts here and you have
4 that building there. That restriction could be
5 imposed.

6 Now, whether or not they are going to be
7 able to get from the owner, if you want to make
8 that restriction that be imposed by way of Deed,
9 if they get it, terrific. If they don't, that
10 is another way to come back to you.

11 MR. ARIA: I should have used the term
12 Deed restriction as opposed to easement. Get
13 the agreement of the property owner. Getting
14 that might make this thing a lot easier.

15 MAYOR TUCCI: It really muddies the
16 water.

17 MR. BRAY: I am concerned about this
18 being a significant improvement to this property
19 and this is an existing condition that's been
20 there for 20 years. I am just worried about us
21 losing sight of that. It seems like they've
22 worked this out. If you put this in the
23 Resolution, does that protect us?

24 MR. IRENE: And the Board could well
25 decide that is sufficient. It's going to be on

1 the plan. It's going in the Resolution as a
2 separate specific condition and we will try to
3 narrow it so that it says that that fence is
4 going to stay there for as long as the Dunkin
5 Donuts is here, but if the dwelling next-door
6 goes away, at some point in the future, if it
7 disappears, that the Applicant or successor
8 could come back to this Board and ask for a
9 condition and modify the Resolution.

10 MR. ARIA: Mr. Roselli, does that
11 satisfy you?

12 MR. ROSELLI: I am just worried if he
13 leaves and a new person comes, I had to deal
14 with Arnette. I gave him property in the front,
15 so they could drive around the building.

16 MR. STEINBERG: Are you talking about
17 another Dunkin Donuts?

18 MR. ROSELLI: Yes.

19 MR. STEINBERG: Another operator?

20 MR. ROSELLI: Yes.

21 MR. STEINBERG: The answer is, I
22 believe, is this the site plan approval for this
23 site and no one can violate this?

24 MR. ROSELLI: So right now, they are on
25 my property in the front to drive around.

1 MR. STEINBERG: That is eliminated by
2 this site plan.

3 MR. ROSELLI: Right, but I am just
4 saying right now that's what I worked out with
5 him. So now we are here and I am worried about,
6 let's say, 5 years, 10 years from now, he leaves
7 and somebody else comes in.

8 MR. ARIA: It's part of the Resolution.

9 MR. IRENE: It will be in the
10 Resolution. It will be on the Site Plan.

11 MR. ROSELLI: Okay.

12 MR. BROCKLEBANK: If the curb is going
13 to be there, the pavement is going to be there,
14 moving the fence is going to affect that. So
15 why would they need to move the fence?

16 MR. ARIA: There would be no benefit to
17 move the fence.

18 MR. ROSELLI: They are moving the fence,
19 because they are taking two foot away.

20 MR. BRAY: After it's in place.

21 MR. ROSELLI: Right now, it's a
22 six-foot. They are going to move it two foot
23 closer to four foot.

24 MR. BROCKLEBANK: Currently, it jogs in.

25 MR. ROSELLI: No. Currently, it jogs in

1 and goes straight. I told them tonight they
2 couldn't do the jog.

3 MR. BROCKLEBANK: They have room in the
4 back.

5 MR. ROSELLI: Plus the sidewalk is
6 already there.

7 MR. BROCKLEBANK: They come to your
8 existing sidewalk?

9 MR. ROSELLI: I am just worried about,
10 you know, five years from now or whatever.

11 MR. BRAY: It will be part of the
12 Resolution.

13 MR. IRENE: Yeah, and if it gives the
14 Board a greater comfort level, what I might
15 suggest in addition to it's on plans, it will be
16 a specific condition of the Resolution. We also
17 get a snapshot from the plan of the fence and
18 the jog and we attach it to the Resolution.

19 MR. BRAY: That is great.

20 MR. BROCKLEBANK: If you extend that jog
21 all the way back, it's going to cut down some of
22 the plantings, right?

23 MR. ROSELLI: Correct. So we have a
24 row, the original plan, we had just ran along
25 the back against the residential lot. This is a

1 commercial zone, don't forget. We did it for
2 the neighbor's benefit. We extended the trees
3 down along the fence.

4 MR. BRAY: We are still going to have
5 some of that archway.

6 MR. ROSELLI: Some in the triangle
7 easement, yes. Right in this narrow section, it
8 probably won't be there.

9 MR. SCALISE: Could I be clear about
10 something related to that? So your property,
11 Mr. Roselli, goes further back than the --

12 MR. ROSELLI: Yes.

13 MR. SCALISE: -- Dunkin Donut's
14 property?

15 MR. ROSELLI: Yes.

16 MR. SCALISE: So if we lost a little bit
17 of buffer --

18 MR. ROSELLI: Correct.

19 MR. SCALISE: -- it's not another
20 neighbor being affected.

21 MR. ROSELLI: Nope. It would be mine.

22 MR. SCALISE: I just want to throw that
23 out there, if it accommodates your situation,
24 but I got to say, like, somebody has got to do
25 something even about after we make a decision.

1 I feel like we are put in a really bad spot and
2 I feel we shouldn't be in and I think, Mr.
3 Roselli, I'm not telling you what to do, but I
4 think you should follow through with some
5 Resolution with the owner that we can never get
6 collect checks. I want to be that owner, by the
7 way. He doesn't deal with anything, he just
8 collects checks. I think the onerous may be a
9 little on you to make sure we're not dealing
10 with a situation with a new buyer.

11 MR. BRAY: Make sure you get a copy of
12 the Resolution.

13 MR. ROSELLI: Yeah, well, I spoke with
14 an attorney and I need to get an easement that
15 runs with the property.

16 MR. SCALISE: That can be done after the
17 fact.

18 MR. ROSELLI: Right. I just want to
19 make sure of that.

20 MR. BRAY: I like Mr. Irene's
21 suggestion, attach the photo to the plans as
22 well as putting it in the Resolution.

23 MR. ROSELLI: I am just worrying about
24 the future that it goes all the way back.

25 MR. SCALISE: We are worried about when

1 you guys aren't here and there is another set of
2 people and they look at us and --

3 MR. ROSELLI: You are right.

4 MR. SCALISE: It is the same issue.

5 MR. ROSELLI: You are right.

6 MR. STEINBERG: It's doable.

7 MR. IRENE: So we got through Item 1,
8 Mr. Steinberg.

9 MR. STEINBERG: If that satisfies the
10 Board.

11 MR. MULLAN: Mr. Chairman, I just have
12 to ask one point of clarification for the
13 Engineer to point out on his plan. The plan
14 that we are looking at says that the new fence
15 is going to be on the property line as soon as
16 you get passed the jog in the adjoining
17 dwelling, the building. As soon as you clear
18 four feet from that corner, the fence is going
19 to run on the property line, so I am hearing
20 maybe they are describing it a little
21 differently and I just want to make sure what
22 the graphics are is what the Board is going to
23 consider.

24 MR. BRAY: I think if you drew a line
25 that would help.

1 MR. SCALISE: Yeah.

2 MR. BRAY: It will just show,
3 approximately, what you are talking about right
4 here.

5 MR. STEINBERG: We are drawing on A-15.

6 MR. BRAY: Right. That's what we are
7 talking about.

8 Q. We are going to indicate in what color
9 pen --

10 A. Blackish-blue.

11 Q. -- when we submit final plans? We are
12 going to bring that out and go further back, right?

13 MR. BRAY: He drew that one?

14 Q. And further back. And that is where the
15 curb and the fence will be. So again, as one of the
16 two Board Members indicated, once we put that curb
17 and fence, we have no desire to move it. There
18 should be something both in the Resolution and on the
19 plans, the depiction, to call attention if this
20 should be an issue later on.

21 A. I think it should be two trees. Not the
22 whole row. I think we could keep that triangular
23 piece. You might lose the first two trees.

24 MR. ROSELLI: Yeah, it's not much.

25 MR. SCALISE: One other quick question,

1 if I may? I know this has been like this for a
2 while and I've been at this Dunkin Donuts and
3 every time I come around the building I look at
4 all of the car marks on the side. It is what
5 it is. Maybe there is a question for Fran,
6 sorry.

7 Do you think we are creating a situation
8 where that fence could get hit more if, like I
9 don't see any bollards on this, unless I missed
10 it.

11 MR. MULLAN: No, I don't. I think there
12 is enough room. This is adequate room from the
13 front of the curb face and the fence itself are
14 to a car and vehicle overhangs that extend over
15 the top of the curb where the wheels stay on
16 the pavement, but the front of the vehicle
17 swings an little over the top of curve.

18 I believe, based on their plans, there
19 is adequate space between the curb and the
20 fence so that vehicles should not be hitting
21 the fence.

22 MR. SCALISE: Yeah, because I hate that.

23 MR. MULLAN: I would let the
24 Engineer tell you if he believes it is adequate
25 space as well.

1 MR. DIFOLCO: I do believe.

2 MR. SCALISE: Praise the Lord.

3 MR. DIFOLCO: I laid it out that way.

4 MR. MULLAN: The fence -- you should not
5 be hit by vehicles using that drive lane on a
6 regular basis.

7 MR. BROCKLEBANK: It's twice as wide.

8 MR. DIFOLCO: It's wider and we have a
9 very large area where the vehicles can turn and
10 not be pinched and that this is a straight
11 alignment. There is no reason, if you're
12 driving straight to hit the fence.

13 MR. SCALISE: There is no reason to have
14 a bollard on the Dunkin Donuts's site?

15 MR. DIFOLCO: No bollards.

16 MR. SCALISE: No. No.

17 MR. MULLAN: To protect his perimeter
18 fence?

19 MR. DIFOLCO: I don't believe so.

20 MAYOR TUCCI: The existing drive around
21 was not part of the original plan back in the
22 day. I wasn't here on the Board or there. To
23 do it, they took away one of parking spaces in
24 the front that they weren't really probably
25 supposed to do. So that became, that just

1 happened, that drive around. It wasn't part of
2 the original.

3 MR. ROSELLI: Yeah, I gave them like a
4 foot-and-a-half, so they could drive around it
5 on my property in the front.

6 MAYOR TUCCI: That just happened. It
7 wasn't planned.

8 Q. We can move onto the second issue that
9 we were talking about which is the Fire Marshal.

10 A. Before we even do that, on the plan, we
11 put a four-foot high scalloped fence along the
12 boundary. We had a timber highway-style timber
13 guardrail, timber. We took it off. Now we have a
14 four-foot fence. Makes a little scallop as it goes.

15 Q. Four down to three, isn't it?

16 A. It's about three. It starts at the back
17 corner, runs all the way to the last parking space,
18 which is about three or so feet beyond the setback
19 line, so we talked about the need for that.

20 Q. Fence in the front yard?

21 A. May not be a variance. It's a four-foot
22 fence.

23 MR. DIFOLCO: Fran, is that a variance?
24 Do we need that for the four-footer?

25 MR. MILLER: Yes.

1 MR. MULLAN: That is the answer, yes.

2 MR. IRENE: Portion of the fence that
3 protrudes into the.

4 MR. DIFOLCO: The first space.

5 MR. STEINBERG: Off of Broadway. That
6 has been a request by that neighbor to the west
7 throughout these proceedings and I've been
8 dealing with their attorney. They are
9 satisfied with anything. The problem that they
10 have today, they just cross over and out.
11 Certainly, they are not going to go three to
12 four-foot fence, solid fence. The scallop and
13 it's going to be painted the same color as the
14 other fence, the grey.

15 MR. DIFOLCO: Painted or stained to
16 match the building exterior in the grey family.

17 Q. The details are depicted on the revised
18 plans?

19 A. Yes, it is. I believe it is on Page 9.

20 Q. Did we make any other changes?

21 MAYOR TUCCI: Mr. Mullan, that was the
22 fence that we decided.

23 MR. MULLAN: Yes. We satisfied -- they
24 addressed our request for fence details.

25 A. The other big change, we widened the

1 entrance driveway to 20 feet wide, which meets the
2 Borough Ordinance on driveway width. It meets the
3 Fire Marshal 20-foot fire lane requirement. So we
4 have a 20-foot driveway in and a 25-foot driveway
5 out. That was the other change and that change made
6 us shift around the geometry of this island a little
7 bit. Doing that with this bump-out of the fence. We
8 had to play the with curb alignment.

9 MR. SCALISE: Relatively the same.

10 A. Relatively the same. We still have the
11 dumpster around the side of the building. Talking
12 about the Fire Marshal, so we have another exhibit,
13 A-16, which shows the new fire lane starting at the
14 back of the sidewalk on Broadway colored in salmon or
15 red and extends 150 feet to the property. We've
16 indicated, on this map, a rectangle in orange which
17 is the 39-foot long fire truck which is parked 15
18 feet beyond the building in the event that they want
19 to bring the truck in and fight the fire with the
20 Borough's aerial truck.

21 So the 20-foot lane meets the code. The
22 150-foot lane meets the code. There is no overhangs as we
23 head on the opposite of the building that protrude
24 into the fire lane clear to the sky, so we believe
25 that this meets the Fire Marshal's letter that he

1 authored in, I think, December. He had five or six
2 conditions. So we comply with all of those
3 conditions in addition to placing the sign. The
4 trusses in the roof for putting a Knox box on the
5 building, but based on the size of the building, we
6 do not need a fire department connection so that
7 comment in his letter is not applicable to this size
8 of the building. That was as per the architect.

9 MR. IRENE: So we don't have his review
10 of what has been marked as Exhibit A-16. So if
11 the Board sees fit to grant the relief, it's
12 going to contain a condition subject to review
13 and approval of the Fire Marshal.

14 MR. STEINBERG: I've tried to get in
15 touch with him. I've emailed him at least
16 seven or eight times. I think he is very
17 part-time here.

18 MR. IRENE: Whether he had or not seen
19 this and he has not.

20 MR. STEINBERG: He has seen it. It's
21 been sent to him.

22 MR. IRENE: He hasn't reported to it.

23 MR. DIFOLCO: We sent it to him.

24 MR. STEINBERG: I sent it. You sent it.

25 MS. DEGENARO: I sent it.

1 Q. We would certainly accept a condition
2 for Resolution compliance that he has to sign off.
3 And the last thing is?

4 A. What is the last thing?

5 A. This is the change that we made. It's
6 been resubmitted to the County Planning Board as
7 well. The same plan you have. And they had a
8 meeting today. I don't think it was on the Agenda.
9 The next meeting is in two weeks. We hope to be on
10 the Agenda to get the final approval from the County.
11 At the last meeting, we advised the Board here that
12 they had no objection, but it had to go through the
13 process. It went through technical review without
14 any hitches, but it had to go before the voting body.
15 We haven't gotten that piece of paper in our hands,
16 but we believe it is soon to come.

17 Just to recap real quick, we have the
18 parking for delivery up front. We have the
19 drive-through with stacking, which does not back up
20 onto Broadway, which is the traffic engineer's
21 testimony. We have a left and a right turn exit. We
22 have the new fence along the west side. We are going
23 to work out with the neighbor the details of this
24 alignment and construction on the east side.

25 Q. We've supplied the 10-foot buffer in the

1 rear with solid fence?

2 A. We have a buffer. It's not a full 10
3 feet, but it has a solid fence six feet high and a
4 row of, a row of, I think, arborvitae that are
5 stacked height together.

6 MR. BRAY: Emerald arborvitae.

7 A. There are like 24 trees. They are four
8 feet apart. They are about that far apart. They are
9 seven to eight-foot tall out of the box, so they are
10 not going to be baby trees growing. They are going
11 to be seven or eight feet which are going to be above
12 the fence. They are going to be four-foot apart and
13 they will be dense. We had to relocate some of the
14 lighting by a foot or two, but it still meets the
15 code. Your engineer has reviewed that.

16 We have less impervious on this plan
17 than there is today, so there will be less runoff
18 after this is built. And we are landscaping the
19 front. Right now, it's blacktop, so it will look
20 much nicer than it looks today with the brand new
21 building. The color scheme is the new Dunkin
22 Generation with the grey tones and not so much of the
23 pinks and oranges anymore. More subtle.

24 Q. We brought the sign down?

25 A. And the sign, yeah.

1 Q. Made it smaller?

2 A. We brought it down in height and we made
3 it less area, so we kind of compromised between what
4 it should be to what it was. We brought it down in
5 height and it's smaller in size. It still needs a
6 variance, but it is smaller and lower than it is
7 today.

8 Q. And we removed the signage from the
9 wording, basically, from the sides of the building?

10 A. Right.

11 Q. And adjust left the Dunkin logo on the
12 side?

13 A. Yes.

14 MR. IRENE: Back to the freestanding
15 sign, the Number is 16 feet in height and 58
16 square feet. Is that what the final Resolution
17 on that was or final proposal?

18 MR. DIFOLCO: Sixteen feet height, 58
19 foot in area. Existing is 82 square feet and
20 existing height is 21 feet, so we dropped it
21 five feet in height.

22 MR. IRENE: Thank you.

23 MR. DIFOLCO: And we dropped the area
24 from 82 to 58.

25 MR. IRENE: What was the final shake out

1 on the deliveries? You mentioned before the
2 deliveries are through the front. Box van
3 only?

4 MR. DIFOLCO: We are going to do vans
5 only. Box car deliveries only.

6 MAYOR TUCCI: In the front?

7 Q. The front one is the doughnuts at 3 a.m.

8 A. This is the van-type delivery doughnut
9 every day early three in the morning. We didn't want
10 that in the back with beeping and the doors and
11 noise. Doughnut delivery every day is up front. The
12 delivery for cups and boxes and spoons is what is the
13 word box, like a 26-foot long vehicle. Not much
14 smaller than like a U.P.S. big van. That fits in the
15 back. That comes after the morning rush hour, maybe
16 on a Thursday, whatever. He is going to pick a day
17 and a time off peak, so that if need be anybody who
18 parks in the back, his employee can move the car
19 over.

20 MAYOR TUCCI: What about the garbage?

21 A. The garbage is, again, once a week.
22 Once a week for garbage and the truck enters, pulls
23 in. There is room for two cars to remain. One car
24 will probably be moved the time that the garbage
25 truck comes and then the truck pulls around and

1 leaves.

2 Q. That is private haulers?

3 A. Private hauler. He controls the pickup
4 and the tower.

5 MR. IRENE: Were there stipulations to
6 the time that was going to occur?

7 MR. DIFOLCO: Only that it was non-peak
8 hour. We believe it's late morning, after 10
9 or 11:00. As you know, after that time, the
10 parking lot is mostly empty at a Dunkin, except
11 for the close spots to the door and then the
12 drive-through keeps itself busy. But after the
13 morning peak, the spaces on the side will be
14 primarily, I would say from the middle of the
15 building back, there won't be anybody there.

16 MAYOR TUCCI: Now the garbage, they do
17 in the morning sometimes because there were
18 complaints from the neighbors about the noise
19 of the garbage truck at different times, so I
20 know I had to call about that. Make sure.

21 MR. IRENE: After 10 a.m., specifically.

22 MR. DIFOLCO: After 10 a.m.

23 MR. IRENE: You mentioned the signage
24 and Mr. Steinberg mentioned the change from the
25 signage from the original proposal. All of

1 those changes on the signage are reflected on
2 the final plans.

3 MR. DIFOLCO: On the architect plans.
4 Not this.

5 Q. Last month --

6 MR. DIFOLCO: Those have not changed.

7 MR. IRENE: Thank you.

8 Q. He amended them from the original
9 application and he presented last month that he
10 removes the signage on the side of the building.

11 A. He also took out the second drive-up
12 window which was on the original plan.

13 MAYOR TUCCI: Was there outdoor seating?

14 MR. DIFOLCO: Yes, we showed three
15 tables in front of the building, each having
16 two seats, so a total of --

17 MAYOR TUCCI: Is that a requirement of
18 the franchise, because I never see anybody
19 using them.

20 MR. DIFOLCO: It was something that the
21 operator.

22 MR. STEINBERG: Smokers.

23 MAYOR TUCCI: Everybody is in a hurry.

24 MR. STEINBERG: A lot of smokers. They
25 want a cup of coffee with a cigarette, we

1 certainly don't them inside. We have nothing
2 further. We will address comments.

3 MR. BRAY: Anything you have, Mr.
4 Mullan?

5 MR. MULLAN: No. I think they covered
6 all of the changes we were interested in
7 seeing.

8 MR. ARIA: Any other questions from the
9 Board? Questions from the public?

10 MS. DOREMUS: Hi, I'm Jennifer Doremus.
11 I live right behind. Is there any way that you
12 could put just signs reminding your customers
13 that it is a residential neighborhood and keep
14 their radios down while they are waiting in
15 line?

16 MR. ARIA: Who is the question for?

17 MS. DOREMUS: Whoever could answer it.

18 MR. STEINBERG: She wants us to put up
19 a sign to ask customers to keep the radios down
20 while they are in line for coffee.

21 MS. DOREMUS: Just loud base that thumps
22 through your house sometimes just when they
23 are there now. Just reminding that it is in a
24 residential neighborhood. There is houses all
25 around.

1 MR. STEINBERG: Respectfully, it's not a
2 residential neighborhood, but we want to respect
3 our neighbors in the back. I have never seen a
4 sign like that.

5 MR. IRENE: I have.

6 MR. SCALISE: I have.

7 MR. STEINBERG: If the Board wants a
8 sign with wording, we can put a sign up.

9 MR. BRAY: You can put it on that
10 dumpster enclosure.

11 MR. DIFOLCO: Are we talking about a
12 little two-foot-by --

13 MR. BRAY: Yeah.

14 MR. DIFOLCO: To get all of those words
15 in there?

16 MR. MILLER: Simple, Quiet Zone.

17 MR. BRAY: Jim is suggesting a simple,
18 Quiet Zone.

19 MAYOR TUCCI: Jen, is there a lot of
20 horns beeping?

21 MS. DOREMUS: No. It's not the horns
22 beeping. It's just the loud music.

23 MR. BRAY: We are accommodating.

24 MR. STEINGERG: We will have to think of
25 some wording.

1 MR. SCALISE: They exist. I think the
2 car wash has that.

3 MR. DIFOLCO: Please be nice to your
4 neighbor and keep your noise.

5 MR. STEINBERG: We will put a note, sign
6 of some sort on the side of the dumpster.

7 MR. DIFOLCO: Located on the inside of
8 the curb as you come through the drive-through
9 and you are waiting.

10 MR. STEINBERG: Please keep sounds at a
11 minimum or something.

12 MR. ARIA: Any other questions?

13 MR. ROSELLI: I got one more question.
14 On the east side, the fence, there is a six-foot
15 fence and it looks like it stops right at the
16 house. Right now, there is a four-foot that
17 continues. I was wondering if we could just put
18 that, so the stuff doesn't blow in the yard. Do
19 you know what I am saying?

20 MR. STEINBERG: Where are we talking
21 about? Could you point to it?

22 MR. DIFOLCO: I think --

23 MR. ROSELLI: Yeah, there is a six-foot
24 fence that stops right there.

25 MR. DIFOLCO: Thirty feet from the

1 street.

2 MR. ROSELLI: It's four-foot. It
3 doesn't look like it's four-foot continue.

4 MAYOR TUCCI: Don't you think it's more
5 aesthetic --

6 MR. BRAY: We would have to require a
7 four-foot.

8 MR. DIFOLCO: The fence is there now.

9 MR. STEINBERG: I don't know if that
10 interferes with the site triangle.

11 MR. ROSELLI: There is a section where
12 they don't have a fence, do you know what I am
13 saying, when the stuff blows into the yard?

14 MR. ARIA: Closer to Broadway, is that
15 what you are saying?

16 MR. BRAY: I don't think so. I don't
17 want to have another variance for that. Like
18 right now that side is in compliance; is that
19 correct?

20 MR. DIFOLCO: I believe we were told to
21 bring the fence to the front of Mr. Roselli's
22 house, which is a variance.

23 MR. BRAY: Okay.

24 MR. DIFOLCO: So we would need to extend
25 that variance.

1 MR. ROSELLI: Just the way it now. That
2 is all.

3 MAYOR TUCCI: I don't think you want a
4 six-foot fence.

5 MR. ROSELLI: No. It's four-foot. It's
6 six-foot to the house and then there is a
7 four-foot. It's probably 10 foot off the
8 Broadway, so you could still see just to keep
9 the stuff from blowing in. I get a lot of trash
10 over there.

11 MR. IRENE: There is a proposed
12 landscape bed.

13 MR. ROSELLI: Okay. All right, yeah.

14 MR. ARIA: Any other questions from the
15 public? Do you have anything else to add, Mr.
16 Steinberg?

17 MR. STEINBERG: No. If I may, just
18 briefly, I think we have satisfied both the
19 neighbors and the Board. We've revised plans
20 now a third time. We believe this plan will
21 work. We respectfully request it will be
22 approved with the variances granted subject to
23 the Fire Marshal's final signoff and the
24 Monmouth County Planning Board approval as a
25 condition, plus the other conditions that you

1 asked for. If there is something that should
2 come up that we can't comply then we will have
3 to come back.. I think we have gone as far as we
4 can with this Board and I think this Board has
5 provided great suggestions and we are going to
6 do them all and we would request that approval
7 tonight.

8 MR. IRENE: And subject to all of the
9 stipulations made during the proceedings and
10 compliant with the Board Engineer's review
11 letter most recently revised February 11, 2020.

12 MAYOR TUCCI: And Mr. Irene, you have
13 all of the stipulations?

14 MR. IRENE: Sure hope so, Mayor Tucci.

15 MAYOR TUCCI: I'm confused. I look
16 forward to look at your Resolution.

17 MR. IRENE: Maybe with a ven diagram.

18 MAYOR TUCCI: Mr. Mullan, are you happy?

19 MR. MULLAN: We are satisfied.

20 MR. ARIA: Is there anyone from the
21 public that wishes to make a comment. Anyone?
22 Does the Board want to make a comment?

23 MAYOR TUCCI: How long will you be
24 closed?

25 MR. STEINBERG: I think they plan to do

1 this next winter.

2 MR. SHAH: Probably November or December
3 of this year.

4 MR. STEINBERG: He testified the first
5 night.

6 MR. IRENE: Mr. Chairman, I'm sorry.
7 Assuming we are going to be wrapping up shortly
8 and you are going to be proceeding in some kind
9 of a motion or a vote, we want to take a minute
10 and know who is eligible to vote. So it would
11 be the first nine, but we want to make sure that
12 was everyone here on November 12 and January 14?
13 Those are the two dates that we previously
14 heard.

15 MR. TRIOLO: I would not be
16 participating.

17 MR. IRENE: And Rob would not either.
18 We are down to eight. Everyone else is
19 eligible? Okay.

20 MR. ARIA: I would like to make a
21 comment if we are at that point now. I think
22 there have been a lot of compromises. This is
23 an unusual piece of property. I think, when the
24 Applicant first came, there were a lot of
25 things, that I won't speak for the rest of the

1 Board I will speak for myself, that I didn't
2 like about it, but I think that they've done all
3 they can do to make this the best possible
4 layout proposal for this particular piece of
5 property and it's still going to continue to be
6 a Dunkin, so for those reasons, I would be in
7 favor of it. I will move that the application
8 be granted for all of the different variances
9 that we've discussed with the stipulations.

10 MR. SCALISE: Second.

11 MS. DEGENARO: Mayor Tucci?

12 MAYOR TUCCI: Yes.

13 MS. DEGENARO: John Aria?

14 MR. ARIA: Yes.

15 MS. DEGENARO: Sarah O'Neill?

16 MS. O'NEILL: Yes.

17 MS. DEGENARO: Stephen Bray?

18 MR. BRAY: Yes.

19 MS. DEGENARO: Gordon Heggie?

20 MR. HEGGIE: Yes.

21 MS. DEGENARO: James Miller?

22 MR. MILLER: Yes.

23 MS. DEGENARO: Antonio Scalise?

24 MR. SCALISE: Yes.

25 MS. DEGENARO: Don Brocklebank?

1 MR. BROCKLEBANK: Yes.

2 MR. IRENE: Carries.

3 MR. STEINBERG: Thank you very much.

4 MR. IRENE: Thank you. Anything that's
5 been marked, please leave with Chris Ann.

6 MR. IRENE: Mr. Roselli, we are going to
7 make a copy of it, if you can hang around for a
8 few minutes or come back tomorrow.

9 MR. ARIA: Let's take a five-minute
10 recess.

11 (Five-minute recess at 9:08 p.m.)

12 MS. DEGENARO: Mayor Tucci?

13 MAYOR TUCCI: Here.

14 MS. DEGENARO: John Aria?

15 MR. ARIA: Here.

16 MS. DEGENARO: Sarah O'Neill?

17 MS. O'NEILL: Here.

18 MS. DEGENARO: Stephen Bray?

19 MR. BRAY: Here.

20 MS. DEGENARO: Gordon Heggie?

21 MR. HEGGIE: Here.

22 MS. DEGENARO: Gordon Miller?

23 MR. MILLER: Here.

24 MS. DEGENARO: Anthony Scalise?

25 MR. SCALISE: Here.

1 MS. DEGENARO: Don Brocklebank?

2 MR. BROCKLEBANK: Here.

3 MS. DEGENARO: Randy Triolo?

4 MR. TRIOLO: Here.

5 MS. DEGENARO: Rob Ferragina?

6 MR. FERRAGINA: Here.

7 MR. ARIA: First administrative is
8 meeting dates published in the Asbury Park Press
9 and the Link and the Star Ledger.

10 MS. DEGENARO: And the, Atlanticville,
11 seems to be closed from what I looked up. We
12 had a couple of people confirming that, so at
13 the last minute, I put it in the, Star Ledger,
14 if that is okay?

15 MR. IRENE: We only need two. I know
16 Lori, out of an abundance of caution, three.

17 MR. ARIA: We don't need an informal for
18 Star Ledger.

19 MR. IRENE: Is that one of Borough's
20 official publications? It is not. We only need
21 to send it to two, so it is fine.

22 MR. ARIA: Mr. Irene, you said you
23 wanted to discuss contracts.

24 MR. IRENE: Well, the Board made it a
25 point for the Board Professionals for 2020, but

1 we circulated, I circulated the Resolutions and
2 the Contracts. Normally, take a motion to adopt
3 the Resolution accepting the Contract, the
4 Attorney, the Engineer, our CSR Lisa Norman and
5 our Board Secretary Chris Ann.

6 MR. BRAY: I will move that we accept
7 those.

8 MR. IRENE: I am suggesting you do them
9 separately.

10 MR. BRAY: Irene attorney Contract.

11 MR. HEGGIE: I will second that.

12 MR. IRENE: Roll call. First nine on
13 the Board. Attorney's Resolution and Contract
14 for 2020.

15 MS. DEGENARO: Mayor Tucci?

16 MAYOR TUCCI: Yes.

17 MS. DEGENARO: John Aria?

18 MR. ARIA: Abstain.

19 MS. DEGENARO: Sarah O'Neill?

20 MS. O'NEILL: Yes, definitely.

21 MS. DEGENARO: Stephen Bray?

22 MR. BRAY: Yes.

23 MS. DEGENARO: Gordon Heggie?

24 MR. HEGGIE: Yes.

25 MS. DEGENARO: James Miller?

1 MR. MILLER: Yes.

2 MS. DEGENARO: Antonio Scalise?

3 MR. SCALISE: Okay.

4 MS. DEGENARO: Don Brocklebank?

5 MR. BROCKLEBANK: Yes.

6 MS. DEGENARO: Randy Triolo?

7 MR. TRIOLO: Yes.

8 MS. DEGENARO: Rob Ferragina?

9 MR. FERRAGINA: Yes.

10 MR. IRENE: The Board Engineer, T&M

11 Associates with Mr. Mullan as the designated

12 representative.

13 MR. BRAY: I move we accept that.

14 MR. ARIA: Second.

15 MS. O'NEILL: Yes, second.

16 MS. DEGENARO: Mayor Tucci?

17 MAYOR TUCCI: Yes.

18 MS. DEGENARO: John Aria?

19 MR. ARIA: Yes.

20 MS. DEGENARO: Sarah O'Neill?

21 MS. O'NEILL: Yes.

22 MS. DEGENARO: Stephen Bray?

23 MR. BRAY: Yes.

24 MS. DEGENARO: Gordon Heggie?

25 MR. HEGGIE: Yes.

1 MS. DEGENARO: James Miller?
2 MR. MILLER: Yes.
3 MS. DEGENARO: Anthony Scalise?
4 MR. SCALISE: Yes.
5 MS. DEGENARO: Don Brocklebank?
6 MR. BROCKLEBANK: Yes.
7 MS. DEGENARO: Randy Triolo?
8 MR. TRIOLO: Yes.
9 MR. IRENE: And for Lisa Norman as our
10 CSR.
11 MR. BRAY: So moved.
12 MR. ARIA: I will second.
13 MS. DEGENARO: Janet Tucci?
14 MAYOR TUCCI: Yes.
15 MS. DEGENARO: John Aria?
16 MR. ARIA: Yes.
17 MS. DEGENARO: Sarah O'Neill?
18 MS. O'NEILL: Yes.
19 MS. DEGENARO: Stephen Bray?
20 MR. BRAY: Yes.
21 MS. DEGENARO: Gordon Heggie?
22 MR. HEGGIE: Yes.
23 MS. DEGENARO: James Miller?
24 MR. MILLER: Yes.
25 MS. DEGENARO: Antonio Scalise?

1 MR. SCALISE: Yes.

2 MS. DEGENARO: Don Brocklebank?

3 MR. BROCKLEBANK: Yes.

4 MS. DEGENARO: Randy Triolo?

5 MR. TRIOLO: Yes.

6 MR. IRENE: Resolution designating Chris

7 Ann DeGenaro as Board Recording Secretary.

8 MR. BRAY: So moved.

9 MR. MILLER: I will second.

10 MS. DEGENARO: Mayor Tucci?

11 MAYOR TUCCI: Yes.

12 MS. DEGENARO: John Aria?

13 MR. ARIA: Yes.

14 MS. DEGENARO: Sarah O'Neill?

15 MS. O'NEILL: Yes.

16 MS. DEGENARO: Stephen Bray?

17 MR. BRAY: Yes.

18 MS. DEGENARO: Gordon Heggie?

19 MR. HEGGIE: Yes.

20 MS. DEGENARO: James Miller?

21 MR. MILLER: Yes.

22 MS. DEGENARO: Anthony Scalise?

23 MR. SCALISE: Yes.

24 MS. DEGENARO: Don Brocklebank?

25 MR. BROCKLEBANK: Yes.

1 MS. DEGENARO: Randy Triolo?

2 MR. TRIOLO: Yes.

3 MR. ARIA: The last thing I want to
4 discuss is informal meetings. I thought I
5 remembered years ago, when I was on the
6 governing body, we had asked that the Planning
7 Board to refrain from granting informal
8 meetings. You know, I don't know if everyone
9 would not grant them at all, but I think there
10 is a possibility they can take up too much time
11 from the actual meetings. One of the things I
12 thought of was maybe granting them, but not part
13 of the 7:30 to 10:30 time slot, because there is
14 no formal action being taken. Maybe ask people
15 to come in at 6:30, limit them to an hour and
16 possibly not even have the entire Board, only
17 have, you know, a committee or something. I
18 discussed that with Mr. Irene earlier and he
19 said that maybe having a committee might not be
20 the best idea, right?

21 MR. IRENE: There is practical
22 consideration and there is, I am always
23 concerned with the Open Public Meetings Act.
24 Anytime we have an effective quorum, it could be
25 an issue. Frankly, I've never researched

1 whether or not if it's strictly informal and no
2 formal action can be taken whether that
3 constitutes a formal meeting of the Board. If
4 you did a committee less than a quorum, which
5 would be four Member or less, right, because we
6 need five Members, we wouldn't have an Open
7 Public Meetings Act problem.

8 From a practical standpoint, many
9 potential applicants, if they are going to seek
10 an informal are going to want as many people
11 here as he can, so they can effectively take the
12 temperature of the Board and hear the comments,
13 because they may have four people think it's the
14 greatest thing since sliced bread and present a
15 formal application and see the other five thinks
16 it's terrible.

17 One thing we can do, because it's a
18 shame we just published the notice of annual
19 meetings, we could publish the notice of public
20 meetings or revise saying the Board is going to
21 meet at 7:00 for any informal matters as may be
22 listed and the regular meeting will start as
23 7:30. As we go, if you have one on, we just let
24 the Board Members know to come in at 7, if you
25 want to do that way and we avoid an Open Public

1 Meetings Act.

2 MAYOR TUCCI: Jim, didn't we have --

3 MR. BRAY: Well, that was a different
4 one. That is for ones that were ready to go
5 that weren't changing the permitted use. We had
6 a committee.

7 MAYOR TUCCI: We had a small committee
8 that could meet.

9 MR. BRAY: Streamline process,
10 basically.

11 MAYOR TUCCI: For what?

12 MR. IRENE: Site plan exempt kind of
13 thing, if they are changing the use, we really
14 don't need more parking so can we waive site
15 plan.

16 MR. BRAY: Right. We had a little
17 committee that would meet ahead of time and
18 provide the recommendations to the larger Board
19 on that, which we have written up. We have the
20 procedures written up on that.

21 MR. MILLER: As per Ordinance.

22 MR. BRAY: That is not the informal.

23 MAYOR TUCCI: Do most Board's do
24 informal?

25 MR. IRENE: The statute says the Board

1 shall grant an informal meeting and they call it
2 a concept review for those who can request it.
3 You can also charge a fee. Most towns charge a
4 modest fee \$300 to \$500.

5 MAYOR TUCCI: What was ours?

6 MS. DEGENARO: I think the was 300.

7 MR. BRAY: Yeah, I think that we did.

8 MR. IRENE: At the least, the Engineer
9 wants to take a look at it.

10 MAYOR TUCCI: Sometimes, too, I thought
11 tonight really went on too long.

12 MR. ARIA: Also their second time back,
13 same applicant, same property. How many times
14 are we willing to let people come back? In my
15 opinion, they are just to make it to do this
16 less expensively. They can come in with all of
17 their professionals and they can get a really
18 good idea to get approved before they come in.

19 MR. IRENE: Again, they would have to
20 pay the fee. You can increase the fee.
21 Although, the statute, no one ever picks up on
22 this, the statute provides that if you come back
23 with the formal application based on the concept
24 plan that you came on, on the informal with, you
25 are entitled to a credit for that fee that you

1 pay for the informal. Nobody catches that. It
2 also saves the Board time, too, John. If they
3 present you something that's never going to fly,
4 you don't have to deal with the formal
5 application, the engineers review of it,
6 listening to three or four meetings, only to
7 deny it in its entirety.

8 That is the difference between the
9 Planning Board and the Zoning Board. The
10 Planning Board is what they call is a checklist
11 Board. It's statutory. It's Ordinance. If you
12 meet all of the requirements, you are entitled
13 to site plan approval. It is a commercial
14 property.

15 Zoning Board is entirely different.
16 It's quasi judicial. You have uses that are
17 often aren't permitted. Much more variance
18 relief. So, the Zoning Board, under the statute
19 is not allowed to have an informal. That is why
20 there was a question on this tonight, if they
21 conformed with the density then we probably
22 couldn't here it without them conforming because
23 it would be a Zoning Board matter.

24 MR. BRAY: I like John's idea. I think
25 we should just try and be apart and keep it to

1 the regular meeting time for right now because
2 the schedule is a little difficult. I think, on
3 something this big, it's important that we all
4 hear it or opine on it, but I think that we
5 should implement like a half hour limit, unless
6 you decide to extend it. Like if you, as the
7 Chair, decide to extend it because we are that
8 close to getting to a point we can extend it,
9 but you can kind of tell the people, listen,
10 this is an informal.

11 MAYOR TUCCI: You have a half hour to
12 present.

13 MR. BRAY: Have a half hour to present.

14 MR. ARIA: Based on what other business
15 the Board has, I think the first time they came
16 in, they were it for the night. So I didn't
17 have a problem sitting and listening to it. I
18 don't really have a recommendations or a
19 proposal to fix it. I just see there is a
20 problem and I wanted to see what suggestions the
21 rest of the Board and our professionals had to
22 make it work a little better.

23 MR. IRENE: Some Boards, as I mentioned,
24 put them on last. Make them sit until we are
25 done. It is a last thing at that point.

1 MR. ARIA: What happened with this one
2 was that they wanted to be here last month and I
3 said, if you want to come in January, you may be
4 last and may not be heard. If you come in
5 February, you will be first.

6 MR. BRAY: You set the rules. Half
7 hour. If you want to extend it.

8 MR. HEGGIE: You should have a guideline
9 set.

10 MR. ARIA: I think they need to be told
11 half hour limit unless we feel there is ample
12 time and we don't want to encroach on the time
13 of the formal applications.

14 MS. DEGENARO: We are still going to
15 charge them the fee that T&M advises us what it
16 is. They are not writing a review letter.

17 MR. BRAY: Yes. It saves them time in
18 the long run, like Mr. Irene is pointing out.

19 MAYOR TUCCI: I get requests for
20 informal all of the time. Just me. And I don't
21 grant them.

22 MR. IRENE: Nor should you.

23 MAYOR TUCCI: Not from these people I
24 will. Never from them. Especially her.

25 MR. ARIA: There is no formal action

1 that has to be taken now. Just implement that.

2 MR. ARIA: Is there anything else? All
3 right. Meeting is adjourned. Thank you.

4 (Whereupon the meeting was adjourned at
5 9:30 p.m.)

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