

**PRINCETON ZONING BOARD OF ADJUSTMENT**  
**Minutes of Regular Meeting**  
**Wednesday, September 18, 2013– 7:30pm**  
**Main Meeting Room**  
**400 Witherspoon Street, Princeton, NJ 08540**

**PRESENT:** Penelope Baskerville, Louisa Clayton, Michael Floyd,  
Richard Kahn, Steven Cohen, Sara Segal and Doreen  
Blanc-Rockstrom

**ALSO PRESENT:** Karen Cayci, Attorney; Derek Bridger, Zoning Officer; Jack West  
Jack West, Land Use Engineer; Lee Solow, Planning Director;  
Brian Stankus, IH Traffic Engineer; and Debra Rogers, Secretary

**ABSENT:** Barrie Royce

There were forty-one (41) members of the public present.

The meeting commenced at 7:35 p.m. with Chairman Kahn reading the Open Public Meetings Act statement.

**1. MINUTES:**

**Upon motion made** by Penelope Baskerville and seconded by Louisa Clayton, a motion was made to adopt the minutes of the August 28, 2013 as written and amended.

**ROLL CALL:**      **Aye Penelope Baskerville**  
                     **Aye Louisa Clayton**  
                     **Aye Steven Cohen**  
                     **Aye Michael Floyd**  
                     **Aye Doreen Blanc-Rockstrom**  
                     **Aye Richard Kahn**

**2. RESOLUTIONS OF MEMORIALIZATION:**

- a) **BOGY CONSTRUCTION**  
48 Dorann Avenue  
Block 7308, Lot 16, R-7  
C1/C2 – Lot Area for new house  
File No. Z13 13-054V

**Upon motion made** by Louisa Clayton and seconded by Penelope Baskerville, a motion was made to adopt the resolution of BOGY CONSTRUCTION as written and amended.

**ROLL CALL:**        **Aye   Penelope Baskerville**  
                         **Aye   Louisa Clayton**  
                         **Aye   Steven Cohen**  
                         **Aye   Michael Floyd**  
                         **Aye   Richard Kahn**

- b) STENGLE, SYLVIA**  
42 Markham Road  
Block 53.06, Lot 57, R-3  
C1/C2 – Setback s and Coverage for shed, generator and replacement of ac condenser  
File No. Z13 13-075V

**Upon motion made** by Steven Cohen and seconded by Penelope Baskerville, a motion was made to adopt the resolution of SYLVIA STENGLE as written and amended.

**ROLL CALL:**        **Aye   Penelope Baskerville**  
                         **Aye   Louisa Clayton**  
                         **Aye   Steven Cohen**  
                         **Aye   Michael Floyd**  
                         **Aye   Richard Kahn**

- c) MRM Construction**  
15 Marion Road West  
Block 4704, Lot 3, R-5  
C1 – Lot Area for a new house  
File No. Z13-13081V

**Upon motion made** by Penelope Baskerville and seconded by Louisa Clayton, a motion was made to adopt the resolution of MRM CONSTRUCTION as written and amended.

**ROLL CALL:**        **Aye   Penelope Baskerville**  
                         **Aye   Louisa Clayton**  
                         **Aye   Steven Cohen**  
                         **Aye   Michael Floyd**  
                         **Aye   Richard Kahn**

Member Cohen recused himself from hearing the 255 Nassau application and left the meeting.

Chairman Royce was not in attendance as he also recused himself from hearing the 255 Nassau application.

Member Blanc-Rockstrom was appointed to hear the application.

**3. APPLICATION:**

**a) 255-257 NASSAU/ROI RENOVATIONS AND DEVELOPMENT**

255 Nassau Street

Block 48.01, Lots 7 & 8, SB Zone

Preliminary/Final Major Site Plan with Use Variance and various bulk variances

File No. Z13 13-029PUV

**PLEASE SEE THE ATTACHED TRANSCRIPTS AS THEY WILL BE USED AS  
THE OFFICIAL RECORD FOR THIS APPLICATION.**

**4. ADJOURNMENT:**

**Upon motion made** by Penelope Baskerville and seconded by Louisa Clayton, a motion was made to adjourn the meeting at 11:00 p.m.

**ROLL CALL:**

<b>Aye</b>	<b>Penelope Baskerville</b>
<b>Aye</b>	<b>Louisa Clayton</b>
<b>Aye</b>	<b>Michael Floyd</b>
<b>Aye</b>	<b>Sara Segal</b>
<b>Aye</b>	<b>Doreen Blanc-Rockstrom</b>
<b>Aye</b>	<b>Richard Kahn</b>

**Respectfully Submitted,**



**Debra Rogers, Secretary**

Date Approved: November 14, 2013

PRINCETON ZONING BOARD OF ADJUSTMENT  
REGULAR MEETING AGENDA  
WEDNESDAY, SEPTEMBER 18, 2013 7:30 P.M.  
Municipal Complex - Main Meeting Room  
400 Witherspoon Street  
Princeton, New Jersey

IN RE: :  
:  
255-257 NASSAU/ROI :  
RENOVATIONS AND :  
DEVELOPMENT, :  
:  
Applicant :  
:  
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B E F O R E:

THE PRINCETOWN TOWNSHIP PLANNING BOARD  
  
RICHARD KAHN, Chairman  
LOUISA CLAYTON, Vice-Chairwoman  
PENELOPE BASKERVILLE  
MICHAEL FLOYD  
DOREEN BLANC-ROCKSTROM  
SARA SEGAL

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

LEE O. SOLOW, PP/AICP  
DEREK BRIDGER  
JACK WEST, Land use engineer  
BRIAN STANKUS, Traffic engineer

COLIN J. DUFFY, ASSOCIATES  
Certified Court Reporters  
15 Caspar Berger Road  
Whitehouse Station, New Jersey 08889-3026  
Tel: (908) 823-0101 Fax: (908) 823-0100  
  
duffycsr@aol.com

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APPEARANCE:  
BUDD, LARNER, P.C.  
150 John F. Kennedy Parkway  
Short Hills, New Jersey 07078  
BY: JOSHUA M. MANN, ESQ.  
Attorneys for the Applicant

HERBERT, VAN NESS, CAYCI & GOODSSELL, P.C.  
22 Chambers Street  
Princeton, New Jersey 08542  
BY: KAREN L. CAYCI, ESQ.  
Attorneys for Princeton Board of Adjustment

COLIN J. DUFFY  
CERTIFIED COURT REPORTER  
LICENSE NO. XI00760

1 who want to question the witness will have the  
2 opportunity and then we'll hear from the public.  
3 Before the board begins I want to address some  
4 correspondence which I received from the applicant's  
5 attorney, Mr. Mann, and that has been distributed to  
6 the board. Mr. Mann has argued that because DOT has  
7 jurisdiction to grant access opening permits on  
8 Nassau Street that the board should not be able to  
9 hear testimony with respect to the, at least that's  
10 my understanding from the correspondence, the impact  
11 the application will have on surrounding property  
12 owners and I'm going to give Mr. Mann an opportunity  
13 to speak in case he feels I'm mischaracterizing what  
14 he's saying.

15 While I acknowledge the jurisdiction  
16 of DOT, I don't think it precludes the board from  
17 being able to hear testimony about the circulation  
18 and the impacts that are going to be had on  
19 adjoining properties within 200 feet as a result of  
20 the change in circulation on the site. I think it  
21 also assumes that the board is not in a position to  
22 weigh the testimony and determine where they are  
23 precluded by DOT.

24 In addition, although the applicant  
25 has not asked for this variance and that's one of

1 MR. KAHN: We have only one  
2 application. See if we can get through that  
3 tonight, 255-257 Nassau/ROI, 255 Nassau Street. Are  
4 we in a position to hear this.

5 MS. CAYCI: Yes. The applicant has  
6 noticed the board and we have jurisdiction to hear  
7 the application.

8 MR. KAHN: So there's quite a few  
9 people here tonight. We have a lot to get through.  
10 We hope to get through the application through the  
11 applicant's portion. We'll have some testimony from  
12 our, Mr. Solow and others. I'm sure a lot of the  
13 public would like to talk as well, sir, as such we  
14 want to be conscious of everybody's time. We'll end  
15 at 11:00 and if we cannot get through everything  
16 tonight, we'll have to determine whether we need  
17 to carry that over to our next meeting.

18 So just so everyone is aware, there's  
19 a lot of people here and hopefully we can be  
20 expeditious with the application and get through  
21 what we need to. That said, Kathy, do you want to  
22 start with in terms of documents you received?

23 MS. CAYCI: I will. As Mr. Kahn  
24 indicated, we're here to, the attorney and the  
25 attorneys in the audience representing the objectors

1 the things that I think we'll need to inquire from  
2 the applicant, see if they want to amend their  
3 application to include a variance which our planning  
4 or zoning office determined we need for a driveway  
5 opening in this case between the intersection of  
6 Pine Street and Nassau Street.

7 So my position is that the board  
8 should be allowed to hear the testimony that's  
9 offered to them, that at the time that you are ready  
10 now to deliberate we can review if it's appropriate  
11 for guidance and instructions on what you can  
12 properly consider at the time. So we'll let Mr.  
13 Mann speak, see if he disagrees with my  
14 characterization.

15 MR. KAHN: Just state your name.

16 MR. MANN: Of course. Make sure  
17 everything is working. Thank you. Josh Mann,  
18 J-o-s-h, M-a-n-n with the law firm Budd Lerner, PC.  
19 I am the attorney for the applicant. I appreciate  
20 the opportunity. I don't think that it's  
21 necessarily mischaracterization, I think we just  
22 have a disagreement in terms of what, what we  
23 believe the law is. Nassau Street is a state  
24 highway. It is therefore within the exclusive  
25 jurisdiction of the state Department of

1 Transportation. If, we understand there is an  
 2 admissible ordinance which regulates and there is a  
 3 variance and we'll amend our application to reflect  
 4 that, we understand that. However, the decision in  
 5 terms of access in and out of the property, where  
 6 the curb cuts are and whether or not we have the  
 7 right to the curb cuts is in the exclusive  
 8 jurisdiction of the Department of Transportation.  
 9 There are site circulation issues, there are traffic  
 10 counts. That is certainly well within your  
 11 jurisdiction. We're not arguing that. What we're  
 12 arguing and what we believe the appropriate standard  
 13 is is that the issue of the curb cuts themselves,  
 14 our access in and out of that street and whatever  
 15 effect it may have on Princeton University's access  
 16 to their property on lot 16 next door is beyond the  
 17 jurisdiction of the board of adjustment and that's  
 18 really the basis of what our objection is. I guess  
 19 the ruling has been made by your counsel. We'll  
 20 reserve any rights that we would have pursuant to  
 21 that, but we would go ahead with the testimony  
 22 concerning the particular variance, while reserving  
 23 all of our rights.

24 MR. KAHN: So are you looking to amend  
 25 the application to include the variance for the curb

1 cut.  
 2 MR. MANN: We would and we'll present  
 3 testimony concerning it. The decision regarding the  
 4 curb cuts, again we believe and we know is under the  
 5 exclusive jurisdiction and the determination for  
 6 that has to be made by the Department of  
 7 Transportation. However, I've done this in the past  
 8 on other applications in other towns on state  
 9 highways. We certainly are willing to listen to  
 10 input, we certainly are willing to hear what board  
 11 members and the public have to say, but at the end  
 12 of the day the decision is going to be made by the  
 13 Department of Transportation and the regulation of  
 14 that is under the Department of Transportation's  
 15 purview.

16 MS. CAYCI: Mr. Mann, one more  
 17 question on your application. I believe there's  
 18 also a side yard variance in the plan and are you  
 19 amending your application --

20 MR. MANN: We are going to amend our  
 21 application in that regard, thank you.

22 MS. CAYCI: All right.

23 MR. KAHN: Okay. For anyone in the  
 24 public that plans on speaking this evening, there's  
 25 a sign-up sheet over here so if you're interested in

1 talking at some point today, feel free to sign up,  
 2 okay. Mr. Solow, would you like to give us some  
 3 background please on this application?

4 MR. CASEY: Chairman, could I  
 5 interrupt for one second just to note my appearance  
 6 on the record. My name is Bob Casey. I'm the  
 7 attorney representing Jack Morrison who is a  
 8 neighbor across the street from this application.  
 9 He could not be here tonight so I just wanted to  
 10 have that noted for the record and I will  
 11 participate when given the opportunity.

12 MR. KAHN: Have you been before this  
 13 board before?

14 MR. CASEY: Not in six months, nine  
 15 months.

16 MR. KAHN: Thank you, Mr. Casey.  
 17 Okay.

18 MR. SOLO: Thank you. Good evening.

19  
 20 LEE O. SOLOW, being duly sworn, testified as  
 21 follows:

22 THE WITNESS: Thank you and again good  
 23 evening. What I'd like to do is a brief summary of  
 24 some of the staff issues on this application for  
 25 you. As the chair indicated originally, this is for

1 preliminary and final site plan, use variance and  
 2 bulk variance for ROI Development at 255 Nassau  
 3 Street on block 4801, lots 7 and 8. The use  
 4 variance that's being sought is under 4055D-70D 1 to  
 5 permit an office use on the ground floor of the SP  
 6 zone.

7 The SB zone, I want to give you a  
 8 little background so that you can understand it, was  
 9 modified at the end of 2012 to exclude offices on  
 10 the first floor and that's found in section 17A-321  
 11 of the SB zone and the former borough land use code.  
 12 The SB zone was modified in response to concerns by  
 13 both neighbors and property owners regarding future  
 14 development in the SB zone. The SB zone is on the,  
 15 I guess it would be the considered the south side of  
 16 Nassau Street and it runs from Home to just about  
 17 Murry Place to help get you oriented on where that  
 18 is and the intent of the ordinance amendment was to  
 19 put in place zoning which would encourage the  
 20 redevelopment of the SB zone with lively uses such  
 21 as retail, restaurants, studios, personal services  
 22 and businesses. Borough counsel also hoped to  
 23 create a more pedestrian friendly area providing for  
 24 a mixed use development and encourage through an FAR  
 25 bonus the creation of public spaces.

10

1 One of the compromises that was struck  
 2 with the borough council when we undertook this  
 3 amendment was to provide and permit banks on the  
 4 first floor and if you look at the ordinance you'll  
 5 notice that there are eight restrictions that were  
 6 placed on banks as part of that amendment. Two of  
 7 those are worth noting. The first which is what the  
 8 use variance is for, restricted offices, it limited  
 9 the first floor to banks being no more than 4,500  
 10 square feet and then it had to be, the remaining  
 11 space needed to be something else and it also  
 12 required that the upper floors be residential uses.  
 13 Again they wanted it to be a lively and pedestrian  
 14 type area and they thought by requiring residences,  
 15 that would be one way to ensure if it didn't have  
 16 all retail.

17 What I'd like to do now is briefly  
 18 talk a little bit about the site and what's being  
 19 proposed. If there are questions at the end about  
 20 the use variance or the zoning please feel free to  
 21 ask. What I have is this is sheet 3 in your packet.  
 22 It's the site plan that was submitted. I've labeled  
 23 it as I guess Z 1 for tonight's purposes.

24 The subject lot, and that's shown in a  
 25 dashed line, is 37,500 square feet in area. There's

11

1 an existing building on it that is 15,800 square  
 2 feet. Surrounding uses are, to the north on the  
 3 other side of Nassau Street are primarily retail and  
 4 office use. To the east of the site are a mix of  
 5 uses including gas stations, residences, other  
 6 office buildings and other mixed uses. The current  
 7 building right next to it is currently mostly  
 8 vacant.

9 To the west at the bottom of the map  
 10 are a variety of mixed use buildings, offices,  
 11 retail and some apartments up above. To the south,  
 12 which would be over here at the rear of the property  
 13 it's Princeton University. Those of you who are  
 14 familiar with the university, that's the equine area  
 15 that's to the south behind it.

16 The applicant is proposing to renovate  
 17 a portion of existing building and construct a new  
 18 building to the rear. The total new building will  
 19 be approximately 30,000 square feet. I've  
 20 highlighted in tan the existing building.

21 The first floor of the building will  
 22 be approximately 11,000 square feet, will contain a  
 23 bank of 4,500 square feet and offices of about 5,500  
 24 square feet with the remainder of the space on the  
 25 first floor being made up of the entry to the

12

1 apartments above, residences up above and some  
 2 storage area. The second floor is approximately  
 3 9,400 square feet. The third floor is approximately  
 4 7,000 square feet. The fourth floor is  
 5 approximately 2,800 square feet. The fourth floor  
 6 is loft space, for the units that are directly below  
 7 it. The residential component will be 16  
 8 residential units. Three of those units will be  
 9 affordable and the town will receive what's called  
 10 COAH, Council on Affordable Housing credit for those  
 11 three units, there's a 20 percent set aside for  
 12 those three units which applies.

13 In addition to the building as you can  
 14 see I've outlined again in solid black line the  
 15 access way and the parking. 57 spaces are shown on  
 16 the plan. Ten of them however are tandem. They're  
 17 located along the rear in this area here so you have  
 18 a row of ten and then ten spaces in tandem behind  
 19 them. Highlighted in yellow is where the proposed  
 20 trash enclosure will be located. There's an  
 21 elevator also that's in the rear of the building as  
 22 well as the entrance to the front. A kiosk is  
 23 shown, but not well defined, in the northwest corner  
 24 of the site that is permitted under the zoning. The  
 25 application indicates that it's more or less a place

13

1 holder for some future development that may occur  
 2 and then there are additional improvements in terms  
 3 of landscaping, lane, street furniture and a plaza  
 4 in the front of the area as well.

5 The zoning officer has identified a  
 6 number variances and I'd like to just briefly  
 7 summarize those. The first is to permit four  
 8 stories where three are permitted. The building  
 9 does comply with the height requirements in the  
 10 zone. However, the fourth floor for the lost area  
 11 is not permitted. It requires variance approval.

12 The trash enclosure that I pointed out  
 13 here in the southeast corner is set back about three  
 14 feet from the property line. 25 feet is required.  
 15 There's a side yard setback for the building located  
 16 in this general area along the west side of the  
 17 building. It's set back approximately two feet and  
 18 the ordinance requires that the setback either be  
 19 zero or ten feet. The building is proposed to have  
 20 some lights that are decorative and illuminate the  
 21 building. That requires a variance from section 17A  
 22 365D. There's also a variance which prohibits  
 23 parking or parking in the front yard, roughly here  
 24 is the front yard setback, but the two easterly  
 25 spaces encroach on that front yard setback. The

1 existing condition also has some parking I believe  
 2 in the front yard setback as well. We discussed  
 3 earlier or Mr. Casey did the variance from section  
 4 17A-390B which requires a 50 foot distance between a  
 5 parking lot entrance which would be this new curb  
 6 cut on Nassau Street and I've labeled the where Pine  
 7 Street is and so you can see approximately how close  
 8 the two are.

9 And then finally we believe that  
 10 there's a variance for the amount of parking. The  
 11 ordinance permits stacked parking but only in the  
 12 CBD zone and only in parking garages with more than  
 13 a hundred spaces. As I indicated, the applicant had  
 14 originally said they have 57 spaces. We believe  
 15 it's 47 that they're providing and that the ten, ten  
 16 spaces they should offer testimony in support of how  
 17 that will work and as part of a variance for  
 18 parking.

19 The ordinance with stacked parking  
 20 also has a specific provision in it in the CBD that  
 21 says applicants or developers are not allowed to  
 22 count the stacked parking for new development.

23 So we feel very strongly that that  
 24 should be considered a variance, something the board  
 25 may want to discuss.

1 center and some property owners said we really need  
 2 to have a bank and I think the, the applicant will  
 3 speak to this because he was at many of these  
 4 meetings, to help pay for the new development. Did  
 5 that answer your question, Mr. Kahn?

6 MR. KAHN: Yes.

7 THE WITNESS: We offered a couple of  
 8 comments in our report. Specifically regarding the  
 9 use variance, we'd like the applicant to focus on  
 10 how the variance furthers the purposes of zoning and  
 11 if there is any undue hardship that exists, whether  
 12 the variance can be granted without substantial  
 13 detriment to the public good. You need to really  
 14 focus on how does this impact the surrounding  
 15 neighborhood, surrounding property owners and the  
 16 community at large, whether the use variance will or  
 17 will not substantially impair the intent and purpose  
 18 of the zone plan. As you can tell the staff is  
 19 concerned that this is setting a precedent in a new  
 20 ordinance that said don't put offices on the first  
 21 floor and here we are nine months into the year and  
 22 we have a use variance application. And then  
 23 finally why this particular site is so suited for  
 24 the use, and those are pretty much the standard use  
 25 variance requirements and criteria that they would

1 By way of staff comments --  
 2 MR. KAHN: Mr. Solow, do you want to  
 3 talk about the use variance?

4 THE WITNESS: I thought I did. The  
 5 use variance is for permitting offices on the first  
 6 floor. The ordinance specifically prohibits  
 7 offices. I think it does allow dental and medical  
 8 offices through a quirk in the ordinance, but if you  
 9 read the section on permitted uses it specifically  
 10 excludes offices and again that gets to when I was  
 11 talking about what the intent of the ordinance was  
 12 when the borough council at the end of 2012 amended  
 13 the ordinance they wanted to try to liven up this  
 14 area and there was a lot of discussion whether  
 15 office buildings do that or not with many people  
 16 saying that they really should be restaurants and  
 17 retail and the like, so the council decided, as in  
 18 the CBD, to not permit offices on the ground floor.  
 19 If it were not a bank they could have offices above  
 20 it, but because of the bank, the bank has a specific  
 21 exclusion as well, then it all has to be residential  
 22 above.

23 So this ordinance truly was a  
 24 compromise between neighbors who wanted to see the  
 25 area developed with more lively users as a retail

1 have to address anyhow.

2 We note in our report that much of the  
 3 written testimony in the applicant's application  
 4 focuses on the use variance and the NJ DOT access  
 5 permit requirements. I'm anticipating you'll hear  
 6 probably more than you're going to want to hear on  
 7 that, but it's our understanding, and I'll refer to  
 8 Jack West, the land use engineer, that that code  
 9 limits the site to about 110 trip threshold at any  
 10 time and any combination of uses and it complies  
 11 with the proposal that they have tonight. There are  
 12 probably some other scenarios that would also comply  
 13 as well.

14 We also recently found out that the NJ  
 15 DOT may require that the adjoining property owners,  
 16 this lot 16 as well as the lot to the east of that,  
 17 may have to reapply for their access permit. There  
 18 is a condition in the access permits that says if  
 19 there's a new curb cut on these lots, the existing  
 20 access permit may expire and they'll have to  
 21 reapply. I'm not certain what impact that may have  
 22 on the adjoining property owners as well.

23 DOT, with regard to the site itself,  
 24 again just to reiterate, the staff is very concerned  
 25 of what if any precedent may be set for the stack

1 parking as a bulk variance and in terms of the  
 2 layout of the site. If the board approves the stack  
 3 parking concept, we would suggest that you put in a  
 4 number of conditions that would ensure, as the  
 5 applicant has indicated, to make it work, could  
 6 either be the same tenants or assigned to tenants in  
 7 the residential component or if they're either  
 8 assigned to the bank or whatever the office use may  
 9 be so that they can control without blocking one in  
 10 and having a way to get in and out.

11 We've also asked that the applicant  
 12 address the board's traffic consultants, comments on  
 13 vehicular circulation, truck access, parking,  
 14 traffic generation and the trash data. Brian  
 15 Stankus, the board's traffic engineer is here. He's  
 16 in a spot where you won't be able to, usually you  
 17 can see him, there are questions for him on his  
 18 report and Brian will go into more detail on that.

19 Staff also had concerns regarding how  
 20 loading will occur in this area. If you know the  
 21 area, you know that when there's loading for any of  
 22 the uses along Nassau Street on either side it gets  
 23 a little tight. We are concerned that trucks will  
 24 not come into the parking lot. It's a little hard  
 25 and Brian may even talk a little bit about that, to

1 swing in and be able to turn around and do that. We  
 2 are concerned that they're going to end up trying to  
 3 load from Nassau Street and that's going to be a  
 4 problem.

5 We've asked that they consider  
 6 lowering the lights in the rear portion of the  
 7 parking lot. They're proposed to be 20 foot high.  
 8 We suggested they lower it to 12 feet for the reason  
 9 that to the east is Murry Place, there are a number  
 10 of residences, during the rezoning they expressed  
 11 concern regarding light pollution and that would be  
 12 one thing that would help is lowering the lights.

13 We asked that they agree to comply  
 14 with all fire official comments, they're in the  
 15 zoning report, and then the engineer has had a  
 16 number of technical comments he would like to  
 17 address.

18 Before I take questions, Jack or  
 19 Derek, did you want to add anything or maybe Brian  
 20 did?

21 MS. CAYCI: I'll swear you in.

22  
 23 JACK WEST, being duly sworn, testified as follows:

24 MR. WEST: I believe we did cover  
 25 everything. You have a copy of our memo. The

1 applicant, actually reviewed that with the  
 2 applicant. They've agreed to all of those  
 3 conditions with the exception of one or two that  
 4 they'll discuss that their testimony. One thing  
 5 that, you know, staff was concerned the site is a  
 6 little awkward to get in and out of. The applicant  
 7 again will provide testimony showing that a truck  
 8 can get in and out of the site. That's been a  
 9 concern. One concern we had was the original  
 10 application proposed to relocate the existing  
 11 crosswalk on Nassau Street which is currently on the  
 12 east side of Pine Street coming across. In  
 13 discussions with the applicant we've asked them not  
 14 to relocate it and they've agreed to that. So it  
 15 will stay in its current location which saves those  
 16 two parking stalls in front and makes things a  
 17 little bit cleaner. So they are going leave that  
 18 crosswalk where it is. I think Lee covered just  
 19 about everything else. I don't know, but I'd be  
 20 glad to answer any questions you might have. Thank  
 21 you.

22 THE WITNESS: Brian, do you want to  
 23 add anything or answer board questions if there are  
 24 any?  
 25

1 BRIAN STANKUS, being duly sworn, testified as  
 2 follows:

3 MR. STANKUS: Again, I think Lee did a  
 4 good job of quickly summarizing our concerns  
 5 regarding the circulation and access on the site and  
 6 I expect the applicant will provide detailed  
 7 testimony on that. I've already had a peek at one  
 8 of their illustrations.

9 THE WITNESS: I'm here to answer your  
 10 questions.

11 MR. KAHN: Are there any issues with  
 12 the location of the proposed curb cut that you saw?

13 MR. STANKUS: Any issues with the  
 14 location of the proposed curb cut?

15 MR. KAHN: Yes.

16 MR. STANKUS: To some extent obviously  
 17 the proposed curb cut is fairly close to Pine  
 18 Street. It's fairly close to the existing curb cut  
 19 and it's our understanding that due to forces  
 20 perhaps beyond the applicant's control, that  
 21 driveway is not available for their use which I'm  
 22 sure they will discuss. The proposed curb cut, if  
 23 there's going to be an access from this site to  
 24 Nassau Street, I think I reported, it's, the  
 25 location that's shown on the plan is about as good

1 as it gets so it splits the difference. It is  
2 fairly close, however, to Pine Street and to the  
3 other driveway, so that's definitely an issue that  
4 we would like to hear more about.

5 MR. KAHN: All right. Does anyone  
6 have any questions for Mr. Solow? Floyd.

7 MR. FLOYD: Yeah. Let's see. We  
8 don't have anything in our package from DOT. Have  
9 you been presented anything?

10 THE WITNESS: I'm going to refer to  
11 Jack. He's actually done some research on that.

12 MR. WEST: We did get a copy of the  
13 original permits for the existing driveway in lot  
14 16. I think I did send that to the board. As far  
15 as, they do not have a new DOT access permit yet.  
16 That has not been granted as far as I'm aware. I  
17 have had a discussion with DOT. Basically they did,  
18 you know, indicate they are going to be limited to  
19 the amount of trips so I guess we haven't seen the  
20 permit, but I have had discussions with DOT.

21 MR. FLOYD: When DOT I guess  
22 supposedly said that we couldn't have that retail  
23 use with the bank use, was that a formal written?

24 MR. WEST: No. They're not saying  
25 that. What DOT is saying is you have 110 trips.

1 unit. We haven't done in other applications so --

2 MR. FLOYD: I looked in the code.  
3 There was nothing in the code that gives guidance  
4 one way or the other.

5 THE WITNESS: You're correct. Usually  
6 we round up or down. Over 25 we would have been  
7 rounding up or asking for a financial contribution  
8 or something.

9 MR. FLOYD: That's our usual practice?

10 MR. KAHN: Any other questions. As  
11 far as the DOT is concerned so regardless, I mean  
12 the applicant's attorney believes the DOT has a  
13 right over the location of the curb cut. If this  
14 application was approved they would still have to  
15 get DOT approval and that would be one of the  
16 conditions of the approval, correct?

17 MR. WEST: That's correct.

18 MR. KAHN: Is Mr. Wolfe here? Would  
19 you like to come on up.

20  
21 WILLIAM WOLFE, being duly sworn, testified as  
22 follows:

23 THE WITNESS: I'm the chairman of the  
24 site plan review board and our job is to look at  
25 site plans and pass on recommendations to either the

1 You can do whatever you want on this site as long as  
2 you don't exceed 110 trips. What the application is  
3 proposing by a 5,000 square foot bank and 5,000  
4 square feet of, if they were to go retail, then by  
5 DOT standards they would exceed that 110 trips. So  
6 to put the amount of square footage that the  
7 applicant wants to have, they're correct, you can't  
8 have the retail. But DOT is not saying you're not  
9 allowed to have retail. They strictly limiting the  
10 number of trips.

11 MR. FLOYD: From your experience is  
12 there an appeal process with DOT?

13 MR. WEST: Not that I'm aware of, but  
14 I don't know either way if there is or there isn't.  
15 I've never dealt with that.

16 MR. FLOYD: And one more question on  
17 affordable housing. There's a total of 16 units and  
18 I think three are proposed as affordable housing  
19 which comes out to 18.7, not 20 percent. I've never  
20 asked those this question, but what do we do in  
21 this --

22 MR. KAHN: It would be 3.2 units if it  
23 was 20 percent.

24 MR. FLOYD: Yeah. I mean do you --

25 THE WITNESS: We take the fractional

1 planning board or the zoning board. In this case  
2 you have our report. It has 14 specific  
3 recommendations, but what I wanted to address  
4 tonight is what our group felt was the alpha number.  
5 From a site plan standpoint it seemed a bad idea to  
6 just look at this lot as an isolated lot and not  
7 look across the lot line to the driveway which is  
8 university property and across that lot line to the  
9 adjoining commercial property which uses that  
10 driveway for access to its parking stalls directly.

11 This drive, this lot in its existing  
12 condition has an additional driveway with a single  
13 paved parking and access to the university owned  
14 driveway and curb cut. We were unable to pursue  
15 with the applicant any more flexible arrangement  
16 than what they're proposing because they indicated  
17 to us that they were unable to come to any  
18 arrangement with the university for use of that  
19 driveway and I wanted to make this clear because if  
20 the existing driveway and curb cut were used, there  
21 would be no need to change the use away from retail  
22 to office and the borough council very specifically  
23 changed the ordinance to encourage retail use, a  
24 mixed use with residential as well.

25 In our meeting we learned that the

1 university owned the adjacent property that we  
2 thought was the driveway and we had no choice but to  
3 listen to the applicant's description and they  
4 described to us a catch 22 where they couldn't use  
5 that driveway, therefore they needed new curb cut,  
6 therefore they were under the regulations of the DOT  
7 who restricted use of that curb cut, blah, blah, and  
8 they found they couldn't do anything but this  
9 particular arrangement.

10 So we asked that before you met, that  
11 the university will be prepared to comment on this  
12 and I believe the university has a representative  
13 here tonight to participate in a discussion on that.  
14 That's the best we could do in the interest of  
15 potentially a better site plan. Thank you.

16 MR. KAHN: Anybody have any questions  
17 for Mr. Wolfe.

18 MR. FLOYD: Mr. Wolfe, on the  
19 memorandum or at least the SPRAB memorandum, number  
20 2 at the top of page 2, just want to make sure I  
21 understand. If they had the curb cut that's proven  
22 to be necessary, SPRAB recommends that the zoning  
23 board approve all other variances meaning stacking,  
24 you know, tandem. Is that what you meant to say?  
25

THE WITNESS: As it was presented to

1 MR. FLOYD: So failure to reach  
2 agreement should not be justification for changing  
3 the master plan intent. Are you saying zoning  
4 because it seems to conflict with what you just said  
5 on the other part of the site?

6 THE WITNESS: I believe the zoning is  
7 intended as an embodiment of the master plan.

8 MR. FLOYD: And the use variance for a  
9 nine month old zoning revision, you know, is, says  
10 it shouldn't be office on the first floor so I see  
11 the contradiction.

12 THE WITNESS: That's right.

13 MR. FLOYD: Okay.

14 MR. KAHN: Well, you're saying that in  
15 the beginning it says approve everything if we  
16 can't, if we approve the curb cut approve  
17 everything. The other side it says don't approve  
18 anything.

19 MR. FLOYD: That's somewhat, not by my  
20 words on the second part, but it's not to be  
21 justification for changing the master plan intent.  
22 That seems directly opposite to the earlier phrase  
23 to me.

24 THE WITNESS: I agree with you.

25 MR. FLOYD: Okay.

1 our group there was no alternative and there are six  
2 variances that we were unaware of. There have since  
3 been variances that we were unaware of.

4 MR. FLOYD: All means all variances.

5 THE WITNESS: What?

6 MR. FLOYD: All means all variances.

7 THE WITNESS: We had a very small  
8 knowledge of that, but at the time that was the  
9 vote.

10 MR. FLOYD: Okay.

11 THE WITNESS: The only thing that we  
12 thought should definitely be turned down was the LED  
13 lighting of the cornices.

14 MR. FLOYD: At the bottom it's where,  
15 or the memorandum says in the opinion of Mr. Wolfe  
16 Mr. Snuty and Miss Robinson, failure to reach such  
17 agreement, I believe it's an agreement with the  
18 university, should not be justification for changing  
19 the master plan intent in order to intensify one  
20 property. Could you explain what that means?

21 THE WITNESS: I think you could  
22 simplify the phrase master plan intent to zoning  
23 because the borough council had a very clear intent  
24 in creating the zoning as it is. And that of course  
25 is --

1 MR. KAHN: Any other comments,  
2 questions? So I believe we're ready to hear the  
3 application. Any other statements.

4 MS. CAYCI: Mr. Casey, do you have any  
5 questions right now.

6 MR. CASEY: No. I just, as I said  
7 before, I'm basically an observer here and  
8 Mr. Morrison couldn't be here. I may have some  
9 questions as witnesses are presented and I will ask  
10 to be heard at that time, but right now.

11 MR. KAHN: But I guess is Mr. Casey a  
12 voice of the public and we'll be hearing from him  
13 during the public portion?

14 MS. CAYCI: Well, my view of it was  
15 that we would allow the attorneys for any adjacent  
16 owner perhaps the opportunity before the public to  
17 question witnesses and then open it up to the public  
18 for their questions.

19 MR. KAHN: Is Mr. Casey the only  
20 representative that's here?

21 MS. CAYCI: To my knowledge. If  
22 there's any other attorney here tonight they must  
23 identify themselves. We would welcome, not knowing  
24 who you are.

25 MR. BRATMAN: My name is Robert

1 Bratman and I am the owner of 259 Nassau and I'm  
2 also here as an attorney and I'm here in that  
3 capacity as well.

4 MS. CAYCI: Mr. Bratman, we'll offer  
5 you the opportunity as well since you're here in the  
6 capacity as counsel. Do you have any questions  
7 right now that you want to ask?

8 MR. BRATMAN: No, none at this time.

9 MR. KAHN: Okay. Well, would you like  
10 to begin your presentation?

11 MR. MANN: Sure. Thank you,  
12 Mr. Chairman. Again Josh Mann, J-o-s-h M-a-n-n,  
13 from Budd Lerner in Short Hills. We appreciate of  
14 the township professional's diligence in their  
15 description of the project. Before I call  
16 Mr. Murphy, our engineer, I do think there are a few  
17 things that I do want to clarify, especially  
18 considering Mr. Wolfe's testimony of how he views  
19 the world and what we're actually arguing because  
20 while I'm sure you've heard a lot of D variances  
21 through the years on this board, what we are arguing  
22 tonight, while we are going to argue particular  
23 suitability, the New Jersey Supreme Court recently  
24 changed the standard on that and we'll go into that,  
25 but we're also making an argument which is based on

1 something. There is a license between Princeton  
2 University and our tenant. It is a short-term  
3 license, revokable license agreement. The property  
4 owner, my client, we do not have access in or out of  
5 our property right now. It is akin to being  
6 landlocked. We do not have access. There is no  
7 agreement from Princeton University. We did send a  
8 letter and, Miss Cayci, if you want us to  
9 authenticate the exhibit we will do so, if you think  
10 that's appropriate, detailing two years of  
11 frustration and, you know, maybe we'll just leave it  
12 at that, two years of frustration in terms of making  
13 all out efforts to reach an agreement with the  
14 university. We were unable to do so. It happens.  
15 Sometimes we're not able to come to an agreement,  
16 but because of that we have no choice except to seek  
17 access out onto Nassau Street and that is the basis  
18 of why nine months after the ordinance was changed  
19 we're here seeking a use variance, partially with  
20 one of the justifications which is for an economic  
21 hardship, economic inutility based on hardship.

22 Putting retail uses with additional  
23 retail space is considered a shopping center by DOT  
24 standards. I'm giving you a, our traffic engineer  
25 will go into this as I believe was mentioned before

1 undue hardship or economic inutility and your  
2 planner will probably confirm, our planner will  
3 certainly confirm when we have that testimony, it is  
4 not an argument that is often brought before boards.  
5 It's not an argument that often applies, but it is  
6 in the Supreme Court case that the Medici case which  
7 is the godfather of use variance cases so to speak  
8 and I do want to take a moment at the beginning just  
9 so we understand the standard and you get a better  
10 sense of what we're discussing.

11 A mixed use building which is  
12 encouraged by the master plan must have  
13 nonresidential on the first floor and residential on  
14 all upper floors according to your ordinance. For  
15 commercial purposes this limits the first floor to  
16 be occupied by a bank, medical or dental offices or  
17 other specified retail space in the ordinance. As  
18 will be discussed at this hearing the applicant does  
19 not have permitted access to the development site  
20 and we'll be seeking to open curb cuts on Nassau  
21 Street street and by opening curb cuts on Nassau  
22 Street it triggers specific Department of  
23 Transportation regulations regarding how we are able  
24 to gain access to the site.

25 I want to absolutely clear about

1 perhaps in more detail than you want to hear, but  
2 it's necessary for the record and so you get a full  
3 understanding of what we're saying. If we had to do  
4 retail, we're only limited a 4,200 foot retail space  
5 and then we couldn't do anything else on the ground  
6 floor and it would defeat the entire project. The  
7 nonresidential space on the first floor is  
8 approximately 11,000 square feet. After the  
9 proposed bank space, which is 4,500 square feet by  
10 the way, and we'll have testimony as to that, this  
11 leaves approximately 6,500 square feet for the only  
12 other permitted office use which is medical and  
13 dental offices. Realistically we believe there's  
14 not enough market interest in that amount of space  
15 for medical and dental offices and when considered  
16 in combination with NJ DOT restrictions and the  
17 permanent access issues, the only regulations  
18 limiting the ground floor specific to retail uses  
19 and specific office space uses zones the property  
20 into economic inutility.

21 These restrictions result in an  
22 exceptional burden and limitation which is unique to  
23 this property and does not apply to other properties  
24 within the SB zone. And pursuant to the case law  
25 the fact that the property is not reasonably adapted

1 to a conforming use satisfies the requirements of  
2 special reasons through an undue hardship based on  
3 economic inutility.

4 Now that we got the legal stuff out of  
5 the way the general overview of what else we're  
6 doing in addition to the general, so I'd like to  
7 call Mr. Larry Murphy, our engineer for that.

8 MS. CAYCI: Sir, state your full name  
9 and your business address for the record.

10 THE WITNESS: Sure. My name is  
11 Lawrence Murphy. I'm a principal at Greenside  
12 Engineering Consulting located 227 Bakers Basin Road  
13 in Lawrenceville, New Jersey.

14 MS. CAYCI: Mr. --

15 A VOICE: Louder please. You're going  
16 to need to speak louder.

17 THE WITNESS: Sure.

18  
19 LAURENCE MURPHY, 227 Bakers Basin Road,  
20 Lawrenceville, New Jersey, being duly sworn,  
21 testified as follows:

22 MR. KAHN: Do you need to qualify his  
23 credentials?

24  
25 DIRECT EXAMINATION BY MR. MANN:

1 A. Correct.

2 MR. MANN: Can we mark that as exhibit  
3 A and have that handed to you.

4 MS. CAYCI: Yes.

5 MR. MANN: So we can move on as was  
6 mentioned by Mr. West before for the record, we are  
7 agreeing with most of the recommendations in all of  
8 the reports. Where there is any disagreement, we'll  
9 specifically point that out during the testimony.  
10 Figure that's the most efficient way of going  
11 through it. With your permission, Mr. Chairman.

12 MR. KAHN: That sounds fine.

13 Q. The professional has already talked  
14 about the location and the overview. If you could  
15 just give us the benefit of some of the existing  
16 conditions of the property?

17 A. Absolutely. I'd like to, if it please  
18 the board, mark an exhibit which is an aerial of the  
19 property with an overlay of the proposed site  
20 improvements on top of it. It was prepared by my  
21 office on September 17, 2013. It's entitled aerial  
22 overlay plan. I'll mark that as exhibit B.

23 MS. CAYCI: Don't you want to go A 1,  
24 A 2, A 3?

25 THE WITNESS: Sure. So this is A 1.

1 Q. Mr. Murphy, you're a licensed engineer  
2 in the State of New Jersey and your license is  
3 current. Is that correct?

4 A. Correct. That's correct.

5 Q. If you could please supply your  
6 qualifications for the board.

7 A. Sure. I've graduated Rutgers  
8 University with a Bachelor's degree in Science and  
9 have been practicing civil engineering for over 17  
10 years and for over 13 years with a focus on land  
11 development applications such as this one. I've  
12 been qualified before numerous boards for the  
13 several municipalities in New Jersey.

14 MR. KAHN: Okay.

15 MR. MANN: Qualified?

16 MR. KAHN: Qualified.

17 Q. You are fully familiar with the  
18 property and prepared the site plan. Is that  
19 correct?

20 A. That's correct.

21 Q. Why don't we do one other  
22 administrative item. Mr. Murphy, you prepared a  
23 letter dated September 18th, 2013 officially going  
24 through all the items of the SPRAB report and the  
25 township reports. Is that correct?

1 MS. CAYCI: A2.

2 Q. A 2.

3 A. Okay. Basically this is an aerial  
4 view of the site which is at the center of the site.  
5 North is pointing up. To the east you have the old  
6 video. To the south you have Princeton University.  
7 To the west you have the Prudential building and to  
8 the north you have Route 27 on Nassau Street and you  
9 have Blue Point Grill and Nassau Liquors to the  
10 north. There's a two story, 15,800 square foot  
11 building on site which sits approximately 41 feet  
12 from the front yard, from Nassau Street, zero feet  
13 along the western property line and 51.5 feet from  
14 the eastern property line and 35 feet from the  
15 southern property line. On site there's 38 parking  
16 spaces that are spread around. There's  
17 approximately nine parking spaces within the front  
18 yard and there's two noncompliant handicapped spaces  
19 also located in the front yard and a substantial  
20 amount of landscaping and site improvements are in  
21 need of rehabilitation. There's a substantial  
22 amount of pavement on site, especially in the front  
23 yard and there's, there's not really a good  
24 connection between the building and Nassau Street.  
25 There's a set of stairs and it goes through a drive

1 aisle.

2 Access to the site is gained currently

3 via the eastern driveway which Princeton University

4 owns which the property owners do not have access to

5 today and basically there's a single loaded drive

6 aisle on the eastern side of the building.

7 MR. KAHN: Excuse me. You don't have

8 access to it now but do you use it?

9 MR. MANN: A tenant uses it. The

10 property owners do not. There's a specific

11 agreement between the university and the tenant

12 which is now, there's no agreement between the

13 property owner and Princeton to utilize that lot 16.

14 MR. KAHN: Okay.

15 THE WITNESS: And there's, a parking

16 and loading occurs, occurred in the back of the

17 building when Weigner did occupy it. Is there

18 anything, any questions about existing conditions,

19 what's on the site today before I move onto proposed

20 conditions?

21 What I'll be talking from now is

22 exhibit A 3 which is a rendered version of the site

23 plan which was submitted as part of the application

24 with the landscaping overlaid on top of it. So I'll

25 mark that as exhibit A 3. And north is to the left

1 the entire site and attractive landscape design and

2 my favorite which is a rooftop terrace which is

3 approximately 40 feet by 60 feet overlooking the

4 plaza and of course, as we've discussed, the new

5 access point located, connecting to Nassau Street.

6 To get into a little more detail, the

7 building we're proposing is 30,166 square feet where

8 37,500 square feet is allowed so we're actually less

9 than what's allowed by the ordinance. It's set back

10 56 feet from Nassau Street. It's set back at one

11 location, zero foot from on the western property

12 line, 47 feet, 47 and a half feet from the eastern

13 property line and approximately 92 feet from the

14 southern property line, and as I mentioned before,

15 we're actually pulling that building 56 more feet

16 further back from the southern property line.

17 The building itself will be 43 and,

18 approximately 43.3 feet high and the ordinance

19 allows us to go up to 45 feet. So even though we're

20 proposing four stories we're doing it in less than

21 the actual height allowed by the ordinance and from

22 the exterior you won't see that fourth story. It's

23 actually resident within the roof structure and it's

24 accessed only through the third floor residential

25 units as loft space circular staircase going up and

1 of the page and this exhibit was, is entitled site

2 plan and it was prepared by my office on September

3 17, 2013.

4 The application proposes as described

5 by Lee Solow to renovate and construct a four story

6 building which will appear to, from the outside as a

7 three story building. Two commercial spaces will be

8 on the first floor. 16 residential units will be on

9 the floors above. We intend to demolish

10 approximately 56 feet of the existing building that

11 is closest to the southern property line. We also

12 intend to remove a substantial portion of the

13 pavement and parking in the front yard and create an

14 attractive plaza. That will be filled with, you

15 know, a future kiosk, benches, landscaping,

16 hopefully tables and chairs, trash receptacles and

17 attractive scoring patterns and soldier course

18 around the plaza, some bike racks.

19 The site will be served by 57 parking

20 spaces which will consist around the site, several

21 along the eastern property line and several along

22 the southern property line. There will be a loading

23 space and an exterior trash enclosure located at the

24 southeast corner of the property. The application

25 proposes safe and adequate illumination throughout

1 we're trying to take advantage of the and reutilize

2 the existing trusses in the building that's there

3 today. They're absolutely beautiful. We're going

4 to pull those off and attempt o raise those up on

5 the, you know, basically become the new roof and

6 adaptively reuse that material which is part of our

7 LEED efforts here.

8 The first floor will be approximately

9 9,900 square feet of commercial space. The other

10 1,115 square feet will be for residential access and

11 storage. The second floor will be approximately

12 9,400 square feet of residential space, eight units.

13 The third floor will be approximately 7,000 square

14 feet, also eight units, and on that third floor as I

15 mentioned before, the entire width of the front of

16 the building back 40 feet will be an outdoor terrace

17 that will be overlooking the plaza which will be a

18 nice connection to the public space. You'll be able

19 to see people, you know, that, people in the plaza

20 and then people on the outdoor terrace. So there

21 will be a very good connection between the building

22 residences and the plaza and Nassau Street. We

23 understood that that was a concern of the zoning

24 board when they adopted it so we tried to create a

25 very vital and, you know, vibrant space that would

1 engage the public.

2 Q. Mr. Murphy, could you talk about the  
3 plaza a little bit more because it's a very  
4 significant public space that our client is making  
5 an investment in. If you could go into that in a  
6 little bit more detail while you're discussing it?

7 A. Sure. What we're proposing with the  
8 plaza is essentially we're going to define the plaza  
9 with a specific type of scoring detail and running  
10 soldier course around the perimeter. It's going to  
11 have 12 benches for people to, for the public to sit  
12 and interact. It's going to have trash receptacles.  
13 They're going to be decorative, attractive. We've  
14 also allocated space for a up to 250 square foot  
15 kiosk for a future tenant to come in and occupy that  
16 space and you know, create a business and bring  
17 people into that space. The scoring pattern will be  
18 a 45 degree, basically a two by two pattern on a 45  
19 degree angle that won't be just a mass of concrete.  
20 It will be an attractive design. There will be, as  
21 I said before, a soldier course around it. There  
22 will be a decorative block wall along the west of  
23 the property line. I have some samples that I can  
24 basically just display quickly. The vision along  
25 the western property line, that's a short wall is

1 does not require loading space for this size  
2 project, but we are proposing one because we feel it  
3 will improve circulation on site, allow people as  
4 they need to use it to actually load and unload.  
5 With the anticipated uses, we don't anticipate a  
6 heavy loading demand for it as we anticipate it will  
7 be a bank, an office, residential uses. These are  
8 uses that do not have tractor-trailers, do not have  
9 heavy loading requirements that are, your typical  
10 loading for the bank or the office will be a FedEx  
11 truck or a, basically a box van that would come in  
12 and drop off packages or pick up packages. We  
13 anticipate the residents will have, you know, single  
14 basically U-haul truck that will be able to use the  
15 loading space to unload and load when they do enter  
16 and basically move into the unit and move out of the  
17 unit. We don't anticipate this is going to happen  
18 at a great frequency.

19 From an access to close out on the  
20 trash, the trash area, and I don't want to go into  
21 too much detail on it, but it's going to have  
22 enough, it's going to be, it's a size big enough to  
23 handle the trash from the office and all the  
24 residences. There's going to be a separate  
25 container for recyclables and cardboard and pursuant

1 basically --

2 Q. Is that A 4, Mr. Murphy? Sorry to  
3 interrupt.

4 A. A 4 is something similar to this, you  
5 know, along the western property line. It's a short  
6 wall, probably a foot and a half, two feet high, but  
7 just adds to the character and the quality of the  
8 plaza. I opted not to bring a slab of what the  
9 concrete will look like because it will be too heavy  
10 to present, but the soldier course running around it  
11 will be permeable pavers basically this wide running  
12 around which will allow storm water infiltration  
13 into it and provide a nice decorative appearance and  
14 basically break up the plaza and provide some visual  
15 interest.

16 Q. A 5. What about garbage and  
17 recycling?

18 A. Sure. The, there will be located, are  
19 you talking about garbage and recycling for the  
20 entire site or the plaza?

21 Q. For the entire site.

22 A. Okay. There will be trash, a trash  
23 enclosure that's approximately eight by 36 feet on  
24 the southeast corner of the property and a loading  
25 space at the same location. We are, the ordinance

1 to the request of the environmental commission we're  
2 going to make space for a compost container for the  
3 residences and for the businesses to utilize that  
4 and participate in that program and that trash  
5 enclosure is big enough.

6 Q. There's a steel frame gate that's  
7 going to be around it, right?

8 A. That's correct. One of the comments  
9 from the professionals was to place a steel frame  
10 gate rather than wood and we'll be happy to comply  
11 with that.

12 Q. The residents would just take it out  
13 to the, take it outside?

14 A. Similar to a townhouse or condominium  
15 development, they'll walk their trash out to the  
16 trash enclosure, place it in there and then that  
17 will be picked up on a regular schedule.

18 Q. What about landscape screening?

19 A. The landscaping around that will be  
20 planted approximately three to four feet high. It  
21 will be an evergreen buffer, an evergreen  
22 landscaping.

23 MS. BLANC-ROCKSTROM: Can you say  
24 where that trash will be --

25 THE WITNESS: The trash enclosure is

1 located in the southeast property line and there  
2 will be an evergreen buffer along the east property  
3 line and southern property line and also on the  
4 northern side of that trash enclosure to soften the  
5 appearance and mitigate the height of that.

6 MS. CLAYTON: And four feet?

7 THE WITNESS: Yes.

8 MR. KAHN: And pick up of trash?

9 THE WITNESS: Will be done in a  
10 northerly to southerly direction. They'll have to  
11 wheel the containers out to properly locate them to  
12 the accessible, to the actual forks of the garbage  
13 trucks.

14 MS. CLAYTON: Isn't there going to be  
15 a dumpster there? This is a lot of people, right?

16 THE WITNESS: Yes. So there's  
17 actually four containers.

18 MS. CLAYTON: Dumpsters out at the  
19 street?

20 THE WITNESS: They're going to be  
21 wheeled out, outside the enclosure into the loading  
22 space where the truck will then pick it up, dump it  
23 and then wheel out another one.

24 MS. CLAYTON: And put it back in.

25 THE WITNESS: Depending on who is

1 there for, you know, garbage dumpsters to, you know,  
2 loaders to come in, manipulate the aisle where they  
3 are, to do a K turn and come back out again. It  
4 seems very tricky, you know, to me it does.

5 THE WITNESS: This is based on AASHTO  
6 standards which are fairly conservative. When you  
7 look at how a truck is actually driven, this is  
8 actually driving at ten miles an hour with, assuming  
9 wheel basically not stopped and turning wheel as  
10 you're stopped and so it's a very conservative  
11 analysis. If you actually drive, basically operate  
12 that truck, you can go slower, make tighter turns  
13 and you actually can turn the wheel as you're  
14 stopped to actually get in and out much easier than  
15 what's shown.

16 MR. KAHN: So do you actually, I mean  
17 that just shows a pathway. Do you actually show the  
18 truck on that at all?

19 THE WITNESS: We, I show a vertical  
20 elevation of the truck.

21 MR. KAHN: We asked to see that in the  
22 plan, because they're not at the same scale  
23 obviously.

24 THE WITNESS: They're not the same  
25 scale. The gray area represents the wheels and the

1 utilized, they either can back in and go forward and  
2 do either maneuver.

3 MS. CLAYTON: But they have to turn  
4 around.

5 MS. SEGAL: Do you have a diagram that  
6 will show the extent of loading and unloading?

7 THE WITNESS: We do. Would you like  
8 us to present it now? Sure.

9 Q. Please mark that A 6, Mr. Murphy.

10 MS. CAYCI: Mr. Murphy, what is that  
11 entitled?

12 THE WITNESS: It's a truck turning  
13 plan made by my office. What it illustrates is  
14 basic. It illustrates an overlay of an SU 30 which  
15 is the size of a garbage truck or a small, a large  
16 delivery van navigating into and out of the site  
17 without crossing over into parking spaces and  
18 essentially it shows the truck coming into the site,  
19 maneuvering in and out of the trash area and then  
20 leaving the site. So it's making a left in and then  
21 a left out of the site.

22 MR. KAHN: Seems like a swiss watch.

23 THE WITNESS: In terms of?

24 MR. KAHN: Just maneuverability of the  
25 truck and you're asking for quite some precision

1 overhang of the actual truck.

2 MR. KAHN: Not sure that that diagram  
3 is the clearest diagram to represent it.

4 MR. FLOYD: Would you say it's the  
5 size of a van?

6 THE WITNESS: It's a 30 foot long  
7 truck with a wheel base of 20 feet. So it's a large  
8 vehicle. 30 feet long.

9 MS. SEGAL: Do these diagrams show the  
10 maneuver?

11 THE WITNESS: That is a non, that's a  
12 noncomputer program analysis of it so I did it two  
13 ways. I did it with hand diagrams and also with the  
14 computer program. So it's verified two different  
15 ways.

16 MS. SEGAL: If you look at the diagram  
17 it's looks very --

18 MS. CLAYTON: You're proposing that  
19 this truck will go back into the loading zone and  
20 then there's space there to roll these small  
21 dumpsters out and dump them into the truck or you're  
22 proposing the truck backing in, pulling out and how  
23 is that going to work?

24 THE WITNESS: This, if it's a, let's  
25 say it's a moving, basically a U-haul truck.

1 MS. CLAYTON: No. What I'm talking  
2 about is the diagram.

3 THE WITNESS: This is showing both  
4 scenarios where basically a truck is pulling all the  
5 way in to occupy the loading space. A garbage truck  
6 wouldn't pull all the way in. It would pull part of  
7 the way in, have some space in front of them and be  
8 able to roll out the dumpster, position it and then  
9 lift it up.

10 MR. KAHN: Front loader?

11 THE WITNESS: Can be a front loader,  
12 can be a rear loader. It depends on which truck  
13 they have and which service is used to actually pick  
14 up the garbage. Typically they're front loaders.

15 MS. CLAYTON: And the landscape screen  
16 that you're proposing, is that going to --

17 THE WITNESS: It's going to be planted  
18 at three to four feet high and it's going to grow  
19 beyond that to cover the trash enclosure.

20 MS. CLAYTON: And the enclosure, steel  
21 enclosure is how high?

22 THE WITNESS: Steel enclosure is six  
23 feet and it's masonry block that will match the  
24 color of the building. So we anticipate it's going  
25 to be an attractive, higher end trash enclosure.

1 A. F-a-h-m-i-e.

2 Q. And what is your role in the  
3 application?

4 MS. CAYCI: She has to be sworn in.

5  
6 LINDA FAHMIE, being duly sworn, testified as  
7 follows:

8 DIRECT EXAMINATION BY MR. MANN:

9 Q. Miss Fahmie, what is your role in the  
10 application?

11 A. I'm the developer. I represent the  
12 property owner's interest.

13 Q. You're aware of a letter that I sent  
14 out of my office dated September 13th, 2013 to  
15 Richard S. Goldman, Esquire, Drinker, Biddle &  
16 Reath, the attorneys for Princeton University?

17 A. Yes, I am.

18 Q. You're aware of that and in fact  
19 provided me with the exhibits to that letter?

20 A. Yes.

21 Q. And all of the exhibits are true and  
22 accurate copies of e-mails and other correspondences  
23 between either you and/or your client and Princeton  
24 University?

25 A. Absolutely.

1 It's not a chain link fence. It's not a wooden  
2 surround. It's actually a masonry trash enclosure  
3 all the way at the end.

4 MS. CLAYTON: Are you saying the bank  
5 is going to be the major customer on that first  
6 floor, that there's no car port, there's no drive up  
7 banking which would obliterate some of that space?

8 THE WITNESS: There is no, drive  
9 throughs aren't allowed in the zone and we're not  
10 proposing any drive through or drive up. This is  
11 all walk in banking.

12 MS. SEGAL: Maybe it was answered  
13 before, why did you fail to, where the, what was the  
14 problem with the university?

15 MS. CAYCI: Mr. Mann, this might be  
16 the time for you to authenticate that, one of the  
17 exhibits that might address Miss Segal's question.

18 MR. MANN: I'll swear in my client if  
19 I might.

20 MS. CAYCI: Yes.

21 MR. MANN: And I would again like to  
22 renew my objections regarding, well, I said it  
23 before. Please state your name for the record.

24 MS. FAHMIE: Linda Fahmie.

25 Q. Could you spell it?

1 MS. CAYCI: Mr. Mann, I'll leave this  
2 to you, but since the board members asked this  
3 question, I don't know if you want to produce the  
4 substance of the letter to the board.

5 MR. MANN: I think the substance of  
6 the letter is that we tried very hard to reach an  
7 agreement and we couldn't and what they offered was  
8 not permanent access but was based on a license.  
9 Again I offer this testimony in protest and reserve  
10 all of our rights. There's a big difference between  
11 permitted access and a license concerning both the  
12 value of the property as well as the ability to  
13 obtain long-term financing for the development. I  
14 suppose if we had a three plus billion dollar  
15 endowment it would be easy to get financing based on  
16 the license. For the rest of us that's just not  
17 something that is feasible in any marketplace. But  
18 the bottom line is the headline of the letter is we  
19 tried for two years and the letter outlines all of  
20 the correspondences in which there were promises to  
21 get back to us, there were promises to review this,  
22 to do this. They failed to do it. In fact our  
23 clients prepared plans based on access to lot 16.  
24 It was quite expensive to then turn around once we  
25 were denied access, to have to then redo all of the

1 plans, which is not cheap, to redo all of the plans  
2 and then come before you with a plan before the  
3 board. Any last minute attempts by the university  
4 to try to offer a license, again it's just not going  
5 to get anywhere.

6 MS. SEGAL: So they did try to  
7 offer --

8 MR. MANN: We got a letter --

9 THE WITNESS: Can I jump in here? A  
10 license is a temporary agreement. It's not  
11 long-term and so permanent access, a permanent  
12 easement is what is required to redevelop five  
13 million dollars into a new property. To have an  
14 agreement expire in a decade or two is unreasonable  
15 and that's where we could not agree to a temporary  
16 license.

17 MR. MANN: That being said, we did  
18 have plans initially based on frankly  
19 representations by the university that we would be  
20 getting the access. We ended up not getting the  
21 access. I'll leave it by describing it as they  
22 changed their mind. And then we went ahead and  
23 based on the fact that we were denied access, we  
24 went ahead and drew up the plans and prepared plans  
25 that are before you here this evening.

1 that you have stated, Mr. Chairman. In terms of the  
2 consideration and our efforts with the university I  
3 do have to again state for the record that you know  
4 we put it before you, we've put some information on  
5 the record, but we would urge you to consider the  
6 application as presented because there's just no way  
7 that we can go back and have anymore delays and  
8 continue with what we consider to be fruitless  
9 negotiations with the university.

10 MS. CLAYTON: The restriction, so  
11 there are parking spaces associated with retail that  
12 are, there are parking spaces, specifically parking  
13 spaces associated with these apartments?

14 MR. WEST: That's correct.

15 MS. CLAYTON: The reason that you're  
16 asking, so number one you --

17 MR. MANN: That's correct.

18 MS. CLAYTON: And the new curb cut is  
19 limiting the --

20 MR. KAHN: The number of entrances.

21 MS. CLAYTON: In a car?

22 MR. MANN: That's correct.

23 MS. CLAYTON: But the intent of the  
24 borough plan was to create a pedestrian zone.

25 MR. WEST: Pedestrian friendly zone.

1 MR. KAHN: So, just curious, the  
2 access now is through that drive, the west, and how  
3 long has that access been in existence.

4 THE WITNESS: The Carneales bought  
5 the property in 1985 and that's when the access,  
6 well, it was a temporary license for five years, it  
7 was extended to Davidson's Market from the  
8 university.

9 MR. KAHN: And before 1985?

10 THE WITNESS: The Carneales didn't  
11 own it so I don't --

12 MR. KAHN: So it could be 50 years or,  
13 as long as that has been there?

14 MR. MANN: I mean I would again note  
15 that the application before the board does not  
16 contain access to lot 16 and it's our contention  
17 that what is before the board and what the board has  
18 to consider is the application that is before it  
19 with the access to Nassau Street.

20 MR. KAHN: Understood, but that access  
21 actually plays a huge role in this application  
22 because if the access was there, there would be no  
23 need for the curb cut and there would be no need for  
24 the variance, we, and the retail office.

25 MR. MANN: I agree with everything

1 MS. CLAYTON: Which you think that  
2 people would be walking and we don't need so many,  
3 not everybody is going to be driving here because  
4 the idea is that this retail, the whole idea of  
5 Davidson's Market was it was a local market and we  
6 could walk there as opposed to having to drive to  
7 the shopping center. I guess, maybe this isn't part  
8 of the application, but I guess I'm just going back  
9 to what the intent of the borough was nine months  
10 ago and saying so why are we putting so much  
11 emphasis on the number of parking spaces if this is  
12 supposed to be a sort of local, pedestrian friendly  
13 zone and not everybody is supposed to be driving  
14 here in the first place?

15 MR. MANN: It's not really on the  
16 parking spaces but on the trips generated to and  
17 from the site.

18 MS. CLAYTON: But you are creating a  
19 problem for yourself with the parking spaces that  
20 you have. If you have less parking spaces there --

21 MR. MANN: We could have less parking  
22 spaces there but we're just complying with the  
23 ordinance to provide 57 spaces. We could have less  
24 parking spaces in what your ordinance would consider  
25 an under parked property and Mr. Murphy will get

1 into the purpose of the tandem spaces and how that  
2 would work in just a moment because I think that's a  
3 big concern both in the community and from staff,  
4 but the issue with the uses is driven by the DOT's,  
5 by the state regulations regarding trip generation.

6 MS. CLAYTON: I know. But that's what  
7 I'm saying.

8 MR. FLOYD: I know you said you  
9 haven't been able to get a permanent license or  
10 permanent use and I can understand the problem with  
11 that. What is the longest term that was offered to  
12 you or was on the table?

13 MR. MANN: Even beyond the term, the  
14 difference between license and easement is really  
15 what the key for us was in the negotiations, right,  
16 Linda.

17 THE WITNESS: Yeah.

18 MR. FLOYD: What was the longest term  
19 offered to you?

20 THE WITNESS: Well, it's irrelevant  
21 because it's --

22 MR. MANN: Hold it. Just answer.

23 THE WITNESS: 20 years.

24 MR. FLOYD: That's, 20 years, not  
25 irrelevant.

1 THE WITNESS: I don't mean it's  
2 irrelevant. The answer is even if they gave us 40  
3 years, when you go to sell a property it devalues  
4 that so from the standpoint of the property owners  
5 it wasn't relevant, 20, 40. My apologies.

6 MR. KAHN: Is there anyone from  
7 Princeton University that's going to be presented  
8 tonight or talk?

9 MS. CAYCI: Mr. Mann, since this is  
10 still your presentation and your application, we  
11 can't, would you care to interrupt it now?

12 MR. KAHN: My question was just was,  
13 not to present and interrupt the applicant so I  
14 don't know.

15 A VOICE: I can now or later.

16 MR. KAHN: I guess it's up to the  
17 applicant. Do they want to continue with their  
18 presentation?

19 MR. MANN: I would appreciate if we  
20 could continue with the presentation.

21 A VOICE: I'll sit down.

22 MR. MANN: Thanks.

23 MR. KAHN: Thank you.

24 MS. CAYCI: Mr. Mann, one question  
25 just in the interest of efficiency. Do you

1 anticipate presenting any other testimony about the  
2 financing issue or inability to finance with an  
3 easement versus a license?

4 MR. MANN: Considering that I believe  
5 that it's, well, that I'm under protest, I can say  
6 that we are not going to be presenting any further  
7 evidence on this issue.

8 MS. CAYCI: Okay.

9 MR. MANN: Thank you.

10 MR. KAHN: Okay. And so I guess --

11 MR. MANN: Return to Mr. Murphy if I  
12 may, Mr. Chairman.

13 MR. KAHN: Sure. Sorry for the  
14 interruption

15 MR. MANN: No. I understand.

17 CONTINUED DIRECT EXAMINATION OF MR. MURPHY BY MR.  
18 MANN

19 Q Mr. Murphy, because it was raised and  
20 I know it's a big issue both with the community and  
21 with the staff, if we could talk about the tandem  
22 parking in the rear, how that's going to work and  
23 why you believe it's appropriate at the site?

24 A. Sure. We have 57 spaces on site. 20  
25 of those spaces are tandem spaces or I'll explain it

1 in simple terms. Basically a car, it's similar to a  
2 driveway at your house that's a single wide  
3 driveway. Your wife pulls in and then the husband  
4 pulls in after her. Essentially it's for one  
5 residential unit. If the wife wants to leave, they  
6 either can move the husband's car or they can take  
7 the husband's car and back out. This is going to  
8 work very similar to that which is prevalent  
9 throughout Princeton and New Jersey. It's very  
10 prevalent throughout townhouses and condos. It's  
11 actually recognized by RSIS, residential site  
12 improvement standards. They actually envision it as  
13 a garage and a driveway and they count those as two  
14 spaces. So it's very similar to what RSIS basically  
15 envisions and recognizes it as two spaces or you may  
16 have it at your house essentially.

17 MR. KAHN: What's the zoning  
18 requirement per unit for parking?

19 THE WITNESS: One and a half.

20 MR. KAHN: So.

21 THE WITNESS: We have 16 units.

22 MR. KAHN: So I'm not sure how the one  
23 and a half is going to work with the tandem.

24 THE WITNESS: Some spaces will have,  
25 eight units will have one space and eight units will

1 have two. So basically if we have 16 spaces one and  
2 a half is required per unit, so 24 spaces. So eight  
3 of them will have two spaces at 16 and the other  
4 eight will have one at eight, so a total of 16 plus  
5 eight, 24.

6 MR. KAHN: The other two tandem  
7 spaces.

8 THE WITNESS: Will be, one will be for  
9 employees of the bank and the other will be for  
10 employees of the commercial, the office. So  
11 essentially these spaces will be marked and assigned  
12 in the lease. They'll understand which spaces  
13 they're being assigned, the bank. Also the office  
14 and each unit will be assigned, each residential  
15 unit will be assigned two spaces so they'll pull in  
16 to their space and their cohabitant in the  
17 residential uses, residential apartment will pull in  
18 behind and as they leave they can basically exit the  
19 site.

20 So as I mentioned before, all the  
21 spaces will be delineated as reserved with numbers  
22 and there will be signs up and also the area, as you  
23 turn into the tandem or assigned spaces will be  
24 delineated on the ground, so any visitors coming in,  
25 if they don't find a spot here, they actually can

1 make a maneuver, pull in, pull up and back up and  
2 then make, go in a northerly direction and either  
3 find another space or leave the site.

4 MS. CAYCI: Mr. Murphy, just to  
5 clarify, are you testifying that there are visitor  
6 spaces as well when you say everything is, all  
7 spaces are reserved and marked?

8 THE WITNESS: All the spaces in the  
9 back are reserved and marked for residences and  
10 owners. There, we anticipate that visitor tags will  
11 be handed out to certain residences as required.  
12 There are a total of 57 spaces on site. 24 of them  
13 will be for residences and four will be reserved for  
14 commercial spaces, so a total of 28 spaces which  
15 leaves 19 spaces available for either people that  
16 are coming to use the office or people that are  
17 coming to use the bank and this doesn't take, this  
18 assumes that the maximum amount of spaces are going  
19 to be utilized, but we're hoping and we anticipate  
20 that some people that live here won't have cars.  
21 Some people will choose to walk to the site and the  
22 residential use apartments typically leave at 8:00  
23 in the morning and come back at 5:00, 6:00 at night,  
24 which leaves more spaces available for the  
25 commercial and at night when the businesses are

1 closed, the bank or the office is closed, it leaves  
2 more space available for visitors, guests. So it's  
3 more of a shared parking.

4 MR. KAHN: Except that the residential  
5 is all dedicated. So whether somebody is gone, that  
6 spot is dead.

7 THE WITNESS: The tandem spaces in the  
8 back will be, you know, marked and designated. So  
9 these spaces in the back are marked and designated.  
10 So the tandem spaces will be delineated.

11 MR. KAHN: So 20 out of 57 can't be  
12 touched.

13 THE WITNESS: Correct.

14 MR. KAHN: So the other 37 are open  
15 for grabs. So whether those 20 spaces, those, all  
16 20 leave during the day, you've got 37 to use for  
17 the bank and for --

18 THE WITNESS: The office.

19 MR. KAHN: -- the remaining  
20 residential units and the office.

21 THE WITNESS: That's correct.

22 MR. KAHN: What's the number required  
23 for the office?

24 THE WITNESS: It's parking per square  
25 foot and I believe it's one space per 300 square

1 feet for the first floor. Doesn't really, the  
2 ordinance doesn't delineate between what use it is.  
3 It just delineates whether it's first floor or not.

4 MR. KAHN: Okay. 15 spaces?

5 THE WITNESS: 15.

6 MR. KAHN: 4,500 square feet?

7 THE WITNESS: 4,500 square feet. So  
8 15 spaces for the bank.

9 MR. KAHN: And the bank is?

10 THE WITNESS: And is 4,500 square feet  
11 so that's 15 spaces. The office is 5,000 square  
12 feet, so that will be --

13 MR. KAHN: They're both --

14 THE WITNESS: So 17, totalling 33  
15 spaces and the residential is 24, totalling 57.

16 MR. MANN: If there are no further  
17 questions.

18 MR. STANKUS: One question. You  
19 mentioned the idea of shared parking. Did you  
20 conduct an actual shared parking analysis to try to  
21 estimate the actual peak demand?

22 THE WITNESS: I did not. I'll defer  
23 to the traffic, our traffic engineer to identify if  
24 he has.

25 MR. STANKUS: Okay.

1 Q. In your opinion though the design of  
2 the parking spaces is the most efficient use of the  
3 property, correct?

4 A. Yes, it is. In my opinion it works  
5 fine. Tandem spaces is very common in a residential  
6 setting, residential driveways. Townhouses do it  
7 consistently. All new townhouses that are built  
8 have one car width and two cars deep and it's  
9 evidenced by RSIS.

10 Q. And in order to meet the parking  
11 requirements on the site, it might require something  
12 like getting rid of the plaza or some other, that  
13 would lower some of the benefits of, public benefits  
14 that are being offered?

15 A. Yes. We looked at several other  
16 options to place parking in other areas and the  
17 logical place was to place those parking spaces in  
18 front of the building between Nassau Street and the  
19 building, where they actually are today, we could,  
20 we can meet the parking requirement without the  
21 tandem setup, but unfortunately well lose the plaza  
22 and as a design team we felt that was a critical  
23 element to make this vital, a vibrant public space  
24 that would interact and basically contribute to the  
25 activity level on top of the, you know, rooftop

1 shade trees on the site.

2 Q. Mr. Murphy, why don't we go to the  
3 landscape plan. Might be easier for the board to  
4 see.

5 A. This is, I'm referring to A 3. So as  
6 I mentioned before, there's three new shade trees  
7 along Nassau Street. The one at the northeast  
8 corner of the property is existing. We're proposing  
9 nine shade trees along the eastern property line  
10 with an under story evergreen, you know, buffer 24  
11 to 30 inches high to provide some visual interest  
12 and some screening from the parking. We're also  
13 proposing additionally seven shade trees along  
14 behind the building and also an evergreen buffer  
15 along the western property line behind the building  
16 and the southern property behind the building and  
17 we're also proposing, you know, a fair number of  
18 shrubs within the plaza area. We anticipate some  
19 perennials will be planted and some annuals to give  
20 color, complement the building.

21 We also anticipate, not that we can  
22 see it on this plan, but there will be some  
23 landscaping, potted plants and containers on top of  
24 the roof as part of this application.

25 Q. What about irrigation for the

1 garden to the plaza, to the street. We felt that  
2 was a nice connection and, you know, basically the  
3 street to the plaza and vertically up to the rooftop  
4 garden, we felt that was too important to, you know,  
5 propose spaces in the front yard.

6 Q. And therefore to meet the intent so  
7 the best way possible of the revisions to the  
8 ordinance, correct?

9 A. In my opinion, yes.

10 MR. MANN: Unless there are any  
11 further questions on parking I'll move onto  
12 landscaping.

13 Q. Landscaping.

14 A. Sure.

15 Q. And then, yes, landscaping. Not a  
16 heck of a lot of landscaping there currently,  
17 correct, so this is a real opportunity to improve  
18 it, right?

19 A. Yes. There are several trees that are  
20 dead or dying or undersized. We're proposing to  
21 plant approximately 320 plants throughout the site  
22 consisting of an evergreen buffer along the eastern  
23 property line, three additional street trees along  
24 Nassau Street that aren't there, four trees within  
25 the, shade trees within the plaza and a total of 20

1 landscaping?

2 A. What we anticipate doing with the  
3 irrigation, based on discussions with the  
4 environmental commission we would not be proposing  
5 irrigation on site. We're proposing landscaping  
6 that doesn't require substantial irrigation, but  
7 what we'll be doing is actually drawing storm water  
8 runoff from the existing underground detention basin  
9 and using that to irrigate portions of the site. So  
10 it would be utilizing storm water on site which also  
11 achieves a LEED point.

12 Q. What about the impact of the  
13 developments on the adjacent property's landscaping?

14 A. Along the southern property line  
15 there's some existing trees beyond that property  
16 line. We don't anticipate we'll have an impact to  
17 that, to those trees. Those trees and shrubs, when  
18 we plant them, will be sensitive to where there's  
19 existing groups and existing plants. Along the  
20 eastern property line it's just asphalt so there's  
21 really no landscaping to the, and along the western  
22 property line we don't anticipate any impact.

23 Q. How about storm water and drainage?

24 A. As I mentioned before we, there's an  
25 existing underground detention basin. We're

1 actually reducing impervious surface from existing  
2 to proposed conditions, I think it's 800 square feet  
3 or so, by creating additional landscape areas. We  
4 will comply with all state and local requirements  
5 for water quality and water quantity on site and  
6 well be reutilizing the bulk of that storm water  
7 management system that's there today.

8 Q. What about signage, signs will  
9 reutilizing with the ordinance?

10 A. Yes, any building signs will comply  
11 with the ordinance.

12 Q. What about lighting?

13 A. The lighting design consists of all  
14 LED lights, full cut off dark skies compliant  
15 lights. They'll be approximately four pole mounted  
16 lights within the parking lot, one building mounted  
17 light. These lights will be approximately 20 feet  
18 high. They'll also be six additional wall mounted  
19 lights over the commercial residential doors placed  
20 around the building. This lighting design does  
21 comply with the ordinance which is a half foot  
22 candle average and a minimum of .2 foot candle  
23 within the parking area which is a significant  
24 challenge to meet, but this application was able to  
25 meet that lighting requirement.

1 of the project's waste management we're agreeing.  
2 We're also agreeing to increase the number of bike  
3 racks on site. Three, we're also agreeing to  
4 provide trash recycling and food waste containers  
5 within the plaza. We were proposing recycling  
6 containers and trash containers. They asked us to  
7 make a three compartment container and we're more  
8 than willing to do that. We'll also be happy to  
9 submit the municipal green building information  
10 statement.

11 Number 5 A, we're willing to agree to  
12 incorporate energy star standards or LEED standards  
13 into the site. 5 D, we're willing to install --

14 MR. KAHN: You're not doing the --

15 THE WITNESS: We're not doing B or C.  
16 D we're agreeing to do which is to provide Fermili  
17 broken aluminum store front window frames. E, we're  
18 also willing to provide energy star certified  
19 appliances. F, we're willing to provide the energy  
20 star rated shingles to reduce urban heat effect.  
21 We're not willing to agree to G which is requesting  
22 vestibules. We're not, we are willing to  
23 incorporate water conservation methods, measures as  
24 specified under H. I, we are willing to provide,  
25 sorry, not willing to provide the native and

1 MR. KAHN: Is the attempt that you're  
2 going to LEED certification?

3 THE WITNESS: While we aren't planning  
4 to go for LEED certification, we anticipate this  
5 project would meet, would achieve a certification  
6 level of 40 points.

7 Q. One question that had been asked that  
8 I do want to confirm on the record for Mr. Casey's  
9 client because he had asked me before, the crosswalk  
10 issue was addressed by staff but I do want us to  
11 confirm that no on street parking spaces will be  
12 lost because of this application, correct?

13 A. That's correct.

14 Q. Okay. I did want to confirm that. A  
15 few items in the city's reports that we disagree  
16 with before running before the engineer  
17 justifications for the C variances. Environmental  
18 commission made a number of suggestions, some of  
19 which we are accepting and some of which we are not.  
20 If you would run through what we are accepting with  
21 the remainder of the, that we will not be doing?

22 A. Absolutely. I have environmental  
23 commission letter dated July 29, 2013. We're,  
24 number one, which recommends the applicant include  
25 food and/or organic waste composting, that's as part

1 adaptive plantings in the landscaping simply because  
2 we don't anticipate they'll actually fair very well  
3 because they're used to a nonparking lot  
4 environment. They're used to woods. But what we  
5 are providing we anticipate will survive, they are  
6 hardy plants. J, we are willing to incorporate some  
7 pervious pavers within the plaza area. And we're  
8 willing to agree to K. L, we're willing to  
9 investigate and discuss solar energy, but we're not  
10 willing to commit to do it, but we're willing to  
11 explore the option of it. Unfortunately the  
12 building is not orientated optimally for solar.  
13 During SPRAB meeting there was some extensive  
14 discussion that there still be may some opportunity  
15 to actually incorporate solar and we'll look into  
16 that opportunity as recommended by SPRAB. We're  
17 willing to do M, which is recycle 75 percent of  
18 demolition and construction waste. N, we're willing  
19 to add filters to the inlets to improve water  
20 quality beyond what there is today and beyond  
21 actually what we're required to do from either DEP  
22 or municipal requirements, and six, we're proposing  
23 three affordable housing units and seven, we're  
24 willing to provide changing rooms but not showers on  
25 site to promote people's ability to bike to work.

1 Q. There were a few other disagreements.  
2 One was regarding the size of the light poles in the  
3 rear of the property, 20 feet versus 12 feet. If  
4 you can explain what our disagreement is and why we  
5 believe that the 20 feet is appropriate?

6 A. Absolutely. The 20 foot complies with  
7 the ordinance. It meets the half, the height  
8 requirement. It also meets the minimum average,  
9 minimum illumination method. As we reduce the  
10 height of the lights, we won't be in compliance with  
11 the minimum, the minimum .2 foot candle within the  
12 parking area. Normally we'd be compliant with the  
13 average. We'll have to over illuminate and create  
14 hotter spots to actually compensate for the lower,  
15 the lower height of the lights. We'll have to  
16 actually provide additional lights and when you look  
17 at glare and lighting, it's actually the source of  
18 the light that's troubling, not the illumination on  
19 the ground. They're LEED lights that we're dealing  
20 with. They're very, very, you know, efficient and  
21 as you create additional sources of light, you're  
22 going to notice those more than the, we have one,  
23 two, we have three lights in the back and two of the  
24 lights are facing away from the residents. So by  
25 actually reducing the height I'm going to increase

1 the number and actually increase the number of  
2 visual cues that there is lighting in the back.  
3 So based on my experience and, you  
4 know, professional opinion it's actually better to  
5 have fewer lights facing away from the residents  
6 than more and a lower number, more and a lower  
7 height. But if the board feels that they would like  
8 lower lights and they're willing to accept a lower  
9 standard in the parking lot or a higher average, we  
10 can design it to comply, but those are just  
11 illustrating the challenges that we have in actually  
12 complying with the ordinance by reducing the height  
13 and I don't think it would achieve what is looking  
14 to be, is looking to be achieved.

15 Q. What about an issue with an evergreen  
16 buffer?

17 A. The buffer that was discussed is,  
18 there's a requirement that requires I believe a six  
19 foot evergreen buffer along the eastern property  
20 line. We don't believe that is appropriate to  
21 separate two commercial properties and during  
22 discussions at the SPRAB meeting and I don't want to  
23 speak for SPRAB, but I believe SPRAB's  
24 recommendation was not to require that six foot high  
25 evergreen buffer. I have issues with it from a

1 security perspective and creating a continuity  
2 between commercial properties and allowing people to  
3 walk from one site to another. The concern I have  
4 from a security perspective is there's a six foot  
5 high solid evergreen buffer, I don't know who's on  
6 the other side. I don't know, I can't see, so it  
7 presents a security and safety issue as far as I'm  
8 concerned as a professional engineer and I don't  
9 think it will enhance the appearance of the site. I  
10 think the 24 to 30 inch evergreen, you know, shrub  
11 buffer is appropriate for this development.

12 Q. Regarding the variances specifically,  
13 Mr. Murphy, just so we have it all in one space in  
14 the record, if you could again discuss the parking  
15 spaces in the front yard. We're proposing five  
16 general parking spaces and two handicapped parking  
17 spaces. Why is that not something we can avoid?

18 A. In order to meet the required parking  
19 of 57 parking spaces we're placing two handicapped  
20 spaces with, you know, in between the building and  
21 Nassau Street and four spaces along the northeast  
22 corner of the property, I believe one and a piece of  
23 the second one falls within it. So two spaces fall  
24 within the front yard. Under existing conditions I  
25 believe there's seven, sorry, seven spaces in the

1 front yard and we're actually improving the existing  
2 nonconforming and going down to two spaces.  
3 Q. And for the record that's municipal  
4 section 17A-387C. We discussed 17A-390I regarding  
5 the tandem spaces. You discussed the height  
6 previously which is 17A-326.1B and our architect  
7 will get into that in a little bit more detail.  
8 17A-326 would be also provide for rear yard setback  
9 of 25 feet. We're proposing a three foot setback  
10 where the garbage enclosure is situated in the rear  
11 yard and if you could briefly go through the  
12 variance for that and justification?

13 A. Sure. Trash enclosures typically on  
14 site are located away from the building at the rear  
15 of the site. It's not appropriate to locate it in  
16 the front yard. It wouldn't be appropriate to  
17 locate it in the side yard on the eastern property  
18 line. The most logical place to locate it is along  
19 the rear yard where the eastern portion of the, I'm  
20 sorry, eastern portion of the trash enclosure is  
21 screened by masonry. The southern wall, southern  
22 portion of the trash enclosure is also screened by  
23 masonry and the northern portion is screened and the  
24 masonry structure is then further screened by a  
25 three to four foot evergreen buffer.

1 So we feel that this is the best  
 2 location to locate the trash enclosure to have a  
 3 truck enter the site and be able to access the  
 4 loading space and trash enclosure and back up.  
 5 If I located it on the eastern  
 6 property line or really anywhere else on the site I  
 7 would have a truck obscuring the drive aisle and not  
 8 allowing vehicles to pass when that maneuver is  
 9 going on. Therefore, based on my, you know,  
 10 experience, that's the best location to place that  
 11 trash enclosure.

12 Q. Code section 17A-3261B also provides  
 13 side yard setbacks shall be zero or ten feet. The  
 14 western elevation near the front of the building is  
 15 set back approximately two feet.

16 A. Yeah. The existing building is set  
 17 back approximately a half a foot from the property  
 18 line. So the existing building doesn't comply.  
 19 The, in order to attempt to comply with the  
 20 ordinance we did construct a portion of the building  
 21 at zero feet. I believe it was the professional's,  
 22 town's professionals that read it as the entire  
 23 building has to be zero or ten. So there's a small  
 24 section on the eastern side that's a half a foot off  
 25 and then there's another section at the front of the

1 A. If we were to comply with that  
 2 ordinance, we actually couldn't place an access  
 3 point on site. So we'd be landlocked. We wouldn't  
 4 have a driveway. So we actually placed this  
 5 driveway as far from Pine Street as we could and  
 6 while still meeting the DOT requirements of the 24  
 7 foot setback from the Princeton University's  
 8 driveway. We believe this is the best location for  
 9 the driveway. Pine Street is a one way away from  
 10 the site or to the north so you don't have conflicts  
 11 with turning movements between a driveway and Pine  
 12 Street.

13 So we feel that it's a, the most  
 14 appropriate location on site to place this and we do  
 15 feel it's safe and adequate.

16 Q. And the other variance, 17A through  
 17 65D, we will address with the architect. I have no  
 18 further questions for Mr. Murphy. Thank you.

19 MR. KAHN: Any questions.

20 MR. FLOYD: I had trouble, I did real  
 21 well on the environmental memo because you just went  
 22 down it one by one. There was a lot of comments.  
 23 Some comments and some recommendations in Mr. West  
 24 or Mr. Bridger's memo of July 25th regarding  
 25 landscaping and there was the, I guess the shade

1 building or northwest corner of the building which  
 2 is set off intentionally about two feet, two and a  
 3 half feet, to allow for gas meters to go. We  
 4 struggled with where to actually place those gas  
 5 meters. We didn't think it was appropriate to place  
 6 the gas meters on the front of the building, which  
 7 is where, you know, PSE&G would want them. We  
 8 thought the best location was to actually place them  
 9 at the western, on the western facade and bring the  
 10 building back slightly so we could actually screen  
 11 the gas meters and not have them visible from the  
 12 public plaza or from the street.

13 So really that's what I believe the,  
 14 you know, what's generating the variances, is trying  
 15 to buffer and screen utilities as best as we can  
 16 from public view.

17 Q. Municipal code section 17A-390B, I  
 18 would again like to reserve all of our rights  
 19 regarding this. The code provides no entrance or  
 20 exit for any parking lot containing more than ten  
 21 spaces be located within 50 feet of the  
 22 intersection. The proposed parking lot entrance  
 23 will need a variance with regard to the Pine Street  
 24 and Nassau intersection as well as the intersection  
 25 for university's roadway on lot 16.

1 tree commission, so it's really hard to follow where  
 2 we're on the same page and where we may have  
 3 disagreements.

4 THE WITNESS: What we actually did to  
 5 simplify the process was I prepared a letter and  
 6 we've submitted it as evidence as to what we're  
 7 willing to comply with and what we actually did was  
 8 highlight and just discuss the points that we didn't  
 9 agree with. So basically the review letters that  
 10 have several comments were agreeing to satisfy and  
 11 we documented that with exhibit.

12 MR. MANN: A I.

13 THE WITNESS: A I.

14 MR. FLOYD: Which is something we all  
 15 have.

16 MR. KAHN: I handed it out. We don't  
 17 have it.

18 MR. MANN: We did just hand it in this  
 19 evening, but we're complying with all the other  
 20 comments of all the other professionals, except the  
 21 ones we just highlighted in Mr. Murphy's testimony.

22 MR. FLOYD: Maybe at some point we can  
 23 get some comments from Mr. West.

24 MR. WEST: Yeah. The applicant has  
 25 agreed to everything in Derek and my memo with the

1 exception of, and it's, actually it's kind of a left  
2 over from Dan Obermiski's memo, but we address it  
3 in ours, is the buffer along the easterly property  
4 line where the ordinance requires a solid evergreen  
5 buffer, they're proposing shade trees with some low  
6 evergreens. That was discussed as SPRAB, SPRAB  
7 agreed with the applicant's plan so I have no  
8 objection to that one exception in our memo.

9 MR. KAHN: And you saw all the  
10 conditions from the shade tree commission that  
11 talked about --

12 MR. MANN: There were, just for the  
13 record again, Mr. Murphy, there was also the height  
14 of the light poles.

15 MR. WEST: Yes, that was actually  
16 addressed in Mr. Solow's memo.

17 MR. MANN: All right.

18 THE WITNESS: Someone mentioned  
19 something about the soil?

20 MR. KAHN: The shade tree commission  
21 talks about time active soil.

22 THE WITNESS: Yes. We've agreed to  
23 use Cornell University structural soil within the  
24 storm water pipe that's being installed along the  
25 eastern property line to really create rather than a

1 The applicant did agree that if that's what the  
2 board wanted, the lower lights, so what I would  
3 recommend is that we take a look at that with the  
4 applicant and staff have the discretion that if it  
5 is appropriate to lower them, that we would do that.  
6 If we don't feel it's appropriate, we'll leave them  
7 at the 20 foot height.

8 MR. KAHN: That's the light foot  
9 candles or the intensity level that Mr. Murphy  
10 reviewed?

11 MR. WEST: And actually Mr. Solow just  
12 raised a good point that we'll also hear from the  
13 public as to some of the concerns they might have.

14 MR. KAHN: Are you ready to proceed?

15 MR. MANN: I'll call my next witness  
16 with your permission, Mr. Chairman.

17 MR. KAHN: Sure.

18 MR. MANN: Thank you, Mr. Murphy.

19 MS. CAYCI: Sir, would you state your  
20 name and your business affiliation for the record.

21 THE WITNESS: Sure. My name is Craig  
22 Peregoy, P-e-r-e-g-o-y, and I'm a partner in the  
23 firm of Staigar & Peregoy.

24  
25 CRAIG PEREGOY, 17 Tremont Drive, East Hanover, New

1 four foot wide landscape area, actually allow the  
2 trees to grow an additional four feet under the  
3 parking lot. So it's Cornell University designed  
4 soil that allows parking to be on it and roots to  
5 grow in it. So we've agreed to utilize that within  
6 the parking lot.

7 MS. CLAYTON: Does that, the  
8 impervious pavers in the plaza, the does that mean  
9 the soil --

10 THE WITNESS: There will be a nominal  
11 benefit. It will infiltrate some but not as much as  
12 if you had a sand layer under it and it wasn't  
13 compacted. But it will create some value.

14 MR. KAHN: Are you ready to call your  
15 next --

16 MR. STANKUS: I'd like to clarify. I  
17 do have a few additional questions for Mr. Murphy  
18 with regard to the turning template figure that he  
19 showed. However, there may be some overlap between  
20 the traffic engineer's testimony so I'd like to wait  
21 until he has a chance if that's acceptable to the  
22 board.

23 MR. KAHN: That's fine.

24 MR. WEST: Just the one comment from  
25 Mr. Solow's memo regarding the height of the lights.

1 Jersey, being duly sworn, testified as follows:  
2 DIRECT EXAMINATION BY MR. MANN:

3 Q. Mr. Peregoy, you are licensed in the  
4 State of New Jersey and your license is current,  
5 correct?

6 A. Yes.

7 Q. And what is the license for?

8 A. I'm a professional civil engineer.  
9 I've appeared numerous times on hundreds of  
10 occasions as an expert in traffic engineering  
11 throughout the entire state. I have a Master's  
12 degree in civil engineering from Virginia Tech and  
13 again I'm a licensed Professional Engineer of the  
14 State of New Jersey.

15 Q. You are fully familiar with the  
16 property and prepared a traffic report dated  
17 February 26th, 2013. Is that correct?

18 A. Yes.

19 Q. I guess we should, we've been through  
20 the site and they're all familiar with that. If you  
21 can talk about the current conditions concerning  
22 traffic counts around the property?

23 A. Certainly. What we took a look at in  
24 our traffic report was time periods where you're  
25 going to see the roadway be its busiest at the same

1 time as the various uses on the site are going to be  
 2 its busiest and that's honestly weekday morning rush  
 3 hour time periods, weekday evening rush hour time  
 4 periods and then that Saturday midday shopping time  
 5 period. So we took traffic counts during those time  
 6 periods, 7:00 A.M. to 9:00 A.M. and 4:00 P.M. to  
 7 6:00 P.M. on the weekdays and then 11:00 A.M. to  
 8 2:00 P.M. on a Saturday and then isolated in each of  
 9 those three time periods the single busiest hour and  
 10 that's the peak hour. So you have weekday morning,  
 11 weekday evening and Saturday midday peak hours. And  
 12 basically what we found was Pine Street peak hour  
 13 traffic was when there were 30 to 50 vehicles per  
 14 hour. That's a very lightly traveled road. It's  
 15 obviously a one way westbound roadway that only  
 16 extends one block.

17 Nassau Street during the morning and  
 18 Saturday peak hours was on the order of 800 vehicles  
 19 per hour. In the evening it was little bit more of  
 20 a peak at about a thousand vehicles per hour and  
 21 again that's peak hour trips both directions.  
 22 Clearly there's a development on the site right now  
 23 which was once occupied by a supermarket. So I  
 24 wanted to get kind of an idea of how much traffic  
 25 this property has historically generated and the way

1 we make traffic projections is using the Institute  
 2 of Transportation Engineer's trip generation manual.  
 3 It's a compilation of traffic counts taken of  
 4 various land uses throughout the United States and  
 5 we're able to use that data to project traffic  
 6 volume for a proposed development. In this case I'm  
 7 looking at a former development because obviously  
 8 the supermarket had long since been closed when I  
 9 took our traffic counts and basically what the ITE  
 10 data tells me is that during the morning peak hour a  
 11 supermarket of that size will generate 46 trips.  
 12 Now, a trip is a vehicle either entering or exiting.  
 13 In this case it's 29 entering and 17 exiting  
 14 vehicles. But in traffic engineering we're talking  
 15 in trips. Keep it a little more simple because we  
 16 don't have to go through who goes in and who goes  
 17 out unless it becomes an issue.

18 MR. KAHN: How many square feet?

19 THE WITNESS: 13,500 square feet was  
 20 the size of the supermarket.

21 MR. KAHN: And we'll be smaller than  
 22 that.

23 THE WITNESS: Yes, we're talking --

24 MR. KAHN: So you didn't base, you  
 25 didn't do any analysis based on property that --

1 THE WITNESS: I did. That's the  
 2 reason I'm going through this exercise for the  
 3 existing because I think it's important to get an  
 4 idea of the magnitude of the change in traffic  
 5 that's going to be generated from the property as  
 6 opposed to what was there historically.

7 So 46 morning peak hour trips, 128  
 8 evening and 144 Saturday. So if we were coming in  
 9 trying to reoccupy that space with another  
 10 supermarket those would be the numbers that I'd be  
 11 using.

12 Now, for the proposed development I'd  
 13 do the same thing. I looked at the same source, the  
 14 ITE trip generation manual, and I'm looking at the  
 15 three different land uses on the site, bank, the  
 16 office and the apartment space, and I sum up the  
 17 peak hours of each of those and use that as a basis  
 18 for a comparison and my analysis, now it's important  
 19 to keep in mind the specific peak hour of those  
 20 three uses happening at the exact same time is  
 21 clearly a ridiculous scenario, but we're looking at  
 22 that worse case scenario, we're assuming that all  
 23 three of the uses have their peaks at the same time  
 24 and at the exact same time the roadway has its  
 25 busiest hour.

1 So the proposed development we're  
 2 looking at 43 morning peak hour trips, 73 evening  
 3 and 69 on Saturday. So pretty close to the total  
 4 number of driveway trips that you used to have in  
 5 the morning, three less. But in the evening and  
 6 Saturdays, 55 and 75 less trips than the supermarket  
 7 used to generate.

8 Now, that's not, it sounds like a big  
 9 number. It's not a substantially high number by any  
 10 means, but it just goes to show you that this  
 11 property historically has generated more traffic  
 12 than what we're proposing on the site now.

13 MR. KAHN: Did, just out of curiosity,  
 14 that's the combined. Did you run the analysis of  
 15 the office or retail?

16 THE WITNESS: Yes, and we can, I think  
 17 we'll get to that later on and probably more  
 18 information than you ever wanted to know about  
 19 traffic engineering. Retail would generate more  
 20 traffic than an office clearly, particularly on a  
 21 Saturday. Depending on the type of retail user,  
 22 some generate very high numbers per square foot,  
 23 some not as much, and we have in this case whether  
 24 there's a shopping center, again I'll get into that  
 25 a little bit later.

1 There's a component of traffic  
 2 attracted to particularly the banks in this case  
 3 called pass-by traffic. In other words it's not  
 4 somebody whose gone out of their way and adding  
 5 traffic to the street to go visit the bank and then  
 6 go back home. They're already driving by on Nassau  
 7 Street and head, stop in, use the ATM, deposit a  
 8 check, whatever. So they're not really impacting  
 9 anything beyond the driveway because that vehicle  
 10 would have already been on the roadway and the  
 11 supermarket has that same type of component and your  
 12 traffic engineer asked us to make that comparison in  
 13 terms of the new traffic, in other words, people who  
 14 do, would go out of their way because that's what's  
 15 going to impact the adjacent roadway network and I  
 16 made that comparison taking pass-by credit for the  
 17 bank and for the grocery store use and we're still  
 18 looking at a lesser impact than what was previously  
 19 there. It's actually, the morning peak hour.  
 20 actually have an increase of one trip when we do, to  
 21 the adjacent roadway network and you're decreasing  
 22 35 in the evening and 59 in the Saturday. So I just  
 23 wanted to put that in there because it was asked for  
 24 by your traffic engineer. The magnitude comes down  
 25 a little bit beyond the site driveways, but still

1 less impact in the adjacent roadway network than  
 2 what was previously there.  
 3 Next step is to prepare an analysis of  
 4 the driveway. Two of those traffic counts that I  
 5 took I added a 2 percent growth rate for three years  
 6 and that was New Jersey DOT's published road rate  
 7 for this type of roadway. Since I wrote my report  
 8 they issued an undated table and that growth rate  
 9 went to 1 percent. So I'm doubling the growth rate  
 10 of the three years than I would have done if I had  
 11 done the report yesterday. So that makes the  
 12 results a little bit conservative.  
 13 What we do is prepare what's called a  
 14 capacity analysis. Essentially, we put the traffic  
 15 volumes, lane configurations, stop control and  
 16 things like that into a computer program that gives  
 17 us the average delay per vehicle. At any instance  
 18 where you're delayed in traffic, stop sign, red  
 19 light, making a left turn, in this case I was at a  
 20 stop sign in a driveway making a left turn entering  
 21 the driveway, and that delay per vehicle that's  
 22 calculated is related to a level of service which is  
 23 a range of delay, A being the best or least delay, F  
 24 being the worst or the most and E being the  
 25 threshold of an acceptable delay.

1 In this case for all three of those  
 2 decals the egress from the site operated at level  
 3 service C. Again that's under conservative  
 4 assumptions. I didn't take any credit for that  
 5 pass-by traffic in my analysis. I assume everything  
 6 peaks at the exact same time. And we still got  
 7 level of service C and the left turn inbound  
 8 movement operates at a level of service A.  
 9 So certainly there's plenty of  
 10 capacity available for the driveway and for what  
 11 we're proposing and again I think the key thing to  
 12 consider is it's generating less than was  
 13 historically there despite the fact that we're  
 14 adding an additional curb cut. It will operate  
 15 efficiently and you'll have a lesser impact to the  
 16 overall area than you would have, than you had  
 17 previously with the supermarket.  
 18 Q. Nassau Street is unquestionably under  
 19 the jurisdiction of the Department of  
 20 transportation?  
 21 A. It is indeed.  
 22 Q. It's access level five. If you could  
 23 explain to the board what that means.  
 24 A. Yeah. DOT takes all their state  
 25 highways and breaks them into segments and

1 classifies them as access level one through six.  
 2 One being the most restrictive, like a highway,  
 3 Route 24 or something where you can't, you can't  
 4 have a driveway, and six being the least  
 5 restrictive. This section is access level five  
 6 which means you can have a driveway, a full movement  
 7 driveway and you don't need to provide a separate  
 8 left turn lane. For access level four you need a  
 9 separate left turn lane. Access number 6 would be  
 10 the same as five except you wouldn't have this trip  
 11 threshold limitation. You could do whatever you  
 12 want.  
 13 In this case we're access level five.  
 14 We're subject to the trip threshold, full movement  
 15 driveway with no turn left turn lane.  
 16 Q. If you could please explain for the  
 17 board the state regulations concerning trip  
 18 thresholds, performance in an access level five?  
 19 A. Sure. Okay. Any time you want to  
 20 propose a driveway to a state highway, you want to  
 21 get an access permit, you have to analyze that  
 22 property with respect to its conformance and this is  
 23 DOT conformance. It's based on the speed limit of  
 24 the highway, the frontage of your property and the  
 25 frontage of the neighboring properties. If when you

1 go through that exercise you find that the lot is  
 2 conforming, then you don't have any limitations on  
 3 the number of vehicle trips that could go in and out  
 4 of the property. If it's nonconforming, there's  
 5 another iteration of calculation that you have to do  
 6 to determine the maximum number of peak hour trips.  
 7 If you want to know the nuts and bolts of it, it's  
 8 basically the speed limit of the roadway gives you.  
 9 what's called a spacing distance, in this case we're  
 10 a 25 mile an hour roadway, the spacing distance 105  
 11 feet. And then you measure from the center of your  
 12 property to the center of the neighbor's property to  
 13 the left and to the right and both of those must  
 14 exceed that spacing distance or you're  
 15 nonconforming. And then there's a mathematical  
 16 equation with that left distance, right distance and  
 17 the spacing distance that gets you the trip  
 18 threshold if it turns out you're a nonconforming.

19 Q. And it's safe to say that that  
 20 equation is not X plus Y equals Z or something  
 21 simple as what my daughters will be doing in math  
 22 class, right?

23 A. Correct.

24 Q. So under this complicated formula on  
 25 our property what is the limitation in terms of peak

1 hour trips that we're allowed to have under the DOT  
 2 regulation?

3 A. We have a limitation of 110 peak hour  
 4 trips. Now, DOT publishes their own trip regs,  
 5 they're based on the ITE rates that I used, but  
 6 they're looking at the highest possible hour,  
 7 whether it falls into the roadway peak hour or not,  
 8 in the morning, in the evening and on a weekend. If  
 9 it's a Sunday, they use a Sunday and there's also  
 10 different ways of calculating the trip generation.  
 11 There's linear rates and then there's fitted curve  
 12 equations that calculate it. They'll take whichever  
 13 is the higher whether or not it makes any sense or  
 14 not. For example, in this case the apartment, 16  
 15 apartments in the evening peak hour per DOT rates  
 16 generate something like 25 trips, which is  
 17 excessively high but it's just the way the equation  
 18 works out. So that's why their numbers are a little  
 19 bit different than mine and we wound up at 103 trips  
 20 with the mix of uses that we've proposed on the site  
 21 now. So very little wiggle room for anything else.

22 MR. KAHN: I thought yours were 73.

23 THE WITNESS: Yes, 73 in the roadway  
 24 peak hour based on reality. Based on the DOT's  
 25 rates which take an artificially high look at

1 everything, it's summed up to 103.

2 Q. And that's more than what we're  
 3 required to go by --

4 A. Yes. That's in the access code.  
 5 That's their rules and regulations. Doesn't matter,  
 6 I could go in there and say there's no way 16  
 7 apartments generate 25 trips, but that's the P.M.  
 8 peak hour equation for the law. They don't change  
 9 it or make exception because it needs to be needs to  
 10 be the same across the state.

11 MR. KAHN: Using the same, you came up  
 12 with the 73. Substituting the office space for  
 13 retail, what was that number?

14 THE WITNESS: If you go, I can  
 15 actually give you that. I've got a spreadsheet.  
 16 When you change that office space to retail, that  
 17 then becomes a shopping center under the DOT's  
 18 definition and a shopping center has much higher  
 19 trip rates than the simple summation of the bank and  
 20 the simple summation of the bank and the office  
 21 space.

22 Q. And that's really the heart of what  
 23 we're talking about?

24 A. That's what we're up against, yes.  
 25 Here we go. If I were to add in a retail user into

1 that office space, the bank, a retail user plus the  
 2 16 apartments, the peak hour trip generation based  
 3 on DOT's rates, I'd probably come in here and give  
 4 you more realistic numbers, but based on DOT's  
 5 numbers which we're bound by would generate 38 in  
 6 the mornings and would be okay to about 127 in the  
 7 evening and 194 on the weekend. So not --

8 MR. KAHN: That's combined uses. So  
 9 that's using the DOT's calculation. Going back to  
 10 using the same calculation you used to get the 73,  
 11 what's the number?

12 THE WITNESS: I don't have that with  
 13 me but it will still be over 110. I wouldn't be  
 14 that much --

15 MR. KAHN: It's good to, you know, use  
 16 the same formula, right?

17 THE WITNESS: Yeah. The retail rates  
 18 that I would use would be the same as the DOT's.  
 19 They're, the retail generally peaks in the evening  
 20 rush hour and in the midday on a Saturday obviously.

21 MR. KAHN: What defines shopping  
 22 center? What sets you over from retail to shopping  
 23 center?

24 THE WITNESS: If two or more retail  
 25 uses are on the same property that share parking is

1 essentially their definition of shopping center.

2 MR. KAHN: So it's not to say that  
3 this would be two retail. It would be one retail  
4 use or one retail space?

5 THE WITNESS: One retail space on the  
6 bottom floor. That you have to look it on an  
7 individual basis.

8 MR. KAHN: I'm saying it could be one  
9 retail space and one bank, what calculation?

10 THE WITNESS: One retail space and one  
11 bank is a shopping center. One whole retail space  
12 would depend on what type of retail space it was.  
13 But once you have two retail users, the reason is if  
14 you're proposing a shopping center or a retail use,  
15 I mean don't picture a small property like this,  
16 picture a strict small type of shopping center, the  
17 DOT can't control who you have as a tenant in there.  
18 So that's why they've come up with this definition,  
19 which the ITE has too of shopping center, they apply  
20 it very strictly because that's the problem, they  
21 can't control the tenancy in there and to be honest  
22 with you, it doesn't always make sense.

23 In this case creating a shopping  
24 center bumps our numbers way up. If I had a  
25 convenience store of a certain size and added 500

1 square feet of additional retail to it, it would  
2 bring the numbers down, but the shopping center  
3 generates less than a convenience store. So it  
4 actually works both ways. It's just the way, it's  
5 just the way they have to do it.

6 (At this time a discussion was held  
7 off the record.)

8 MR. KAHN: That's why there's two or  
9 more retail so --

10 THE WITNESS: It's like I said, it's  
11 not necessarily as a reality base. When I come in  
12 here and give you a traffic report and those  
13 numbers, I'm trying to project how it's really going  
14 to work. The DOT's trip rates are based on that,  
15 but they don't necessarily comport and there's no  
16 engineering judgment to change them.

17 MR. KAHN: So you would make that 194  
18 versus 110. What's the process to get a variance  
19 for trip count for DOT's?

20 THE WITNESS: They're, never heard of  
21 an instance where they've waived that. I think back  
22 in the beginning of the access code they may have  
23 and created a problem. Now they're very strict on  
24 it.

25 MR. KAHN: So basically you have an

1 instance where DOT would then determine if the use  
2 is not permitted, and you don't get a variance for  
3 it and DOT doesn't allow it, right, what are the  
4 options?

5 THE WITNESS: If you're saying we  
6 don't get a variance from this board and, then, that  
7 wouldn't be great news.

8 MR. MANN: I'd rather leave that one  
9 alone.

10 MR. WEST: Question for the traffic  
11 engineer. Have you looked at a specialty retailer  
12 with DOT?

13 THE WITNESS: Yeah. The problem with  
14 specialty retailer is specialty retail centers is  
15 reserved for, like, the smaller, like florist and  
16 nail salon, that type of user. The DOT now requires  
17 a deed restriction limiting high traffic generating  
18 uses, essentially saying I can only have, you know,  
19 these small, you know.

20 MR. WEST: But you could have that  
21 type of use and meet the 110 trips?

22 THE WITNESS: Yes, it's possible to  
23 have that type of use.

24 MR. KAHN: And that would not require  
25 a variance either?

1 MR. WEST: Correct. And that's as he  
2 said, florist, dress shop, shoe. It doesn't include  
3 a restaurant or a high end, high trip user but.

4 MR. KAHN: But it accomplishes both  
5 the trip count and the avoiding the variance for the  
6 use.

7 MR. WEST: That's correct.

8 MS. CLAYTON: And that would require  
9 it stay with this property?

10 MR. WEST: Yes. DOT would want a deed  
11 restriction that says you can't put a restaurant or  
12 dry cleaner in there.

13 THE WITNESS: A bank is one of them, a  
14 post office. And they're very, any time I've ever  
15 tried to use that, they're very suspicious of it.  
16 I'm not sure why it's even in the access code, but  
17 it's still there.

18 MR. BRIDGER: How would of the DOT  
19 regulations affect the use of the proposed case?

20 THE WITNESS: That's what we were  
21 discussing that before. The kiosk is something  
22 that's contemplated in the future. I think the idea  
23 that the kiosk is a completely pedestrian oriented,  
24 just a street type of thing, but it's something we  
25 would have to take up with them. When the issue of

1 the kiosk comes in, we're going to have to confirm  
2 with them. It's not something that will generate  
3 people driving in there to park.

4 MR. MANN: For the record the kiosk,  
5 we had already discussed that with staff, the kiosk  
6 would require separate site plan application.  
7 There's obviously discussions that have to be had  
8 with the DOT so, but.

9 THE WITNESS: Yeah, they haven't, I  
10 would suspect that they haven't really seen that  
11 very often so you might be creating a new land use  
12 for them. Might have to take some traffic counts on  
13 another kiosk in town and they'll use that. It will  
14 be interesting, but it's a future hurdle.

15 MR. KAHN: Did you have more?

16 THE WITNESS: No. I don't imagine  
17 they would take the position that this little 200  
18 square foot kiosk would then become a shopping  
19 center. That would be boorish for even them.

20 MR. MANN: They've surprised me  
21 before.

22 THE WITNESS: I know.

23 MR. MANN: I think that explains it,  
24 right?

25 THE WITNESS: Anybody still awake?

1 it's going to be and I wouldn't want to see car  
2 bumpers scraped. I guess it wasn't specifically  
3 discussed when this drawing was presented, but this  
4 drawing also shows the path of the vehicles as they  
5 entered from Nassau Street and I think that's where  
6 most of our concern lies with regard to this plan.  
7 I notice that the drawing shows, was this the, is  
8 this showing the left turn in?

9 A. Left turn.

10 Q. From westbound Nassau and then a left  
11 turn out back onto Nassau heading towards downtown.  
12 It looks like when this vehicle comes in, westbound  
13 left, the path of the vehicle and the tires gets a  
14 little close to the lane that's coming out. I think  
15 that's one of our concerns that was in our report.  
16 This S curve near Nassau Street might make it hard  
17 for a truck to get past the vehicle that's coming  
18 the other way, especially if they're not hugging the  
19 edge of the parking spaces here.

20 I guess another thought I've had since  
21 I've been looking at this is that the drawing  
22 doesn't show directional movements if the trash  
23 truck was coming from downtown and wanted to turn  
24 right into the site or exiting the site onto Nassau  
25 Street headed towards Kingston I guess, you know,

1 MR. KAHN: Any questions?

2 CROSS-EXAMINATION BY MR. STANKUS:

3 Q. As I mentioned before I have a few  
4 questions specifically with regard to the turning  
5 template diagram and I'm wondering if you might be  
6 able to put that back up and I'm going to come up  
7 because I want to get a closer look at that.

8 A. Sure.

9 Q. Again I, some of these questions may  
10 be answered by you, they may be answered by  
11 Mr. Murphy. So it looks like again whoever could  
12 choose to answer, I just wanted to confirm that the  
13 diagram that shows the movements of the trash truck  
14 making these movements near the enclosure was done  
15 within the limits, not encroaching on any parking  
16 spaces and it looks like that's what the diagram  
17 shows. It does come fairly close to them and I'm  
18 not sure that that's closer than some drivers might  
19 feel comfortable with. But in any case it seems to  
20 me that, you know, if a truck comes in if they're in  
21 a hurry, come in a little fast or if it's a driver  
22 that's not so familiar with the site, certainly may  
23 be some jockeying movements involved, but I think it  
24 can get done, it's just a matter of how efficient  
25

1 was that considered or that may be more Mr. Murphy?

2 A. That may be more Mr. Murphy. With  
3 regard to being close to the park spaces, it's  
4 always my understanding that the reason that those  
5 AASHTO templates are a little more aggressive than a  
6 natural driver can handle is so you can do that so  
7 you have a frame of reference on a plan. So it's  
8 not necessarily completely the reality the way the  
9 truck would be. This is the worst truck driver in  
10 the world's trip path and he still is able to do it.  
11 The K turn maneuvers are going to, keep in mind this  
12 is reserved parking in the back, so it's going to be  
13 long-term. He's not making any of those maneuvers  
14 around customers or anyone in the public and it's a  
15 common configuration when you have a parking of a  
16 dumpster at the end and a truck has to turn around  
17 sometimes, clearly he can't circulate around the  
18 building.

19 And then this little spot in the S  
20 curve where the trucks overlap, this is two trucks.  
21 I mean the odds of a truck entering at the same time  
22 as one exiting and then immediately at that spot are  
23 pretty slim. I think a car would take up less of  
24 this area and then as far as the turn, Mr. Murphy  
25 prepared the exhibit, but typically when you have a

1 private garbage hauler you can, they were creating a  
2 problem trying to make the, and tell them to come in  
3 this fashion. It seems logical too that the way the  
4 town, to do other businesses, would come back  
5 westbound and southbound direction. 27 is a north  
6 south roadway to the DOT, so in my mind it's north  
7 south.

8 Q. I find the same thing. I see the  
9 route marker signs and I want to say north south.  
10 Is it possible to control which direction those  
11 trucks come? I mean we're not just talking about  
12 trash trucks either, deliveries and I guess a lot of  
13 the deliveries might be with FedEx or UPS trucks  
14 that are smaller. But is it possible to control  
15 which direction they approach from or what time they  
16 come?

17 A. I mean not, in my experience, yes,  
18 that's been testified to. I've never contracted a,  
19 you know, garbage hauler so I couldn't speak to it  
20 personally, but in past applications, I've done  
21 that's always been the case, that they're able to  
22 work out with the hauler. The hauler when they are  
23 hired would usually come and take a look at the  
24 situation, figure out what kind of truck they need,  
25 how they're going to get in and out. It's not done

1 in a vacuum. They may say, move this or move that,  
2 they're going to be sure that they can get in and  
3 out. The garbage hauler doesn't want to have an  
4 issue. They don't want to hit a car or have any  
5 issues either.

6 So from my experience with other  
7 applicants they're usually amenable to doing  
8 whatever is necessary to make it work the best and  
9 UPS and FedEx are smaller. If this works, they  
10 will.

11 Q. I guess, you know, it needs to be  
12 looked at in light of the trip generation which is  
13 about 73 vehicles per hour which is a little more  
14 than one per minute. It's not an especially intense  
15 situation, but I'm concerned about if there are  
16 vehicles stopped coming out of the site facing  
17 Nassau and the truck wants to turn in but can't,  
18 ends up blocking the pad and you get gridlock, which  
19 the low trip generation should help ameliorate that.  
20 But there's one other thing I want to clarify. The  
21 whole reason this S curve here, the whole reason  
22 this S curve even exists is to maximize the  
23 difference to the lot 16 driveway. Is that your  
24 understanding?

25 A. Yes. DOT requires a 24 foot

1 separation from curb turn to curb turn and in the  
2 absence of a curb turn they require a 12 foot  
3 section from the property line, so it's actually the  
4 driveway for the university probably should be 12  
5 feet away and then you're actually negative that.  
6 They extend on our property so it's the location of  
7 that driveway that's pushing our driveway.

8 MR. STANKUS: Thank you.

9 MR. KAHN: Does seem very tricky. I  
10 mean looking at theses diagrams and --

11 THE WITNESS: Yes.

12 MR. KAHN: It's really like threading  
13 a needle with Mack truck.

14 THE WITNESS: This is a much better  
15 way to look at it than those diagrams. They're just  
16 a clear piece of paper, you lay over the plan to get  
17 an idea, but this is more accurate.

18 MR. KAHN: That's true, but you're  
19 basing it on a left in and left out. And as soon as  
20 you start reversing it, you know, a right in and a  
21 right out, you start swinging out into oncoming  
22 traffic I believe, right, according to these  
23 diagrams?

24 MR. STANKUS: That's a concern, yeah.  
25 I mean typically for turning paths of trucks the

1 right turn is, you know, it's a tighter turn so  
2 that's often the most critical movement.

3 MR. KAHN: As you testified this is  
4 not an access four which would require limited  
5 turning.

6 THE WITNESS: Access on a four would  
7 require a left turn lane, three no left turns, two,  
8 no driveways and one is a highway.

9 MR. KAHN: So I mean, and a lot of  
10 these diagrams show it as if almost like they're  
11 going into the parking spaces. If these parking  
12 spaces are occupied, that's going to be a problem.

13 THE WITNESS: Well, I'm not sure what  
14 are the diagrams that you have there. Those are  
15 just the clear film that they lay over to get an  
16 idea how tight the radius needs to be. I mean this  
17 accurately is modeling a truck driving at a certain  
18 speed and using the turning radius at that speed and  
19 they're able to stop and jockey position if  
20 necessary. That's just a general diagram, those  
21 sheets. I'd trust that more. That's an expensive  
22 computer program. Some of us lowly engineers --

23 MR. KAHN: There must be a lot of  
24 expensive cars in that parking lot. I just, it  
25 still seems, you know, troubling, you know, to think

1 about this, these front loaders, rear loaders, you  
2 know, going in there and I've seen plenty of garbage  
3 truck drivers who are not, that can make sure that  
4 that diagram does work.

5 THE WITNESS: Keep in mind that more  
6 than likely the garbage truck typically would come  
7 in the morning, so you're probably not going to have  
8 too many vehicles parked in the front and in the  
9 back, this is if I'm not mistaken, is a wider than  
10 25 feet, right? This drive out is actually wider  
11 than a typical 24 foot drive aisle to get into the  
12 building so the only place that's going to encounter  
13 vehicles is going to have a wider aisle.

14 MR. KAHN: Providing they come in at

15 --  
16 THE WITNESS: That's typical.

17 MR. MANN: Not only is this typical,  
18 but that can certainly be a condition of approval  
19 for the board to approve the application.

20 MR. FLOYD: That's also provided that  
21 the residential tenants don't park in front of the  
22 office. You know, when they get tired of stack  
23 parking and say, well, overnight there's all these  
24 spaces here, they're going to park there.

25 MR. KAHN: Plus, Mr. Floyd, the point

1 there's 20 spaces assigned in the back of which 16  
2 of them are for the apartments, and still have the  
3 other eight or so spaces that they need to have.

4 THE WITNESS: Yeah, there's certainly  
5 going to be cars out in the, more than likely at all  
6 times, but we won't encounter a situation where the  
7 entire aisle is full of vehicles and you have a big  
8 truck that didn't park straight hanging out. It  
9 will be lesser vehicles at that time period.

10 Q. In your experience garbage trucks have  
11 maneuvered through more difficult proposed layouts,  
12 correct?

13 A. Absolutely.

14 Q. And they do so on a regular basis,  
15 correct?

16 A. Yes.

17 MR. FLOYD: And the drivers curse a  
18 lot too. They don't like it.

19 THE WITNESS: This one I think they'd  
20 be okay with. I've seen others. I can't imagine  
21 what they say.

22 MR. STANKUS: Like to clarify one  
23 additional thing and that's that this is a 30 foot  
24 standard design vehicle certainly. This would not  
25 address, and Mr. Murphy may have touched on this,

1 but that would not address a typical moving van. Is  
2 that correct?

3 THE WITNESS: A 30 foot truck would be  
4 a good size moving van. I'm not sure. I mean  
5 obviously a tractor-trailer is not coming on this  
6 site nor are the apartments the size that you would  
7 need that, but the larger U-hauls, about a 30 foot  
8 truck.

9 MR. STANKUS: It's probably only  
10 significant issue that when you moved it and you  
11 build the 16 apartment buildings and everybody moves  
12 in, how do you --

13 THE WITNESS: You schedule that.

14 MR. STANKUS: Not all on the same day,  
15 but there might be two a day for a week or two. How  
16 do you envision those being accommodated?

17 THE WITNESS: Move ins?

18 MR. STANKUS: Moving vans or anything,  
19 any truck that's, any truck that's too large to get  
20 onto the site is going to have to do its business  
21 from Nassau Street.

22 MR. MURPHY: I've lived in town for a  
23 number of years and when you basically need to place  
24 a large vehicle in reserved spaces you go to the  
25 parking authority, buy a few bags and place the bags

1 on the meter which will reserve space on Nassau  
2 Street for larger than normal truck, if it's  
3 necessary. Keeping in mind that the size of the  
4 apartments, they're not single family homes, 3,000,  
5 2,500 square feet. You're talking about a thousand,  
6 1,100 square feet where you don't really require a  
7 large moving van. Your, that sized unit is much  
8 more correlated to a smaller, you know, 20, 25 foot  
9 U-haul truck. But if there is a need in the future  
10 where there has to be a tractor-trailer which I  
11 can't envision for an 1,100 square foot apartment or  
12 a bank, they can go to the parking authority, buy a  
13 bagged meters for the day and park whatever vehicle  
14 they need on Nassau Street.

15 MR. KAHN: Are you finished with your  
16 testimony?

17 THE WITNESS: Yes. Any other? So I'm  
18 just looking at the time. It's 10:00 and I want,  
19 there's a lot of people here. I want to be fair  
20 with people's time. Who do you have left to  
21 present? Just curious to see how we can arrange the  
22 rest of the evening.

23 MR. MANN: Our architect and our  
24 planner.

25 MR. KAHN: Okay. So that's more than

1 an hour of testimony.

2 MR. MANN: Our architect will go, at  
3 least I think the architect will go pretty quickly.

4 MR. KAHN: The planners talk forever.  
5 We also have somebody from the university who I  
6 think would be very important to hear. We're not  
7 going to conclude this application this evening  
8 because there's also about ten people on sign in so  
9 far that we need to be fair and let everybody talk.  
10 I'm just trying to figure out how we should  
11 structure the rest of the evening.

12 MS. CAYCI: Well, one thought might be  
13 to allow the university representative to speak just  
14 because that issue has been touched on during the  
15 hearing. Then I guess the question for the  
16 applicant, as I'm told, that we would need an  
17 extension of time from you to take us through the  
18 October 23rd meeting which is the next meeting.

19 So I guess the question is whether you  
20 will have any public comment at this point since you  
21 have people who came out and then allow the  
22 applicant to pick up at the next meeting with their  
23 architect, planner, any further public comment and  
24 then the board can go into executive session and  
25 decide the application.

1 MR. MANN: I understand.

2 MR. KAHN: Because I think it's  
3 relevant to what we're listening to because.

4 MS. APPELGET: It's helpful for  
5 continuity purpose. I just looked at my calendar.  
6 I'll be available on October 23rd so, if the board  
7 is going to continue to hear the application, I'm  
8 certainly going to be available on October 23rd and  
9 I just wanted to offer that to you.

10 MS. CAYCI: I'm sorry, but I can't  
11 hear what people are saying.

12 MS. SEGAL: I think it's a critical  
13 point at this point, the discussion to hear why we  
14 actually need the, why can't we, why can't they  
15 reach an agreement to use the road.

16 MS. CAYCI: Well, why don't we let  
17 Miss Appelget.

18 MS. APPELGET: Might be a very simple  
19 answer.

20 MR. MANN: Is she an attorney?

21 MS. CAYCI: No, she's not.

22 MR. MANN: Of course the university  
23 would require an attorney to, they're a private  
24 corporate entity.

25 MS. CAYCI: Well, I think, Mr. Mann,

1 MR. KAHN: I do understand, trying to  
2 be fair with the public, but I'd actually prefer  
3 that the public have a chance to speak after the  
4 application has been completed. I think that's  
5 fair. Actually while we're asking them to come back  
6 again, I think it actually gives them the ability to  
7 hear the entire application and also is fair to the  
8 applicant to get through their entire application  
9 because they may say something that may be responded  
10 to by the architect or planner.

11 MS. CAYCI: Mr. Mann, do you  
12 anticipate bringing all your people, to bring your  
13 consultants back for the next meeting?

14 MR. MANN: Yes, we will and we would  
15 grant an extension of time.

16 MS. CAYCI: Okay. Well --

17 MR. KAHN: So I would like to hear  
18 from the university. I know you're in the middle of  
19 your application, but I think it's important. I  
20 know your consultants are going to be back and, and  
21 if you have no issue with that I'd like to, I mean I  
22 know you have an issue with it.

23 MR. MANN: Yes.

24 MR. KAHN: We would still like to hear  
25 from the university.

1 this applicant has certainly provided testimony  
2 before.

3 MR. MANN: She's not an attorney. The  
4 university is required to be represented by an  
5 attorney.

6 MS. APPELGET: I did not go to law  
7 school.

8 MR. KAHN: Okay.

9 MS. CAYCI: Mr. Mann, I'll have to  
10 agree that technically you're correct, that a  
11 corporation does need to have an attorney present in  
12 proceeding and in this instance Miss Appelget --

13 MS. APPELGET: If the board wants to  
14 hear from an attorney representing Princeton  
15 University, if the board is saying at this point  
16 it's critical to hear from the university, obviously  
17 you'll have to adjourn your hearing at this time and  
18 I'll have to bring representation at the next  
19 meeting.

20 MR. KAHN: Is that something that you  
21 can provide?

22 MS. APPELGET: I'll find somebody.  
23 Hopefully they can come on October 23rd. I don't  
24 think your --

25 MR. KAHN: Can we hear her view in

1 terms of representative from the university and if  
2 we need an attorney present next meeting we can have  
3 that?

4 MS. CAYCI: Well, Mr. Kahn, in light  
5 of the objections that we're receiving from the  
6 applicant to the entire line of testimony, the point  
7 of you being able to hear from the university is to  
8 understand legally what their position is and why  
9 they believe they were not able to resolve their  
10 negotiations. I suspect that Miss Appelget is  
11 correct, it's probably not a very complicated  
12 response, but in anticipation of potential future  
13 issues with this application that probably would be  
14 the wiser course of conduct.

15 MR. KAHN: Okay. So why don't we do  
16 that.

17 MS. APPELGET: I'll be happy to ask  
18 Mr. Goldman if he can attend the next meeting.

19 MR. KAHN: That would be great. We  
20 appreciate it. So why don't we pass on the  
21 university presenting at this time. Appreciate your  
22 coming tonight and hope you will be able to come  
23 back.

24 MS. APPELGET: We've expended  
25 extensive attorneys fees to this point and we'll

1 confirming that you are a licensed architect in the  
2 State of New Jersey and your license is current?

3 A. That's correct.

4 Q. And if you can give the board the  
5 benefit your qualifications please?

6 A. I have a Bachelor of architecture  
7 degree from Cornell University. I've been working  
8 as an architect in New Jersey for a little over 30  
9 years. I've appeared before many boards in this  
10 area.

11 MR. MANN: Thank you, Mr. Chairman.

12 Q. You're all fully familiar with the  
13 property and prepared the architectural plans that  
14 have been submitted, correct?

15 A. Yes.

16 Q. What does the existing building  
17 actually look like and what is its condition?

18 A. These photographs here are the  
19 existing building. This is looking at the building  
20 from the other side of Nassau Street.

21 MS. CAYCI: Mr. Connolly, are you  
22 making this as an exhibit?

23 THE WITNESS: Yes, we can do that.  
24 This wasn't part of the submission.

25 MS. CAYCI: It was not?

1 continue to do so.

2 MR. KAHN: Thank you very much. Okay.  
3 So why don't we have the architect present. At the  
4 end of that we can then take an evaluation of where  
5 we are and determine how long we go.

6 MR. MANN: I appreciate that. I'll  
7 move as quickly as possible through the architect's  
8 testimony.

9 MR. KAHN: For those in the public if  
10 you're reading, hopefully you'll be able to return  
11 to the 23rd. If you'd like to present something.

12 THE SECRETARY: October 23rd.

13 MR. KAHN: Right, October 23rd.

14 MR. MANN: You want to swear in  
15 Mr. Connolly.

16 MS. CAYCI: State your named bins  
17 affiliation for the record.

18 THE WITNESS: My name is Hugh  
19 Connolly, I'm president of Connolly Architecture,  
20 LLC, which is based in Hopewell.

21  
22 HUGH CONNOLLY, being duly sworn, testified as  
23 follows:

24 DIRECT EXAMINATION BY MR. MANN:

25 Q. Mr. Connolly, if you wouldn't mind

1 THE WITNESS: What are we up to?

2 Q. A ??

3 MS. CAYCI: No, I think it's 8.

4 MR. MANN: Are we at 8?

5 MS. CAYCI: Yeah.

6 MR. KAHN: You had --

7 MR. MANN: Goldman letter.

8 THE WITNESS: Okay. This photograph  
9 here looks at the property from across Nassau  
10 Street. That's the Nassau Street facade of the  
11 building. This is closer in looking at the Nassau  
12 Street facade and the left side. This photograph  
13 here is looking at the portion of the building that  
14 projects out further towards Nassau Street on the  
15 right side of the building. This photograph here is  
16 the walkway that exists between 250 Nassau Street  
17 and the Prudential building next door. Moving  
18 around the building, this is looking at the side of  
19 the building here, the east side and this is looking  
20 at the rear of the building where there's an  
21 existing ramp coming up and then here you have an  
22 existing loading dock area that projects further  
23 towards the south from the back of the building.

24 Q. And it's part of that loading dock  
25 area that will be demolished, correct?

1 A. In terms of what will be demolished,  
2 the rear 25 feet of the existing main part of the  
3 building, the last two bays will be demolished and  
4 also the last I think it's 51 feet or so of the  
5 loading dock part of the building along the side.

6 Q. Mr. Connolly, was that submitted with  
7 the initial application?

8 A. Yes. This is part of the package that  
9 was submitted.

10 MS. CAYCI: Well, I'll tell you what,  
11 since you provided specific testimony I might as  
12 well make it an exhibit and what is it called, Mr.  
13 Connolly?

14 THE WITNESS: It's existing condition  
15 floor plan drawing EX 1.

16 MS. CAYCI: Mr. Connolly, did you take  
17 the photographs that you were just testifying about  
18 regarding the exterior of the building?

19 THE WITNESS: Yes, I took these  
20 photographs.

21 MS. CAYCI: Okay.

22 THE WITNESS: In terms of what will be  
23 demolished on the building, also the portion of the  
24 building that projects out further towards Nassau  
25 Street, in the front, that will be removed and the

1 portions of it and we're also keeping as much of the  
2 existing brick work as we can. So that's what  
3 dictated one aspect of the look here. So we're  
4 keeping it brick in the front and the brick,  
5 existing brick pilasters marching down the side.  
6 And we're having to add brick here and there in  
7 order to complete that design.

8 The upper story of the building, to  
9 try and reduce the impact of the additional story,  
10 is a different material. It's EIFS which is a  
11 stucco like material, and that material will also be  
12 on the side here between the brick piers. The roof  
13 will be an asphalt shingle roof with a lighter color  
14 for better reflectance. We have balconies for  
15 apartments. That will be, have metal railings and  
16 then we have metal railing around the perimeter of  
17 the roof garden. And as you can see, this is the  
18 new exit stair that we're adding in this front  
19 corner here.

20 One of the efforts we made here was  
21 to, in addition to keeping as much of the existing  
22 building as we could, we're also trying to fit it  
23 into the neighborhood and the look of downtown  
24 Princeton in terms of a traditional architectural  
25 style. What you see here was the original design

1 portion of the building back about 20 feet will be  
2 removed so that we can build a new egress stair in  
3 that portion of the building. What you also see on  
4 this sheet are the second floor plan of the two  
5 apartments and also there is a partial basement of  
6 about 600 square feet located under this corner of  
7 the building.

8 Q. So what are we proposing to do to the  
9 building that should be marked as A 10,  
10 Mr. Connolly? If you can describe exactly what that  
11 exhibit is.

12 A. This is a 3D rendering of the front of  
13 the building. And this other, this is a new version  
14 of drawing A 6. Drawing A 6 was part of the packet  
15 that was submitted, but this is a revised version of  
16 that drawing. So what would I be marking that?

17 Q. That would be A 11.

18 A. A 11. And A 11 is the north and east  
19 elevations, drawing A 6 revised.

20 Q. If you could start with the 3D and  
21 work our way to the revision.

22 A. Okay. The basic approach that we're  
23 taking to the design of this building is that we're  
24 keeping as much of the existing building as we can.  
25 As I mentioned we are demolishing some small

1 for the gable end up at the top floor. We had  
2 proposed, since that's the loft level that has  
3 bedrooms there, we were proposing predominantly  
4 glazed openings in that end. That was something  
5 that SPRAB suggested we look at it in a different  
6 way that went better stylistically with the rest of  
7 the building and that's what leads us to the revised  
8 drawing here. We looked at several different  
9 options. What we came around to in the end was two  
10 sets of rectangular either casements or horizontal  
11 sliding windows up within that gable end of the  
12 building and the wall surrounding it as with the  
13 rest of the upper story would be the EIFS material.  
14 The other differences that we've shown here in  
15 relation to comments from SPRAB and the municipal  
16 review memos, what you see extending up beyond the  
17 height of the railing at the perimeter of the roof  
18 will be privacy screens because a portion of these,  
19 of the roof terrace is devoted to private terraces  
20 for these two apartments. That will be a little  
21 easier to see in the plan that we'll see in a  
22 moment. But so that will be a privacy screen six  
23 foot high, built out of the same metal material as  
24 the roof railing, but extending up higher. And then  
25 on the private side of that privacy screen there

1 will be an architectural resident panel, translucent  
2 with a design on it similar somewhat to what you see  
3 in the main staircase here in the municipal  
4 building.

5 Q. And those terraces are only available  
6 to residents, correct, or residents and office?

7 A. That's, well, the original intent was  
8 just for the resident. Whether or not office people  
9 would ever been allowed up there, we'd have to look  
10 at that as a policy matter.

11 Q. But people walking up off the street  
12 are not going to be able to go and use the terrace?

13 A. No. The only other change we've made  
14 on this, there was talk in one of the memos about  
15 building identification signage in terms of the  
16 street numbers which we hadn't shown originally. So  
17 we've added a 255 signage here and 257 here over,  
18 the residential entrance. Those would meet the  
19 signage requirements of being less than 144 square  
20 inches for those signs and then relating to the fire  
21 department review memo, we added the truss  
22 identification sign here, the fire department  
23 connection and sign and also they asked for a knox  
24 box. So all those were located near to the  
25 residential stair entrance.

1 So those are really the differences  
2 between this and what you had in your packet.

3 I can move to the other side of the  
4 building, other two sides. This is drawing A 7  
5 which was part of our submission, the south and west  
6 elevations. The south elevation or rear elevation  
7 of the building continues the same pattern of brick  
8 and EIFS. What you see here is an entrance into a  
9 vestibule inside the building that gives access to  
10 an elevator and stairs that go to the upper levels  
11 of the building for access to the apartments. This  
12 is the existing, there's an existing one story  
13 section of the building all along that west side and  
14 the only thing we're doing there is extending the  
15 height of the parapet up a little bit to cover the  
16 HVAC units which will be located in there and that  
17 will be easier to discuss when we're looking at the  
18 plans for that area.

19 This is the west facade. As was  
20 mentioned earlier, this is only about six or seven  
21 inches off the property line. It's a one story  
22 brick section of the building, so that remains and  
23 you can see the new stories above that for the  
24 apartments. And then our new exit stair in the  
25 front corner here.

1 MS. CAYCI: Mr. Connolly, why don't we  
2 call that, I think we're up to A 12.

3 THE WITNESS: This was part of the  
4 submission.

5 Q. We'll mark it A 12.

6 A. That's fine. This is the first floor  
7 plan of the building. This base in the front left  
8 corner here would be the bank tenant, approximately  
9 4,500 square feet, the office tenant at 5,400 square  
10 feet, frontage on Nassau Street and extend all the  
11 way to the back here with some space on the side  
12 here and skylights to alleviate the lack of windows  
13 along the property line. Entrance to the upper  
14 levels for the apartment tenants, there's a stair  
15 here that goes up to provide them access. It also  
16 goes down to the partial basement that we'll be  
17 keeping. There's an access stair here at the rear  
18 off that vestibule I mentioned before and then  
19 there's an elevator and that goes up to the upper  
20 floors. If at any point this is split off as a  
21 separate tenant, there's another entrance here, that  
22 also provides egress for the office tenant. That's  
23 down, a few internal steps down to a door at grade,  
24 and then the bank space would also have a second  
25 means of egress along the side here, a door on grade

1 at that point. This is a plan of the parking  
2 basement that we're keeping.

3 Q. Mr. Connolly, could you briefly run  
4 through the floor plans with the apartments, and  
5 then I have a question on the lighting on the  
6 outside before we wrap up?

7 A. Sure. Okay. This is the second floor  
8 plan. The existing portion of the building is here  
9 in the front. We will still be having two  
10 apartments within that portion of the building and  
11 there will be a total of eight apartments on this  
12 floor. Again here's the stair coming up from below  
13 it and the elevator and the stair in front. What  
14 you're seeing here is the roof of that one story  
15 area along the west side and we have small HVAC  
16 units that relate to the apartments. We have  
17 skylights to the area below and then there's a  
18 larger HVAC unit here that relates to the commercial  
19 space.

20 This is the third floor plan. There  
21 are eight units within this area. At the front of  
22 the third floor we have a roof terrace which will be  
23 built on the roof of the existing second floor.  
24 These two areas here and here are the private  
25 terraces for the adjacent apartments. This area

1 here is the roof terrace area for the use by all of  
2 the residential tenants.

3 Q. There was an issue at SPRAB regarding  
4 cornice up lighting?

5 A. Yes.

6 Q. If you could describe what the issue  
7 was and what we're proposing?

8 A. We had originally proposed LED up  
9 lighting along the base of the cornices, around the  
10 building shining up as access light. The members of  
11 SPRAB thought that was inappropriate and we have  
12 agreed to remove the cornice light.

13 Q. However it doesn't mean that we can  
14 remove all of the lighting from the exterior of the  
15 building, the mounted lighting, correct?

16 A. That's correct. We do have --

17 Q. And for the record this is addressing  
18 the variance that's code section 17A-365D where code  
19 requires that the illumination of any part of the  
20 building shall not be permitted except as a special  
21 question by the zoning board of the adjustment?

22 A. Okay. Just to address the other  
23 lighting that we have on the building, at each  
24 entrance or exit there is exit discharge lighting  
25 above any doors. As accent lighting we also have

1 building?

2 A. Okay. If you look at the rendering,  
3 this fourth story, to call it that, is fully within  
4 this upper roof area, what most people call the  
5 attic of the building. This section through the  
6 building here shows this lost space here up within  
7 that roof area or attic area of the building. So  
8 the perception of the building from someone walking  
9 on the street is they're going to say, okay, that's  
10 a three story building and it's got a gable roof and  
11 there's, you know, some kind of use up within that  
12 attic area.

13 So even though technically by the  
14 zoning code it is classified as four stories, the  
15 perception of it, I think to most people, would be a  
16 three story building.

17 Q. And that's the case up there with the  
18 loft spaces that you were describing, right?

19 A. Yes. These are the loft spaces which  
20 are accessed only from the interior stair within the  
21 apartment. There's a spiral stair that goes up to  
22 and a loft bedroom space.

23 Q. One final question regarding HVAC.  
24 Where will the HVAC be located?

25 A. Well, I'll start off in this section

1 wall sconces on some of the brick piers. As part of  
2 the area lighting developed by Mr. Murphy there are  
3 some area lights that are mounted higher up on the  
4 building to provide lighting for the surrounding  
5 site area.

6 Q. Mr. Connolly, why do you believe that  
7 that lighting is appropriate, what we're proposing?

8 A. Actually most of it has to do with  
9 safety issues. That's why the building code  
10 requires lighting at any exits. And also these two  
11 higher mounted fixtures have to do with general  
12 illumination of the site to meet the zoning  
13 requirements for site lighting. The sconces on the  
14 brick piers are decorative and were added to enliven  
15 the site somewhat in the evening hours.

16 Q. Finally just a question about the  
17 height, because that goes to the final C variance  
18 justification. This is municipal code section  
19 17A-325B, code prohibits more than three stories in  
20 building height in excess of 45 feet. We are  
21 proposing four stories but we comply with the  
22 building height requirement. Could you describe how  
23 the fourth story is integrated into the building and  
24 how that does in terms of the public's perception  
25 and a pedestrian or passerby's perception of the

1 here. This is the existing one story portion of the  
2 building here. The majority of the HVAC units will  
3 be located on the roof of that one story section  
4 here. And as you can see here we're raising the  
5 level of the parapet so that the top of the parapet  
6 will at least match the height of the adjacent HVAC  
7 units. I'll go back to a roof plan here. This is a  
8 roof plan of the building. It's drawing A 5 that  
9 was part of the submitted set of drawings. As I  
10 mentioned before, the smaller squares here which are  
11 basically three feet by three feet by three feet  
12 roughly are HVAC units relating to the apartments.  
13 The larger squares here are skylights for the office  
14 space below. We're showing two larger HVAC units,  
15 one in this area here and then one within a  
16 depressed roof area with a parapet around it on top  
17 of the stair tower. That would basically be one  
18 HVAC unit for each of the commercial tenants. So,  
19 and what we've committed to with when we were  
20 discussing this with SPRAB was that once the exact  
21 pieces of equipment are finally chosen, we will make  
22 any adjustments necessary to the height of the  
23 parapets. So as I said, the height of the parapet  
24 will at least match the height of the adjacent piece  
25 of equipment.

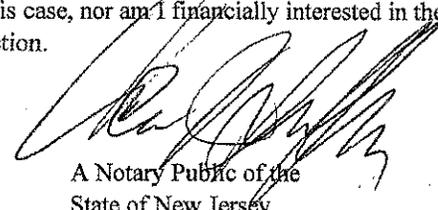
1 Q. So that they will be fully screened?  
 2 A. Yes.  
 3 MR. MANN: No further questions for  
 4 Mr. Connolly.  
 5 MR. KAHN: Any questions? Mr. Solow.  
 6 MR. SOLOW: Yes. Could you address,  
 7 in the zoning code section 17A-325 talks about that  
 8 individual store fronts facades within the district  
 9 shall be designed with significantly different  
 10 features and not greater than 40 foot intervals so  
 11 as to give the appearance of separate buildings  
 12 along the common lot street frontage. Could you  
 13 just briefly discuss how you've done that?  
 14 THE WITNESS: Yeah. We've done a  
 15 couple things to try and achieve that. Compared to  
 16 the existing building this center portion of the  
 17 Nassau Street facade is bumped outwards by a foot to  
 18 a foot and a half and it's also made higher than the  
 19 adjoining areas. And then the area where the stair  
 20 tower is is also pushed back further. So these  
 21 adjustments to the front facade were part of our  
 22 response to that part of the zoning code in terms of  
 23 trying to break up the massing of the Nassau Street  
 24 facade.  
 25 MR. SOLOW: Right. But the intent is

1 really to make it look like within the 40 foot  
 2 intervals they're different store fronts and I think  
 3 you have within the 40 feet, but could you for the  
 4 board's edification, your breaks are 40 feet or  
 5 less?  
 6 THE WITNESS: Yes, they're less than  
 7 40 feet. 40 feet would be approximately from this  
 8 corner to here. So in other words, the bank's  
 9 frontage is right around 40 feet. And then this  
 10 portion of the facade relates to the office use  
 11 frontage and then adjacent to that is the stair.  
 12 MR. SOLOW: And they have separate  
 13 entrance?  
 14 THE WITNESS: The two commercial  
 15 tenants, yes.  
 16 MR. WEST: Two questions. One is the  
 17 concern that we had was the location of the air  
 18 conditioner condensing units with the impact of  
 19 sound on the adjacent apartments. How do you  
 20 address that?  
 21 THE WITNESS: Yeah. What we'll be  
 22 doing is we will meet all of the local and state  
 23 requirements in terms of noise ordinance relating to  
 24 these units. Any manufacturer that produces HVAC  
 25 units like that has add-on options, shields,

1 blankets, et cetera. That can be added to reduce  
 2 the sound impact of the units. That in addition to  
 3 making sure that the height of the adjacent parapet  
 4 at least matches the height of the unit itself.  
 5 MR. WEST: Second question is you  
 6 don't show a transformer on the site. Do you know  
 7 if you're going to need one?  
 8 THE WITNESS: I don't know that for  
 9 sure at this point, although we will obviously have  
 10 to address that in coordination with your office.  
 11 MR. WEST: What I'd like you to do is  
 12 at least at the next meeting show a location of a  
 13 potential location.  
 14 THE WITNESS: Okay.  
 15 MR. WEST: That should be part of the  
 16 approval. If you don't need it obviously you don't  
 17 need it, but show a potential location for a  
 18 transformer.  
 19 THE WITNESS: Yeah. There is  
 20 extensive equipment in the existing basement.  
 21 Whether or not that will alleviate that need or not  
 22 --  
 23 MR. WEST: We don't want after the  
 24 fact you to tell us that you need a transformer  
 25 that's located outside the building.

1 THE WITNESS: Right. Well, we'll  
 2 verify that prior to the next meeting.  
 3 MR. WEST: Thank you.  
 4 MR. KAHN: Mr. Bridger.  
 5 MR. BRIDGER: No.  
 6 MR. KAHN: Okay. If there's no  
 7 further questions for Mr. Connolly --  
 8 MR. FLOYD: You said a couple times  
 9 the HVAC units are being screened completely by the  
 10 parapet.  
 11 THE WITNESS: Uh-huh.  
 12 MR. FLOYD: But it's not screened from  
 13 the upper floors of the building, right?  
 14 THE WITNESS: That's correct. They  
 15 will be able to look down on the units.  
 16 MR. FLOYD: And the sounds.  
 17 THE WITNESS: I was talking more about  
 18 screening it from street level view. You're right  
 19 though, since there are apartments both in our  
 20 building and the adjacent building that look down at  
 21 those units, yes, they'll be able to see them and we  
 22 will have to take, we may have to take additional  
 23 measures beyond the parapet to ensure that we meet  
 24 the state and local noise requirements. Whether  
 25 that be a hood or a blanket or, they're usually

1 several options that a manufacturer offers to  
 2 achieve that.  
 3 MR. FLOYD: Okay.  
 4 MR. KAHN: Okay. It's about twenty to  
 5 11. It's a good stopping point for this evening so  
 6 are we able to carry this over?  
 7 MS. CAYCI: Yes.  
 8 MR. MANN: I would request that we do  
 9 so without further notice.  
 10 MS. CAYCI: We can do that. That's  
 11 the practice.  
 12 MR. MANN: Just wanted to note for the  
 13 record that also I had mentioned already. I believe I  
 14 want to confirm we are granting an extension of  
 15 time.  
 16 MS. CAYCI: Great.  
 17 MR. KAHN: We don't need to renotice,  
 18 not necessarily with registered letters, but don't  
 19 they still need to?  
 20 MS. CAYCI: That's a good point, Mr.  
 21 Kahn. I'm going to ask the zoning officer. I guess  
 22 in the past you've --  
 23 MR. BRIDGER: Regular mail.  
 24 MR. KAHN: I know we've done it  
 25 before.

1 CERTIFICATE  
 2 I, COLIN J. DUFFY, a Certified Court Reporter  
 3 and Notary Public of the State of New Jersey,  
 4 certify that the foregoing is a true and accurate  
 5 transcript of the hearing taken before me, at the  
 6 place and on the date hereinbefore set forth.  
 7 I further certify that I am neither attorney  
 8 nor counsel for, nor related to or employed by, any  
 9 of the parties in the action in which this  
 10 deposition was taken and further that I am not a  
 11 relative or employee of any attorney or counsel in  
 12 this case, nor am I financially interested in the  
 13 action.  
  
 14  
 15  
 16  
 17 A Notary Public of the  
 18 State of New Jersey  
 19  
 20  
 21  
 22  
 23  
 24 LICENSE NO. XI00760  
 25

1 MS. CAYCI: That is correct. That is  
 2 the practice they follow, not certified mail, but  
 3 all the people on the list will get another letter  
 4 saying we want you to know it's been carried, we  
 5 continue to present this meeting.  
 6 MR. MANN: Well, that is beyond the  
 7 state statute's requirements, and we will of course  
 8 comply.  
 9 MR. KAHN: Okay. It's been an  
 10 informative evening. We appreciate everybody coming  
 11 out and hopefully you'll be able to come out again  
 12 on October 23rd, especially if you have something  
 13 you'd like to add to this application. As such, do  
 14 we have any other business?  
 15 THE SECRETARY: No.  
 16 MR. KAHN: In that case do we have a  
 17 motion to adjourn for this evening?  
 18 MS. BASKERVILLE: I move we adjourn.  
 19 MR. KAHN: Do we have a second.  
 20 MS. CLAYTON: Second.  
 21  
 22  
 23  
 24  
 25

A				
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