

CITY OF SOUTH AMBOY
PLANNING BOARD
REGULAR MEETING/MINUTES
February 24, 2021

Members present: Mary Szaro, Scott Kominkiewicz, Mayor Fred A. Henry, Councilman Tom Reilly, George Baranowski, Janet Kern, Holly Hughes, Catherine Corey, Jorge Gonzales-Gomez, Gary Forshner, William DeMasi

Members absent: Thomas Kelly

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 Holly Hughes, seconded by Jorge Gonzales-Gomez to accept the Minutes of the January 27, 2021 meeting. Motion carried: 9-0, 2 abstentions.

Chairwoman Szaro then reviewed the evening’s agenda.

Resolution

City of South Amboy Historic Preservation Commission recommends to the Planning Board of the City of South Amboy that the Independence Fire Company Firehouse located at 127 N. Broadway Block 47, Lot 4 be added to the Historic Preservation plan element of the City’s Master Plan. That the Independence Fire Company Firehouse be designated as an Individual Landmark.

Chairwoman Szaro asked for a motion to approve Resolution HPC 1-21 The Independence Fire Company Firehouse.

Motion by Holly Hughes, seconded by Janet Kern. Motion carried: 10-0, 1 abstention.

Chairwoman Szaro opened this portion of 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 Catherine Corey, seconded by George Baranowski.

Completeness

HBD South Amboy, LLC – PB Application # 416-21

139 Rosewell Street Block 161.02 Lot 21 & 22

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated February 10, 2021, regarding Application #416-21, HBD South Amboy, LLC recommending **Incompleteness**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Incompleteness** for Application #416-21 HBD South Amboy LLC. Motion carried: 3-0, 0 abstentions.

Manhattan Beach Phase I Urban Renewal, LLC – PB Application # 417-21

Rosewell Street Block 161.02 Lots 21, 23, 24, & 24.01

Completeness committee member Holly Hughes stated that she is in receipt of a letter from AJV Engineering, Inc. dated February 24, 2021, regarding Application #417-21, Manhattan Beach Phase I Urban Renewal, LLC recommending **Incompleteness**.

Motion by Holly Hughes, seconded by Janet Kern, to accept the recommendation of **Incompleteness** for Application #417-21, Manhattan Beach Phase I Urban Renewal, LLC Motion carried: 3-0, 0 abstentions.

Continued Public Hearing

Center SA, LLC. – Application # 411-20

536 Center Street / Block 136 Lot 1

Please refer to the attached transcript

Motion by Catherine Corey, seconded by Scott Kominkiewicz to open this public portion of the meeting. Motion by George Baranowski, seconded by Scott Kominkiewicz to close this public portion of the meeting.

Motion by Scott Kominkiewicz, seconded by Holly Hughes to approve the Preliminary Major Site Plan, Final Major Site Plan, Bulk Variance (“C” Variance), and Use Variance (“D” Variance). Motion denied: 0 approve, 8 deny, 1 abstention.

Announcement of Application Carried

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

167 N. Broadway / Block 47, Lot 16

Motion by Gary Forshner, second by Catherine Corey to accept the request made by Mr. Salvatore Alfieri Esq. to carry the application to the March 24, 2021 meeting with no further notice required. All in favor

Chairwoman Szaro asked for a motion to open the meeting to the public. Motion by Catherine Corey, seconded by Janet Kern. 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 Janet Kern, seconded by Jorge Gonzales-Gomez.

Chairwoman Szaro announced that the next virtually scheduled meeting would be held on Wednesday, March 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 March 24, 2021

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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
CENTER SA, LLC) proceedings
#411-20)
536 Center Street)
Block 136, Lot 1)

Wednesday, February 24, 2021
Remote Proceedings Via
GoToMeeting Videoconference

PLANNING BOARD

MARY SZARO, Chairwoman
SCOTT KOMINKIEWICZ
GEORGE BARANOWSKI
HOLLY HUGHES
CATHERINE COREY
JANET KERN
JORGE GONZALES-GOMEZ
GARY FORSHNER
WILLIAM DeMASI

AMY RUSSO, Secretary
JASON VALETUTTO, Planner/Engineer

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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 HEILBRUNN PAPE, LLC,
5 Attorneys for the APPLICANT
6 By: KENNETH L. PAPE, ESQUIRE

7 LAW OFFICES OF GREGORY F. KUSIC,
8 Attorneys for the OBJECTORS,
9 GEORGE & JESSICA GENT,
10 By: GREGORY F. KUSIC, ESQUIRE

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1 THE CHAIRWOMAN: Next application up is
2 411-20, Center SA, LLC. This is 536 Center Street.

3 Mr. Pape, are you ready? Before you do
4 open up, I would like to just let the public know
5 that we started this hearing originally on
6 November 19. It was continued. We actually
7 received another set of plans. So we will tonight
8 be discussing the current plans. So I know last
9 time the public got to speak, and we heard
10 witnesses, but we will hear witnesses again. The
11 public will get to speak again before if we get a
12 chance to take a vote tonight. So just to let
13 everybody know.

14 Mr. Pape.

15 MR. STAHL: Ken. Ken, you are in --
16 please remember and remind your witnesses, please,
17 that when they start to say something or you request
18 something, they should respond like, Testa, and then
19 speak, or, Rea, and then speak so that the court
20 reporter has all the necessary information. Thank
21 you.

22 MR. PAPE: Thank you. This is Kenneth
23 Pape. Madam Chair, members of the board, board's
24 professionals, and public, good evening. My name is
25 Kenneth Pape. I'm an attorney with Heilbrunn Pape.

1 I have the responsibility this evening to represent
2 your applicant, Center SA, and its managing member,
3 Michael Behar. As was read into the record, this
4 meeting began in November, at which time there was
5 testimony presented by Andrew French, the design
6 engineer, and there was testimony presented by
7 Michael Testa and -- the architect, and John Rea,
8 our traffic engineer.

9 Since that meeting, we have modified the
10 plans, and our intention this evening is to present
11 the plans to you through the testimony, first
12 Michael Testa and then from John Rea, and at the
13 conclusion of those fact witnesses, we will present
14 our planning testimony through Christine Cofone.
15 Drew French, Andrew French, the design engineer,
16 remains available, but there are little or no
17 changes to the actual site. The changes that we're
18 proposing for your consideration are primarily
19 interior changes to the existing and proposed
20 structure.

21 In a nutshell, we have reduced the
22 number of apartments from ten to six. The number of
23 apartments has been reduced from ten to six. The
24 six apartments are now fully parked on site. We
25 have seven on-site parking stalls, which Mr. Rea

1 will share with you is adequate for the proposed
2 apartments.

3 The existing bar and the existing
4 catering hall space are proposed to be modified.
5 There are no changes from that which we presented to
6 you the last time. We intend to operate a
7 neighborhood restaurant from the first floor area.

8 With your permission, Madam Chair, I'd
9 ask if Mr. Testa, who has already been sworn and his
10 credentials -- I've got to go back for one second.
11 Administratively, this application was carried to
12 this evening's meeting. We were advised by Ms.
13 Russo that no further notice was required. Mr.
14 Stahl asked that I provide a copy of the list of
15 property owners that we relied. I would ask if we
16 could just address that administrative requirement
17 at the outset, confirm that the board continues to
18 have jurisdiction to hear the application before we
19 proceed.

20 MR. STAHL: Yes, Mr. Pape, Amy and I did
21 review. We are satisfied that the proper notice. I
22 am going to swear in Mr. Testa again because my
23 transcript and the recording did not reflect that
24 for some reason. I mean, I'm not in any way
25 impugning the integrity of Mr. Testa, but for

1 purposes of the record, I want to make sure that he
2 is sworn in as a witness.

3 So, Mr. Testa, if you'll raise your
4 right hand in this matter -- your name is Michael
5 Testa, sir? Unmute, Michael. All right, Mr. Testa?
6 He's an architect, not an engineer. Mr. Testa, can
7 you hear me? All right. Well, you're going to have
8 to put your audio on so that we can hear you.

9 Amy, is he locked out? Okay.

10 Mr. Testa, raise your right hand. In
11 this matter, do swear that the testimony you're
12 about to give is the truth, the whole truth, and
13 nothing but the truth, so help you God? Mr. Testa,
14 are you indicating in the affirmative? Can you hear
15 me? Mr. Testa. Mr. Testa. There's a problem.

16 THE CHAIRWOMAN: Mr. Testa, are you
17 having audio problems?

18 MR. STAHL: Mr. Testa, can you hear us?
19 Raise your hand if you hear me. Obviously does not
20 hear me.

21 MR. PAPE: Mr. Testa has just sent me a
22 note saying that he is having difficulties and he's
23 going to switch computers. He's in his office, and
24 he's going to switch computers.

25 MR. STAHL: Thank you, Mr. Pape. There

1 he is. Mr. Testa, if you hear me, raise your hand.
2 Mr. Testa, can you hear me? Mr. Testa, raise your
3 right hand if you can hear me. I'll even take a
4 left hand.

5 MR. PAPE: Mr. Testa just said he
6 believes if he had 5 minutes he can straighten out
7 the problem.

8 MR. STAHL: Do you want to wait for him,
9 or do you want to move in to a different witness?

10 MR. PAPE: No, it's necessary,
11 Mr. Stahl, to begin with the testimony of Mr. Testa,
12 and I'm sure that -- I apologize --

13 MR. STAHL: No, no, Mr. Pape, you don't
14 have to say another word. It's your presentation,
15 and we are not going to interfere with it, not at
16 all.

17 MR. PAPE: Certain that he'll respond.

18 MR. VALETUTTO: Jim, can I ask Mr. Pape
19 a question at this time?

20 MR. STAHL: It's up to Mary.

21 THE CHAIRWOMAN: Please go right ahead.

22 MR. VALETUTTO: This is Valetutto
23 speaking. Ken, is the owner of the property here
24 this evening, because you had testified last time
25 that he would be and would be putting on testimony,

1 because I did have procedural comments in the
2 testimony sections of my report that you said you
3 would be prepared for. Perhaps those would not
4 affect your professional testimony and we can slip
5 Mr. Behar in now.

6 MR. PAPE: Mr. Behar is here, but
7 Mr. Behar's testimony will not be -- we're going to
8 begin with the architectural testimony soon as
9 Michael is ready to go. Thank you.

10 THE CHAIRWOMAN: Do you have any
11 background music while we wait?

12 Mr. Testa, we can see you. Can you hear
13 us?

14 MS. HUGHES: Perhaps we should suggest
15 to Mr. Testa that he stay on video and just dial in
16 from his cell phone into the meeting to expediate.

17 MR. PAPE: We have made that suggestion
18 to him just now.

19 Mr. Testa just advised us that he has
20 dialed in, but he cannot be heard when he speaks.

21 THE CHAIRWOMAN: Amy, do you have
22 everybody on mute?

23 MS. RUSSO: Yes, including myself. That
24 takes a while to unmute.

25 THE CHAIRWOMAN: Can you unmute just

1 Mr. Testa?

2 MR. VALETUTTO: The problem is we won't
3 know which caller Mr. Testa is. The program won't
4 have --

5 MS. HUGHES: Does he know -- can he
6 identify himself maybe in the chat function as to --

7 MS. RUSSO: Maybe if he writes in the
8 chat.

9 MR. STAHL: Why don't we unmute
10 everybody for 3 seconds and find out where he is and
11 then open him up and mute everybody else again.

12 MR. PAPE: Are you on your phone?

13 MR. TESTA: No, here we go. I'm on my
14 other computer in the office. So can you guys hear
15 me, see me?

16 MR. PAPE: We can hear.

17 THE CHAIRWOMAN: We can hear you and we
18 can see you.

19 MR. TESTA: Great.

20 MR. PAPE: Take a couple of quick deep
21 breaths, and then we'll turn you over to Mr. Stahl,
22 who was going to swear you in, and then we're going
23 to place your credentials on the record against
24 again, Mr. Testa.

25 MR. TESTA: Okay.

1 MR. STAHL: Sir, can you raise your
2 right hand again, please, Mr. Testa.

3

4 M I C H A E L T E S T A, sworn.

5 DIRECT EXAMINATION BY MR. PAPE:

6 MR. STAHL: All right. Put your hand
7 down. Remember to introduce when you're testifying
8 as Testa, and then you will respond.

9 I don't think, Mr. Pape, we have to
10 requalify him. I do believe the board accepted his
11 qualifications at the November 19 meeting, but it's
12 up to you.

13 THE CHAIRWOMAN: Yes.

14 MR. PAPE: No, Mr. Stahl, thank you.

15 Q. So, Mr. Testa, in order to make certain
16 that the court reporter is able to do her function,
17 we ask that before you begin your testimony that you
18 identify your name and then you'll go into your
19 presentation, and I'm going to ask this evening if
20 you would begin by making a general overview
21 description of the revisions to the plan, and then
22 if you would take us through the revisions to the
23 plan, at the completion of the direct presentation,
24 I'll review a number of architectural related
25 questions from Mr. Valetutto's February 17 report.

1 Are you comfortable with that procedure?

2 A. Yes.

3 Q. Then I'll ask, Mr. Testa, if you could
4 begin with the general overview of the revisions --

5 MR. PAPE: How do we screen share? How
6 is the screen controlled this evening?

7 THE CHAIRWOMAN: I believe Amy has to
8 give control. Amy.

9 MS. RUSSO: Yes, I'll share the screen.

10 THE CHAIRWOMAN: And if I -- thank you
11 -- and whoever D M is, you're not on mute. If you
12 please mute.

13 THE COURT REPORTER: If think that's me,
14 the court reporter. If I mute myself, I won't be
15 able to tell you if I'm having a problem.

16 THE CHAIRWOMAN: Okay, that's great. I
17 wasn't sure.

18 MS. RUSSO: Although who -- I know it's
19 Michael Testa that I'm sharing the screen with, but
20 he called in --

21 THE WITNESS: T C on my screen.

22 MS. RUSSO: Okay.

23 THE WITNESS: I don't know if you got
24 the right person. It's T as in Thomas, C as in
25 Charlie.

1 MS. RUSSO: I don't see you.

2 THE WITNESS: Let me turn my screen on
3 and off.

4 MR. PAPE: Terrence Cassara.

5 THE WITNESS: Terrence Cassara.

6 MS. RUSSO: Okay.

7 MR. PAPE: Thank you.

8 MS. RUSSO: Just bear with me a sec.

9 MR. FORSHNER: Amy, if you're the
10 administrator of this, you should be able to mute
11 people so if they don't mute themselves. You might
12 have that capability.

13 MS. RUSSO: I do, but it takes me a
14 while to get there. My computer for some reason is
15 really slow. I don't know if it's the amount of
16 people that are on, so when I push mute it doesn't
17 mute them right away.

18 MR. FORSHNER: Gotcha.

19 THE WITNESS: Okay. Can everyone see my
20 screen?

21 MR. PAPE: Yes.

22 THE WITNESS: All right, so, Madam
23 Chair, members of the board, members of the public,
24 I apologize for the technical difficulties this
25 evening. Hopefully we're back on track, and what I

1 have in front of you is the revised set of plans
2 that were resubmitted to the city and Mr. Valetutto
3 for review.

4 A brief recap. We had come in
5 previously with our application for an existing
6 building that consisted of a two-story restaurant
7 area that was approximately 900 square feet per
8 floor with a banquet hall that was adjacent to the
9 restaurant area. Both buildings appeared to be
10 vacant at the time I was at the space. The banquet
11 hall was definitely vacant. And our client looked
12 to develop both pieces of the building into a
13 revitalized restaurant/bar with renovated
14 apartments, two apartments up above the restaurant,
15 two single-bedroom apartments, and we proceeded to
16 create eight more units in the banquet hall area.

17 After listening and considering the
18 opinions and the comments from the board and the
19 people from the general public, our client and our
20 design team went back to the boards to redesign a
21 building with less units. As Mr. Pape had
22 indicated, we had 10 units total. There was eight
23 studios and one -- I'm sorry -- two two-bedrooms.
24 Our new plan, as you can see in front of you here,
25 which is our main floor plan, now consists of

1 six units. We have three two-bedrooms and three
2 one-bedroom.

3 I'm going to start above the bar, which
4 is actually the second floor -- second floor here
5 where you can see this space if you follow my
6 cursor. Those two apartments are now combined into
7 one two-bedroom apartment, so that's one apartment.
8 We go down to the main floor level. As indicated
9 previously, we have an entrance vestibule off of
10 Center Street. We've provided a handicapped lift
11 for access into this floor area. On this floor area
12 we now have five units. I have a one-bedroom, a
13 two-bedroom, a two-bedroom, a one-bedroom, and a
14 one-bedroom. (Audio disruption) area, which we've
15 added a kitchen component to it, and we've also
16 created a dining area component inside the space.
17 The dining room area has a 3-foot-0 door for
18 handicapped accessibility whereas the existing
19 building has no handicapped accessibility to access
20 the building and access the bar/restaurant right
21 now. So a handicapped person can enter into this
22 common hallway, enter through the dining room, and
23 have access to the bar/restaurant.

24 The exterior of the building remains the
25 same. We have an outdoor patio at the rear, and at

1 the lower area below the building -- I'm going to go
2 all the way back to the first page -- you see the
3 lower level. The lower level really consists of
4 underneath the banquet hall. We've created seven
5 parking spaces, as Mr. Pape indicated. We've also
6 added a couple items that weren't on the drawings
7 previously, which you see here on this plan. We
8 have a trash chute from the kitchen up above that
9 goes down into a small compactor that's compacting
10 trash into two cans that can be removed, rolled out,
11 and brought into the dumpster. We also have the
12 fire sprinkler location in here, and to jump ahead a
13 little bit to go after Mr. Valetutto's comment to
14 respond to them, we're going to have the rest of our
15 utilities in the same area. Adjacent to the
16 sprinkler riser, we're going to create a continuous
17 room here and have the water meters enclosed in a
18 heated room in this area. Opposite the two overhead
19 doors into the garage, we're going to have the gas
20 meters facing Cedar Street inside the building, and
21 then adjacent to the man door that goes out of the
22 garage, we're going to have the electric service
23 brought in. Right now, this basement area here is
24 approximately 4 and a half feet high. It's not
25 habitable. It's not -- it's got a dirt floor, and

1 there's a small access panel here that is
2 approximately 40 inches wide by 58 inches big. I
3 guess at one time it was just used for access to get
4 under here more for deliveries. I don't know what
5 it could have been used for. But they have electric
6 in here now, they have sanitary in here now, and
7 they have water in here now. So we're relocating
8 all those to a new location inside the space
9 underneath the banquet hall.

10 Mr. Valetutto also asked for me to
11 testify with respect to the overhead doors that are
12 coming in here. We've coordinated those doors with
13 Mr. French with regard to the height being 7 feet
14 and the width being 9 feet. So we have two
15 9-foot-wide-by-7-foot-high overhead doors into the
16 garage area.

17 So back to the -- what I'd like to do is
18 switch over here now to our rendering. So get this
19 onto my screen. All right, so we have our rendering
20 up that was previously submitted. As you can see,
21 there have been no changes to the rendering or to
22 the exterior of the building. What I would like to
23 point out here is a clarification for Mr. Valetutto.
24 This handicapped lift cannot be seen in
25 two-dimensional elevation, but can see here in the

1 three-dimensional depiction the front facade. We've
2 extended the front vestibule wall out to create a
3 screen wall so that way that lift is not visible to
4 the street from a straight-on view. So you would
5 enter into the side here. You would go up into the
6 existing vestibule. I will or actually have revised
7 plans. We have not resubmitted those plans to
8 Mr. Valetutto to show that wall. That wall was
9 mistakenly omitted from the plan. That wall is
10 there and has been there in the elevation.

11 Other comments that Mr. Valetutto had
12 had were with respect to the attic space above the
13 units. That attic space will only be used as attic
14 space and will house the heating units from each of
15 the residential tenant spaces. So that's the only
16 place. The reason why there's so many panels is
17 because there's large barrel vaulted trusses there,
18 and you really cannot get over each truss to get to
19 service each piece of equipment. So each of the
20 little rectangles with a V in it are pull-down
21 access points so that people can get up and service
22 that equipment.

23 As far as other utilities, I testified
24 previously that underneath the back deck we were
25 looking to possibly install a couple of the

1 condensers for the apartments that are on that side
2 of the building. I also testified that we have a
3 roof platform, which I will try to switch back over
4 -- switch back over to the plan. Let me get to the
5 roof plan.

6 So here we have a roof plan that was
7 submitted showing the approximate size of a roof
8 platform. This roof platform as indicated will
9 house the rest of the condensers for the heating and
10 air conditioning units for the apartments and will
11 also house the equipment for the kitchen area. This
12 area is accessed through the stair from -- to the
13 second floor. Let me scroll to that. This here is
14 the stair that takes you from the main corridor up
15 into the apartment above the bar area, and as you
16 can see, I have a small little access ladder with a
17 door, which is more or less like a hatch, onto the
18 platform that would be above the kitchen area below.

19 So with that being said, I'm going to
20 review Mr. Valetutto's February 17, 2020, letter.
21 I've addressed the overhead door sizes, the small
22 door underneath the bar area.

23 MR. STAHL: Hold it. Mr. Stahl
24 speaking. Mr. Testa, what we want is if you're
25 going to identify changes in the report, please

1 don't just say the door -- I'd like you to address
2 if you have it in front of you the page and the
3 article number so that we can correlate this
4 information. Otherwise, my board and myself and
5 Mr. Valetutto, we're sort of in left field, so to
6 speak. So just identify those portions of Jason's
7 report that you're addressing. Thank you.

8 THE WITNESS: Okay. Sorry about that.

9 MR. STAHL: Don't be sorry. That's all
10 right.

11 THE WITNESS: Seven of 11 under
12 architectural plan, sheet A1, items number 1, garage
13 door size must be added. So as indicated, the
14 garage door size will be 7 feet high by 9 feet wide.

15 The second item is existing door at the
16 existing basement below to the proposed deck must be
17 shown. That door is a 40-inch-wide-by-58-inch-high
18 door.

19 The next item is testimony should be
20 provided for the following. Item number 1. Where
21 the utilities located, i.e., hot water heaters,
22 electric, gas, so forth. I had indicated that in
23 the garage plan we have located the utilities.
24 We're going to have a sprinkler riser, the water
25 meters that will be concealed inside a heated space

1 so they don't freeze. We also plan on putting the
2 electric service there as well as gas meters.

3 Basement appears to be accessed to the
4 bar only. Will this bar storage -- will this be
5 used for bar storage. What is the height of the
6 basement. As indicated, the height of the basement
7 is approximately 4 foot, 6. It didn't appear that
8 it was used for any storage. You really can't get
9 down there. There's pipes, and it's really an
10 uninhabitable space, and I don't -- I do not believe
11 we would intend to use that for additional spaces.
12 It's just for ease of running new piping or any of
13 the wiring to get from one side of the building to
14 the other.

15 The door from the basement will be
16 completely enclosed by the newly vinyl board fence
17 underside the deck above to screen the equipment.
18 How will the door be able to access in emergency.
19 Also provide testimony as to what equipment will be
20 located on the deck. There is no requirements for
21 access for emergency for this area. The underside
22 of that deck, if you look closely in the floor plan,
23 where the man door comes out of the garage, we have
24 that area open, so you can get underneath that area
25 if you had to service anything or pick up debris,

1 but that would be open to get under there. That
2 door that's into the basement right now, that small
3 40-by-58 door, is a hatch that in theory we should
4 close up. There's really no reason to have it.
5 It's a security risk, and that could be closed up at
6 the direction of our client. So that would answer
7 that question.

8 And as to what might be placed in there,
9 as indicated, we were anticipating the possibility
10 of locating a couple of air conditioning condensers
11 underneath that area.

12 A seating -- item -- sheet A2 is the
13 next item. The seating area should be provided for
14 the exterior patio as it appears the door to the
15 kitchen there will be no -- there will be outdoor
16 seating. I think in our last testimony, we
17 indicated there was about four tables there. I have
18 -- I can submit to Mr. Valetutto a revised plan
19 showing him the four tables that we have situated on
20 that back deck area.

21 Okay. Page 8 of 11, item number --
22 under new plan comments, item number 1. Door sizes
23 must be shown for exiting doors at the apartment
24 vestibule entrance, the bar entrance, and the rear
25 stairs to the apartment. All of the existing doors

1 that were there now are 3-foot doors. We're going
2 to replace those doors with a 3-foot door, and that
3 3-foot door will be handicapped accessible where it
4 is designated to be handicapped accessible.

5 The main front entrance to the bar area
6 is not handicapped accessible due to the stairs, but
7 it is a 3-foot door with the proper clearances
8 required otherwise. The rest of the doors inside
9 the new residential area are all 3-foot doors. All
10 of the apartments will be handicapped accessible.
11 They have been designed in a manner to comply with
12 all ADA and New Jersey barrier free handicapped
13 accessibility requirements. So that's number 1.

14 The next item, new plan comments --

15 THE CHAIRWOMAN: Mr. Testa, it's Mary.
16 Can I just ask -- you said all of the apartments are
17 handicapped accessible, correct?

18 THE WITNESS: Yes. They've been
19 designed --

20 THE CHAIRWOMAN: How do folks get up to
21 the second floor? Does your lift go up to the
22 second floor?

23 THE WITNESS: No, the second floor is an
24 existing nonconforming condition that we are not
25 changing the use. We are modifying it to be as

1 accessible as possible. That is the only unit that
2 would not be accessible.

3 THE CHAIRWOMAN: So not all are
4 handicapped accessible.

5 THE WITNESS: No, Chairman, you're a
6 hundred percent right. I correct myself.

7 THE CHAIRWOMAN: Thank you.

8 THE WITNESS: That one unit will not be
9 handicapped accessible.

10 Mr. Valetutto's new plan comments. New
11 handicapped lift is shown outside the front
12 vestibule as pointed out later. An elevation view
13 is not shown. It's unclear if the lift will be
14 exterior or in the vestibule, or -- I'm sorry --
15 exterior or if the vestibule is being widened so the
16 lift can be housed internally. As indicated and
17 shown in the graphic for the three-dimensional
18 rendering, a screen wall was created to block the
19 lift to keep a more aesthetically pleasing
20 appearance from the street. We basically put a
21 glass window to match the existing glass window in
22 the vestibule to make it look like an interior
23 component, but it is open to the weather but covered
24 by a roof, a continuation of the existing roof at
25 the vestibule.

1 So testimony should be provided for the
2 following. Again, item number 1. The bar appears
3 not to have handicapped access. So we had indicated
4 that there's a handicapped lift that brings you into
5 the new residential area corridor with a door access
6 -- a door access right here to bring you in. So
7 again, Mr. Valetutto, this area here is where the
8 wall is missing that's shown in the elevation and in
9 the rendering. So in my revised drawing that I will
10 present to you with the other items that you've
11 requested, that drawing will contain this wall, the
12 screen wall that will screen the lift from the
13 street, from the streetview.

14 Back to sheet 8 of 11, comment under
15 sheet A3, no comments on this sheet. Sheet A4, no
16 -- sheet was added, no comments.

17 Sheet A5. The existing retaining wall
18 -- item number 1, the existing retaining wall and
19 the stairway system should be inspected for
20 structural integrity. A licensed professional
21 expert in the field should provide a signed and
22 sealed letter attesting to the integrity. I agree
23 to that comment, and that will be provided.

24 The next item is new plan comments.
25 Item number 1, proposed front elevation does not

1 show the proposed handicapped lift. Handicapped
2 lift must be added. As indicated, the handicapped
3 lift is concealed by the screen wall that's
4 indicated on the front facade.

5 Item number 9 of 11, new plan comments,
6 again, about the existing doors. Existing new door
7 will be a 36-inch door.

8 Item A6 was the renumbered A5 and the
9 new plan comment under that has regarding the
10 overhead door sizes and clarification. The overhead
11 garage doors, as indicated, are 9 feet wide by
12 7 feet high, and they will be made consistent with
13 the site engineer's drawings.

14 That, Madam Chair, concludes my
15 testimony. If there's anything the board may have
16 questions for I would be pleased to answer.

17 THE CHAIRWOMAN: Any of the board
18 members have any questions for Mr. Testa? Okay.
19 Thank you, Mr. Testa.

20 MR. PAPE: Madam Chair, if I may, I
21 didn't get my mic on quick enough. I did want to
22 ask Mr. Testa if he could return to the colored
23 rendering and just want to make certain that the
24 record is complete with a description of the
25 exterior changes that our client proposes on the

1 building.

2 Q. Michael, if you could just take us
3 through what you have designed and how this differs
4 from what the building's appearance is today, what
5 the materials are that you propose to use.

6 A. The existing building right now consists
7 of an exterior masonry stucco that's -- that
8 Mr. Behar has repaired a couple of times purchase of
9 the property. We have basically all of the existing
10 window openings on the building except for the back,
11 as you can see in this left side above the garage
12 doors. We've added new windows for the apartments
13 above the doors. All of the windows on the opposite
14 side of the building will remain, and we're
15 replacing all of the windows with new windows.
16 We've added some new windows you can see up in here
17 where the handicapped lift is.

18 The building pretty much is going to be
19 repaired, all the stucco work. We have existing
20 score lines to give it some character. We've added
21 some shutters. All of the trim will be repainted as
22 well as the stucco finish we have added, also some
23 trim work at the top of the building on both
24 buildings. We've also created complementary color
25 scheme of -- for the residential side to the

1 commercial side to differentiate between the two
2 buildings but yet blend together in a somewhat
3 harmonious way. We have again windows with canvas
4 awnings along the street facade along Center Street
5 and Cedar. We've added -- this is an old rendering.
6 It still shows an aluminum rail at the back. It
7 will now be a board-on-board fence, as well as
8 underneath here will be a board-on-board fence, and
9 that board-on-board fence will be consistent with
10 the color scheme of the building.

11 MR. PAPE: Thank you, Madam Chair, just
12 want to make sure that was on the record.

13 THE CHAIRWOMAN: Okay. Thank you.

14 MR. FORSHNER: I do have one question
15 for this witness if this is an opportune time.

16 MR. PAPE: Please identify --

17 THE CHAIRWOMAN: Go right ahead.

18 MR. FORSHNER: This is Gary Forshner.

19 MR. PAPE: Thank you.

20 MR. FORSHNER: Is there a specified
21 number seats? I think you mentioned four tables
22 outside. Is there a number of seats both inside and
23 outside the restaurant? That may be an operator
24 question as opposed to you.

25 THE WITNESS: Well, the building code

1 dictates the amount of occupancy we can have in the
2 space. I have a seating plan that actually -- I
3 don't know. Can I bring this plan up, Mr. Stahl, as
4 another exhibit?

5 MR. STAHL: I'm going to say yes. Was
6 it part of the package?

7 THE WITNESS: Not part of the original
8 package. It was something that was amended for this
9 meeting if I was to -- if I needed it.

10 MR. STAHL: No, I think you should.
11 Mr. Forshner has asked a question. If that will
12 assist you in your answer, why don't we put it up
13 and identify it, please.

14 THE WITNESS: Okay. So --

15 MR. STAHL: Is that going to be A-5?
16 Could you identify the signature block or the page,
17 something that we can reference.

18 THE WITNESS: Yes, it is sheet A7, and
19 we're calling it the first floor furniture plan.

20 MR. PAPE: And what label should this be
21 labeled for purposes of tonight's record, Mr. Stahl?

22 MR. STAHL: I think it's A-5 from my
23 record.

24 MR. PAPE: Okay.

25 MR. STAHL: Let's make it A-5. We

1 stopped at A-4.

2 MR. PAPE: Sheet A7 of the architectural
3 first floor furniture plan.

4 (Sheet A7, architectural first floor
5 furniture plan, marked A-5 for
6 Identification)

7 THE WITNESS: Okay. Everybody can see
8 the plan that we have in front of you. This plan
9 shows, you know, this plan addresses two items
10 actually. This is the screen wall, Mr. Valetutto,
11 at the bottom of the plan, that is an extension of
12 the existing vestibule wall that has a window that
13 is a replica of the existing window that's in the
14 vestibule, and as you can see screens this lift from
15 the street view, but you have full access to the
16 lift from the exterior, and there's an interior door
17 that will allow you to discharge into the vestibule.

18 What this plan also shows you, for
19 Mr. Forshner's question, is a potential seating
20 layout of the bar area. You have bar seats along
21 the bar area, and we have a couple of high tops
22 along the exterior wall and a couple of other seats
23 scattered in that area of the back part of the bar.
24 You can see the four tables spread out at the back
25 of the deck area and some seating indicated in the

1 new dining area. We also have furniture laid out
2 through the rest of the residential area so you can
3 have a feel of the space and how everything works
4 from functional and accessibility aspect.

5 MR. FORSHNER: So from --

6 THE CHAIRWOMAN: Can I ask --

7 MR. STAHL: Gary, identify yourself if
8 you ask questions, please.

9 MR. FORSHNER: Sure.

10 THE CHAIRWOMAN: Mary Szaro. If I can
11 just ask real quick. The dining room has I think
12 five tables I see.

13 THE WITNESS: That's what we have laid
14 out right now.

15 THE CHAIRWOMAN: Okay. Thank you. I'm
16 sorry, Gary, go ahead.

17 MR. FORSHNER: Thank you, and again,
18 it's Gary Forshner. So can you tell us the total
19 number of seats that you're proposing inside and
20 outside, number 1, and I heard that there were
21 concerns. I did review most of the record, and I
22 heard that there were concerns about parking in that
23 neighborhood. Is that a limit on the number of
24 seats that you would propose for this application?

25 THE WITNESS: Number of seats, we

1 have -- Mr. Forshner, we had an existing bar in that
2 space so the existing bar from an occupancy
3 standpoint, we don't -- I don't know what was in
4 there. As indicated, the building code dictates
5 based upon the area, whether it be standing --
6 standing room, fixed seats, loose seats, that's
7 going to dictate what the maximum occupancy in that
8 space, which again would be no different than the
9 other, but we are including or adding a dining room
10 that's getting 20 people and a rear deck that's
11 adding 12. So right now I have counted up
12 approximately 23 seats in the bar area, 12 seats --
13 16 seats down on the deck, and then 20 seats in the
14 dining room area.

15 MR. FORSHNER: So I understand the
16 building code issues. I guess in terms of trying to
17 address one of the concerns you testified in terms
18 of the number of seats that you would expect. I'm
19 just asking, though, and it's up to you whether you
20 want to propose it or not, whether that would be a
21 limit on the number of seats or whether you're
22 simply want to rely upon the occupancy limits.

23 THE WITNESS: You know, that's going to
24 be a question I think I would leave to counsel and
25 our client, but I really don't believe we're going

1 to be able to get more seating in these spaces. As
2 you can see, they're adequately spaced, but yet I
3 need to show that I have handicapped egress through
4 the space. So if you look at the one where it says
5 new dining area, I've got to have a 3-foot-wide
6 space that takes you from that handicapped door
7 through to the bathroom and into the bar area. So
8 for me to put more tables and chairs than that, it
9 just doesn't work from an accessibility standpoint.

10 Also, the bar area you need standing
11 room bar area. The seats for the bar are adequately
12 spaced, you know, based upon previous restaurants
13 and bars that we've done, and then the scattered
14 tables and chair that are in the back, which only
15 equates to 10, is not a lot of seating and not a
16 large area. I think it's really -- I'm not going to
17 be able to get much more. So I would let -- I don't
18 know if it's, you know, the maximum number we can
19 get in, but I think it's pretty close.

20 MR. FORSHNER: Okay. Well, I think you
21 know what concern is that I'm raising as something
22 for the applicant to consider, and whether that's
23 Mr. Pape or you or the operator, I'll let you decide
24 how you want to proceed with regard to that issue.

25 MR. STAHL: Stahl here for Mr. Testa.

1 Mr. Testa, just a couple of questions because I
2 don't know where else to put them. The bar that you
3 show, the bistro/bar area, is that similar to what
4 had been used in the past for the bar area, yes or
5 no?

6 THE WITNESS: Yes, that rectangular
7 space in the bar area is the exact bar area. The
8 only thing that is an increase to the bar area is
9 we've created a kitchen off to the right side of the
10 bar area and also created a handicapped accessible
11 bathroom, for which there was not one there before,
12 and then we just created a small dining room for the
13 bar area that's to the right of behind the bar, as
14 well.

15 MR. STAHL: And that dining area, was
16 that what we would call a portion of the former
17 banquet area?

18 THE WITNESS: Correct. It's in the area
19 where the old banquet room kitchen might have been.

20 MR. STAHL: All right. I think I
21 understand. That's all I have at this point. Thank
22 you.

23 MR. PAPE: And to Mr. --

24 THE CHAIRWOMAN: Are there any other
25 questions for Mr. Testa? Okay.

1 there's a slope down from the curb. It slopes down
2 to the garage door.

3 MS. HUGHES: Okay.

4 THE WITNESS: So picking up some room
5 that way, and there are beams in that space. Some
6 of the beams are flush, which means they don't stick
7 down, and some of the beams do drop down, and based
8 upon our evaluation of the space when we were there,
9 we felt that we had the adequate enough space in
10 there for the vehicles getting under that 7-foot
11 garage door to traverse the rest of the space
12 interior of the building.

13 MS. HUGHES: Okay. Thank you.

14 THE CHAIRWOMAN: Any other questions
15 from the board?

16 MS. HUGHES: I actually have one more.
17 Go ahead.

18 THE CHAIRWOMAN: Holly, you had one
19 more?

20 MS. HUGHES: Just -- I'm sorry -- I'm
21 still hung up on the parking. So are any of the
22 spots specifically ADA accessible?

23 THE WITNESS: I mean, Mr. French with
24 the parking, but we have the parking spaces are
25 wider than normal. I don't recall which spaces

1 Mr. French had indicated as -- actually, yeah, I'm
2 going to let him testify with respect to accessible
3 handicapped spots.

4 MS. HUGHES: But the lift does not go
5 down to the basement level; it just runs from the
6 sidewalk up to the first floor.

7 THE WITNESS: Correct. In previous
8 testimony, Mr. French had indicated we were
9 proposing to have a handicapped spot dedicated on
10 the street opposite that accessible door so you
11 would have direct access to that entrance, the
12 accessible entrance to the building.

13 MS. HUGHES: Thank you.

14 THE CHAIRWOMAN: Someone else had
15 comment?

16 MR. GONZALES: Hi, Mary, Jorge Gonzales.
17 Thank you. So I've counted approximately 60 seats
18 in your seating area. Jason, maybe you can help me,
19 or Mr. Testa. What is the projected number of
20 vehicles that would be generated potentially from 60
21 seating accommodations that you have there plus
22 staff?

23 THE WITNESS: Mr. Gonzales, I would
24 leave that up to Mr. Rea and Mr. French to testify
25 with respect to the adequate amount of parking

1 versus what's required if you don't mind.

2 MR. GONZALES: Okay. Not a problem, and
3 one more question. Maybe it's for you, Mr. Testa.
4 Vehicle size inside that garage -- you said you had
5 seven spaces -- is that for compact vehicles, or is
6 that for SUV's, or is that for pickup trucks? What
7 would be able to go in there? What size are those
8 parking stalls.

9 THE WITNESS: Again, I would let
10 Mr. French elaborate on that, as well as Mr. Rea.

11 Q. But, Mr. Testa, before we go to Mr. Rea
12 for the adequacy of the parking, could you share the
13 dimensions of those parking stalls with the board.

14 A. The parking stalls right now center line
15 to center line are 12 feet at the minimum, 12 foot,
16 0 minimum, and from the column at the end of the
17 parking space, we're at 19 feet, 6 inches. So they
18 are more than oversized than the typical parking
19 space.

20 Q. So typical parking space in a parking
21 lot is anywhere from 9 to 10 feet wide and 18 to
22 20 feet wide, and these are -- and these are
23 12-by-19 stalls?

24 A. Correct.

25 Q. Okay. We'll ask Mr. Rea when he's

1 testifying to talk about the adequacy of those
2 stalls. Thank you.

3 THE CHAIRWOMAN: Any other questions?
4 No. Mr. Pape.

5 MR. PAPE: Yes, Madam Chair, thank you.
6 Mr. Testa, stay with us this evening. Stay on mute.
7 If Mr. Rea could be let in.

8 MR. STAHL: Mr. Pape, if I may, Stahl
9 here. I just want to put something before you so
10 that as you use Mr. Rea and eventually Miss Cofone,
11 you are -- you're prepared for this -- and I'm not
12 testifying. I just want to confirm that it would
13 appear from the presentation so far that this is --
14 part of the D variance is an expansion of a
15 nonconforming use, that being the increased size of
16 the bar, the kitchen, and the dining area, and I
17 just want that -- I'm assuming that will be
18 addressed in both parking and planning testimony,
19 and I assume that this is also subject to -- and I
20 don't want to get in depth in it -- that eventually
21 the mayor and council and the NJABC will have to
22 approve the final layout of the bar and service area
23 for liquor. I mean, I just want to put that before
24 you so that it doesn't languish and then not get
25 addressed by your experts.

1 MR. PAPE: Such approvals that are
2 granted by the governing body or outside agencies
3 are -- I don't want to say obvious. Those are
4 approvals by outside agencies. We do not intend to
5 testify to them other than to acknowledge that
6 they're outside agencies that have jurisdiction, and
7 to the extent that this is a modification of
8 preexisting nonconforming uses, we're in agreement
9 with you, and they'll be -- it will be addressed
10 when Miss Cofone testifies.

11 MR. STAHL: Yeah, I was not clouding the
12 issue with the liquor license. I just wanted to
13 inform the board that, you know, at some point in
14 time, that is an outside agency -- you're absolutely
15 correct, of course, and I just want to make sure
16 that your witnesses would be prepared for the issue
17 of if it is an expansion of a prior nonconforming
18 use, that's all. I don't want you to -- we don't
19 trap people; you know that, Ken. So I just wanted
20 that on the record. Thank you.

21 MR. PAPE: I don't consider it (audio
22 distortion) so Mr. Rea -- we need to get Mr. Rea's
23 microphone open, and then we'll have him --
24 Mr. Stahl, do we need Mr. Rea to be sworn this
25 evening?

1 MR. STAHL: You want to take the floor
2 plan down. Mike Testa left the floor plan up.

3 THE WITNESS: I don't know how to take
4 it down. Might be from your end.

5 MR. STAHL: Going to take you back to
6 school, Mr. Testa.

7 MR. VALETUTTO: Amy just removes the
8 authority she gave for him to share screen, that
9 will get rid of it.

10 MR. PAPE: If we --

11 MR. STAHL: Let's start without that.
12 John Rea, why don't you raise your right hand,
13 please. I think I can see you. There you are.

14

15 J O H N R E A, sworn.

16 DIRECT EXAMINATION BY MR. PAPE:

17 MR. STAHL: Please state your name,
18 spell your last name for the record, please.

19 THE WITNESS: John Rea, R-e-a, a
20 principal with McDonough & Rea Associates Traffic
21 and Transportation Engineers.

22 MR. PAPE: Mr. Rea began his testimony
23 on this matter. I'm going to make the following
24 points. There's currently a bar and two apartments,
25 and there are no parking spaces provided for those

1 uses. We're proposing to increase the number of
2 apartments and provide parking for all of the
3 apartments. There is no parking for the bar and
4 restaurant.

5 MR. VALETUTTO: Can you mute. I can't
6 hear Mr. Pape.

7 MR. PAPE: Someone is moving a lot of
8 paper around. Someone -- I'm sorry.

9 MR. VALETUTTO: Jim Stahl, can you mute
10 your --

11 MR. STAHL: I'm sorry. Ken, I don't see
12 where Mr. Rea testified at the prior hearing. It
13 was only Mike Testa and Mr. French.

14 MR. PAPE: I stand corrected.

15 THE WITNESS: Mr. Stahl, you're correct.

16 MR. PAPE: Too many nights.

17 MR. STAHL: Okay. Thank you.

18 Q. Mr. Rea, let's begin with your sharing
19 your professional, educational background with the
20 board.

21 A. Sure. I'm a licensed professional
22 engineer of 45 years of experience in the traffic
23 engineering, parking consulting field, testifying
24 for many planning and zoning boards, including the
25 South Amboy land use board on several occasions.

1 MR. PAPE: Mr. -- Madam Chair, I'd ask
2 if you would acknowledge and accept Mr. Rea's
3 credentials and allow him to testify as an expert in
4 his field.

5 THE CHAIRWOMAN: I would ask the board,
6 does anybody have any objections? No objections.
7 Please go right ahead.

8 Q. Mr. Rea, I'm going to go through some of
9 the basics of the design. I'm going to ask that you
10 confirm the adequacy of the ingress and egress to
11 the underground parking area. I'm going to ask that
12 you speak to the adequacy of the size of those
13 parking stalls for the anticipated vehicles to be
14 parked there. I'm going to ask that you testify as
15 to the adequacy of the parking that is provided for
16 the six residential apartments. At the conclusion,
17 I'm going to ask that you point out those portions
18 of the parking conditions that remain the same and
19 are not changed by this application.

20 A. Okay. Okay. As far as the access to
21 the parking is concerned, it is off Cedar Street.
22 It's adequate for two-way access to and from those
23 parking spaces. As Mr. Testa has testified to
24 before, the parking spaces in the garage, if you
25 will, are actually a little bit oversized, which

1 will help in the maneuverability of getting vehicles
2 into and out of those parking spaces. Typically,
3 the Residential Site Improvement Standards require a
4 9-foot-wide-by-18-foot deep parking space. It
5 appears as though our spaces are 12 feet wide from
6 center to center, so that will provide for some
7 additional maneuverability, and the parking spaces
8 appear to be -- looks like one or two of them are 19
9 and a half feet deep, and the rest of them are
10 18 feet deep. So the parking stall sizes actually
11 meet and exceed the requirements of the Residential
12 Site Improvement Standards.

13 As far as the parking situation is
14 concerned for the residential units, I did not
15 testify at the first meeting back in November of
16 2020, but I did communicate with my client and with
17 Mr. Pape, and as a result of -- and I think at the
18 outset of the meeting, Mr. Pape indicated that we
19 went back to the drawing board because of the number
20 of residential units we were proposing. We have
21 reduced the number of residential units from ten to
22 six. We have seven on-site parking spaces in the
23 underground garage, so that gives us the ability to
24 at least provide one parking space per unit for the
25 six units. There will be one extra space. I guess

1 it will be a shared space. But it does give us the
2 opportunity to dedicate one parking space for each
3 unit within the building, which was a situation we
4 didn't have before.

5 As far as the parking demand for the bar
6 and the restaurant are concerned, I guess I would
7 characterize this based on the size of that area as
8 probably more of a neighborhood cafe. I do think,
9 you know, based on my observations of other small
10 restaurants, cafes within the City of South Amboy,
11 there are quite a few of them that, you know, rely
12 on either walk-up traffic or on-street parking.
13 They don't have their own off-street parking spaces.
14 So this will be similar in that regard. As has been
15 testified to, there was, you know, a bar and a
16 restaurant there before. I understand we're
17 expanding the space a little bit, but not really
18 significantly, and so there was at one point in time
19 a parking demand associated with a bar and a
20 restaurant that operated on the premises.

21 With respect to -- I believe one of the
22 board members had asked a question about how many
23 seats there were and how many cars that related to,
24 and I'll put two numbers out there. According to
25 Mr. French's design plans, the city's ordinance

1 requires one parking space for every 100 square feet
2 for the bar/restaurant area, and given the
3 2,400 square feet that we have, that translates to
4 24 spaces technically being required for the bar and
5 restaurant area. I think I heard testimony from
6 Mr. Testa, or it may have been he responded to a
7 question. The total number of seats between the bar
8 area, the dining areas is 60 if I'm not mistaken,
9 and I can tell you that, you know, a normal parking
10 requirement would be -- for an operation like this
11 would be for one parking space for every three
12 seats, so that would equate to 20 spaces being
13 necessary. I think that number is pretty much in
14 line with the 24 spaces that Mr. French has
15 calculated based on the square footage, so from a
16 technical standpoint, yes, probably between 20 and
17 24 parking spaces would be required if this were a
18 site out on the highway that didn't have an
19 opportunity for any walk-up business from the
20 neighborhood, and I think there will be quite a bit
21 of that, similar to other small local restaurants
22 within the City of South Amboy.

23 So there was a parking demand associated
24 with the prior use, and we are asking for relief,
25 you know, due to that factor, and as far as the

1 residential parking demand is concerned, the one
2 parking space per unit in a situation like this
3 where you have relatively small apartments, I
4 believe it's appropriate. I've done some other work
5 here in the City of South Amboy on some small
6 apartment buildings, somewhat similar to this but
7 probably a little bit larger. I'm trying to refresh
8 my memory here. Chris Mack's project at the corner
9 of Augusta and Pine, I think that was 10 units, Mr.
10 Pape, and we had 10 off-site parking spaces that we
11 required, so it was basically a 1-to-1 ratio if I'm
12 not mistaken. There was also an older industrial
13 building that I worked on several years ago right
14 off Broadway between 1st and 2nd Streets I believe
15 where we had 12 apartment units that were approved,
16 and we had an off -- we had an off-site parking lot
17 that had nine spaces if I'm not mistaken, and to the
18 best of my knowledge based on my visits to South
19 Amboy -- and I've been to this site on several
20 occasions to review the existing parking practices
21 in the neighborhood, and I visited those other sites
22 to see how the parking is working out -- it appears
23 as though those parking lots for those two
24 aforementioned projects that I mentioned, they
25 weren't full even on a Saturday afternoon when I was

1 out there, and it appears as though things are
2 working out fairly well with that 1-to-1 parking
3 ratio. So that's essentially what we're asking for
4 in this situation.

5 Q. There is a proposed off -- on-the-street
6 handicapped parking space -- and this is to all of
7 the board members. We acknowledge that there is
8 outside agency approval required, and that would be
9 to go to the city municipal -- to the council to
10 request permission to create that parking space for
11 handicapped purposes immediately outside of our
12 building. So we acknowledge that that is an
13 additional outside agency approval required.

14 I have nothing further of Mr. Rea. He
15 is available to you.

16 THE CHAIRWOMAN: This is Mary Szaro. I
17 have a few questions for Mr. Rea. And if you were
18 to get the approval from the outside agency for the
19 handicapped, that would decrease the residential
20 parking in that area, would it not?

21 THE WITNESS: Decrease the -- well, it
22 would provide an additional space for someone who
23 might be handicapped, but it would -- if your
24 question is would that handicapped space take away
25 space that's currently available, the answer is yes.

1 THE CHAIRWOMAN: Okay. Thank you.

2 THE WITNESS: If that was the question.

3 THE CHAIRWOMAN: Yes, it was. Thank
4 you. And the other thing you keep -- you've
5 referred to the bar/restaurant, and I just want to
6 be clear. The restaurant piece of that as certainly
7 -- the banquet hall -- it has only been a bar for
8 reasonable amount of time that I know about. Could
9 you explain to me, you know, the restaurant that
10 you're referring to, because I don't think that's
11 existing.

12 THE WITNESS: Okay. Well, so I guess
13 what you're saying is the prior use used to be more
14 or less just a bar and not a bar/restaurant. That
15 being the case --

16 THE CHAIRWOMAN: Right, just a bar.

17 THE WITNESS: Okay. That being the
18 case, my expectation would be the bar, itself, would
19 generate a higher parking demand than a
20 bar/restaurant because, as I indicated before,
21 usually, a reasonable parking demand for a
22 restaurant with tables and chairs and dining areas
23 would be one parking space for every three seats. I
24 think it's a little bit different for a bar or a
25 lounge because you may have more people that are

1 just single, you know, bring a car to the location,
2 park the car, and, you know, go sit, maybe have a
3 bite to eat at the bar, but sit at the bar for a
4 while. There's probably a higher parking demand
5 associated with something that's just a pure bar or
6 pure lounge than a combination bar/restaurant area
7 where you have dining and you have tables, and the
8 parking demand should actually be lower for that
9 kind of an operation in my opinion.

10 THE CHAIRWOMAN: Thank you. Does anyone
11 have any questions?

12 MS. HUGHES: Yeah. This is Holly
13 Hughes, and this probably is a question for Jason
14 and Jim. So -- and I just want to clarify some
15 things, not only for myself and the board, but
16 potentially for the public, as well.

17 So this is a building that currently has
18 two apartments in it and has a preexisting use as a
19 bar, and the reason it's coming before us is because
20 they want to add units and make some changes to that
21 bar, and I guess I just want some clarification. If
22 the owner were just to reopen a bar and use the two
23 existing units, would we be -- would they be in
24 front of us at all?

25 MR. STAHL: Stahl speaking. My response

1 would be, whether or not there had been a gap or
2 abandonment in the bar area, that is something --
3 see, we're treating it like a new application so
4 whether or not it was a preexisting may not matter,
5 although the proofs may be a little bit different,
6 but let's for example say the bar was not used for
7 6 years or 4 years or 5 years and the license had
8 been pocketed, there's an issue there as to whether
9 or not they can just reopen it. That's fact
10 sensitive under the law.

11 As far as the two residential, they can
12 always use them so long as they haven't closed it
13 and not used it for a period of time.

14 Jason, you have anything else you want
15 to throw in?

16 MR. VALETUTTO: Yeah. This is Jason
17 Valetutto. I was just going to further what Jim
18 said. The bar, itself, would not be allowed to be
19 expanded upon, either, in footprint, which is what
20 they're doing right now. It would have to be
21 utilizing the existing footprint of the bar. They
22 wouldn't be able to expand without getting that use
23 variance from the board.

24 MS. HUGHES: I guess I'm just trying to
25 really understand as the owner of this building what

1 their rights are currently right now with making no
2 changes, because I think, you know, obviously,
3 there's a very big concern -- and I read through the
4 transcripts from November -- that, you know, this is
5 a bar in a residential neighborhood that's going to
6 have a lot of parking spots and a lot of activity,
7 and as a member of the board as well as a resident
8 of the city, you know, if they had a bar license and
9 they could open a bar whenever they wanted anyway --
10 I just want to make sure I'm understanding exactly
11 what we are voting on here.

12 MR. STAHL: Let me try and focus in.
13 This is Stahl.

14 MR. PAPE: There's some facts that need
15 to be on the record before we can --

16 MR. STAHL: Yes, Mr. Pape, go ahead.

17 MR. PAPE: -- conjecture. Client has a
18 liquor license. It's an active liquor license. It
19 has never been pocketed since he's owned the
20 building. He has had it transferred to him person
21 to person, and it is an active liquor license. So
22 there's no abandonment, and the liquor license is
23 current.

24 MR. STAHL: Based upon that, and that's
25 -- if, in fact -- and I have no reason to

1 disbelieve, of course Mr. Pape. If the license has
2 been and continues to be an active license, whether
3 one patron or a dozen go in there, it is a liquor --
4 it is a bar. It is entitled to continue as a bar
5 with the same dimensions that are contained in it
6 from the beginning of its use to the present. So
7 the bar can be used. The two residential units can
8 be used without interruption. The bar cannot be
9 expanded by virtue of a kitchen and a deck and a
10 dining area but for an application to this board.

11 Now, Ken, I'm assuming also that the
12 banquet hall, based upon representations and
13 testimony, was, in fact, abandoned, but I don't want
14 to go into that, but you had something you wanted to
15 say, Ken.

16 MR. PAPE: No, I just want -- when you
17 raised the issue in November about the banquet hall
18 about abandonment, we indicated that we're not in
19 agreement that it was abandoned, although it has not
20 been used for an extended period of time.
21 Abandonment by law requires overt acts that have not
22 occurred. We're not making that argument this
23 evening. We're -- we have presented to you that
24 there is a legal bar with an active license, that we
25 have two apartments that have no parking, that we're

1 looking to expand the number of parking -- the
2 number of apartments, and we're looking to provide a
3 hundred percent plus parking requirements for those
4 apartments. That's --

5 MR. STAHL: I don't think there's any
6 dispute. I think based upon your representations,
7 the existing uses is a bar and the two units, and
8 the banquet hall is not an issue right now. So I
9 think we agree, and the board has to consider the
10 issue of an expansion of that use. That's where we
11 stand. So the answer is they can continue the bar
12 operation as it exists, and they continue with two
13 residential units.

14 MR. PAPE: Yes.

15 THE CHAIRWOMAN: Thank you. Holly, do
16 you have any other questions? And then, Scott, I
17 see your hand up. Holly.

18 MS. HUGHES: Let Scott go ahead.

19 MR. KOMINKIEWICZ: Okay. Thank you,
20 Mary. Through you -- Scott Kominkiewicz. Through
21 you to Mr. Pape. Mr. Pape, when did Mr. Behar take
22 ownership of the property?

23 MR. PAPE: Oh, let me -- Mr. Behar, can
24 you text me the date of purchase. Perhaps
25 Mr. Behar's microphone could be opened. I'll have

1 him sworn just for the answer that one question.

2 MR. BEHAR: Just give me a minute, Ken.
3 I have to find the date.

4 MR. PAPE: Okay. I thought that --
5 Mr. Behar, can you give us the year.

6 MR. BEHAR: Yes, there was -- the deed
7 was recorded on October 17 -- October 19, 2017.

8 MR. PAPE: If you can turn your
9 microphone off. October 17, 2017.

10 MR. BEHAR: Thank you.

11 MR. KOMINKIEWICZ: I guess Mr. Behar
12 could also help me with the next question. Since he
13 has taken ownership of the facility, has he operated
14 the bar? I understand he has the liquor license,
15 but has he operated the bar since?

16 MS. HUGHES: He's on mute. Amy, can you
17 unmute him.

18 MR. PAPE: Mr. Behar, please -- we have
19 to swear -- Mr. Stahl can we swear Mr. Behar.

20 MR. STAHL: Mr. Behar -- some other
21 people have microphones on. Raise your right hand,
22 please. Mr. Behar, in this matter, do you swear
23 that your testimony will be the truth, the whole
24 truth, and nothing but the truth, so help you God?

25 MR. BEHAR: Hello?

1 MR. STAHL: Mr. Behar, please state your
2 name and spell your last name.

3 THE WITNESS: Hello.

4 MR. STAHL: Mr. Behar, can you hear me?
5 Mr. Behar, turn your audio on. Mr. Behar.

6 MS. RUSSO: Trying to call in.

7 MR. STAHL: Okay.

8 MS. HUGHES: Just for future, you can't
9 have computer on and your cell phone on. You can't
10 do that. That's why we're getting feedback.

11 MS. RUSSO: I'm going to mute him until
12 he comes back.

13 MR. BEHAR: Hello?

14 MR. STAHL: Mr. Behar.

15 MR. BEHAR: Yes, I just dialed in from
16 my phone.

17 MR. STAHL: Thank you, sir. I'll just
18 reswear you in. Raise your right hand in this
19 matter.

20

21 M I C H A E L B E H A R, sworn.

22 DIRECT EXAMINATION BY MR. PAPE:

23 MR. STAHL: And will you please state
24 your name, spelling your last name.

25 THE WITNESS: Michael Behar, B-e-h-a-r.

1 MR. STAHL: Thank you very much. Mr.
2 Pape.

3 MR. PAPE: Surely.

4 Q. Mr. Behar, the question that was raised
5 by Mr. Kominkiewicz was whether or not you had
6 operated a bar since owning the building. Like to
7 begin with you had -- you own a liquor license in
8 the city of South Amboy, correct?

9 A. Yes, I purchased the liquor license at
10 the same time I purchased the building.

11 Q. And you transferred that liquor license
12 into your own company name.

13 A. Yes, the liquor license is owned in my
14 company's name.

15 Q. And the liquor license is sited at this
16 property.

17 A. That's correct.

18 Q. And the description of the property that
19 is covered by the liquor license I believe is the
20 bar area and the area that was designated as a
21 catering hall; is that an accurate statement?

22 A. That's correct.

23 Q. There's no restrictions or limitations
24 on that liquor license as to the number of days or
25 hours of operation?

1 A. No.

2 Q. So the question is, have you -- you
3 personally actively engaged in the liquor -- in the
4 sale of liquor from the property?

5 A. No. When I purchased the building, I
6 immediately -- the property, I immediately closed
7 the property down with plans of doing renovations.

8 Q. So the answer is no, he -- yes, he has
9 an active liquor license that has approved by the
10 city, and no, he has not operated a bar.

11 A. That's correct.

12 MR. STAHL: Don't want to cloud the
13 issues. That's the last thing I want to do. Is it
14 your testimony, Mr. Behar, that since your
15 acquisition of the license in 2017 that you have not
16 served liquor or operated a bar?

17 THE WITNESS: That's correct.

18 MR. STAHL: And did you -- did you
19 pocket the license and notify the city that the
20 license was inactive?

21 THE WITNESS: No, the license isn't
22 pocketed. It's at the site.

23 MR. STAHL: It's not being used.

24 THE WITNESS: It's not being used, but
25 it's at the site.

1 MR. STAHL: Okay. Thank you.

2 MR. PAPE: Mr. Behar has testified, and
3 it's an accurate statement, that since he's owned
4 it, he has been engaged in renovating the building.
5 Renovations are primarily to the outside, but
6 there's also been interior renovations.

7 MR. STAHL: Understood.

8 THE CHAIRWOMAN: This is Mary Szaro.
9 Can I ask if he can expand on what internal
10 renovations were made.

11 Q. Mr. Behar, indicate that the permits
12 that you've taken out and then describe the work
13 that you've done.

14 A. There was a demolition permit taken out
15 for the interior of the space, and there was some --
16 there was some cracking and some deterioration on
17 the outside of the building, and that was wire
18 laddered and secured so that wouldn't be anymore
19 deterioration on the outside or any possibility that
20 any pedestrian walking by could be hurt.

21 THE CHAIRWOMAN: Thank you. Any other
22 questions? Jason.

23 MR. VALETUTTO: If we can just get back
24 to Mr. Rea's testimony. I know we got a little side
25 tracked.

1 Just want to clarify one thing, John,
2 that you slightly misspoke about. All the parking
3 stalls are actually striped at 18 feet. The 19
4 foot, 6 and a half inches that you were referring to
5 was the distance of the poles that are located in
6 the basement to the wall. So all of the parking
7 stalls' dimensions are accurately stated. They're
8 greater than the 9-by-18 that is normally required.
9 The issue that has not been testified to is the
10 maneuverability of vehicles within that garage.
11 There are pole -- there are numerous poles that have
12 to be navigated around, and the engineer has shown
13 on their site plan turning radiuses and turning
14 templates of I believe it's a Toyota Corolla, which
15 is a compact car or compact vehicle. So the
16 testimony I think the board really needs to hear is
17 how you believe the seven spaces that are provided
18 in the garage can be counted as seven spaces if they
19 can't be accessed only by compact vehicles when we
20 live in a world today of SUV's and trucks.

21
22 J O H N R E A, continued.

23 THE WITNESS: Well, I think -- and I've
24 looked at Mr. French's turning radius templates for
25 the compact car, and, yeah, I see that he's

1 referencing a Toyota Corolla, and, of course, that
2 works, but I would say that I think something bigger
3 than a Toyota Corolla could work. I'm not saying a
4 Ford F-150 can get into and out of the garage
5 easily, but I think something, you know, a medium
6 size, you know, car or a medium size SUV can
7 maneuver into and out of the parking spaces. Again,
8 this is going to be a low-volume, low-speed area.
9 This is not a big parking garage. It's not, you
10 know, one of the big parking garages in New
11 Brunswick where you have hundreds of spaces that may
12 be undersized. It's a small seven-space garage that
13 will be dedicated to the owners of the -- the
14 renters who live in the building. My expectation is
15 somebody that's got a big truck or something that
16 wouldn't fit in the garage probably wouldn't want to
17 rent here. I think, you know, that would be
18 something that would be limiting factor as far as
19 who the renters might be, but I think you can get a
20 medium size SUV or sedan into and out of the garage
21 without an issue.

22 MR. PAPE: And, Mr. Valetutto --

23 THE WITNESS: Did I understand your
24 question?

25 MR. PAPE: If I may supplement that

1 answer, Mr. Valetutto and Madam Chair, the -- this
2 is proposed to be a leased building. This is
3 proposed to be a building where all occupancy of the
4 -- by tenants is pursuant to a written lease. It
5 would be appropriate and we make the representation
6 that we would include in the leases, 1, the
7 identification of the dedicated parking stall with
8 each, and 2, the limitation of the parking garage
9 and so that if we're not dealing with large vehicles
10 being parked under the garage or within the garage.
11 We can handle it through the leasing.

12 THE CHAIRWOMAN: Thank you. And this is
13 Mary Szaro again. I need to just make sure that I'm
14 clear because I feel like I've heard a couple
15 different things. So, Mr. Rea, is it your testimony
16 that these spaces would only be adequate for a
17 compact size vehicle, or would they be adequate for
18 a regular size? I'm not going to talk about
19 F-150's. So I just need to have a clear
20 understanding because at first I thought you said
21 they were larger, and then they don't -- they can't
22 turn around, it doesn't matter if they're large.

23 THE WITNESS: Well, I'm looking at
24 Mr. French's, you know, turning radius template, and
25 I think they accurately, you know, show what a

1 Toyota Corolla would be, but what I'm saying is
2 because of the extra width of the parking spaces, I
3 think you can get -- you characterized it as a
4 regular sized vehicle. Yes, I think a regular sized
5 vehicle, something, you know, typical, and that
6 would be a medium sized SUV, something along those
7 lines, I think that that size vehicle can maneuver
8 into and out of the garage. I don't think a large
9 pickup truck can, like a Ford F-150, but something
10 bigger than a compact car can definitely get into
11 and out of the garage.

12 THE CHAIRWOMAN: Thank you. And that's
13 what I need to understand. Are these spaces
14 restricted to only compact cars, withstanding
15 whatever the lease agreements are going to be.
16 Jason.

17 MR. VALETUTTO: Mary, this is Jason
18 Valetutto again. If you look at the turning
19 radiuses on Mr. French's plans -- it's sheet 8 of
20 8 -- the car barely misses the pole, and that's a
21 compact car. I'd have to disagree with the
22 testimony that a larger car will easily be able to
23 maneuver in there. I don't think we should even say
24 that it can or cannot without physically seeing
25 those turning templates on there because every car

1 has a different turning radius and a different body
2 length, and that -- anything that's larger than a
3 Toyota Corolla, we cannot prove that it can safely
4 navigate through that garage.

5 THE CHAIRWOMAN: Okay. Thank you. Does
6 anyone else have any other questions?

7 MR. FORSHNER: I do, Gary Forshner. So
8 I want to see if I can help put some context here
9 with the parking so that we can all understand it
10 because I think I understand, Mr. Pape, where you're
11 going with the parking, so I just want to test this,
12 and you can correct me if I'm in any way
13 mischaracterizing the parking.

14 If I understand correctly, what you're
15 suggesting is, A, that the bar is grandfathered.
16 It's a vested use, preexisting nonconforming use,
17 correct?

18 MR. PAPE: Yes.

19 MR. FORSHNER: Okay, and that what
20 you're looking to do with some modifications is
21 replace or reopen or repurpose that portion in kind.

22 MR. PAPE: There's a modification.
23 We're looking to take what has often been called a
24 shot-and-a-beer type bar and to make it into a
25 family neighborhood restaurant, whether that's in --

1 requires an interpretation. But it's -- it would
2 be --

3 MR. FORSHNER: Understood, but what I'm
4 really focusing on here is the parking comparison
5 between the two because I think if I understand
6 correctly this is where you're kind of going here,
7 and I'm really just trying to focus this particular
8 issue. If I understood -- and I don't want to put
9 words in anyone's mouth, and I want you to correct
10 me if any of my assumptions are incorrect. The
11 bar/restaurant is now going to have a small kitchen,
12 correct, and it's going to have some outdoor
13 seating, a little deck area that people can sit at.

14 MR. PAPE: Correct.

15 MR. FORSHNER: Okay, and --

16 MR. STAHL: Excuse me, Gary, excuse me.
17 Stahl here. There's also the dining area that was
18 also -- I just wanted to clarify your question. I
19 think there's also the dining area that is new.

20 MR. KOMINKIEWICZ: Excuse me. I'm
21 sorry, Mr. Forshner. Scott Kominkiewicz. Also a
22 kitchen area.

23 MR. FORSHNER: Right, I mentioned a
24 kitchen area, and this is what --

25 MR. STAHL: Who said that?

1 MR. FORSHNER: -- I don't know the
2 answer to, and perhaps your team can clarify, but
3 looking at what you had there before in terms of the
4 bar, assuming that the board accepts the notion that
5 it was preexisting nonconforming, and how the
6 parking relates to what was presumed to be there as
7 compared to what you're doing now, and I don't know
8 if that produces the same number. I think Mr. Rea
9 had said or perhaps someone else had suggested that
10 a bar has potentially more traffic than a restaurant
11 and equates that to parking, but I want to focus you
12 on that piece of it. And if I also understand
13 correctly -- and I don't even know how to categorize
14 this in the context of what you're talking about in
15 terms of historical use, but whether the banquet
16 hall or what we're referring to -- what's being
17 referred to as a banquet hall, if there's a number
18 attributed to that. Whether it was a part of the
19 bar or whether it was storage, I don't really know,
20 but trying to equate the two.

21 And then last but not least,
22 you're suggesting there's some additional
23 residential that's taking up a portion of what has
24 been presumed to be banquet and that as to that
25 residential, what I think your suggestion is is that

1 you're providing parking that compensates for the
2 additional residential, and I guess what I'm just
3 trying to do -- and I could be totally wrong with
4 what you're trying to accomplish, but it seems to me
5 that what you're trying to get at -- and I'm not
6 sure it's a fair comparison or not -- is that the
7 parking -- assuming the certain amount of
8 grandfathering, assuming a few additional parking
9 spaces, whether the net result in parking is
10 comparable to what was there historically. Don't
11 know the answer to the question, but if I'm
12 understanding the pieces you're putting together, it
13 seems like that's the direction you're going in, so
14 I'm really just kind of trying to focus that
15 conversation and give it some context, and if
16 there's additional parking -- because I did, you
17 know, I did review almost the entirety of the
18 transcript with the exception of the public portion.
19 I did understand that parking was a concern, and I
20 wanted to give your team an opportunity to make that
21 correlation if that's appropriate.

22 MR. PAPE: I take no objection to your
23 outline or your understanding of the testimony that
24 we have presented so far. These are building blocks
25 that the fact witnesses before the board. It's when

1 Christine Cofone is -- has the floor and she brings
2 all of it together, those are the facts that she'll
3 rely upon to make the planning arguments to the
4 board.

5 MR. FORSHNER: Okay, and then I'll defer
6 accordingly.

7 MR. PAPE: Thank you.

8 THE CHAIRWOMAN: Any other questions for
9 Mr. Rea? Thank you. Mr. Pape.

10 MR. PAPE: Yes. Mr. -- with -- the
11 final professional witness that I intend to call
12 this evening is Christine Cofone. Before I go to
13 Christine Cofone, I'd ask if Mr. Valetutto or any of
14 the board members have any questions of Mr. French.
15 I did not intend to call him because his plans have
16 not been modified, but he is available. Like to
17 have -- if there are questions of him, love to do
18 those now.

19 MR. VALETUTTO: Mary, I have some
20 questions for him.

21 THE CHAIRWOMAN: Yes, Jason.

22 MR. VALETUTTO: This is Jason Valetutto.

23 MR. PAPE: We've got to get him sworn
24 in.

25 MR. STAHL: Mr. French was sworn in, but

1 again, the record was a little incomplete. So where
2 is Mr. French? Raise your hand, Mr. French. Thank
3 you.

4

5 A N D R E W F R E N C H, having been previously
6 sworn, resumed and testified as follows:

7 DIRECT EXAMINATION BY MR. PAPE:

8 MR. STAHL: And your name, please, and
9 spell your last name.

10 THE WITNESS: Andrew French,
11 F-r-e-n-c-h.

12 MR. STAHL: Thank you. Mr. Pape.

13 MR. PAPE: I've offered Mr. French as a
14 -- to respond to any questions.

15 MR. VALETUTTO: That's me, Jim. I do
16 take one exception to what Mr. Pape said. Last time
17 we -- there was -- we heard testimony, they were
18 trying to testify on the plans that were revised
19 October 23, 2020, which were never reported upon
20 until after that meeting. So my report is actually
21 fresh, and Mr. French hasn't really addressed any of
22 them, any of my comments. I will say that a
23 majority of them are just bookkeeping and correcting
24 some errors, but I do think that he should put on
25 the record for the lot coverage because the board is

1 voting for a lot coverage variance. We never got
2 what the exact dimensions and square footage of the
3 deck was, and I don't know if that is reflected
4 accurately on the bulk table in regards to the lot
5 coverage percentage.

6 THE WITNESS: Yes, Jason, so we did --
7 when we resubmitted the plans for the revision of
8 October 23, 2020, it does indicate the maximum
9 impervious coverage as 95.54 percent, which includes
10 the deck, because the deck is approximately
11 350 square feet, so it is over the 250 square foot.

12 MR. VALETUTTO: Okay, so it does include
13 that. That's all. I just wanted to verify.

14 THE WITNESS: Absolutely.

15 MR. VALETUTTO: I just wanted to be
16 sure.

17 THE WITNESS: Yes.

18 MR. VALETUTTO: Can you talk a little
19 bit about -- I think it's a safety issue -- the stop
20 sign location in regards to the fencing that's going
21 to go around the trash location, because the stop
22 sign is 7 foot. The fence is 6 foot. A car or
23 vehicle, person seated in a car is going to be
24 looking up and not necessarily see the stop sign in
25 advance. I understand that these are going to be

1 residents that will be used to the layout of your
2 parking garage, but I had also suggested, like,
3 putting striping there that says Stop and extra
4 signage inside. Can you just touch upon that.

5 THE WITNESS: Yes, absolutely. Yeah,
6 this access driveway to the parking that's
7 underneath the building on the basement level, the
8 flow of traffic is very minimal. It's only the
9 residents that live there would be utilizing it. So
10 we would be agreeable to put a Stop Ahead sign as
11 you're exiting leaving the parking area heading up
12 to the access driveway, and we would also paint on
13 the pavement, itself, Stop with a stop bar so that
14 if the sign is impeded a little bit with the
15 dumpster area and the fence and the wall, we still
16 have these other recognition of a stop condition,
17 and like you mentioned, it is the residents that are
18 using this every day, so they're going to pull up,
19 and they're going to stop and look both ways before
20 they pull out anyway. It's just going to become a
21 normal habit. So we do agree with those
22 modifications.

23 MR. VALETUTTO: Okay. Thanks. I just
24 wanted that on the record.

25 From my report dated February 17, 2021,

1 on sheet 3, comment 7, that was in regards to, like,
2 the existing water meter pit, and we had heard
3 testimony about no hot box being proposed, and now
4 we heard from Mr. Testa tonight that all the meters
5 are going to be inside the garage. Can you just
6 touch upon the existing meter that's out there. Is
7 that going to be removed or what exactly that is
8 for.

9 THE WITNESS: Yes, so the existing meter
10 and service would be removed, and we will be
11 requesting a new domestic and fire service for
12 Middlesex Water Company to service the building, and
13 the intent is to have the meters in the back flow in
14 the building in the garage space where the parking
15 is. That is the intent.

16 MR. VALETUTTO: Okay, so those meters at
17 the curb are going to be pulled.

18 THE WITNESS: Yes. And the one thing
19 with Middlesex Water Company, they would want a hot
20 box out there on the sidewalk. Well, there is no
21 room. It would be --

22 MR. VALETUTTO: Right.

23 THE WITNESS: -- you know, detrimental
24 to the neighborhood so that's why we're putting the
25 meters back (inaudible)

1 MR. VALETUTTO: Right. I think there
2 was one more comment. Oh, the comment that I had in
3 regards to the handicapped parking space in the
4 street. You'll be agreeable to reconfigure the ramp
5 because I believe the ramp as shown, you have the
6 handicapped sign in one side, and on the other side
7 of the ramp is where the fire hydrant's located.

8 THE WITNESS: Yeah, we agree to
9 reconfigure that handicapped ramp and access. As
10 Mr. Testa did testify, there is a little
11 reconfiguration of that space, too, that will pick
12 up on the revised plans to make that all handicapped
13 accessible from that proposed handicapped parking
14 space.

15 MR. VALETUTTO: Okay. On my report --
16 we are still on sheet 3, new plan comments dated
17 11-30-2020. The first comment about -- there's note
18 saying add a step to meet the finished sidewalk
19 grades, and I had indicated that if that step goes
20 off the property, you have to seek easement from the
21 council to have that step within the city
22 right-of-way. I just wanted to have that
23 acknowledged, that that's another outside agency
24 that you would have to satisfy if that so be the
25 case.

1 MR. PAPE: If the step is on lands that
2 are owned by the municipality, then it would require
3 an easement from the municipality. Our goal is to
4 not require that.

5 THE WITNESS: Yeah, we're looking to
6 reconfigure that based on Mr. Testa's revised plan
7 so we do not encroach into the right-of-way, but in
8 the event we do, we would seek that easement.

9 MR. VALETUTTO: Okay. Mr. Pape, that's
10 all I have for Mr. French. The remainder of the
11 comments on testimony that were for the site plan
12 were actually probably best answered by Mr. Behar,
13 and you had testified last time that you would be
14 putting him on to answer some of those questions, so
15 I don't know if you were going to do that after Miss
16 Cofone testifies or how you were going to handle
17 that.

18 MR. PAPE: What I planned on doing at
19 this point is to -- you want -- there are two
20 questions that you had raised, and one was did
21 Mr. Behar have an outside management company. I can
22 tell you as his attorney and I can proffer to the
23 board, he is a property manager. He has been doing
24 this for a very long time. It is his intention to
25 own and manage the building, own, manage, and

1 maintain the building.

2 And you asked that whether these would
3 be market rate units, and the goal is to create
4 high-quality, high-end-featured market rate units.

5 So if there's anything further that you
6 wish for Mr. Behar to address, we'll bring him back,
7 but those were the responses to the questions that
8 you had raised in your report.

9 MR. VALETUTTO: There are actually
10 additional testimony things that he could provide on
11 sheet 3 of the site plan comments. First one, will
12 trash be collected by city or private hauler and the
13 frequency of those collections.

14 MR. PAPE: Sure. So the -- it's our
15 understanding that residential trash collection is
16 by the city and commercial is -- would be by the
17 business. We would defer to the city's policy as to
18 whether collection is provided for the multifamily
19 residents. If it is, we would avail ourselves of
20 it. If it's not, we'll provide private collection.

21 MR. VALETUTTO: Okay. Comment 7, hours
22 of operation of the bar should be discussed since
23 this is a residential zone.

24 MR. PAPE: Mr. Behar, I'm going to ask
25 if you could join us, if you could open your mic and

1 share with the board your anticipation on hours of
2 operation for the restaurant.

3 MR. BEHAR: I don't have an operator for
4 the restaurant yet, but interviewing people. It's a
5 little difficult until I know what direction I'm
6 going there.

7 As far as the hours would be concerned,
8 I guess it would be in line whether whatever is
9 accepted in South Amboy.

10 MR. PAPE: We would be looking to the
11 board for guidance as to the hours of operation
12 limitations, knowing that it's intended to be a
13 family style neighborhood restaurant.

14 MR. VALETUTTO: Mary, I don't know if
15 you are or other board members would like --

16 MR. STAHL: Jim Stahl here. I don't
17 think that's an area that we want to get -- that the
18 board wants to get into, hours of operation of a
19 bar. That's really up to the mayor and council in
20 terms of the conditions attached to the license.
21 That's normally how it would work. It becomes a
22 catch-22 a little bit, but the board can make a
23 recommendation as to hours of operation. It can
24 control food service hours of operation. But the
25 liquor license they can recommend, but the mayor and

1 council would have to impose whatever conditions
2 they thought were appropriate based upon the
3 residential neighborhood and the recommendations of
4 the board.

5 MR. VALETUTTO: But, Jim, doesn't the
6 board have a right, since it's an actual use that's
7 not an approved use in the residential zone, to put
8 some sort of stipulations on an hour, to say you got
9 to call it quits by a certain time?

10 MR. STAHL: Well, I say they can --
11 they're going to get that right because they can
12 call quits to the operation of the restaurant and
13 food service, and they can recommend. There's not
14 something I know -- admitting that my experience
15 with liquor licenses, which is more than a little I
16 have to say. I would suggest that the mayor and
17 council would normally impose that based upon a
18 recommendation or a condition that the board has,
19 but the service of liquor is vested in the mayor and
20 council.

21 MR. VALETUTTO: Okay. My comment was
22 purely to try to curtail any noise in the
23 residential zone. I know there's noise ordinances
24 that they would also be have to abide by, but I was
25 just trying to find out when we can put -- or if

1 there would be a limit on --

2 MR. STAHL: I don't have a problem,
3 Jason, with the board -- if the board -- Stahl here
4 -- with the board saying because it's a residential,
5 the service of food stops at 10 o'clock or 11
6 o'clock but the service of liquor stops at 10, and
7 that would be -- have to be reinforced or confirmed
8 by the mayor and council. I mean, we can say that.
9 We can say that's a condition, but the mayor and
10 council would have to then follow up and put it on
11 the license resolution. That's how it would work.
12 I'm not saying the board cannot say it, but it still
13 needs another stamp from mayor and council.

14 MR. VALETUTTO: Okay.

15 THE CHAIRWOMAN: If I could jump in now.
16 Before I think I would be comfortable with making a
17 suggestion, I would like to know a little bit more
18 about, you know, the other situations in town.

19 MS. HUGHES: Mary, this is Holly Hughes.
20 I agree with you. I don't think as a board member I
21 would feel comfortable making any type of suggestion
22 until I knew how we treated other businesses in
23 residential neighborhoods. Other than that, we
24 would just be throwing something at a dart board.
25 That doesn't make me comfortable.

1 MR. FORSHNER: What if we just have a
2 recommendation or statement in the resolution that
3 said something to the effect of that we recommended
4 to council in reviewing any liquor license, look to
5 the hours of operation of similarly operated
6 locations in South Amboy. In other words, just make
7 sure that the council identifies that issue when
8 they review the liquor license.

9 MR. PAPE: Mr. Forshner, on behalf of
10 the applicant, that would be acceptable, and I think
11 I'm taking the board members' comments about being
12 similar to other similar businesses as to hours of
13 operation and allowing the governing body to make
14 that determination is both reasonable and
15 acceptable.

16 MR. STAHL: I mean, I don't think --
17 Stahl speaking -- I mean, I don't remember a town
18 where there was a division, if you will, between
19 mayor and council and the zoning/planning board with
20 regard to a question like this. I mean, everyone
21 has the same interest in mind. Mayor and council
22 are concerned about the residential use. They are
23 concerned about the residential neighborhood. I'm
24 sure the residents will make themselves known to
25 mayor and council. So I think that the

1 recommendation -- you know, a recommendation is
2 made, you know, consistent with other liquor
3 establishments in residential areas. I think that's
4 fine. I don't have any problem with it legally.

5 THE CHAIRWOMAN: I would agree with that
6 because I think the mayor and council probably have
7 much more experience in that in making sure that
8 they're reviewing comparable establishments than we
9 might.

10 MR. PAPE: Please identify speaker,
11 please.

12 THE CHAIRWOMAN: I'm sorry, that was
13 Mary Szaro.

14 MR. STAHL: That was the chairwoman.

15 MR. PAPE: Thank you, Madam Chair.

16 THE CHAIRWOMAN: Anything else on this
17 topic?

18 MR. VALETUTTO: I have -- this topic,
19 no. I have two more comments.

20 THE CHAIRWOMAN: Go ahead.

21 MR. VALETUTTO: This is Jason Valetutto
22 again. Comment number 8 was in regards to signage.
23 It didn't appear that you had signage for the bar or
24 the apartments, if signage would be proposed, for
25 the board to review.

1 MR. PAPE: Mr. -- I have to ask
2 Mr. Testa, is there any proposed signage that has
3 been incorporated into the facade?

4 MR. TESTA: At this time, no, but
5 particular response is the sign would be in
6 accordance with the town's ordinance.

7 MR. PAPE: Mr. Valetutto, does that
8 adequately address the issue?

9 MR. VALETUTTO: No, because you're in a
10 residential zone where what signage would there be
11 for businesses. You're requesting a use variance
12 for a business and an apartment complex. So you
13 kind of need the board to give you an approval on a
14 sign. It's not something that I as zoning officer I
15 think would be able to give since it's in a
16 residential zone.

17 MR. PAPE: Perhaps if we were to ask
18 that the size of the business sign be consistent
19 with the regulations that are imposed on similar
20 businesses in the business zone and that we would
21 ask that that be a subsumed element of the variance
22 relief that we're asking of the board; would that be
23 an acceptable procedure?

24 MR. VALETUTTO: That's up to the board
25 members. Mary.

1 THE CHAIRWOMAN: Can you repeat that one
2 more time, please.

3 MR. PAPE: Sure. So what we would --
4 we're asking this board for use variance relief.
5 We're asking this board for permission to have a
6 commercial business in a (audio distortion) as a
7 residential zone. In the city there are zone --
8 there are business zone designations. Ask that we
9 be permitted -- that our application be deemed
10 amended to include a request for one facade sign on
11 the building identifying the business that would be
12 consistent with the size and location of the
13 business zone signage.

14 MR. STAHL: My problem is -- Stahl
15 speaking. You know, I'll leave this to Jason. My
16 concern is -- and certainly, we would want to
17 accommodate an applicant, but normally, in order --
18 if we need a sign variance, we have to identify
19 where the sign is, what the sign size is, whether it
20 meets the required ordinances.

21 Jason, why don't you jump in on this
22 one. Help me.

23 MR. PAPE: What I'll ask is, as we
24 continue with the presentation, I'm going to ask
25 that Mr. Testa and Mr. Behar confer and that shortly

1 we'll offer you a dimension.

2 MR. VALETUTTO: I would feel more
3 comfortable with that, Jim.

4 MR. FORSHNER: And could I just ask
5 while they're -- while they're contemplating -- this
6 is Gary Forshner -- while they're contemplating
7 that, Jason, if this was a commercial property, do
8 you know what signage that they would be permitted?

9 MR. VALETUTTO: I'd have to look that
10 up, Gary.

11 MR. FORSHNER: Okay. No problem.

12 THE CHAIRWOMAN: This is Mary Szaro. I
13 would also be concerned about if there's going to be
14 any kind of lighting on that, on the signs. I mean,
15 I think there's a difference between a sign that's
16 just there or a sign that is potentially going to
17 light up.

18 (Audio disruption)

19 THE CHAIRWOMAN: Somebody has an open
20 mic.

21 MR. VALETUTTO: That's Mike Testa.

22 MR. TESTA: Oh, I'm sorry.

23 MS. HUGHES: Yeah, I agree -- this is
24 Holly Hughes. I agree with Mary. I don't think any
25 type of illumination would be appropriate in a

1 residential.

2 MR. STAHL: Excuse me, Stahl here. I
3 don't know -- again, my goal is to always protect
4 the board. I don't know how this board can discuss
5 a sign when it has not seen the sign. They don't
6 know whether it's an interior lit sign. They don't
7 know whether it's an exterior lit sign. They don't
8 know how long, what hours they're going to want the
9 sign to be up there. They don't know where the sign
10 is going to be located. Is it going to be a facade
11 sign. Is it going to be a freestanding sign. Is it
12 going to be both. Is it going to be subject to an
13 architectural review as we normally do in a
14 redevelopment zone. So I want to help Mr. Pape, but
15 I don't know -- what may have to happen, assuming
16 again that the application is granted, that he may
17 have to come in on a modification to get an
18 approval. There's nothing for you to consider.
19 Tell me if I'm wrong.

20 MR. PAPE: You're asking --

21 THE CHAIRWOMAN: You're absolutely
22 right.

23 MR. PAPE: Mr. Stahl, the application
24 that is before the board is for use variance and
25 preliminary and final site plan.

1 MR. STAHL: Right.

2 MR. PAPE: Before we conclude this
3 evening, perhaps we may ask that the board consider
4 a portion of the relief. There are a couple of
5 other elements that were requested that we bring to
6 the board's attention, such as hours of operation.
7 We could return to the board to complete the
8 outstanding relief if the board were to consider
9 voting on a portion of the relief this evening.

10 THE CHAIRWOMAN: I'm not sure I'm on
11 board with that. Just personal opinion.

12 MR. PAPE: Your board, Madam Chair.

13 MR. STAHL: Why don't we wait until the
14 application is done, Madam Chair, and then the board
15 can make a determination. Why don't we finish with
16 Miss Cofone, and then, you know, we can have some
17 dialogue with the -- with counsel.

18 THE CHAIRWOMAN: Absolutely, but I would
19 just like to end with saying that it's a great
20 challenge to the board to try to, you know, think
21 outside the box and, you know, what would this look
22 like, what would that look like. That's why the
23 plans coming before the board need to be complete
24 and rather than us guessing here and there. So I
25 will leave it at that.

1 MR. VALETUTTO: Madam Chair, I still had
2 two more questions.

3 THE CHAIRWOMAN: Yes, Jason, go ahead.

4 MR. VALETUTTO: Jason Valetutto.
5 Comment 9, testimony about the outside deck. I
6 don't know if the board would want the outside deck
7 to be limited to no outside music, live
8 entertainment, comedians, MC's, et cetera, because
9 it creates extra noise in the residential zone.

10 MR. PAPE: We're comfortable with that
11 limitation.

12 MR. VALETUTTO: And then the last
13 question was in regards to the light above the
14 garage. Mr. French last time had testified that a
15 light sensor would make sense, but I think that has
16 to come from Mr. Behar if he would have the light
17 either on a timer, a light sensor, or motion
18 detector.

19 MR. PAPE: Which lamp are we -- which
20 light, Mr. Valetutto?

21 MR. VALETUTTO: Above the garage. Above
22 the garage. On the site plan, it's sheet 6 of 8.
23 It's labeled SD. It's above the driveway entrance.

24 THE WITNESS: Mr. French. Yeah, it's
25 the light over top of the garage actually

1 illuminates the driveway in and out of the parking
2 spaces. So because it is residential area, if it
3 was a motion detector, once the car started to pull
4 in, the light would then shine and illuminate the
5 driveway. I think that's what Jason is alluding to.
6 It could be that, or you could put it on timer, but
7 the timer, if it goes off at 10 o'clock at night and
8 there's still residential activity after there,
9 would be dark, so a motion detector does make sense.

10 MR. VALETUTTO: Or a light sensor where
11 -- from dusk till dawn. I mean, there's that
12 option, too, but I think the motion detector is the
13 best and friendliest for the neighborhood.

14 MR. PAPE: Mr. French's recommendation
15 and Mr. Valetutto's suggestion are acceptable to the
16 applicant.

17 MR. VALETUTTO: I believe that's all I
18 had, Mary.

19 THE CHAIRWOMAN: Thank you, Jason. Mr.
20 Pape.

21 MR. PAPE: I am advised by Mr. -- I am
22 advised by Mr. Testa that a sign offer is available.
23 If we could bring Mr. Testa back, we'll have him
24 speak to the sign issue that was raised by
25 Mr. Valetutto.

1 Mr. Testa.

2

3 M I C H A E L T E S T A, continued.

4 THE WITNESS: Yes, we discussed the sign
5 with Mr. Behar, and we discussed the sign on the
6 front facade over the entrance door that would be
7 approximately 2 foot, 6 by 12 foot-wide. It's going
8 to be a wall mounted nonilluminated sign with
9 decorative fixtures, gooseneck light fixtures at the
10 top shining down on top of the -- to illuminate the
11 sign. And we'd also like to have a sign that
12 matched that on the vestibule wall above the main
13 square glass window above the canopy that would be
14 approximately 3 foot by 4 foot, again, a wall
15 mounted nonilluminated sign with a decorative
16 gooseneck light fixture over the top of it. I did
17 something very similar to this to a tavern on South
18 Pine which we renovated about a year ago, and I
19 really think it enhanced the facade and made the
20 building look much nicer.

21 THE CHAIRWOMAN: This is Mary Szaro. Is
22 there a name for the bar?

23 THE WITNESS: You know what, I must be
24 getting old. I'm scanning through my -- I will have
25 that to you before the meeting is over, Miss Szaro.

1 THE CHAIRWOMAN: Okay. That's -- it's
2 inconsequential. It's just a curiosity.

3 Any comments to the proposed signage?

4 MR. FORSHNER: Can he just state the
5 square footage again.

6 THE WITNESS: Sure. The square footage
7 of the sign that would be over the entrance of the
8 restaurant would be 2 foot, 6 high by 12 feet long,
9 and it would be a wall mounted nonilluminated sign
10 with decorative light fixtures over the top of it
11 shining down on top of the sign, and there will be
12 another sign on the vestibule to the residential
13 portion of the building that would be 3 foot by 4
14 foot, wall mounted sign, not illuminated, with a --
15 with decorative gooseneck light fixtures over the
16 top of that, as well, washing down on top of the
17 signage.

18 MR. FORSHNER: So currently I'm okay
19 with the gooseneck. I don't know if there should be
20 a time that it's shut off, like if the bar or
21 restaurant or whatever is closed.

22 Jason, how do you feel about the size of
23 that, particularly given the location?

24 MR. VALETUTTO: This is Jason Valetutto.
25 I was just going to comment. Mike gave you the

1 dimensions. He didn't give you the square footage
2 you're looking for. You multiply it out, it's
3 30 square feet, and in a B-1 business zone, they're
4 allowed illuminated nonflashing business signs with
5 a total area not exceeding 50 square feet, so they
6 would be in conformance to the business zone as far
7 as signage.

8 MR. FORSHNER: Are you comfortable with
9 that in a residential area?

10 MR. VALETUTTO: Well, if the board
11 should grant them an approval for their bar, they
12 should have I would believe a right to having a sign
13 for that business, or else people would not know
14 what the business is or where to go. So as long as
15 -- it conforms to the B-1 zone as far as size of
16 signage, so that's really the feel of what the board
17 would be satisfied with. I mean, it's typical that
18 it's above the entrance door, and there you can use
19 gooseneck lighting, which will point in a downward
20 fashion so it's not going to be spread out to the
21 rest of the residential. I believe that it's a good
22 proposal.

23 MR. FORSHNER: Thank you.

24 THE WITNESS: Madam Chairwoman, the name
25 of that pub that we renovated about a year ago is

1 the South Stevens Pub, and it's very similar to what
2 we're proposing here with a stuccoed exterior. It's
3 a wall mounted nonilluminated sign with four
4 gooseneck light fixtures over the top of it. This
5 facility also has a small kitchen component, as
6 well, and a small dining, and it's situated right in
7 the middle of the residential neighborhood, as well.

8 THE CHAIRWOMAN: Thank you.

9 MR. STAHL: Jim Stahl, if I may. I
10 just -- hello. Can you hear me?

11 MR. VALETUTTO: Yes, we hear you.

12 MR. STAHL: All right. Somehow I lost
13 my picture, but that's the good thing for everyone.

14 I just want to remind everyone that a
15 variance is required for the sign because it's in a
16 residential area, and number 2, Mr. Pape will have
17 to amend his application, although I'm sure his
18 catchall language in his notice does cover it. I'm
19 not his lawyer, but, I mean, but it has to be
20 amended, the application, to include this variance
21 because it is a variance. Okay. Any questions on
22 that one?

23 You agree, Mr. Pape, I'm sure, right?

24 MR. PAPE: Yes. I didn't want to -- I
25 was waiting for your board to respond to you. The

1 way that our notice is written and the way that the
2 Appellate Court has for, I don't know, the last
3 30 years approved, we have included the appropriate
4 language that says that such additional variances
5 and/or waivers that are determined to be necessary
6 or appropriate by the board or the board's
7 professional staff are deemed to be part of the
8 applicant's request. So having identified to us
9 through Mr. Valetutto's comments that a sign detail
10 was not (audio distortion) and having offered a sign
11 to the board with very specific criteria, we're
12 asking that the application be -- for relief be
13 deemed to be so amended, and I believe that the
14 legal notices adequately address that amendment.

15 MR. STAHL: Madam Chairwoman, we can --
16 I think at this juncture, the board should -- you
17 should poll the board just to confirm there's no
18 objection to amending the application. Just so the
19 board and the public all understand, by permitting
20 the amendment, the board is not granting a variance
21 for the sign but merely placing it before the board
22 for consideration.

23 THE CHAIRWOMAN: Would we need a vote on
24 that, Jim?

25 MR. STAHL: I'd like just a voice vote,

1 if you please. It's unlikely that we can say no,
2 but I'd like it for the record.

3 THE CHAIRWOMAN: Okay. Can I have a
4 motion for the amended application. Is there
5 specific language on that, Jim?

6 MR. STAHL: Just that the applicant is
7 permitted to amend his application at this time to
8 include a variance for a facade sign.

9 THE CHAIRWOMAN: Do I have a motion?

10 MR. KOMINKIEWICZ: So moved by
11 Kominkiewicz.

12 THE CHAIRWOMAN: Thank you. Second,
13 please.

14 MR. GONZALES-GOMEZ: I'll second it.

15 THE CHAIRWOMAN: Who is that, Jorge
16 Gonzales?

17 MR. GONZALES: Yes.

18 THE CHAIRWOMAN: Roll call, Amy.

19 MS. RUSSO: Chairwoman Mary Szaro.

20 THE CHAIRWOMAN: Yes.

21 MS. RUSSO: Scott Kominkiewicz.

22 MR. KOMINKIEWICZ: Yes.

23 MS. RUSSO: George Baranowski.

24 MR. BARANOWSKI: Yes.

25 MS. RUSSO: Janet Kern. Janet is on

1 mute. Holly Hughes.

2 MS. HUGHES: Yes.

3 MS. RUSSO: Catherine Corey.

4 MS. COREY: Yes.

5 MS. RUSSO: Jorge Gonzales.

6 MR. GONZALES: Yes.

7 MS. RUSSO: Gary Forshner.

8 MR. FORSHNER: I'm not eligible because
9 I didn't read the rest of the transcript, but I have
10 no objection.

11 MS. RUSSO: William DeMasi.

12 MR. DeMASI: Yes.

13 MS. RUSSO: Okay, that's complete.

14 THE CHAIRWOMAN: Okay. Thank you. So
15 we continue?

16 MR. PAPE: Madam Chair, I'm prepared to
17 continue, but as has been my -- I've worked with
18 Deborah Masterton now for a very, very long time. I
19 would just like her to confirm that she does not
20 need a 5-minute break. Miss Masterton, are you
21 prepared to continue? With permission, Madam Chair.

22 THE CHAIRWOMAN: I just didn't --

23 MR. PAPE: Two minutes?

24 THE CHAIRWOMAN: Yes. Yes, absolutely.

25 MR. PAPE: Okay. Thank you. We'll be

1 back in 2 minutes.

2 (Board recess)

3 MR. PAPE: Madam Chair, we are ready to
4 proceed.

5 THE CHAIRWOMAN: Jim, do we need to do
6 anything before we resume?

7 MR. STAHL: No. Do we have Miss Cofone.

8 MR. PAPE: We do.

9 MS. COFONE: Yes.

10 MS. RUSSO: Miss Cofone, would you like
11 to share your screen?

12 MS. COFONE: No, thank you. I don't
13 have any exhibits tonight.

14 MS. RUSSO: Okay.

15 MR. STAHL: Hold it. Okay. Got you,
16 Chris. Miss Cofone, raise your right hand.

17

18 C H R I S T I N E C O F O N E, sworn.

19 DIRECT EXAMINATION BY MR. PAPE:

20 MR. STAHL: Will you please state your
21 name, spell your last name, please.

22 THE WITNESS: Yes. It's Christine
23 Cofone, C-o-f-o-n-e. Business address is 125 Half
24 Mile Road, Suite 200, Red Bank, New Jersey, 07701.

25 MR. STAHL: Mr. Pape.

1 MR. PAPE: Yes, thank you.

2 Q. Miss Cofone, if you could begin by
3 sharing with all of us your professional and your
4 education background.

5 A. Certainly. Good evening, Chairman and
6 members of the board and public. For the record,
7 I'm Christine Nazzaro Cofone. I'm a licensed
8 professional planner in the State of New Jersey.
9 I've been practicing as such for 25 years. I've
10 been qualified as an expert witness in the City of
11 South Amboy as well as in excess of over 400 other
12 planning and zoning boards throughout the State of
13 New Jersey. I am also an affordable housing special
14 master in about 30 different municipalities, and I
15 teach planning and zoning courses for the Rutgers
16 Center for Government Services and occasionally for
17 Monmouth University for the Real Estate Institute.
18 My licenses are current and valid, and I am also a
19 planner for the Borough of Sea Bright -- I do their
20 redevelopment planning -- and for the Casino
21 Redevelopment Authority in Atlantic City, and we do
22 some pro bono work for area food pantries and
23 shelters.

24 MR. PAPE: Madam Chair, may I ask that
25 the board accept Miss Cofone's credentials and allow

1 her to testify in her area of expertise as a
2 professional planner.

3 THE CHAIRWOMAN: Can I ask the board,
4 are there any objections to Miss Cofone's
5 credentials?

6 A BOARD MEMBER: None.

7 MR. KOMINKIEWICZ: None.

8 THE CHAIRWOMAN: Please proceed.

9 MR. PAPE: Thank you.

10 Q. Miss Cofone, I'm going to ask if you
11 could in a narrative fashion if you could frame the
12 relief that Mr. Behar and his company are requesting
13 of this board, and then if you could take us through
14 the required proofs and share with us your
15 professional opinion as to whether they have been
16 addressed.

17 A. Certainly. I would be happy to. So we
18 are seeking a D variance, a use variance, because
19 the mixed use building that we are proposing is not
20 a permitted use in the RA zone. So Mr. Valetutto
21 points that out in his review letter, that we do
22 need to seek that D variance because despite the
23 fact that it's an existing mixed use property today,
24 we are sort of changing the program, and that's not
25 permitted in the zone.

1 So we are also seeking a number of
2 variances, bulk variances associated with the
3 property, as well as a parking variance. The lion's
4 share of the bulk variance is with respect to the
5 setbacks and coverage are existing on the property
6 today, and they are as outlined on page 10 of 11 in
7 Mr. Valetutto's most recent review of this
8 application, which is February 17 of 2021, but we
9 are seeking variances for the front yard to Center
10 Street as well as Cedar. We are also seeking
11 variances for the side yard setbacks. We are
12 seeking variance for the total lot coverage. We're
13 seeking variance for the impervious coverage, and
14 we're also seeking a variance for the landscape
15 coverage. We're seeking a variance also for the
16 number of dwelling units per acre. We are proposing
17 34.85 units per acre, which is a reduction from what
18 was previously proposed in conjunction with this
19 application. And lastly, we're seeking a variance
20 for the habitable floor area for the apartments.
21 The minimum required in the zone is 1,000 -- or in
22 the ordinance is 1,000, and we're proposing a range
23 from about 530 -- 536 or 523 I think is our smallest
24 now -- to about 910 square feet. So we're proposing
25 certainly larger than the 3 and 400-square-foot

1 apartments that were before you last month but still
2 a variance. And we're also asking for a parking
3 variance where we have seven spaces proposed and a
4 demand of about 36 spaces where none currently
5 exists on the site today.

6 So I think it's very important -- and I
7 heard Mr. Forshner's questions as well as some of
8 the other board members' questions, and I had an
9 opportunity to review the transcripts from last
10 month, so I think it's important that we, you know,
11 we understand that there are currently two
12 apartments existing on this site today, and there's
13 also 5,408 square feet of commercial space, about
14 440 -- 4,500 square feet is devoted to the banquet,
15 and about 908 square feet is devoted to the bar.

16 In conjunction with this application,
17 we're proposing to increase the apartments from two
18 on site to six, but we're proposing to substantially
19 reduce the square footage that's devoted to the
20 commercial aspect of the application with the
21 proposed bistro/restaurant. That restaurant
22 currently that we're proposing is about 1,696 square
23 feet for the interior with an additional 334 square
24 feet for the outdoor patio area. So I hope,
25 Mr. Forshner, that that answers your questions as to

1 where you were going I think before as to what
2 exists on the site today and what's being proposed
3 in conjunction with this application. So in some
4 ways you could look at this as a significant
5 retraction in the commercial area that's on the site
6 today.

7 So I think the board could look at as
8 far as particular suitability the fact that this is
9 a mixed use site today. So I think it certainly is
10 suitable to continue as a proposed mixed use. The
11 board can certainly consider the improvements that
12 are on the property today.

13 When you look at the special reasons or
14 what purposes of the municipal Land Use Law would be
15 advanced by this application, I think the board can
16 be guided by three purposes of the Municipal Land
17 Use Law that would be advanced by this application,
18 and the purposes of the Municipal Land Use Law are
19 not unique to the City of South Amboy, and they are
20 certainly not my -- I didn't create this language.
21 It comes right out of the Municipal Land Use Law
22 statute at 40:55D-2.

23 In order to substantiate our burden of
24 proof, we have an obligation to advance one or more.
25 I believe that there are three that are advanced by

1 this application. Criteria G talks about providing
2 sufficient space in appropriate locations for a
3 variety of uses. Criteria M talks about an
4 efficient use of the land, avoiding degradation of
5 the environment and urban sprawl, and criteria I
6 talks about creating a desirable visual environment.

7 Because the applicant is repurposing the
8 existing mixed use structure and dramatically
9 increasing the curb appeal and the efficiency in
10 which this site will operate, having a formal
11 process for refuse, having parking spaces off site
12 where none exist today, I think can take that and
13 then pair that with the curb appeal. This is
14 substantial. This is a very attractive building
15 with, you know, a significant investment into the
16 neighborhood, and I think the board can certainly
17 conclude that those three purposes of the Land Use
18 Law are satisfied in conjunction with the totality
19 of improvements that are being proposed in
20 conjunction with this application.

21 When you're dealing with a site with
22 excess density, the Randolph Town Center case is
23 sort of the guiding or prevailing case there, and
24 what that case talks about is can the site handle
25 the excess density. So even though, as

1 Mr. Valetutto points out, we are seeking a variance
2 for the additional density on site, I think the fact
3 that we are able to park at least one parking space
4 per unit is a really significant factor in that,
5 particularly in a walkable community like the city
6 where you do have close and proximate mass transit
7 options. So I think that the board can certainly
8 consider that we are meeting our excess density
9 demands on site, and I think that that's very
10 relevant to the density and the apartments that
11 we're seeking here.

12 When you couple that with the fact that
13 the master plan in South Amboy in the city is very
14 rich in its recommendation to have a variety of
15 housing types designed to support the needs of the
16 population representing a range of income groups, I
17 think you can certainly come to the conclusion that
18 there will be no substantial detriment rising from
19 those additional apartments on the site.

20 As far as the negative criteria, the
21 negative criteria does not ask you to hold us or any
22 applicant to such a standard that there would be no
23 detriments, just that the benefit of the grant of
24 the variance would outweigh any detriment, and I
25 think in Mr. Valetutto's latest review letter, which

1 I believe is the 17th of this month of this year, he
2 makes an excellent suggestion on page 6 where we
3 restrict the outdoor space. I personally think that
4 that outdoor space just adds to and activates this
5 area with a use that is certainly -- we like to see
6 neighborhood commercial uses to support the
7 residential in the area. It's a 334-square-foot
8 outdoor patio area. Particularly with COVID, I
9 think it's a wonderful addition to the neighborhood
10 to have a formalized seating plan out there. So I
11 think that certainly as far as a substantial
12 detriment, I do not see a substantial detriment to
13 the public good or the zone plan if the board were
14 to move favorably on this application.

15 The other thing I should say when you're
16 considering the negative criteria and impact on the
17 public good, I think there are some other objectives
18 and goals in the master plan that are encouraged
19 here, and some of those goals talk about enhance of
20 balanced development pattern, which will protect and
21 enhance long-term economic and social interests of
22 present and future residents in order to maintain
23 and improve the city's overall quality of life. I
24 think the entire -- the entirety of this project is
25 one that will improve the overall quality of life by

1 really activating this corner that really suffers --
2 the structure that's on the site today for, you
3 know, to put it kindly certainly lacks any curb
4 appeal. So I think the board could certainly
5 consider those purposes of the Land Use Law, but
6 also, some objectives in the master plan that talk
7 about promoting the desirable visual environment and
8 also to preserve and protect the established
9 residential character, encourage a broad range of
10 housing choices for residences, and encourage the
11 rehabilitation of substandard residential units. So
12 I haven't been in the structure so I can't say that
13 I think that the interior residential units are
14 substandard, but I certainly think from, you know,
15 from standing and looking at the property, you can
16 certainly -- I would say the architecture and the
17 elevation of the structure as it sits today is
18 certainly not consistent with I think some of the
19 newer projects that we're seeing in the city and I
20 think the vision that the city has for itself to
21 establish a community character and encourage
22 economic development.

23 So I think when you look at the plan
24 holistically, I think it certainly does not
25 represent a significant departure from the master

1 plan goals and objectives for this area, and I think
2 when you look at what is on the site today and in my
3 opinion as a planner -- and I have done a fair
4 amount of cases for establishing nonconforming
5 uses -- I think someone at the last hearing
6 referenced the Euneva case in Keansburg, which is
7 actually Myrtle Avenue, Eltrym Euneva, which is
8 Myrtle Avenue spelled backwards, because I testified
9 on that case, and I think there really has to be an
10 overarching intent to abandon. So I think there
11 certainly is a long history of a
12 bar/restaurant/banquet hall on this property, so I
13 do think that the applicant could in my opinion in
14 all likelihood -- and I agree with what
15 Mr. Valetutto said earlier that you if expanded the
16 use, he couldn't open it, but I think he has every
17 right to operate that use and utilize that liquor
18 license on the floor area devoted to that use today;
19 however, the use that you have before you this
20 evening in my opinion retracts that use, adds some
21 residential activity, and really upgrades the
22 appearance and functioning of the property. So when
23 you balance that, which is what we do as planners,
24 and you balance the good of the application versus
25 any detriments -- and I hear your concerns about the

1 parking and understand Mr. Valetutto has some
2 concern not with, you know, necessarily the number
3 but the maneuverability of those sites, and I think
4 Mr. Rea put sufficient testimony to address the fact
5 that somebody with an F-150 is probably not going to
6 park there, but I think that there's certainly
7 plenty of space down there for a mid-sized vehicle
8 to operate, and the fact that we're creating seven
9 off-street parking spaces for these residences I
10 think is certainly a benefit to this site, a benefit
11 to that something could allow this site to be
12 repurposed and reactivated. So I think when you
13 look at all of those things, you can come to the
14 conclusion, as I have from a planning point of view,
15 that there's no substantial detriment to be derived
16 from the variances that are required in conjunction
17 with this application.

18 Mr. Pape, I think that that's all I had
19 on direct. I'm just looking through my notes
20 quickly here. Just bear with me. But I think I hit
21 on all the points, the particular suitability, the
22 positive and negative criteria.

23 I suppose I should talk about the Medici
24 reconciliation as that this is an RA zone; however,
25 if you look at the RA zone in the City of South

1 Amboy, it represents, you know, over half of the
2 zoning in the city be devoted to the RA zone, and
3 it's not unusual or uncommon to see these commercial
4 uses interspersed in some of the residential areas.
5 So I see, again, when you look at the fact that this
6 is an existing, we're not introducing this condition
7 of a mixed use apartment and commercial use into the
8 neighborhood. It exists there today, but we're
9 certainly activating it, and we're certainly
10 beautifying it, and when you look at that, you know,
11 that we are making it I think better for the area,
12 the board can certainly reconcile and (audio
13 distortion) not having a mixed use allowable in the
14 RA zone.

15 With that, I have nothing further I
16 think on direct, Mr. Pape, unless there's something
17 you want me to go back over.

18 Q. No, and --

19 MR. STAHL: Miss Cofone, if I may --
20 Stahl here -- I think you covered it in the
21 beginning, but I may have missed it. There is a
22 sign variance. Did you address the sign variance?

23 THE WITNESS: I didn't, but I will now
24 that we added that one on. I happen to love
25 gooseneck lighting and the way that it functions and

1 looks from the street. I think it really gives
2 quite a nice character and feel to a building. I
3 would never be in support of a backlit sign here
4 given the fact that this is surrounded by our
5 residential neighbors. I think that with the
6 gooseneck lighting you can really create a nice
7 charm and a nice feel that will complement the
8 architecture that Mr. Testa has derived for this
9 building. I think when you look at the size of it,
10 we are scaled down from what your commercial zone
11 would otherwise allow. So I think that not only is
12 the signage that we're proposing going to be
13 attractive and complement this very great looking
14 building that Mr. Testa designed, but I think it's
15 going to be consistent with the area, and I think as
16 long as we agree to not have the internal
17 illumination and to do the gooseneck lighting that
18 we're going to be able to make sure that our
19 lighting doesn't have a negative impact on anybody
20 in the area, and it is -- certainly enhances the
21 already really beautiful architecture of the
22 building that we're proposing.

23 Thank you, Mr. Stahl. I forgot that
24 one. It was an add-on. It wasn't in my notes
25 because it was an add-on. I should have wrote that

1 down.

2 MR. STAHL: I didn't want the record to
3 miss something. That's all.

4 THE WITNESS: Thank you for that.

5 THE CHAIRWOMAN: Any questions for from
6 the board for Miss Cofone? I'm sorry. Mr. Pape.

7 MR. PAPE: Yeah, Madam Chair, I just
8 want to respond to Miss Cofone. I have no further
9 questions of Miss Cofone. I followed my notes, and
10 I found that she spoke to all the points that were
11 necessary. Thank you.

12 THE CHAIRWOMAN: Thank you. Any
13 questions from the board? Okay. Thank you.

14 THE WITNESS: You're welcome.

15 MR. PAPE: Madam chair, that concludes
16 the applicant's direct presentation. I only ask
17 that before the board concludes that I be given an
18 opportunity to briefly sum. I look to you as to
19 what procedures we will follow.

20 THE CHAIRWOMAN: Certainly. We will
21 have a -- open it up to the public. I will ask you
22 do you want to conclude now, Mr. Pape, or following
23 that?

24 MR. PAPE: Madam Chair, I'd like to do
25 it with a summation at the very conclusion of the

1 hearing prior to the board's voting. As we began --

2 THE CHAIRWOMAN: Okay. Thank you.

3 MR. PAPE: As we began this evening,
4 there was a witching hour identified of 10. It's
5 9:45. What is the board's pleasure this evening?

6 THE CHAIRWOMAN: I can -- I will ask the
7 board for their feeling, and I did want to shoot for
8 10 o'clock, but I know we've had a long night, but I
9 know a lot of people have come out, and tonight is
10 an important night, so unless there's any
11 objections, I would like to open it up to the
12 public, but I will request that we just do keep it
13 to 5 minutes and be as clear and concise as
14 possible, and again, we're only going to be speaking
15 on what we discussed tonight. Any objections from
16 the board? Okay.

17 MR. STAHL: And please the board --
18 Stahl here -- everyone gets one shot. There's no
19 dialogue between, you know, the board and the
20 public. The board wants to hear what the public has
21 to say. It's very important. But everyone gets,
22 you know, one opportunity, and we do 5 minutes, and
23 that is one of the areas that's permitted under the
24 MLUL case law. Thank you.

25 THE CHAIRWOMAN: Okay. With that, do I

1 have a motion to open the session up to the public?

2 MR. KOMINKIEWICZ: Motion.

3 MR. BARANOWSKI: I'll make a motion.

4 THE CHAIRWOMAN: Scott, and I believe --

5 MR. KOMINKIEWICZ: Kominkiewicz, second.

6 THE CHAIRWOMAN: Okay. Thank you. Now

7 we -- Amy, can you take it from here. What we will

8 try to do in a reasonable fashion is to make sure

9 everybody gets a chance, again, 5 minutes. Amy,

10 would you like to start alphabetically? Amy will

11 call your name.

12 MS. RUSSO: Sure. I'll just start with

13 letter of course alphabetically -- I can't talk --

14 starting with A, and then I'll put a timer and let

15 you know when your time is up.

16 I'm going to -- Amy Thompson is on the

17 screen if you have anything to say.

18 MR. STAHL: Yes, where are you, Miss

19 Thompson? Do we have your picture?

20 MS. DUNDEE: Are we talking about Amy

21 and Thomas Dundee?

22 MS. RUSSO: Yes.

23 MR. STAHL: Hold it.

24 MS. DUNDEE: Do I got to turn my

25 cameras. I'm in my pajamas.

1 MR. STAHL: All right, you're a member
2 of the public. The cases all talk about experts.
3 You're fine. Raise your right hand.

4

5 A M Y D U N D E E, sworn.

6 MR. STAHL: Please state your name,
7 spelling your last name.

8 MS. DUNDEE: Amy Dundee, A-m-y
9 D-u-n-d-e-e.

10 MR. STAHL: And where do you reside?

11 MS. DUNDEE: Eighteen Pupek Road.

12 MR. STAHL: Thank you.

13 MS. DUNDEE: I just want to voice my
14 objection to this project. I don't think it's a
15 good fit for the neighborhood. That's it. I don't
16 have a lot to say. I know other people do.

17 MR. STAHL: Thank you.

18 MR. DUNDEE: Thomas Dundee, and I also
19 live on 18 Pupek, and I just want to say that I also
20 object to this proposal.

21 MR. STAHL: I'm sorry, your name, sir?

22 MR. DUNDEE: Thomas Dundee.

23 MR. STAHL: Oh, you're a resident.

24 Fine. Thank you.

25 MS. DUNDEE: Thank you.

1 MR. STAHL: Who's next up?

2 MS. RUSSO: Ann, no last name.

3 MR. STAHL: Ann, what's your last name?

4 MS. RUSSO: She has to unmute herself
5 because I'm not able to unmute her.

6 MS. BEIRNE: Good evening. My last name
7 is Beirne, B-e-i-r-n-e.

8 MR. STAHL: And raising your right hand.

9

10 A N N B E I R N E, sworn.

11 MR. STAHL: Where do you live?

12 MS. BEIRNE: I reside at 242 Elm Street.

13 MR. STAHL: Thank you. Go right ahead.

14 MS. BEIRNE: My main concerns regarding
15 this project are the congestion that's going to
16 bring to the neighborhood and the lack of parking.
17 I'm very concerned about what that's going to bring,
18 and that really is my only concern. It's a very
19 residential neighborhood, and there is another
20 establishment across the street that has already
21 brought in some congestion, very nice, no problems,
22 but more congestion, more cars, and I'm concerned
23 about that for the neighborhood and the environment
24 that that will bring, too. That's it.

25 MR. STAHL: Thank you.

1 THE CHAIRWOMAN: Thank you.

2 MR. STAHL: Next up.

3 MS. RUSSO: Ann, if you would like to
4 speak. Ann Marie Trapp.

5 MR. STAHL: Ann, are you there?

6 MS. TRAPP: Did you hear that, Amy?

7 MS. RUSSO: Yes.

8 MR. STAHL: Ann, you there?

9 MS. TRAPP: I would, Jim, I'd like to
10 defer my time to Dave Kales, please.

11 MR. STAHL: Okay. Thank you.

12 MS. TRAPP: Thanks.

13 MS. STAHL: What is your name, sir,
14 who's coming up now? Barry?

15 MR. KOTSAK: Yes, my name is Barry
16 Kotsak.

17 MR. STAHL: Where do you live?

18 MR. KOTSAK: Yes, sir. I oppose --

19 MR. STAHL: No, no, Mr. Kotsak, one
20 second. Where do you live, sir?

21 MR. KOTSAK: Three thirteen Cedar
22 Street.

23

24 B A R R Y K O T S A K, sworn.

25 MR. KOTSAK: Yes. I basically oppose it

1 mostly for the parking because the parking is very
2 tight as it is right now, and I would like to give
3 my time to Mr. David Kales, please.

4 MR. STAHL: All right. Next.

5 MS. RUSSO: Bob Barker.

6 MR. STAHL: Mr. Barker, are you there?

7 Mr. Barker. I got it. Here it is. Mr. Barker.

8 Mr. Barker. Bob Barker, unmute. Mr. Barker, if you
9 don't open up, we'll have to move on to the next
10 person.

11 All right, Amy, we can come back to him.

12 MS. RUSSO: Brandon Russell.

13 MR. STAHL: Mr. Russell.

14 MR. RUSSELL: Hello. I'm at 327 4th
15 Street.

16

17 B R A N D O N R U S S E L L, sworn.

18 MR. STAHL: And what's your full name?
19 Spell your last name.

20 MR. RUSSELL: R-u-s-s-e-l-l.

21 MR. STAHL: Okay, sir. Go right Ahead.

22 MR. RUSSELL: Yeah, I just wanted to
23 voice my concerns about the Center Street project
24 and give the rest of my time to Mr. David Kales.

25 MR. STAHL: All right. Next one, Amy.

1 MS. RUSSO: Cat Mundy.

2 MR. PAPE: Mr. Stahl, could I be heard
3 briefly? I'm not -- I am very much familiar with
4 the statutory -- the case law limitation on the time
5 that is spent by individuals testifying. I am
6 completely unfamiliar with any law that allows there
7 to be an accumulation of time transferred to any one
8 individual. I would ask that there not be such
9 (audio distortion)

10 THE CHAIRWOMAN: Are you aware of
11 anything that prohibits it?

12 MR. STAHL: No. Here's what we're doing
13 if, it please the chairperson. Just a minute. We
14 were giving 5 minutes a person. This is not like
15 Congress where I yield to someone and I'm going to
16 start keeping track of time and one person gets 20
17 minutes. We're being very relaxed here with regard
18 to time so I'm not -- one person subject to the
19 chairwoman is not going to end up with 20 or
20 25 minutes. So let's just keep on going and see
21 what we have to do.

22 Who's next up?

23 MS. MUNDY: Hi, I'm Catherine Mundy. I
24 live at 312 Walnut Street.

25 MR. STAHL: Spell your last name.

1 M-u-n-d-y?

2 MS. MUNDY: Yes.

3

4 C A T H E R I N E M U N D Y, sworn.

5 MR. STAHL: Go ahead, Miss Mundy.

6 MS. MUNDY: I just wanted to say that
7 I'm opposed to this matter, as well. I'm very
8 concerned about the parking situation as there
9 really isn't much as it is, and if we're still
10 allowed to give time, I would give it to Dave, as
11 well. Thank you.

12 MS. RUSSO: Christopher Smiga.

13 MR. SMIGA: Hi, is Christopher Smiga,
14 S-m-i-g-a. I reside at 144 2nd Street, and --

15 MR. STAHL: Hold on just a minute.

16

17 C H R I S T O P H E R S M I G A, sworn.

18 MR. SMIGA: For the first part, though,
19 I would like to add that I am also the president of
20 the Enclave at South Amboy Condominium, Inc., which
21 is located at 134 to 148 2nd Street. Michael Testa
22 was the architect for this project. The units are
23 very beautiful and have great landscaping, but I can
24 state with confidence under oath that four out of
25 the eight units do not use their garages. We are

1 very fortunate to have driveways so no one uses the
2 street parking, making us good neighbors, but in my
3 opinion, I would say that if these particular -- on
4 this particular project, if these driveways are
5 tight and they're hard to navigate and there is --
6 residents at best will park on the street. I've
7 also witnessed cars strangely parked diagonally
8 outside garages at the Ryan Homes at the Raritan Bay
9 waterfront. So that's the first part where I'd just
10 like to address the parking concerns.

11 My second part, though, is the
12 applicant's property sits approximately 108 feet
13 from a bar on Cedar Street, .3 miles from an
14 off-premises liquor store on Main Street, .3 miles
15 from a bar on Feltus Street. So, you know, I'm very
16 concerned. I realize that the alcohol will be
17 pushed down to a licensing board, but I would just
18 like to say I'm very concerned about the alcohol
19 density on this very small neighborhood, and I feel
20 that that could potentially put it at a risk for an
21 increase in disorderly conduct and vandalism and
22 aggravated assaults. That's my opinion. And in
23 reviewing the application for a variance, in my
24 opinion, I believe we should not completely kick the
25 negative effects to a licensing board down the road.

1 We should assume the project will be successfully
2 occupied, as it is in the financial interest of the
3 owner for it to be so, so increased foot traffic
4 during closing time, noise disturbances to
5 residents, these are potential negative effects that
6 we are better equipped to handle in the downtown
7 area, not in a quiet, small neighborhood bordered on
8 one side by public tennis courts and on the other
9 side by a church, both of which may receive more
10 vehicle traffic as the city continues to increase
11 its population through its waterfront redevelopment.

12 So as I did last time, I'm going to ask
13 the board again to reject this application. Thank
14 you.

15 THE CHAIRWOMAN: Thank you.

16 MS. RUSSO: Cliff and Bernadette
17 Connors.

18 MR. STAHL: Hold it. Last name is
19 Connors?

20 MS. CONNORS: Connors, C-o-n-n-o-r-s.

21 MR. STAHL: Thank you, and where do you
22 reside?

23 MS. CONNORS: Three ten Cedar Street,
24 South Amboy.

25 MR. STAHL: Of course.

1 B E R N A D E T T E C O N N O R S, sworn.

2 MR. STAHL: Go right ahead, ma'am.

3 MS. CONNORS: Okay. I would just like
4 to say that I live in the house that my grandfather
5 built in 1960. I'm the third generation here.
6 Every house on this block is owner occupied. That
7 has great, great value, and it will not continue to
8 be that way if this project goes through. There's
9 another bar diagonally across the street from it.
10 It's just not necessary to have a restaurant. No
11 parking. It's not going to work. It's not. I give
12 the rest of my time to Dave Kales.

13 MR. STAHL: Next Amy.

14 MS. RUSSO: Yes, Dave Kauski.

15 MR. STAHL: Dave, where are you? Hold,
16 I'm looking. Are you there, David? He left.

17 MS. RUSSO: Okay. Donna Kales.

18 MR. STAHL: Donna.

19 MR. KALES: That would be David Kales.

20 MS. RUSSO: Okay.

21 MR. KALES: I'm using her computer so
22 it's David Kales. Donna is my wife.

23 MR. STAHL: Okay, and, sir, please state
24 your name, spell your last name, and where you live.

25 MR. KALES: My name is David Kales. I

1 live at 327 Cedar Street, South Amboy, New Jersey.

2 MR. STAHL: And spell your last name,
3 please, sir.

4 MR. KALES: K-a-l-e-s.

5 MR. STAHL: Thank you.

6

7 D A V I D K A L E S, sworn.

8 MR. KALES: Okay. So as Mr. Testa
9 testified to, they changed the apartments from ten
10 to six, which I commend the owner of that for doing
11 that, but they also -- the six apartments, has any
12 of them gone to conforming use of a thousand square
13 feet, Mr. Testa?

14 MR. TESTA: Conforming use of a thousand
15 square feet? I'm not aware of what conforming that --

16 MR. KALES: Okay. Then that's the
17 requirement of South Amboy for apartments right now
18 is a thousand square feet. You're asking for a
19 variance to go underneath that. So out of the
20 six --

21 MR. STAHL: Excuse me. Wait a second.
22 Explain your position, sir, is that the floor area
23 or the unit size is under that required by the City
24 of South Amboy?

25 MR. KALES: That's correct, and that's

1 the reason why we are asking for square footage.

2 MR. STAHL: Okay. All right. Thank
3 you.

4 MR. KALES: So they're requesting a
5 variance of that for six apartments, but
6 realistically, the board -- he could put four
7 apartments without requesting a variance instead of
8 six, which would bring the parking in that area
9 down, also.

10 I also want to point out that with the
11 handicapped, currently seven spots around the
12 building that are available for parking. With
13 putting the handicapped spot there and the 45 feet
14 of driveway curb that you're taking away, you're
15 reducing that seven down to three or two parking for
16 the residents and one handicapped specifically for
17 that building. We don't even -- you don't even have
18 enough room for the employees around the building
19 because if you have a bartender and all that.

20 Mr. Testa -- again, Jason, very good
21 job. You did point out the Toyota Corolla is the
22 vehicle that they used. I just want to point out
23 from the last review on November that there is 12
24 structural poles downstairs. The reason why them
25 parking spots are wider is because of the structural

1 poles, okay, so backing out, they added two
2 buildings to get two structures downstairs, and I
3 agree you need to see how a vehicle is going to get
4 out, and I don't believe a mid-sized vehicle is
5 going to fit in there because there's like 19.6 or
6 20 feet that you shown at the last meeting that is
7 between structural poles, and we're going to assume
8 everybody is a good driver and not hit them.

9 For Mr. Rea, did you contact the South
10 Amboy Police Department about parking, traffic flow,
11 any parking issues?

12 MR. REA: I did not, but I visited the
13 site on probably half dozen locations at this point
14 in time during various times of the day, various
15 times of the week, and I think I'm familiar enough
16 with parking conditions in the area.

17 MR. KALES: Okay, so it was stated that
18 the owner is a property manager and he's going to
19 manage the current property, owns the current
20 property. So I'm going to show you this (audio
21 distortion) condition right now. That's the last --
22 that's one of the last snow storms, and that was a
23 trailer that was parked there for months with five
24 courtesy citations to move it, and it ended up not
25 being moved, but towed. This is a parking space,

1 and notice the sidewalks.

2 Currently, I passed out 300 fliers for
3 this meeting. One location that I found was not
4 shoveled, and it was this building. So this is what
5 we have to look forward to for property maintenance,
6 and the only reason it's done in front of it because
7 the nice gentleman at 532 Center Street snow blowed
8 it out. This is three days later, again with no
9 snow -- with the snow on the ground. Okay, so
10 that's the issue.

11 What I want to do is -- now, the rest of
12 my questions are for the board, all right. So we
13 know that they didn't go to the city to get
14 professionals. Luckily, the board has Jason as a
15 professional looking out for the residents of South
16 Amboy and the city, and he did a very good job
17 (audio distortion) with no traffic, no parking
18 spots. How many parking spots are located on Cedar
19 Street, and you're requesting us to have 34. If you
20 know Cedar Street, there's not even 34 parking spots
21 in the area. So we move -- the current seven spots
22 you're offering is for compact cars, and again, like
23 I said the last meeting, you can only get credit for
24 a third. (Audio distortion) required two parking
25 spaces per person.

1 Currently as you visited the site, take
2 into consideration COVID. Any place is only a
3 25 percent capacity, and currently there is no
4 action at Sacred Heart School, none, because of
5 COVID, and it hasn't been for a year, so the time
6 you visited it, we have to take into consideration
7 what is going to go up -- this is the board I'm
8 speaking.

9 Why should we give -- we're considering
10 variances for square footage of property when him as
11 an owner purchased the property, it's his
12 responsibility to do due diligence of what he can
13 legally put in there. One thing that -- you turn
14 that around. You keep referring to this banquet
15 hall and the banquet hall and he has a restaurant.
16 Well, it was never a restaurant. For the people who
17 lived here, they can confirm it was a bar, and I
18 agree with the bar, but the bar hasn't been active,
19 and I think the board really needs to look into the
20 status.

21 I understand it was testified today that
22 the liquor license is not -- has been not shelved
23 and is current. I believe by speaking to the city
24 clerk that they consider it shelved. There's been
25 no business license been issued to that property

1 since 2016, so there hasn't been a business. So if
2 you go into the redevelopment regulations, which I'm
3 sure almost everybody is familiar with, chapter
4 53.79, section 21A, abandonment, it says it right
5 there black and white. If it isn't being conducted
6 in a business in a nonconforming area, there's no
7 longer available for preexisting use. It says it.
8 Nonconforming use shall be considered abandoned
9 determination of the owner or nonconforming use and
10 structure is unless it's not continued for 12
11 months. We have easily met the 12 month criteria.
12 So the board, how could you even go forward and
13 approve this when your regulation states it's
14 abandoned. He has to prove it wasn't abandoned.

15 And in our purposes for the
16 neighborhood, trust me, I want something done, and
17 as the testimony said that it is beautifying the
18 area, it is beautifying the area, but is it really
19 helping the neighborhood by getting -- by requiring
20 34 more parking spaces, and that's exactly what's
21 required. We have to consider all that bar is going
22 to be full. You have to come up here. There's not
23 even 34 extra spaces on the street, but we don't
24 have that testifying. The people who live here, and
25 walk-up customers. Look at, there's over 50 people

1 on this meeting right now telling you how we feel,
2 so how many do you think are walking up and using
3 this location. And this is to the board members.
4 We need you to support neighborhood and vote no on
5 this, not turn it down. We want something to
6 happen. By the requirements square foot
7 requirements without a variance, he could put six
8 apartments and take out the bar completely, six
9 apartment, and there's fair revenue there. If
10 you're averaging two-bedroom apartments in South
11 Amboy at 17 (audio distortion) dollars a month,
12 there's revenue.

13 MR. STAHL: Mr. Kales, how much more
14 time do you have? I think my number looks like --
15 what?

16 MR. KALES: I have a couple more things
17 that I want to bring up to the board, and then I'll
18 pass it on to the next person.

19 MR. STAHL: Amy, how much time have
20 you -- I've got what, 10 minutes he's used?

21 MR. KALES: Well, we've been sitting
22 here 3 hours. Everybody was dedicated enough --

23 MR. STAHL: Mr. Kales, please don't
24 argue with me. We have procedures here. Please,
25 I'm trying to help you. I'm trying to help you.

1 Madam Chairwoman, does anyone have a
2 problem with Mr. Kales having another 5 minutes or
3 so to complete his line of questioning?

4 THE CHAIRWOMAN: I would say that please
5 wrap it up within 5 minutes, it would be
6 appreciated.

7 MR. STAHL: Thank you. Go ahead, Mr.
8 Kales.

9 MR. KALES: So it's the board -- before
10 you can vote yes on this tonight, we need to do more
11 research of the liquor license, if it is tabled or
12 if it's not tabled. There's been no business
13 license issued. There hasn't been a health
14 inspection in that location since 2016. How has
15 this been an active business, okay. Just because
16 he's got a license -- just because it was, it's not
17 preexisting. Abandonment. And they need to take
18 the abandonment -- the abandonment of the hall is a
19 given. It hasn't been used since 1966, prior to any
20 regulations. It's abandoned. So they're asking for
21 existing use. And if you want to, you're still
22 expanding the area of the bar by going into where
23 the hall was and putting it in, so it needs a
24 variance for that, too.

25 Thank you very much for your time. I

1 appreciate it.

2 MR. STAHL: Thank you, Mr. Kales. The
3 board appreciates -- the board appreciates your
4 comments. Go ahead. Next.

5 (Audio interruption)

6 MR. STAHL: Pardon me?

7 THE CHAIRWOMAN: Amy, do we know who's
8 next up?

9 MS. RUSSO: Yes. I just said her name.

10 THE CHAIRWOMAN: I'm sorry.

11 MS. RUSSO: It's okay. Aly. Maybe I'm
12 saying it wrong. Munoz. Eugene and Lisa.

13 MR. LAVAN: This is Eugene Lavan.

14 MS. RUSSO: If you have anything you
15 would like to say.

16 MR. LAVAN: Yes, we're just objected
17 against this.

18 MR. PAPE: Mr. Stahl, can we have them
19 sworn and their address placed on the record.

20 MR. STAHL: Absolutely.

21

22 E U G E N E L A V A N, sworn.

23 L I S A L A V A N, sworn.

24 MR. STAHL: State your name for the
25 record, please.

1 MR. LAVAN: Eugene Lavan.

2 MS. LAVAN: Lisa Lavan.

3 MR. STAHL: Last name is spelled?

4 MR. LAVAN: L-a-v-a-n.

5 MR. STAHL: Thank you, and your address?

6 MR. LAVAN: 333 -- 331 Cedar Street.

7 MR. STAHL: That's all right. It's

8 getting late. It's all right. One of you goes

9 first, and then the next one can follow.

10 MS. LAVAN: I object to this proposal.

11 MR. LAVAN: I also object to this

12 proposal.

13 MS. RUSSO: Frank, no last name.

14 MR. EBERLE: Frank Eberle, 353 Cedar
15 Street. I just want to say that I strongly disagree
16 to this.

17 MS. RUSSO: I'm sorry, Frank, I'm going
18 to -- sorry.

19 MR. STAHL: Frank, your last name, sir.

20 MR. EBERLE: Eberle, E-b-e-r-l-e.

21 MR. STAHL: Thank you very much.

22

23 F R A N K E B E R L E, sworn.

24 MR. STAHL: Okay. Thank you. Go right
25 ahead.

1 MR. EBERLE: I think for a business that
2 hasn't been operated since 2017 or '16 and driving
3 by there every day, not being a parking space
4 anywhere in the area, tells you that this does go
5 forward, it's -- detrimental is definitely the word
6 to use for the neighborhood, and just for -- I have
7 kids that live on the street that, you know, walk in
8 the area. You can't -- I can't even turn my truck
9 when I drive through that street because the cars
10 are so backed up, and it's just not a good idea, and
11 like I said, I strongly disagree.

12 MS. RUSSO: Thank you. Jessica Gent.

13 MR. STAHL: Jessica.

14 MR. KUSIC: George Gent, Jessica Gent.
15 My name is Greg Kusic. I'm their lawyer.

16 MR. STAHL: Okay. Your name, sir, is?

17 MR. KUSIC: Kusic, K-u-s-i-c.

18 MR. STAHL: All right, and who's a
19 lawyer, sir?

20 MR. KUSIC: I'm the lawyer.

21 MR. STAHL: Okay. Raise your right
22 hand, sir, in this matter --

23 MR. KUSIC: I'm not going to be sworn.
24 I'm going to ask questions. Gent, G-e-n-t, is my
25 client, George and Jessica, and they own the

1 property across the street from the location of the
2 site, 533 Cedar. They're on the corner of Center
3 and Cedar.

4 MR. STAHL: All right, so you're
5 representing them, and so you're going to question
6 witnesses on their behalf; is that correct?

7 MR. KUSIC: Yeah, I'm going to ask a
8 couple questions. I'm not going to get sworn.

9 MR. STAHL: No, no. I don't argue with
10 people. I understand that. You're an attorney
11 representing people. I agree with you, sir. Go
12 right ahead.

13 MR. KUSIC: I know you're not arguing.
14 I guess the questions would be for the team because
15 there were four people who spoke tonight. One of
16 the concerns I have I believe it was Mr. Testa said
17 in support of his testimony that there's a bar on
18 Augusta Street and Pine Avenue, and I'm not aware of
19 there being a bar on Augusta Street and Pine Avenue.
20 The Head Hunter is there, and there's three other
21 residential properties. So I want the board to take
22 note of that. He may have misspoke. There may be
23 another location he was thinking about, but there's
24 no bar on Augusta and Pine.

25 There was another reference by one of

1 the witnesses. I think it was Pine Avenue again,
2 but I believe he then checked his records. It may
3 have been Mr. Rea, and he said that the tavern or
4 the bar was on Stevens Avenue, and there is one bar
5 on Stevens Avenue on the corner of George and
6 Stevens. It's across from the old gas station and
7 the old Hoffman High School. So there's a school
8 there, a commercial enterprise, and a couple of
9 houses down the street. I mean --

10 MR. REA: That wasn't me. You got the
11 wrong guy.

12 MR. KUSIC: I don't know who it was who
13 said it, so somebody --

14 MR. REA: It wasn't John Rea.

15 MR. KUSIC: Okay. So the question I
16 have is with respect to the point that Mr. Kales was
17 raising about the parking. I believe the traffic
18 expert thought that a 1-to-1 ratio would be
19 sufficient, and my concern is how many cars on the
20 1-to-1 ratio would the applicant think would be
21 needed in this neighborhood for 60 people or the
22 number of seats that were indicated in the testimony
23 tonight.

24 MR. REA: I think we went through that
25 testimony. It's been asked and answered.

1 MR. KUSIC: And who's speaking?

2 MR. REA: Mr. Rea. I said between 20
3 and 24 parking spaces for the bar.

4 MR. KUSIC: Okay. Mr. Rea, you're not
5 going to argue with me, are you? I'm just asking a
6 question.

7 MR. REA: Not arguing, not at all.

8 MR. KUSIC: Well, you said it was asked
9 and answered. You know, Mr. Pape --

10 MR. REA: Weren't paying attention.
11 What do you want.

12 MR. STAHL: Okay, everybody. Mr. Rea,
13 just --

14 MR. REA: I'm sorry. It's getting late.
15 Go ahead. I'm sorry.

16 MR. STAHL: It's all right.

17 MR. KUSIC: So your answer was what?

18 MR. REA: Twenty to 24 parking spaces
19 would be the technical requirement for the seating
20 in the bar area, bar and restaurant.

21 MR. KUSIC: So that those cars would
22 have to then be parked on the public right-of-way,
23 correct?

24 MR. REA: Well, as I -- they might not
25 all be cars. They might be people that walk from

1 the neighborhood. As I testified to, there are
2 quite a few local neighborhood cafes, restaurants in
3 South Amboy that cater to the neighborhood, and
4 people walk there, so I don't think it will all be
5 cars.

6 MR. KUSIC: All right, and if there were
7 more than 24 people in the bar?

8 MR. REA: My client would be doing very
9 well then I guess.

10 MR. KUSIC: So then there would be --

11 MR. REA: What's the point? I'm not
12 sure.

13 MR. KUSIC: Well, if there's more than
14 24 people in the bar and some people walk, it
15 doesn't mean that everybody who's coming at 24 is
16 going to fit within the proportion of the window
17 that you're describing.

18 MR. REA: It's no different than what
19 previously existed on the site. There was --
20 apparently, from what I understand now, it was a
21 bar. It was not a restaurant. And as I testified
22 to before, in general, bars have greater parking
23 requirements than restaurants that have, you know,
24 tables and dining seating. So I don't see where
25 what's being proposed is anymore detrimental than

1 what previously existed. That's my testimony.

2 MR. KUSIC: Okay. I have two legal
3 questions for the team. I thought I heard somebody
4 indicate -- and it may have been Mr. Pape -- that
5 the lease is going to restrict the tenant based on
6 the vehicle they drive. Did I understand that
7 correctly?

8 MR. PAPE: No. What I stated is that
9 because every occupant of this building would have a
10 written lease that we could include in the lease
11 specific language identifying the restrictions that
12 exist in the parking garage, not -- we're not
13 controlling what people own. We're controlling what
14 people can park in the garage.

15 MR. KUSIC: Okay, and if they have a
16 vehicle larger than would function in that garage,
17 where would they park?

18 MR. PAPE: If they have a vehicle larger
19 than can be parked in the garage, they're going to
20 park it on the street, but --

21 MR. KUSIC: And the two-bedroom
22 apartments, there's going to be two people. If they
23 have two cars, where is the other car going to park?

24 MR. PAPE: The testimony that Mr. Rea
25 provided was that there was a basis for one parking

1 stall per apartment. There is a -- we are
2 comfortable with that as the basis, but if there are
3 more cars than there are garage spaces, they're
4 parked on the street or they're parked in -- they're
5 parked on the street.

6 MS. RUSSO: You have 1 minute.

7 MR. KUSIC: Okay. Great. Thank you.

8 So I understand that one of the witnesses testified
9 that if you have an F-4 -- a Ford F-100, you're not
10 going to park in the garage, but there's going to be
11 a self-limiting aspect to that, that someone who has
12 a Ford is not going to rent this place because
13 they're not going to be able to park? Is that my
14 understanding? Did I hear that?

15 MR. PAPE: That was not what was stated.
16 It was stated if someone had a Ford F-150 pickup
17 truck, they could not park it in that garage area.
18 It could not be maneuvered.

19 MR. KUSIC: But I thought there was an
20 added comment that that would be self-limiting and
21 then somebody probably wouldn't lease there and rent
22 there because they had the big truck.

23 MR. PAPE: That was stated by anyone, it
24 would just be someone's opinion.

25 MR. KUSIC: Okay. So with respect to

1 one of the other items that Mr. Kales brought up and
2 was mentioned in the review letter that is dated
3 November 30, 2020, and I understand it may have been
4 in the new review letter, and by the way, for the
5 board, we asked for any additional information
6 because we have copies of the old letter, in October
7 of September and the letter in November. I was
8 unaware that there was another letter prepared and
9 submitted to the board by Mr. Valetutto. He
10 certainly has the right to do that, and you want to
11 see it, but in his letter, in both of his prior
12 letters, he mentions what abandonment is in the
13 South Amboy development regulations. Is there
14 anybody going to testify legally why the applicant
15 feels that the nonconforming use has not been
16 abandoned based on 12 continuous months?

17 MS. RUSSO: Mr. Stahl, time's up.

18 MR. PAPE: The answer --

19 MR. STAHL: He's entitled to an answer.

20 Let's see if we can provide an answer. You said the
21 development regulations -- I don't know whether
22 you're talking about the regular zoning or special
23 redevelopment zone. The issue with regard to
24 abandonment is more than just 12 months in time, and
25 the board is considering the application as a whole.

1 If they grant it, if they grant it, then the
2 abandonment is not an issue because they have
3 granted an approval for a use not permitted, and the
4 applicant is not using, as I understand, the element
5 of a nonconforming as a basis for it to get this
6 approval because they're requesting a kitchen, more
7 dining, and a deck, so none of that is preexisting.
8 If they lose and they want to continue the
9 operation, that'll be up to code enforcement and the
10 city to determine whether or not there has been
11 abandonment. So it's really not something that
12 today the board has to consider.

13 MR. KUSIC: So I want to make sure I get
14 this straight. You're saying to me that if the
15 board grants the approval, the fact that this prior
16 use was abandoned, which means it's not going to be
17 as mixed use as it used to be, that the applicant
18 doesn't have to worry about that. So you'll be
19 doing the job for the applicant.

20 MR. STAHL: No, sir. Sir, don't do that
21 to me.

22 MR. KUSIC: I haven't heard any legal
23 argument.

24 MR. STAHL: I understand. My duty is to
25 advise the board on legal matters. The question was

1 on abandonment. That is a special legal theory
2 based on specific facts. The applicant has not
3 asked this board for what's called a certificate of
4 continued nonconforming use. The applicant as I
5 understand it -- and I'm not doing their business --
6 is they're requesting a use variance to use a bar --
7 expand -- expand the bar with a kitchen to serve
8 food, expand the use to a deck, and expand the use
9 to a dining area. So none of those as we understand
10 were nonconforming privileges, if you will, of the
11 applicant. So he's saying, this is what I want. I
12 need a use variance. In terms of Miss Cofone's
13 testimony, she is, as I understand it, saying that
14 some of the justification for the use variance is
15 that this property has in the past been used as a
16 bar in a residential neighborhood.

17 So I'm not just throwing out your
18 interesting question, but it's not a question that
19 we, this board, has to deal with now because it may
20 be moot, it may not be moot. They've got to make a
21 decision based on all the evidence. Thank you.

22 THE CHAIRWOMAN: In the interest of
23 respect for the other speakers, can we move on.
24 Thank you, Mr. Kusic.

25 MR. KUSIC: Thank you, Madam Chairman.

1 MS. RUSSO: Greg is the next person.

2 Henry, no last name.

3 MR. STAHL: Henry. Henry.

4 MS. RUSSO: Jill. John Dragotta.

5 Sorry.

6 MR. SURMAN: Were you calling me, or was
7 it a different Joe?

8 MS. RUSSO: You can --

9 MR. SURMAN: Okay. My name is Joseph
10 Surman. I'm here with my mother, Jadwiga Surman.
11 She's a resident of 309 Cedar Street, and I --

12 MR. STAHL: You're going to testify in
13 her behalf; is that correct, sir?

14 MR. SURMAN: Yes, sir.

15

16 J O S E P H S U R M A N, sworn.

17 MR. SURMAN: Yes, sir.

18 MR. STAHL: Go right ahead.

19 MR. SURMAN: I do want to echo the
20 sentiments of everyone else who spoke today, in
21 particular Mr. Kales, Mr. Kusic. They made a lot of
22 the points that I had intended to make already.
23 While I was somewhat encouraged -- we were both
24 encouraged to hear of, you know, the reduction in
25 number of apartments that was being recommended at

1 this point, I think that the same problem still
2 persists, and really I think motion of listening
3 today, I was trying to decide if this project was a
4 better idea or a worse idea than what we had heard
5 back in November, and I haven't really come to any
6 conclusion on that. It was I think a bad idea then.
7 I think it's a bad idea now. While on its face,
8 going from ten to six apartments is a good thing,
9 when you look at it a little more closely, where we
10 now have three two-bedrooms, again, as others have
11 pointed out, we're presuming I believe that those
12 two-bedroom apartments are going to have one vehicle
13 when that's really not the case, you know,
14 especially if you're dealing with people who are
15 roommates, have separate jobs. These people are
16 going to have two separate vehicles, and there's
17 still three one-bedrooms in the mix. You have
18 kitchen staff. You have I presume hosts, hostesses,
19 bartenders, you know. I don't know to what extent
20 property management is going to -- and, you know,
21 custodians and things like that are going to need to
22 be present, and that's assuming that no one is even
23 using the bar or restaurant, and, you know, to us --
24 and I think I speak for everyone in the community --
25 we want a project that we can root for, and I think

1 in a best-case scenario, if the board were to pass
2 this, I think the majority of the residents are
3 going to be crossing their fingers and hoping that
4 Mr. Behar's project doesn't have a busy night, and
5 so this is really a project that most people who
6 live in the area are going to be rooting against, so
7 why are we trying to fit this square peg into a
8 round hole. To me, you know, if it was just the
9 apartments, if it was just the bar/restaurant, you
10 know, I think there would be more of a likelihood of
11 success of people wanting this in their
12 neighborhood, but, you know, this is really no
13 different to me than what we talked about back in
14 November, and I think parking is obviously going to
15 be the main issue here. There's very few spots to
16 begin with, and I couldn't imagine a scenario where
17 we were trying to make 20 or 30 more spots on the
18 street on a busy night.

19 You know, in addition to I think what
20 are more code issues as far as the structural
21 integrity of the building, I really don't want to
22 get into that but, you know, I think it bears
23 mentioning, but, you know, just from a project
24 standpoint, this just really doesn't make sense for
25 the people who live in that community.

1 Thank you. I appreciate your time.

2 THE CHAIRWOMAN: Thank you.

3 MR. STAHL: Next.

4 MS. RUSSO: John Dragotta.

5 MR. STAHL: Amy.

6 MS. RUSSO: Can you hear me?

7 MR. DRAGOTTA: Yes, I can hear you, Amy.

8 MR. STAHL: All right, Mr. Dragotta.

9

10 J O H N D R A G O T T A, sworn.

11 MR. STAHL: And I see you spell your
12 last name as D-r-a-g-o-t-t-a, and where do you
13 reside, sir?

14 MR. DRAGOTTA: Four thirty-three Joan
15 Street.

16 MR. STAHL: Thank you. Go right ahead.

17 MR. DRAGOTTA: Just a little background.

18 I am the second assistant fire chief in the town,
19 and my concerns are with the parking. If Mr. Rea
20 could help me out here. The handicapped parking
21 spot, does that look like it's going to be on Cedar
22 Street on the side of the bar?

23 MR. REA: I believe it's on -- I don't
24 know if it's on Cedar or Center, but that would be
25 something that would have to be approved by the

1 governing body, by the city council.

2 MR. DRAGOTTA: But on Center, you have a
3 stop sign. The ordinance is 50 feet from a stop
4 sign. So the first 50 feet of the business is going
5 to be open. Then you will have one handicapped
6 spot. On the side --

7 MR. REA: It's actually on Center
8 Street.

9 MR. DRAGOTTA: On Center. So right
10 there, there's 50 feet of frontage that's going to
11 be open that nobody can park. It's 25 feet from all
12 four corners of a crosswalk, so there again you're
13 losing spots. Ten to 15 feet from the hydrant. My
14 concern, like they're saying, with people with
15 two-bedroom and it's one spot or two people coming,
16 what happens when people have friends over? I mean,
17 this place has always been a congested area in the
18 town back when both bars were open, and now
19 modernizing it and making it what they want, I think
20 it's just going to bring way too much traffic, not
21 enough parking for the people, and my concern is
22 with my emergency vehicles because people are not
23 going to adhere to the parking because if they want
24 to go somewheres, they're going to park where they
25 do. So that's my concern, like with most of the

1 people here, the parking and everything where the
2 residents won't be able to get into their own house,
3 and, you know, you don't want to park 10 houses from
4 your own to walk by yourself. But that's just my
5 concern with the people, and I have my displeasure
6 also with the -- hoping the board will put this
7 down.

8 THE CHAIRWOMAN: Thank you.

9 MR. STAHL: Next.

10 MS. RUSSO: John Kominsky. John.

11 MR. KOMINSKY: No question.

12 MR. STAHL: Thank you, John.

13 MS. RUSSO: John Leo Fedorka. George,
14 no last name. Ann Kelly.

15 THE CHAIRWOMAN: Amy, I believe there's
16 a gentleman who looks like he's speaking, and it
17 looks like his mic is on, but I don't hear him.

18 MR. VALETUTTO: Yeah, that's John Leo
19 Fedorka you're talking about. I also see his mouth
20 moving. Microphone is on, but we cannot hear him.

21 MR. STAHL: And I don't see a picture.

22 THE CHAIRWOMAN: John, if you can hear
23 us, we can't hear you. Wave if you can hear us.
24 Okay. Sorry, we can't hear you.

25 MS. RUSSO: You're on mute.

1 MR. STAHL: John Fedorka.

2 THE CHAIRWOMAN: His mic is green, but
3 -- try again, John. No, we can't hear you, John.
4 Why don't we try to come back to John.

5 MS. RUSSO: Okay. Ann Kelly.

6 MR. STAHL: Mrs. Kelly.

7 MS. RUSSO: Initials M R. Rachel
8 Draudt.

9 MS. DRAUDT: Hi, Rachel Draudt.

10 MR. STAHL: All right, Rachel, last name
11 is D-r-a-u-d-t, correct?

12 MS. DRAUDT: Correct.

13

14 R A C H E L D R A U D T, sworn.

15 MR. STAHL: And where do you live?

16 MS. DRAUDT: Three seventeen Cedar
17 Street.

18 MR. STAHL: Go right ahead.

19 MS. DRAUDT: Thank you. So I've been
20 sitting here. I attended the last planning board
21 meeting and last month when we got pushed off again.
22 I think, you know, for all the reasons that have
23 been stated before -- I won't restate the obvious
24 with the parking and all of that good stuff. I'm
25 definitely opposed to this, but the big thing that

1 I'm struggling with and just being new to this whole
2 process -- I have two properties here in the City of
3 South Amboy, and I'm feeling a little bit that --
4 underrepresented, and I say that because the experts
5 that we heard from tonight are obviously experts
6 that are, you know, hired and paid for by the
7 applicant, and I guess my question for the board is
8 who represents the experts for the residents and the
9 town to be able to -- because what I'm hearing is
10 and just, like, listening to the logic by the
11 experts and understanding that they are sworn in and
12 it's testimony and that's their opinion and their
13 expertise, but, you know, are we able to hire our
14 own experts? Is the planning board able to hire
15 experts to investigate this, because some of the
16 things that I'm hearing just don't make logical
17 sense to me, and I'm wondering where our
18 representation as residents is.

19 MR. STAHL: Well, your representation,
20 if I can just respond -- it's a very good question.
21 First of all, anyone who wants to object to an
22 application has the right to retain their own
23 experts if they wish. The board is appointed by the
24 mayor of the city, and their job is to enforce the
25 zoning ordinances of this town, and to that extent,

1 the quality of the proofs that the applicant must
2 bring before this board must satisfy the law, number
3 1, and number 2, the board has the benefit of
4 Mr. Jason Valetutto and Angelo Valetutto, who are
5 the board's consultants, planners, and engineers,
6 and they, as you hear some of the questions, I mean,
7 no one -- I have a bias for the board, of course,
8 but I can tell you the board rolls over for no one,
9 that they consider all the evidence that comes
10 before them. They listen to Mr. Rea, Mr. Cofone,
11 Mr. Testa, and Mr. French, and they don't accept
12 everything that they say. They understand that
13 these witnesses, with all respect, are paid by the
14 applicant. They are professional. They're supposed
15 to tell the truth. But, you know, that's the way it
16 is. The board is like a judge and jury to determine
17 whether or not a particular application should be
18 granted, and they're listening to you, but, I mean,
19 you're not personally represented, but this board
20 represents the interests of the city. That's all I
21 can say.

22 MS. DRAUDT: Yeah, and I appreciate the
23 that response, and that's very helpful.
24 Mr. Valetutto has done an amazing job in asking the
25 questions that I think that the residents would need

1 to be asked, but I just wanted to understand if
2 there was an opportunity for us to have our own
3 experts, as well, but I appreciate that response,
4 but, you know, again, just to reiterate, for all the
5 reasons previously listed -- I live three doors down
6 from this property, 536 Center Street, and I'm
7 definitely opposed for all the reasons previously
8 outlined. So thank you.

9 MR. STAHL: Thank you.

10 THE CHAIRWOMAN: Thank you.

11 MR. STAHL: Amy.

12 MS. RUSSO: Robert Bartlinski.

13 MR. STAHL: Mr. Bartlinski.

14 MR. BARTLINSKI: Yes, sir.

15 MR. STAHL: Is that B-a-r-t-l-i-n-s-k-i?

16 MR. BARTLINSKI: Yes, it is, Mr. Stahl.

17
18 R O B E R T B A R T L I N S K I, sworn.

19 MR. STAHL: And where do you reside,
20 sir?

21 MR. BARTLINSKI: Two one six Cedar
22 Street.

23 MR. STAHL: Okay, go. The floor is
24 yours.

25 MR. BARTLINSKI: Mr. Rea said he was up

1 here, checked out the traffic in the area. I'd like
2 to know when he did it. Has he been up here on a
3 Saturday afternoon between the hours of noon to say
4 6 at night or been up here when Sacred Heart School
5 runs their CCD classes, when the street -- we've got
6 double parking, triple parking, you can't get a cop
7 car, you can't get an emergency vehicle up and down
8 the street. I know John Dragotta can attest to
9 that. Mr. Kales can, also, and all my neighbors.

10 This is just not the proper area for
11 this. There's no on-street parking as there is, and
12 it's just going to make things 10 times worse. You
13 say 24 vehicles, and like everybody said, 24
14 vehicles is what he's figuring is going to be there.
15 You turn around, you got to take all the support
16 staff and everything else. You've got a cook who's
17 going to need a parking spot. The waiters,
18 waitresses, they're not all going to get dropped
19 off, and I haven't seen an apartment now where
20 there's two people living in an apartment only got
21 one car. We all know that. And there's nobody
22 who's going to walk up to that place. When it was
23 in operation as Burdak's Tavern, you'd be lucky if
24 there was three or four people in there.

25 That's about all I've got to say.

1 THE CHAIRWOMAN: Thank you.

2 MR. STAHL: Thank you. Amy.

3 MS. RUSSO: Number 69 -- 63 -- I'm
4 sorry. Student. Susan Cook.

5 MR. STAHL: Miss Cook.

6 MS. COOK: Yes, I'm here.

7 MR. STAHL: All right, Miss Cook.

8

9 S U S A N C O O K, sworn.

10 MR. STAHL: Okay. What is your full
11 name? Spell your last name and where you live.

12 MS. COOK: Susan Cook, C-o-o-k. I live
13 at 533 Center Street, directly across the street. I
14 definitely oppose this proposal, also. The parking
15 will be a nightmare. The stop sign right there,
16 people run this stop sign. There's been many
17 accidents here. The bar across the street, they
18 park in private driveways. They leave garbage, you
19 know. It's just -- I really oppose this because of
20 the parking, the shoveling with the snow. It's just
21 absolutely absurd for this proposal. I'm sorry, but
22 this is what I have to say. But thank you.

23 THE CHAIRWOMAN: Thank you.

24 MR. STAHL: Next.

25 MS. RUSSO: Susan McCauley.

1 MR. STAHL: Miss McCauley. Susan. Miss
2 McCauley are you there. Susan. Suzanne rather.

3 MS. RUSSO: Thomas Parsons.

4 MR. PARSONS: Yes, I am here.

5 MR. STAHL: All right, Mr. Parsons.

6 That's P-a-r-s-o-n-s; is that correct?

7 MR. PARSONS: Yes, sir, Mr. Stahl.

8 MR. STAHL: Thank you, sir.

9

10 T H O M A S P A R S O N S, sworn.

11 MR. STAHL: And where do you reside,
12 sir?

13 MR. PARSONS: Three twenty-one Cedar
14 Street.

15 MR. STAHL: All right, the floor is
16 yours, sir.

17 MR. PARSONS: I just wanted to express
18 my sentiments the same as Mr. Kales, Mr. Surman, and
19 everybody else who's been on this call, my neighbors
20 especially. The parking is very terrible. With the
21 two recent storms we just had and the patrons going
22 over to Buddy's Tavern -- or it's not Buddy's --
23 sorry -- Danny Boys, the other times people have
24 turned the corner, almost clipped cars that are
25 parked illegally because of the snow or they're

1 parked in front of residential houses, blocking
2 parking spots for my neighbors.

3 I'm just opposed against this plan. It
4 doesn't really belong up here in a residential
5 neighborhood. This is more something to attract
6 attention to our downtown Broadway and Main Street
7 area. And it's all I really need to say.

8 MR. STAHL: Thank you.

9 THE CHAIRWOMAN: Thank you.

10 MR. STAHL: Amy.

11 MS. RUSSO: User was with Mr. Gent so
12 it's Vons 408 at AOL.

13 MR. STAHL: Ron?

14 MS. RUSSO: Vons.

15 MR. STAHL: Okay, I saw that one, yes.
16 Von. Hold it.

17 MS. RUSSO: Caller 00. Hello.

18 MR. STAHL: Why don't we just see if
19 there's anyone left that wants to speak.

20 THE CHAIRWOMAN: Did John ever get --

21 MR. EBER: Hello, I'd like to speak.

22 MR. STAHL: And who is that, sir?

23 MR. EBERLE: Michael Eber, E-b-e-r, 328
24 Cedar Street, South Amboy.

25

1 M I C H A E L E B E R, sworn.

2 MR. STAHL: Thank you, sir. The floor
3 is yours, sir.

4 MR. EBER: I disagree with this project.
5 I've lived on this street for 29 years, and I see
6 how the traffic is getting worse and everything. I
7 mean, it was never a restaurant before. They said
8 it was a bar (audio disruption) 50's, but I just
9 totally agree about all the apartments and
10 everything, and putting a deck on that property,
11 you're taking up the whole property. There's no
12 property left as it is. And I just totally
13 disagree, and I agree with everything that Mr. Dave
14 Kales said on all his reasons that he brought before
15 you. Thank you very much for your time.

16 MR. STAHL: Thank you.

17 MS. RUSSO: The rest are callers so if
18 they would like to unmute themselves because I can't
19 -- I don't know their numbers. Like, it just gives
20 me a number.

21 MR. STAHL: Does anyone else want to be
22 heard?

23 UNKNOWN SPEAKER: Can you hear me?

24 MR. STAHL: Okay, we got one. Who is
25 that, sir.

1 MR. RICHIUSA: Are you speaking to me?

2 MR. STAHL: Yes, sir, you. Your name,
3 sir.

4 MR. RICHIUSA: My name is Frank
5 Richiusa. I live at 367 George Street, South Amboy,
6 and I oppose.

7 MR. STAHL: Let me -- I hear you. Spell
8 your last name, please.

9 MR. RICHIUSA: R-i-c-h-i-u-s-a.

10 MR. STAHL: All right, and you reside at
11 -- where is your address, sir?

12 MR. RICHIUSA: Three six seven George
13 Street.

14 MR. STAHL: Thank you.

15

16 F R A N K R I C H I U S A, sworn.

17 MR. RICHIUSA: Now, I'm just opposing
18 this for the residents over in that area because my
19 experience of 20 years living across the street from
20 the Shamrock Tavern. The parking is horrendous.
21 You can't even go out for a coffee and come back.
22 You have to park blocks away. And this bar is the
23 same size or maybe even smaller than that bar. So
24 the parking is terrible, so when they keep talking
25 about parking, they got their facts wrong. That's

1 all I have to say.

2 MR. STAHL: Thank you, sir. Anyone else
3 want to be heard? Anybody just -- indicate your
4 name. Anybody else? Unmute yourself.

5 THE CHAIRWOMAN: Amy, I know John wants
6 to talk, but he just want get your audio, right,
7 John?

8 MS. RUSSO: I can't unmute him.

9 THE CHAIRWOMAN: He doesn't look like
10 he's muted.

11 MR. STAHL: John, can you call in?

12 THE CHAIRWOMAN: John, can you hang up
13 and call in.

14 MR. VALETUTTO: He might not have the
15 numbers. Give it to him verbally.

16 THE CHAIRWOMAN: Our apologies for the
17 technical issues. I'm not sure whose end it might
18 be on, but -- anyone else have anything they'd like
19 to say?

20 MR. STAHL: We don't want to cut anyone
21 off so if anyone got anything to say, please just
22 quietly say your name and you'll be recognized.
23 Anybody want to be heard? Anybody. Unmute yourself
24 and just say, you know, identify your name and we'll
25 take care of you.

1 MR. KALES: This is Dave Kales. I just
2 sent John a number to call in. Maybe he can call
3 from there.

4 MR. STAHL: Okay. Thank you.

5 MS. RUSSO: Thank you, Dave.

6 MR. STAHL: Who is R? R and J keep
7 popping up. Joe and Reaat, R-e-a-a-t, either of you
8 want to be heard? Mr. Reaat. Joe.

9 MS. RUSSO: Reaat is one of the
10 professionals.

11 MR. STAHL: No it isn't. He -- that's
12 Mr. Rea? Okay. If you say so. We're just waiting
13 for Fedorka, right? He's reading something. He's
14 on the telephone. Getting closer. Unidentified
15 caller has arrived.

16 MR. FEDORKA: That's me.

17 MR. STAHL: John.

18 MR. FEDORKA: Yes.

19 MR. STAHL: All right, John.

20 F-e-d-o-r-k-a, John. Were you do you live, John?

21 MR. FEDORKA: I live at 333 Cedar Street
22 in South Amboy here.

23 MR. STAHL: We understand that.

24

25 J O H N L E O F E D O R K A, sworn.

1 MR. STAHL: All right. Well, you have
2 the floor, sir.

3 MR. FEDORKA: Okay. I moved into my
4 house in 1985 on Cedar Street here, okay. Burdak's
5 has never had anything in that hall since I've lived
6 here, and the only thing that they ever had in there
7 was maybe five or six customers that used to walk up
8 there or park right around the building. There was
9 never any kind of business or any kind of large
10 gatherings or anything.

11 All right, let me try and shut my
12 computer down here so I stop getting the feedback.
13 There we go.

14 One of the things else that was not
15 addressed, all right, and has been temporarily or
16 little bit was staffing. Any kind of staffing that
17 you have there is going to need parking, all right.
18 The parking situation around here is absolutely
19 atrocious. There is no way. I implore this board
20 to please -- I commend Mr. Behar in attempting to
21 renovate the building and to put something nice in
22 the neighborhood, all right; however, that's not
23 going to work. It's just not going to work, and I
24 implore this board to please reject this proposal.
25 That's about all I have.

1 THE CHAIRWOMAN: Thank you, John. Glad
2 we got you.

3 MR. STAHL: Anybody else?

4 THE CHAIRWOMAN: Okay. With that, I'll
5 ask for one last call. Anyone else from the public,
6 or I will close this session to the public. Okay.
7 Can I have a motion to close to the public.

8 MR. NUNEZ: Hello.

9 A BOARD MEMBER: Motion.

10 MR. NUNEZ: Hello.

11 THE CHAIRWOMAN: Who is --

12 MR. STAHL: Who is this?

13 MR. NUNEZ: Ely Nunez.

14 MR. STAHL: Okay. Mr. Nunez, N-u-n-e-z?
15 Where do you reside?

16 MR. NUNEZ: Correct. I live right
17 across the street on 300 Cedar Street.

18

19 E L Y N U N E Z, sworn.

20 MR. STAHL: Right. Go right ahead, sir.

21 MR. NUNEZ: I have met Mr. Behar, and I
22 can tell you that he's a true gentleman. I
23 appreciate that he's trying to, you know, the
24 property been vacant pretty much for a really long
25 time, but everybody's concern in the whole

1 neighborhood is pretty much parking. You know, we
2 already have a tavern in the neighborhood. When we
3 come home from work in the afternoons, you know,
4 parking is pretty much no parking for us. Like I
5 said, I live right across the street, and a lot of
6 times I come home and I find no parking. Some of
7 the customers from the nearby pub parks in my
8 driveway. So I feel that it's just going to congest
9 the neighborhood even more.

10 THE CHAIRWOMAN: Thank you.

11 MR. STAHL: Anybody else?

12 THE CHAIRWOMAN: Okay. With that, do I
13 have a motion to close to the public?

14 MR. BARANOWSKI: Motion.

15 THE CHAIRWOMAN: Who is that?

16 MR. BARANOWSKI: George Baranowski.

17 THE CHAIRWOMAN: Thank you. Second.

18 MR. KOMINKIEWICZ: Kominkiewicz, second.

19 THE CHAIRWOMAN: Thank you, Scott. At
20 this time we'll close to the public session. Mr.
21 Pape, you said you have some closing words.

22 MR. PAPE: Yes, Madam Chairwoman.

23 MR. STAHL: You're on, Ken.

24 MR. PAPE: Am I on?

25 MR. STAHL: Yes.

1 MR. PAPE: Madam Chair, members of the
2 board, Mr. Behar purchased this property with a goal
3 of revitalizing it, with the goal of making it
4 attractive and important, an important part of the
5 community. The building is not an attractive
6 building. It's not an asset to the community. The
7 building has two residential apartments, and it has
8 a legal -- it has a history of having a
9 shot-and-a-bar beer -- shot-and-a-beer bar -- sorry
10 for the 11 o'clock hour -- and it has a history of
11 having a catering hall. Physically there's 5,000
12 plus square feet of space in this building that's
13 only history has been commercial uses. That is not
14 disputed.

15 There's been a discussion about
16 abandonment. Abandonment in a redevelopment
17 ordinance is not the law that's applicable. In the
18 State of New Jersey, abandonment has been revisited
19 and interpreted by the courts repeatedly.
20 Abandonment requires an affirmative action of the
21 property owner that is -- that demonstrates
22 abandonment. Mr. Behar has, since he's owned this
23 property, renewed the liquor license and kept it as
24 an active liquor license. That's not abandonment,
25 and as Mr. Behar stated earlier, the liquor license

1 is for the commercial portion of the building.

2 What Mr. Behar is offering is to reduce
3 the commercial area of the building. The reduction
4 is from 5,000 plus square feet to approximately
5 2,000 square feet. He's proposing to have a use
6 that is consistent by definition with a use that has
7 been legally sited at this property. The two
8 apartments are there. The two apartments have no
9 parking, but the six apartments that he is
10 suggesting will have parking for each and everyone
11 of the apartments. It is a very fair analysis and
12 fair request for this board to consider that six
13 apartments with seven parking stalls places a lesser
14 burden on the streets than two apartments with no
15 parking stalls.

16 The comments about the fact that
17 Mr. Behar has not opened the business does not in
18 any way refute the statement that there is a liquor
19 license there and those businesses have been sited
20 there. His offer to reduce them is a substantial
21 offer.

22 The building -- I think Christine took
23 some care in her statements to the board. There is
24 considerable improvement to the appearance of the
25 building. There is considerable recognition of both

1 the state purposes of zoning and the master plan of
2 the City of South Amboy. The goals of the City of
3 South Amboy to revitalize neighborhoods, to bring
4 new investment into the neighborhoods, is all met by
5 the offer that's made.

6 There's no denying that in the City of
7 South Amboy there's a parking issue, but there's
8 also no denying that what we're offering to the city
9 is not going to increase that issue.

10
11
12 (The following proceedings were
13 conducted outside the presence of the court
14 reporter due to technical difficulties from
15 11 o'clock p.m. to 11:30 p.m.)

16
17
18 MR. PAPE: The benefits of this are that
19 the tired building that is there is going to be
20 revitalized and repurposed, and the parking demand
21 that is created on the community is not going to
22 change. In fact, with all of the residential units
23 having parking available to them on site, it's a
24 fair statement to say that it could be improved.

25 For all the reasons placed before the

1 board by the applicant and the applicant's
2 professionals, we ask that you consider the relief
3 as been presented -- the relief request presented to
4 you favorably. Thank you.

5 THE CHAIRWOMAN: Thank you, Mr. Pape,
6 and I'd like to thank all of your experts for their
7 testimony this evening.

8 At this point, we can move to a vote.
9 Do I have a -- keep me honest, Mr. Stahl. Do I have
10 a motion to approve application 411-20 for 536
11 Center Street?

12 MR. KOMINKIEWICZ: Mary, would it be
13 proper for us to ask any last comments or questions
14 from board members?

15 THE CHAIRWOMAN: Yes, certainly. Any
16 comments or questions from board members?

17 MR. KOMINKIEWICZ: If I may. I think
18 Miss Cofone was very convincing in stating that
19 the -- the street level or the curb appeal of this
20 building is significant, and I think it's very well
21 needed in the community, and I think we -- the
22 community would benefit by such an upgrade of the
23 structure.

24 And I also have no issue with a mixed
25 use building, okay. Seems some people are against

1 that and some people don't seem to be bothered by
2 it. I mean, a mixed use building I think is often a
3 very imaginative and good use of a structure.

4 Where I have issues, though, is with the
5 intensity, okay, of the expansion of the number of
6 living units, dwelling units, and also the expansion
7 of the business as maybe it has been the last
8 10 years, not only in size but the addition of
9 possibly 32 seats for a -- for a bar/bistro type
10 establishment, and also, as some people have
11 mentioned, you have to also, you know, factor in how
12 many people would need to park, not only for
13 customers, but also for employees.

14 As far as the number of units, that's
15 squeezing in quite a lot of units into such a small
16 place. My lot -- I live on Main Street -- is about
17 100 by 45, 100 by 40, and we have one unit. To take
18 a -- maybe double that, the size of this lot is
19 about twice that -- and we're talking about
20 seven units plus a 55-foot -- seat food
21 establishment. That is very, very intense, and
22 maybe a project like that would be -- would be
23 fitting in a downtown area like Broadway or another
24 Main Street business area in another city or town,
25 but I don't think it -- I just don't think it's a

1 good fit for this area.

2 THE CHAIRWOMAN: Thank you. Any other
3 comments from the board?

4 MR. GONZALES: Yes, hi, Mary, Jorge
5 Gonzales. I'd like to make a couple comments about
6 this project. I think it's a very nice project, but
7 I think it's the wrong location. I think such a
8 project belongs on a downtown, on Broadway, possibly
9 on Main Street. It is very intense for the
10 neighborhood. Proximity to the church and to the
11 school, I have a problem with that. It's -- it
12 leaves a lot to be desired from me.

13 Also, there seems to be in my opinion
14 lack of evidence that a traffic and parking studies
15 that do not impact the neighborhood has not been
16 taken into consideration here.

17 I think -- and in conclusion, I think
18 there are -- that there exists other options for
19 Mr. Behar for this particular site that will render
20 him a very nice return on his investment, and
21 perhaps he needs to look and his professionals and
22 his lawyer, Mr. Pape, need to look at other projects
23 in town that will render him a very nice return on
24 investment for that particular location there, but a
25 bar with six units impacting the neighborhood is

1 really not in my opinion favorable. The risk, the
2 negatives outweigh the benefits of it.

3 Thank you for requesting comments.

4 THE CHAIRWOMAN: Thank you. Miss
5 Hughes.

6 MS. HUGHES: Yeah, you know, I'm still
7 unclear and struggling with if the owner of this
8 building decided tomorrow to just say, okay, I'm
9 going to redo the inside and reopen it as a bar and
10 a banquet hall as is. Would they be allowed to do
11 that without coming in front of the board?

12 THE CHAIRWOMAN: Mr. Stahl.

13 MR. FORSHNER: Note that he left the
14 room so he must have gotten booted off.

15 MS. HUGHES: And that's my struggle
16 because we're here. This is Holly Hughes again.
17 We're here, you know, trying to figure out the best
18 for the neighborhood and the best for the building
19 and the residents and the city, and I'm just, you
20 know, there -- when you buy a building, there's
21 certain allowances that come with it, and if this
22 was a bar and it was a banquet hall and it still can
23 be a bar and a banquet hall, then the traffic
24 studies, the parking, all of what we're talking
25 about, isn't relevant, and maybe then the building

1 doesn't get a, you know, a reface and it stays the
2 same way it is, and all those factors, and I'm just
3 wondering, you know, do we have all the facts.

4 THE CHAIRWOMAN: Mr. Stahl. I don't
5 think he came back. Jason, would you want to take a
6 stab at that or --

7 MR. VALETUTTO: I think that's more of a
8 legal question. I mean, I can address it based on
9 what the city ordinance and the code is, but
10 apparently there's been testimony by both lawyers
11 that this is a legal matter.

12 THE CHAIRWOMAN: Okay. Thank you.

13 MR. FORSHNER: I don't technically
14 represent the board, but I certainly can weigh in on
15 this issue on the legalities of it if the board
16 would like. If that would be helpful.

17 MS. HUGHES: I would love it.

18 THE CHAIRWOMAN: I think it might help
19 Holly.

20 MS. HUGHES: I would love your opinion.

21 MR. FORSHNER: So the whole issue of
22 whether property has been abandoned, there is case
23 law that --

24 THE CHAIRWOMAN: Gary. Gary. I'm
25 sorry, Gary, could you just maybe tell us a little

1 bit about your background and your --

2 MR. FORSHNER: Sure. I've been
3 practicing Land Use Law for over 30 years now, and I
4 have numerous credentials that I don't think the
5 board wants me to bore them with going through my
6 credentials. Just suffice it to say that I
7 literally teach land use law to other attorneys as
8 well as teach a class at Monmouth University on real
9 estate law.

10 MR. PAPE: I have to interrupt to tell
11 you that we've lost our court reporter. She has
12 been booted off.

13 MR. FORSHNER: Oh, wow.

14 THE CHAIRWOMAN: She's with Jim.

15 MR. PAPE: You don't have an attorney,
16 and I don't --

17 THE CHAIRWOMAN: We are recording. We
18 are recording it, Mr. Pape, so we can probably
19 supplement if we needed to.

20 MR. FORSHNER: And you know, let me be
21 fair here, Mr. Pape. I am not the board's attorney
22 despite having that background. If you would prefer
23 to wait for Mr. Stahl to offer his opinion to the
24 board, then I certainly will defer in that regard.

25 MR. PAPE: I'd like to have --

1 MR. STAHL: Hello.

2 MS. RUSSO: Jim's on the call.

3 MR. STAHL: Stahl's on the call. What
4 happened?

5 THE CHAIRWOMAN: We had a question for
6 you that only you can answer.

7 MR. STAHL: What happened was I got
8 bumped off the whole call. I tried to get on with
9 the computer, the smart phone, and wouldn't let me.

10 THE CHAIRWOMAN: Holly, would you like
11 to -- Holly has a question for you.

12 MS. HUGHES: Jim, my question is if the
13 owner of this property today decided to scrap this
14 even fire proposal and say, you know what, I'm just
15 going to open this as a bar and a banquet hall,
16 could he do that.

17 MR. STAHL: All right. Number 1, could
18 he do it. That would be something that he would
19 have to get permission. Let me go back to square 1.
20 He could probably keep it open as a bar, as a bar,
21 okay. He can't put a kitchen in. He can't do any
22 improvements that would expand the size of it. So
23 he can continue as a bar. He could probably open as
24 a bar, but we'd have to see how long he's been
25 closed because, again, a liquor license is the --

1 I'm going to tell you, if he's been closed and not
2 serving liquor, he's violated ABC regulations
3 because if you stop serving liquor, you're supposed
4 to close, it gets rid of your liquor and give the
5 town -- the city to hold your license, but so I
6 don't think he can use a banquet hall because I
7 think that acknowledge that it's been abandoned,
8 okay, so all he has is that bar, and I think he can
9 use the bar unless the city is satisfied he's
10 abandoned it.

11 MS. HUGHES: Okay, so the concern that I
12 have is that, you know, we have an applicant who's
13 beautifying the building and trying to do, you know,
14 what he thinks is best for the building. The
15 alternative if he sold the building, someone
16 couldn't buy that and open it up as a banquet hall
17 and bar where then --

18 MR. STAHL: No, no.

19 MS. HUGHES: -- this board has no
20 purview over it.

21 MR. STAHL: I'm not so sure -- I'm not
22 so sure about this banquet hall. That place has not
23 been used as a banquet hall for I don't know how
24 many years, and I think that the position of the
25 city would be that it's been abandoned by action and

1 intent. So as far as the shot-and-beer place, I
2 think that he could use it unless we find other
3 information, but the other -- the information we
4 have is that it's been used as a bar all these
5 years.

6 There I am.

7 THE CHAIRWOMAN: Does that help, Holly?

8 MS. HUGHES: Sure.

9 THE CHAIRWOMAN: Any other questions or
10 comments from the board members?

11 MS. RUSSO: I think Janet would like to
12 speak.

13 THE CHAIRWOMAN: Janet, go right ahead.

14 MS. KERN: Janet Kern. I just want to
15 state that by beautifying the building, I think it's
16 definitely a plus to the neighborhood. I did have a
17 parking issue, has always been a problem in that
18 area. Thank you.

19 THE CHAIRWOMAN: Thank you. Any other
20 board members? Okay. Are we ready for a motion?

21 MR. PAPE: Madam Chair.

22 THE CHAIRWOMAN: Jim.

23 MR. PAPE: Madam Chair.

24 THE CHAIRWOMAN: Yes.

25 MR. PAPE: The hour is late. Comments

1 have been very substantial both from your board and
2 from the public. I believe that it would be in
3 everyone's best interest, the public, the board, and
4 Mr. Behar, if you would entertain our request that
5 you table this, carry it to your next meeting, and
6 give us an opportunity to revisit these comments
7 that we've heard from your board members and from
8 the public.

9 THE CHAIRWOMAN: Jim, I mean, we're this
10 close to a vote. I will defer to your thoughts.

11 MR. STAHL: Well, I think that this is
12 something that you would have to take a poll of the
13 board whether or not you think it's appropriate to
14 -- I inject my opinion. I was almost going to
15 suggest that because of the hour, but if these board
16 members feel they're ready to take a vote tonight,
17 then that's their decision. You may want to take
18 just a --

19 MS. HUGHES: I have a question.

20 THE CHAIRWOMAN: I would like to vote
21 tonight.

22 MS. HUGHES: I have a question first. I
23 mean, are we not voting because it's late, or are we
24 not voting because you're willing to go back to the
25 drawing board and change the proposal based on the

1 comments?

2 MR. PAPE: We would like to take all the
3 comments and figure out if we can revise the
4 building and be responsive to those comments. You
5 framed it very well earlier. We have certain rights
6 in the building now that we're offering to give
7 back. We're looking for permission to expand other
8 uses in the building. It appears that there's some
9 positive comment from the board about what our
10 offer, and there appears to be some concerns about
11 our offer. Mr. Behar is prepared to sit down with
12 his professionals to see if there is -- before you
13 take a vote on this to see if there is some
14 alternative that can be offered.

15 MR. STAHL: Let me ask you a question,
16 because I know that there are -- the public would
17 like to have this matter heard and over, number 1.
18 But, you know, that's -- the board controls it.
19 That's Mary and her board, and she'd have to make
20 that decision. If the decision comes out that
21 you're approved, then you're approved. If the board
22 comes back and says you're not approved, then, of
23 course, you also have an entitlement to come back
24 with a revised plan so long as you're not -- I mean,
25 I don't have to lecture you -- as long as we don't

1 have a res judicata issue, but I don't know in
2 fairness to the board and Jason, how much you can
3 change in 1 month. Maybe you can. I mean, there
4 are a lot of questions. But I think it's -- I
5 think, Mary, you ought to take a vote of the board,
6 you know, a yea or a nay, not a roll call, and see
7 if they want to vote tonight or they want to carry
8 it for a month. I don't think it should be on your
9 head. I think it's on the board.

10 THE CHAIRWOMAN: I'm happy to do that.
11 Amy, you want to do a roll call. So what will we
12 say, yea for tonight and nay for --

13 MR. STAHL: Excuse me. Look, we have to
14 be fair to everyone, and it's not just you who
15 should make the decision. I think the board should
16 say, A, we want to take a vote, or B, we're going to
17 carry it for a month. So I think hearing all those
18 in favor of carrying it for a month, the roll call
19 will be yes. If you don't want to carry it for a
20 month and vote today, it's a no. Have I made it
21 clear?

22 THE CHAIRWOMAN: Are we all clear on
23 that?

24 MS. HUGHES: No, I'm not clear. So if
25 we carry this and they change the proposal, then the

1 public should have the right to comment again on the
2 proposal; is that true?

3 MR. STAHL: Well, here's the thing. As
4 usual, Holly, you hit the nail on the head. The
5 case is closed tonight, okay. We have heard the
6 testimony, the public has made their comments, and
7 if it's reopened again, then we have to take further
8 testimony, and then the public has the right to
9 rehear it. You know, it's not just a question of,
10 oh, I'll send in new plans. During that -- and it's
11 a whole new -- it's a whole revised application.

12 MS. HUGHES: So the public and
13 everybody's time if we vote tonight yes, then it
14 goes through. If we vote no, then they can go back
15 to the drawing board and propose an amended plan,
16 and then it would get reviewed by the public again
17 anyway.

18 MR. STAHL: Well, as Ken knows, if the
19 board denies the relief requested, he can either
20 file an appeal with the Superior Court of New Jersey
21 on a prerogative writ, A, or he can do both, or he
22 can file a new application -- not totally new. For
23 example he can file a new application with three
24 less units, making the restaurant smaller, enough
25 that it's a significant change so he's not in

1 jeopardy and it won't be called res judicata. In
2 other words, you can't come back in with the same
3 application and try again. You have to make
4 substantial changes. So, I mean, those are Ken's
5 options.

6 My concern is I don't know what's going
7 to happen in 1 month as between he and Jason.

8 Jason, what's your thought on this? I
9 always lay it on you anyway.

10 MR. VALETUTTO: My thought is, well, Mr.
11 Pape gave his summation, and I don't recall if he
12 asked for a vote. So, I mean, it's their right if
13 they want to pull back and make another -- if they
14 want to make changes to their application, but I
15 thought that they were summarized and done, that was
16 it, that they were going for the vote. So, I mean,
17 like you said before, it's really up to the board
18 what they -- how they wish to proceed.

19 MR. STAHL: Jorge has something I think.
20 Is that you, Jorge?

21 MR. GONZALES: Yes. Hi, Jim. Thank
22 you.

23 Mary, I think we should take a vote
24 tonight, and if they want to come back with a new
25 plan, let them reapply, but I think the public and

1 the board members are prepared and should be able to
2 take a motion and vote tonight.

3 THE CHAIRWOMAN: I agree.

4 MR. STAHL: Mary, I don't like to do --
5 I think you just should ask for a show of hands or
6 something, how many board members want to vote
7 tonight. That's all. Make it real simple. How
8 many board members want to -- I see Scott, I see
9 Holly, I know --

10 MS. RUSSO: Actually, Jim, can we do a
11 roll call so this way it's all on for the court
12 reporter.

13 MR. STAHL: And I want the public -- I
14 want the public to understand, and everybody.
15 There's been no predetermination of whether it's
16 going to be a grant or a denial, so --you know,
17 that's what the board has to do. So go ahead, Amy.

18 MS. RUSSO: Chairwoman Mary Szaro.

19 THE CHAIRWOMAN: Vote tonight. I
20 couldn't keep track of yes and yeas or nays.

21 MR. STAHL: Amy will. Go ahead.

22 MS. RUSSO: Scott Kominkiewicz.

23 MR. KOMINKIEWICZ: Vote tonight.

24 MS. RUSSO: George Baranowski.

25 MR. BARANOWSKI: Vote tonight.

1 MS. RUSSO: Janet Kern.

2 MS. KERN: Vote tonight.

3 MS. RUSSO: Holly Hughes.

4 MS. HUGHES: Vote tonight.

5 MS. RUSSO: Catherine Corey.

6 MS. COREY: Vote tonight.

7 MS. RUSSO: Jorge Gonzales.

8 MR. GONZALES: Vote tonight.

9 MS. RUSSO: Gary Forshner.

10 MR. FORSHNER: I'm not eligible to vote
11 on it tonight so I'll abstain.

12 MS. RUSSO: Okay. William DeMasi.

13 MR. DeMASI: Vote tonight.

14 MS. RUSSO: Roll call complete.

15 MR. STAHL: All right. After we have --
16 Amy, do you know which seven individuals are able to
17 vote on this?

18 MS. RUSSO: Yes.

19 MR. STAHL: I think we have eight people
20 so it's the first seven, no alternate. Okay. Now,
21 I want to remind everyone that I like to -- I like
22 to have a motion to approve because that's what I've
23 been taught. In other words, motion to approve with
24 a motion and a second, and so the public
25 understands, that doesn't mean anything. It just

1 gets a motion on the table. The people who move it
2 can still vote to deny it, but I don't like to have
3 a negative vote. I want a positive vote. That's my
4 style. So someone should move to approve the
5 application without any reasons, and then somebody
6 else should second the motion, and then each of you
7 should vote yea or nay on the motion, and I would
8 like you to give some reasons for the record whether
9 you're saying yes or no. You've heard everything.
10 Remember that these are use variances. Please don't
11 get stuck on the expansion of the nonconforming use
12 issue. You're looking to see whether or not there
13 are special reasons for the grant of this variance
14 and whether the -- those special reasons recognize
15 the positive and negative criteria under the
16 Municipal Land Use Law. And that's what we have.

17 THE CHAIRWOMAN: Thank you. With that,
18 do I have a motion to approve application 411-20 for
19 536 Center Street?

20 MR. KOMINKIEWICZ: Kominkiewicz. I move
21 that we vote the approval of this project, Center
22 Street.

23 MS. HUGHES: I'll second.

24 THE CHAIRWOMAN: Well, again, Scott, as
25 Jim has indicated, your vote to approve the motion

1 doesn't mean you're saying yes, it just means to
2 move it forward.

3 MR. STAHL: Right, it's not a vote.
4 It's when you -- Robert's Rules of order, I need a
5 motion on the table, you know, to deal with it.

6 MR. KOMINKIEWICZ: Kominkiewicz, I move
7 that we move.

8 MR. STAHL: Scott moved it, and we need
9 a second.

10 MS. HUGHES: I'll second.

11 MR. STAHL: Okay, now let's have
12 discussion. I mean, you don't have to vote it. You
13 can discuss it. Well, there's a motion and a
14 second, Mary, so if you want to entertain discussion
15 without a vote, you can do that, or people can just
16 indicate their reasons for voting yes or no. I
17 mean, that's really the same thing.

18 So, Amy, call the roll.

19 MS. RUSSO: Roll call. Chairwoman Mary
20 Szaro.

21 THE CHAIRWOMAN: Thank you. I'd like to
22 say thank you, and I appreciate the efforts of the
23 applicant to improve this property. I take into
24 consideration the modifications that were made with
25 the decreased number of units and also the general

1 modifications that were made to the plan in
2 listening to not only the board but the public from
3 the prior meeting.

4 I do still have some concerns as far as
5 density. Five out of six of the units are
6 significantly below the required 1,000 square feet
7 per unit. Parking, I think we've certainly gone
8 over that. I think that is a significant concern,
9 specifically with the expansion to including a
10 restaurant, adding 20 seats for dining, adding
11 another 12 seats for the deck. I don't believe that
12 residential parking is adequate. I don't agree with
13 the seven spots because of the size. I think there
14 is a restriction to the compact cars, and there's 36
15 required spaces.

16 I take no issue with the bar. I think
17 it is existing.

18 I don't agree with the traffic analysis,
19 that this plan will reduce the unencumbered parking
20 to the residents. I also don't agree that -- the
21 opinion that these proposed changes will result in a
22 lower on-street parking requirement than the
23 existing use of the property, and I also have a
24 concern about the proposed addition of the off-site
25 handicap, which will actually decrease the

1 residential parking spaces.

2 I think this is a neighborhood with
3 mostly single- or two-family homes, a lot of family
4 activity. Improving the site would be very
5 beneficial to the neighborhood and the community
6 overall; however, I see this proposed plan as too
7 intense for this location. I don't find that the
8 purpose of the MLUL would be advanced by adding more
9 units and a restaurant, and I see a potential impact
10 likely to pose a substantial detriment to the
11 public, specifically to that neighborhood in
12 general, and it is a beautiful building, but in the
13 long run, I think this is about a lot more than curb
14 appeal, and for those reasons I vote no.

15 MS. RUSSO: Scott Kominkiewicz.

16 MR. STAHL: I'm sorry. I may have --
17 Mary, I mean, you were -- I mean, you analyzed your
18 decision. What was your vote? Did I miss the vote?

19 THE CHAIRWOMAN: No.

20 MR. STAHL: Your vote's a no. Okay.

21 MS. RUSSO: Scott Kominkiewicz.

22 MR. KOMINKIEWICZ: I vote no for reasons
23 I stated before. I echo Mary's sentiments, as well.
24 I think that visually its improvement for the
25 neighborhood, a large improvement, but the increase

1 of the space for the business and the -- definitely
2 the increased number of units for the residential
3 dwelling area are just way too intense, which
4 compounds parking, and the other things Mary said.
5 So my vote is no.

6 MS. RUSSO: Thank you, Scott. George
7 Baranowski.

8 MR. BARANOWSKI: My vote is no. I don't
9 want to be redundant in rehashing everything
10 everybody's already said with the parking. I would
11 like something done with the building, but this is
12 too intense for the area.

13 MS. RUSSO: Thank you, George. Janet
14 Kern.

15 MS. KERN: My vote is a no with the
16 reasons I stated below, and I agree with what Mary
17 had said.

18 MS. RUSSO: Holly Hughes.

19 MS. HUGHES: I just want to say for the
20 record I do think it's a beautiful building, and I
21 think the architect did a great job designing it.
22 I'm quite honestly a little torn here because I feel
23 like with an existing bar the residents are going to
24 get the same exact issues of parking if someone were
25 to come in and open it with its existing use. So

1 that being said, I just can't vote yes tonight. I
2 just -- I don't -- I think it's a little bit too
3 heavy of an ask, and I think the proposal could be
4 modified to -- to meet some of the needs that I
5 think the residents are concerned with, and, you
6 know, I do think it's a great building though, so
7 thank you for your time. I vote no.

8 MS. RUSSO: Catherine Corey.

9 MS. COREY: I am going to echo the
10 sentiments of everyone else, and again, not to be
11 redundant, I agree with everything said before, and
12 I will vote no.

13 MS. RUSSO: Thank you. Jorge Gonzales.

14 MR. GONZALES: For all the reasons that
15 I mentioned before and everything else that has been
16 previously stated, my vote is no.

17 MS. RUSSO: William --

18 MR. STAHL: No.

19 MS. RUSSO: William DeMasi doesn't vote,
20 right?

21 MR. STAHL: I think the way you do it is
22 an alternate because we have seven votes, seven nos,
23 no yeas. Just so the public would understand, this
24 was a use variance and would have required to get a
25 grant five -- a supermajority we call it in the law.

1 To get the approval would have required five
2 affirmative votes. The motion to approve, even
3 though some people don't think that's the right way
4 to frame the resolution, that is the way we do it,
5 and it has been -- it did not prevail. Okay.

6 MR. PAPE: Madam Chair.

7 THE CHAIRWOMAN: I would like to thank
8 everyone. Thank you all for your time. We will
9 move on to the next part of our meeting. That
10 concludes the application. Thank you all for your
11 time tonight.

12 MR. PAPE: Good night.

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

In the Matter of)
The Application of:)
CENTER SA, LLC)
#411-20)
536 Center Street)
Block 136, Lot 1)

CERTIFICATE

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: March 3, 2021

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