

**HARDING TOWNSHIP BOARD OF ADJUSTMENT
MINUTES
Re-Organization
January 18, 2018 – 7:30 PM**

CALL TO ORDER AND STATEMENT OF COMPLIANCE

The Board of Adjustment Attorney, Gary Hall, called the Reorganization meeting of the Board of Adjustment to order at 7:30 and announced that adequate notice of the meeting had been made in accordance with the New Jersey State Open Public Meetings Act.

REORGANIZATION

Before the start of the meeting former Chairman, Phil Rosenbach announced the resignation of Peter Muratore from the Board of Adjustment. Mr. Rosenbach expressed his deep gratitude and appreciation for Mr. Muratore's service on the Board.

Mr. Hall noted the following appointments were made to the Board of Adjustment:

Bill Kearns Alternate #1 2 year term ending 12/31/19

The Roll call was taken and went as follows:

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|----------------|---------|-------------|---------|
| Mr. Rosenbach | Present | Mr. Newlin | Present |
| Mr. Flanagan | Present | Mr. Maselli | Absent |
| Mr. Schleifer | Present | Mr. Eichler | Present |
| Mr. Muratore | Present | Mr. Kearns | Excused |
| Ms. Chipperson | Present | | |

Board Attorney, Gary Hall, Township Engineer, Paul Fox and Board of Adjustment Secretary, Lori Taglairino were also present.

Mr. Hall opened the floor to nominations. Mr. Rosenbach nominated Mr. Flanagan as Chair. It was seconded by Mr. Schleifer and Ms. Eichler. On a voice vote, all were in favor.

Mr. Hall turned the meeting over to Mr. Flanagan.

Mr. Rosenbach nominated Mr. Newlin as Vice-Chair. It was seconded by Flanagan. On a voice vote, all were in favor.

Mr. Flanagan made a motion to approve Resolution BOA #01-2018 for the Appointment of Professionals. It was seconded by Mr. Newlin. On a voice vote all were in favor.

Mr. Flanagan made a motion to approve Resolution BOA #03-2018 for the Do Not Exceed Limits for professionals. It was seconded by Mr. Newlin. On a voice vote, all were in favor.

Mr. Flanagan made a motion to approve Resolution BOA #02-2018 for the 2018 meeting dates. It was seconded by Mr. Newlin. On a voice vote, all were in favor.

Mr. Hall swore in Mr. Fox as Board of Adjustment Engineer.

REGULAR MEETING

Mr. Flanagan made a motion to approve the Resolution to retain Planner Christine Cofone for BOA# 16-16 SYAS application. It was seconded by Mr. Newlin. On a voice vote all were in favor.

Mr. Flanagan made a motion to approve the December 21, 2017 minutes. The motion was seconded by Mr. Rosenbach. On a voice vote all eligible members were in favor of approving the minutes.

RESOLUTION

Application BOA# 16-17 Andrew and Sarah Quigley
197 Village Road, B10/L 16. RR Zone

Mr. Flanagan made a motion to adopt resolution BOA# 16-17 Quigley with the amended date change of approved plans being January 12, 2018. It was seconded by Ms. Eichler. On a voice vote all were in favor of approving the resolution.

Application BOA# 18-17 Shalnee Arora
12 Welsh Lane, B49/L 41, R-1 Zone

Mr. Flanagan made a motion to adopt resolution BOA# 18-17 Arora. It was seconded by Ms. Eichler. On a voice vote all eligible members were in favor of adopting the resolution.

NEW BUSINESS

Application BOA# 17-17 Anthony & Linda Papadopoulos
38 Anthony Wayne Road, B26.01/L17, R-1 Zone
Applicant is requesting variance relief for building area as per NJSA 40:55D-70(c).

Presenting:
Nicole Magdziak, Attorney
John Heyrich, Architect

Mr. Heyrich was sworn in for testimony.

- Ms. Magdziak stated that the applicant is proposing two additions to the home. One addition would be over the garage and requires a front yard setback. One would be for a Master Bedroom suite and would require a building area variance if the Harding Township 225-122 C4 does not apply.
- Ms. Magdziak noted that there are accessory structures pre-existing on the property that will need variance approval.
- Mr. Heyrich presented Exhibit A-1, a color rendering of the existing and proposed conditions on the property.
- Mr. Heyrich presented Exhibit A-2, photographs of the barn and stable.
- Mr. Rosenbach noted that the bonus room addition cannot be used as a bedroom.
- There was a discussion about the interpretation of Township Code 225-122 C4 in the context of this application.

- Mr. Rosenbach noted for the record that the accessory buildings are visible from the road and thus contribute to the rural character of the streetscape.

Mr. Flanagan made a motion to grant approval of this application with the conditions that the barn and stable accessory buildings are to be used for agricultural and property maintenance only and that there are no changes to the outside of the structures. He also stipulated that the bonus room was not to be used as a bedroom. It was seconded by Ms. Eichler. A roll call vote went as follows:

For: Mr. Rosenbach, Mr. Flanagan, Mr. Schleifer, Mr. Newlin, Ms. Eichler, and Ms. Chipperson.

Against: None.

Application BOA# 19-17

Nancy McClelland

63 Millbrook Road, B15/L27.04

Applicant is requesting variance relief for lot coverage as per NJSA 40:55D-70(c).

Presenting:

Nicole Magdziak, Attorney

Nancy and James McClelland, Owners

Ryan Smith, Engineer

Mr. Smith and Mr. and Mrs. McClelland were sworn in for testimony.

- Mr. Smith presented plans for a proposed patio area.
- Mr. Smith noted that the property has two other property's' flagstaffs running through the property creating a hardship for the McClelland property.

Mr. Flanagan made a motion to grant the variance for BOA# 19-17 McClelland. It was seconded by Mr. Newlin. A roll call vote went as follows:

For: Mr. Rosenbach, Mr. Flanagan, Mr. Schleifer, Mr. Newlin, Ms. Eichler, and Ms. Chipperson.

Against: None.

OLD BUSINESS

Application BOA# 17-16

PSE&G

1498 Mt. Kemble Road, B46.01/L13.01, B-2 Zone

Applicant is requesting use and height variances per N.J.S.A. 40:55D-70(d) and front, side and rear setback relief to build a communication tower as per NJSA40:55D-70c. The applicant also is seeking a variance for total lot coverage and Preliminary and Final Major Site Plan approval. **(Open-ended adjournment per request of applicant: new notice to be provided prior to any further proceedings.)**

Application BOA# 16-16

S.Y.A.S., LLC

1 Post House Road, B33.03/L1, R-1/B-2 Zones

Applicant requesting variance relief for use and height, per NJSA
40:55D-70(d) for 5 proposed townhouse units subject to a subsequent
request for site plan approval.

Presenting:

Mr. Bart Sheehan, Attorney

Mr. Geyer, Contract Purchaser

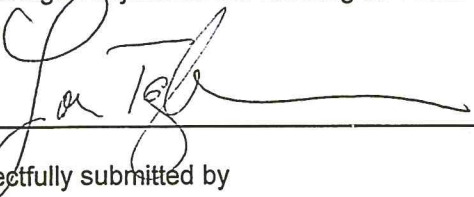
A transcript of the testimony is appended to the minutes.

OTHER BUSINESS

None

ADJOURNMENT

Mr. Flanagan adjourned the meeting at 11.02.



Respectfully submitted by

Lori Taglairino, Board of Adjustment Secretary

HARDING TOWNSHIP
BOARD OF ADJUSTMENT

In the Matter of: :
CASE BOA 16-16 : Transcript
S.Y.A.S., LLC : of
1 Post House Road : Proceedings
Block 33.03, Lot 1 :
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Thursday, January 18, 2018
Kirby Municipal Building
21 Blue Mill Road
New Vernon, New Jersey
Commencing at 8:45 p.m.

BOARD MEMBERS PRESENT:

MICHAEL FLANAGAN, Chairman
PHILIP ROSENBACH, Acting Chairman
ALF NEWLIN
TERRI EICHLER
JOE SCHLEIFER
RITA CHIPPERSON

ALSO PRESENT:

LORI TAGLAIRINO, Planning Board Secretary
PAUL D. FOX, P.E., CME
CHRISTINE A. COFONE, Board Planner

BRIDGET LOMBARDOZZI,
Certified Court Reporter

PRECISION REPORTING SERVICE
CERTIFIED SHORTHAND REPORTERS
(908) 642-4299

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| <p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 GARY HALL, ESQ.</p> <p>3 Attorney for the Board</p> <p>4 DEMPSEY, DEMPSEY & SHEEHAN, ESQS.</p> <p>5 BY: BARTHOLOMEW SHEEHAN, ESQ.</p> <p>6 Attorneys for the Applicant</p> <p>7 McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP</p> <p>8 BY: JOHN VISCONI, ESQ.</p> <p>9 Attorneys for the Objectors - Post House Road, LLC</p> <p>10</p> <p>11</p> <p>12</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 4</p> <p>1 CHAIRMAN FLANAGAN: All right. Next on</p> <p>2 the agenda is application 16-16 S.Y.A.S., LLC.</p> <p>3 And I would say in the interest of</p> <p>4 continuity, I'm going to ask Phil to continue to</p> <p>5 chair this application until it's finished. So</p> <p>6 thank you.</p> <p>7 Phil.</p> <p>8 ACTING CHAIRMAN ROSENBACH: Does anybody</p> <p>9 want to take a five-minute break at this time?</p> <p>10 Because once we start, we're going through until</p> <p>11 11 o'clock or we finish, whichever comes first.</p> <p>12 Mr. Sheehan, do you have any opinion on</p> <p>13 this?</p> <p>14 MR. SHEEHAN: We're ready to go.</p> <p>15 ACTING CHAIRMAN ROSENBACH: Let's go.</p> <p>16 Let's start.</p> <p>17 BOARD MEMBER SCHLEIFER: As we're</p> <p>18 starting, I want everybody to know I did read the</p> <p>19 minutes.</p> <p>20 MR. HALL: The transcript.</p> <p>21 BOARD MEMBER SCHLEIFER: The transcript,</p> <p>22 rather, I'm sorry. Both of December 21st and</p> <p>23 November 16th. Very well written. And I was able</p> <p>24 to understand them and I did read it. So I am up</p> <p>25 to date on the November and December meetings.</p> |
| <p style="text-align: right;">Page 3</p> <p>1 TABLE OF CONTENTS</p> <p>2 WITNESS PAGE</p> <p>3 CHARLES GEYER 11</p> <p>4 JESSICA CALDWELL 83</p> <p>5</p> <p>6</p> <p>7</p> <p>8 EXHIBITS</p> <p>9</p> <p>10 NO. DESCRIPTION PAGE</p> <p>11 A-18 (FOR I.D. ONLY) Book presented 18</p> <p>12 by Mr. Geyer of mailings</p> <p>13</p> <p>14 A-19 Mailing cards presented by 31</p> <p>15 Mr. Geyer</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p> | <p style="text-align: right;">Page 5</p> <p>1 ACTING CHAIRMAN ROSENBACH: Okay. Lori,</p> <p>2 do you have a full list of who's eligible then?</p> <p>3 SECRETARY TAGLAIRINO: Well, I</p> <p>4 believe -- Terri, did you sign yours?</p> <p>5 BOARD MEMBER EICHLER: Yes.</p> <p>6 SECRETARY TAGLAIRINO: And, Rita, did</p> <p>7 you sign yours?</p> <p>8 Because everybody has the transcript so</p> <p>9 everybody here would be eligible.</p> <p>10 BOARD MEMBER CHIPPERSON: I don't think</p> <p>11 I had the sheet when I came to my spot.</p> <p>12 SECRETARY TAGLAIRINO: Oh, I didn't give</p> <p>13 you the sheet? Then I will -- in the interim I'll</p> <p>14 run upstairs and get you the sheet.</p> <p>15 ACTING CHAIRMAN ROSENBACH: Let's hand</p> <p>16 this down to Lori so it's part of the formal</p> <p>17 record.</p> <p>18 SECRETARY TAGLAIRINO: Yes. I'll be</p> <p>19 right back.</p> <p>20 MR. HALL: And we can note that there's</p> <p>21 six -- assuming that's okay, there's six members</p> <p>22 out of seven.</p> <p>23 ACTING CHAIRMAN ROSENBACH: Tonight.</p> <p>24 MR. HALL: Tonight.</p> <p>25 MR. SHEEHAN: Did you say, Mr. Hall,</p> |

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| <p style="text-align: right;">Page 6</p> <p>1 that there were only six members available to 2 vote?</p> <p>3 MR. HALL: Tonight.</p> <p>4 MR. SHEEHAN: Tonight. Mr. Kearns will 5 be eligible next month if he reads the transcript.</p> <p>6 ACTING CHAIRMAN ROSENBACH: And same for 7 Mr. Maselli.</p> <p>8 MR. SHEEHAN: And Mr. Maselli. Fine.</p> <p>9 MR. HALL: Mr. Muratore is not on the 10 Board now, but he stepped down before anyone --</p> <p>11 MR. SHEEHAN: Right. Right.</p> <p>12 ACTING CHAIRMAN ROSENBACH: Okay. Why 13 don't you set up. We are right on schedule. Mike 14 predicted 8:45.</p> <p>15 CHAIRMAN FLANAGAN: It's 8:46. Thank 16 you very much.</p> <p>17 ACTING CHAIRMAN ROSENBACH: That was 18 great.</p> <p>19 CHAIRMAN FLANAGAN: Yeah, I divvied it 20 up actually between the two applications. That's 21 how we got there.</p> <p>22 ACTING CHAIRMAN ROSENBACH: So the 23 last -- at least according to my notes, is that 24 Mr. Phillips had finished his testimony and that 25 people had questioned him. I think that's the</p> | <p style="text-align: right;">Page 8</p> <p>1 I can see -- and I say this sincerely.</p> <p>2 I can see it's an effort of -- I mean, it's a real 3 effort and an effort of love, in a sense. It's 4 been lavishly done. I must also note that some of 5 it is planning testimony, some of it is 6 ordinances, some of it is master plan.</p> <p>7 It's your application and if you really 8 want to, you can have Mr. Geyer go through this 9 page by page by page. It will be very 10 time-consuming and it will probably not add a lot. 11 Okay? But, so with that note to you, I say please 12 proceed as you see fit.</p> <p>13 MR. SHEEHAN: All right. As you 14 indicated, it is Mr. Geyer's work, a work of 15 sincerity, a work of commitment and intensity in 16 terms of his involvement in the application.</p> <p>17 The book preceded the mailers and the 18 reason that the book is offered is as a background 19 and a foundation for the mailers, which were 20 mailed out. And Mr. Geyer will give the 21 reflection on the book and the summary of the 22 mailers and that will be the end of the 23 applicant's case.</p> <p>24 ACTING CHAIRMAN ROSENBACH: Very well.</p> <p>25 MR. SHEEHAN: I would just ask that some</p> |
| <p style="text-align: right;">Page 7</p> <p>1 last thing that happened.</p> <p>2 Oh, and Mr. Geyer had handed out his 3 loose-leaf notebook. I don't know what you might 4 call it.</p> <p>5 So what is next in line for us?</p> <p>6 MR. SHEEHAN: I would suggest, 7 Mr. Chairman, that the applicant open and conclude 8 with the testimony of Mr. Geyer in response to the 9 request of Mr. Newlin at, I believe, the end of 10 the November meeting with regard to the "cards" 11 that had been mailed.</p> <p>12 BOARD MEMBER NEWLIN: Cards?</p> <p>13 MR. SHEEHAN: Yes.</p> <p>14 BOARD MEMBER NEWLIN: I didn't ask about 15 cards.</p> <p>16 CHAIRMAN FLANAGAN: I think I may have 17 asked you about that, but understood. I had asked 18 you about postcards, survey cards.</p> <p>19 MR. SHEEHAN: Yes. And Mr. Geyer is 20 prepared to --</p> <p>21 ACTING CHAIRMAN ROSENBACH: And, 22 Mr. Sheehan, I do have one comment, which is I 23 assume that since it was handed out last month, 24 that all the Board members have had the 25 opportunity to look at the loose-leaf binder.</p> | <p style="text-align: right;">Page 9</p> <p>1 focus -- or not focus. Some direction for the 2 remaining aspects of the application be given so 3 that we understand exactly where we're going.</p> <p>4 It was my understanding that tonight the 5 applicant would conclude, the objectors would have 6 the opportunity of putting on their case, and that 7 there would be an opportunity at a subsequent 8 meeting for the administrative reviews of the 9 Board and summation and vote.</p> <p>10 ACTING CHAIRMAN ROSENBACH: That's fine.</p> <p>11 I had -- first of all, I didn't know until 12 tonight, we didn't know until tonight, that we 13 would only have six members. Didn't know. All 14 right? If we had seven voting members, I would 15 leave it again to you as to how quickly we could 16 push this and start deliberations tonight. And, 17 who knows, even reach a vote.</p> <p>18 What I hear you saying is you don't want 19 that to happen because we have only six members. 20 We can't really start any discussion with the six. 21 It's pointless. So in that case what's going to 22 happen tonight is you're going to present your 23 application. There is an opposition case, 24 whatever it may be. I believe there's at least 25 one planner. We have our own planner who may want</p> |

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| <p style="text-align: right;">Page 10</p> <p>1 to sound off on this application.</p> <p>2 And then, if there is still time at that</p> <p>3 point and if you decide that you want to present</p> <p>4 any rebuttal testimony of any sort, you are</p> <p>5 welcome to do so.</p> <p>6 On the other hand, if we reach the</p> <p>7 conclusion of all commentary, all testimony, we</p> <p>8 will close the record subject to any summations</p> <p>9 that counsel will want to make.</p> <p>10 I had suggested many, many months ago --</p> <p>11 and I'm going to repeat the suggestion -- that the</p> <p>12 law on use variances, particularly Medici and</p> <p>13 Price, is complicated enough that it would be very</p> <p>14 helpful if you from your perspective, if the</p> <p>15 opposition from its perspective, if Mr. Hall from</p> <p>16 his perspective, tells us what we think the law</p> <p>17 should be. I could do it myself, but I would</p> <p>18 prefer not to take that responsibility, quite</p> <p>19 frankly. Okay?</p> <p>20 So I think that's where we are and where</p> <p>21 we're going. Let's start doing it.</p> <p>22 MR. VISCONI: Mr. Chairman, if I may,</p> <p>23 while he's getting his papers, to the extent any</p> <p>24 testimony in the binder that Mr. Geyer may attempt</p> <p>25 to give regarding other people's opinions on the</p> | <p style="text-align: right;">Page 12</p> <p>1 comments made by Mr. Newlin at the end of the --</p> <p>2 I'm sorry, Mr. Flanagan at the end of the November</p> <p>3 meeting in which he asked a question with regard</p> <p>4 to the cards that were mailed out?</p> <p>5 A. Yes.</p> <p>6 Q. And do you recall at the end of the last</p> <p>7 hearing in December that a booklet was distributed</p> <p>8 which you prepared?</p> <p>9 A. Correct.</p> <p>10 Q. All right. Can you indicate in your own</p> <p>11 words for the Board how the book and the cards</p> <p>12 interrelate? And then give the Board, members of</p> <p>13 the interested public, your account of how the</p> <p>14 cards were developed, how they were mailed, how</p> <p>15 the returns came in, and what the findings of</p> <p>16 those cards were.</p> <p>17 Now, before you do that, I want to ask</p> <p>18 you whether or not you have placed all of the</p> <p>19 cards that were returned with the secretary of the</p> <p>20 Board earlier this week.</p> <p>21 A. It was a couple weeks ago, but the</p> <p>22 greater majority. A few more came in after the</p> <p>23 fact, but it was negligible. We took in ten,</p> <p>24 twelve cards, but the brunt of them I delivered.</p> <p>25 BOARD SECRETARY: They are here.</p> |
| <p style="text-align: right;">Page 11</p> <p>1 procedure, I don't want to jump up and object</p> <p>2 because this isn't a court, but I just want to</p> <p>3 note that unless the witness is physically here to</p> <p>4 testify, the Board can't consider it. So I'll</p> <p>5 leave that standing objection on the record.</p> <p>6 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>7 I note that objection. Since the Board doesn't</p> <p>8 really know what's about to be happening next,</p> <p>9 let's see what actually happens.</p> <p>10 MR. VISCONI: Understand.</p> <p>11 MR. SHEEHAN: Okay. I would ask that</p> <p>12 the testimony of Charles Geyer, previously sworn</p> <p>13 in this matter, be continued at this time.</p> <p>14 ACTING CHAIRMAN ROSENBACH: Sure.</p> <p>15 MR. SHEEHAN: Mr. Geyer.</p> <p>16 THE WITNESS: I assume I've been sworn</p> <p>17 in, right?</p> <p>18 MR. SHEEHAN: Yes.</p> <p>19 MR. HALL: Yes, you have.</p> <p>20 CHARLES GEYER, having been</p> <p>21 previously duly sworn, remained under oath and</p> <p>22 testified as follows:</p> <p>23 DIRECT-EXAMINATION</p> <p>24 BY MR. SHEEHAN:</p> <p>25 Q. All right. Mr. Geyer, do you recall the</p> | <p style="text-align: right;">Page 13</p> <p>1 MR. SHEEHAN: Now, I ask the Chair</p> <p>2 whether or not the secretary has those cards with</p> <p>3 her this evening.</p> <p>4 ACTING CHAIRMAN ROSENBACH: She does.</p> <p>5 If you would like them, why don't you just get up.</p> <p>6 And the secretary has them in the yellow bag if</p> <p>7 you would like to take them.</p> <p>8 MR. SHEEHAN: Do you need the cards</p> <p>9 themselves?</p> <p>10 ACTING CHAIRMAN ROSENBACH: No.</p> <p>11 MR. HALL: But as we speak, they're not</p> <p>12 in the record, into evidence.</p> <p>13 ACTING CHAIRMAN ROSENBACH: Right.</p> <p>14 MR. HALL: So why don't you do that.</p> <p>15 ACTING CHAIRMAN ROSENBACH: Right. So</p> <p>16 Mr. Geyer should take them. I understand they've</p> <p>17 been in our custody. Let's give them back to</p> <p>18 Mr. Geyer so Mr. Geyer can open up the back and</p> <p>19 tell us what they are. I don't think we have to</p> <p>20 do one by one by one as long as Mr. Geyer says</p> <p>21 that -- he gives us a few examples and then says</p> <p>22 all the rest are like that.</p> <p>23 BY MR. SHEEHAN:</p> <p>24 Q. All right. Mr. Geyer, I'm going to show</p> <p>25 you the red bag. Is this the bag that you</p> |

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| <p style="text-align: right;">Page 14</p> <p>1 delivered the cards in?</p> <p>2 A. That's true, yes.</p> <p>3 Q. All right. And I will open the bag,</p> <p>4 expose a couple of the cards, and ask you to begin</p> <p>5 by identifying the interrelationship between the</p> <p>6 book and the cards.</p> <p>7 ACTING CHAIRMAN ROSENBACH: And the</p> <p>8 book -- Gary, do we have to mark the book? I</p> <p>9 mean, we all have it.</p> <p>10 MR. HALL: If he wants to offer it. I</p> <p>11 mean, I don't -- I don't do it as fundamentally</p> <p>12 evidential. I do it more as a summation.</p> <p>13 ACTING CHAIRMAN ROSENBACH: Well, I</p> <p>14 think the point is that -- Mr. Geyer, am I correct</p> <p>15 in saying that the book was distributed to the</p> <p>16 people before the cards were? Is that what you're</p> <p>17 saying?</p> <p>18 THE WITNESS: The books were, yes.</p> <p>19 ACTING CHAIRMAN ROSENBACH: Yes. And</p> <p>20 every single person --</p> <p>21 THE WITNESS: I'm sorry, the books were</p> <p>22 delivered after I mailed the cards.</p> <p>23 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>24 Did every person for whom you have a card here</p> <p>25 also get the book?</p> | <p style="text-align: right;">Page 16</p> <p>1 that.</p> <p>2 MR. HALL: Let's see where we left off.</p> <p>3 MR. SHEEHAN: I don't think it was</p> <p>4 marked yet.</p> <p>5 ACTING CHAIRMAN ROSENBACH: No.</p> <p>6 MR. HALL: No, I was looking for the</p> <p>7 last one that was marked.</p> <p>8 ACTING CHAIRMAN ROSENBACH: I think it</p> <p>9 was from Mr. Alexander.</p> <p>10 MR. SHEEHAN: I think it's 17. This is</p> <p>11 18, I think.</p> <p>12 MR. HALL: Yes, I believe it would be</p> <p>13 A-18.</p> <p>14 SECRETARY TAGLAIRINO: Okay.</p> <p>15 MR. HALL: For identification at this</p> <p>16 point.</p> <p>17 (Whereupon, exhibit is received and</p> <p>18 marked A-18 for identification.)</p> <p>19 MR. SHEEHAN: May I see the book that</p> <p>20 was marked, please?</p> <p>21 MR. HALL: Sure. You want to make sure</p> <p>22 that's what we all got.</p> <p>23 MR. SHEEHAN: I want to make sure it's</p> <p>24 the book that Mr. Geyer testifies from.</p> <p>25 MR. HALL: And if you can identify that</p> |
| <p style="text-align: right;">Page 15</p> <p>1 THE WITNESS: No. No.</p> <p>2 ACTING CHAIRMAN ROSENBACH: Ah.</p> <p>3 THE WITNESS: The only ones who got</p> <p>4 books were the Board and all the neighbors on Post</p> <p>5 House Road.</p> <p>6 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>7 All right. Thank you for clarifying that.</p> <p>8 MR. VISCONI: Just procedurally, I think</p> <p>9 we should mark the book. If this does gets</p> <p>10 challenged, whether it's approved or denied, it</p> <p>11 should be part of the record.</p> <p>12 MR. HALL: We have to mark it for</p> <p>13 identification.</p> <p>14 ACTING CHAIRMAN ROSENBACH: Right.</p> <p>15 Right. So --</p> <p>16 MR. SHEEHAN: All right.</p> <p>17 MR. HALL: Lori, do you have a copy of</p> <p>18 the book?</p> <p>19 SECRETARY TAGLAIRINO: I have the -- the</p> <p>20 last copy I had was --</p> <p>21 MR. HALL: A print of the book.</p> <p>22 SECRETARY TAGLAIRINO: Do you need them?</p> <p>23 MR. HALL: No. The one for the record,</p> <p>24 --</p> <p>25 ACTING CHAIRMAN ROSENBACH: Let's mark</p> | <p style="text-align: right;">Page 17</p> <p>1 and confirm that, that would be great.</p> <p>2 MR. SHEEHAN: Right.</p> <p>3 BY MR. SHEEHAN:</p> <p>4 Q. Mr. Geyer, I'm going to show you what</p> <p>5 has been marked for identification as A-18, a</p> <p>6 booklet under the cover "S.Y.A.S. Application for</p> <p>7 Five Luxurious Townhouses for the Benefit of</p> <p>8 Harding Senior Citizens." I'm going to ask you</p> <p>9 whether or not you can identify this book.</p> <p>10 A. Yes. This is a book that was put</p> <p>11 together by myself and my four grandchildren.</p> <p>12 Yes.</p> <p>13 Q. And what does the book purport to</p> <p>14 disclose?</p> <p>15 A. Well, let me talk about the cards first,</p> <p>16 if I may, so you'll know what's in here. There</p> <p>17 was 800 mailed out, and I think probably some of</p> <p>18 you people got them as well. There was 423</p> <p>19 returns as of 12/8. There was 340 yeses, 36 nos</p> <p>20 and 47 maybes. These are the cards. I separated</p> <p>21 the yeses, the nos and the maybes.</p> <p>22 A letter was sent out with a return card</p> <p>23 with a stamp on it and these are the returns,</p> <p>24 here, every one of them. They're all the same,</p> <p>25 just marked differently.</p> |

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| <p style="text-align: right;">Page 18</p> <p>1 ACTING CHAIRMAN ROSENBACH: And what is 2 on the cards? 3 THE WITNESS: That's in the book as 4 well. It says "Do you believe that you or someone 5 you know in town would explore an interest in a 6 downsize to a modern luxury townhouse?" This was 7 done for the benefit of me trying to prove the 8 need for senior citizens in this township. 9 BOARD MEMBER FLANAGAN: Mr. Geyer, I'm 10 sorry, can you go through it one more time, a 11 little more slowly? 800 total were sent out, 423 12 were returned to you, 340 were yes? 13 THE WITNESS: Correct. 14 CHAIRMAN FLANAGAN: How many nos do you 15 have? 16 THE WITNESS: Thirty-six. 17 CHAIRMAN FLANAGAN: Thirty-six. 18 THE WITNESS: And 47 maybe. 19 CHAIRMAN FLANAGAN: So 47 maybe. Okay. 20 Thank you. 21 MR. SHEEHAN: All right. Now, 22 Mr. Chairman, let's do a little bit of 23 housekeeping here. 24 BY MR. SHEEHAN: 25 Q. I'm going to show you, Mr. Geyer, the</p> | <p style="text-align: right;">Page 20</p> <p>1 Q. All right. 2 MR. SHEEHAN: I would offer them for the 3 Board's inspection. 4 ACTING CHAIRMAN ROSENBACH: Sure. Do 5 you want to see them? 6 MR. VISCONI: I -- I'm fine. 7 CHAIRMAN FLANAGAN: Can I ask one more 8 question? So in the booklet it says there's 9 800-plus cards? 10 THE WITNESS: Yeah. There's, like, 810 11 or something like that. 12 CHAIRMAN FLANAGAN: Okay. So it's not 13 like -- 14 THE WITNESS: No. 15 CHAIRMAN FLANAGAN: So it doesn't reach 16 900? 17 THE WITNESS: No. 18 CHAIRMAN FLANAGAN: Doesn't even reach 19 850. So maybe 810. 20 THE WITNESS: Correct. 21 MR. HALL: And the page -- I guess it's 22 30 is the number. Between 30 and 31 there's a 23 list with the numbers? 24 THE WITNESS: The book, page 30 in the 25 book?</p> |
| <p style="text-align: right;">Page 19</p> <p>1 three packets of cards that you indicated as being 2 divided into yes, no, and maybe. 3 A. Correct. 4 Q. Is that correct? 5 A. Yes. 6 Q. All right. I'm going to ask you if you 7 would examine each one of the packets and indicate 8 whether or not those are the cards that you sent 9 out. And do they have the legend that you just 10 described on the back of the card where the 11 indication of favorable, maybe -- yes, no or 12 maybe is -- 13 A. It's only printed on one side. The 14 other side is blank. 15 Q. All right. 16 A. These are maybes, these are yeses. 17 These are mixed up. There's a few nos here, but 18 most of them are all yeses. 19 Q. I'm sorry. 20 A. These are the cards. These are the 21 cards I received. 22 Q. These are the maybes? 23 A. Yes. 24 Q. Are these the nos? 25 A. There's the nos.</p> | <p style="text-align: right;">Page 21</p> <p>1 MR. HALL: Yes. They seemed the match 2 the numbers you gave us. 3 THE WITNESS: Page 30 is the pictures of 4 the -- 5 MR. HALL: No, after 30. 6 THE WITNESS: Okay. Yeah. You have -- 7 in your book you should have the initial and then 8 there was revised. The initial was on 11/8. The 9 revised results are on 12/8, a month later. 10 MR. HALL: Right. You said a few more 11 dribbled in? 12 THE WITNESS: A couple, yeah. 13 MR. HALL: And you're representing that 14 the stacks there match these numbers? 15 THE WITNESS: These will match what's in 16 the book, correct. 17 MR. HALL: Okay. 18 BY MR. SHEEHAN: 19 Q. And, once again, summarize the cards for 20 the Board, please. 21 A. Well, the chart. 22 Q. Yeah, the chart. 23 A. The chart and the book. And it shows 24 the difference between yes, no and maybe. 25 Q. And what are those numbers?</p> |

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| <p style="text-align: right;">Page 22</p> <p>1 A. I'll repeat them for you: 800 mailed 2 out, 423 returned, 340 yeses, 36 nos, 47 maybes. 3 MR. SHEEHAN: All right. Mr. Chairman, 4 I'm going to pass up the cards for inspection with 5 the page exposed and what has been marked for 6 identification A-18. 7 ACTING CHAIRMAN ROSENBACH: You don't 8 have to. We should all should have that -- 9 MR. SHEEHAN: All right. 10 ACTING CHAIRMAN ROSENBACH: So if people 11 aren't aware, there's no -- there's no -- it's 12 between 30 and 31. There's no number on it. It's 13 between 30 and 31, is the chart. Okay. 14 CHAIRMAN FLANAGAN: Are you going to 15 continue on with the cards? Is there more 16 discussion of the cards? 17 BY MR. SHEEHAN: 18 Q. Mr. Geyer, would you like to offer a 19 reflection on the cards that have been presented 20 and the book that has been marked A-18 for 21 identification? 22 A. Well, between the search and the 23 demographics in the town, the state, the due 24 diligence that was done that we put into this 25 book, it's overwhelming in favor of senior</p> | <p style="text-align: right;">Page 24</p> <p>1 Mr. Geyer? 2 A. Thirty-six years. And to answer this 3 attorney's question about if there's any opinions, 4 there's no opinions in the book. It's all 5 factual. You know, words are only opinions, but 6 facts are truth and it's factual. There's a lot 7 of homework that went into this book. 8 CHAIRMAN FLANAGAN: Mr. Geyer, regarding 9 the cards, to whom were they sent? So 810-ish 10 were sent out. 11 THE WITNESS: What I did is I went down 12 to the post office in the middle of town and I 13 gave the post office general, boxes and boxes of 14 them. There's 800 or 850 boxes down there. 15 CHAIRMAN FLANAGAN: Post office boxes? 16 THE WITNESS: Excuse me? 17 CHAIRMAN FLANAGAN: You said there was 18 850 boxes. 19 THE WITNESS: Yeah, thereabouts. 20 CHAIRMAN FLANAGAN: Post office boxes? 21 THE WITNESS: Post office boxes. 22 CHAIRMAN FLANAGAN: Okay. 23 THE WITNESS: And she proceeded to fill 24 them each with an envelope which was marked 25 "Occupant." Inside the envelope was this card</p> |
| <p style="text-align: right;">Page 23</p> <p>1 housing. There's 21 percent in this town right 2 now that are seniors 65 -- not 55, 65 -- years or 3 older, which means every year's in addition to it. 4 There's not one thing in this town that's been 5 built to help these people for transitional 6 housing. There's 65, or thereabouts, homes for 7 sale right now, single-family homes, in New 8 Vernon. So to build another single-family home, 9 that's a fool's errand. 10 But the seniors aren't being taken care 11 of. Where do they go? People that have been here 12 40 and 50 years, which is the center of your town. 13 These are people that helped the township all 14 these years. They're done. Once they reach that 15 age and they can't function in their house as it 16 is, they have no place to go but out of town. 17 There's nothing. 18 Even the master plan speaks of senior 19 citizens. It speaks of senior citizen housing. 20 Of course it says they want assisted living. 21 That's not what I'm proposing. I'm proposing five 22 townhouses, which wouldn't even scratch the 23 surface, but it's a start. 24 Q. Can you remind the Board how long you 25 have been a resident of Harding Township,</p> | <p style="text-align: right;">Page 25</p> <p>1 with its return stamp. You see a lot of them have 2 a cross. As they came back in, she just crossed 3 them out. 4 CHAIRMAN FLANAGAN: Okay. 5 THE WITNESS: And she put -- you could 6 go down there and check it out. She'll testify to 7 everything that went down there. 8 CHAIRMAN FLANAGAN: So your testimony is 9 these were mailed to 800-some-odd -- 10 THE WITNESS: To everybody -- 11 CHAIRMAN FLANAGAN: -- post office box 12 addresses in New Vernon, New Jersey? 13 THE WITNESS: Correct. 14 CHAIRMAN FLANAGAN: Thank you. 15 BY MR. SHEEHAN: 16 Q. When you say she struck them out, you 17 mean she canceled the stamp? 18 A. Well, in other words, there was no way 19 of me getting into the boxes. I just handed her 20 boxes of these cards, which she proceeded to put 21 in from behind, each one of them. 22 CHAIRMAN FLANAGAN: Okay. 23 ACTING CHAIRMAN ROSENBACH: Do you have 24 other direct testimony for Mr. Geyer? 25 MR. SHEEHAN: I do not, no.</p> |

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| <p style="text-align: right;">Page 26</p> <p>1 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>2 Well, Mr. Geyer, you just mentioned some</p> <p>3 demographic data. And it appears on page 24 of</p> <p>4 your notebook. Now, this is the type of thing</p> <p>5 that -- this does concern me, which is the source</p> <p>6 of this data. Where is this data from?</p> <p>7 THE WITNESS: Wham am I looking for?</p> <p>8 ACTING CHAIRMAN ROSENBACH: It's on page</p> <p>9 24.</p> <p>10 THE WITNESS: Twenty-four, you said?</p> <p>11 ACTING CHAIRMAN ROSENBACH: Yes.</p> <p>12 THE WITNESS: Let's see. Township.</p> <p>13 Also the state.</p> <p>14 CHAIRMAN FLANAGAN: In other words, this</p> <p>15 is --</p> <p>16 THE WITNESS: You'll find --</p> <p>17 CHAIRMAN FLANAGAN: Go ahead.</p> <p>18 THE WITNESS: This one, I believe, was</p> <p>19 taken out of the master plan.</p> <p>20 CHAIRMAN FLANAGAN: Which one?</p> <p>21 MS. COFONE: Mr. Rosenbach, my read of</p> <p>22 it is that he indicates it's from the census.</p> <p>23 THE WITNESS: Yes.</p> <p>24 MS. COFONE: In the document that you're</p> <p>25 referring to, it reads "According to the 2010</p> | <p style="text-align: right;">Page 28</p> <p>1 for the record that the data appears to have come</p> <p>2 from the U.S. Census data.</p> <p>3 ACTING CHAIRMAN ROSENBACH: Thank you.</p> <p>4 Now, Mr. Sheehan, aside from having</p> <p>5 marked this notebook for identification, is it</p> <p>6 your intent to move it into evidence and have it</p> <p>7 part of the record that you can rely on page by</p> <p>8 page by page for its contents.</p> <p>9 THE WITNESS: It's all factual.</p> <p>10 MR. SHEEHAN: Well, it has been prepared</p> <p>11 by a witness who has been sworn, who has given</p> <p>12 testimony under oath. And I think that it is</p> <p>13 appropriate and probative and it can be admitted</p> <p>14 into evidence under the relaxed rules that apply</p> <p>15 in connection with the hearings before</p> <p>16 administrative bodies.</p> <p>17 ACTING CHAIRMAN ROSENBACH: Okay.</p> <p>18 MR. HALL: But there's no testimony that</p> <p>19 this is the type of thing he's competent to</p> <p>20 prepare.</p> <p>21 ACTING CHAIRMAN ROSENBACH: But you know</p> <p>22 what? I would like to cut through this, if I may.</p> <p>23 MR. HALL: Yeah.</p> <p>24 ACTING CHAIRMAN ROSENBACH: I want your</p> <p>25 input on this, Gary, --</p> |
| <p style="text-align: right;">Page 27</p> <p>1 census data, the percentage of young children</p> <p>2 under five years of age was only..." and then it</p> <p>3 goes on to further read "this census data reflects</p> <p>4 an aging population among Harding residents."</p> <p>5 So I think it appears -- if what he's</p> <p>6 putting in here is accurate, it appears he got it</p> <p>7 from the U.S. Census data, which would be a</p> <p>8 reasonable source for data.</p> <p>9 ACTING CHAIRMAN ROSENBACH: Yes. I did</p> <p>10 notice that it says it came from the 2010 census,</p> <p>11 but --</p> <p>12 MR. VISCONI: That's a paragraph in the</p> <p>13 master plan. It's in the housing element.</p> <p>14 ACTING CHAIRMAN ROSENBACH: Okay. Good.</p> <p>15 Thank you.</p> <p>16 MR. HALL: There's a notation at the</p> <p>17 bottom of the page which I interpret to be the</p> <p>18 source.</p> <p>19 ACTING CHAIRMAN ROSENBACH: Okay.</p> <p>20 MS. COFONE: The source of the data,</p> <p>21 though. The master plan is just regurgitating it.</p> <p>22 The master plan is not the source of the data.</p> <p>23 That data was not compiled in conjunction with the</p> <p>24 preparation of that master plan. That master plan</p> <p>25 relied on U.S. Census data. So it should be clear</p> | <p style="text-align: right;">Page 29</p> <p>1 MR. HALL: Okay.</p> <p>2 ACTING CHAIRMAN ROSENBACH: -- but I</p> <p>3 would like to do the classic dodge, quite frankly,</p> <p>4 of saying on the one hand we will accept it for</p> <p>5 what it's worth, but on the other hand we will not</p> <p>6 accept it in terms of presenting expert-type</p> <p>7 findings or expert-type testimony.</p> <p>8 So if -- so I don't care if there's a</p> <p>9 quotation here from something. That doesn't</p> <p>10 trouble me. But to the extent that there may be</p> <p>11 calculations, projections, analyses from one page</p> <p>12 to the next, that would be typically presented by</p> <p>13 a planner or an engineer or someone else with</p> <p>14 professional credentials.</p> <p>15 Since Mr. Geyer has not shown himself to</p> <p>16 have those types of credentials, I don't want to</p> <p>17 go through this page by page; it's too</p> <p>18 time-consuming. But that is how I see it. That,</p> <p>19 again, for what it's worth, because I can -- and</p> <p>20 we understand what it was used for and what its</p> <p>21 purpose is, we'll take it. But when it comes time</p> <p>22 to decide this application, don't expect the Board</p> <p>23 to give any weight to, again, expert type of --</p> <p>24 THE WITNESS: Testimony.</p> <p>25 ACTING CHAIRMAN ROSENBACH: -- testimony</p> |

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| <p style="text-align: right;">Page 30</p> <p>1 or analyses.</p> <p>2 THE WITNESS: That's a fair -- That's a</p> <p>3 fair analogy. However, you have to consider that</p> <p>4 the master plan that I glean, that comes in this</p> <p>5 book. It's right out of the master plan. I</p> <p>6 didn't make that up.</p> <p>7 MR. HALL: Then give us the master plan.</p> <p>8 ACTING CHAIRMAN ROSENBACH: Well, we</p> <p>9 have access to the master plan.</p> <p>10 THE WITNESS: Excuse me?</p> <p>11 MR. SHEEHAN: No, wait, wait.</p> <p>12 THE WITNESS: No, No, I'm saying the</p> <p>13 pages here that I talk about, a good percent of</p> <p>14 them are master plan. Okay?</p> <p>15 MR. HALL: I understand that.</p> <p>16 ACTING CHAIRMAN ROSENBACH: And I assume</p> <p>17 that Mr. Sheehan will be using that type of data</p> <p>18 in his summation.</p> <p>19 MR. SHEEHAN: Mr. Geyer has prepared the</p> <p>20 book. He is a fact witness. The book can be</p> <p>21 received for its value in the mind's eye of the</p> <p>22 Board members. For the planning testimony and the</p> <p>23 references in the planning -- in the book to the</p> <p>24 master plan and reexamination document, we rely on</p> <p>25 the testimony of the expert, Paul Phillips, who</p> | <p style="text-align: right;">Page 32</p> <p>1 do with them, but Mr. Geyer has testified as to</p> <p>2 what they are. We accept that testimony. They</p> <p>3 are authentic and we accept them.</p> <p>4 (Whereupon, exhibit is received and</p> <p>5 marked A-19 in evidence.)</p> <p>6 THE WITNESS: I can also say that the</p> <p>7 book is a product of a request by the Board. Go</p> <p>8 back to June, June 15th of last year, when</p> <p>9 Mr. Sheehan tried to introduce the fact of the</p> <p>10 master plan and I was told -- and it's in page 47</p> <p>11 of the June 15th transcript -- that you have to</p> <p>12 bring witnesses in -- that was Mr. Hall -- and</p> <p>13 then Board Member Newlin said "or special</p> <p>14 documents," or I wouldn't bring it up.</p> <p>15 Now, these are pretty special documents</p> <p>16 as I see. I don't know what else --</p> <p>17 MR. HALL: That's what Mr. Phillips did.</p> <p>18 He testified about these things.</p> <p>19 ACTING CHAIRMAN ROSENBACH: Okay. I</p> <p>20 think that we can move on. I think that I have</p> <p>21 stated how the record is going to accept this.</p> <p>22 Mr. Sheehan, do you have anything</p> <p>23 further for Mr. Geyer?</p> <p>24 MR. SHEEHAN: No.</p> <p>25 Do you want to put those cards back in</p> |
| <p style="text-align: right;">Page 31</p> <p>1 has testified fully and completely on the master</p> <p>2 plan and its relationship to this application.</p> <p>3 ACTING CHAIRMAN ROSENBACH: That's</p> <p>4 correct. So that is what I would like to do.</p> <p>5 Gary, is there anything wrong with what</p> <p>6 I'm doing?</p> <p>7 MR. HALL: No, no. I'm just --</p> <p>8 ACTING CHAIRMAN ROSENBACH: Okay.</p> <p>9 MR. HALL: We're splitting hairs in a</p> <p>10 way, but at the same time to the extent you're</p> <p>11 quoting the master plan, give us a copy of the</p> <p>12 master plan.</p> <p>13 ACTING CHAIRMAN ROSENBACH: Well, again,</p> <p>14 we have access to that.</p> <p>15 MR. HALL: We do. We do.</p> <p>16 ACTING CHAIRMAN ROSENBACH: But there</p> <p>17 might be other things that we don't have access</p> <p>18 to. But, in any event --</p> <p>19 MR. SHEEHAN: You don't have access to</p> <p>20 the cards, and I would ask that they be moved as</p> <p>21 A-19.</p> <p>22 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>23 They are collectively A-19. We will accept those</p> <p>24 cards as evidence in this case. Again, for what</p> <p>25 they're worth. It's not clear what the Board will</p> | <p style="text-align: right;">Page 33</p> <p>1 the bag? Any witnesses -- any questions from any</p> <p>2 members of the Board for Mr. Geyer?</p> <p>3 ACTING CHAIRMAN ROSENBACH: Apparently,</p> <p>4 we do.</p> <p>5 BOARD MEMBER CHIPPERSON: I have a</p> <p>6 question. On the direct part mailing page -- and</p> <p>7 I know we're not bringing this into evidence or</p> <p>8 whatever, but it says "unbelievable and</p> <p>9 overwhelming answer of yes as to the inquiry and</p> <p>10 acceptance of building five townhouses in Harding</p> <p>11 Township." But I don't see on the card where it</p> <p>12 tells people that these townhouses are going to be</p> <p>13 in Harding Township.</p> <p>14 THE WITNESS: You'll find --</p> <p>15 BOARD MEMBER CHIPPERSON: If I got</p> <p>16 this --</p> <p>17 THE WITNESS: I'm sorry?</p> <p>18 BOARD MEMBER CHIPPERSON: If I got this,</p> <p>19 it says am I interested downsizing?</p> <p>20 THE WITNESS: Yes, but --</p> <p>21 BOARD MEMBER CHIPPERSON: It doesn't</p> <p>22 say --</p> <p>23 THE WITNESS: -- these are residences.</p> <p>24 And you'll find a lot of the cards where there's</p> <p>25 handwritten notes coming back to me asking for</p> |

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| <p style="text-align: right;">Page 34</p> <p>1 brochures, for timing, for value of the homes.</p> <p>2 BOARD MEMBER CHIPPERSON: But how</p> <p>3 would -- are you -- are you submitting these cards</p> <p>4 to us to say that these people --</p> <p>5 THE WITNESS: Well, they weren't mailed</p> <p>6 to anybody but residents of New Vernon.</p> <p>7 BOARD MEMBER CHIPPERSON: But how do you</p> <p>8 know that? Are you trying to say that this shows</p> <p>9 that people want these homes in our town? Because</p> <p>10 I don't see that on the card, is what I'm trying</p> <p>11 to say. And we even have one here where he said</p> <p>12 or she said "Where?" "Where is this located?"</p> <p>13 THE WITNESS: Well, it's a natural</p> <p>14 consideration. They have no place to go. They'd</p> <p>15 either have to move out of town or stay in town.</p> <p>16 BOARD MEMBER CHIPPERSON: Well, they</p> <p>17 could look in Morristown.</p> <p>18 THE WITNESS: I didn't specifically say</p> <p>19 I'm going to build on 202 in the township.</p> <p>20 BOARD MEMBER CHIPPERSON: It might</p> <p>21 have --</p> <p>22 ACTING CHAIRMAN ROSENBACH: Could I? On</p> <p>23 page 29, where you have a sample card --</p> <p>24 THE WITNESS: Right.</p> <p>25 ACTING CHAIRMAN ROSENBACH: -- on the</p> | <p style="text-align: right;">Page 36</p> <p>1 about the fact that they were going into our town.</p> <p>2 Okay. That's it.</p> <p>3 ACTING CHAIRMAN ROSENBACH: That's a</p> <p>4 fair evaluation that you might be able to make.</p> <p>5 MS. COFONE: Mr. Rosenbach, I just had a</p> <p>6 question as to who the mailing went to. It went</p> <p>7 to -- you're certain that they're Harding</p> <p>8 residents or people who maintain a P.O. box?</p> <p>9 THE WITNESS: Well, I couldn't tell you.</p> <p>10 It may be somebody else.</p> <p>11 MS. COFONE: So you don't know. So</p> <p>12 then -- I just want the record to be clear.</p> <p>13 You're not even sure that all of them went to</p> <p>14 Harding residents. They went to maybe people who</p> <p>15 maintain a P.O. box here, but we're not certain.</p> <p>16 Is there a disconnect there?</p> <p>17 THE WITNESS: There would be no way of</p> <p>18 me telling that.</p> <p>19 ACTING CHAIRMAN ROSENBACH: I mean, the</p> <p>20 testimony is what it is, that --</p> <p>21 MS. COFONE: The testimony is that they</p> <p>22 were sent to people who maintain a P.O. box.</p> <p>23 THE WITNESS: Correct.</p> <p>24 ACTING CHAIRMAN ROSENBACH: At the New</p> <p>25 Vernon Post Office.</p> |
| <p style="text-align: right;">Page 35</p> <p>1 top of it, it says "Attention - Luxurious</p> <p>2 townhomes coming soon. Dear Harding Residents."</p> <p>3 And then it says --</p> <p>4 THE WITNESS: That's a letter that was</p> <p>5 sent with it.</p> <p>6 ACTING CHAIRMAN ROSENBACH: That was a</p> <p>7 letter that was sent with the card?</p> <p>8 THE WITNESS: Exactly right.</p> <p>9 ACTING CHAIRMAN ROSENBACH: With the</p> <p>10 card?</p> <p>11 THE WITNESS: Yes.</p> <p>12 ACTING CHAIRMAN ROSENBACH: And the</p> <p>13 first sentence says "We are conducting a consensus</p> <p>14 to evaluate a possible need in Harding Township."</p> <p>15 Maybe that's ambiguous, maybe not, but I think</p> <p>16 it's -- I think it more directly answers your</p> <p>17 question. I think so. Maybe not enough.</p> <p>18 THE WITNESS: There was a card in the</p> <p>19 letter --</p> <p>20 BOARD MEMBER CHIPPERSON: There could be</p> <p>21 a need to downsize to Morristown.</p> <p>22 ACTING CHAIRMAN ROSENBACH: There could</p> <p>23 be.</p> <p>24 BOARD MEMBER CHIPPERSON: So I just</p> <p>25 think the card could have been a little clearer</p> | <p style="text-align: right;">Page 37</p> <p>1 MS. COFONE: At the New Vernon Post</p> <p>2 Office. Whether they are one and the same as</p> <p>3 residents or not is unclear.</p> <p>4 ACTING CHAIRMAN ROSENBACH: That's</p> <p>5 right.</p> <p>6 MS. COFONE: Because we don't have</p> <p>7 enough --</p> <p>8 CHAIRMAN FLANAGAN: Well, I can tell you</p> <p>9 for a fact not all post office boxes in New Vernon</p> <p>10 belong to residents of New Vernon.</p> <p>11 MS. COFONE: That was my question.</p> <p>12 CHAIRMAN FLANAGAN: In fact, one of them</p> <p>13 is the Township of Harding, for example. The</p> <p>14 Township of Harding, the church --</p> <p>15 THE WITNESS: Given that fact, you still</p> <p>16 have an overwhelming number that are favorable.</p> <p>17 MS. COFONE: I mean, it's fine. I was</p> <p>18 just asking a question for clarification.</p> <p>19 ACTING CHAIRMAN ROSENBACH: I mean, for</p> <p>20 that matter, we also don't know -- and I'm not</p> <p>21 criticizing Mr. Geyer. I'm just saying the fact</p> <p>22 is that we don't know if a card went to some</p> <p>23 address and a ten-year-old kid just filled it out</p> <p>24 and stuck it in and returned it. We don't know.</p> <p>25 But, nonetheless, I'm not -- but you've</p> |

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| <p style="text-align: right;">Page 38</p> <p>1 given us the benefit of this effort that you went 2 through. Again -- 3 THE WITNESS: Beyond the cards, you have 4 to consider 21 percent -- that's more than 1 in 5 5 residents -- are 65 or older. Now, there's a lot 6 of garden clubs, bridle clubs, a lot of good 7 things in town for a lot of people. Tennis clubs, 8 you name it. Not one thing to take care of 9 senior. 10 And like I say in the book, everybody in 11 this room, if you're lucky, you're going to get 12 old some day and you'll be in this same position. 13 ACTING CHAIRMAN ROSENBACH: Okay. Are 14 there other questions from Board members for 15 Mr. Geyer? 16 BOARD MEMBER NEWLIN: Mr. Chairman, just 17 a quick comment. I just happen to have a 2010 18 census. And I don't say why I do, but I do. And 19 I did some spot checks on the numbers. Not all of 20 them, but many of them, actually they do proof out 21 to my independent calculations. So it is from the 22 2010 census. 23 ACTING CHAIRMAN ROSENBACH: Good. Thank 24 you. 25 Okay. Are there questions from any</p> | <p style="text-align: right;">Page 40</p> <p>1 myself probably. I don't remember exactly. 2 Q. Are any of you professional polling -- 3 polling professionals or have any experience in 4 that? 5 A. I'm going to answer that as long as you 6 answer one question I have for you. 7 MR. VISCONI: Do I have to be sworn in 8 for this? 9 ACTING CHAIRMAN ROSENBACH: Let's see. 10 I don't think so. 11 A. No. The only thing I want to do is 12 prove the need. And rather than knock on 13 everybody's door, this was the best way. Is it 14 professional? No. 15 Q. My question was simple: Are any of you 16 polling professionals -- 17 A. No. 18 Q. -- or do professional polling? 19 A. No. No. 20 Q. Did you consult with any kind of 21 professional -- 22 A. No. 23 Q. -- poller? 24 A. No. 25 Q. Did you have anyone other than you and</p> |
| <p style="text-align: right;">Page 39</p> <p>1 members of the public? 2 Mr. Visconi, come on up. 3 MR. VISCONI: Sure. Where would you 4 like me? 5 SECRETARY TAGLAIRINO: As close to the 6 microphone as you can, or even up towards that 7 corner is fine. 8 CROSS-EXAMINATION 9 BY MR. VISCONI: 10 Q. Mr. Geyer, as you know, my name is John 11 Visconi. I represent Post House Road, LLC, an 12 objector to your application. Good evening. I 13 have just a few questions for you. This should be 14 pretty quick. 15 Looking at the sample card that's in the 16 booklet, if you wouldn't mind turning to page 17 24 -- sorry, page 29 I guess it is. 18 Who drafted the question on the card? 19 A. Twenty-four you said? 20 Q. I'm sorry, 29. 21 A. Twenty-nine. Go right ahead. 22 Q. Who drafted the question on the card 23 that starts "Do you believe..."? 24 A. Who drafted the question? It was 25 either -- a concert of my four grandchildren and</p> | <p style="text-align: right;">Page 41</p> <p>1 your grandchildren review the language prior to 2 sending the cards out? 3 A. I don't know who reviewed it. We worked 4 as a team. 5 Q. That's all for that. 6 A. Is there a problem with the words? Tell 7 me. 8 Q. No, no, I'm not judging one way or the 9 other. 10 A. Okay. 11 Q. I was just asking whether you did or 12 not. 13 Okay. If you wouldn't mind turning to 14 page 2. It's entitled "S.Y.A.S. Solemn Oath to 15 Post House Road Residents." 16 A. Right. 17 Q. Are these -- are these promises you're 18 making to residents of Post House Road? 19 A. Correct. It says "Solemn Oath." 20 Q. Are these things that you'd be willing 21 to stipulate to as conditions of approval from 22 this Board? 23 A. Most definitely. 24 Q. The first one, "We will inundate the 25 entire" -- first of all, what is inundate --</p> |

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| <p style="text-align: right;">Page 42</p> <p>1 A. Inundate. 2 Q. What is "inundate the entire" -- 3 A. Inundate. In other words, forest. Load 4 it up with trees. 5 Q. Okay. But to conceal anyone's view 6 either from Post House Road or Route 202? 7 A. Correct. 8 Q. Is that -- 9 A. If you put mature pines in within the 10 first three or four years, it will reach the top 11 of the building. You won't see anything. 12 Q. So within four years you're saying this 13 construction will be not visible from Post House 14 Road -- 15 A. From either Post House or 202. 16 Q. At all? 17 A. No. No. 18 Q. And you'll -- 19 A. You will see pine trees. 20 Q. Are you willing to stipulate as a 21 condition of approval, if you were to be approved, 22 that the landscaping done would ensure that fact 23 in four years? 24 A. I'm willing to stipulate to anything I 25 put in writing.</p> | <p style="text-align: right;">Page 44</p> <p>1 ahead then. 2 THE WITNESS: I disagree to that. Okay? 3 BY MR. VISCONI: 4 Q. Okay. 5 A. Now let me ask you a few things. You 6 stated at one time you wanted to know what the 7 trees would look like behind the office building, 8 is that correct? 9 Q. I don't recall whether I did or not. 10 A. I do. 11 Q. Okay. 12 A. Now, you're a real estate attorney, I 13 should assume, right? Are you not? 14 Q. To an extent. 15 A. Are you not? 16 Q. To an extent. 17 A. Are you or aren't you? 18 Q. Well, I do land use -- 19 A. You can't be halfway. 20 Q. Sure, I can. I'm a lawyer. I can be 21 anything I want. 22 ACTING CHAIRMAN ROSENBAACH: You know, 23 listen -- 24 MR. HALL: This is not the time for 25 dialogue or questioning the questioner.</p> |
| <p style="text-align: right;">Page 43</p> <p>1 Q. I'm just asking for you to do that as a 2 condition of approval. 3 ACTING CHAIRMAN ROSENBAACH: Mr. Visconi, 4 I don't fault you for asking this question, but I 5 have an issue with it, which is that these things 6 to some degree are going to be, if we reach that 7 far, site plan issues. 8 And so could I ask you -- and you could 9 say no. You could say no. But could I ask you to 10 just say, if we reach the site plan phase of this 11 project, is Mr. Geyer agreeing now that each one 12 of these will become a condition of the project? 13 Unless, of course, the Board wants something 14 different. 15 MR. VISCONI: I think -- my issue with 16 that is only this: This booklet, in part, I 17 believe was intended to cull fears amongst some of 18 the Post House Road residents about not only the 19 site plan approval, but also this portion. So it 20 is representing those things to the residents 21 possibly in an attempt to either get them not to 22 come here tonight or to not be so vociferous in 23 dissent. I think it's important that that be 24 maintained to this Board even at this stage. 25 ACTING CHAIRMAN ROSENBAACH: Okay. Go</p> | <p style="text-align: right;">Page 45</p> <p>1 ACTING CHAIRMAN ROSENBAACH: -- we've got 2 a lot of people sitting here, not least of which 3 are Board members. 4 THE WITNESS: Well, he shot a lot of 5 questions at me over the last year. 6 ACTING CHAIRMAN ROSENBAACH: I 7 understand. Come on, let's -- 8 MR. VISCONI: I'm not trying to -- 9 ACTING CHAIRMAN ROSENBAACH: Let's just 10 proceed. Just proceed with the questions. 11 MR. VISCONI: Again, I'm very nearly 12 done. 13 ACTING CHAIRMAN ROSENBAACH: No, no, no. 14 That's okay. You can do what you got to do. But 15 we'll put you on the stand a different day. 16 MR. VISCONI: I'm happy to. 17 ACTING CHAIRMAN ROSENBAACH: Not today. 18 BY MR. VISCONI: 19 Q. When you said the driveway has been 20 designed extra wide, do you know how wide exactly 21 it's going to be? 22 A. I don't, but the architect can answer 23 that. But I'm making it wide enough, as you can 24 read, that you can park cars on either side. 25 Because one gentleman who wanted it, his concern</p> |

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| <p style="text-align: right;">Page 46</p> <p>1 was if there's a party, are any cars going to be 2 on Post House Road? If you consider the length of 3 the driveway and the curvature to be wide enough 4 for cars on either side to park and still access 5 to get in and out, it will -- 6 Q. But, sir, so -- 7 A. Sorry? 8 Q. I'm sorry. So it is the intent to allow 9 residents to have either their cars or visitors' 10 cars park in the driveway up to Post House Road? 11 A. Yeah. 12 MR. VISCONI: I think that's all I have 13 on this document. I think that's sufficient. 14 ACTING CHAIRMAN ROSENBAACH: All right. 15 MR. VISCONI: You know what? I'm sorry, 16 Mr. Chairman. There was one thing. In the May 17 transcript, the very first meeting, you did 18 mention that you wanted the applicant to return 19 with specifics about design aspects. Now, I don't 20 know if the architect fulfilled that function at a 21 prior meeting, but is that testimony we anticipate 22 getting? 23 MR. SHEEHAN: We have had an abundance 24 of design testimony by the architect for 25 commercial projects, residential projects, roof</p> | <p style="text-align: right;">Page 48</p> <p>1 help. 2 THE WITNESS: It would help. 3 MR. COONEY: I'm 45 years old. Would I 4 be able to purchase one of these houses? 5 THE WITNESS: No. 6 MR. COONEY: I would not. 7 THE WITNESS: No, you have to be 55 8 years or older. 9 MR. COONEY: So there will be a 10 restriction on -- 11 THE WITNESS: You have to be 55 years or 12 older? 13 MR. COONEY: Fifty-five years old. 14 Okay. Thank you. 15 ACTING CHAIRMAN ROSENBAACH: Anyone else 16 have a question for Mr. Geyer? 17 Yes, please. You have to identify 18 yourself again. 19 MS. MOORE: Sure. My name is Cathy 20 Moore. I live on 19 Post House Road. 21 Mr. Geyer, you talked about the fact 22 that you guys and your children, no one is a 23 market research professional or polling 24 professional. 25 THE WITNESS: No.</p> |
| <p style="text-align: right;">Page 47</p> <p>1 lines, height, et cetera. 2 ACTING CHAIRMAN ROSENBAACH: I agree. 3 MR. VISCONI: Just clarifying. Thank 4 you very much. 5 ACTING CHAIRMAN ROSENBAACH: Thank you. 6 I actually have some follow-up from what 7 Mr. Visconi asked, but before I do, is there any 8 other member of the public who has questions for 9 Mr. Geyer? 10 Yes. Please come up and please identify 11 yourself. 12 MR. COONEY: Hello. My name is Matthew 13 Cooney. 14 So my question is, Mr. Geyer, your 15 premise is that there's a need for senior housing 16 in Harding? 17 ACTING CHAIRMAN ROSENBAACH: I'm sorry, 18 where do you live? 19 MR. COONEY: Post House Road, 55. 20 There's a need for senior housing in 21 Harding and these five townhouses would serve that 22 need, is that correct? 23 THE WITNESS: It wouldn't serve the full 24 need, no. 25 MR. COONEY: But it would -- it would</p> | <p style="text-align: right;">Page 49</p> <p>1 MS. MOORE: So I just want to just touch 2 on a couple of things and ask you a couple of 3 questions. 4 THE WITNESS: Okay. 5 MS. MOORE: I am a market research 6 professional. I have spent -- I have a degree in 7 business and I've spent 15 years doing market 8 research for major consumer products companies 9 like Nabisco, Colgate, Binney & Smith crayola. So 10 I can tell you the basics of what a survey needs 11 to do and what it shouldn't do to give you some 12 decent results. 13 THE WITNESS: Sure. 14 MS. MOORE: Okay? The first thing -- 15 there's three really important things. 16 MR. HALL: I think you're testifying 17 now, not asking questions. 18 MS. MOORE: Yeah, but I don't know how 19 else to do this. 20 MR. HALL: Well, when they're done, you 21 can present testimony. 22 MS. MOORE: You want me to -- is that 23 how you want to do it? 24 MR. HALL: It's up to the Chairman. 25 ACTING CHAIRMAN ROSENBAACH: There is a</p> |

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| <p style="text-align: right;">Page 50</p> <p>1 way that you can do it.</p> <p>2 MS. MOORE: I can ask him questions.</p> <p>3 ACTING CHAIRMAN ROSENBAACH: You can say,</p> <p>4 Did you do X?</p> <p>5 MS. MOORE: Right.</p> <p>6 ACTING CHAIRMAN ROSENBAACH: Did you do</p> <p>7 Y?</p> <p>8 MS. MOORE: That's how I --</p> <p>9 ACTING CHAIRMAN ROSENBAACH: Did you do</p> <p>10 Z? And then later on, once it is the opponent's</p> <p>11 part of the case, you may have to come back and</p> <p>12 say, I'm an expert in this, this is my expertise,</p> <p>13 you would have to do X, Y and Z. All right?</p> <p>14 MS. MOORE: Okay. I can do that.</p> <p>15 ACTING CHAIRMAN ROSENBAACH: Let's try it</p> <p>16 that way.</p> <p>17 MS. MOORE: All right. So the first</p> <p>18 question I have is, I guess, do you know the basic</p> <p>19 pieces of what a good market research study survey</p> <p>20 should have?</p> <p>21 THE WITNESS: No. I'm not a market</p> <p>22 researcher.</p> <p>23 MS. MOORE: Number two, do you</p> <p>24 understand about how to do an appropriate sample</p> <p>25 so not to have a totally unreliable or biased</p> | <p style="text-align: right;">Page 52</p> <p>1 MS. MOORE: That has to do with select</p> <p>2 when you mail into a response.</p> <p>3 Do you have an idea of anything called a</p> <p>4 "leading proposition bias"?</p> <p>5 THE WITNESS: No, not my field.</p> <p>6 MS. MOORE: That has to do with where</p> <p>7 you set up your first question in the beginning</p> <p>8 telling people this is what I'm expecting from you</p> <p>9 and this is the answer I want and then it affects</p> <p>10 it.</p> <p>11 The last one, do you know anything about</p> <p>12 question bias?</p> <p>13 THE WITNESS: No.</p> <p>14 MS. MOORE: How you ask the question.</p> <p>15 THE WITNESS: No, it's not my expertise.</p> <p>16 What I do know is if I go to the mailbox and hand</p> <p>17 them 800 and I get that kind of response from the</p> <p>18 people that have their boxes in that mailbox,</p> <p>19 that's a true response.</p> <p>20 MS. MOORE: Okay. Just one more</p> <p>21 question.</p> <p>22 Do you know any person who could have</p> <p>23 responded no to that survey, even one single</p> <p>24 person?</p> <p>25 THE WITNESS: Do I know them?</p> |
| <p style="text-align: right;">Page 51</p> <p>1 sample?</p> <p>2 THE WITNESS: I don't know what that</p> <p>3 means. All I do know is if I sent out 800 and I</p> <p>4 get that kind of response, it hit a nerve.</p> <p>5 MS. MOORE: Well, that -- the response</p> <p>6 can be -- I can go over that later, but the</p> <p>7 response can be a biased response or an accurate</p> <p>8 response.</p> <p>9 THE WITNESS: Well, when you say</p> <p>10 "biased" --</p> <p>11 MS. MOORE: Each response --</p> <p>12 THE WITNESS: Well, it's a yes or no</p> <p>13 range. It's not a big range, so it can't be</p> <p>14 biased. How can --</p> <p>15 MS. MOORE: Biased. Do you understand</p> <p>16 the basics of bias, what --</p> <p>17 THE WITNESS: Yes.</p> <p>18 MS. MOORE: -- can drive bias?</p> <p>19 THE WITNESS: When you have three -- we</p> <p>20 have yes, no or maybe. Why would someone say</p> <p>21 maybe if they meant yes or no?</p> <p>22 MS. MOORE: There's such a thing as --</p> <p>23 have you ever heard of a thing called "response</p> <p>24 rate bias"?</p> <p>25 THE WITNESS: No.</p> | <p style="text-align: right;">Page 53</p> <p>1 MS. MOORE: No.</p> <p>2 THE WITNESS: No. There's 47 that did.</p> <p>3 MS. MOORE: Do you know personally any</p> <p>4 person --</p> <p>5 THE WITNESS: No.</p> <p>6 MS. MOORE: Okay. Does anybody in this</p> <p>7 room know anyone? No. Because the way the</p> <p>8 question was answered (sic), there's an impossible</p> <p>9 no answer. You would have to answer that yes.</p> <p>10 And that's where I'll leave it and I'll</p> <p>11 come back and do the rest if you would like.</p> <p>12 THE WITNESS: There's a box that said</p> <p>13 "No."</p> <p>14 MS. MOORE: But it's the way the</p> <p>15 question's worded.</p> <p>16 ACTING CHAIRMAN ROSENBAACH: You got the</p> <p>17 answer to your questions. That's fine.</p> <p>18 MR. SHEEHAN: Mr. Geyer presented a</p> <p>19 simple survey in a simple manner and got a simple</p> <p>20 response. He summarized it. It is what it is.</p> <p>21 It's for what its value has and it is reflective</p> <p>22 of the effort that he put into it, and the</p> <p>23 conclusion that you take from it is one that is</p> <p>24 supported by the cards themselves.</p> <p>25 ACTING CHAIRMAN ROSENBAACH: Are there</p> |

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| <p style="text-align: right;">Page 54</p> <p>1 any other members of the public who have questions 2 for Mr. Geyer? 3 Yes, please. You have to come up and 4 identify yourself and give us your address. 5 MR. RHODES: Sure. I'm Steve Rhodes. I 6 live at 38 Post House Road. So I've got a set of 7 parents that don't live in Harding: An 8 80-year-old father, 72-year-old mother. 9 Would they be able to buy a townhouse in 10 your development? 11 THE WITNESS: I wouldn't have a problem 12 with that. The only thing I'm telling you is 13 there's such a response right now from the 14 residents in New Vernon, I wouldn't know who comes 15 in first. I mean, just like there's 65 homes for 16 sale, I don't know how you would monitor who's 17 going to buy them. 18 MR. RHODES: But you -- 19 THE WITNESS: It would not be my 20 restriction to say you can't buy them. 21 MR. RHODES: There's no ZIP code 22 restriction then. You don't have to have a -- 23 THE WITNESS: That would be biased. I 24 can't do that. 25 MR. RHODES: So anyone from anyplace --</p> | <p style="text-align: right;">Page 56</p> <p>1 are 65 or older. Now they're buying all over the 2 place. Half a dozen bought in Morristown. They 3 can't handle the housing. 4 MR. RHODES: Understood. But there's no 5 ZIP code restriction? 6 THE WITNESS: There's no restriction. 7 Otherwise, I would have put it there. 8 MR. RHODES: I have friends a little bit 9 older who have younger kids. They're going to be 10 55 in about two years. Their kids will be 11 school-aged. The document states that there will 12 be no additional burden put in the Harding 13 schools. 14 Will the buildings be deed restricted to 15 not be sold to -- 16 THE WITNESS: No, again, I couldn't do 17 that. 18 MR. RHODES: -- individuals with 19 children? 20 THE WITNESS: But I'm saying if you get 21 these 65- or 70-year-olds, I don't think they're 22 going to overload the school system. 23 MR. RHODES: But if I'm 55 and I've got 24 kids school-aged, I can't be restricted from 25 buying --</p> |
| <p style="text-align: right;">Page 55</p> <p>1 Brooklyn, Queens, Newark, Hoboken -- you name it, 2 any -- 3 THE WITNESS: I was born and raised in 4 Newark. I've living in New Vernon, so. 5 MR. RHODES: No, I'm just curious. I do 6 have parents who are older and I moved up here 7 from Staten Island recently. 8 THE WITNESS: All right. 9 MR. RHODES: I just have to know that. 10 The -- the -- 11 THE WITNESS: Yeah. Why would I 12 restrict anybody? 13 MR. RHODES: I'm just curious -- 14 THE WITNESS: Yeah. 15 MR. RHODES: -- because there's a lot of 16 wording in the documents that says they're being 17 built for the benefits of Harding's senior 18 citizens. So I don't want to take that -- 19 THE WITNESS: Well, that's my first 20 reason. I'm 84. 21 MR. RHODES: Okay. 22 THE WITNESS: I'd like to take one 23 myself. There's a lot of people in Harding. 24 There's not one piece of housing to help all these 25 old people. There's 21 percent of seniors that</p> | <p style="text-align: right;">Page 57</p> <p>1 THE WITNESS: Well, I don't know if they 2 have kids school-aged in Harding and they have to 3 go to Madison. It only goes up to, what, seventh 4 or eighth grade. 5 MR. RHODES: Yeah, I have a good friend 6 I was talking with today. His son is in my son's 7 class -- 8 THE WITNESS: Yeah. 9 MR. RHODES: -- in sixth grade in 10 Harding. He's 58. 11 THE WITNESS: I can't argue the 12 exception. 13 MR. RHODES: No, I'm just curious. 14 THE WITNESS: Yeah. 15 MR. RHODES: I want to make sure. I 16 read the document very closely. 17 THE WITNESS: If you're 55 -- 18 MR. RHODES: You know, I have friends 19 that have kids and you said no burden to the 20 schools. I happen to know of a friend who's got 21 kids, he's 58, his kid's 11 years old, sixth grade 22 -- 23 THE WITNESS: Well, if his two children 24 come out of that complex, I don't think that's a 25 burden on the school system.</p> |

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1 MR. RHODES: I'm just trying to read the
2 letter --
3 THE WITNESS: Yes.
4 MR. RHODES: -- and have an
5 understanding completely before we have public
6 comment --
7 THE WITNESS: Yeah.
8 MR. RHODES: -- exactly what's written
9 in the document and then the folks who live on
10 Post House Road can make an adequate and fair set
11 of questions or comments.
12 THE WITNESS: That's fair.
13 MR. RHODES: So these things, as I read
14 this --
15 THE WITNESS: Yeah, I hope I answered
16 your questions.
17 MR. RHODES: I've got an MBA. I've got
18 a business background. I take these documents
19 quite seriously.
20 THE WITNESS: And my oath is my oath.
21 MR. RHODES: Yep. In terms of the
22 actual housing, you had said that the master plan
23 supports just such a senior citizens facility --
24 THE WITNESS: It's in --
25 MR. RHODES: -- near the end of it. I'm

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1 sorry, I'm not finished with my question.
2 THE WITNESS: It's in there. It's in
3 the book. I think page 15 --
4 MR. RHODES: It's a very specific
5 question. It's about -- you're saying that the
6 units will benefit or the master plan calls for
7 just quite such a senior citizens facility.
8 Now, I know my parents have looked at
9 Canal Walk in Somerset. Canal Walk is a 55-plus
10 community. It's lovely townhouses and condos,
11 townhouses, bigger houses. There's no facilities
12 for oxygen tanks. There's no additional rooms for
13 a live-in nurse. There's no --
14 THE WITNESS: Well, here's what --
15 MR. RHODES: -- panic buttons or things
16 that are really that -- I've been to assisted
17 living, unfortunately, because my grandfather died
18 and he had to live in an assisted-living home.
19 THE WITNESS: Yeah.
20 MR. RHODES: You're not building units
21 for --
22 THE WITNESS: I'm not building assisted
23 living, no.
24 MR. RHODES: Assisted living. Are there
25 no facilities within the -- I've been to every

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1 meeting and I haven't seen anything structured --
2 THE WITNESS: No.
3 MR. RHODES: -- for design of those.
4 This -- your document just states the master plan
5 calls it just such a senior citizen facility
6 which --
7 THE WITNESS: Well, it does.
8 MR. RHODES: -- I think is separate and
9 distinct --
10 THE WITNESS: Yeah.
11 MR. RHODES: -- from five townhouses
12 that someone in Brooklyn can buy who's 55 and
13 older. So I'm just trying to make sure I'm clear
14 --
15 THE WITNESS: You're exactly right.
16 It's not assisted living. It's for the benefit --
17 when you have elevators and, you know, all the
18 rest of the stuff that's going to go in as
19 accessories, it's to help the age. But the senior
20 citizens -- or assisted living is separate living.
21 MR. RHODES: Yeah, because my father is
22 80 and he's got trouble with his knees. I just
23 want to know if the place -- eventually if my
24 parents move down the block from me -- what does
25 it have? What doesn't it have?

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1 So I'm just curious. Does it fit the
2 bill? Is it a townhouse that's being sold to
3 people under 55, which they can get at Canal Walk,
4 which are not \$1.4 million. They're about -- it's
5 mostly used property, so it's on-the-market
6 property, about \$400,000. So --
7 MR. SHEEHAN: Is there a question there,
8 Mr. Chairman?
9 ACTING CHAIRMAN ROSENBAACH: This is a
10 combination question.
11 MR. RHODES: I've been -- I've been --
12 I've actually lived in places with my parents.
13 I'm looking at -- I just want to be really clear.
14 What are they getting for 1.4 million? Is it
15 assisted living? Is it built for people who --
16 MR. HALL: The testimony was two
17 bedrooms only with elevators. I think that
18 probably covers it.
19 MR. RHODES: Right. That sounds like --
20 my friend owns a property in Hoboken. It sounds
21 like a Hoboken townhouse.
22 ACTING CHAIRMAN ROSENBAACH: Well --
23 MR. HALL: Limited to 55 and above.
24 ACTING CHAIRMAN ROSENBAACH: In any
25 event, there's been no testimony that it's an

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| <p style="text-align: right;">Page 62</p> <p>1 assisted living facility.</p> <p>2 MR. RHODES: Got it.</p> <p>3 ACTING CHAIRMAN ROSENBAACH: I mean, I</p> <p>4 don't think that's -- it's a --</p> <p>5 MR. RHODES: I haven't read this</p> <p>6 document. I got confused because it was saying</p> <p>7 that the master plan was calling -- he was quoting</p> <p>8 something right towards the end of it. That the</p> <p>9 master plan called for such a senior citizens</p> <p>10 facility. We've heard a lot about the master plan</p> <p>11 bandied about in the meetings.</p> <p>12 ACTING CHAIRMAN ROSENBAACH: Well, again,</p> <p>13 I would request -- it's not your fault, but I</p> <p>14 would request that you not even get into a debate</p> <p>15 with Mr. Geyer about the master plan.</p> <p>16 MR. RHODES: Sure, that's fine.</p> <p>17 ACTING CHAIRMAN ROSENBAACH: Because it's</p> <p>18 not going to mean anything to us either way.</p> <p>19 MR. RHODES: Let me make sure there's</p> <p>20 any other questions. Just give me one second.</p> <p>21 Were you planning, Mr. Geyer, to build</p> <p>22 any deed restrictions for people not to rent the</p> <p>23 houses? It's obviously 55 and older. If they're</p> <p>24 in Florida six months of the year --</p> <p>25 THE WITNESS: They're for sale. They're</p> | <p style="text-align: right;">Page 64</p> <p>1 MR. RHODES: And then would the -- if</p> <p>2 the person, God forbid, they pass away -- we all,</p> <p>3 as we all said, pass away -- if they were to pass</p> <p>4 away, will there be a restriction in the sale of</p> <p>5 the property to only be sold to people 55 and</p> <p>6 older? Once this person of 55's gets sold --</p> <p>7 THE WITNESS: It will be the same</p> <p>8 requirement.</p> <p>9 MR. RHODES: -- will it be --</p> <p>10 ACTING CHAIRMAN ROSENBAACH: It is our</p> <p>11 understanding, it's the Board's understanding,</p> <p>12 that this property must be owned, occupied --</p> <p>13 actually I don't know who may own it, but it's got</p> <p>14 to be occupied by people who are 55-plus. Now, I</p> <p>15 think there are federal rules on that.</p> <p>16 MR. SHEEHAN: Object --</p> <p>17 MR. VISCONI: There just has to be one</p> <p>18 person in the home 55.</p> <p>19 ACTING CHAIRMAN ROSENBAACH: All right.</p> <p>20 We've got to educate ourselves on that, but it is</p> <p>21 a permanent condition. It doesn't stop after the</p> <p>22 initial owner.</p> <p>23 BOARD MEMBER CHIPPERSON: One person has</p> <p>24 to be 55?</p> <p>25 ACTING CHAIRMAN ROSENBAACH: Well, that's</p> |
| <p style="text-align: right;">Page 63</p> <p>1 not for rent.</p> <p>2 MR. RHODES: They're for sale. But is</p> <p>3 there going to be a deed restriction that if</p> <p>4 someone buys it, if my parents buy it, and they go</p> <p>5 to Florida for six months, that they can't rent</p> <p>6 the property?</p> <p>7 THE WITNESS: That's a good question. I</p> <p>8 haven't got that far. We have to get past this</p> <p>9 first.</p> <p>10 MR. SHEEHAN: That would be subject to</p> <p>11 the condominium association.</p> <p>12 THE WITNESS: That's right. It would be</p> <p>13 up to the association, the five owners.</p> <p>14 MR. RHODES: In terms of rentals?</p> <p>15 THE WITNESS: All of it.</p> <p>16 MR. RHODES: Right, but if potentially</p> <p>17 they were rented, they could be rented to folks</p> <p>18 who are less than 55 who --</p> <p>19 ACTING CHAIRMAN ROSENBAACH: No, no. Not</p> <p>20 so. Not so.</p> <p>21 MR. HALL: They're restricted to 55,</p> <p>22 period.</p> <p>23 MR. RHODES: And then rentals are not --</p> <p>24 THE WITNESS: Whether you rent or</p> <p>25 whatever -- you can't walk around it that way.</p> | <p style="text-align: right;">Page 65</p> <p>1 what Mr. Visconi says. I don't know the federal</p> <p>2 rules. We're going to have to find out if we get</p> <p>3 that far.</p> <p>4 MR. RHODES: Okay. Got it. I think</p> <p>5 that was it. Thank you.</p> <p>6 ACTING CHAIRMAN ROSENBAACH: Okay. Thank</p> <p>7 you.</p> <p>8 Any other questions for Mr. Geyer?</p> <p>9 Because I do have -- Mr. Geyer, I do</p> <p>10 have one, which is I want to go back to page 2,</p> <p>11 which is the page that Mr. Visconi was asking you</p> <p>12 about.</p> <p>13 THE WITNESS: Page 2.</p> <p>14 ACTING CHAIRMAN ROSENBAACH: Yes. And my</p> <p>15 question is, the specific details here about the</p> <p>16 construction or about the layout, the site plan,</p> <p>17 did you review these with either Mr. Burke or</p> <p>18 Mr. Hollows?</p> <p>19 THE WITNESS: No.</p> <p>20 ACTING CHAIRMAN ROSENBAACH: So you</p> <p>21 actually don't know, you don't know, if your</p> <p>22 professionals would be able to support what you</p> <p>23 are saying here?</p> <p>24 THE WITNESS: Well, which one in</p> <p>25 particular? And then I'll tell you.</p> |

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| <p style="text-align: right;">Page 66</p> <p>1 ACTING CHAIRMAN ROSENBACH: Well, for 2 instance, the width of the driveway. 3 THE WITNESS: Which? I'm sorry? 4 ACTING CHAIRMAN ROSENBACH: The width of 5 the driveway, to use an example. 6 THE WITNESS: The width of the driveway. 7 Well, I'll be in the final planning of it. It's 8 going to be wide. I did that in my own home. 9 ACTING CHAIRMAN ROSENBACH: But the 10 answer is that you did -- 11 THE WITNESS: I did not confer with 12 them, no. 13 ACTING CHAIRMAN ROSENBACH: -- not 14 confer with your professionals? 15 THE WITNESS: No. No. 16 ACTING CHAIRMAN ROSENBACH: All right. 17 So it's your intent to do this. You actually just 18 stated that you're bound to it -- 19 THE WITNESS: Well, I will agree to all 20 these -- 21 ACTING CHAIRMAN ROSENBACH: Okay. 22 THE WITNESS: I mean, the architect and 23 planner works for me. If I want to make it wider, 24 it's going to be wider. And it will be. If I 25 sign an agreement to do everything that's on this</p> | <p style="text-align: right;">Page 68</p> <p>1 of them, so... 2 MR. SHEEHAN: It would be a part of the 3 condominium association -- 4 THE WITNESS: Rules. 5 MR. SHEEHAN: -- bylaws and rules and 6 regulations that Mr. Geyer would be directly 7 involved in crafting at the time that the 8 condominium association was created. 9 BOARD MEMBER CHIPPERSON: But if 10 Mr. Geyer leaves, then the rules -- 11 THE WITNESS: But the rules stay the 12 same. 13 BOARD MEMBER CHIPPERSON: -- could be 14 rewritten based on a vote of the co-op board. I 15 mean, they can really do whatever they want. It's 16 their -- 17 MR. HALL: Well, you can have revisions. 18 It can't be changed. 19 BOARD MEMBER CHIPPERSON: You can? 20 MR. HALL: Sure. 21 ACTING CHAIRMAN ROSENBACH: If we get 22 that far ahead, it's a condition. Without 23 worrying about what "the most pristine character" 24 might actually means as words, there can be 25 maintenance requirements that could be imposed.</p> |
| <p style="text-align: right;">Page 67</p> <p>1 page, and I will, it's going to be just that way. 2 ACTING CHAIRMAN ROSENBACH: Okay. Thank 3 you for clarifying. 4 MR. SHEEHAN: Now, Mr. Chairman, if the 5 Board reaches the point where this becomes a site 6 plan issue, this document will be brought back 7 before the Board and used as a template to test 8 whether or not the representations, in fact, have 9 been honored. 10 ACTING CHAIRMAN ROSENBACH: Well, not 11 "if." According to Mr. Geyer, they have to be 12 honored. 13 MR. SHEEHAN: How they're being honored. 14 BOARD MEMBER CHIPPERSON: I have another 15 question on that. On the same page, it says "We 16 will at all times maintain these units in the most 17 pristine character." 18 If this is going to be, you know, five 19 townhouses, wouldn't there be, I don't know, a 20 co-op board or something where each of the 21 residents is on the board? So how can you make 22 that promise about the long-term maintenance of 23 the facility where we don't know who's going to 24 own them -- 25 THE WITNESS: Well, I'm going to be one</p> | <p style="text-align: right;">Page 69</p> <p>1 And that whatever the condo association -- 2 BOARD MEMBER CHIPPERSON: And not 3 changeable. 4 ACTING CHAIRMAN ROSENBACH: Whatever the 5 condo -- I mean, that would be a deed restriction, 6 a covenant that would run with the land and it 7 would be part of an approval process if we get 8 that far. 9 BOARD MEMBER CHIPPERSON: Okay. 10 ACTING CHAIRMAN ROSENBACH: Okay? 11 That's a good question but there's a way to do 12 that. 13 BOARD MEMBER CHIPPERSON: No, that's 14 helpful. Very helpful. 15 BOARD MEMBER NEWLIN: Phil, may I ask a 16 question? 17 ACTING CHAIRMAN ROSENBACH: Of course. 18 BOARD MEMBER NEWLIN: Mr. Geyer, I'm 19 quite certain you probably answered this before, 20 but I just want to come back to it. Why five 21 units? Or I should say one of the concerns I have 22 is the density. You're looking for five units -- 23 THE WITNESS: Correct. 24 BOARD MEMBER NEWLIN: -- that has quite 25 a lot of density implications. Why five? Why not</p> |

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| <p style="text-align: right;">Page 70</p> <p>1 three? Why not four?</p> <p>2 THE WITNESS: Because it doesn't work</p> <p>3 economically. That question was asked of me --</p> <p>4 BOARD MEMBER NEWLIN: It was.</p> <p>5 THE WITNESS: -- maybe two and a half,</p> <p>6 three years ago, when I went in for my first plan,</p> <p>7 which was we had to go before the Board to find</p> <p>8 out what you wanted to do. And the first question</p> <p>9 was: Why not four rather than five?</p> <p>10 And I answered that. I said, look, I</p> <p>11 don't want to waste your time or my time and</p> <p>12 money. It's five. It's the only way it works</p> <p>13 economically.</p> <p>14 BOARD MEMBER NEWLIN: So financially</p> <p>15 you'd have to -- to make money on the deal, it</p> <p>16 would have to be five units. Otherwise, it just</p> <p>17 wouldn't work.</p> <p>18 THE WITNESS: Well, to build luxury</p> <p>19 townhouses, yes. You have --</p> <p>20 BOARD MEMBER NEWLIN: Can you tell us a</p> <p>21 little bit more why that's -- I'm not being --</p> <p>22 this is an honest question. Why couldn't you make</p> <p>23 it work with three units?</p> <p>24 THE WITNESS: Why couldn't I make it</p> <p>25 three units?</p> | <p style="text-align: right;">Page 72</p> <p>1 THE WITNESS: Because the price of the</p> <p>2 land --</p> <p>3 ACTING CHAIRMAN ROSENBACH: -- is</p> <p>4 \$600,000.</p> <p>5 THE WITNESS: Excuse me?</p> <p>6 ACTING CHAIRMAN ROSENBACH: \$600,000?</p> <p>7 THE WITNESS: 675.</p> <p>8 ACTING CHAIRMAN ROSENBACH: Okay.</p> <p>9 THE WITNESS: Okay? And that's -- and</p> <p>10 the maintenance. So the option for the last two</p> <p>11 or two and a half years, all right, and the taxes</p> <p>12 and the insurance, which I'm -- which I'm</p> <p>13 handling, you have to plug all that in. So, I</p> <p>14 mean, it's not my first time developing anything.</p> <p>15 I've been at this over 50 years and I know what</p> <p>16 works and what doesn't work.</p> <p>17 MR. SHEEHAN: I guess he's saying that</p> <p>18 his -- his either actual pro forma or conceptual</p> <p>19 pro forma in his mind indicates that five units is</p> <p>20 the minimum at which the cost of the land, the</p> <p>21 cost of the application and the cost of</p> <p>22 construction for luxury units --</p> <p>23 THE WITNESS: The material alone, we</p> <p>24 talked about the roof, wouldn't --</p> <p>25 MR. SHEEHAN: -- is the limit.</p> |
| <p style="text-align: right;">Page 71</p> <p>1 BOARD MEMBER NEWLIN: Yeah, or four</p> <p>2 units.</p> <p>3 THE WITNESS: Well, why not six?</p> <p>4 BOARD MEMBER NEWLIN: Why are the</p> <p>5 financials --</p> <p>6 THE WITNESS: Why not six? It's the</p> <p>7 same --</p> <p>8 BOARD MEMBER NEWLIN: Well, because --</p> <p>9 THE WITNESS: It's the same question. I</p> <p>10 mean, had I known that going in -- and that was</p> <p>11 the question. It's on -- it's on the record. I</p> <p>12 said, listen, five is the only thing that works</p> <p>13 economically. And I think if you go back -- I</p> <p>14 don't know if it was at the November or December</p> <p>15 meeting -- that question was brought up. It's in</p> <p>16 the transcript.</p> <p>17 BOARD MEMBER NEWLIN: I'm sure that --</p> <p>18 I'm quite certain you're right. It was and you</p> <p>19 did answer, but I don't -- I guess, is there any</p> <p>20 more information why five works and four doesn't</p> <p>21 financially?</p> <p>22 THE WITNESS: I just answered it.</p> <p>23 Economically.</p> <p>24 BOARD MEMBER NEWLIN: Well, I heard</p> <p>25 that.</p> | <p style="text-align: right;">Page 73</p> <p>1 THE WITNESS: But --</p> <p>2 BOARD MEMBER NEWLIN: Yeah, I understand</p> <p>3 that's what he was saying. I was just trying to</p> <p>4 get more -- more --</p> <p>5 THE WITNESS: More information. That's</p> <p>6 a good question. Also bear in mind that I agreed</p> <p>7 before the Board six, eight months ago that if it</p> <p>8 doesn't meet the standards of the state or local</p> <p>9 environment as far as the well is concerned or the</p> <p>10 septic system, I have to walk away. I've</p> <p>11 guaranteed that. I think it was 75 or 80,000</p> <p>12 something like that. I think this gentleman over</p> <p>13 here can verify that. So if it doesn't satisfy</p> <p>14 the needs, I can't do it.</p> <p>15 BOARD MEMBER NEWLIN: Okay. Thank you.</p> <p>16 BOARD MEMBER CHIPPERSON: Are you saying</p> <p>17 if you built four units, you would actually take a</p> <p>18 loss on this project?</p> <p>19 THE WITNESS: Well, I wouldn't do it</p> <p>20 because I would take a loss.</p> <p>21 BOARD MEMBER CHIPPERSON: You would.</p> <p>22 THE WITNESS: Yeah.</p> <p>23 ACTING CHAIRMAN ROSENBACH: All right.</p> <p>24 Mr. Sheehan, I ask you, as counsel -- and you</p> <p>25 might want to confer with Mr. Geyer. I'd actually</p> |

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| <p style="text-align: right;">Page 74</p> <p>1 be curious, I really would, to see a pro forma 2 that on land that's 675, even with option prices 3 and taxes and insurance, if we're going to sell 4 five units at roughly 1.4 each, which is \$7. 5 million, and taking into account upper scale of 6 construction costs, I'm still not sure how we're 7 going to get to a loss selling four units. 8 And I would actually be very curious to 9 see a pro forma that would establish that. I'm 10 not sure it ultimately has any bearing on our 11 decision. 12 MR. SHEEHAN: I don't think it does. 13 ACTING CHAIRMAN ROSENBACH: But if it 14 doesn't, then, likewise, it has no bearing on us 15 that Mr. Geyer would take a loss if we were to 16 consider a number other than five. 17 THE WITNESS: Yeah, but you're not 18 taking into consideration the needs of this town. 19 ACTING CHAIRMAN ROSENBACH: That's a 20 different issue. 21 THE WITNESS: Twenty-one percent of 22 seniors. So if you build three, there's two more 23 that could have been satisfied. And the land will 24 handle five. 25 ACTING CHAIRMAN ROSENBACH: Well, we're</p> | <p style="text-align: right;">Page 76</p> <p>1 your question why build three instead of five, I 2 mean, in our last application we were debating 3 over .2 percent difference in, you know, the use 4 of the land. So as a Board, I mean, we try to 5 work with people to keep the variances to a 6 minimum. So obviously it's a much smaller 7 variance for three units compared to five units. 8 So that is very important to us. 9 THE WITNESS: I understand that. 10 BOARD MEMBER CHIPPERSON: I just wanted 11 to make that clear. 12 ACTING CHAIRMAN ROSENBACH: Okay. Are 13 there any other questions for Mr. Geyer from 14 anybody in the room? Yes. 15 MS. KELLETT: I have one final question 16 to ask. 17 ACTING CHAIRMAN ROSENBACH: All right. 18 Please identify yourself. 19 MS. KELLETT: This is for my own 20 protection. I have a terminal disease -- 21 ACTING CHAIRMAN ROSENBACH: Oh, I'm very 22 sorry to hear that. 23 MS. KELLETT: -- and I'm protecting my 24 lungs. 25 ACTING CHAIRMAN ROSENBACH: Okay.</p> |
| <p style="text-align: right;">Page 75</p> <p>1 not a senior living board. We're a Zoning Board. 2 THE WITNESS: I understand, but the 3 question -- your question leads to that. Why 4 build three when I can build five? Why not 5 satisfy five rather than three seniors? 6 ACTING CHAIRMAN ROSENBACH: All right. 7 But, in any event, so -- 8 MR. SHEEHAN: Mr. Chairman, what I'll do 9 is I'll talk to Mr. Geyer about that and if a hard 10 pro forma can be developed that will answer the 11 questions that Mr. Newlin and you have asked, 12 we'll present it at the next meeting. 13 ACTING CHAIRMAN ROSENBACH: All right. 14 Or, again, you may simply say -- as you seem to 15 have said, but I'm not going to hold you to it at 16 this moment -- Mr. Geyer's potential profitability 17 has nothing to do with our decision anyway. 18 MR. SHEEHAN: I think that's true. 19 ACTING CHAIRMAN ROSENBACH: Okay. 20 Then -- then -- okay. Then you decide whether or 21 not you think that information will be helpful to 22 us. 23 MR. SHEEHAN: Thank you. 24 ACTING CHAIRMAN ROSENBACH: Okay. 25 BOARD MEMBER CHIPPERSON: And to answer</p> | <p style="text-align: right;">Page 77</p> <p>1 Please identify yourself and your address. 2 MS. KELLETT: Joan Kellett. I'm from 21 3 Post House Road. 4 Mr. Geyer, what provisions or what -- 5 what have you thought about doing if they do not 6 sell for 1.4 million, they just don't sell? 7 THE WITNESS: Then I take the beating. 8 What provision, I mean -- 9 MS. KELLETT: They're built. 10 THE WITNESS: I guarantee you, young 11 lady, before I break ground, they'll be -- those 12 units will be sold. That's my -- that's my 13 gamble, though. 14 ACTING CHAIRMAN ROSENBACH: Okay. 15 BOARD MEMBER NEWLIN: But is your 16 question what if he has to reduce price or -- tell 17 us why you're asking that question. 18 MS. KELLETT: Yes, I'd like to know what 19 he proposes to do. Would they remain vacant if 20 they don't each go for 1.4 million? Would they 21 become -- 22 THE WITNESS: Simple answer: You only 23 have to build but one to find out where you're 24 going. I would not build all five simultaneously. 25 I'd build one. And if that doesn't sell, that's</p> |

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| <p style="text-align: right;">Page 78</p> <p>1 the extent of it. But the response --</p> <p>2 CHAIRMAN FLANAGAN: Mr. Geyer, are they</p> <p>3 not attached? I thought these were two buildings.</p> <p>4 MR. SHEEHAN: Yeah.</p> <p>5 THE WITNESS: Excuse me?</p> <p>6 CHAIRMAN FLANAGAN: I thought there were</p> <p>7 two buildings, so I would think it would be --</p> <p>8 THE WITNESS: There's three and two.</p> <p>9 CHAIRMAN FLANAGAN: Okay. So could you</p> <p>10 realistically build one or are you saying --</p> <p>11 THE WITNESS: I could build two.</p> <p>12 CHAIRMAN FLANAGAN: You could build two.</p> <p>13 THE WITNESS: Build the minimum.</p> <p>14 MR. SHEEHAN: One unit. He would build</p> <p>15 one unit.</p> <p>16 MR. HALL: Well, one building.</p> <p>17 MR. SHEEHAN: Yes, one building.</p> <p>18 CHAIRMAN FLANAGAN: One building.</p> <p>19 MR. HALL: Two units.</p> <p>20 THE WITNESS: Correct.</p> <p>21 MR. SHEEHAN: Right.</p> <p>22 CHAIRMAN FLANAGAN: Fine. Thank you.</p> <p>23 ACTING CHAIRMAN ROSENBAACH: Yes,</p> <p>24 Mr. Rhodes.</p> <p>25 MR. RHODES: Let me paraphrase my</p> | <p style="text-align: right;">Page 80</p> <p>1 curious to note -- let's suspend this belief. We</p> <p>2 can all suspend this belief. If, as a resident,</p> <p>3 they're not sold, the vacant property is a problem</p> <p>4 for our housing prices. The very last bullet</p> <p>5 point, I believe, on page 2 is that you'll</p> <p>6 guarantee that if these houses are built, that the</p> <p>7 real estate value of our homes will increase. And</p> <p>8 many folks in the room here are older and they</p> <p>9 want to sell their homes.</p> <p>10 So if we have a building that's vacant</p> <p>11 with three units, it looks like partial</p> <p>12 construction, if I'm -- I just bought up here in</p> <p>13 July of 2016. I know whenever I drove by a place</p> <p>14 that had townhouses that are un -- that are</p> <p>15 vacant, kind of open land, I look at that and go,</p> <p>16 ugh, Just keep driving real estate agent.</p> <p>17 So we, as residents, need to know or</p> <p>18 we're curious to know if, in fact, they don't sell</p> <p>19 and it's economically not feasible, are they going</p> <p>20 to be built? If you can suspend the belief --</p> <p>21 THE WITNESS: Well, I think I just</p> <p>22 answered that by saying I'd build two first, one</p> <p>23 unit.</p> <p>24 MR. RHODES: You build two. There's a</p> <p>25 building, a structure, that we've heard are</p> |
| <p style="text-align: right;">Page 79</p> <p>1 neighbor's question.</p> <p>2 So, Mr. Geyer, in the event that they</p> <p>3 were -- either the building with two units were</p> <p>4 built or the three units were built, if they</p> <p>5 weren't sold, would they be rented? I guess it's</p> <p>6 a different way of asking the same question.</p> <p>7 THE WITNESS: Well, with the response of</p> <p>8 the cards, after I build two, like I say, I'm</p> <p>9 going to have these things sold before I break</p> <p>10 ground.</p> <p>11 MR. RHODES: I own a lot of boats. I'm</p> <p>12 a big boat guy. I've had so many people walk up</p> <p>13 to me and say, When are you going to sell that</p> <p>14 boat? That boat's unbelievable. When you go to</p> <p>15 sell it, I'm the first guy that's going to buy it.</p> <p>16 And when I go to sell the beautiful boat that I</p> <p>17 custom built, there's crickets in the room.</p> <p>18 So I personally have been --</p> <p>19 THE WITNESS: Building boats and</p> <p>20 building houses are two different things. Look at</p> <p>21 the --</p> <p>22 MR. RHODES: Well, they're custom built</p> <p>23 so --</p> <p>24 THE REPORTER: One speaker, please.</p> <p>25 MR. RHODES: My bad. So, but I'm</p> | <p style="text-align: right;">Page 81</p> <p>1 different heights, are very tall. The pine trees</p> <p>2 aren't tall enough to hide them yet, so they're</p> <p>3 still -- there's about a five-year plan for the</p> <p>4 height of the pine trees to grow.</p> <p>5 THE WITNESS: That's correct.</p> <p>6 MR. RHODES: Two buildings are there.</p> <p>7 They're vacant. What are your plans to begin to</p> <p>8 recoup your economic investment?</p> <p>9 MR. SHEEHAN: I think that that</p> <p>10 speculation is bootless at this point. Why should</p> <p>11 he engage in a speculative question that presumes</p> <p>12 the failure of a project that he's spent \$200,000</p> <p>13 --</p> <p>14 THE WITNESS: Before he starts.</p> <p>15 MR. SHEEHAN: -- trying to get approved?</p> <p>16 MR. RHODES: I can answer that. You</p> <p>17 know, I've sat here and I've seen testimony given</p> <p>18 about the vacancy rates of properties along 202.</p> <p>19 So I've sat in this room, all these meetings --</p> <p>20 MR. SHEEHAN: Commercial vacancy rates.</p> <p>21 THE WITNESS: No, you'll find a --</p> <p>22 MR. RHODES: We're splitting hairs</p> <p>23 because -- I can phrase that question differently.</p> <p>24 How many townhouses have been bought for</p> <p>25 \$1.4 million in this ZIP code that were on land</p> |

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| <p style="text-align: right;">Page 82</p> <p>1 that was zoned commercially, close to 202 and 2 close to 287? So I think we can keep going around 3 the questions. The question I asked is, strictly, 4 if there's units that are unsold, will they be 5 rented? 6 ACTING CHAIRMAN ROSENBAACH: Okay. Let 7 me understand via your question, the point -- and 8 we understood it anyway -- that this project could 9 be built or partially built and fail. And that is 10 something that we would certainly have to, and 11 will, take into account when it comes time for us 12 to start thinking about how to decide this. Okay? 13 We get it. 14 MR. RHODES: Thank you. 15 ACTING CHAIRMAN ROSENBAACH: Okay. Are 16 there any other questions for Mr. Geyer? 17 Okay. Mr. Sheehan, are you done 18 presenting your case? 19 MR. SHEEHAN: We are, Mr. Chairman. 20 Thank you. 21 CHAIRMAN FLANAGAN: All right. It's 10 22 of 10. 23 Mr. Visconi, do you have a planner here 24 tonight? 25 MR. VISCONI: I do.</p> | <p style="text-align: right;">Page 84</p> <p>1 by the American Institute of Certified Planners. 2 I've been a practicing planner for about 20 years. 3 I have a firm in Newton, New Jersey. I represent 4 11 municipal clients as well as private clients. 5 Over the last five years, I counted, I've 6 testified and been accepted as an expert in 7 planning before about 80 municipal boards. 8 ACTING CHAIRMAN ROSENBAACH: Very good. 9 Thank you. 10 MR. VISCONI: We offer her as a 11 professional planner. 12 ACTING CHAIRMAN ROSENBAACH: You're 13 qualified to be here. 14 THE WITNESS: Thank you. Thank you for 15 having me. My first time in Harding. 16 ACTING CHAIRMAN ROSENBAACH: Gary, please 17 swear in Ms. -- 18 MR. HALL: I already did. 19 THE WITNESS: I got sworn in, so... 20 BY MR. VISCONI: 21 Q. Ms. Caldwell, have you had an 22 opportunity to visit the property in question? 23 A. Yes, I have. 24 Q. Did you drive by it or what did you do 25 to take a look at it?</p> |
| <p style="text-align: right;">Page 83</p> <p>1 ACTING CHAIRMAN ROSENBAACH: All right. 2 MR. VISCONI: We're ready to go. 3 ACTING CHAIRMAN ROSENBAACH: All right. 4 Let's go. 5 And let me tell you that I'm going to 6 afford our planner the same opportunity that she 7 had when Mr. Phillips testified, which was to 8 interrupt to her heart's content. 9 MR. VISCONI: Of course. 10 MS. COFONE: Thank you, Mr. Rosenbach. 11 MR. VISCONI: We anticipate this being a 12 little informal. Anyone interrupt at any time. 13 MS. CALDWELL: Good evening. 14 JESSICA CALDWELL, having 15 been duly sworn, was examined and testified as 16 follows: 17 DIRECT-EXAMINATION 18 BY MR. VISCONI: 19 Q. Good evening, Ms. Caldwell. Would you 20 give the Board the benefit of your education and 21 professional experience? 22 A. I'm a licensed professional -- I'm 23 sorry. There's a lot going on. 24 Okay. I'm a licensed professional 25 planner in the State of New Jersey. I'm certified</p> | <p style="text-align: right;">Page 85</p> <p>1 A. Yeah, I drove through the area, drove by 2 the site, went up and down the various roads and 3 surrounding areas. 4 Q. And did you review the transcripts of 5 all the previous meetings for this application? 6 A. Yes, I did. 7 Q. Did you review the documents and 8 exhibits that have been marked so far? 9 A. Yes. 10 Q. And did you review the master plan and 11 the zone plan for Harding Township? 12 A. Yes, I did. 13 Q. Okay. This application is seeking a D-1 14 use variance. 15 You're aware of that? 16 A. Yes. 17 Q. And there's been a lot of talk about the 18 positive and negative criteria. 19 Are you prepared to testify about that 20 tonight? 21 A. Yes. 22 Q. Let's start with positive criteria and 23 the particular -- particularly suitable criteria 24 for this property. 25 Do you have general thoughts on whether</p> |

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| <p style="text-align: right;">Page 86</p> <p>1 this property is particularly well suited to this 2 application?</p> <p>3 A. Yes. I heard Mr. Phillips' testimony 4 last meeting. I was here. I was able to listen 5 to it. And I had formed a different opinion about 6 the site suitability with respect to whether or 7 not it's suitable to multi-family at the density 8 that's proposed.</p> <p>9 Some of the aspects of site suitability 10 that were raised, one of them was that the 11 property's constrained by wetlands and the 12 development pushes the -- the development gets 13 pushed closer to Post House Road, but it's also 14 closer to 202.</p> <p>15 As part of the application process, the 16 developer and the applicant submitted a fully 17 conforming site concept plan for commercial 18 development, which I thought really showed that 19 the site is particularly suited to the zone that 20 it's in, to the commercial zone, in that the site 21 constraints don't limit the site from being 22 developed as a commercial development. There are 23 no variances required. Although it does get 24 pushed closer to Post House Road, it's still 25 within the setbacks of the zone.</p> | <p style="text-align: right;">Page 88</p> <p>1 envelope. There are some constraints on the site. 2 It's not unusual that a site that hasn't been 3 developed as of yet has some constraints. It's 4 typically why the latter parcels that get 5 developed aren't quite developed yet is because 6 there are constraints on the site.</p> <p>7 The other issue I think is that even 8 though it has these constraints, even though 9 things are pushed closer to Post House Road, even 10 if you entertain the idea that residential might 11 be a better use on the site, why is it then 12 suddenly multi-family or some type of use that's 13 not in character with the area?</p> <p>14 The leap -- there's just no logical 15 connection to that leap. And, you know, one of 16 the -- I'm kind of jumping ahead to some of the 17 negative criteria and why I think an approval of 18 this application actually erodes your master plan 19 is that once you establish that character, if I'm 20 a planner and I come in on another site that's 21 very similar, while it doesn't set precedent, you 22 now have a neighborhood character. That's one 23 thing you don't have now.</p> <p>24 BOARD MEMBER NEWLIN: You have what? I 25 sorry, I didn't hear you.</p> |
| <p style="text-align: right;">Page 87</p> <p>1 So I think there is some basis of an 2 assumption in a lot of the arguments, and I think 3 the Board picked up on it, that there's an 4 assumption that commercial development on this 5 site is bad while it's zoned for commercial 6 development and that part of the site suitability 7 is that somehow residential development becomes 8 better.</p> <p>9 But the master plan and the zone plan 10 already set up the site for commercial 11 development. And the fact that it gets pushed 12 closer to Post House Road, it's still within the 13 setbacks, doesn't make it particularly suited to a 14 use that's not permitted in the zone.</p> <p>15 Q. You mentioned in there the compliant 16 commercial plan.</p> <p>17 Is that the plan that was marked Exhibit 18 A-11?</p> <p>19 A. Yes.</p> <p>20 Q. And is it your testimony that that or 21 something like it that's a permitted use is more 22 suitable to the zone or to the property?</p> <p>23 A. Yeah, I think it actually shows that the 24 site is perfectly well suited to a commercial 25 development. It can fit onto the building</p> | <p style="text-align: right;">Page 89</p> <p>1 A. You have the ability to tie this to 2 neighborhood character. You have a townhouse 3 development right here. Our site's very similar. 4 It has these same types of characteristics.</p> <p>5 I think that another aspect of the site 6 suitability is that this site isn't particularly 7 unique. There are other sites that are similar to 8 it. The site just across the street on Post House 9 Road is a very similar one. It has a 10 single-family residence. Most of the other 11 characteristics are the same such that that 12 argument could be made across the street, and 13 that's where it starts to erode the zone plan and 14 the master plan.</p> <p>15 But I think from a site suitability 16 perspective, there's nothing that was presented in 17 my mind that really makes it particularly suited 18 to high-density multi-family use.</p> <p>19 Q. So is this property located in a zone 20 that welcomes high density or high intensity 21 according to the master plan?</p> <p>22 A. It's higher than, say, some of the 23 residential uses, but it's a lower-density 24 business zone. And I think what's really telling 25 is that you also need a floor area ratio</p> |

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| <p style="text-align: right;">Page 90</p> <p>1 variance -- and that's the density variance for a 2 commercial zone -- proposing twice what's 3 permitted. So not only is it somehow particularly 4 suited to multi-family; somehow it's particularly 5 suited to twice the density of the zone. And I 6 just don't think that that holds water, that 7 argument. 8 Q. Well, let me ask you to back up a bit. 9 So reading from the B-2 business zone in 10 the master plan, it is an area that "was not 11 conceived of as a high-growth, high-intensity 12 commercial area because of its many sensitive 13 features." And I'll skip ahead just a bit. "It 14 was an area for commercial uses at modest scale 15 and intensity." 16 Now, the floor area ratio maximum in 17 this zone is 8 and 1/2 percent. Would you equate 18 that with commercial uses at modest scale and 19 intensity? 20 A. Yes. I think that's the purpose of 21 having that type of floor area ratio. And it is 22 very clear in the master plan about this area, 23 while it is more intense, it doesn't know that 24 this area is more intense in development. It 25 still notes that it's a rural character area that</p> | <p style="text-align: right;">Page 92</p> <p>1 master plan. 2 Q. So is it fair to say that in your 3 opinion, this site is suitable for a use or 4 construction that is consistent with the zone's 5 requirements of a modest scale and intensity 6 represented by the maximum FAR of 8.5 percent? 7 A. Yeah, I think absolutely. And I think 8 it's shown it can be constructed. There's 9 nothing limiting this development from being 10 constructed in a completing conforming site plan 11 to the zone. 12 Q. So regardless of the proposed use, any 13 proposal, be it a convenience store or office 14 space or a single-family home or a multi-family 15 home, whatever it is, if it's significantly more 16 intense than what's contemplated in the zone, you 17 don't feel that this site is particularly suited 18 to that? 19 A. I see nothing that supports that. 20 Q. And the proposed use, this multi-family, 21 five townhomes, what's the floor area ratio that's 22 proposed? 23 A. I believe it's 17 percent. 24 Q. So a little over double? Just about 25 double?</p> |
| <p style="text-align: right;">Page 91</p> <p>1 is a lower-intensity commercial area. 2 So to maintain that character is a very 3 important part of the master plan and it goes all 4 throughout the master plan. Maintaining -- and 5 particularly goal three, from the very beginning 6 of the master plan, the objectives, goals and 7 objectives. On page 1-2 I think is what I had, or 8 I-2. "The protection of rural development pattern 9 and density." And there's a line there that says 10 "Harding is noted for its historical and spatial 11 continuity of agricultural uses, small village 12 center, roadways, low-density residential 13 structures, early American architectural style, 14 open spaces and development of scale." 15 And it goes on really to say that that 16 historic rural development pattern should be 17 maintained and that really goes throughout the 18 master plan. And I think it's really true of the 19 character of Harding. When you come into the 20 town, you know you're in Harding. You get a 21 different sense because of the pattern of 22 development. And I think that's what the master 23 plan's really trying to uphold. And to take such 24 a strong diversion from the master plan from 25 intensity, density and use, I think undermines the</p> | <p style="text-align: right;">Page 93</p> <p>1 A. Correct. Correct. 2 Q. And is that consistent with modest scale 3 and intensity? 4 A. No, I don't believe so. I think -- I 5 think the intensity is too high. I think that 6 this is -- this area -- I mean, part of the 7 argument is this area is surrounded by residential 8 uses. The character of Route 202 and the 9 commercial character is that low-density rural 10 character of the commercial area. Even though 11 it's in the master plan, that doesn't support 12 strip malls; that the use should be singular. 13 And that's really what's constructed 14 there and it has a very nice feel, very nice 15 character, it's very quaint. And I believe that's 16 what the master plan is trying to continue. And 17 increasing the density on the site and introducing 18 a use that isn't in the area isn't consistent with 19 the master plan. 20 Q. Now, single-family homes are a permitted 21 use in this zone, correct? 22 A. Correct. 23 Q. Now, there was some testimony that 24 because this site is predominantly B-2 commercial, 25 somehow multi-family is more -- is better suited</p> |

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| <p style="text-align: right;">Page 94</p> <p>1 than single-family. 2 Do you agree with that? 3 A. I don't agree with that. I don't see 4 where the multi-family fits into the equation 5 because it's not in the area. There's nothing 6 pointing to that it would be a better character or 7 suitability on this road. And there are other 8 homes. The home across the street is in a similar 9 scenario of a lot abutting Route 202. 10 Q. Is there any -- should the Board give 11 any consideration as to what the highest and best 12 use of the property is or to what would be the 13 most financially beneficial to the property owner? 14 A. Obviously I heard the testimony tonight 15 and the idea that there's a need and that's all 16 well and good. I don't think we're disputing 17 that. There might be a need, but the use variance 18 aspect isn't the place to address this. This 19 isn't the Planning Board. I think these issues 20 should be taken up with the Planning Board and the 21 governing body and studied and perhaps located in 22 places that are suitable to the community if this 23 is a community concern. 24 Q. So if there's a need for townhomes, if 25 there's a need for senior living facilities,</p> | <p style="text-align: right;">Page 96</p> <p>1 living and supporting that is one of the goals of 2 the Municipal Land Use Law. However, is this that 3 type of senior living community that the Municipal 4 Land Use Law is looking for? I'm not really sure. 5 It's only age-restricted high-end townhouses. I'm 6 not sure exactly what that provides that the 7 Municipal Land Use Law was looking for. 8 It's not the type of senior community 9 that has amenities; that might provide a certain 10 type of, I guess, community sense of belonging or 11 place for seniors to go; and it's not sort of a 12 low-income type of senior housing that allows for 13 seniors on fixed incomes to live. 14 So I'm not sure that it really meets 15 that type of goal. If there is a need and it's 16 specific to Harding Township, then I believe 17 that's something that should be studied by the 18 master -- studied by the Planning Board, put in 19 the master plan, and the community should be 20 evaluated with community input as to where that 21 should go. 22 I don't see any evidence personally that 23 supports that there's some particular reason that 24 the general welfare would be served by putting it 25 in this exact location.</p> |
| <p style="text-align: right;">Page 95</p> <p>1 that's something that the Planning Board should 2 study and incorporate into the master plan and the 3 zoning ordinance as opposed to by -- 4 A. Absolutely. 5 Q. -- variance? 6 A. Absolutely. I mean there's a sense that 7 -- 8 ACTING CHAIRMAN ROSENBACH: Excuse me, 9 Mr. Visconi. I know we're not in a court, but you 10 might want your questions not to be quite so 11 leading. Because if you want to be the planner, 12 just say you are. But otherwise it would be 13 helpful if you would allow the planner to do -- 14 occasionally say other than yes or no. Okay? 15 MR. VISCONI: Sure. Sure. 16 A. Sorry, I lost my train of thought. 17 Q. That's okay. 18 A. I think what we're -- you know, my -- my 19 point of view is that I don't think that -- well, 20 I'll sound like a lawyer, but the courts don't 21 support zoning by variance. And simply because 22 there's a need for a use doesn't mean that a use 23 variance should be granted. And I don't believe 24 it's part of the criteria. 25 I mean, there's senior citizens</p> | <p style="text-align: right;">Page 97</p> <p>1 ACTING CHAIRMAN ROSENBACH: That's not 2 the test, though. 3 THE WITNESS: I'm sorry? 4 ACTING CHAIRMAN ROSENBACH: That's not 5 the test, though, is it? 6 THE WITNESS: That's not the test? 7 ACTING CHAIRMAN ROSENBACH: The 8 applicant doesn't have to show that this facility 9 should go at this exact location. Doesn't the 10 applicant just have to show that this location 11 happens to be particularly suitable for this use? 12 THE WITNESS: Yeah. That's what I was 13 getting at, that this site is particularly suited 14 for this use. 15 ACTING CHAIRMAN ROSENBACH: Right, but 16 he doesn't have veto every other -- 17 THE WITNESS: Oh, every other site? No. 18 No. I'm not saying there might be other sites 19 that are suitable, and that should be studied 20 through the zoning process. 21 ACTING CHAIRMAN ROSENBACH: Okay. 22 BY MR. VISCONI: 23 Q. Is there anything about this site that 24 you think does make it more particularly suited to 25 this use as opposed to any others?</p> |

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| <p style="text-align: right;">Page 98</p> <p>1 A. No, there's nothing that I saw. 2 Specifically unique or particular? I mean, there 3 are other sites that are similar along the road. 4 There are other sites that would -- you know, just 5 the site across the street, while it had -- the 6 only difference is that it had a residence on it. 7 I didn't find that to be such a high difference 8 that it would limit the same type of argument 9 being made on that site. 10 Q. Are the need for other variances 11 relevant to a Board's decision as to grant a use 12 variance in a particular case? 13 A. Well, I think in this case we're looking 14 at the intensity of the proposed use. And the 15 fact that a floor area ratio variance is needed is 16 relevant to this case because you're asking for 17 not only a use that's not permitted, but a use 18 that's twice the density or intensity of what is 19 permitted. 20 So to me those are -- those are two 21 things that point to perhaps the use is too 22 intense for the site that it's being proposed on. 23 MS. COFONE: Mr. Rosenbach, you said I 24 could interrupt. 25 THE WITNESS: Sure.</p> | <p style="text-align: right;">Page 100</p> <p>1 MS. COFONE: Do you think that two 2 different structures have an impact on the massing 3 rather than one large office building? 4 THE WITNESS: It could. I haven't 5 really looked at that too much. I suppose it 6 could, but I still think overall you still have 7 twice the amount of structure on the property. 8 MS. COFONE: And then I had one other 9 question that I wanted to ask earlier in your 10 testimony but there really wasn't a good point for 11 me to break in, so I'm going to ask it now if 12 that's okay. 13 As a planner, do you think that there is 14 a difference between the way single-family homes 15 and multi-family homes are utilized? 16 THE WITNESS: From what perspective? 17 MS. COFONE: From an intensity 18 perspective. From the lot, how the lot is used, 19 the impacts associated with it. Are there 20 differences in the impacts that you might see? 21 For example, you're not going to have a 22 pool associated with a multi-family. There's 23 going to be, likely, a prohibition that restricts 24 you from having a pool, a tennis court, a 25 trampoline. Things that you might see associated</p> |
| <p style="text-align: right;">Page 99</p> <p>1 MS. COFONE: Ms. Caldwell, good evening. 2 Christine Cofone, the Board's planner. I just had 3 a question when you talked about intensity. 4 Were you here or did you listen to the 5 traffic testimony that was presented on this 6 application? 7 THE WITNESS: I read the transcript. 8 MS. COFONE: You did. 9 So as a planner, would you think that 10 traffic impacts are something that speaks to the 11 intensity of a use, though? 12 THE WITNESS: Yeah, I think in this case 13 what I'm looking at is the density in terms of the 14 size of the use and the impact of the scale of the 15 use versus -- I understand that the traffic would 16 be less than a commercial use. 17 MS. COFONE: Substantially, right? 18 Especially during the peak hour. 19 THE WITNESS: Yeah. I understand that. 20 MS. COFONE: And the building is not -- 21 it's not one -- in fairness to the applicant, it's 22 not one building that would be massed at that 17 23 and 1/2 percent FAR. It's broken up into two 24 different structures. 25 THE WITNESS: Yeah.</p> | <p style="text-align: right;">Page 101</p> <p>1 with a single-family home, you're just not going 2 to see those same types of impacts from a 3 multi-family home. 4 THE WITNESS: But there might be other 5 impacts, like larger parking areas, garbage 6 enclosures, outdoor lighting, and lighting of the 7 parking lot. I would actually kind of think 8 multi-family is more intensive from that 9 perspective. 10 MS. COFONE: So the use of a 11 multi-family, though, with a parking lot and 12 refuse, it would probably be more consistent, 13 though, with the commercial utilization 14 utilization of the property rather than a 15 single-family. Because if you have a commercial 16 parking lot, you'll certainly have a refuse area 17 and you'll have to have it lighted. 18 So I would think that those impacts 19 would actually be more akin to a commercial use. 20 That's just my opinion as a professional planner. 21 THE WITNESS: Okay. 22 MS. COFONE: And then I just had one 23 other question. If you can comment on the access 24 to Mount Kemble at this property. Your 25 understanding of what type of access it would have</p> |

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1 available to it and how that does or does not, in
 2 your opinion as a planner, facilitate a
 3 development of the property for one of the myriad
 4 of commercial uses that are permitted in the B-2
 5 zone.
 6 THE WITNESS: Yeah, I understand that,
 7 you know, because of the State Highway Access
 8 rules, that there would be ingress -- there would
 9 be an ingress and egress off of Post House Road.
 10 At least from the concept plan, perhaps on egress
 11 onto Route 202. Perhaps it would be a right
 12 in/right out. It's hard to say at this point.
 13 Actually, when I went out to the site, I
 14 found it interesting because when I turned up into
 15 Talbot's, I found the site driveway access and
 16 setback to be pretty similar to what would be
 17 proposed here. The site driveway's almost the
 18 same width and character as Post House Road. You
 19 would have to actually drive back further than, I
 20 think, a development on this site to access that
 21 commercial use, which seems to be quite thriving.
 22 So I don't see how that's a hindrance to
 23 the site.
 24 MS. COFONE: Thank you.
 25 BY MR. VISCONI:

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1 Q. What impact, if any, does the vacancy of
 2 the site have as to its suitability?
 3 A. **In my mind, I don't think that that**
 4 **means that it's not developable as a commercial**
 5 **property under the zoning. I think that, as I**
 6 **said earlier, a site that has some constraints,**
 7 **like this site has the wetlands and it has maybe**
 8 **some access constraints, I might point to the fact**
 9 **as to why it's a later developable piece within**
 10 **the zone.**
 11 And usually that's the case. The easy
 12 pieces get developed first and then, as you go
 13 along, the last ones to go in are the more
 14 difficult pieces. That doesn't necessarily mean
 15 it can't be developed for something in the zone,
 16 within the zone plan.
 17 Q. Are sites that have either a
 18 single-family or owner construction, do those get
 19 redeveloped for new uses?
 20 A. **Yes. That certainly is something that**
 21 **happens more and more in New Jersey.**
 22 **Redevelopment is more the norm.**
 23 Q. What about the proposed development's
 24 impact on surrounding neighbors?
 25 A. Well, as I spoke to previously, I do

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1 think that there's a negative impact by the floor
 2 area ratio. The fact that it's a use that's not
 3 existing in the zone now I think creates a, you
 4 know, dysfunction in the character of the area.
 5 The master plan really points to maintaining the
 6 rural nature and character of the area and I think
 7 that proposing something like this really flies
 8 afoul of that.
 9 And then I think that the neighbors
 10 have -- if you purchased your property and you're
 11 researching the zone and the master plan, you have
 12 some expectation that what is permitted is what
 13 would be built if you have vacant properties
 14 around you. And I think this level of intensity
 15 adjacent to their properties is a negative impact
 16 to them.
 17 Q. And what's the historic character of
 18 this zone, this area, the Country Mile area?
 19 A. I think that this is low-density type of
 20 rural -- rural type of use and townhouses are
 21 really more of a suburban type of use. And
 22 there's a lot in the master plan about not going
 23 toward the suburban strip mall, not going toward
 24 the suburban type of cookie-cutter look. And I
 25 think this really is counter to that.

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1 Q. Do you find that senior citizens who are
 2 downsizing or leaving their single-family home,
 3 are there certain things that they're looking for
 4 in that downsized property or neighborhood?
 5 A. Well, typically what we see is seniors
 6 that are looking to downsize are moving more to
 7 downtowns and mixed-use areas where there's
 8 walkability and access to more retail uses and
 9 nightlife, going to coffee shops and that type of
 10 thing. I'm not sure that this area is really
 11 conducive to that type of downsizing, that type of
 12 development.
 13 Q. What about amenities within a community?
 14 A. And there's another type of senior
 15 development that I mentioned before where you have
 16 access to tennis courts and swimming pools and
 17 community centers and ability to meet with other
 18 seniors and do activities. I think that's --
 19 those are really -- that's the kind of type of
 20 senior development that I think is more typical.
 21 Q. Are there any environmental concerns
 22 with the proposed density?
 23 A. There has been -- there is a concern
 24 about the proposal to place septic systems for
 25 five units. And there was discussion about, you

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| <p style="text-align: right;">Page 106</p> <p>1 know, nitrate dilution standards and this being in 2 excess of not only DEP's restrictions on nitrate 3 dilution standards, but what is in the master plan 4 in terms of what is proposed. 5 And I think that's -- another reason 6 this is counter to the master plan is that it 7 really does specifically state that these types of 8 developments should be in areas where sewers are 9 located and that's clearly not the case here. 10 ACTING CHAIRMAN ROSENBACH: I have a 11 question about this. I don't recall any previous 12 testimony to the effect that there are DEP nitrate 13 dilution standards that this development would 14 violate. I just don't recall any testimony like 15 that, so -- 16 THE WITNESS: That was at the last 17 hearing from the planning testimony about nitrate 18 dilution standards. That it's higher than what's 19 permitted for the -- I believe for this area. 20 ACTING CHAIRMAN ROSENBACH: But -- 21 MR. VISCONI: Well, it comes from the 22 master -- that information comes from the master 23 plan, but it does relate to setting a cap of 2 -- 24 was it 2 milligrams per whatever nitrate in the 25 soil. And that to do that, you need to set a</p> | <p style="text-align: right;">Page 108</p> <p>1 I think that the engineers in support of the 2 applicant would already know that. So I'm 3 confused by this. 4 THE WITNESS: Well, I think they have to 5 apply for a special type of application. They 6 have to apply to the DEP to get that approval. 7 ACTING CHAIRMAN ROSENBACH: Okay. 8 MR. HALL: Approval for what? 9 MR. SHEEHAN: Mr. Chairman, does the 10 planner realize that this is a bifurcated 11 application? 12 ACTING CHAIRMAN ROSENBACH: Well, 13 obviously they're questions so I can't fault her 14 for trying to answer them. 15 MR. VISCONI: I think I can redirect 16 this a little bit. 17 ACTING CHAIRMAN ROSENBACH: I mean, I'm 18 asking. 19 So, Mr. Sheehan, if what you're saying 20 is that there are DEP standards, but you don't 21 view them as part of the application, that might 22 be the answer. 23 MR. SHEEHAN: I think it is the answer. 24 ACTING CHAIRMAN ROSENBACH: Okay. 25 MR. SHEEHAN: And there's been no</p> |
| <p style="text-align: right;">Page 107</p> <p>1 limit of 3.5 acres or 4.2 areas of development. 2 BOARD MEMBER NEWLIN: That's Harding. 3 He asked about the state. The state -- 4 MR. VISCONI: Right, but that -- 5 THE WITNESS: Those are based on DEP 6 regulations. 7 BOARD MEMBER NEWLIN: Excuse me. 8 MR. VISCONI: Sorry. 9 BOARD MEMBER NEWLIN: You said there's 10 state standards. Our former chair asked about 11 state standards. What state standards are you 12 talking about? 13 THE WITNESS: The state standards that 14 set those nitrate dilution standards according 15 to -- 16 MR. VISCONI: Which then the master plan 17 took -- 18 MR. HALL: But there was no testimony 19 about the state standards. I think that's what -- 20 THE WITNESS: Okay. All right. Well, 21 I'll retract that part, that portion. 22 ACTING CHAIRMAN ROSENBACH: Well, not 23 only that, but if there are state standards and if 24 they are being violated, why is there even -- I 25 mean, I would think there could be no application.</p> | <p style="text-align: right;">Page 109</p> <p>1 testimony on it in direct and it is an integral 2 part of the site plan application when the septic 3 and the water issues are being addressed. 4 ACTING CHAIRMAN ROSENBACH: Okay. Then 5 -- 6 BOARD MEMBER NEWLIN: Actually, can we 7 just ask our engineer what he thinks about that? 8 That issue is a very interesting issue that's been 9 raised. 10 So are there state standards? 11 MR. FOX: Not that would be applicable 12 to this project, no. 13 BOARD MEMBER NEWLIN: There's no nitrate 14 dilution state standards? 15 MR. FOX: Right. Because the total 16 sewage generation rate from this project would be 17 less than 2,000 gallons per day, it would be 18 approved by the local health department. And as 19 part of the approval for an individual subsurface 20 disposal system, there's no standards relative to 21 nitrate dilution. 22 BOARD MEMBER NEWLIN: But if goes over 23 that amount -- and they're close, right? 24 MR. FOX: Then that would be a 25 consideration.</p> |

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| <p style="text-align: right;">Page 110</p> <p>1 BOARD MEMBER NEWLIN: It's 1,750 or 2 whatever it is. 3 MR. FOX: Two thousand. 4 BOARD MEMBER NEWLIN: Two thousand cap, 5 but they're at 1,750. 6 MR. FOX: Correct. 7 ACTING CHAIRMAN ROSENBACH: Okay. So, 8 fine. I think we've gotten the answer to that 9 question. 10 THE WITNESS: I stand corrected. 11 ACTING CHAIRMAN ROSENBACH: No, that's 12 okay. 13 THE WITNESS: Okay. 14 ACTING CHAIRMAN ROSENBACH: But, again, 15 it did not appear to come up before. And our 16 engineer is telling us it's not applicable. 17 Mr. Sheehan is saying it might be applicable, but 18 I gather it's really not. So, okay. 19 BY MR. VISCONI: 20 Q. I don't -- is it fair to say -- and 21 excuse the leading question -- is it fair to say 22 it's not a state standard that caps the amount of 23 nitrate dilution, but it's a state guideline that 24 impacts zoning considerations? 25 MR. SHEEHAN: The question probes an</p> | <p style="text-align: right;">Page 112</p> <p>1 account in determining the use? The answer might 2 be yes, it might be no. You've raised it as an 3 issue. 4 We will make sure that by the time we 5 decide, we will have the standard either because 6 you provide it to us or because Mr. Fox does, but 7 I think you can safely move on. 8 MR. VISCONI: Fair. I'll just point 9 the Board to the conservation plan element. It 10 has -- 11 ACTING CHAIRMAN ROSENBACH: Okay. It's 12 in the conservation plan element. 13 MR. VISCONI: Yes. Yes. It's also 14 mentioned in the housing element -- or the land 15 use plan element. 16 BY MR. VISCONI: 17 Q. Does the master plan talk about what 18 sustainable levels of development are in Harding 19 Township? And what does it say to that effect? 20 A. Yeah. I mean, the conservation element 21 talks about the intensity and density of 22 development and the potential for groundwater 23 pollution. And I think that's, you know, kind of 24 what we were -- we were looking at is the higher 25 density types of uses aren't encouraged on septic</p> |
| <p style="text-align: right;">Page 111</p> <p>1 irrelevant issue. 2 MR. VISCONI: Well, if it -- if it's a 3 guideline for zoning standards, now we're right 4 back in this Board's ballgame. 5 ACTING CHAIRMAN ROSENBACH: We are, 6 but -- I'm going to allow the question, but, 7 again, let's go back to our engineer. And I 8 guess, first of all, I'd like to actually have the 9 Board be able to see the standard in writing. 10 MR. VISCONI: It's all in the master 11 plan. 12 ACTING CHAIRMAN ROSENBACH: The master 13 plan incorporates the DEP standard? 14 MR. VISCONI: Yes. 15 ACTING CHAIRMAN ROSENBACH: Okay. 16 MR. VISCONI: Incorporates -- sure. 17 ACTING CHAIRMAN ROSENBACH: Now, you 18 might remember we all seem to have different 19 versions and page numbers of the master plan. 20 MR. VISCONI: We do. 21 ACTING CHAIRMAN ROSENBACH: So I'll tell 22 you what. I don't want it right now. If what you 23 are asking your planner -- and you could, of 24 course, be asking us directly -- is, is the DEP 25 standard something we should be taking into</p> | <p style="text-align: right;">Page 113</p> <p>1 systems because of the potential to add nitrates 2 to the groundwater. So I think that's one of the 3 issues that the master plan raises in terms of 4 guiding density of development. 5 Q. And do you know what the permitted 6 residential density is in the abutting R-1 zone? 7 A. Yes. It's 1 per 3 acres. 8 (Pause) 9 BOARD MEMBER NEWLIN: There's lots of 10 questions waiting to be asked when you're 11 finished. 12 MR. VISCONI: By all means. 13 BOARD MEMBER NEWLIN: From many Board 14 members. 15 MR. VISCONI: I'm just going through my 16 notes to make sure I've him on them all. Go 17 ahead. Open it up to the Board. 18 ACTING CHAIRMAN ROSENBACH: Do you want 19 to start? 20 BOARD MEMBER NEWLIN: I got lots of 21 questions. 22 ACTING CHAIRMAN ROSENBACH: Go ahead. 23 BOARD MEMBER NEWLIN: Okay. So one 24 question I have, there's been testimony from 25 Mr. Phillips that the parcel is not suited to a</p> |

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| <p style="text-align: right;">Page 114</p> <p>1 single-family house being put there. I'm just 2 curious. And he gave several reasons why. I'm 3 curious what you think about that. 4 THE WITNESS: I don't see any reason 5 that it's not suited. There certainly are other 6 development -- other single-family residences on 7 Route 202 and others. There's another one on Post 8 House Road directly across from this site, 9 although set a little further back. I don't see 10 any reason why it couldn't be developed like that. 11 BOARD MEMBER NEWLIN: One of his points 12 that I recall is that it's too shallow. The 13 property's too shallow for -- 14 THE WITNESS: It doesn't provide as much 15 of a buffer as the adjacent property, but that 16 doesn't mean that it couldn't be buffered from 17 Route 202. I mean, you can put a conforming 18 commercial development on there. I think you 19 could fit a single-family residential development 20 on there. 21 BOARD MEMBER NEWLIN: A lot of what you 22 talked about is the intense use, the density. I 23 certainly think that's what the crux is of this 24 application. 25 So I'll ask you the same question. What</p> | <p style="text-align: right;">Page 116</p> <p>1 area and what impact it has. You said there's 2 several other properties that you thought could 3 equally have the same weight -- the same 4 suitability, so to speak, for doing this. 5 Can you provide any of that to us? Can 6 you give us some examples of other properties that 7 pretty much are close -- 8 THE WITNESS: Well, in particular, the 9 one that's across from Post House Road. 10 BOARD MEMBER NEWLIN: What's that? 11 THE WITNESS: The one across Post House 12 Road is very similar in character. 13 BOARD MEMBER NEWLIN: Is that 14 something -- I don't know, Phil, if that's worth 15 getting a list of those properties. 16 THE WITNESS: It's not a vacant 17 property, but then there are also vacant 18 properties along Route 202. 19 BOARD MEMBER NEWLIN: That reasonably 20 could also be proposed as being suitable for 21 something like this, at least they're the same -- 22 THE WITNESS: Potentially. I didn't see 23 enough in this site that made it unique and 24 separate from other types of sites on Route 202. 25 BOARD MEMBER NEWLIN: I think, maybe you</p> |
| <p style="text-align: right;">Page 115</p> <p>1 if he cut the density down to three units? Would 2 that change -- I mean, a lot of the FAR ratio -- 3 and you brought this up several times about the 4 intensity, separate from the fact that it's 5 single-family versus commercial versus 6 multi-family. Aside from that issue. You talked 7 about density. Really half your concerns are 8 about it. 9 So the same question. What if he went 10 down to three units? Would a lot of your concerns 11 go away or would they be lessened? 12 THE WITNESS: I think they would be 13 lessened, but it is a somewhat different 14 application so I think that the proofs would need 15 to be put on. Particular suitability for a 16 multi-family? I don't feel that they've met 17 that. Perhaps it would be a better case if it was 18 less. 19 MR. VISCONI: Okay. 20 BOARD MEMBER NEWLIN: And you said that 21 you thought there were other sites. I think that 22 the Board is probably concerned about the 23 precedent aspect. You can call it whatever you 24 want. It's not legal precedent, but I think we're 25 all concerned about a new use being put in this</p> | <p style="text-align: right;">Page 117</p> <p>1 don't want to spend the time on that, but any 2 example properties by block and lot, I would be 3 happy to see those. 4 What about the -- I think it's my 5 last -- last question. Impact on neighbors. 6 So you think that a commercially 7 developed property, a conforming commercial 8 building, it's your testimony that that would have 9 more positive impact on the neighborhood than this 10 proposed multi-family use? 11 THE WITNESS: Not necessarily. I think 12 that the use is permitted by the zone so -- and I 13 heard this from the Board at the last meeting. 14 I'm not presuming that's the use. I think there's 15 a lot of testimony that somehow a commercial 16 development in this commercially zoned site would 17 be a negative. And not necessarily. I mean, 18 maybe it gets built as a flower shop. It's pretty 19 low in intensity. It's a cute, little, 20 residential-type building. 21 I mean, there's this kind of presumption 22 that if it's a commercial use, it's suddenly going 23 to be massively intense and a negative impact on 24 the surrounding community. Well, most of the 25 commercial uses on that corridor are very</p> |

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| <p style="text-align: right;">Page 118</p> <p>1 low-intensity type uses.</p> <p>2 BOARD MEMBER NEWLIN: I think I have to</p> <p>3 push you on this, because what we have to look at</p> <p>4 is what a property owner is able to do by right.</p> <p>5 And the applicant gave us a very helpful and nice</p> <p>6 plan with conforming commercial properties.</p> <p>7 So that's our benchmark, not something</p> <p>8 less than that. That's what somebody's able to do</p> <p>9 pretty much by right. That's our benchmark. And</p> <p>10 you're saying that that would be preferable</p> <p>11 than -- that would be preferable than giving the</p> <p>12 applicant what he's asking for?</p> <p>13 MR. VISCONI: I'm sorry, I'm not sure</p> <p>14 that's -- I get where you're going with that, but</p> <p>15 that's not the standard here.</p> <p>16 BOARD MEMBER NEWLIN: I'm not going</p> <p>17 anywhere. That's my simple question.</p> <p>18 MR. VISCONI: The standard is, is this</p> <p>19 particularly suited to a multi-family? Not --</p> <p>20 MR. HALL: He asked a question, whether</p> <p>21 it's the standard or not. I think he's entitled</p> <p>22 to an answer.</p> <p>23 BOARD MEMBER NEWLIN: It's a very simple</p> <p>24 question.</p> <p>25 THE WITNESS: It's hard to say. I mean,</p> | <p style="text-align: right;">Page 120</p> <p>1 that. You're saying maybe, maybe not.</p> <p>2 THE WITNESS: I mean, it depends. It</p> <p>3 depends on the type of use. But I think, like</p> <p>4 Mr. Visconi said, I don't think they've made the</p> <p>5 case for what they're proposing.</p> <p>6 BOARD MEMBER NEWLIN: Okay. So I think</p> <p>7 I'm taking it as maybe, maybe not. And our</p> <p>8 planner did give lots of points to our Board. I</p> <p>9 think about the traffic. I think it seems pretty</p> <p>10 clear that a commercial use traffic would be lot</p> <p>11 higher by the testimony. So there are some --</p> <p>12 some points.</p> <p>13 That's it. That's all I have.</p> <p>14 CHAIRMAN FLANAGAN: Can I ask you one</p> <p>15 question? Our planner previously had said if we</p> <p>16 were to grant this variance and allow a</p> <p>17 multi-family residential building to be built</p> <p>18 there, one thing we need to consider is we're</p> <p>19 losing an opportunity or a piece of property which</p> <p>20 could be part of the business district, right.</p> <p>21 And we look up and down that area, it's mostly</p> <p>22 businesses. I know that there are some</p> <p>23 residentials, some split zones. I know that there</p> <p>24 is just recently some applications that came in</p> <p>25 for -- to put a new business down at the other end</p> |
| <p style="text-align: right;">Page 119</p> <p>1 it depends on what type of use it is. I can't</p> <p>2 speak for the neighbors in terms of what type of</p> <p>3 commercial use would -- would -- how that would</p> <p>4 impact them or not. I mean, if it was me and it</p> <p>5 was a restaurant, I'd say, great, I can walk down</p> <p>6 the street and I've got this nice restaurant, but</p> <p>7 some people might be bothered by the traffic.</p> <p>8 I think that the density and intensity</p> <p>9 of the use is obviously bothering the neighbors</p> <p>10 because many of them are out tonight and --</p> <p>11 BOARD MEMBER NEWLIN: But we don't know</p> <p>12 what they're going to say. I can't wait to hear</p> <p>13 what they have to say because I think that's</p> <p>14 extremely important.</p> <p>15 THE WITNESS: I think that may be a good</p> <p>16 question to ask them, but I don't think that --</p> <p>17 from my standpoint as a planner, I'm not</p> <p>18 evaluating whether or not the commercial use is a</p> <p>19 bad -- a bad use. It's permitted by the zone. If</p> <p>20 you can build a conforming as-of-right, then you</p> <p>21 can do that.</p> <p>22 BOARD MEMBER NEWLIN: I kind of gathered</p> <p>23 you were saying it was a preferred -- it's a</p> <p>24 better use, it's better suited, it's better for</p> <p>25 the neighborhood, but you're not really saying</p> | <p style="text-align: right;">Page 121</p> <p>1 of 202.</p> <p>2 What are your views on the potential</p> <p>3 loss of a piece of property that could be a</p> <p>4 business? Is that something we should consider,</p> <p>5 that by allowing this to be residential, that</p> <p>6 we're losing the opportunity to put a business in</p> <p>7 there? Is that a positive or a negative? Does</p> <p>8 that have any impact?</p> <p>9 THE WITNESS: I think in a community</p> <p>10 that has limited commercial, I think that's a</p> <p>11 valid concern. To the extent that you might have</p> <p>12 to try to find other areas where commercial would</p> <p>13 be permitted to allow for additional commercial</p> <p>14 development and where that might not fit into the</p> <p>15 character, but there's a residential development</p> <p>16 here instead where it may have fit better. I</p> <p>17 think that is a concern.</p> <p>18 ACTING CHAIRMAN ROSENBACH: Do you have</p> <p>19 any data that you could share with us on whether</p> <p>20 the business model of having a local retail shop,</p> <p>21 let's say on 202, has remained pretty much</p> <p>22 constant over the last 20 years or whether, in</p> <p>23 fact, that model has been injured by the</p> <p>24 development of internet retail businesses now?</p> <p>25 I'm just asking if you have any data.</p> |

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| <p style="text-align: right;">Page 122</p> <p>1 THE WITNESS: I don't have any specific 2 data on Route 202's commercial -- 3 ACTING CHAIRMAN ROSENBACH: Or in 4 general. I mean, is the idea of a small-scale 5 retail shop different from the larger commercial 6 office building, which is the A-11 complying 7 model? I mean, is it still a viable model? And 8 I'm not asking for your personal opinion. I'm 9 asking if you actually have any data on the 10 question of whether small retail shops are viable. 11 THE WITNESS: I don't have any -- 12 ACTING CHAIRMAN ROSENBACH: Certainly on 13 Route 202. 14 THE WITNESS: I don't have any data on 15 that, no. 16 ACTING CHAIRMAN ROSENBACH: Okay. 17 Because it goes back to Mike's question, of 18 course, on if we preserve this lot for future 19 commercial development, and either perhaps it 20 awaits until the office market supports it or it 21 just never gets developed -- I'm not saying either 22 one of those has to happen, but I just -- I'm not 23 comfortable that I have enough information to 24 answer it. 25 I gather you're not comfortable or</p> | <p style="text-align: right;">Page 124</p> <p>1 be. 2 ACTING CHAIRMAN ROSENBACH: I asked 3 because -- and if we go to the potential uses in 4 the B-2 zone and there are, I'd say, give or take, 5 30 of them, they're overwhelmingly retail shop -- 6 I mean, there's some services: Lady hairdressing, 7 we just gave a variance for a dog shampoo place. 8 We did. There's shoe repair. There is a tailor. 9 But they are almost overwhelmingly retail. 10 And I know that one of the factors that 11 we are allowed to look at from the courts is 12 whether the world has changed since the zoning 13 ordinance in question was adopted. 14 And so do you agree or disagree with 15 that, that we're allowed to look at changed 16 circumstances since the -- 17 THE WITNESS: I agree that it's changed. 18 That doesn't mean that there's not a permitted use 19 that could be viable. I mean, restaurants I think 20 still work. You know, retail services still work. 21 And it's not a use variance for a different type 22 of commercial use on the property. It's for 23 something totally different, so. 24 ACTING CHAIRMAN ROSENBACH: And I gather 25 you would say, in any event -- in any event -- I</p> |
| <p style="text-align: right;">Page 123</p> <p>1 confident to be able to give an answer? 2 THE WITNESS: I can give you an answer. 3 I just don't have any data. I have my 4 professional opinion as a planner -- 5 ACTING CHAIRMAN ROSENBACH: Well, what 6 would that be then? 7 THE WITNESS: -- that I can give you 8 that. I think that retail is more difficult. I 9 mean, I think that's obvious, you know, with 10 Amazon and the internet. It is harder to support 11 smaller retail. 12 But the types of uses that are getting 13 put into places are more active-type uses, more 14 experience related: Restaurants, food. Places, 15 you know, like the escape rooms are different 16 places where people can go and do something, or an 17 arcade. 18 Places where people can meet and do 19 things that you can't do on the internet are the 20 types of retail that is replacing, you know, the 21 more standard retail. Although, you know, some 22 smaller shops in certain areas under certain 23 conditions, if they have a unique product, can do 24 very well. It just depends. But it's -- without 25 a doubt it's more difficult now than it used to</p> | <p style="text-align: right;">Page 125</p> <p>1 am putting words in your mouth here. You can 2 agree or disagree. 3 THE WITNESS: All right. We'll see. 4 ACTING CHAIRMAN ROSENBACH: That even if 5 the world has changed, that does not make this 6 location particularly suitable for the application 7 that has been brought before us? 8 THE WITNESS: And that's the point. And 9 I think a lot of these discussions, while it's 10 something that, you know, you should consider, I 11 think are better placed into the zoning process of 12 the Planning Board to reconsider the potential 13 uses. 14 ACTING CHAIRMAN ROSENBACH: I want to 15 make just one thing clear. What I just said 16 doesn't necessarily mean I'm endorsing it. It's 17 just that I meant I expected that you would say. 18 THE WITNESS: Understood. 19 ACTING CHAIRMAN ROSENBACH: I just want 20 to be clear. 21 THE WITNESS: Understood. 22 ACTING CHAIRMAN ROSENBACH: Any 23 questions -- any questions from Board members? 24 MS. COFONE: I have two questions. 25 ACTING CHAIRMAN ROSENBACH: Excuse me.</p> |

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| <p style="text-align: right;">Page 126</p> <p>1 Mr. Sheehan, I assume you're going to</p> <p>2 have questions.</p> <p>3 MR. SHEEHAN: I do, Mr. Chair.</p> <p>4 ACTING CHAIRMAN ROSENBAACH: Okay. Okay.</p> <p>5 Christine.</p> <p>6 MS. COFONE: Yes. Ms. Caldwell, do you</p> <p>7 understand the burden of proof for a D-1 use</p> <p>8 variance to be that the applicant has to</p> <p>9 demonstrate that the site cannot be utilized for a</p> <p>10 conforming use in the zone?</p> <p>11 THE WITNESS: The hardship. No. No.</p> <p>12 MS. COFONE: So that that is not part of</p> <p>13 the burden of proof. This applicant does not have</p> <p>14 to demonstrate that the use cannot be utilized for</p> <p>15 a permitted use.</p> <p>16 THE WITNESS: No, I understand that, but</p> <p>17 I think a lot of the testimony was around why it</p> <p>18 doesn't work for commercial. So I'm putting in --</p> <p>19 that's part of my argument for that.</p> <p>20 MS. COFONE: Okay. And then my second</p> <p>21 was you cited from the master plan, referring back</p> <p>22 to the planned residential neighborhood, that one</p> <p>23 of the reasons in the master plan why it was cited</p> <p>24 where it was cited was due to the availability of</p> <p>25 water and sewer infrastructure. But there was</p> | <p style="text-align: right;">Page 128</p> <p>1 which are enumerated in the master plan: Water,</p> <p>2 public water, public sewer, and transit? Is that</p> <p>3 what you're saying?</p> <p>4 MS. COFONE: Proximity to major road</p> <p>5 networks. At least that's what it would seem back</p> <p>6 in 1776.</p> <p>7 CHAIRMAN FLANAGAN: And if one thinks</p> <p>8 about those three things, there are very few</p> <p>9 places in this township that have public water and</p> <p>10 public sewer. There are many places in this</p> <p>11 township that have a road akin to Route 202.</p> <p>12 So in your view, then, of those three</p> <p>13 things, what do you think was the most unique</p> <p>14 characteristic of where the PRN zone is now?</p> <p>15 MS. COFONE: It's hard to say. You</p> <p>16 know, I don't know what was -- I don't know what</p> <p>17 was in their -- I think they're all important.</p> <p>18 CHAIRMAN FLANAGAN: I mean, I'm just</p> <p>19 thinking. If we're going to say, well, roads were</p> <p>20 important, public sewer and public water was</p> <p>21 important, and one could go to many places in the</p> <p>22 township and find a road, right? Then one would</p> <p>23 have to ask what's the difference between this</p> <p>24 particular spot that has a road similar to where</p> <p>25 the PRN zone is and this spot, where the PRN zone</p> |
| <p style="text-align: right;">Page 127</p> <p>1 another reason in the master plan as to why it was</p> <p>2 cited there.</p> <p>3 Do you recall what that is?</p> <p>4 THE WITNESS: No, I don't.</p> <p>5 MS. COFONE: I have it in front of me so</p> <p>6 I'll read it. It was also the location of major</p> <p>7 roads. So it was not just sewer and water as to</p> <p>8 why the town chose in 1976, which is, as far as</p> <p>9 land use, almost ancient history, but one of the</p> <p>10 other considerations was the proximity of major</p> <p>11 roads.</p> <p>12 So back then when, in 1976, when you put</p> <p>13 that zoning in place, you looked at sewer and</p> <p>14 water, but you also looked at availability of</p> <p>15 transportation and road networks.</p> <p>16 So I just wanted the Board to have a</p> <p>17 clear picture as to the thinking at the time that</p> <p>18 seemed to go into the master plan, because there</p> <p>19 were other things cited in there beyond the water</p> <p>20 and sewer infrastructure.</p> <p>21 CHAIRMAN FLANAGAN: Christine, sorry, I</p> <p>22 missed a few of the words in the beginning. I</p> <p>23 think what you're saying is the reason that the</p> <p>24 Zoning Board and the Township Committee chose the</p> <p>25 PRN zone as it exists is due to three factors,</p> | <p style="text-align: right;">Page 129</p> <p>1 currently isn't, that has a very similar road? I</p> <p>2 would argue -- I would guess, I mean I'd like your</p> <p>3 opinion on it, but I would guess the real</p> <p>4 difference is the fact that there's water and</p> <p>5 sewer, right?</p> <p>6 MS. COFONE: At the time back in 1976,</p> <p>7 that might have been. But, again, this is four</p> <p>8 decades of planning and time in between.</p> <p>9 CHAIRMAN FLANAGAN: But even today there</p> <p>10 are very few places in this township -- and you</p> <p>11 can correct me if I'm wrong, or, Paul, maybe you</p> <p>12 can tell me. I think the only places in this</p> <p>13 township that have public water and sewer are on</p> <p>14 that 202 corridor. Maybe there's some over by the</p> <p>15 farm as well.</p> <p>16 MR. FOX: A little bit by Kitchell Road.</p> <p>17 CHAIRMAN FLANAGAN: Other than by</p> <p>18 Kitchell Road. But in this township the only</p> <p>19 places one can find public water and public sewer</p> <p>20 are where they were zoned the PRN zone back in</p> <p>21 1976 and a little bit in Kitchell Road, which is</p> <p>22 where the farm is. And nothing's changed since</p> <p>23 1976 in terms of where one can find sewer and</p> <p>24 water.</p> <p>25 It just seems to me, I guess, that the</p> |

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1 real difference between the spot where they put it
 2 and other spots with roads in town is the fact
 3 that there's water and sewer.
 4 MS. COFONE: At the time, sure.
 5 CHAIRMAN FLANAGAN: Well, no, but
 6 nothing's changed since 1976 in terms where one
 7 can find public water and sewer.
 8 MS. COFONE: Yeah, I don't know that I
 9 can agree with that because it could have been the
 10 size of the tract, the available vacant land. I
 11 mean, there could have been a lot of things that
 12 went into that planning analysis.
 13 Planners would certainly look at other
 14 things beyond public water, sewer, and those were
 15 two things that were cited in the master plan.
 16 Three things. Water and sewer -- put water and
 17 sewer separately. Three things.
 18 So there could be a lot of other things
 19 they could look at. They could have looked at the
 20 adjacent land uses. They would have looked at the
 21 size of the tracts that were available. There
 22 were certainly other factors that, as a planner, I
 23 would be surprised to learn that those were the
 24 three limited or controlling factors that went
 25 into that due diligence to choose those sites. I

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1 would be surprised they were the only three; that
 2 there weren't some other factors that they
 3 considered at the time.
 4 CHAIRMAN FLANAGAN: Okay.
 5 BOARD MEMBER EICHLER: Sand Spring Road
 6 and Sand Spring Lane, some of the residences do
 7 have city water.
 8 ACTING CHAIRMAN ROSENBACH: Mr. Sheehan,
 9 would you like to cross-examine at this point?
 10 MR. SHEEHAN: I would.
 11 CROSS-EXAMINATION
 12 BY MR. SHEEHAN:
 13 Q. Ms. Caldwell, it is not your testimony
 14 that this Board does not have the capacity and
 15 authority to grant variances upon proof by the
 16 applicant that satisfies the required positive
 17 criteria and negative criteria, is it?
 18 A. No, that was not my testimony.
 19 Q. All right. Are you aware that the
 20 subject property has been listed for sale for a
 21 significant number of years without any activity?
 22 A. Not specifically, no.
 23 Q. Did you read the transcripts that --
 24 A. I mean, I have the transcripts of what
 25 the testimony was, but I don't know --

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1 Q. You don't recall.
 2 A. -- what actual real estate transactions
 3 may have been occurred or how much the developer
 4 or the owner tried to sell or not sell. I mean,
 5 that was the testimony.
 6 Q. Do you think it's relevant that the
 7 property has been for sale for a significant
 8 number of years and that no conforming
 9 residential -- no conforming commercial
 10 development has been realized on the site?
 11 A. I don't know that it's relevant to the
 12 actual case for a use variance.
 13 Q. Is it a relevant fact in the
 14 consideration of the use variance application?
 15 A. I think the Board can take it into
 16 consideration, but what we don't know is how
 17 much -- whether the price was lowered, whether the
 18 price is reasonable, if people offered -- made
 19 offers and they weren't accepted. We don't really
 20 know the true facts of what was going on.
 21 Sometimes people --
 22 Q. I'll represent to you that there was a
 23 significant amount of testimony in the first and
 24 second hearings that was given in that regard.
 25 Let me ask you this: You realize that

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1 this application is a bifurcated application,
 2 don't you?
 3 A. Yes, I do.
 4 Q. And that the site plan issues have not
 5 been addressed by the applicant in any detail
 6 awaiting a decision of the Board on the principal
 7 question whether the use variance was granted?
 8 A. Yes.
 9 Q. All right. In your summary of the site,
 10 you reference the wetlands.
 11 Did you take any notice of the
 12 topography of the site?
 13 A. Yes, I did.
 14 Q. And does the topography of the site have
 15 any significance in your mind in the requisite
 16 floor area ratio variance that has been applied
 17 for by the applicant?
 18 A. No.
 19 Q. Does topography of the site in your mind
 20 create any advantage for locating the parking lot
 21 and the access driveways and the fronting garages
 22 in the front of the property along 202 as opposed
 23 to the residential section of the property to the
 24 rear?
 25 A. I didn't evaluate from a site plan

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| <p style="text-align: right;">Page 134</p> <p>1 perspective.</p> <p>2 Q. Does it make it any easier to screen</p> <p>3 from the Post House Road residence?</p> <p>4 A. I didn't evaluate it based on that.</p> <p>5 Q. All right. Now, you did say that you</p> <p>6 read the master plan and the reexamination</p> <p>7 reports, is that correct?</p> <p>8 A. Yes.</p> <p>9 Q. You would acknowledge, then, that the</p> <p>10 reexamination report of 2013 questioned whether</p> <p>11 there is sufficient variety in housing types to</p> <p>12 accommodate the needs of older residents and</p> <p>13 lower-/middle-income households?</p> <p>14 A. Yes.</p> <p>15 Q. Do you recall reading that?</p> <p>16 A. Yes.</p> <p>17 Q. All right. You would acknowledge that</p> <p>18 the proposed application is designed to provide</p> <p>19 residential accommodations for five residences for</p> <p>20 occupancy of persons over 55 years of age,</p> <p>21 correct?</p> <p>22 A. Yes.</p> <p>23 Q. Would you admit that there are no</p> <p>24 current examples of the housing type proposed by</p> <p>25 this application currently in Harding Township?</p> | <p style="text-align: right;">Page 136</p> <p>1 Needless traffic congestion, plus the recognition</p> <p>2 that the majority of all resident shopping has</p> <p>3 taken place and will continue to take place</p> <p>4 outside of the township, indicates the lack of</p> <p>5 need for additional commercial space to serve</p> <p>6 township residents. As a result of this traffic</p> <p>7 congestion, a 1980 Abbington-Ney traffic</p> <p>8 engineering investigation concluded that, based</p> <p>9 upon actual traffic counts, there is no excess</p> <p>10 vehicle capacity along Route 202 in Harding</p> <p>11 Township."</p> <p>12 Does that sound a familiar bell for you?</p> <p>13 A. Well, there's been no zone change.</p> <p>14 There's been no significant change to this</p> <p>15 commercial zone. I mean, they may have been</p> <p>16 pointing to the fact that there shouldn't be</p> <p>17 additional zones for commercial because of that</p> <p>18 reason.</p> <p>19 Q. Do you take issue with the statement</p> <p>20 that there's no excess vehicle capacity along</p> <p>21 Route 202?</p> <p>22 A. Yeah, I think there's excess vehicle</p> <p>23 capacity on Route 202.</p> <p>24 Q. I'm sorry, Ms. Caldwell, I didn't hear</p> <p>25 you.</p> |
| <p style="text-align: right;">Page 135</p> <p>1 A. That's my understanding.</p> <p>2 Q. And, as such, is it fairly characterized</p> <p>3 as an unmet need in Harding Township?</p> <p>4 A. It may be, but as my testimony pointed</p> <p>5 to, that I don't think that this is the process to</p> <p>6 answer that unmet need if it's there. I think it</p> <p>7 should be before the Planning Board because I</p> <p>8 don't think they met site suitability in this</p> <p>9 case.</p> <p>10 Q. Would you acknowledge that the master</p> <p>11 plan and the land use element under that topic,</p> <p>12 B-2 business zone, discourages strip development</p> <p>13 and sprawl in the B-2 zone and encourages</p> <p>14 development and uses comparable with the overall</p> <p>15 character of the township?</p> <p>16 A. Yes. And my testimony was I didn't</p> <p>17 think this met the character of that area.</p> <p>18 Q. All right. In fact, in the statement of</p> <p>19 objectives and goals of the master plan, the</p> <p>20 planners, referring to traffic congestion on Route</p> <p>21 202, stated "The continuing importance of Route</p> <p>22 202, as the dominant local traffic artery within</p> <p>23 the township, will be greatly impaired unless</p> <p>24 greater development control is exercised and</p> <p>25 business activities are limited to specific areas.</p> | <p style="text-align: right;">Page 137</p> <p>1 A. I don't have any evidence that it's</p> <p>2 maximized, the use.</p> <p>3 Q. Consistent with those statements, are</p> <p>4 you aware that the reexamination of 2013, at Part</p> <p>5 4, recommended that specific changes regarding the</p> <p>6 B-2 zone should be considered updating the</p> <p>7 permitted uses and other provisions applicable in</p> <p>8 the B-2 zone along Route 202?</p> <p>9 A. I think that's similar to the discussion</p> <p>10 that we just had. It doesn't point to what they</p> <p>11 wanted to change it to exactly, but there may be</p> <p>12 other uses that would be beneficial to the zone.</p> <p>13 Q. All right. I'm going to ask you if you</p> <p>14 recall your reading of the transcript of July</p> <p>15 20th, 2017, in which the residents along Post</p> <p>16 House Road -- one, Mr. Bigler, or Ms. Bigler; one,</p> <p>17 Mr. Muratore; one, Mr. Addonizio; and, one,</p> <p>18 Dr. Jutkowsky --</p> <p>19 DR. JUTKOWITZ: Jutkowitz.</p> <p>20 Q. -- expressed concerns of an extreme</p> <p>21 nature over the traffic and the fear that traffic</p> <p>22 was a major issue at the intersection of Post</p> <p>23 House Road and Route 202?</p> <p>24 A. Okay.</p> <p>25 Q. Do you recall reading that?</p> |

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| <p style="text-align: right;">Page 138</p> <p>1 A. Yes, I do.</p> <p>2 Q. How would you characterize the permitted</p> <p>3 uses in the B-2 zone?</p> <p>4 A. From what perspective?</p> <p>5 Q. Would you say that they were commercial?</p> <p>6 retail? single-family residential? professional</p> <p>7 office?</p> <p>8 A. Yes.</p> <p>9 Q. How many permitted uses are there in the</p> <p>10 B-2 zone?</p> <p>11 A. I don't know. There's a list here. We</p> <p>12 could count them.</p> <p>13 Q. How about if I help you out --</p> <p>14 A. Okay.</p> <p>15 Q. -- and tell you that there are 30?</p> <p>16 A. Okay.</p> <p>17 Q. Would that be acceptable?</p> <p>18 A. That's your testimony.</p> <p>19 Q. I'm asking you for your testimony. You</p> <p>20 can count them if you want.</p> <p>21 A. I don't see the need.</p> <p>22 Q. I'm sorry?</p> <p>23 A. I don't see the need.</p> <p>24 Q. Okay.</p> <p>25 A. Unless the Board would like me to. I</p> | <p style="text-align: right;">Page 140</p> <p>1 you're suggesting.</p> <p>2 BY MR. SHEEHAN:</p> <p>3 Q. How about a restaurant with 40 seats and</p> <p>4 liquor sales? Is that a heavy trip generator?</p> <p>5 A. You know, I think --</p> <p>6 UNIDENTIFIED SPEAKER: To what?</p> <p>7 A. Heavy compared to what, you know?</p> <p>8 ACTING CHAIRMAN ROSENBACH: Excuse me.</p> <p>9 Hold on. This is not a performance in which we</p> <p>10 ask for audience applause or feedback or</p> <p>11 criticism. This is testimony before a</p> <p>12 quasi-judicial body.</p> <p>13 Go ahead, Mr. Sheehan.</p> <p>14 MR. SHEEHAN: Thank you, Mr. Chairman.</p> <p>15 BY MR. SHEEHAN:</p> <p>16 Q. Two more. Let's try two more. How</p> <p>17 about a market? Heavy trip generator?</p> <p>18 A. I think it's just too vague really to</p> <p>19 say.</p> <p>20 Q. All right.</p> <p>21 A. Size, scope, what type of market. Is it</p> <p>22 a natural foods store? Is it a 7-Eleven? I mean,</p> <p>23 I don't -- I'm just not comfortable answering</p> <p>24 those questions.</p> <p>25 BOARD MEMBER NEWLIN: I don't understand</p> |
| <p style="text-align: right;">Page 139</p> <p>1 can, but I think -- I have it sitting in front of</p> <p>2 me. If you have a specific question, you can ask.</p> <p>3 Go ahead.</p> <p>4 Q. Would you admit that there are a number</p> <p>5 of those uses that are significant trip</p> <p>6 generators?</p> <p>7 A. I haven't studied them and I'm not a</p> <p>8 traffic expert, so I'd really rather not go there.</p> <p>9 Q. Well, how about banks and savings and</p> <p>10 loans institutions?</p> <p>11 A. I don't think those are high-traffic</p> <p>12 generators.</p> <p>13 Q. How about a drugstore? a CVS?</p> <p>14 A. Not particularly, no.</p> <p>15 MR. VISCONI: I think -- I think this is</p> <p>16 included in what she answered, that she's not a</p> <p>17 traffic expert and she can't comfortably testify</p> <p>18 as to the generation.</p> <p>19 MR. SHEEHAN: I think that these uses</p> <p>20 are so familiar with common experience that any</p> <p>21 traffic -- any planner with a modicum of expertise</p> <p>22 can address the questions that are being asked</p> <p>23 regarding trip generation.</p> <p>24 ACTING CHAIRMAN ROSENBACH: So you are</p> <p>25 suggesting that -- all right. I understand what</p> | <p style="text-align: right;">Page 141</p> <p>1 your questioning either. Heavy compared to what?</p> <p>2 It might be helpful if you say heavy compared to</p> <p>3 what.</p> <p>4 BY MR. SHEEHAN:</p> <p>5 Q. Well, would you acknowledge that all of</p> <p>6 the above uses in response to Mr. Newlin's inquiry</p> <p>7 create more traffic than the proposed five-unit</p> <p>8 townhouse development?</p> <p>9 A. Yes, most likely. I already answered</p> <p>10 that when the planner asked me that question.</p> <p>11 Q. Was the answer yes?</p> <p>12 A. Yes.</p> <p>13 Q. Thank you.</p> <p>14 MR. VISCONI: We've not -- we've not</p> <p>15 discussed any traffic. We've not disputed any of</p> <p>16 the traffic testimony. There was earlier traffic</p> <p>17 testimony that commercial by the RSIS standards</p> <p>18 was higher than this. We've not even addressed</p> <p>19 that. We'll leave it to what the testimony is on</p> <p>20 the record.</p> <p>21 BY MR. SHEEHAN:</p> <p>22 Q. All right. Is it true that the</p> <p>23 development of the site for the certain permitted</p> <p>24 uses in the zone enumerated in the prior questions</p> <p>25 that I asked you would have a greater impact on</p> |

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| <p style="text-align: right;">Page 142</p> <p>1 adjacent residential uses in terms of not only 2 traffic, but noise from operations, lighting, lot 3 coverage, off-street parking and the like than the 4 proposed use? 5 A. I think it's speculative. Like I said, 6 we don't have a plan for an exact type of 7 commercial use so I can't really compare and 8 contrast. 9 Q. Do you acknowledge that the proposed 10 development would be less dense than that of the 11 multi-family uses permitted in the PRN zone? 12 A. That, I didn't evaluate. 13 Q. All right. Would you agree that the 14 proposed parking in the front yard is more 15 desirable than the required rear yard parking for 16 retail uses in the B-2 zone? 17 A. Not necessarily. That depends on what 18 your perspective is. If you're looking at the 19 streetscape on Route 202, having the parking 20 behind the building is more desirable. 21 Q. More desirable? 22 A. Yes. 23 Q. All right. Does the subject lot abut 24 any other property developed for commercial uses 25 permitted in the B-2 zone?</p> | <p style="text-align: right;">Page 144</p> <p>1 So our next regular meeting is when, Mr. Chair? 2 CHAIRMAN FLANAGAN: That would be the 3 third Thursday in February, which I don't know the 4 date. 5 MR. VISCONI: It's the 15th. 6 BOARD MEMBER EICHLER: The 16th? 7 MR. VISCONI: The 15th. 8 SECRETARY TAGLAIRINO: That would be 9 February 15th, everyone. 10 ACTING CHAIRMAN ROSENBACH: Okay. 11 Mr. Sheehan, we will continue with your 12 cross-examination. 13 MR. SHEEHAN: Thank you. 14 ACTING CHAIRMAN ROSENBACH: And let me 15 just say that there may be more questioning by the 16 Board. Any member of the public who wishes to can 17 also examine Ms. Caldwell. All right? When the 18 time comes. Okay. 19 CHAIRMAN FLANAGAN: Thank you. 20 (Whereupon, the hearing adjourned at 21 11:01 p.m. to February 15, 2018, at 7:30 p.m.) 22 23 24 25</p> |
| <p style="text-align: right;">Page 143</p> <p>1 A. No. 2 Q. Is the property directly across Post 3 House Road developed for residential or commercial 4 use? 5 A. Yes. I testified that it was a 6 residence across the street. 7 Q. Thank you. 8 CHAIRMAN FLANAGAN: Excuse me, 9 Mr. Sheehan. One moment. Let me do an 10 administrative function here. 11 It's one minute of 11. The important 12 question is going to be -- and this is important 13 for Ms. Caldwell -- is, is she going to be coming 14 back here? Okay? And I'm not saying you're done 15 or you're not done. For all I care, you have 16 another hour. That's your business. But just in 17 terms of trying to plan ahead. How much longer do 18 you think you have? 19 MR. SHEEHAN: I would think 15 minutes 20 to 30 minutes. 21 ACTING CHAIRMAN ROSENBACH: Okay. Then 22 we're adjourned for the evening. Okay? 23 MR. SHEEHAN: All right. 24 MR. VISCONI: Thank you. 25 ACTING CHAIRMAN ROSENBACH: All right.</p> | <p style="text-align: right;">Page 145</p> <p>1 CERTIFICATE 2 3 I, BRIDGET LOMBARDOZZI, Notary Public 4 and Certified Shorthand Reporter of the State 5 of New Jersey, do hereby certify that the 6 foregoing is a true and accurate transcript of 7 the testimony as taken stenographically by and 8 before me at the time, place and the date 9 hereinbefore set forth. 10 I DO FURTHER CERTIFY that I am neither 11 a relative nor employee nor attorney nor 12 counsel of any of the parties to this action, 13 and that I am neither a relative nor employee 14 of such attorney or counsel, and that I am not 15 financially interested in the action. 16 17 ----- 18 BRIDGET LOMBARDOZZI, 19 Certified Shorthand Reporter 20 C.S.R. License No. XI01201 21 22 23 24 25</p> |

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