

CITY OF SOUTH AMBOY
PLANNING BOARD
REGULAR MEETING/MINUTES
January 27, 2021

Members present: Mary Szaro, Scott Kominkiewicz, Mayor Fred A. Henry, Thomas Kelly, George Baranowski, Janet Kern, Holly Hughes, Jorge Gonzales-Gomez, Gary Forshner, William DeMasi

Members absent: Tom Reilly, Catherine Corey

Also present: Jason C. Valetutto, P.E., P.P., James E. Stahl, Esq.

Chairwoman Szaro called this meeting to order.

Adequate notice of this meeting has been provided under “The Open Public Meeting Act of New Jersey” by advertisement published in the Home News Tribune, on the City of South Amboy Planning/Zoning Board website, and by posting on the information board at City Hall. Electronic notice has been provided via the agenda on the City Website and the agenda posted on the bulletin board at City Hall.

Roll call was taken at this time.

Motion by Janet Kern, seconded by Jorge Gonzales-Gomez to accept the Minutes of the December 17, 2020 meeting. 9-0, 1 abstention.

Chairwoman Szaro then reviewed the evening’s agenda.

Completeness

Johnrose, FM LLC. – PB Application # 412-20

3630 and 3640 Highway 35 / Block 90 Lot 3 & 6

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated January 19, 2021, regarding Application #412-20, Johnrose FM LLC recommending **Incompleteness**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Incompleteness** for Application #412-20 Johnrose FM LLC.

Motion carried 2-0, 0 abstentions.

Continued Public Hearing

Brian Vallee, Ken Barton & Charnie Stein – PB Application # 408-20

167 N. Broadway / Block 47, Lot 16

Please refer to the attached transcript.

Motion by Holly Hughes, seconded by Janet Kern.

This application to be continued, the submission of redesigned plans must be submitted by February 12, 2021, to be heard at the next regularly scheduled meeting on February 24, 2021, with no further notice required. Chairwoman Szaro asked for a motion to open this portion of the meeting to the public. Motion by Janet Kern, seconded by Scott Kominkiewicz. With no members of the public that wish to speak, Chairwoman Szaro asked for a motion to close this portion of the meeting. Motion by Gary Foshner, seconded by Janet Kern.

Announcement of Application Carried

Center SA, LLC. – Application # 411-20

536 Center Street / Block 136 Lot 1

Motion by Scott Kominkiewicz, second by Janet Kern to accept the request made by Mr. Kenneth L. Pape Esq, to carry the application to the February 24, 2021 meeting with no further notice required. All in favor

Special Discussion

Stormwater Management Amendment - The City of South Amboy received notice from New Jersey Environmental Protection. That every City and Township in New Jersey must have a Stormwater Ordinance active by March 3, 2021. City Engineer Mark Rasimowicz received a template by NJDEP to assist in creating the Stormwater Ordinance. City Council and the Planning Board have reviewed the AJV Engineering Inc. report dated January 25, 2021. The Stormwater Ordinance coincides with and is consistent with the Planning Boards Masterplan. Mr. Jason C. Valetutto, P.E., P.P. recommends that the Planning Board adopts a resolution for the Stormwater Ordinance. Chairwoman Szaro opened this portion of the meeting to the public seconded by Janet Kern. With no one from the public to speak on this matter. Chairwoman Szaro asked for a motion to close this portion. Motion by Tom Kelly seconded by Janet Kern - All in favor.

Chairwoman Szaro asked for a motion to approve Resolution PB – 05-21 Stormwater Ordinance
Motion by Holly Hughes, seconded by Scott Kominkiewicz 10-0, 2 abstention

Chairwoman Szaro opened the meeting to the public. With no one from the public wishing to speak, Chairwoman Szaro asked for a motion to close the public portion of this meeting.
Motion by Thomas Kelly, seconded by George Baranowski.

Chairwoman Szaro announced that the next virtually scheduled meeting would be held on Wednesday, February 24, 2021, at 7:00 pm.

Chairwoman Szaro called this meeting to adjourn. All in favor.

Respectfully submitted,

Amy Russo

Planning Board Secretary

Minutes Approved on February 24, 2021

CITY OF SOUTH AMBOY
PLANNING BOARD
2021 RE-ORGANIZATION MEETING/MINUTES
JANUARY 27, 2021

Members present: Mary Szaro, Scott Kominkiewicz, Mayor Fred A. Henry, Thomas Kelly, George Baranowski, Janet Kern, Holly Hughes, Jorge Gonzales-Gomez, Gary Forshner, William DeMasi

Members absent: Councilman Tom Reilly, Catherine Corey

Also, present: Jason C. Valetutto, P.E., P. P, James E. Stahl, Esq.

Chairwoman Mary Szaro called this meeting to order.

Adequate notice of this meeting has been provided under “The Open Public Meeting Act of New Jersey” by advertisement published in the Home News Tribune, on the City of South Amboy Planning/Zoning Board website, and by posting on the information board at City Hall. Electronic notice has been provided via the agenda on the City Website and the agenda posted on the bulletin board at City Hall.

Roll call was taken at this time.

James E. Stahl, Esq called for nominations for Board Chairperson. Motion by Scott Kominkiewicz, seconded by Janet Kern to nominate Mary Szaro as Board Chairwoman. All in favor.

Chairwoman Mary Szaro called for nominations for Vice-Chairperson. Motion by Mary Szaro, seconded by Tom Kelly to nominate Scott Kominkiewicz as Board Vice Chairman. All in favor.

Chairwoman Mary Szaro appointed Holly Hughes, Janet Kern, and Catherine Corey as Completeness Committee. All in favor.

Chairwoman Mary Szaro appointed AJV Engineering, Inc. as Board Planner. Motion by George Baranowski, seconded by Janet Kern to appoint AJV Engineering, Inc. as Board Planner. All in favor.

Mr. James E. Stahl, Esq. swore in Mr. Jason C. Valetutto, P.E., P.P., for the 2021 year.

Chairwoman Szaro appointed James E. Stahl, Esq. as Board Attorney. Motion by Mary Szaro seconded by Gary Forshner to appoint Borrus, Goldin, Foley, Vignuolo, Hyman & Stahl, P.C. - Mr. Stahl as Board Attorney. All in favor.

Chairwoman Mary Szaro appointed The Home News Tribune as the Official Planning Board Newspaper. Motion by Mary Szaro, seconded by Scott Kominkiewicz to designate The Home News Tribune as Official Board Newspaper. All in favor.

Chairwoman Mary Szaro appointed Amy Russo as Board Secretary. Motion by Mary Szaro, seconded by George Baranowski to appoint Amy Russo as Board Secretary. All in favor.

Chairwoman Szaro asked for a motion to close the Re-Organization meeting. Motion by Gary Forshner, seconded by Chairwoman Szaro to adjourn the Re-Organization meeting. All in favor.

Respectfully submitted,

Amy Russo, Planning Board Secretary

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PLANNING BOARD
CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX
STATE OF NEW JERSEY

In the Matter of)
The Application of:) Transcript of
BRIAN VALLEE, KEN BARTON,) proceedings
& CHARNIE STEIN)
#408-20)
167 North Broadway)
Block 47, Lot 16)

Wednesday, January 27, 2021
Remote Videoconference Via
GoToMeeting

PLANNING BOARD

MARY SZARO, Chairwoman
SCOTT KOMINKIEWICZ
FRED HENRY, Mayor
THOMAS KELLY
GEORGE BARANOWSKI
HOLLY HUGHES
JORGE GONZALES-GOMEZ
GARY FORSHNER
JANET KERN
WILLIAM DeMASI

AMY RUSSO, Secretary
JASON VALETUTTO, Planner/Engineer

DEBORAH A. MASTERTON
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1 A p p e a r a n c e s :

2 JAMES E. STAHL, ESQUIRE,
3 Attorney for the BOARD

4 CLEARY, GIACOBBE, ALFIERI, JACOBS, LLC,
5 Attorneys for the APPLICANT
6 By: DANTE ALFIERI, ESQUIRE

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1 THE CHAIRWOMAN: Next application up is
2 408-20, the Brian Vallee, Ken Barton, and Charnie
3 Stein -- excuse me if I'm saying that wrong -- Mr.
4 Alfieri. Property is at 167 North Broadway.

5 MR. STAHL: Madam Chairwoman, if I just
6 may make a short announcement and then it's Mr.
7 Alfieri's application to proceed. There's still a
8 lot of people here I think -- not a lot, but there
9 are individuals here, and I just want them to
10 understand that they should be on mute and that
11 there will be an opportunity for them to ask
12 questions and make statements when the matter is
13 open to the public at such time as the board
14 determines it's appropriate after the testimony. So
15 that we would ask them to just mute their
16 microphones, and they will everyone be entitled to
17 make statements or to be heard.

18 I see that our court reporter -- not our
19 court reporter, but a court reporter, Deborah, is
20 on.

21 So, Mr. Alfieri, it's your application.

22 MR. ALFIERI: Thank you, Mr. Stahl.
23 Dante Alfieri on behalf of the applicant. Good
24 evening. Congratulations on your reappointments to
25 everyone.

1 So if the board remembers, we were here
2 back at the end of September. The application, as
3 previously noted, is a -- there's an existing
4 property -- existing structure. We are proposing to
5 have that structure removed, retain the foundation,
6 and construct a new multiuse structure where there
7 will be three residential units and one retail unit.

8 After the September meeting, we took the
9 board's comments and concerns, and we addressed them
10 as best we could. There was a submittal, and then
11 there was an updated review letter for your board
12 professional, to which my professionals provided
13 further update, which I believe the board has, but
14 we -- whether they have them or not, we will get
15 into those changes and explain what has happened
16 since the last revision and the most recent
17 revision.

18 MR. VALETUTTO: Mr. Alfieri --

19 MR. STAHL: Mr. Alfieri, if I can, do
20 you acknowledge on behalf of your client the review
21 letter of AJV Engineering, Inc., dated January 7,
22 2021; am I correct?

23 MR. ALFIERI: That is correct.

24 MR. STAHL: And I'll leave up to
25 Mr. Valetutto. I think there's a question as to

1 timing of submissions, but, Jason, I'll leave that
2 to you.

3 MR. VALETUTTO: Yeah, I was just about
4 to ask to put my January 7 review letter on the
5 record as well as that January 7 letter only
6 addresses the site plan revised through November 16,
7 2020, and the architectural floor plans revised
8 through December 2, 2020. I understand you
9 submitted -- future revisions. Those revisions have
10 not been looked at. They have not been reviewed, so
11 your testimony this evening should be on the plans
12 that were submitted and reviewed through that
13 January 7 letter. It was probably a little
14 premature to try to address that letter. Everything
15 that happened in this letter could have been
16 addressed verbally through this meeting here.

17 MR. ALFIERI: Okay. We appreciate that.
18 We'll go through all the proposed changes. Like I
19 said, I have both of my professionals, Mr. Kee and
20 Miss Montero, who's going to provide testimony.
21 They were both sworn in at the prior meeting, but if
22 we could, I'll have Miss Montero come up first to
23 touch on the architectural revisions for the last
24 meeting in September as well as get into some of the
25 proposed changes since the January 7.

1 THE CHAIRWOMAN: Mr. Alfieri, can you
2 just before we go into that just give us a quick
3 recap of the property that you're proposing.

4 MR. ALFIERI: So as I alluded to
5 earlier, the property is located at 167 North
6 Broadway. There is an existing structure on the
7 site. The application is proposing to remove that
8 structure, retain the foundation and some of the
9 walls. I'll have Miss Montero and Mr. Kee get into
10 exactly what walls are going to be retained. We're
11 proposing to construct a multiuse structure of three
12 residential units and one retail unit on the first
13 floor. Miss Montero can get into exactly the layout
14 of the retail will be and where the three
15 residential units will lie, and then I'll have Mr.
16 Kee come on and provide testimony as it relates to
17 any engineering.

18 THE CHAIRWOMAN: Thank you.

19 MR. ALFIERI: Miss Montero, are you
20 there?

21 MR. KELLY: I'm sorry, Madam Chair, can
22 I just interrupt for one second, please. Is there
23 an existing structure on the site, or is there only
24 a foundation on the site?

25 MR. ALFIERI: There is -- I believe

1 there's an existing structure.

2 MS. MONTERO: It's just a foundation.

3 MR. KELLY: I believe it's just a
4 foundation.

5 MR. ALFIERI: That's correct. I
6 apologize. It's just a foundation.

7 MR. STAHL: Let me do a couple more
8 technical. Thank you, Tom.

9 Debbie, the court reporter, are you able
10 to based upon your review of the screen who's
11 talking? Deb?

12 THE COURT REPORTER: I can't -- I can't
13 see -- I can only see six people's faces, and most
14 of the other speakers only have a phone number so I
15 don't know who they are unless they say it first.

16 MR. STAHL: All right, so I'm going to
17 ask everyone, everyone, when they ask a question,
18 identify you by your last name. In other words,
19 Dante is on so we see him and he's going to be
20 primary, but when Miss Montero testifies, she'll say
21 Montero. If we start getting into questions, too
22 many witnesses, board questions, I would just like
23 the board to say, or me or Jason, Stahl, Valetutto,
24 Szaro, Hughes, because that way we will have a
25 consistent transcript. So I would ask that, and

1 also, Dante, I'm going to reswear in your witnesses
2 just so there's no issue if they weren't on video
3 last time or -- I just want to make sure a record is
4 perfect. Okay.

5 MR. ALFIERI: Okay. So -- Alfieri
6 speaking. I'll have Miss Montero come on and
7 provide some testimony. Mr. Stahl, do you want to
8 swear both my witnesses in individually or together?

9 MR. STAHL: Well, let me do -- where's
10 Miss Montero?

11 MS. MONTERO: Right here.

12 MR. STAHL: Are you on screen?

13 MS. MONTERO: My video is on.

14 MR. ALFIERI: Yes, I see her.

15 MR. STAHL: I don't see her.

16 MR. FORSHNER: You might have your
17 screen set up so it's not having everyone show up
18 on-screen. There's a button at the top allows you
19 to view everyone.

20 MR. STAHL: It's a share screen or --

21 MR. FORSHNER: No, not share screen.

22 MR. ALFIERI: The top of the screen
23 you'll see a little drop-down says view everyone.
24 It has options: View everyone who's talking, active
25 camera and --

1 MR. STAHL: Right.

2 MR. ALFIERI: View everyone. I know
3 everybody prefer to see my beautiful face, but we
4 got to see everyone.

5 MR. STAHL: Well, there's a new
6 directive that requires witnesses to -- there.
7 Okay. Thank you, Miss Montero. I see you now.
8 Please raise your right hand.

9

10 J O A N N M O N T E R O, sworn.

11 DIRECT EXAMINATION BY MR. ALFIERI:

12 MR. STAHL: And please state your name,
13 spelling your last name.

14 THE WITNESS: My name is JoAnn Montero,
15 M-o-n-t-e-r-o.

16 MR. STAHL: Thank you very much. Okay,
17 Mr. Alfieri.

18 Q. Miss Montero, if you remember the last
19 meeting, we went through the architectural. We
20 gave the board a great idea of what the proposed
21 structure was going to look like. If you could just
22 recap what is changed since the last meeting and
23 then get into the details as it relates to that.

24 A. Okay. On -- there's an existing
25 foundation that we will be reusing. It is partially

1 a basement. We'll be in-filling that, so we won't
2 be using it as any useful space, and then the retail
3 floor will begin at grade level.

4 On that retail floor, we will have a
5 retail space in the front and stock and (audio
6 disruption) space and a toilet room to the rear.
7 Also on that first floor on the right side is the --
8 is a little foyer where we'll have the trash and
9 recycle for the tenants, for the apartment tenants,
10 and stair going up to the second floor.

11 On the second floor is two apartments,
12 one toward the front of the building, one toward the
13 rear of the building, and then a central stair that
14 brings you up to a third floor where that entire
15 floor would be one apartment.

16 Q. Now, the proposed apartment, how large
17 are they being -- how large -- how much square feet
18 are each apartment?

19 A. Each apartment is -- the first --
20 apartment 1 and 2 that appear on the second floor
21 are 715 square feet, and the larger apartment that's
22 on the third floor is 1,520 square feet.

23 MR. ALFIERI: If the board remembers,
24 one of the questions that the board had back in
25 September was a question related to how the height

1 would function with relation to trash. So Miss
2 Montero just testified that in an effort to address
3 that, they've created a -- I want to call it a
4 hallway or foyer where the residential area trash
5 will be enclosed and then stored there.

6 Q. Miss Montero, as it relates to the
7 retail, where is the proposed trash going to be
8 stored for that?

9 A. That would be on the exterior to the
10 rear of the building.

11 Q. And the rear of the building, if the
12 board remembers, was originally proposed as a
13 parking lot, but there was a lot of discussion as it
14 relates to access to that area, and that has since
15 been removed and changed to a -- I guess a trash
16 enclosure and a grassed area, correct, Miss Montero?

17 A. Correct.

18 THE CHAIRWOMAN: If I may ask just so I
19 understand this, the trash in the back I think -- in
20 the back of the property, the rear of the property,
21 we did discuss at the last meeting how that will be
22 brought up to the front.

23 THE WITNESS: The intention is that's
24 just the retail trash and recycle, and it would have
25 to be brought through the building to the front for

1 pickup.

2 THE CHAIRWOMAN: And then, Mr. Alfieri,
3 if you could just tell me one more time. The trash
4 for the residential, the three total apartments,
5 where is that going to be kept? Did you say inside
6 the building?

7 MR. ALFIERI: Correct. There will be a
8 trash recycling section in the foyer area on the
9 first floor, not in the retail, in a separate
10 designated area.

11 THE WITNESS: It's shown on drawing 1 of
12 3 on the first floor plan.

13 THE CHAIRWOMAN: Is that on the floor
14 plan that we received earlier?

15 THE WITNESS: Dated 1-13-21.

16 MR. VALETUTTO: No, as I said before,
17 you should be testifying on the 12-2-2020 plan. The
18 board has not been able to review your latest
19 update. It was received too late.

20 Q. So, Miss Montero, on the I guess it's
21 the December submission, did that submission
22 indicate where the trash should be?

23 A. We were accommodating the trash to the
24 rear. It had to be brought through a hallway to get
25 to the front for pickup.

1 Q. After you received --

2 MR. KELLY: I'm sorry, excuse me, Madam
3 Chair, this is Tom Kelly. The submittal the package
4 does have -- I know Jason didn't get a chance to
5 review it, but the 1-13-2021 revision was contained
6 in our package, so it does depict the trash being in
7 the foyer at the base of the stairs. I do have a
8 question, however, for the architect, if I may. How
9 are we putting a trash assembly area inside of a
10 one-hour fire rated stair enclosure? And I know
11 that's a code item for a later date; however,
12 because the board is going to be concerned about
13 where we're putting the trash enclosures, how are we
14 putting that inside of the 1-hour rated stair
15 enclosure that the code's not going to permit it to
16 be there?

17 THE WITNESS: We considered putting a
18 stair -- I'm sorry -- a door at the bottom of the
19 stairs, so that would be contained.

20 MR. KELLY: That would contain the
21 stairs, but then once I left the door at the bottom
22 of the stairs, which your drawing doesn't show, but
23 then I'm going from a rated enclosure to unrated
24 enclosure before I leave the building, and again,
25 not to get into code here, but the only reason I'm

1 bringing it up is because the board's going to want
2 to know where the trash is going because that's been
3 a question since the initial presentation.

4 Q. So, Miss Montero, to follow up Mr.
5 Kelly's question, has the designs been made in such
6 a way to accommodate the required fire code?

7 A. I can reconfigure that trash alcove, if
8 you will, to be out of that 1-hour fire rating.

9 Q. And if it was actually (audio
10 disruption) on this application, we would certainly
11 as a condition of the approval meet any fire code
12 requirements to ensure that there's no issue from
13 that trash enclosure.

14 A. Of course.

15 Q. Miss Montero, can you touch on some of
16 the other revisions that were made to the plans,
17 including signage.

18 A. Oh, yes.

19 MR. STAHL: Dante, if I can, we're going
20 to jump around a bit.

21 Jason, would you rather have -- Dante's
22 application, but would you rather have the
23 descriptions related to your letter of January 7, or
24 are you satisfied with the way Miss Montero is
25 presenting it?

1 MR. VALETUTTO: I would actually prefer
2 to go point by point on my report. That way
3 everything is put on the record and everything is
4 touched upon because jumping back and forth,
5 something is going to get missed.

6 MR. STAHL: Yeah Dante, what I -- I
7 usually use the last review letter as a menu, if you
8 will, for preparing a resolution, not assuming
9 what's going to happen. So if Miss Montero could
10 follow Mr. Valetutto's letter and the two of them
11 can have some synergy, I think the board will be
12 better served.

13 THE CHAIRWOMAN: I agree. Thank you,
14 Jim.

15 MR. ALFIERI: Not an issue. So to go
16 into the board professional's January 7, 2021,
17 letter, let's turn to page 2 of 6, starts with site
18 plan. Sheet 1, paragraph 1 deals with including
19 owners -- property owners list?

20 MR. VALETUTTO: Dante, I think we should
21 -- you should jump ahead to page 4 of 6. You have
22 your architect on record now. The site plan is for
23 the engineer. The engineer hasn't been worn in yet.
24 So let's stick with what we're doing.

25 MR. ALFIERI: Thank you.

1 Q. Page 4 of 6, paragraph 1, Miss Montero,
2 deals with all building entries must be checked and
3 corrected for accuracy. The footprint is listed as
4 1,770 square feet when the building dimensions are
5 24.25 times 33 for a gross floor area of
6 1,770.25 square feet. First, second, third, and
7 total floor areas should be adjusted along with the
8 footprint and residential floor area. The basement
9 storage area is listed as only 807 square feet. The
10 floor plan shown on an open basement for the entire
11 footprint. This must be addressed. And then
12 there's the bolded changes, which are based upon the
13 December revisions, right, Mr. Valetutto?

14 MR. VALETUTTO: Yes, 12-2-2020.

15 MR. ALFIERI: Okay, so those changes are
16 enumerated there.

17 Q. Miss Montero, do you want to touch on
18 that.

19 A. The drawings that we submitted dated for
20 1-13, not everyone on the board has them, but I did
21 adjust those square footages to be accurate and
22 consistent.

23 MR. VALETUTTO: Okay, just so we can all
24 stay on the same page, if we can put out of our mind
25 that there exists a plan dated January whatever and

1 we just do our testifying based on this report and
2 these 12-2 plans. We understand that you'll make
3 the changes, but just if we can just keep it all
4 clean, it will be a little less confusing than going
5 back and forth between two sets of revisions of
6 plans.

7 Q. So, Miss Montero, the comments in
8 subsection paragraph 1 on page 5 of 6, you will
9 address on your plans?

10 A. Yes.

11 Q. And you testified earlier that there is
12 no longer a basement; is that correct?

13 A. That is correct.

14 Q. And then it says new or few comments,
15 the outer dimensions of the foyer should be labeled
16 in the area provided on the first floor plan. You
17 will address that?

18 A. Yes.

19 Q. Number 2, paragraph 2, the proposed
20 retail floor shows an area of 1,455 square feet on
21 the first floor plan whereas the retail floor area
22 shown on the building data chart is 1,606 square
23 feet. It is unclear which is correct. Miss
24 Montero, can you please advise which is correct, and
25 you'll also include that on your plan?

1 A. Yes, it will be corrected on the plans.

2 Q. And what is the correct square footage?

3 MR. STAHL: What is the right square
4 footage? Can you tell us that now? Stahl talking.

5 Q. Is it 1,606 or 1,455?

6 A. The 16 -- 1,604 is the retail space.

7 Q. Okay, and then there's testimony should
8 be provided, foundation -- so we've already noted
9 that the basement is being removed.

10 Paragraph 2, Miss Montero, will the
11 apartment utilities also be located in the utility
12 room on the first floor?

13 A. Yes.

14 Q. And then there's a comment, if all
15 utilities are being housed in this location, doors
16 should also -- the doors should be located through
17 the outside wall so everyone has access at all
18 times. Is that -- will you make that change?

19 A. Yes.

20 Q. Okay. Where will -- then paragraph 3
21 asks where will stock be stored for the retail
22 space.

23 A. It's inside in the office space so it
24 would be office/stock area.

25 Q. Could you just elaborate how large that

1 area would be for the board.

2 A. What I don't have in front of me is the
3 12-12 drawing right at my fingertips.

4 MR. KELLY: It appears to be a
5 12-foot-by-24-foot, 3 area.

6 THE WITNESS: Thank you.

7 Q. That's your testimony, Miss Montero?

8 A. Yes.

9 Q. Thank you. Now, it says new review
10 comments, the area of each apartment should be
11 listed below the apartment number designation.
12 You'll make that correction?

13 A. Yes, I will.

14 Q. Sheet 3, new sheet added to plan set,
15 new review comment, the front elevation shows a sign
16 of 1 foot, 2 inches by 10 -- which does not match
17 the area shown on the site plan. This conflict must
18 be resolved. You will correct that?

19 A. Yes, I will.

20 Q. And then we have page 6 of 6?

21 MR. VALETUTTO: Mr. Alfieri, I think you
22 need to put on the record what the actual size of
23 the sign is. Just saying we'll correct it -- the
24 board has no idea what the size of the sign is and
25 what they're voting on tonight.

1 Q. Miss Montero, can you please tell the
2 board the proposed sign size.

3 A. The intention is the sign will not be
4 part of the application, that a facade mounted sign
5 will not be part of it, and at the time when the
6 tenant is established, they can go ahead and apply
7 for a sign permit.

8 Q. So we're removing a sign -- we're
9 removing a facade sign from the application.

10 A. Correct.

11 Q. So no sign is being proposed at this
12 time.

13 A. Correct.

14 Q. Thank you.

15 MR. KELLY: Excuse me. Excuse me. Tom
16 Kelly. I'm sorry. Hey, Jase, is this located, do
17 you know, in the downtown redevelopment area?

18 MR. VALETUTTO: Yeah, it's Broadway Main
19 Street redevelopment.

20 MR. KELLY: Yeah, so that mean that the
21 sign's got to go to SARA anyhow. The SARA is going
22 to have to --

23 MR. VALETUTTO: In addition to a zoning
24 permit. I mean, it's -- it would be conditioned
25 upon going to SARA anyway.

1 MR. KELLY: Yup, exactly. Thank you.

2 MR. STAHL: Mr. Alfieri, you understand
3 that SARA has jurisdiction over the signage and any
4 developer's agreement to the extent that one is
5 required. We don't do that. That's SARA will do
6 that.

7 MR. ALFIERI: Thank you.

8 MR. KELLY: Actually, Mr. Stahl, would
9 also be architectural review because it is down of
10 the -- part of the downtown redevelopment area.

11 MR. STAHL: Yes, absolutely.

12 MR. VALETUTTO: And all signs would
13 require zoning permits.

14 MR. ALFIERI: Thank you.

15 Q. Page 6 of 6, item 2, the rear elevation
16 appears to have a light fixture to the side of the
17 door; however, it is difficult to distinguish. The
18 fixture should be made more visible and labeled as
19 lighting since the door is important to the rear
20 emergency access. Miss Montero, you will show that
21 on the plan properly?

22 A. Yes, I will.

23 Q. The deviation requirement, I think we
24 can have Mr. Kee speak to those. I believe that's
25 all of the comments on the architecturals for the

1 review letter, correct?

2 A. Yes, that's it.

3 THE CHAIRWOMAN: Are there any questions
4 from the board at this point?

5 MR. FORSHNER: I have some questions
6 eventually, but I'll defer to you, Mary, in terms of
7 whether you want me to ask my questions. I frankly
8 have a series of questions, some to just learn a
9 little bit more about this.

10 THE CHAIRWOMAN: Well, I will ask you if
11 it's about these topics. We may want to address
12 them now or you can wait until later. I'll leave
13 that up to you.

14 MR. FORSHNER: I literally have a stream
15 of consciousness set of questions here, so it might
16 be better to wait until after their engineer
17 testifies. This way may have addressed those
18 issues, and then we can address them all to the
19 appropriate witness.

20 THE CHAIRWOMAN: Okay. Fair enough.
21 Anyone else? Okay. Thank you.

22 MR. ALFIERI: Seeing no more questions
23 for Miss Montero, I'm going to have Mr. Kee come up
24 and provide testimony as it relates to the
25 engineering aspects of the project.

1 MR. STAHL: Mr. Kee, I know you've been
2 previously sworn. Would you raise your right hand.

3
4 R O B E R T T. K E E, sworn.

5 DIRECT EXAMINATION BY MR. ALFIERI:

6 MR. STAHL: Would you please just state
7 your name, spelling your last name.

8 THE WITNESS: Robert T. Kee, K-e-e.

9 MR. STAHL: All right, Mr. Alfieri.

10 Q. Mr. Kee, you provided testimony at the
11 last meeting back in September. There were changes
12 and revisions made to address a lot of the board's
13 comments. We are talking about the review letter
14 dated January 7, 2021, so we'll get into how we've
15 addressed prior -- the previous comments as well as
16 these comments. So let's start on page 2 of 6 of
17 that letter. Let me know when you're ready.

18 A. I'm ready.

19 Q. All right, so paragraph 1 deals with
20 updated owners list. You'll provide that on the --
21 you'll provide that on the plans?

22 A. Yes; however, on his letter, he wants us
23 to update it as of 11-30-2020. We have since -- we
24 made a new revision, but we've obtained a brand new
25 list, which is dated 1-6-21, which is going to be on

1 the new plan.

2 MR. VALETUTTO: Then I need to be
3 provided with that, as well, because I was not given
4 that.

5 THE WITNESS: You weren't given the
6 list?

7 MR. VALETUTTO: The report that you
8 have -- the report that you have, sir, is the only
9 list that I have. Latest list I have that was given
10 to you was 11-30-2020. I have no knowledge of a new
11 January list.

12 THE WITNESS: I agree we will update the
13 paragraph; however, I just wanted you to know that
14 we went a step further.

15 MR. VALETUTTO: I'm not arguing. I
16 totally understand, but I'm just saying I do not
17 have that new list. I need that new list in order
18 to make sure that's the list you put on your plan.

19 THE WITNESS: Okay, sir.

20 MR. ALFIERI: It will be provided.

21 Q. Paragraph 3, block list shares and board
22 engineer however, it must say chairwoman and board
23 secretary. You will include that?

24 A. Yes.

25 Q. Paragraph 4, the site plan shows

1 ownership of the property. The applicant must list
2 the owners as follow. You'll correct to have the
3 proper property owners listed on the plan?

4 A. Yes, I will.

5 Q. Thank you. Paragraph 8, a box out note
6 stating first floor elevation to match front and
7 rear sidewalk elevations to provide for ADA access
8 was added to the plans. The actual first floor
9 elevation and sidewalk entry levels must be added to
10 the plans. Then in bold it says, based on first
11 floor elevation, 25.45 and an elevation of 25.28 at
12 the sidewalk of the retail entrance, there is a 2.04
13 difference in elevation that may not meet the ADA
14 accessibility code. This must be addressed.

15 A. Yes, we will.

16 Q. Can you just -- can you elaborate how
17 that was addressed.

18 A. Yes. There is no separation from the
19 outside to the -- it's flat. It meets the
20 requirement. We normally --

21 Q. -- the plans accordingly to show that?

22 A. Yes, we will.

23 MR. KELLY: I'm sorry. I'm sorry to
24 interrupt. This is Tom Kelly. So the interior of
25 the retail finished floor and the exterior sidewalk

1 are going to be the same exact elevation?

2 THE WITNESS: I believe that's what your
3 engineer wants, yes.

4 MR. VALETUTTO: Their engineer wants
5 what's legal for ADA access.

6 MR. KELLY: I don't think our engineer --

7 MR. STAHL: Hold it, hold it, one at a
8 time so the reporter can hear, and remember to
9 indicate your name. Tom Kelly was talking, and then
10 Jason was talking. So let's try not to talk over
11 one another. Thank you.

12 MR. KELLY: I think, Jase, I think I
13 know where you're going about this. Our engineer is
14 only asking for it to meet the barrier free
15 requirements or the Americans With Disabilities Act.
16 He's not telling you how to design it. I think the
17 question is going to be, if it's flush with the
18 sidewalk, you're going to have an issue with making
19 the building weather tight, and your architect's
20 probably going to agree. You may need to look into
21 petitioning council to get an easement to put a ramp
22 up to the doorway.

23 MR. VALETUTTO: This is Valetutto. I
24 just wanted to call it out because yourself and
25 Mr. DeMasi are knowledgeable in regards to the ADA

1 access, and I just wanted to call it out to make
2 sure that that's addressed properly.

3 Q. This is Alfieri speaking. Mr. Kee, the
4 testimony that you're providing is the site -- the
5 elevation will be ADA compliant?

6 A. Yes, I will.

7 Q. All right. Paragraph 9, door location
8 and size must be added to the building. In bold it
9 now says door locations were added; however, the
10 door to the retail space is labeled at 6.3 door when
11 it should show as a double door -- when it shows as
12 a double door in the architectural plans, the
13 flagged should read 6.3 double door. You will
14 correct that on your plans, Mr. Kee?

15 A. Yes, sir.

16 Q. Paragraph 10 --

17 MR. STAHL: Mr. Alfieri, when you go
18 through rest of these, you might just want to
19 indicate the number and whether there is any problem
20 with compliance rather than reading it only because,
21 you know, I don't want -- I want, you know, the
22 board to be able to finish their consideration
23 tonight, okay?

24 MR. ALFIERI: Understandable. I'm just
25 trying to be as thorough as possible.

1 Q. Okay. So paragraph 10, Mr. Kee,
2 paragraph 10 of the letter, there is a bolded area.
3 Will you be -- all right, so this deals with the
4 basement, but we've already testified that the
5 basement is being removed, correct?

6 A. Correct.

7 Q. And then there's an area that deals with
8 the square footage. You'll provide the proper
9 square footage on the plans.

10 A. On revised plans we'll make that
11 correction, yes, sir.

12 Q. Thank you. Paragraph 11.

13 A. We will do that one, also.

14 Q. You'll label as necessary.

15 A. Yes.

16 Q. Paragraph 16, which starts on page 2 of
17 6 and continues on page 3 of 6, this deals with the
18 building mounted signs. There was already testimony
19 provided that we are not proposing a sign at this
20 point.

21 A. That's correct.

22 Q. Paragraph 17, we've -- deals with the
23 parking area. We're removing the parking area,
24 correct?

25 A. Yes, it's been removed -- well, it will

1 be removed entirely. This is no vehicles --

2 Q. Now that it's removed, what is being
3 placed -- what is being proposed in place of that
4 parking area?

5 A. We are providing a concrete pad to house
6 the utilities that are back there and the garbage
7 for the commercial use, and we're going to be
8 putting up a small retaining wall closer to the
9 existing pavement and grassing -- leveling it off
10 with a 3 percent slope going to the retaining wall,
11 and then on top of the retaining wall we're going to
12 be proposing to put a fence to make it safe.

13 Q. Thank you, Mr. Kee. Paragraph 18,
14 you'll address the spot elevations, the rear?

15 A. Yes. Yes, we will add the additional
16 spot elevations and grades in question.

17 Q. And then paragraph 20 has three
18 subsections. Subsection B, will -- are you going to
19 correct that to read proper?

20 A. Yes, sir, we will.

21 Q. Subsection C?

22 A. Same thing. We will (audio disruption)

23 Q. Just for the board's edification,
24 clarification, 33.75 feet is the correct elevation
25 or height I should say for the building?

1 A. We will make the proper correction, yes.

2 Q. Paragraph E says --

3 MR. VALETUTTO: Mr. Alfieri, I think
4 you're right. I think the board would like to just
5 know is it 33.25 or is it 33.75. I guess that would
6 probably be for your architect if your engineer
7 doesn't know.

8 MR. ALFIERI: Probably Miss Montero.
9 Miss Montero, if you can jump in real quick and just
10 clarify. The height of the building is 33.25 or
11 33.75? And sorry, Debbie, if I'm speaking too
12 quickly.

13 MS. MONTERO: Can you hear me?

14 MR. ALFIERI: Yes.

15 MS. MONTERO: Okay. The height -- the
16 overall height of the building will be revised in a
17 new set of drawings.

18 MR. ALFIERI: To what height?

19 MR. VALETUTTO: The board needs to know
20 exactly what they're voting on tonight so we need to
21 know what you're proposing.

22 MS. MONTERO: Okay, 35 feet, 9 inches.

23 MR. ALFIERI: So it's not 33.75, it's
24 35.9 inches?

25 MS. MONTERO: Yes.

1 MR. ALFIERI: Correct?

2 MS. MONTERO: That's correct.

3 THE CHAIRWOMAN: Would you know offhand
4 as far as the height, is that comparable or higher
5 than the neighboring -- the buildings neighboring
6 this one?

7 MS. MONTERO: To the building on the
8 left, the building on the left is taller. The
9 building on the right is about the same height.

10 THE CHAIRWOMAN: Okay. Thank you.

11 MR. VALETUTTO: Mary, just -- this is
12 Valetutto -- the permitted height is 42 feet so
13 they're below. It doesn't create a deviation.

14 THE CHAIRWOMAN: Thank you. Just
15 wondering how it would look.

16 Q. And then paragraph -- sorry -- to get
17 back to Mr. Kee's testimony, we're on page 3 of 6,
18 20 subsection E. This deals with parking
19 calculations.

20 A. Yes, we will make those corrections.

21 Q. Okay, and just to clarify, the total
22 amount of parking required is 13; is that correct?

23 A. I believe it is, yes.

24 Q. All right. Thank you. We're going to
25 continue. Now we're into new review comments,

1 paragraph 1 on page 3 of 6. Plan preparation
2 note -- you'll address that comment?

3 A. Yes.

4 Q. Page 4 of 6, paragraph 2?

5 A. Yes, we will make that correction.

6 Q. Thank you. Paragraph 3, the proposed
7 building dimensions should be shown. You'll show
8 the dimensions on the plan?

9 A. Yes, sir, yes.

10 Q. Paragraph 4 deals with the conversion of
11 a parking area to a grass area with concrete patio
12 for purposes of housing utilities and the garbage
13 recycling. There's a mention of side yard setback.
14 You'll provide that. There's a question about the
15 elevated patio.

16 A. Yes. We will address that.

17 MR. VALETUTTO: I think more testimony
18 is needed, Mr. Alfieri, on that because it's still
19 unclear to the board whether this is a flush patio
20 or an elevated patio based on the elevations that
21 were provided on this November 2020 plan.

22 Q. Mr. Kee, can you advise as to whether or
23 not the patio is being proposed to be elevated or
24 flush.

25 A. It's going to be flush right up against

1 the structure, itself, and if you're north, it will
2 be on the westerly property line.

3 Q. There's additional comments in this
4 paragraph that deal with the slope of the grassed
5 area. I think you previously mentioned that the
6 slope is going to be around 3 percent?

7 A. The grassed area will be 3 percent out
8 to approximately where the existing pavement is, and
9 we're proposing a maximum 3-foot block wall with a
10 fence on top of it.

11 Q. Okay, and there's a mention about what
12 type of garbage disposals will be stored there. Is
13 it being proposed as a dumpster, or are there going
14 to be cans?

15 A. I believe it's just going to be
16 receptacles as far as cans are something that maybe
17 an enclosure with the cans. There's no way of
18 getting a dumpster. There's no access to that back
19 patio from the rear of the property.

20 MR. KELLY: I'm sorry, Mr. Alfieri, can
21 I interrupt you? This is Tom Kelly. Can I
22 interrupt you for a second?

23 MR. ALFIERI: Sure.

24 MR. KELLY: In the rear of the property,
25 I know we have retaining (audio disruption) we have

1 a proposed grass area, and the top of the wall's a
2 24. The grade looks like it's a 22.2. According to
3 the architectural, all of the roof runoff is going
4 toward the rear of the building. If the retaining
5 wall is higher than the grade, where is the water
6 going?

7 THE WITNESS: Combination of the slats,
8 the elevation of the top of the wall will be at a
9 3 percent slope heading due north on the property.
10 With the field notes and calculations and existing
11 elevations with the wall will have a -- the bottom
12 of the wall elevation, which is the existing that we
13 have to match into is 21.96, and the top of the
14 proposed wall is at 24.08.

15 MR. KELLY: So we're going to --

16 THE WITNESS: And the grassed area will
17 match (audio disruption) proposed wall on --

18 THE COURT REPORTER: I can't hear. Mr.
19 Kee is breaking up.

20 MR. KEE -- the property side of the
21 retaining wall.

22 MR. KELLY: So the runoff is going to go
23 over the wall onto the adjacent property.

24 THE WITNESS: Yes, after going through
25 the grassed area.

1 MR. KELLY: Okay. Thank you.

2 Q. Paragraph 5 of the --

3 A. That's --

4 Q. Okay, that has been eliminated and a
5 light fixture is provided at the rear.

6 A. Right.

7 Q. Paragraph 6, that's just another
8 comment, and then paragraph 7 deals with confusion
9 created by building remains, the architectural
10 plans?

11 A. Right. We had another note, number 21,
12 on the front sheet to --

13 Q. You'll add that, correct?

14 A. Yes, I will.

15 Q. And then there's testimony should be
16 provided for the following. Paragraph 1 deals with
17 discussion for the board to grant a waiver of
18 lighting and landscaping for the property. Can you
19 please touch on that testimony.

20 A. Well, we've provided the lighting and
21 landscaping that your engineer has already reviewed
22 and was -- got a restriction of the size of the
23 property and stuff doing additional landscaping, and
24 there's not really anywhere to put it, and it would
25 be a maintenance problem with it same time.

1 Q. Paragraph 2, is there any proposed
2 laundry connections on the facility to be provided?

3 A. Well, that's not part of engineering,
4 but I've been instructed or informed rather that
5 there will be no laundry facilities proposed on the
6 site.

7 Q. Thank you. This question may not
8 necessarily be for you, but we're anticipating the
9 apartments to be market rate?

10 A. I can't really comment.

11 MR. ALFIERI: Miss Montero, can you
12 please confirm that for us.

13 MS. MONTERO: Yes, they will.

14 MR. ALFIERI: Thank you.

15 THE WITNESS: Number 4 is the same
16 response. I don't know who's going to be
17 responsible.

18 MR. ALFIERI: Miss Montero.

19 MS. MONTERO: The tenants would be would
20 be responsible for bringing out their own trash.

21 MR. ALFIERI: And then I believe this is
22 again for Miss Montero. Will one garbage be -- will
23 one garbage can be sufficient for a retail store?

24 MS. MONTERO: It really depends on who
25 the tenant is there. We have plenty of room to put

1 an additional trash receptacle to the rear.

2 MR. ALFIERI: Thank you.

3 Q. And then it says discussion on the rear
4 yard patio grade. I think we touched on that
5 already, Mr. Kee. Paragraph 7, it deals with the
6 justifications and deviations or justification of
7 all deviations and proof as to why the board should
8 consider granting those deviations. I believe we
9 touched on those, as well.

10 MR. ALFIERI: Am I missing any comments,
11 Mr. Valetutto?

12 MR. VALETUTTO: Well, you didn't really
13 touch upon all of the deviations. Minimum lot
14 width, existing, it's landlocked. We understand
15 that, and you cannot purchase anymore property, but
16 you didn't touch upon the lot coverage.

17 MR. ALFIERI: Page 6 of 6.

18 MR. VALETUTTO: Or the density is going
19 to be the major that you have to make your argument.

20 MR. STAHL: Well, Mr. -- this is Stahl
21 speaking. Mr. Alfieri, I mean, do you have any
22 other witnesses who are going to justify the
23 deviations contained in the report, as Mr. Valetutto
24 has indicated, and I'm not going to opine. I mean,
25 you've got a modest minimum lot width -- that's just

1 my question, but you have a maximum lot coverage.
2 You have a parking, and you have a density. Do you
3 have someone who's going to address those
4 deviations, because I know the board members are
5 going to have some questions one way or another on
6 those issues.

7 Q. Mr. Kee, can you touch on those?

8 MR. STAHL: Well, before Mr. Kee
9 testifies, if I can ask -- and I don't like to
10 dominate anything. Mr. Kee has testified as an
11 engineer. Is he also a professional planner?

12 THE WITNESS: I'm licensed -- I have
13 three state licenses. I'm a professional engineer,
14 professional land surveyor, and a professional
15 planner, yes, sir.

16 MR. STAHL: Okay. I don't know whether
17 we dealt with that, Ms. Chairwoman. Are you a
18 licensed planner in the State of New Jersey?

19 THE WITNESS: Yes, sir, I am.

20 MR. STAHL: All right. Mr. Alfieri, you
21 may want to unless -- I don't know whether the board
22 has had the pleasure of Mr. Kee testifying as a
23 planner. You may want to qualify him so the board
24 can determine whether or not they will accept him as
25 an expert in the field of professional planning.

1 MR. ALFIERI: Understood.

2 THE CHAIRWOMAN: I believe Mr. Kee's
3 been with us before, hasn't he?

4 THE WITNESS: Yes.

5 MR. STAHL: I don't know, Mary. That's
6 why I -- maybe I'm wrong. I just try to be a little
7 bit cautious to protect the board, that's all.

8 Q. To that end, Mr. Kee, if you could
9 please provide your qualifications for the board.

10 A. I graduated Newark College of
11 Engineering, which is now New Jersey Institute of
12 Technology, in 1969. I was employed for my -- to
13 qualify for my licenses by municipality Township of
14 Piscataway. I was the assistant engineer/director
15 of public works. I succeeded in completing all of
16 my requirements. I have a license as a professional
17 engineer. I have also completed all the
18 requirements and the examinations to become a
19 professional land surveyor, which is the same board,
20 and I also have my state license as a professional
21 planner.

22 Q. And you've testified -- and you've
23 testified before this board and other boards in your
24 planning capacity?

25 A. Yes, sir, I have.

1 Q. And your license is current?

2 A. Yes, sir, all three.

3 MR. STAHL: Madam Chairwoman, it's up to
4 you to, you know, whether the board should accept
5 his qualifications as a licensed professional
6 planner.

7 THE CHAIRWOMAN: Thank you, and I'll ask
8 maybe the -- in an opposite way. Does the board
9 have any concerns with accepting Mr. Kee's
10 credentials?

11 MR. KOMINKIEWICZ: No.

12 MR. KELLY: No.

13 THE CHAIRWOMAN: Thank you, Mr. Kee.

14 MR. ALFIERI: Thank you.

15 Q. So, Mr. Kee, touch on the deviations
16 requested or required I should say. Page 6 of 6 of
17 the -- of Mr. Valetutto's letter mentions the four
18 items of discussion. One is minimum lot width. The
19 requirement is 25 feet; the proposed is 24.25 feet.
20 We can't make the site any bigger, correct?

21 A. Well, if you can, I'd like to know.

22 Q. Maximum lot coverage, maximum lot
23 coverage, 50 feet is --

24 A. Fifty percent.

25 Q. Fifty percent -- sorry -- is the maximum

1 amount. We're proposing 70.19 percent. Can you
2 please provide some justification behind that.

3 A. Well, the economical factor is the
4 biggest consideration on that. We have an
5 undersized lot slightly and no access to the rear of
6 the property, and it's coming straight off the
7 access to the street, and we're requesting that for
8 the lot coverage for benefit of accommodating the
9 needs of the client.

10 Q. Minimum off-street parking. Thirteen
11 spaces are required; we're not proposing any on the
12 site. Can you please provide some testimony as it
13 relates to why we're not providing any off-street
14 parking.

15 A. The only possibility of off-street
16 parking would be to shift the structure to the rear
17 property line and have somebody come in off the
18 street and park in front of the building. We have
19 no access off the back of the building whatsoever.
20 The lot is not wide enough to narrow the building
21 down and have any kind of parking or driveway or
22 something on either side, so it's physically
23 impossible to provide the 13 spaces on this site.

24 Q. The last deviation is maximum density.
25 Seven point seven-five units per acre is the maximum

1 amount provided under the zoning ordinance. What
2 we're proposing is 51.82 units per acre. Can you
3 please speak to that.

4 A. Yes, the existing development up and
5 down North Broadway we're matching into the
6 character and the downtown restoration requirements
7 as such, and the justification is that we're trying
8 to match in all with the existing uses and stuff
9 along Broadway.

10 Q. So what we're proposing would fit in
11 with the surrounding area?

12 A. Yes, sir.

13 MR. ALFIERI: Thank you. I believe we
14 touched on all four of the deviations as enumerated
15 in the letter dated January 7, 2021.

16 THE CHAIRWOMAN: Jason.

17 MR. VALETUTTO: Madam Chair, can I have
18 a couple questions.

19 THE CHAIRWOMAN: Certainly.

20 MR. VALETUTTO: This is Valetutto. This
21 is for Stahl. Stahl, are they not allowed to
22 utilize money as a reason for justification in
23 regards to deviations and variances? I thought that
24 there was something in the Municipal Land Use Law or
25 something that you're not supposed to be considering

1 value and whatnot, monetary value.

2 MR. STAHL: Well, the question of the
3 market value is -- you can ask that question, but
4 you cannot make any conditions with it. With regard
5 to economics, economic feasibility of a project is
6 not normally and customarily a reason under the MLUL
7 to grant an approval. I think that's your question.

8 MR. VALETUTTO: Right. It's not a
9 hardship that is -- that would allow the board to
10 grant that deviation, and that's kind of the way the
11 testimony as I heard it was what they were leaning
12 towards.

13 MR. STAHL: Well, I know that some board
14 members will be asking questions, but, you know, the
15 issue is do you need 50 units or 25 units or
16 40 units, and if someone were to testify -- then
17 I'll stop -- that, well, we can't make this
18 economically feasible unless we get X number of
19 units, that's really on the developer and the owner
20 and applicant and is not something that the MLUL --
21 the MLUL really provides as a reason.

22 MR. VALETUTTO: I'm sorry. When they
23 were testifying in regards to the economics, they
24 were testifying under the lot coverage. I didn't
25 even get to touch upon the density yet.

1 MR. STAHL: Right.

2 MR. VALETUTTO: Okay, and then as far as
3 the density -- this would go back to Mr. Kee -- you
4 said that it's in character of the neighborhood.
5 Did you do the research of how many properties in
6 the area have apartments upstairs and how many units
7 they have in their apartments so the board can know
8 what is actually the character of the neighborhood?

9 THE WITNESS: No, sir, I didn't go into
10 that much detail and research. I wasn't prepared
11 entirely to be giving professional planning
12 testimony this evening. I was here most as the
13 engineer on the project. And yes, the Municipal
14 Land Use Law ordinance refers to those requirements
15 for an application for a variance. The waiver
16 process I don't -- has -- think has the same
17 definitions.

18 MR. STAHL: Well, Mr. Kee, we don't --
19 we're just trying to help out here. It is a
20 redevelopment zone, and as such, the extent that the
21 project does not comply with the conditions of the
22 redevelopment zone, I mean, use variances are not
23 permitted, but deviations from the requirements of
24 the zone if proper testimony is given may be
25 considered by the board. I mean, that's what we're

1 doing here, and some of the same criteria that would
2 be, for example, for a bulk variance may be useful
3 here. I mean, I'm not going to opine whether the
4 gross amount of the units really puts this into a
5 variance situation. That was a call that
6 Mr. Valetutto made. But somebody's got to testify
7 to justify why 51.82 units is necessary and why this
8 project can live without off-street parking, and,
9 you know, someone's got to do that. We're not
10 trying to trap you or ambush you as a planner, but
11 it's testimony I think the board needs to hear.

12 Miss Chairwoman, I think you may want to
13 open it up to the board at this time and the board
14 professionals to ask questions. I don't -- you
15 know, it's not my function to monopolize but just to
16 assist.

17 THE CHAIRWOMAN: I would. And, Scott,
18 can I ask you to take over for 1 minute. I just
19 need to step away and I'll be back in --

20 MR. KELLY: Mr. Stahl, I'm sorry, this
21 is Tom Kelly.

22 THE CHAIRWOMAN: Go right ahead.

23 MR. STAHL: Mary, do you want to take a
24 break.

25 THE CHAIRWOMAN: My computer is going to

1 die. I just need to go grab my -- sorry.

2 MR. STAHL: Okay.

3 MR. KOMINKIEWICZ: Okay, Mr. Kelly, you
4 had a question or comment?

5 MR. KELLY: I'm sorry, this is Tom
6 Kelly. I did. Actually, I have a comment. If you
7 look at Mr. Kee's engineered plan, there is depicted
8 in the drawing the footprint of the proposed
9 building that went before this board years ago that
10 had an approval, and that's what the board approved,
11 and you can see the differential between the
12 previously approved building and what they're
13 proposing to build now. This property underwent a
14 board approval and was approved through the
15 redevelopment agency for a I believe -- don't quote
16 me on this -- but I believe it was a two-story
17 two-unit residence with no retail. So, I mean,
18 there is a -- there is already an existing approval
19 on the property, and I know that, you know, what the
20 applicant is looking for here has nothing to do with
21 that, but there is a use for this property, and
22 apparently it was approved previously.

23 MR. STAHL: Tom, I don't know whether --
24 I mean, you gave some historical perspective, but I
25 don't know whether it's appropriate. I mean, we

1 have to -- the board has to consider the application
2 in front of it right now and ask those questions and
3 determine whether or not the site plan requirements
4 under the redevelopment zone can be accommodated.
5 That's, you know --

6 MR. KELLY: Yeah, I understand. I guess
7 really what my comment is, in reference to the
8 density, there was an approval that required a
9 variance, but the density was nowhere near what this
10 is. I'm not sure why the variance request for such
11 a drastic hot density over the permitted is being
12 requested.

13 MR. STAHL: Is that a question to Mr.
14 Alfieri or to Mr. Kee?

15 MR. KELLY: Either/or, sir.

16 MR. ALFIERI: I'd like to clarify. It's
17 not technically a variance. It's a deviation,
18 correct?

19 THE WITNESS: That's correct.

20 MR. ALFIERI: Correct.

21 MR. KELLY: Yes, correct, because the
22 redevelopment, it's deviation, not a variance,
23 you're correct.

24 MR. ALFIERI: And your question is to
25 the density, why we are asking for a larger density?

1 MR. KELLY: Well, such a drastically
2 higher density, yes.

3 MR. ALFIERI: I will say this. What we
4 originally proposed when we were at the board back
5 in September, was a four -- five-unit building, four
6 residential units and then a retail space. Based
7 upon those comments that we received from the board
8 during the actual application, itself, we made that
9 revision right then to state that we're no longer
10 seeking a fourth residential unit, we were going to
11 propose three residential units and a retail space.

12 The density -- the justification behind
13 that, Mr. Kee I believe provided some rationale
14 behind it.

15 Q. But, Mr. Kee, I don't know if you have
16 any intimate knowledge of this, but are there -- in
17 the area are there other properties that have
18 residential apartments, as well?

19 A. As I stated just a little while ago, I
20 was not prepared, and I did not do research to give
21 planning testimony this evening. We can do
22 additional investigation. I can write a report and
23 make it official, but I'm not in a position at the
24 present time to answer those type of questions.

25 MR. STAHL: Madam Chairwoman, I think

1 the time would be for the board to ask questions so
2 that the applicant, you know, knows where the head,
3 the thought process of the board members is, and
4 then they can make a decision, because we're going
5 back and forth. I think I recommend that we open it
6 up to the board members and see what questions they
7 have because I assume, Mr. Alfieri, that your
8 application is over at this point.

9 MR. ALFIERI: Correct.

10 MR. STAHL: So it would be appropriate
11 -- go ahead, Mary, I'm sorry.

12 THE CHAIRWOMAN: And I'm happy to do
13 that. I'll open it up to the board, and I know
14 Mr. Forshner is probably -- he has quite a few
15 questions. So, Gary, I'll ask you to go first.

16 MR. FORSHNER: I can do that, but I have
17 one technical question that may need to be addressed
18 first. We're talking about a density variance.
19 Does that fall within one of the exceptions under
20 70D-5 of the Municipal Land Use Law? Normally,
21 density variances are considered to be D variances.

22 MR. STAHL: That was my question, Gary.
23 It seemed to be -- but I don't want to comment.
24 Jason, that was based upon your review letter. What
25 is your response to that?

1 MR. VALETUTTO: What was the code, Gary.

2 MR. FORSHNER: 70D-5. 40:55-70D-5.

3 MR. VALETUTTO: Okay. Do you want to
4 ask another question while I look it up?

5 MR. FORSHNER: I have, and first off,
6 I'm going to beg your indulgence. I have some
7 questions here. I have two disadvantages. I wasn't
8 at the first hearing so I reviewed the transcript,
9 and I'm trying to get a handle on the application.
10 Some of the questions I have are really just for my
11 own edification because this is quite literally the
12 first application where I've sat with this board, so
13 I'm really kind of getting familiar with some issues
14 so I beg your indulgence.

15 First of all -- and my questions are
16 literally stream of consciousness as I went through
17 the transcript and identified issues that I wanted
18 some clarification. Can someone tell me what was
19 there historically. I gather there's only a
20 foundation there now, but presumably there was some
21 other building or some other use that was there.
22 Can someone enlighten me.

23 MR. STAHL: Tom, would you know?

24 MR. GONZALES-GOMEZ: Jim and Gary, I
25 believe that used to be a bicycle shop years ago.

1 MR. FORSHNER: And I love bicycling so
2 let's bring the bicycle shop back. Kidding aside.
3 So I gather there's only one store proposed here?
4 The retail is not going to be divided or subdivided
5 further, correct?

6 THE WITNESS: That's correct.

7 MR. FORSHNER: I understand that the
8 basement is being removed. Is the crawl space
9 remaining?

10 THE WITNESS: That would be up to the
11 architect.

12 MR. FORSHNER: So let me be clear. Some
13 of the questions here are engineering; some of them
14 relate to the architect. Dante, some of them you
15 might even want to answer, and indeed, one or two of
16 these questions may be more appropriate for the
17 board or the board's professionals, so, you know,
18 jump in as you need to and direct it, but I think
19 that's appropriate for Miss Montero. Is that how
20 it's pronounced?

21 MS. MONTERO: Yes, Montero. We're
22 intended to infill the foundation that's there.

23 MR. FORSHNER: So there's no crawl
24 space. There's nothing -- it's basically be on
25 slab.

1 MS. MONTERO: Correct.

2 MR. FORSHNER: Okay.

3 MR. VALETUTTO: Gary, I have an answer
4 for you if you want to do that before you move on.

5 MR. FORSHNER: Sure, absolutely.

6 MR. VALETUTTO: I looked up the code you
7 stated, but it only is in reference to lots for
8 detached one- or two-dwelling unit buildings. This
9 is a three-unit and a retail. So I don't think that
10 applies.

11 MR. FORSHNER: Not sure I read it. D-5
12 applies to an increase in permitted density except
13 as applied to the required lot for a lot or lots for
14 detached one- or two-dwelling, but one or two
15 dwellings in a minor subdivision is the exception.
16 Generally speaking, density variances apply under
17 the D-5. That's why I asked if one of the
18 exceptions applied because I think any time
19 generally speaking you're asking for a density
20 variance, it would apply under this section.

21 MR. STAHL: Well, let's -- Gary let's
22 continue with the questions. I'll look at that,
23 myself, and we'll -- I'll lend an opinion to the
24 board after I look at that while we're continuing
25 with the colloquy.

1 MR. VALETUTTO: It's page 88, Jim, to
2 help you look at.

3 MR. STAHL: I'll get it.

4 MR. FORSHNER: Utilities, are they above
5 ground?

6 MS. MONTERO: Yes, they are.

7 MR. FORSHNER: Tapping into all the
8 existing utilities? Miss Montero --

9 THE WITNESS: Water, sewer, and gas are
10 underground and located in Broadway.

11 MR. FORSHNER: Right, right, that makes
12 sense. I understand now that the mechanical
13 equipment, notably the AC, is now going to be at
14 grade on that slab, on that patio in the bank;
15 that's correct?

16 MS. MONTERO: For the retail space.

17 MR. FORSHNER: The retail space. And is
18 there -- what about the mechanicals for the
19 residential space; where is that going to be
20 located?

21 MS. MONTERO: The condensers are on the
22 roof.

23 MR. FORSHNER: On the roof?

24 MS. MONTERO: Yes.

25 MR. FORSHNER: And I gather you've

1 eliminated the elevator so there's no elevator shaft
2 on the roof?

3 MS. MONTERO: Correct.

4 MR. FORSHNER: Okay, and then with
5 regard to the mechanicals on the roof, I don't know
6 if this issue from an ordinance perspective or
7 otherwise, but is there going to be visibility of
8 the mechanicals, or is that going to be behind a
9 parapet call so it's not going to be visible from
10 the public.

11 MS. MONTERO: There will be a parapet
12 wall in the front.

13 MR. FORSHNER: Okay, so it won't be
14 visible?

15 MS. MONTERO: Correct, will not be
16 visible.

17 MR. FORSHNER: I don't know who to
18 direct this to, but this is not really to this
19 applicant, but, you know, typically what I see or
20 like to see in a redevelopment plan is a specific
21 reference to that bulk variance, that C variances
22 are permitted. I don't know if this redevelopment
23 plan specifically does that. I see that there's a
24 reference here to deviations as opposed to bulk
25 variances, and perhaps you're relying upon the case

1 law in particular, I think it's the Wayne decision
2 if memory serves me, but I guess my only technical
3 question is whether there's any reference to that in
4 the redevelopment plan that is -- that this is
5 subject to. Jim, you're muted.

6 MR. STAHL: Jason, I think that's
7 directed to you, that question.

8 MR. VALETUTTO: Yeah, I was just trying
9 to look and see if I can pull whatever I have from
10 the redevelopment plan from the file, but from
11 whenever I started in South Amboy, anything in the
12 redevelopment is always named a deviation if you
13 didn't meet the bulks. So I don't -- I don't know
14 where that came from, but that's how I've been
15 taught. That's how I've been applying.

16 MR. STAHL: Well, the deviations -- the
17 deviations cannot replace a requirement of a use
18 variance. If it falls into a category of a use
19 variance, then this board cannot hear it. It's got
20 to be a change to the redevelopment plan.

21 MR. VALETUTTO: Right.

22 MR. FORSHNER: Typically, the
23 redevelopment plans say that C variances can be
24 granted by the planning board, the D variances
25 cannot, and that would have to go back to the

1 council for -- or governing body for amendment of
2 the redevelopment plan. That's just a side note.
3 That's not specific to this application other than
4 to the extent talking about a D variance.

5 The patio in the back, is that intended
6 for any use other than for trash?

7 MR. ALFIERI: JoAnn?

8 MS. MONTERO: It's for the trash area
9 and the condensers for the retail space.

10 MR. FORSHNER: So I guess the only
11 question that I have in that regard, if it's not
12 intended for, you know, use and occupancy, is that
13 can that be made smaller and still function? I'm
14 not trying to take any functionality away from it,
15 but to me it looked like it was a patio intended
16 for, you know, a picnic area, if you would, and
17 suggested to me that it could be used for that. I'm
18 wondering if you can gain back without impacting the
19 operations on the site, make that patio smaller and
20 still function the way it needs to with regard to
21 the trash enclosure.

22 MS. MONTERO: It could be smaller.

23 MR. FORSHNER: Okay. I don't know who
24 to direct this to. Tom Kelly, you seem to be the
25 person that is most familiar with building code, and

1 I don't know if this is implicated in any way, but
2 if I recall correctly the building code that if
3 buildings are not attached, there is a minimum
4 separation distance of I thought it was either 10 or
5 20 feet. I don't recall if that's some ordinances
6 I've seen or if that's a building code issue, but I
7 just throw that out there in terms of whether that
8 needs to be or has been addressed. I saw something
9 about a terrace. I don't recall -- I think it was
10 on the adjacent building, not on this building --
11 I'm not certain, but I'm not sure if anyone can
12 address that issue.

13 MR. KELLY: Yeah, separation of property
14 line will require fire rating assembly, but
15 typically, things of that nature are addressed in
16 plan review, not really at the planning board here.
17 The only reason I brought up the 1-hour fire rating
18 assembly is the board had an issue with how the
19 trash was getting distributed and removed from the
20 building out to the street to be picked up by the
21 city, and, you know, where the -- where it was
22 proposed from the architect, it had a potential or a
23 does have an issue as far as the encroachment into
24 the fire rated assembly. If they were going to put
25 it someplace else, it would have had to been brought

1 to light and have to notify the board where it's
2 going to go because, let's face it, one of the
3 concerns with the board is where the garbage is
4 going to be placed.

5 MR. FORSHNER: And so, Tom, I actually
6 agree with you. It's a building code issue,
7 assuming it's under the building code so I don't
8 have any real issue. I just didn't want the
9 applicant to get tripped up if there was something
10 that they would need to comply with when they get to
11 building code stage, it's the construction permit.
12 So that's the only reason I raise it, just to make
13 sure that the applicant doesn't run into any trouble
14 there.

15 I assume there's a residential
16 development fee for affordable housing. Do we have
17 an affordable housing ordinance here?

18 Jason, I don't know if you're trying to
19 talk, but if so, you're muted.

20 MR. STAHL: I know. Thank you, Gary.

21 MR. VALETUTTO: I'm not. I'm waiting
22 for Jim to talk.

23 MR. STAHL: No, no, Jason --

24 MR. KELLY: Again, COAH is addressed at
25 the time of construction permit.

1 MR. FORSHNER: Okay. There is a fee
2 ordinance for that?

3 MR. STAHL: Yes.

4 MR. FORSHNER: Okay. So I have a note
5 here, but let me just make sure I confirm, but I'm
6 pretty sure I know the answer to it. There's going
7 to be separate recycling bins in the back as well as
8 trash bins?

9 MS. MONTERO: That's correct.

10 MR. FORSHNER: Okay. If I recall from
11 the transcript, the rooftop mechanicals does not
12 reply to the height. It doesn't impact the height;
13 am I correct. It's excluded from the height
14 definition?

15 MR. KELLY: Yeah, the mechanicals are
16 not included in the height, but -- Jason, you can
17 back me up on this -- they are nowhere near the
18 height restriction for the area.

19 MR. VALETUTTO: Yeah, they're allowed
20 42. They've testified they're going 35.75, and you
21 get the height of an air conditioning unit is
22 nowhere going to be near 7 feet.

23 MR. STAHL: I think Gary was concerned
24 about a use variance for excessive height.

25 MR. VALETUTTO: Right. I got what he

1 was going for.

2 MR. KELLY: And to piggyback on that,
3 the elevation height that the architect testified to
4 is the elevation height in the front of the
5 building, and the roof slopes from front to back, so
6 the rear of the building is actually lower.

7 MR. FORSHNER: Okay. Trash, if, you
8 know, if you have a typical retail use, if it's a
9 clothing store or something that doesn't produce a
10 lot of trash, obviously, I would presume that
11 there's sufficient trash bins for that, but what if
12 there's a restaurant or something. I don't know if
13 a restaurant is a permitted use here, but if there
14 is a restaurant, I would have a little bit of
15 concern with regard to the amount of trash and the
16 size of the trash enclosure.

17 MR. ALFIERI: It's being proposed as a
18 retail space. It's not being proposed as a
19 restaurant.

20 MR. FORSHNER: Okay.

21 MR. STAHL: So you would agree that that
22 would be a condition and an exclusion; am I correct?

23 MR. ALFIERI: That it won't be a
24 restaurant? Yes, that's acceptable.

25 MR. FORSHNER: Okay. I heard some --

1 MR. KELLY: Mr. Stahl, I believe that if
2 they do receive an approval, that needs to be
3 something definitively outlined in the resolution
4 because putting a restaurant in there with the
5 garbage potential is a huge complication.

6 MR. STAHL: No, no, Tom, that's why I
7 said that that would be -- if the board wanted it,
8 that would be a condition of any approval, that
9 there would be no food service or restaurant,
10 because there is also impact on the parking.

11 MR. KELLY: Yes, sir. Thank you.

12 MR. ALFIERI: We are not proposing that.
13 We are not proposing that. We will agree to that as
14 a condition.

15 MR. STAHL: Thank you.

16 MR. FORSHNER: There's a conversation
17 with regard to landscaping. There's grassed area in
18 the rear. I don't know if it's desirable or there's
19 a realistic opportunity on landscaping there, but
20 again, I raise that as a question. Whoever needs to
21 or wants to answer it. Jason, you can start if you
22 want. But I'll just throw it out there for
23 consideration.

24 MR. VALETUTTO: Well, I don't have a
25 voting stance on the board. I raised that up as a

1 condition, myself. Anyone on the board wants to
2 speak to if they need landscaping. There's nothing
3 in the redevelopment plan that says about
4 landscaping.

5 MR. FORSHNER: So I guess the question
6 is if it's in the rear of the lot -- I don't know
7 what sounds this property, and actually, perhaps
8 someone can clarify me on what's on each of the
9 sides of the property. Obviously, one side is
10 Broadway. You know, I'm not looking for you guys to
11 spend money on landscaping just for the sake of it.
12 I guess the question is does it serve a purpose in
13 the rear of the property. I don't know what's
14 behind this property. I don't know what's on either
15 side.

16 MR. STAHL: Well, Mr. --

17 MR. KELLY: I'm sorry, Jason. Didn't
18 the applicant testify there was a fence being
19 proposed in the rear of the property?

20 MR. VALETUTTO: Yeah, they were -- they
21 testified there would be a fence, and my question
22 was going to be what type of fence because they
23 didn't testify to that. They just said there would
24 be a safety fence in relation to the retaining wall
25 that they're going to be proposing.

1 Q. Mr. Kee, can you testify as to what type
2 of fence is being proposed? Vinyl?

3 A. Yes, it's a vinyl fence. It's an
4 existing fence that will be relocated once the small
5 retaining wall is constructed.

6 Q. And just for clarification for
7 Mr. Forshner, can you just advise as to what's in
8 the rear of the property, what's behind our
9 property. It's a parking lot. What's not -- what's
10 adjacent to our lot?

11 MR. STAHL: Who are you addressing the
12 question to?

13 MR. ALFIERI: Mr. Kee.

14 MR. STAHL: Oh, okay.

15 A. They have a driveways, parking lot, and
16 garages, not necessarily directly behind us. It's
17 parking at the present time, just pavement, but it's
18 -- we have no access to it in the rear, and --

19 Q. No access, so it is a parking area or
20 driveway or something? It's a paved area.

21 A. Yes, it is.

22 Q. Okay, so essentially --

23 A. We don't have any rights or privileges
24 or access to it.

25 Q. That's not what we're speaking to.

1 We're speaking to whether or not -- Mr. -- Gary is
2 asking whether or not -- what was surrounding the
3 site behind it and whether or not it would be just
4 an exercise in futility to put in landscaping at the
5 rear of the property. So based upon the testimony
6 that you've provided that it's parking area or some
7 type of paved area behind us, it doesn't seem
8 necessary to include some landscaping back there,
9 correct?

10 A. It would serve no purpose at all. It's
11 not visible, especially with the vinyl fence that's
12 going to be on top of the retaining wall, and it's
13 going to be a leveled area, and on either sides, to
14 the right or to the left, the existing buildings go
15 back further than our building does.

16 Q. Thank you, Mr. Kee.

17 A. Built right on the property line, also.

18 THE CHAIRWOMAN: If I can just talk
19 about the back while we're there. So it's going to
20 be a paved area, but there's -- there are -- there's
21 no parking at all back there?

22 THE WITNESS: No, we're not proposing
23 any --

24 THE CHAIRWOMAN: There's no parking --
25 there's no opportunity -- I'm sorry.

1 MR. ALFIERI: No parking is being
2 proposed. Sorry for cutting you off, Madam Chair.
3 The testimony that was provided was there's -- we
4 actually had parking being proposed, but based upon
5 the board's comments at the last meeting and further
6 review of the site, we don't have access to get from
7 that area behind our site to those parking spaces,
8 so in an effort to just resolve that and issues
9 surrounding trying to get easements and whatnot,
10 we've removed the parking and included a patio area,
11 which will be utilized for the utilities. Ms.
12 Montero provided testimony that we're going to try
13 to shrink that to make sure that's not necessarily a
14 patio and more along the lines of a utility pad, and
15 then there's a grassed area being proposed just for
16 I guess to assist with stormwater management.

17 THE CHAIRWOMAN: Right, so I'm trying to
18 visualize a back space with no parking, no ability
19 for the residents to go out and sit and utilities
20 and garbage, and again, I'm not going to be a
21 stickler about the greeneries, but it seems like
22 there's no opportunity for even like if somebody had
23 a pet to even go out there. I'm just visualizing
24 what the opportunities are back there.

25 MR. STAHL: Mr. Alfieri, if I may, and I

1 try -- this board tries to be helpful to the
2 applicants, and the issue of the deviation raised by
3 Mr. Forshner and Mr. Valetutto is one that requires
4 Mr. Valetutto to review the redevelopment ordinance
5 because he's the one, and his father, who know it
6 better than anyone. I'm concerned -- and I'm not
7 making a decision. I don't recall any testimony
8 with regard to the parking and whether or not the
9 surrounding areas can support this proposal when
10 there are no parking spaces and there's a 13 space
11 requirement. The board has not received any
12 testimony about that which would support that
13 proposal, and, you know, the density and the
14 coverage, that's a different issue that the board
15 will have to deal with, and I'm not suggesting that
16 more testimony, but we haven't heard anything about
17 parking, and I don't know how the board will deal
18 with that. I just raise it as a question for the
19 board.

20 THE CHAIRWOMAN: I will just jump in and
21 say as far as parking, I understand based on the
22 constraints of the area, but I think having zero is
23 a concern. I mean, I understand you're not going to
24 find 13, but zero I have a concern, one of the many.

25 MR. FORSHNER: So that dovetails, Mary,

1 with my question in terms of on-street parking and
2 whether there's sufficient on-street parking because
3 most of the businesses -- the peak hours for the
4 parking for the residential is going to be different
5 than the peak hours for the commercial piece, the
6 retail on the first floor, plus the other retail
7 commercial uses along that strip similarly are going
8 to have an offset in the peak. So I guess the
9 question is, I think if I recall if I understand
10 this correctly, what's driving the parking is the
11 residential, and then I guess if we're talking about
12 the bulk of the residential parking there from, you
13 know, 5 o'clock, 6 o'clock on and overnight and
14 again the bulk leaving in the morning, is there
15 sufficient parking there on street to be able to
16 accommodate that.

17 THE CHAIRWOMAN: And I would just wrap
18 that up to say parking in general I would think is a
19 major concern.

20 Holly, did you have thoughts on that, as
21 well?

22 MS. HUGHES: Yeah, well, I guess my
23 thoughts or question -- I'm trying to think of more
24 current and recent developments on Broadway that
25 have included residential and also have had parking,

1 and not just on Broadway, but also, you know, the
2 Knights of Pythias building on Stevens and -- is
3 that 1st or 2nd. I believe that they were required
4 to have a lot, which they acquired at the corner of
5 Broadway.

6 THE CHAIRWOMAN: Yes.

7 MS. HUGHES: And then the apartments
8 near Belle Allure Salon, those all have parking
9 behind the building. I understand there's not an
10 ability to do that here, but saying that, you know,
11 just disregarding the chance to look at an easement
12 request to at least have a couple of spots in the
13 back, that that just may not be sufficient enough of
14 a reason without being told, no, you can't have the
15 easement, or, no, you can't do it. I mean, I'm
16 looking at a Google Map view right now. You've got
17 a lot of units right next to you in that newer
18 development, but, you know, they all seem to have
19 parking attached with them, and there are some
20 parking spots behind the building that's -- what was
21 it, Cake On Heels or whatever it's called -- there
22 are some spots there, but I'm not sure who they
23 belong to. It just would be good to have a little
24 bit more information.

25 MR. GONZALES-GOMEZ: Hi, Mary, this is

1 George. Just to piggyback on what Holly just said,
2 the building that just sold recently, Cake on Heels,
3 that has one parking space behind it. To the
4 southeast of that, there is a loading dock that used
5 to be used by a printing company, who had one or two
6 vans that back up to that, and to the northwest of
7 it, there is the buildings with sort of underground
8 parking. So behind there it's really landlocked,
9 and even if you had an easement, you couldn't really
10 park anything with the space that that footprint is
11 taking up.

12 And a little while ago, we talked about
13 buildings on Broadway. Having been on Broadway for
14 27 years, I don't think there's a building of that
15 dimension that has three apartments on top without
16 any parking. Most of them have some sort of
17 parking, and those on Broadway have one or two
18 apartments on top of them. Three is really in my
19 opinion pushing it, especially when you're looking
20 at a demand for 13 spaces.

21 MR. STAHL: Madam Chairwoman, if I may.

22 THE CHAIRWOMAN: Go ahead, Jim.

23 MR. STAHL: If I may, I think we should
24 complete any questions from the board, open to the
25 public so that the board and the applicant can hear

1 comments from the public, and then Mr. Alfieri is
2 going to have to make the decision, which are always
3 difficult, does he want to request the board to make
4 a decision tonight on this application, or does he
5 want to bring in more information or more testimony.
6 I'm not, you know, we don't direct anyone to do
7 that. It will be his decision, but I think we ought
8 to see if there are anymore questions from the
9 board, open it to the public, and then it's Mr.
10 Alfieri's position what he wants to do. That's his
11 right.

12 THE CHAIRWOMAN: Thank you, Jim. Is
13 there anyone from the board who hasn't had an
14 opportunity to ask any questions yet? I want to
15 make sure.

16 MR. FORSHNER: I did have a couple more
17 questions, but I'm happy to defer them and give
18 other people an opportunity to speak.

19 MR. KELLY: Madam Chair --

20 THE CHAIRWOMAN: Anyone else?

21 MR. KELLY: Madam Chair, can I just ask
22 one more question, and this is for Mr. Kee.

23 THE CHAIRWOMAN: Tom Kelly, go right
24 ahead.

25 MR. KELLY: And I'm going to also ask

1 Mr. Valetutto to weigh in on this. This is above my
2 pay grade. I'm not sure why are the retaining wall
3 being proposed does not go to the property line, and
4 one of my concerns is the volume of roof runoff and
5 the area behind it, and if we do use the discharge
6 into the grass area, is the grass area square
7 footage enough to retain the runoff. If it doesn't,
8 where is it going in the adjoining properties?

9 MR. VALETUTTO: Well, Tom, I don't know
10 exactly where the retaining wall is going. Like I
11 say, I haven't reviewed the latest plans that were
12 submitted. They were submitted too late. I assume
13 based on what you said, it's not going to the
14 property line. As far as the -- how the water is
15 being handled, it's a good point. We can request
16 that their engineer provide a drainage statement, do
17 a pre and post drainage statement, not a full --
18 they don't have to do a full drainage report, but
19 some sort of a statement to show what this proposed
20 construction is going to do as far as increase of
21 runoff, because you are right, even though there is
22 grass being proposed, that doesn't mean that
23 everything gets absorbed by the grass. It's got to
24 go somewhere, and something is going to be directed
25 to that back pavement, and it's going to possibly

1 create some flooding for neighboring property.

2 MR. STAHL: Well, Jason, if I may -- Jim
3 Stahl here -- I mean, was there a drainage report
4 provided by the applicant?

5 MR. VALETUTTO: I don't recall there
6 being one. Go back to the completeness letter. No,
7 there was no drainage report that I am aware of.

8 MR. STAHL: Was any required under the
9 redevelopment zone in this application?

10 MR. VALETUTTO: I don't believe it's a
11 requirement; however, due to the sensitivity of how
12 much of this is impervious -- there's not an
13 impervious coverage consideration in the
14 redevelopment plan, only lot coverage, but because
15 of the lot coverage -- because of the size of the
16 building, the size of the patio, you are reducing
17 how much landscape coverage you have. It would be
18 wise to have some sort of numbers to back up that
19 that water isn't going to affect neighbors.

20 THE CHAIRWOMAN: Thank you. Any final
21 questions pertaining to this application?

22 MR. FORSHNER: I just had one more.
23 There had been a brief discussion with regard to
24 lighting. Could someone clarify that. Is the
25 applicant proposing, not proposing lighting? Does

1 it comply with the lighting requirements, not
2 comply? Can somebody just give me some
3 clarification on that.

4 MR. VALETUTTO: They're not proposing
5 any -- this is Valetutto. They're not proposing any
6 lighting other than what we would call wall lighter
7 at the back door to illuminate that back door and
8 the access to the trash. Since there's no parking
9 -- since there's no parking back there, there is no
10 need for actual lighting.

11 MR. FORSHNER: Okay.

12 MR. VALETUTTO: That wall light at the
13 door should be sufficient for them to access the
14 trash if it needs to be accessed at night.

15 MR. FORSHNER: Sounds good to me. Those
16 are all the questions that I have.

17 THE CHAIRWOMAN: Okay. Thank you. At
18 this time, I'd like to ask for a motion to open up
19 to the public for any comments they may have.

20 MR. FORSHNER: So moved.

21 THE CHAIRWOMAN: Second?

22 MS. HUGHES: Second.

23 THE CHAIRWOMAN: Is there anyone from
24 the public -- thank you. Is there anyone from the
25 public who has any comments, questions, concerns

1 specifically to this application?

2 MS. RUSSO: I'm just going to unmute a
3 couple of callers.

4 THE CHAIRWOMAN: That would be good.

5 MS. RUSSO: They're unmuted.

6 THE CHAIRWOMAN: Let me ask again. Is
7 there anyone from the public who has any comments or
8 questions on this application?

9 MR. BABULAK: Greg Babulak here. I have
10 a question.

11 MR. STAHL: Sir, before you testify, are
12 you on video? Do we have your face here?

13 MR. BABULAK: No, you do not have my
14 face. You have my voice, yes.

15 MR. STAHL: All right. Well, we'll try
16 it this way then. I don't want to lock you out. In
17 this matter, please identify yourself as to your
18 name, spelling your last name, and your address.

19 MR. BABULAK: B-a-b-u-l-a-k, 125 Henry.

20

21 G R E G B A B U L A K, sworn.

22 MR. BABULAK: I'm not giving testimony.
23 I have a question. I just want to know something.
24 I do. Yes. Yes, I swear.

25 MR. STAHL: Because you may make

1 comments.

2 MR. BABULAK: Excuse me. This is my
3 first planning board rodeo, okay, so I don't know if
4 I'm doing the right thing or not. I'm just asking a
5 quick question. I heard someone ask earlier I think
6 from the board whether there is going to be a crawl
7 space. I think that there was a question somebody
8 had put out there and they weren't sure.

9 I'm looking at your diagram here, and it
10 says the existing foundation to be in-filled, and a
11 new concrete slab is supposed to go over the top.
12 So that would basically -- to me, it means there's
13 nothing underneath; is that correct or no? There's
14 no basement or anything, right, if they're putting
15 up a new concrete slab?

16 MR. STAHL: Mr. Alfieri, if you would
17 direct the question to one of your witnesses.

18 MR. ALFIERI: Miss Montero.

19 MS. MONTERO: There will be no crawl
20 space or basement.

21 MR. BABULAK: So it's just a slab then.

22 MS. MONTERO: Correct.

23 MR. BABULAK: Okay, because my other
24 concern was I know you're having a business right
25 above that. Now, most of the businesses in town, if

1 I'm not mistaken -- is Jorge here or no? No, Jorge
2 is gone. So they all have basements. So you won't
3 have a lot of area to, you know, stock stuff as I
4 heard earlier. Is that a right assumption on that
5 or no? Inventory or whatever.

6 MR. ALFIERI: There is an area being
7 proposed. Ms. Montero provided testimony earlier
8 that there is a storage area being proposed inside.
9 The size of it, obviously, depending on the proposed
10 tenant, would have to fit their needs.

11 MR. BABULAK: Okay. That was my only
12 question. That's all. Thank you so much.

13 THE CHAIRWOMAN: Thank you.

14 MR. ALFIERI: Thank you.

15 THE CHAIRWOMAN: Any other questions,
16 comments from the public? Okay. Do I have a motion
17 to close the session to the public?

18 MR. FORSHNER: So moved.

19 MR. KELLY: Second.

20 THE CHAIRWOMAN: All in favor? No
21 opposed?

22 Okay. With that, Mr. Alfieri, would you
23 like to close and tell us what you would like to do.

24 MR. ALFIERI: I think based upon all of
25 the comments we've received tonight from

1 Mr. Valetutto, Mr. Stahl, and the rest of the board
2 members, obviously there's still some question marks
3 that need to be answered on our part to make the
4 board more comfortable with what we're looking to
5 propose, so we're going to request that this matter
6 be carried with no further notice to the next
7 meeting.

8 THE CHAIRWOMAN: And I would like to ask
9 you -- and I think that there's a lot that we've
10 gone over tonight. I think that -- I appreciate you
11 taking it all into consideration. I certainly
12 appreciate that you heard us last time and did make
13 some changes. So I think what -- I know speaking
14 for myself, what would help the most is to have an
15 updated plan with all the changes and be able to go
16 through things kind of, you know, with the --
17 Jason's review letter and an updated plan that we
18 can review. Again, I know you got an updated plan
19 in, but because of the timing issue, we were not
20 ready to review that tonight. So I think we'd
21 really like to see a comprehensive plan with
22 everything that's been considered and, you know,
23 take it to the next step. So with that, I will ask
24 for a motion to carry this application without
25 notice, correct? Holly, do I have a second?

1 MS. HUGHES: Second.

2 MR. KELLY: Second.

3 THE CHAIRWOMAN: Roll call, Amy.

4 MS. RUSSO: Chairwoman Mary Szaro.

5 THE CHAIRWOMAN: Yes.

6 MS. RUSSO: Scott Kominkiewicz.

7 MR. KOMINKIEWICZ: Yes.

8 MS. RUSSO: Mayor Fred Henry.

9 MAYOR HENRY: Yes.

10 MS. RUSSO: Tom Kelly.

11 MR. KELLY: Yes.

12 MS. RUSSO: George Baranowski.

13 MR. BARANOWSKI: Yes.

14 MS. RUSSO: Janet Kern.

15 MS. KERN: Yes.

16 MS. RUSSO: Holly Hughes.

17 MS. HUGHES: Yes.

18 MS. RUSSO: Jorge Gonzales.

19 MR. GONZALES-GOMEZ: Yes.

20 MS. RUSSO: Gary Forshner.

21 MR. FORSHNER: Yes. Just one question,

22 and that is whether there's a date specified that

23 this is going to get carried to so it's clear for

24 the public and everyone involved.

25 MS. RUSSO: Our next tentative meeting

1 is February 24.

2 MR. FORSHNER: So it's getting carried
3 to February 24?

4 THE CHAIRWOMAN: We don't know that yet.

5 MR. STAHL: We really have to if we're
6 going to not require new notice.

7 MR. ALFIERI: We're requesting the
8 February date.

9 THE CHAIRWOMAN: You are, okay. Thank
10 you.

11 MR. STAHL: And Mr. Alfieri -- I'm
12 sorry. Mr. Alfieri, two things. I will be sending
13 you a consent -- an extension of time for the board
14 to act. I don't know whether we're close or not,
15 but I will send it to you to cover the board. And
16 number 2, under our new ordinance, the extent -- and
17 I'm not inviting it. I just have to tell you if you
18 are going to bring in new witnesses or additional
19 people, I'd like you to advise me prior to the
20 meeting as to who is being brought in and their
21 topic and their credentials, if you do.

22 MR. ALFIERI: Of course.

23 THE CHAIRWOMAN: I'm sorry. Did we
24 finish with roll call?

25 MS. RUSSO: I did not. I'm Missing

1 William DeMasi.

2 MR. DeMASI: Yes.

3 MS. RUSSO: I just want to -- is it
4 carried or continued?

5 MR. STAHL: It is continued.

6 MS. RUSSO: Okay.

7 THE CHAIRWOMAN: Good question, Amy.
8 Then so moved. We will -- again, for the
9 February 24, we will continue this for that next
10 meeting, and at -- if it is for that night, it will
11 not be noticed, but if it is for further than that,
12 then it will have to be renoticed.

13 MR. ALFIERI: Thank you, Chairman,
14 members of the board. We appreciate your time
15 tonight.

16 THE CHAIRWOMAN: Thank you.

17 MR. ALFIERI: Hopefully we'll be in
18 person.

19 THE CHAIRWOMAN: Go ahead. I'm sorry.

20 MR. ALFIERI: I said hopefully we'll be
21 in person soon.

22 THE CHAIRWOMAN: From your mouth to
23 God's ears, but I don't know when that day will
24 come. So all those technical difficulties can be a
25 little daunting, but we try to get through. So

1 thank you so much for everything, and that will
2 conclude this application for this evening.

3 MR. ALFIERI: Thank you. Appreciate it.

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PLANNING BOARD
CITY OF SOUTH AMBOY
COUNTY OF MIDDLESEX
STATE OF NEW JERSEY

In the Matter of)
The Application of:)
BRIAN VALLEE, KEN BARTON,) CERTIFICATE
& CHARNIE STEIN)
#408-20)
167 North Broadway)
Block 47, Lot 16)
-----)

I, DEBORAH A. MASTERTON, a Certified Court Reporter of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the proceedings in the above entitled matter at the time and place aforesaid.

DATE: February 3, 2021

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