

TOWNSHIP OF LONG HILL
PLANNING BOARD

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IN THE MATTER OF:

TRANSCRIPT

Application No. 19-13P
PRISM MILLINGTON, LLC
50 Division Avenue
Blocks 12301/10100 Lots 1/7.01 REMOTE PROCEEDINGS
Major Preliminary and Final
Site Plan

OF

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Tuesday, December 8, 2020
Zoom Remote Hearing
Commencing at 7:43 p.m.

BOARD MEMBERS PRESENT:

DAVID HANDS, Chairman
THOMAS JONES, Vice Chairman
BRENDAN RAE, Mayor
JOHN FALVEY
VICTOR VERLEZZA
TOM MALINOUSKY
J. ALAN PFEIL
DENNIS SANDOW

A P P E A R A N C E S

JOLANTA MAZIARZ, ESQUIRE
Attorney for the Board

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BY: FRANCIS REGAN, ESQUIRE
Attorneys for the Applicant

HEROLD LAW, P.A.
BY: ROBERT F. SIMON, ESQUIRE
Attorneys for Objectors

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

2 DEBRA COONCE, Planning & Zoning Board
3 Coordinator

4 ELIZABETH LEHENY, Township Planner

5 MICHAEL LANZAFAMA, Board Engineer

6 ROBERT FOURNIADIS (Previously sworn)

7 PAUL DeVITTO (Previously sworn)

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PUBLIC EXHIBITS
DESCRIPTION

NUMBER

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(No exhibits marked)

1 CHAIRMAN HANDS: We have the
2 application major preliminary and final site
3 plan, Prism Millington, LLC, on the site
4 commonly known as Tifa.

5 Obviously we've spent the best part
6 of 10, 11 meetings over the last three months
7 or so, I guess, at this point. And I think
8 last time we talked about trying to come to
9 some closure shortly and that we had an
10 additional public objection to private -- so I
11 think there's a continuation of effort there
12 and work and comments. And from that, I think
13 there was also some Board professional
14 comments to take a look back and -- through
15 the ordinances, et cetera.

16 So without deliberating too much
17 further here, I'll pass it over maybe to
18 Jolanta or Deb just to take us through to the
19 beginnings of tonight's meeting.

20 COORDINATOR COONCE: Jolanta, it's
21 all you.

22 MS. MAZIARZ: Okay. Thank you,
23 Chairman. Thank you, Deb.

24 At the conclusion or near the
25 conclusion of last month's meeting, the Board

1 was presented a case by an objector
2 represented by Mr. Robert Simon. The Board
3 heard testimony from a planner, Mr. Pessolano.
4 And at the conclusion of Mr. Pessolano's
5 testimony, the Board requested that Liz
6 Leheny, our Board planner, and I respond to
7 Mr. Pessolano's testimony during this hearing
8 for the Board.

9 Now, between last month and this
10 month, it has come to our attention that Board
11 members are receiving e-mails and most
12 recently have received a petition from members
13 of the public.

14 Board members should be advised that
15 these e-mails and petitions and any other
16 communication that the Board is receiving from
17 the outside, any ex parte, or what we called
18 ex parte communications, cannot be considered
19 while the Board is considering this
20 application. While the Board is engaging in
21 its quasi-judicial capacity, the Board is only
22 allowed to look at the evidence that is
23 presented to the Board during the hearing.

24 And the reason for that, as Board
25 members are aware, is that testimony is under

1 oath and it is subject to examination by Board
2 members, examination by your professionals,
3 and it's also subject to cross-examination by
4 any member of the public who wishes to
5 cross-examine, and also, of course, the
6 applicant.

7 The Board has been presented with an
8 application by the applicant. That is the
9 evidence that's been presented to the Board.
10 Any other evidence that the Board or members
11 of the public wish for the Board to consider
12 must be presented here at a hearing under
13 oath.

14 So any -- anything that the Board
15 has received, please delete it. Please do not
16 consider it. Please do not open these
17 e-mails, read these e-mails, or take them into
18 consideration when you are deliberating upon
19 this application.

20 And, in addition, very importantly,
21 please don't respond to any communication that
22 you are receiving.

23 And I would also like to inform the
24 public at this point if members of the public
25 wish to bring something to the Board's

1 attention, please do not e-mail Board members
2 outside of this hearing. Please do not
3 approach them, please do not send them any
4 correspondence, because it will not be
5 considered. And we want to make sure that
6 every member of the public is heard.

7 And in order for us to ensure that
8 your rights are protected and that your
9 opinions, your objections, your -- you know,
10 what you want the Board to hear is heard, you
11 have to come to the Board. You have to engage
12 in these hearings and you have to put your
13 objections, your opinions, your comments, on
14 the record. So, please, no e-mails to Board
15 members. Please appear here.

16 We also were advised that there was
17 an e-mail that went around after the last
18 hearing indicating that we should have
19 responded to the objector's professional right
20 at that hearing.

21 Well, there are a couple of facts
22 that I'd like to place on the record and a
23 couple of recommendations to the Board and
24 just simply some Board housekeeping.

25 This application was submitted to

1 the Board very early this year. The
2 applicant's plans, their architectural
3 drawings, have been -- I'm sorry. Everything
4 was placed on the Township's website so that
5 anyone in the public, any objector, anybody,
6 could have viewed it -- correct me, please,
7 Deb, if I'm wrong -- starting in probably
8 August.

9 COORDINATOR COONCE: Before that. I
10 believe it was prior to June.

11 MS. MAZIARZ: Yes.

12 COORDINATOR COONCE: At least ten
13 days prior to the first meeting in June.

14 MS. MAZIARZ: Okay. So, you know,
15 the plans, especially the architectural
16 drawings, have been up on the website at least
17 since ten days before this hearing started in
18 September, and it did start in September, at
19 least according to my notes. Correct?

20 COORDINATOR COONCE: No, this
21 meeting?

22 MS. MAZIARZ: Yes.

23 COORDINATOR COONCE: No, this
24 meeting has been going on since June.

25 MS. MAZIARZ: Oh, since June. I

1 apologize.

2 COORDINATOR COONCE: June. In fact,
3 I have the date. June 9th was the first
4 meeting.

5 MS. MAZIARZ: Okay. So we have been
6 looking at the same plans. The public has
7 been aware of this. Everyone has been aware
8 of this application for not months, probably
9 years. But we have been apprised of what the
10 applicant actually intends to build on this
11 site since at least May. At least May.

12 We only learned of an objection in
13 November. We only learned that there was a
14 challenge to the Board's jurisdiction in
15 November, when these plans were there since
16 May. And without a phone call to the Board's
17 attorney or anyone reaching out to the Board's
18 planner or any of the other Board
19 professionals or the Board secretary, we were
20 blindsided with someone questioning the
21 Board's jurisdiction as late as November.

22 We are now prepared, after reviewing
23 the record, after reviewing the transcripts,
24 and after reviewing the ordinance yet again,
25 because we want to make sure that we are doing

1 the right thing for the Long Hill Planning
2 Board.

3 We will now respond to that
4 testimony that was given only in November.

5 Now, there are a couple of points
6 that Mr. Pessolano covered in his testimony
7 that I will go over with our Board planner,
8 Liz Leheny. Anything that has to do -- I'm
9 sorry?

10 COORDINATOR COONCE: Hold on. The
11 objecting attorney, Rob Simon, is requesting
12 to come in. Shall should I let him in as
13 panelist at this time?

14 MS. MAZIARZ: Yes.

15 COORDINATOR COONCE: Okay.

16 MS. MAZIARZ: He can come in as a
17 panelist, but nobody is talking until we are
18 finished. We are going to follow procedure.

19 COORDINATOR COONCE: Correct.

20 MS. MAZIARZ: Okay? Very good.

21 There were a couple of points made
22 by the objector's planner. Some of those
23 points were legitimate planning issues and
24 some of those points were legal issues. They
25 were legal opinions. And Mr. Pessolano is not

1 an attorney.

2 So we will go over all of what
3 Mr. Pessolano brought to the forefront
4 regarding the Board's jurisdiction as well as
5 the design. We'll get into design a little
6 bit later. Those are certainly planning
7 issues. And I understand, you know, just
8 based on the comments that Board members made
9 in the last hearing, that may be something, a
10 discussion that the Board might want to have
11 later in this hearing.

12 But, first of all, the first issue
13 that Mr. Pessolano brought up with regard to
14 Board jurisdiction is that according to
15 Mr. Pessolano, the applicant requires a D-1
16 use variance because there is more than one
17 principal building on the lot and no more than
18 one principal building shall be permitted on
19 any lot in the township.

20 Now, this implicates a planning
21 issue, but it also implicates a legal issue,
22 which is a statutory ordinance construction or
23 interpretation issue.

24 And I would like to recommend to the
25 Board that the MOU (sic) overlay zone

1 references buildings in the plural. Now, both
2 Ms. Leheny and I concede that the ordinance is
3 not artfully written. Ms. Leheny had
4 testified to that previously. While it is not
5 artfully written, it is clear by taking this
6 ordinance section in its totality that this
7 ordinance section references more than one
8 building. It says "commercial buildings,"
9 plural, in its body, and it also references
10 "other buildings," plural.

11 So it stands to reason that the
12 intent of this ordinance was that there would
13 be more than one building permitted in this
14 zone.

15 In addition, the MOU (sic) overlay
16 indicates that the uses that are permitted in
17 the LIU zone or the LU -- LI-2 zone, I
18 apologize, are also permitted here, and in the
19 LI-2 zone district, more than one principal
20 building is certainly permitted.

21 Now, for the planning part of this,
22 Ms. Leheny, you are still under oath.

23 Do you understand that?

24 MS. LEHENY: I do.

25 MS. MAZIARZ: Thank you.

1 Now, Ms. Leheny, would it be
2 reasonable from a planning perspective to
3 expect that all of these units would be housed
4 in one singular principal building?

5 MS. LEHENY: No. I think it's clear
6 the way the zoning is written, as you
7 mentioned, it mentions buildings, plural, in
8 the MU-0 zone. And, you know, if you were to
9 have, with this density and with the height
10 restrictions, all the units in one building,
11 it would be one sort of massive building
12 surrounded by a sea of parking, which would
13 resemble, you know, either like a big box
14 retailer or a large institutional use, like a
15 hospital, and I really do not think -- you
16 know, I think that would kind of be an absurd
17 result and I really don't believe that was the
18 intent of the ordinance, which I think clearly
19 contemplated that there would be multiple
20 buildings on the site.

21 MS. MAZIARZ: Thank you, Ms. Leheny.

22 The next point that was brought up
23 was the issue of the swimming pool and the
24 clubhouse. The applicant has identified those
25 as accessory uses. Mr. Pessolano believes

1 that they are principal permitted uses.

2 Now, I submit to the Board that when
3 a use is an accessory use, accessory uses are
4 those uses that are customary, incidental, and
5 subordinate to the principal use. In other
6 words, an accessory use must be one that would
7 not logically be able to stand alone if the
8 principal use to which it is attached were to
9 be removed.

10 So in this case, a private swimming
11 pool -- we're not talking about a public swim
12 club or anything of that nature. No one's
13 charging money for people to come to this
14 swimming pool.

15 Would anyone build a swimming pool
16 with a clubhouse on this site without the
17 principal use attached, which is a residential
18 development? That is the question that the
19 Board needs to ask itself when determining
20 whether or not this is accessory or whether
21 this is a principal permitted use.

22 Now, with regard to the planning
23 aspects, Ms. Leheny, are swimming pools and
24 clubhouses ordinary, customary, subordinate
25 to, incidental, generally constructed along

1 with a residential development such as this
2 one?

3 MS. LEHENY: Yes, they are. You
4 know, at this point in time in this market, in
5 most inclusionary multifamily developments,
6 certainly that I've reviewed in communities
7 similar to Long Hill, swimming pools,
8 community clubhouses are included, sometimes
9 even tennis courts.

10 And there's several reasons for
11 this. On the one hand, it's a marketing
12 issue. It makes the development more
13 attractive to potential residents just
14 because, you know, they have better amenities
15 package.

16 But, also, a lot of municipalities
17 want there to be accommodations on site for
18 the residents of this project, which would
19 reduce the demand from the development -- you
20 know, of the residents from the development,
21 the increased demand that they would put on
22 the existing facilities in the community. And
23 it also reduces, you know, vehicle trips, sort
24 of, you know, residents leaving the site to go
25 to facilities elsewhere in the township.

1 MS. MAZIARZ: Thank you.

2 Mr. Pessolano also mentions that
3 these are principal uses. And that is his
4 opinion, that they're principal uses, because
5 the section which focuses on the MOU (sic)
6 overlay zone does not mention accessory uses.
7 However, this fact, that an ordinance does not
8 mention accessory uses, does not obviate the
9 need for the Board to determine whether or not
10 this is actually an accessory use.

11 Ordinances don't generally -- and
12 this is a legal issue. This is not a planning
13 issue. Ordinances generally do not mention or
14 don't have to mention whether or not these
15 accessory uses are accessory uses effectively.
16 And the Board must determine whether this is
17 an accessory use that is customary,
18 incidental, and subordinate to that principal
19 use which is on the property.

20 Now, there are a couple of zones in
21 town that allow restaurants. Some of the B
22 zones allow restaurants. And as an accessory
23 use, in at least one of the B zones, it allows
24 a refuse enclosure.

25 So if in a zone that doesn't allow a

1 refuse enclosure as an accessory use, would
2 the Board find, if a restaurant wanted to
3 enclose its refuse, for this not to be an
4 accessory use? That also leads to somewhat of
5 an absurd result.

6 So the Board must determine,
7 regardless of the fact that, as we mentioned
8 before, this ordinance is not artfully
9 written, the fact that accessory uses were
10 omitted, the Board must still determine
11 whether this is an accessory use.

12 And I believe that Ms. Leheny will
13 agree, correct, with me --

14 MS. LEHENY: Yes, I do agree. Yep.

15 MS. MAZIARZ: -- that in our
16 opinion, both legal and planning, this is an
17 accessory use.

18 Now, the next issue that was brought
19 to the table was also the floor area ratio.
20 Mr. Pessolano took the position that a floor
21 area ratio variance, or a D-4, which is a use
22 variance, it's an FAR variance, is needed
23 because in another area in the zoning
24 ordinance, it states that it might be -- it
25 might be needed under another zone, under

1 another definition.

2 However, the MOU (sic) zone itself
3 establishes the density that is permitted in
4 this zone.

5 Ms. Leheny, am I correct in that
6 assertion?

7 MS. LEHENY: Yes. There is a
8 specific FAR for the MU-0. The section of the
9 ordinance that was referenced by Mr. Pessolano
10 is sort of a generic FAR for residential uses
11 throughout the township.

12 MS. MAZIARZ: Okay.

13 MS. LEHENY: And that only applies
14 to this site.

15 MS. MAZIARZ: And the MU-0 zone,
16 what is the FAR that is required in that zone?

17 MS. LEHENY: So the MU-0 permits an
18 FAR of 0.5 and the applicant is proposing an
19 FAR of 0.4 so it's within the 0.5 maximum.

20 MS. MAZIARZ: Okay. So, in your
21 opinion, an FAR variance under the D-4
22 criteria is not necessary?

23 MS. LEHENY: Yes, I agree with you.
24 It is not necessary.

25 MS. MAZIARZ: Okay. Thank you.

1 Finally, there is a -- there was a
2 discussion of a D-6 height variance. This is
3 something that was discussed by Ms. Leheny in
4 her October testimony, but I would like for
5 Ms. Leheny to reiterate what you said in
6 October so we can have a further discussion
7 about another assertion that Mr. Pessolano
8 made with regard to height in a moment.

9 So if you can please give us a
10 summary of your testimony in October.

11 MS. LEHENY: Very briefly, you know,
12 I don't want to repeat testimony or belabor
13 the point, but my interpretation of the
14 ordinance was consistent with the applicant's
15 and I believe that no height variances are
16 needed.

17 There were -- yes, so that's
18 essentially it. You know, I certainly went
19 into much more detail in October, but that is
20 the sum total of what I said.

21 MS. MAZIARZ: Okay. Mr. Pessolano
22 also made mention, and I'm not sure if he
23 really meant this, but he said that he thinks
24 a D-1 variance is required for three stories
25 where a maximum of two and a half stories is

1 permitted because, from what I read in the
2 transcript, a former planner of the Township
3 or of the Board required a D-1 -- I don't
4 recall that actually happening, but required a
5 D-1 of Mr. Kaufman, actually, when he was
6 before the Zoning Board of Adjustment.

7 Ms. Leheny, do you recall that
8 testimony?

9 MS. LEHENY: I do. And, you know,
10 Mr. Pessolano is correct that Mr. O'Brien had
11 pointed out that there was a D-1 needed. But
12 I disagreed with that and said so on the
13 record at the public hearing.

14 And I believe that the resolution
15 should -- you know, and the Zoning Board
16 agreed and I think, Jolanta, you agreed that a
17 D-1 wasn't necessary. And the -- you know,
18 the resolution for that application should
19 reflect that we all came to the conclusion
20 that a D-1 was not necessary contrary to what
21 the previous planner had opined.

22 MS. MAZIARZ: Okay. And I would
23 also like to place on the record -- and it is
24 public record already. I can supply a copy to
25 the Board secretary and I will put a copy of

1 this on the record.

2 Mr. O'Brien's memorandum dated -- or
3 revised November 22nd, 2019, the applicant
4 1932 Long Hill LLC -- I believe that was
5 Mr. Kaufman's property, correct?

6 MS. LEHENY: Yes.

7 MS. MAZIARZ: Liz?

8 MS. LEHENY: Yes. Yes.

9 MS. MAZIARZ: In that -- in the
10 planning summary on the first page, there is a
11 cross-out of a -- "new use variances are
12 required." Mr. O'Brien crossed that out in
13 his November 22nd planning report and conceded
14 that there was no other use variance required
15 other than the -- I believe it was a D-5
16 density variance that Mr. Kaufman applied for
17 and also that he obtained during that
18 application.

19 All of those things are already
20 public record, but we will once again put that
21 up on the Township's website so everyone
22 understands that that was not an issue in
23 that -- in that property and in that
24 application or for that property.

25 And I think the reason why that was

1 brought up is because Mr. Kaufman's property
2 is also in the Millington section of Long Hill
3 and he had to comply with that zoning
4 ordinance.

5 And he had to deal with the height
6 situation as well. But in that -- in that
7 height situation, Mr. Kaufman had exceeded the
8 number of stories, is that correct?

9 MS. LEHENY: Yes. And I think -- my
10 understanding and my practice is, you know,
11 when it comes to a proposal that exceeds the
12 number of stories, it's a C bulk variance and
13 not a D use variance.

14 MS. MAZIARZ: Correct. Correct.

15 And that is the way Mr. Kaufman's
16 application was considered, correct?

17 MS. LEHENY: Correct.

18 MS. MAZIARZ: And therefore, that
19 really is not germane in this application.

20 MS. LEHENY: Correct.

21 MS. MAZIARZ: Because we're dealing
22 with a different zone and we are dealing with
23 a different situation.

24 MS. LEHENY: Correct.

25 MS. MAZIARZ: Okay. Mr. Pessolano

1 also discussed issues regarding the design.
2 And you also covered some of these issues in
3 your testimony in October.

4 So could you please give the Board
5 just for everyone's -- you know, just a
6 refresher, just a reminder for everyone's
7 edification, just a brief summary of your
8 testimony in October with regard to the design
9 issues?

10 MS. LEHENY: Right. So, you know,
11 again, I don't want to repeat myself too much,
12 but I did mention in my October testimony that
13 when the MU-0 ordinance was reviewed by the
14 Planning Board, you know, when it was under
15 consideration by the Township Committee, there
16 were concerns raised about minimizing the
17 visual impacts of the development on the
18 surrounding community related to buildings,
19 mass and scale.

20 And this is where I thought the
21 Board could consider what they think -- you
22 know, if they think what is currently proposed
23 in terms of architecture accomplishes this
24 goal. This is an inclusionary site. It's
25 included in the Fair Share Plan. That does

1 not mean that the project does not have to be
2 aesthetically pleasing. And if it is the
3 Board's wishes, it's not unreasonable to ask
4 the applicant to work with the Board to
5 minimize the appearance of the mass and bulk,
6 make differentiations in the facades, et
7 cetera.

8 But as I said previously, making
9 this request is a decision for the Board.

10 MS. MAZIARZ: Okay. I appreciate
11 that. Thank you.

12 So based on the foregoing discussion
13 and testimony, Board members, it is our
14 recommendation that you do have jurisdiction
15 over this application. If that is found to --
16 and it is a matter of law. And any time that
17 the Board makes a decision that is based on a
18 matter of law, a reviewing court does not have
19 to defer to your judgment.

20 It is only our recommendation, and
21 it is our recommendation, that you do have
22 jurisdiction over this application. If you
23 did not have jurisdiction over this
24 application, we would have hoped that somebody
25 would have brought this to our attention in

1 April or May and not in November. But that
2 being said, that is when the objectors decided
3 that they would hire professionals and we are
4 left with this.

5 I think that should be the last word
6 with regard to jurisdiction. If there are any
7 questions for our planner, Mr. Chairman, I
8 would like for you to open any questions to
9 the planner, but they will be questions about
10 planning testimony, not about law because she
11 is a professional planner and not an attorney.

12 CHAIRMAN HANDS: Thank you. Thank
13 you, Jolanta. Thank you, Liz, for that.

14 When you say "open to questions,"
15 Jolanta, are you thinking to the public? I
16 see Mr. Simon's hand is up.

17 MS. MAZIARZ: Yes, the objectors can
18 ask questions, cross-examine, of course, and
19 also members of the public.

20 CHAIRMAN HANDS: Thank you for that.

21 MS. MAZIARZ: But I'd also like to
22 just mention because, look, this is our tenth
23 or eleventh hearing. Please, anyone who's
24 going to be asking questions, if they are
25 going to be repetitious, please pay attention

1 to the questions that have already been asked
2 and please do not ask repetitive questions.

3 Thank you.

4 CHAIRMAN HANDS: Thank you for that.

5 We'll go to Mr. Simon first.

6 MR. SIMON: Good evening. Can
7 everyone hear me?

8 CHAIRMAN HANDS: Yes. Thank you,
9 Bob.

10 MR. SIMON: Thank you. A couple
11 things.

12 First of all, with regard to legal
13 issues, I will put out to the Chairman at this
14 time, considering that Jolanta gave a legal
15 opinion to the Board as to legal issues,
16 whether it's the Board's decision that they
17 want to entertain contrary legal argument now,
18 contrary legal argument later. Because the
19 point that the Board attorney provides advice
20 to the Board, which the Board attorney, of
21 course, should be doing, does not obviate the
22 right for members of the public who've raised
23 these issues via professional testimony to be
24 precluded from providing contrary or
25 responsive legal argument --

1 MS. MAZIARZ: Before you go on, I
2 never said that anyone was precluded and I
3 fully expect that you will be giving a
4 summation and I'm sure that you will be also
5 putting your legal opinions on the record.
6 That's all that we can do, Mr. Simon. We can
7 put our legal opinions and recommendations on
8 the record.

9 So if you have any questions for
10 Ms. Leheny, this is the time for questions.

11 MR. SIMON: Well, that was my
12 clarification, Jolanta. I just wanted to find
13 out whether the Board wishes, considering
14 these are jurisdictional issues that have been
15 raised, whether the Board wishes that I
16 address them now or I address them later,
17 because I certainly am prepared and would like
18 to address them at some point during the
19 proceeding, certainly. I'm just asking in
20 terms of timing.

21 MS. MAZIARZ: Okay. I think that
22 since we're on the eleventh hearing and we
23 waited this long, I think that we can -- I
24 don't think it makes a difference at this
25 point. I mean, this is something we're simply

1 going to put on the record because we're not
2 going to start this all over again. We've
3 come this far.

4 So my recommendation to the Board is
5 please wait for a summation. But if the Board
6 would like to hear Mr. Simon's opinion before
7 that, that's up to the Board. That's not up
8 to me.

9 CHAIRMAN HANDS: So just legally,
10 you say "the summation." So that would be
11 after all the public discussion and Board
12 discussion?

13 MR. SIMON: Yes. Yes, Mr. Chairman.

14 MS. MAZIARZ: Yes. At the close --
15 at the close of the objector's case. Because
16 each attorney is going to have an opportunity
17 to make a summation. I'm not going to make a
18 summation. I represent the Board. I advise
19 the Board. But the applicant's attorney and
20 the objector's attorney are going to have an
21 opportunity to each make a final summation
22 before the Board closes, well, the public
23 portion of the hearing and then begins to
24 deliberate and make its decision.

25 CHAIRMAN HANDS: When's the most

1 appropriate time to do this?

2 And, Mr. Simon, it's your preference
3 as a matter of interest.

4 MR. SIMON: No, no, no. It's
5 certainly -- Mr. Chairman, thank you for that,
6 but it's not my preference, in fact, and
7 that's why I directed the question to you as
8 chairman. Because I know, and I'm a Board
9 attorney as well, that boards can handle it in
10 one of two ways: They can address it now
11 because it was raised specifically by the
12 Board attorney now for purposes of
13 jurisdiction or, as Jolanta stated, it could
14 be -- it could be done as part of the
15 summation. It's really up to the Board as to
16 how they want to handle these particular legal
17 issues. That's all.

18 MAYOR RAE: And, Mr. Chairman, I'm
19 fine with Jolanta's recommendation. I would
20 personally go with that.

21 CHAIRMAN HANDS: You mean to leave
22 it to summation points?

23 MS. MAZIARZ: Sure.

24 CHAIRMAN HANDS: That was your
25 recommendation, Jolanta, was it?

1 MS. MAZIARZ: Yes. Look, if we
2 were -- I mean, just for practicality, you
3 know, just for practical purposes, if we were
4 discussing jurisdiction in May, then obviously
5 we would all be putting all of our opinions on
6 the record in the beginning. Before we even
7 started any testimony, any applicant
8 testimony, there would be three lawyers
9 talking about what their opinion is on
10 jurisdiction.

11 But we are -- it's December at this
12 point, you know. At this point, all we're
13 doing is making a record. We're not going to
14 stop the hearing now. I don't think that the
15 Board or the applicant is in favor at this
16 point of stopping a hearing that's gone on for
17 11 hearings since May.

18 CHAIRMAN HANDS: So your
19 recommendation -- I just wonder if we should
20 just discuss it and get it out of the way or
21 just --

22 MS. MAZIARZ: No, I think a
23 summation, you know, is -- look, you can --

24 CHAIRMAN HANDS: That's fine.

25 MAYOR RAE: I mean, Mr. Chairman, we

1 have our -- we have our legal counsel giving
2 us advice. I mean, I think in the interest of
3 time and moving this along, we should take it
4 and move -- and move forward with the hearing.
5 I mean, the hour's getting late and it is our
6 eleventh meeting. I don't know how everybody
7 else feels, but that's certainly the way I'm
8 looking at it.

9 MR. REGAN: I agree on behalf of the
10 applicant, Mr. Chairman, I mean, we object to
11 this. The Board attorney has put her legal
12 opinion on the record on behalf of the Board.
13 The objectors already had their planner
14 provide their testimony. The Board's attorney
15 and its planner has responded. It's time to
16 move forward.

17 MR. SIMON: Well, wait. Hold on a
18 second. It's not a question of moving
19 forward. It's a question of, as Jolanta
20 stated appropriately, it's a question of
21 putting legal positions on the record.

22 MR. REGAN: Well, then let's do
23 that. Let's not keep debating it. Let's
24 decide and do it and move forward. This is
25 ridiculous.

1 MR. SIMON: Frank, all I asked was
2 whether you want to do it now or you want to
3 do it at summation. I don't care which one.

4 BOARD MEMBER FALVEY: Let's leave it
5 to summation. Let's move on.

6 MS. MAZIARZ: Yes. And thank you,
7 Mayor, for your comments. Just for
8 practicality's sake because we're at the
9 eleventh hearing and we would like to move on,
10 and all we're doing is putting all of this on
11 the record for later, I would suggest that we
12 move on at this point.

13 CHAIRMAN HANDS: I'm fine with that.

14 MR. REGAN: Move on.

15 MS. MAZIARZ: Mr. Jones?

16 VICE CHAIRMAN JONES: Yeah, I second
17 your opinion, as well as the mayor. So...

18 BOARD MEMBER SANDOW: I'd like to
19 propose that we drop back five minutes and
20 start any questioning that anyone has for
21 Ms. Leheny and get those questions out of the
22 way before we go on to summation.

23 CHAIRMAN HANDS: Absolutely. Thank
24 you, Dennis.

25 Jolanta, any concern about that or

1 comment?

2 MS. MAZIARZ: No, that's the
3 ordinary course. I would imagine that that
4 would be the next logical step, is to have Liz
5 answer any questions that anyone may have
6 before she forgets what her testimony was.

7 CHAIRMAN HANDS: All right. Do we
8 have any questions? I see we have one
9 attendee.

10 COORDINATOR COONCE: Well, I
11 don't -- well, Mr. Chairman, I don't know if
12 the Board -- does the Board and/or Mr. Simon
13 have any questions for Liz at this time or --
14 with regard to the testimony?

15 CHAIRMAN HANDS: Okay. Was
16 anybody -- fine. Board members, any comments
17 or questions on Liz's testimony that we just
18 heard? Again, that's in discussion, the point
19 by point to issues that were raised by
20 Mr. Simon and the planner at the previous
21 meeting.

22 VICE CHAIRMAN JONES: Mr. Chair, I
23 have no questions for the Board planner. I
24 did review all the information that she put
25 out in her original testimony and listened to

1 the objectors' commentary as well and I have
2 no questions. All the questions that I had
3 were already previously answered. Thank you.

4 CHAIRMAN HANDS: Yes. I, likewise,
5 appreciate, Liz, your testimony to this
6 extent.

7 Anybody else have any comments?
8 Okay.

9 MS. MAZIARZ: Well, questions of
10 Liz.

11 COORDINATOR COONCE: Questions of
12 Liz.

13 CHAIRMAN HANDS: That was the
14 question.

15 COORDINATOR COONCE: All right.
16 Seeing none, we will move to the public.
17 First up is Mr. Charles Arentowicz, I'm
18 assuming.

19 CHAIRMAN HANDS: His hand was up.

20 MR. ARENTOWICZ: I've got a question
21 on some of the testimony when Jolanta was
22 speaking. So when can I ask that question?

23 COORDINATOR COONCE: You can ask
24 that now, Mr. Arentowicz.

25 MR. ARENTOWICZ: Yes. It was

1 mentioned that all these documents were posted
2 on the Town's website in June or July. I'd
3 like to remind the Board that if you look at
4 the applicant's application, that was dated
5 September the 6th, 2019.

6 I look at all the postings on the
7 website and there was major, major discussions
8 on the New Jersey DEP PA/SI report 2019. We
9 had discussions. It took months to get these
10 documents posted on the website.

11 And if you look at the dates,
12 there's June, there's July, there's October.
13 So I don't want to mislead the public that
14 when this application was submitted in
15 September of 2019, that all of these documents
16 were posted on the website. That was not the
17 case. And I want to go on the record for
18 that, that someone is not telling the truth
19 here tonight.

20 Thank you for your time.

21 COORDINATOR COONCE: Jolanta, do you
22 want to handle that one?

23 MS. MAZIARZ: Does anyone have any
24 questions for Ms. Leheny?

25 VICE CHAIRMAN JONES: Thank you.

1 COORDINATOR COONCE: Thank you.

2 CHAIRMAN HANDS: I keep losing my
3 internet. I'm sorry. It's unstable. It
4 keeps coming back unstable.

5 MR. REGAN: Mr. Chairman, I just
6 want to make one point. Mr. Chairman, if I
7 could just make one point. Just for the
8 record because it's been stated twice
9 incorrectly. The applicant submitted its
10 application to the Board on November 7th,
11 2019.

12 CHAIRMAN HANDS: Okay. Thank you
13 for that.

14 MR. REGAN: The first hearing wasn't
15 held June 9th, 2020.

16 COORDINATOR COONCE: Correct. And
17 the documents -- any documents that were
18 discussed on record were posted at the
19 appropriate times. The information was always
20 available to the public. But by legal, by the
21 Municipal Land Use Law, and Jolanta can
22 confirm this, all documents were posted and
23 available to the public. And the only reason
24 that the documents were on the website this
25 year, the only reason, was because we are in a

1 pandemic. In any other scenario where -- the
2 public needs to be reminded, the documents
3 would not have been posted and you would have
4 needed to OPRA as usual and come into the
5 building to see them.

6 We put everything online.

7 BOARD MEMBER SANDOW: I think it's
8 also appropriate to point out that the fact
9 that the application came in in late 2019 has
10 nothing to do with whether or not it was
11 complete or noticed for hearing.

12 COORDINATOR COONCE: Yes.

13 BOARD MEMBER SANDOW: And it was
14 only posted at the website at the point in
15 time when it was noticed for hearing.

16 COORDINATOR COONCE: Correct. That'
17 correct, Mr. Sandow.

18 BOARD MEMBER SANDOW: So there was
19 nothing -- there was nothing being kept from
20 the public. It's just a matter of routine
21 that the application has to be completed and
22 deemed complete and that may take months after
23 the date that's on the application itself.

24 VICE CHAIRMAN JONES: That's
25 correct. Thank you, Mr. Sandow.

1 CHAIRMAN HANDS: And I know the
2 documents were available in Town Hall at an
3 appropriate time and I know people were
4 looking at them.

5 COORDINATOR COONCE: Yes. So as we
6 are no longer taking any further procedural
7 questions, does any member of the public have
8 any questions for the testimony that the Board
9 planner, Liz Leheny, gave this evening?

10 All right. Mr. Arentowicz, I will
11 allow you to talk again, but I will warn you
12 that if you are asking procedural questions,
13 you will be muted.

14 Yes, Mr. Arentowicz.

15 MR. ARENTOWICZ: I'm not going to
16 ask any questions. I'm just confused on
17 dates. I read documents. I'm an intelligent
18 person. In September, November, whatever it
19 is. I'm confused.

20 Thank you very much.

21 MS. MAZIARZ: Okay.

22 CHAIRMAN HANDS: Okay.

23 COORDINATOR COONCE: Okay.

24 MS. MAZIARZ: Ms. Coonce, did we
25 complete the questioning of Mr. Pessolano?

1 That was one of my other questions. I don't
2 believe that we did.

3 COORDINATOR COONCE: No, we did not.

4 MS. MAZIARZ: All right.

5 COORDINATOR COONCE: So any other
6 members of the public with questions for Board
7 planner Liz Leheny?

8 VICE CHAIRMAN JONES: Yeah, just one
9 quick comment. The fact that Mr. Arentowicz
10 said someone's lying, nobody's lying.

11 COORDINATOR COONCE: Correct.

12 VICE CHAIRMAN JONES: Nobody's
13 lying, okay? This is the process we're all
14 going through. Thank you.

15 COORDINATOR COONCE: Thank you.

16 All right. So now we will move --
17 no further questions from the public for
18 Ms. Leheny. So we are now moving forward with
19 -- I think, Jolanta, are we ready to have
20 Mr. Pessolano for questioning?

21 MS. MAZIARZ: Yes. Anyone who has
22 questions, I don't believe we completed
23 questioning. So we'll just put the call out
24 there for anyone who may have a question.

25 COORDINATOR COONCE: Okay.

1 CHAIRMAN HANDS: What was the
2 last -- what was the last testimony from --
3 from Mike? Can we just remind ourselves if we
4 were going to questions? What was that last
5 testimony?

6 MR. SIMON: I believe -- I'm sorry,
7 Mr. Chairman. My recollection is that I
8 completed the direct questioning of
9 Mr. Pessolano. I'm not sure if anyone had an
10 opportunity to ask him any questions, whether
11 it was the applicant's attorney or members of
12 the public.

13 MS. MAZIARZ: Correct.

14 CHAIRMAN HANDS: Thank you.

15 If there's any Board questions as
16 well -- or we rescinded that to the
17 professionals and they've answered as -- they
18 just testified as they just testified,
19 correct?

20 COORDINATOR COONCE: Yes.

21 CHAIRMAN HANDS: Okay. Are there
22 any questions from the applicant?

23 MR. REGAN: We have no questions,
24 Mr. Chairman.

25 CHAIRMAN HANDS: Okay. Thank you.

1 We'll then open up to the public for

2 --

3 BOARD MEMBER FALVEY: Board members.

4 Board members first.

5 CHAIRMAN HANDS: Okay. I thought we

6 just announced our comments will be coming

7 from Liz. But if there's anybody that's got

8 questions, go ahead.

9 BOARD MEMBER FALVEY: None.

10 CHAIRMAN HANDS: Thank you.

11 And the questioning to

12 Mr. Pessolano, is that outside of the

13 individuals that have been -- that Mr. Simon

14 mentioned he's acting on behalf of or can it

15 include those people as a matter of procedure?

16 MS. MAZIARZ: I'm sorry, I --

17 MR. SIMON: Mr. Chairman, if

18 you're -- and I might have misunderstood the

19 question. If your question is whether a

20 member or someone I'm representing is allowed

21 to ask Mr. Pessolano a question, I believe

22 they are not.

23 MS. MAZIARZ: No, they're not. They

24 are represented by counsel.

25 And, Mr. Simon, who do you

1 represent? I don't recall if you put that on
2 the record.

3 COORDINATOR COONCE: He did.

4 MS. MAZIARZ: Oh, you did. Okay.

5 COORDINATOR COONCE: He did. He
6 represents Mr. William Kaufman, John and Emily
7 Caputo, Christina and David Berquist, and
8 Pamela Ogens, all residents of Millington.

9 CHAIRMAN HANDS: Thank you.

10 MS. MAZIARZ: Thank you. And those
11 are the individuals who would not be able to
12 question Mr. Pessolano individually. But if
13 there are any other members of the public that
14 do have questions for either planner, please
15 ask now.

16 CHAIRMAN HANDS: I don't see any
17 hands up, Deb.

18 COORDINATOR COONCE: I'm not seeing
19 any hands up either.

20 Again, any members of the public who
21 now have questions of Michael Pessolano.

22 There being none, Chairman, I think
23 we can move on.

24 CHAIRMAN HANDS: Thank you. Are we
25 back to Mr. Simon at this point, Jolanta?

1 Where do we stand procedurally?

2 MS. MAZIARZ: Yes.

3 Mr. Simon, do you have any other
4 witnesses that you'd like to present to the
5 Board?

6 MR. SIMON: I don't believe that I
7 have any additional witnesses to present to
8 the Board. I believe Mr. Kaufman has already
9 testified previously and obviously
10 Mr. Pessolano testified at the last hearing.

11 MS. MAZIARZ: Yes.

12 MR. SIMON: I do not believe I do.
13 However, in the Zoom world that we are in, if
14 you'd just indulge me, to the extent that any
15 of my clients that Debra just listed wish to
16 make a statement with regard to the
17 application, I would certainly give them the
18 opportunity to do that.

19 MS. MAZIARZ: Of course. Well, we
20 haven't gotten to public comments yet. But,
21 yes, all members of the public will be
22 afforded the opportunity to make a final
23 comment on this application. Once all of the
24 testimony has been completed, once the Board
25 has asked the applicant and any objector

1 professionals all of the questions that the
2 Board wishes to ask, then we will close the
3 public portion of the hearing -- not the
4 public portion, but the testimony portion of
5 the hearing and allow for public commentary
6 before we close the public portion or the
7 public testimony portion completely and then
8 the Board will enter into deliberations.

9 So at this point, I think if
10 Mr. Simon has now indicated on the record that
11 he has no other witnesses for the Board, I now
12 turn to Mr. Regan.

13 If any of Mr. Regan's professionals
14 have any further testimony or Mr. Fourniadis
15 has any further testimony that they'd like to
16 offer to the Board before we move on.

17 MR. REGAN: We have none.

18 MS. MAZIARZ: Okay. And based upon
19 what the Board has heard up to this point, do
20 the Board members have any comments or
21 questions regarding any of the testimony that
22 the Board now has had an opportunity to
23 review?

24 And I know that the Board has been
25 receiving and the members of the public have

1 been seeing transcripts that have been posted.
2 So I know that the Board members have been
3 diligently perusing and reading through these
4 transcripts and readying themselves and
5 preparing for the conclusion of this
6 application.

7 So if the Board members, now that
8 you have had the opportunity to piece together
9 this puzzle, I know it has been many hearings,
10 but if there are any concerns or questions
11 that you have, you should bring them up now
12 while the applicant and the objector and your
13 Board professionals are all here.

14 CHAIRMAN HANDS: Jolanta, I
15 certainly have a few, but let me leave it open
16 up to the Board first before I add my
17 comments.

18 MS. MAZIARZ: Sure.

19 CHAIRMAN HANDS: Do you want to have
20 an initial discussion on any aspect of the
21 testimonies we've heard throughout the number
22 of meetings that Jolanta mentioned?

23 VICE CHAIRMAN JONES: Mr. Chair, why
24 don't you go ahead and start with your
25 questions first and then the rest will start

1 to opine.

2 CHAIRMAN HANDS: Thank you.

3 I think obviously top of my mind
4 right now because it's most current is the
5 conversation around Mr. Kaufman's suggestion
6 and the offer initially from the applicant
7 about architectural design and how far we are
8 able to have that discussion. Initially it
9 was started as a discussion around
10 architectural flavor, for want of a better
11 word, versus site plan adjustment.

12 I'd like to see what our thoughts
13 are on that. So, again, the application --
14 this is towards the end of the discussion,
15 before these comments were made, and certainly
16 on, you know, two aspects: To define the
17 architectural conversation versus the more
18 substantial thought, thoughts out, I should
19 also add, suggestions on this site, and
20 adjustments could be along Stone House,
21 Division Avenue, the retail building.
22 Basically the surrounding aspects of the site
23 that have more relevancy perhaps to the
24 residents of Millington and the town.

25 I'd like to see where the Board's

1 thoughts are on those aspects.

2 VICE CHAIRMAN JONES: So, Mr. Chair,
3 if I may go first.

4 CHAIRMAN HANDS: Please.

5 VICE CHAIRMAN JONES: Yeah, thank
6 you.

7 So it's a couple things, right? So
8 in reviewing the master plan, as well as
9 taking a look at the ordinances that we have
10 on the books, the fact that all the buildings
11 are identical is a concern for me, as I've
12 spoken in the past. And listening to many of
13 the residents, that is a concern for them,
14 too.

15 I very much want to see a Millington
16 Village look and feel to the property. I
17 would love to work with the applicant to help
18 construct that. I think there's an excellent
19 opportunity to change ridgelines and put in
20 gables and dormers. Going with the natural
21 sloping of the property itself, there may be
22 opportunities to be flexible and really make
23 it a beautiful place.

24 And that's what I want. That's what
25 I would like to see. If you really read into

1 the ordinances, it starts to talk about the
2 front of the building shouldn't even look the
3 same as the front of another building.
4 Windows shouldn't be in the same spot, doors
5 shouldn't be in the same spot and so forth.
6 So when you start looking at that, it really
7 starts changing the dynamic.

8 But I want to work with the
9 applicant to say, okay, let's come up with
10 something that makes it look like part of the
11 building. So you have this harmony as you
12 come down Division Road, crossing over the
13 railroad tracks, and there you see a village.

14 There are still some other eyesores
15 elsewhere in the town. We're not going to
16 talk about that. I know some people have
17 brought that up. But here's an opportunity
18 that we can take this piece of property and
19 make something that we can all be proud of.

20 And that's come from several
21 questionnaires. That's come from many of the
22 people listed here. We have 22 people in
23 attendance this evening and I see some new
24 names in there. And I think they're saying
25 the same things. It's even some of the stuff

1 I've read in the newspaper. They want to see
2 a village there. That's what our master plan
3 is. That's what the surveys have been talking
4 to, so that's what we should be working on.

5 BOARD MEMBER PHEIL: So how does
6 that happen?

7 VICE CHAIRMAN JONES: Say again?

8 BOARD MEMBER PHEIL: So how does
9 that happen? At this point, how does that
10 happen?

11 VICE CHAIRMAN JONES: Well, they're
12 not going to stick a shovel in the ground any
13 time soon because they're dependent on the
14 sewer system and that whole thing, right?

15 BOARD MEMBER PHEIL: I understand
16 that, but the applicant is looking for
17 approval on a site plan. So how do we -- how
18 do we accomplish that? And I'm opening that
19 up to the applicant, the applicant's attorney,
20 our attorney. How do we accomplish that? Do
21 we do that with a condition of approval on a
22 resolution or what's the mechanics? Because
23 obviously we're not going to go back to square
24 one and start with a new site plan.

25 VICE CHAIRMAN JONES: Oh, no.

1 BOARD MEMBER PHEIL: So how do we
2 accomplish what Chairman Jones, Vice-Chairman
3 Jones, has suggested? How do we do that?

4 MS. MAZIARZ: Well, Mr. Pfeil, yes.
5 The answer to your question is, yes, you are
6 correct. It is a condition of approval. And
7 I believe that either a month or two ago, this
8 was very briefly discussed. And I believe
9 that the applicant at that time -- and
10 Mr. Regan can correct me if I'm wrong -- was
11 willing to -- was willing to concede that they
12 would agree to a condition of approval that
13 would require a number of Board members to --
14 and Board professionals to work with the
15 applicant's architect and with the applicant
16 to make a more aesthetically pleasing
17 development.

18 Now, I don't think that we went very
19 far in discussing the details of such a
20 condition because I think that a condition
21 like that, both, you know, for the Board and
22 the Township as well as the applicant really
23 has to be very clear and has to give direction
24 to both the applicant and the professionals
25 and the Board that are going to be ultimately

1 working with the applicant on those
2 architectural plans.

3 And I don't think that we ever got
4 into very many specifics. So I think what
5 you're asking at this point, can we do it?
6 Yes. Can we consider it? Yes. I think the
7 applicant has already agreed to consider it,
8 but then we have to have a discussion. The
9 Board needs to have a discussion with the
10 applicant and determine what the parameters
11 are going to be and what that is going to look
12 like and if that is acceptable to the Board.

13 BOARD MEMBER PHEIL: Shouldn't
14 that -- shouldn't that discussion take place
15 this evening?

16 MS. MAZIARZ: Right now.
17 Absolutely. I mean --

18 BOARD MEMBER PHEIL: Good. Good.

19 MS. MAZIARZ: -- this is something
20 --

21 BOARD MEMBER PHEIL: Let's have the
22 discussion -

23 (Indiscernible cross talk; reporter
24 requests one speaker.)

25 MR. REGAN: If I might,

1 Mr. Chairman, on behalf of the applicant.
2 Obviously the applicant made that offer a few
3 meetings ago and, obviously, Mr. Fourniadis is
4 here and he can address that if it's
5 necessary. But at this stage, the applicant
6 has presented an application, you know, to the
7 Board, as has been said, through ten hearings.
8 The applicant is not redesigning this project.

9 We're not -- you know, identical
10 buildings. There's townhomes behind Barrett
11 Lumber that are identical. Mr. Sandow pointed
12 out that there are other multifamily
13 dwelling -- multifamily projects that have
14 been approved in the township that are
15 identical.

16 Millington Village look, I don't
17 know what that is. It's a mish-mosh of
18 architectural styles. The property, you know,
19 that this applicant is proposing to redevelop
20 is a mess in the middle of Millington Village.
21 So, I mean, the applicant is not inclined to
22 regrade the site, to make any of those kind of
23 changes. They offered a few meetings ago to
24 potentially work with the Board to potentially
25 address some of the concerns with regards to

1 elevations, but I don't know that the
2 applicant is even inclined to do that.

3 BOARD MEMBER FALVEY: Well, can we
4 hear from the applicant?

5 MR. FOURNIADIS: Sure. Eleven
6 meetings. We had a TRC meeting. We had three
7 rounds with your professionals. We addressed
8 all their concerns. We were deemed complete.
9 We came here in June and, you know, our
10 application was submitted 13 months ago.
11 After 11 meetings and what we've gone through
12 here, I just don't see how we could come up
13 with anything -- we had a -- we had a rule
14 book. We have the rules of the game. It's
15 called your zoning ordinance. And we complied
16 with it. All of your professionals agreed we
17 complied with it.

18 If there was something, if you had
19 an architectural review committee provision in
20 the ordinance, I'm sure we would have dealt
21 with it last February, but you don't. And
22 based on what's transpired over the past 11
23 months and the fact that I'm fairly certain
24 that no matter what we put in front of the
25 public, they're not going to like it because

1 they don't want this project. And I don't
2 need a petition or e-mails to reach that
3 conclusion.

4 If you have something here that we
5 could follow, these are the rules. Your own
6 professionals have said the look alike
7 ordinance doesn't apply to this type of
8 project and the townhome job behind Barrett
9 Lumber confirms that, as well as your other
10 apartment projects throughout the
11 municipality.

12 I just don't see how we could
13 accomplish anything. Can the elevations be
14 improved upon? Sure. Everything in this
15 world can be improved upon. Ultimately we
16 have to market these. We have to rent them.
17 People have to want to live here. And, you
18 know, we change our product all the time.

19 But at this point, I'm not going to
20 agree to a condition that says I have to
21 submit to some architectural review procedure
22 that doesn't have any rules that would govern
23 whether or not I'm being treated fairly or
24 arbitrarily.

25 I guess I naively thought that if we

1 came in here and demolished a
2 200,000-square-foot 80-year-old eyesore and
3 built something that is sold all over the
4 state with great success, you know, I might
5 get a fair shot, and hopefully I will. But I
6 have spent six years in and around Millington
7 looking at the homes, looking at the buildings
8 surrounding the property.

9 Like Frank said, what is the
10 Millington Village look? You have the Verizon
11 building. You have an old Cumberland Farms.
12 You have a two-, three-story brick home that
13 now looks like it's a commercial use. You
14 have that tall thing right across the street
15 from us. I don't know what that is. You have
16 a Georgian building on the other side of the
17 railroad tracks where Kearny Bank is now, and
18 you have a post office that looks kind of like
19 it's a tutor-style building. So you tell me
20 what the Millington Village look is.

21 I'm not going to agree to an
22 architectural review as a condition of the
23 approval.

24 CHAIRMAN HANDS: Thank you for that.

25 Just to recant a little bit if I

1 might.

2 BOARD MEMBER FALVEY: Thank you,
3 Bob.

4 CHAIRMAN HANDS: Thank you.

5 I don't think -- my sentiment is and
6 my feeling, I guess from public conversation,
7 that is questions center -- I don't think
8 there's an argument against necessarily the --
9 the property development. I don't think it's
10 a -- I don't think you can make that -- I'd
11 hate to go -- leave that as a -- as a concern
12 in your mind that anybody hates this -- this
13 proposal or what's leading up to this time.
14 That's not the statement I take away from the
15 conversations that we've had. I think anybody
16 looking at this appreciates there's an
17 opportunity to improve the town -- Dennis,
18 I'll come to you in one second, if you don't
19 mind. I'll come to you. Dennis, one second.

20 I think anybody appreciates the
21 opportunity to improve Millington. And I take
22 your point. The question is, you know,
23 improve it into -- what's the look and feel of
24 an improvement? And that's why I certainly
25 appreciate Mr. Kaufman's thoughts and actual

1 detailed considerations as to what that could
2 look like.

3 And I, for one, happen to like the
4 design. Now, whether it's just the design
5 elements or it's more of a site plan
6 reshuffle, if you will, that's two different
7 stories. But for me, I don't think I have to
8 look much further beyond that to provide a
9 reference as to how I would either state the
10 architectural design or a site adjustment
11 consideration. But for me, I don't have to go
12 much beyond that, those plans, as Mr. Kaufman
13 laid out, because I thought those are some
14 things there that --

15 MR. FOURNIADIS: Mr. Chairman, if I
16 could respond to that. Look, you can't design
17 something by committee. Everybody has an
18 opinion. As I've said before, we were here
19 four years ago with a plan that everybody who
20 showed up to the firehouse hated and all of a
21 sudden people show up objecting here.

22 Look, Mr. Kaufman had a design. He
23 had a vision for the property. Mr. Caputo put
24 up some pictures. He had a vision for the
25 property. I'm sure if we paraded three or

1 four, five, six architects in front of the
2 Board, they would each have a vision for the
3 property.

4 This is an inclusionary affordable
5 housing project designed to comply in every
6 aspect with your ordinance. And if you didn't
7 like the plan, I sure wish you had told me
8 back in February when we had our first TRC
9 committee.

10 We even talked about the slope on
11 Stone House Road. Originally the exit on
12 Stone House Road was further west and there
13 was concern about the steep slopes and
14 everything else and we were asked to reduce
15 the slope of the road and move it to the
16 middle of the property on Stone House Road.
17 Mr. Lanzafama will remember that. It was his
18 suggestion. And we implemented it.

19 So you were looking at the slope of
20 the property next to Stone House Road for
21 months and months. And to bring it up now
22 because a few people showed up and had some
23 better ideas as to how I should develop my
24 property, I can't go on anymore. You either
25 have to give me an approval or deny me or give

1 me an approval and let Mr. Simon appeal. And
2 at least when you go to court, there's rules
3 that are followed and we can bring this thing
4 to closure.

5 CHAIRMAN HANDS: Thank you, Bob.
6 Dennis, did you want to make some
7 comments?

8 BOARD MEMBER SANDOW: No, I've had
9 my hand up for the past 15 minutes trying to
10 get a word in edgewise just for the fun of it.
11 Yes, I have something to say. And I'd like to
12 sidestep a little bit and deal with the
13 elevation matter that we've been flirting
14 with.

15 On October 13th, Mr. Martell was
16 asked about the fill and leveling and grading
17 the lot. And what Mr. Martell answered was
18 "safety, use, and enjoyment of the property."

19 Well, those are, quite frankly,
20 rather arbitrary reasons for bringing in
21 25,000 cubic yards of fill. 25,000 cubic
22 yards of fill represents about 1200 20-ton
23 dump trucks or one every hour five days a week
24 for about seven months. That's an awful lot
25 of fill. It is far, far, far above any other

1 project that has had site plan approval
2 recently.

3 And my question is, was safety, use
4 and enjoyment of the property Mr. Martell's
5 decision to apply those rather soft reasons
6 for bringing in all that fill to level the
7 property or was that a corporate decision that
8 he was told to engineer towards?

9 MR. FOURNIADIS: I'm sorry, is that
10 a question for me?

11 BOARD MEMBER SANDOW: Yes, of
12 course.

13 MR. FOURNIADIS: Okay. A property
14 like this, with the density that you have here
15 and the yield that's permitted by the zoning
16 ordinance and the types of buildings that
17 we're putting here, you can't -- and I've
18 developed a lot of projects like this. I've
19 gotten over 10,000 lots approved in this state
20 in my 30-plus years in this business.

21 If you tried to develop this
22 property to fit the existing slopes of this
23 property without any fill, it would be
24 impossible to achieve the density that you
25 have here. You would lose your garages; you

1 would lose your driveways. There would be a
2 sea of parking and it may not even be
3 sufficient parking. That was one of the
4 concerns of your professionals and we went
5 back and we redesigned the site to create more
6 parking.

7 And it just wouldn't be conducive to
8 the type of housing that you want to do here.
9 This is a multifamily project. If you look at
10 apartment projects, this is how they're
11 developed. You try and flatten out the site
12 to make it feasible for people to be able to
13 walk from their cars to their apartment
14 buildings.

15 If we were just going to build, put
16 eight homes here, eight homes each on one
17 acre, it would be a different story
18 altogether, but that's not what was designed
19 and approved and contemplated for this
20 property.

21 And your ordinance certainly doesn't
22 prevent what we're doing here either. Nowhere
23 in your ordinance are we prohibited from doing
24 what we've designed here.

25 BOARD MEMBER SANDOW: Well, as a

1 matter of fact, the ordinance does require
2 that a fill permit be granted for any fill
3 over a certain amount, a couple of inches.
4 The Board, in approving this site plan,
5 automatically grants a fill permit, but the
6 fill permit is a separate matter. And if you
7 went to Town Hall and went to the Township
8 Committee to get a fill permit for 25,000
9 yards of fill, it would be a whole different
10 matter.

11 I think we have to bear in mind that
12 the site plan approval does go along with it
13 an automatic grant of a fill permit, and this
14 is far and away greater than any other fill in
15 town.

16 And back to the architectural issue,
17 it appears as if there is a way, perhaps not
18 your way and perhaps not the best way, but
19 there is a way to put buildings on this site
20 without adding all that fill. And that's my
21 observation.

22 CHAIRMAN HANDS: Okay. Do you want
23 to comment or do you have a question?

24 MR. FOURNIADIS: No.

25 MR. REGAN: It was a comment.

1 CHAIRMAN HANDS: All right. Any
2 other discussion points, questions on this
3 subject from the Board?

4 VICE CHAIRMAN JONES: Yeah, Mr.
5 Chairman. Just to comment on other
6 developments that look the same. My only
7 response to that is what was done before may
8 not have been done right the first time.
9 That's why I keep bringing up the changing of
10 the ridgelines, putting in gables. Just doing
11 those cosmetic exterior changes can give us
12 the village look that we're looking for.

13 MR. FOURNIADIS: And if I may, Vice
14 Chair, I'm willing to do that, but, like I
15 said before, how do I know that I'm not going
16 to spend the next 12 months moving gables and
17 ridgelines around? Because you may like
18 something, Chairman Hand doesn't like it,
19 Mr. Simon's clients don't like it, and then
20 we're here in December of 2021 arguing over
21 gables and ridgelines.

22 VICE CHAIRMAN JONES: That's the
23 mechanism to try and work. Right?
24 Everybody's got an opinion and we'll never get
25 over the finish line unless we decide what it

1 is. Right?

2 So for me, I've already expressed
3 what I'm looking for and I think that is the
4 consensus of most people. So there's your
5 majority. We're never going to get a hundred
6 percent, so I'm not even trying to attain that
7 goal. My goal is to just make it so when I
8 look over there, I'm proud of what's over
9 there.

10 And I respect the fact that you've
11 been in the town for the last six years and
12 you've looked around. You've got the
13 knowledge, absolutely got the knowledge. And
14 I'm not crediting -- I'm not discrediting the
15 30 years of work that you've done in this
16 industry. I'm just looking at that piece for
17 when I come riding by on my bike when I'm
18 training and I look over there and I'm happy
19 with what I'm seeing over there.

20 MR. REGAN: Mr. Jones, may I ask you
21 a question? Would you be happy if the
22 building stayed there as it was? Because
23 that's an option.

24 VICE CHAIRMAN JONES: Don't bring
25 up the existing building in there. I don't

1 like the existing building. That's why I want
2 to work with Mr. Fourniadis.

3 MAYOR RAE: You know, I think, you
4 know, Tom, I get it, right, but we had this
5 conversation a number of meetings ago
6 whenever --

7 VICE CHAIRMAN JONES: I've been
8 consistent.

9 MAYOR RAE: I'm sorry?

10 VICE CHAIRMAN JONES: I've been
11 consistent with what I've been asking for.

12 MAYOR RAE: Oh, no. Yeah. No, I'm
13 not disputing the consistency of your
14 position, Tom. It's just the fact that it
15 sounds good to talk about working with the
16 applicant to get these things done. And I
17 think if there was any simple way to do it, I
18 think Mr. Fourniadis has said on several
19 occasions that he's certainly open to it.

20 But I think we had a long discussion
21 the last time we talked about it and we had,
22 you know, a kind of larger discussion on what
23 "tweak" means, right?

24 But really the sum and substance of
25 it is to leave -- for the applicant to leave

1 themselves open to such an open-ended
2 obligation to work with, it's just -- it's
3 just not feasible.

4 And so I think what we have here
5 right now, and I think -- and Mr. Fourniadis
6 can, you know, correct me if I'm wrong -- he
7 stated that we have an application, it's here,
8 and he wants us to vote on it. And the time
9 for changing it architecturally, as much as
10 anybody would like to do it, that ship has
11 sailed; and, you know, we have what we have in
12 front of us.

13 And if we want to get something done
14 tonight and end this, you know, for
15 everybody's sake, then I think we just have to
16 be -- we have to move on. And we have an
17 obligation and let's take it on its face and
18 take it to a vote if we possibly can this
19 evening.

20 And, Mr. Fourniadis, I don't know if
21 I've misrepresented your position. Please
22 correct me if I'm wrong.

23 MR. FOURNIADIS: No, Mayor, you
24 represented it perfectly. In a perfect world,
25 as I said, if we had this conversation in

1 February, I would have come in with a couple
2 different options and then we could have
3 talked about them. But I've been here 11
4 months -- 13 months since we filed the
5 application. I'm almost sitting myself, here,
6 you know, doing numbers on the side here that
7 does it make more sense to just, you know,
8 rent out the rest of the space at \$4 a square
9 foot instead of having to spend another 11
10 months on this application, which right now
11 looks like it's going nowhere.

12 So like I said, if there was a rule
13 book -- you know, the inside cover of the
14 Monopoly game, it has the rules, this is what
15 we have to follow, which is what we've done up
16 until this point, I'd be happy to do that.
17 But the witness has gone. If I agreed to a
18 condition that we would design -- redesign the
19 elevations subject to the Board's approval, I
20 think we're here next Christmas. The only
21 difference would be hopefully it would be in
22 person instead of over Zoom.

23 And that's not just conjecture.
24 Remember, I've been through this twice now.
25 We presented plans four years ago that I

1 thought were beautiful and nobody liked them.
2 And then we did it again and nobody liked
3 them. So what makes me think the third time
4 people are going to like them? Nothing.

5 VICE CHAIRMAN JONES: Mr. Fourniadis
6 , I liked the first plans.

7 MR. FOURNIADIS: I'm sorry?

8 VICE CHAIRMAN JONES: I liked the
9 first plans.

10 MR. FOURNIADIS: Why didn't you give
11 me the zoning in 2014 then?

12 VICE CHAIRMAN JONES: I wasn't on
13 the Board. Mr. Mayor, just to comment on
14 tweaking, I don't tweak.

15 BOARD MEMBER PHEIL: I'd like to
16 make just an observation --

17 MAYOR RAE: Thanks for that
18 clarification.

19 BOARD MEMBER PHEIL: We have an
20 application before this Board that's
21 conforming to the ordinance, to the zoning.
22 The Planning Board established the conditions
23 on that site. The Township Committee adopted
24 that ordinance. We have an overlay zone and
25 this application meets the conditions put

1 forth in that overlay zone.

2 It would be nice if the applicant
3 would be willing to change facades, et cetera,
4 et cetera, et cetera, but there's nothing in
5 the ordinance that compels him to do it. And
6 we've got to keep that in mind. This is a
7 permitted use and the application is
8 conforming.

9 BOARD MEMBER SANDOW: Mr. Chairman,
10 we're still waiting for the summaries from the
11 two attorneys.

12 Are we ready for that now?

13 BOARD MEMBER PHEIL: No. I think we
14 need to hear from the public first.

15 MS. MAZIARZ: Right. We haven't had
16 public comment yet.

17 VICE CHAIRMAN JONES: So, I'm sorry,
18 just one -- I'd like to comment on Mr. Pfeil.
19 We still have the master plan that we have to
20 abide by as well.

21 BOARD MEMBER PHEIL: I understand
22 that, but you have an ordinance that was
23 passed in light of the existing master plan.
24 You have a condition here that is based on a
25 court settlement to provide affordable

1 housing. And that's a very, very important
2 point that shouldn't be, you know,
3 underestimated in this.

4 VICE CHAIRMAN JONES: I've not lost
5 sight of that either.

6 MAYOR RAE: I'm sorry. I'll just
7 add one more thing. I mean, a couple meetings
8 ago, I think it was a few meetings ago,
9 Mr. Fourniadis said "I'll work with you. Come
10 to me in two -- you've got two weeks. Come to
11 me with what you're thinking." And I don't
12 think -- I don't think anybody came to him
13 with -- well, maybe apart from -- apart from
14 you, Tom. But, I mean, I don't think -- there
15 was nothing substantive certainly that the
16 Board then discussed at that subsequent
17 meeting with Mr. Fourniadis.

18 You know, I really believe that
19 Mr. Fourniadis has tried to work with us over
20 the course of these 11 meetings, right, and
21 should be commended for doing so. And at this
22 point, you know, certainly the way things have
23 gone, I completely agree with Mr. Fourniadis
24 that he -- that he really, you know, doesn't
25 have any indication that, you know, we would

1 be able to bring this to a close if he were to
2 agree to work with us on any of the -- you
3 know, any of the issues that we've described
4 because it would just be more of the same and
5 this would be -- you know, I think it's
6 optimistic to think that we'd be done by this
7 time next year. It might very well be longer.

8 CHAIRMAN HANDS: Just let me so --
9 sorry, go ahead, Tom, please. Unmute.

10 BOARD MEMBER MALINOUSKY: Just to
11 continue along the lines of what Mayor Rae was
12 saying. I think it is a little late in the
13 game to ask for tweaks architecturally. We
14 asked the applicant to redesign the commercial
15 building many meetings back and they came back
16 with a plan that was much improved. That
17 would have probably been the time to bring up
18 any architectural problems we had with the way
19 it looks and who doesn't like what. I think
20 it's a little late. As Mr. Pfeil said, it
21 does conform and it is consistent with -- you
22 know, all the buildings are consistent and it
23 should improve what's there now.

24 CHAIRMAN HANDS: My only
25 disagreement with all that is I'd hate to not

1 challenge ourselves a bit on some aspects of
2 it, right. I know, for me, I thought
3 Mr. Kaufman's -- the design aspects and put
4 aside the other things for a moment. If you
5 asked me what I would look for, I thought he
6 captured some good architectural designs. So
7 for me, I don't have to go much beyond that.
8 And he's in a better position and I'm not
9 trying to -- I'm just saying. I'm not the
10 architectural person. I wouldn't be asked to
11 give a professional opinion. I thought he
12 captured it well.

13 So if you ask me, rather than
14 committees and making this an 11-month
15 situation, which I so hope we'll be able to
16 finish, but I think there's an opportunity
17 still just to move that through that thought.
18 And I would think if that was acceptable,
19 that's a quick discussion whether that be in
20 separate as a condition or what have you, I
21 don't see it belaboring the point beyond
22 giving that one opportunity to do some
23 architectural and that's it.

24 MAYOR RAE: With all do respect,
25 Mr. Chairman, I think we've heard it from the

1 applicant. We have an application that he's
2 happy with. He's moving ahead. As I said,
3 he's been very reasonable, tried to work with
4 us. We've given him no indication that we can
5 bring this thing over the finish line no
6 matter what we agree as far as, you know,
7 tweaking the design of it.

8 I think we -- I think we should cut
9 this discussion off because it's quite -- the
10 situation is quite clear. Move on with the
11 next section of it and, you know, as I say,
12 hopefully bring this to, you know -- 11's a
13 charm and get this done.

14 CHAIRMAN HANDS: This isn't to
15 belabor the point. This is to give us one
16 opportunity just to take up Mr. Fourniadis on
17 his offer as well in a more practical manner
18 and that's it. We don't need to make this
19 more -- and I absolutely agree. Prism's been
20 very accommodating and very respectful.
21 That's never the issue. The opportunity is
22 having to tweak -- I hate to use that word --
23 to make some adjustments. And for me, what
24 was presented was more than good enough as a
25 design layout, an opportunity to make some

1 modifications and that's it. And I won't
2 go...

3 But, Vic, did you want to say
4 something? You're on mute.

5 BOARD MEMBER FALVEY: You're muted.

6 CHAIRMAN HANDS: Vic, do you want to
7 unmute? Victor.

8 BOARD MEMBER VERLEZZA: I'm having
9 some technical difficulties tonight with my
10 Zoom screen, background noise. I'm thinking
11 about dropping the meeting and then rejoining.

12 And all I wanted to say is I agree
13 with the mayor. I think we need to get
14 moving. I think we're all in agreement. This
15 has been like one long filibuster.

16 CHAIRMAN HANDS: My only point --

17 BOARD MEMBER VERLEZZA: I'm sorry.

18 CHAIRMAN HANDS: That's fine. This
19 is not to belabor the point. This is to take
20 the opportunity to have a separate discussion.
21 That's it.

22 BOARD MEMBER PHEIL: Just one
23 further observation. Mr. Kaufman does not own
24 the property. Prism partners owns the
25 property. It's their application.

1 CHAIRMAN HANDS: Understood. I'll
2 just take him up on his suggestion. That's
3 all.

4 Okay. Dennis, did you have any
5 final comments on this architectural
6 discussion?

7 BOARD MEMBER SANDOW: I would like
8 to move on to the public comments so that we
9 can get the attorneys' wrap-ups and then go
10 into a discussion which we should have at the
11 end which we seem to have been having for the
12 past half hour. Let's get the public in here.

13 COORDINATOR COONCE: Mr. Chairman,
14 may I suggest, based upon the court reporter
15 and Board members, that we have a break, a
16 quick break before -- it is nine o'clock? --
17 before we go into public comments?

18 CHAIRMAN HANDS: That will be fine.
19 9:10 then. Eight minutes?

20 BOARD MEMBER FALVEY: Good.

21 COORDINATOR COONCE: Very good.
22 Thank you, all.

23 BOARD MEMBER MALINOUSKY: Deb, how
24 many people are lined up for public comments?

25 VICE CHAIRMAN JONES: Two.

1 CHAIRMAN HANDS: Two.

2 BOARD MEMBER MALINOUSKY: Okay.

3 BOARD MEMBER FALVEY: More than
4 that.

5 CHAIRMAN HANDS: There was two. All
6 right. Ten -- 9:10.

7 VICE CHAIRMAN JONES: Hey, Tom, if
8 you just mouse over the screen, down at the
9 bottom, you'll see, like, attendants,
10 attendees, participants. If you click on
11 that, it opens up a chat --

12 BOARD MEMBER MALINOUSKY: Okay.

13 VICE CHAIRMAN JONES: And at the
14 top, you have panelists, you see next to that
15 attendees, and you'll see all 23 there and
16 then their hands are raised.

17 Do you see it, Tom?

18 BOARD MEMBER MALINOUSKY: I see it,
19 but I don't see hands up.

20 VICE CHAIRMAN JONES: Do you see
21 panelists and attendees? Click on attendees.
22 There should be --

23 BOARD MEMBER MALINOUSKY: Okay. Now
24 I see them. All right. Thank you.

25 VICE CHAIRMAN JONES: No worries.

1 (Whereupon, a recess is taken.)

2 CHAIRMAN HANDS: Okay.

3 COORDINATOR COONCE: Okay.

4 Recording resumed.

5 CHAIRMAN HANDS: Thank you, Deb.

6 Hopefully he'll be back here in a
7 second.

8 But what we said was we'll take
9 public comments.

10 COORDINATOR COONCE: Mr. Chairman,
11 if I might, I think we should have Jolanta
12 discuss the next -- now what's about to
13 happen, go into the details and the procedures
14 about what the public -- you know, the
15 statements entail.

16 CHAIRMAN HANDS: Thank you. Thank
17 you.

18 COORDINATOR COONCE: Jolanta.

19 MS. MAZIARZ: Sorry. I was muted.

20 This next portion of the hearing
21 before we get into attorney summations that
22 will be provided by the applicant's attorney
23 and Mr. Simon, the objector's attorney, now we
24 will have a public comment.

25 The Board will require the public to

1 limit their comments to three minutes. The
2 only reason we do this is because it is now
3 9:15 in the evening, almost 9:15, and my
4 understanding is that there are a number of
5 members of the public that will wish to make
6 comments.

7 Please keep your comments relevant.
8 Please keep them with regard to this
9 application. And please do not repeat
10 comments that you have already heard. If you
11 agree with someone's comments, it's sufficient
12 to say that you agree with someone's comments.
13 You don't have to repeat an entire comment.
14 Make your own comments and please limit them.

15 So that's it.

16 COORDINATOR COONCE: And I will give
17 a 30-second warning during the comments. And
18 once the three minutes is up, I'll note it and
19 then we will mute.

20 MS. MAZIARZ: And before we get into
21 it, just because I know the first question
22 will be, why three minutes? Because the
23 public has already had an opportunity to put
24 testimony on the record. Testimony obviously
25 was unlimited. Public was allowed to say and

1 ask questions and testify with regard to any
2 matter related to this application and it was
3 for an unlimited amount of time.

4 At this point, since all testimony
5 has been given, it's all been completed -- the
6 public has been afforded an opportunity to
7 complete its testimony over the last 11
8 hearings; or 10 hearings, this is the 11th.
9 At this point, for public comment, the Board
10 is limiting it to three minutes each because
11 this is not testimony. It's not sworn
12 testimony. These are comments.

13 COORDINATOR COONCE: Okay. Is
14 everybody ready to begin? Okay.

15 First we will hear from Pamela
16 Ogens.

17 Pam, can you hear us?

18 MS. OGENS: Yes, I can. Can you
19 hear me?

20 COORDINATOR COONCE: Yes, ma'am.

21 MS. OGENS: Okay. I will try to
22 talk quickly.

23 Mr. Simon, is it -- do I really have
24 to be limited to three minutes? Can I get
25 another opportunity for an additional three

1 minutes since I was denied my three minutes at
2 a prior hearing?

3 MR. SIMON: Mr. Chairman, to address
4 Ms. Ogens' comments. So she is a client of
5 mine. And I always take the position that
6 notwithstanding the fact that it is,
7 quote/unquote, public comment, to the extent
8 that there are neighbors that provide factual
9 information that should have bearing on the
10 determination of this Board, then certainly I
11 do not believe that those type of -- that type
12 of factual testimony should be limited to
13 three minutes.

14 MS. MAZIARZ: Mr. Simon, factual
15 testimony -- the Board asked for factual
16 testimony, sworn testimony, for the last ten
17 hearings. We asked again today if anyone had
18 any further testimony and you rested. We
19 asked if there were any more witnesses.

20 MR. SIMON: Wait a second. I
21 specifically stated in this hearing -- first
22 of all -- first of all, let me back up.

23 It is completely inaccurate to state
24 that the public has had an opportunity to
25 testify for 10, 11 hearings. That is not

1 true.

2 Number two, I specifically raised
3 the issue of having clients of mine provide
4 information earlier this evening. If the
5 Board's taking the position that despite my
6 commentary and reserving that right, that my
7 clients are not having the opportunity to say
8 what they want to say -- and you can certainly
9 swear them in, to the extent that they are
10 residents of this community that are providing
11 factual testimony, then they should be
12 allotted more than three minutes since we've
13 already argued --

14 MS. MAZIARZ: I understand, and
15 without a speech. So you haven't rested. So
16 you have additional witnesses. If you have
17 additional witnesses, we'll swear them and
18 then you can question them on the record. I'm
19 okay with that. I asked if you would like to
20 do that.

21 Mr. Chairman, apparently the
22 objectors are not finished putting their
23 record -- putting their testimony on the
24 record.

25 So I would suggest to you, Chairman,

1 that we reopen that part of the hearing
2 because the objectors have not rested. They
3 still want to give sworn testimony with regard
4 to this application.

5 CHAIRMAN HANDS: Let me just ask --

6 MS. MAZIARZ: I'm okay with that,
7 but --

8 CHAIRMAN HANDS: That's fine.

9 MR. REGAN: We're not. We object.
10 They've been given the opportunity.

11 CHAIRMAN HANDS: Let me just find
12 out first from Mr. Simon, how many people do
13 you know that you would call to potentially
14 testify?

15 MR. SIMON: As I stated,
16 Mr. Chairman, earlier this evening, I asked at
17 the appropriate time that I would ask my
18 clients, quote/unquote, whether they would
19 like to speak with regard to this application.

20 I know Mr. Kaufman has already
21 spoken.

22 MS. MAZIARZ: He has testified.
23 Mr. Kaufman gave sworn testimony and exhibits,
24 yes.

25 CHAIRMAN HANDS: One second. I

1 asked Mr. Simon a question. Please finish.

2 MR. SIMON: Whether the Caputos or
3 the Berquists want to speak, I can ask them
4 now or, Mr. Chairman, you can ask them
5 publicly, and if they want to speak, they
6 should have an opportunity to speak and they
7 can be sworn in and I can ask them questions.

8 MS. MAZIARZ: Okay. This is the
9 appropriate opportunity.

10 Do you have any more witnesses to
11 present to the Board?

12 MR. SIMON: Okay. So Ms. Ogens
13 would like to speak. Can I present her and
14 have her sworn, please?

15 MS. MAZIARZ: Mr. Jones.

16 VICE CHAIRMAN JONES: Yes, sorry,
17 Mr. Chair. Ms. Ogens has spoken at almost
18 every meeting. She has given testimony at
19 almost every meeting.

20 CHAIRMAN HANDS: I will -- not to
21 argue the point beyond this, I know one
22 meeting Pam was cut off when we went to end of
23 the meeting quickly. And I thought it
24 appropriate, and Pam asked for three minutes
25 to be six minutes. I would suggest we allow

1 Pam six minutes and that's it.

2 MS. MAZIARZ: Okay.

3 MR. REGAN: Then how can you give
4 her six minutes and nobody else six minutes?

5 MAYOR RAE: David, I'm sorry, I
6 think we're not -- it seems to me that we're
7 not on public -- we're not on public comment
8 right now, right? We're actually -- there's
9 going to be the testimony of witnesses.
10 Ms. Ogens is one of them.

11 MS. MAZIARZ: Yes.

12 MAYOR RAE: So the three-minute rule
13 is out the window, but -- as we stated for
14 public comment. And so let's just to move
15 this along, Jolanta agrees, let's move right
16 into testimony so that we're not delayed
17 anymore.

18 MS. MAZIARZ: And because -- look, I
19 haven't memorized every transcript for the
20 last ten hearings. I don't recall whether
21 Ms. Ogens was testifying or asking questions
22 and was cut off. It might have been the
23 former, not the latter. I'm not really sure.

24 But, Ms. Ogens, were you sworn
25 during the previous hearing?

1 MS. OGENS: Am I on? Can you hear
2 me?

3 MS. MAZIARZ: Yeah. Are you under
4 oath or were you put under oath?

5 MS. OGENS: I am not giving
6 testimony. I want to give comment.

7 MR. FOURNIADIS: There you go.

8 MS. OGENS: Prior to this, I thought
9 we were on comment. At prior meetings, I
10 asked questions of the experts who had been
11 sworn in. I have not had opportunity to give
12 chronologically what has happened on my end
13 and also to make general comments.

14 MS. MAZIARZ: Okay.

15 MS. OGENS: That was my
16 understanding, that I would have the
17 opportunity to do that tonight.

18 MS. MAZIARZ: Okay. Ms. Coonce, how
19 many people are on this Zoom call that are
20 waiting to make public comments? That's the
21 only reason we're limiting this, because we
22 will be having public comments for another
23 three hearings if we don't limit them. And we
24 limit them at our regular meetings as well.

25 COORDINATOR COONCE: Well, I know

1 we're up to six.

2 MS. MAZIARZ: If the Board is
3 amenable to increasing that time frame, that
4 is up to the Board. Because we have six
5 people. We don't have the 20 we were
6 expecting. So the Board can increase that
7 time frame for public comment. That is up to
8 the Board.

9 We limited it in anticipation of a
10 great number of public appearing only because
11 we want to limit that time because the public
12 already has had an opportunity to testify and
13 this is just comment, not testimony.

14 So that's the reason for the
15 limitation. But if the Board would like to
16 extend that time, that's up to the Board.

17 MAYOR RAE: Just as far as I'm
18 concerned, it's comment, not filibuster. And
19 I've seen that work. So I would like to keep
20 it to three minutes. You should be able to
21 say everything that you want to say in three
22 minutes.

23 CHAIRMAN HANDS: All I was giving
24 was the opportunity for one person to speak
25 for six. That was it. I didn't say anything

1 about anybody else. Mr. Simon is talking
2 about -- so we're going to hold off on the
3 testimony from your folks.

4 MAYOR RAE: But, David, we don't
5 have -- I'm sorry to interrupt you, but we
6 don't have testimony by the sounds of it.
7 We're in public comment and the time factor
8 for that is -- none of Mr. Simon's clients
9 seem to want to testify, right, but they do
10 want to comment. So we're in public comment.
11 And we can go into our discussion and
12 hopefully have a vote tonight.

13 CHAIRMAN HANDS: That's what I just
14 said if you let me finish. I want to make
15 sure there's nobody out there with testimony.
16 Maybe go back five minutes, I'm just going to
17 offer Pam the courtesy, Pam only, to speak for
18 six minutes.

19 MS. MAZIARZ: Okay. Well, the issue
20 is if you allow one person to speak for six
21 minutes, it's not fair to limit others to a
22 different time frame. Everyone gets the same
23 amount of time to speak.

24 CHAIRMAN HANDS: That was only
25 because of a holdover from the previous

1 meeting. That was the courtesy. If that's
2 not a courtesy that can be given, then, fine,
3 we'll go to three minutes.

4 MS. MAZIARZ: If -- if the Board
5 would like, if after everyone has had their
6 three minutes, if the Board would entertain
7 another three minutes from members of the
8 public that are present today after everyone
9 has had their chance to speak -- we want all
10 the members of the public to get an
11 opportunity because it simply isn't fair to
12 allow some people to speak and others not.
13 We're trying to limit it so that everyone has
14 an opportunity. So once we're through with
15 everyone, if there's still time, the Board can
16 certainly bring people back up if there's
17 something else they want to comment on.

18 But I agree with Mayor Rae with his
19 comment regarding filibustering. We can't
20 hold this over indefinitely because people are
21 going to keep coming up with different
22 comments that they'd like to make.

23 CHAIRMAN HANDS: Absolutely. And
24 that we will not allow.

25 Thank you. So let's go with that

1 compromise, Jolanta. Let's start off with the
2 three minutes and see where we end up after
3 the first round of conversation.

4 MS. MAZIARZ: Because it is 9:15.
5 That's the only reason for it.

6 CHAIRMAN HANDS: That's fine.

7 Pam, sorry about the delay. If
8 you'd like to continue, please keep to three
9 minutes.

10 MS. OGENS: Thank you, Chairman
11 Hands.

12 Just a statement to start with. We
13 are in unchartered territory. Zoom meetings
14 have been challenging. This is an unusual
15 situation and I would like all to bear in mind
16 that that is a contributing factor to the fact
17 that this is our tenth, eleventh, whatever
18 meeting.

19 I'd like to start by saying that
20 between January 28th and August 18th of this
21 year -- and I say August 18th because that was
22 the first time that the applicant's architect
23 testified -- eight of the 14 scheduled
24 Planning Board meetings were canceled. That
25 was 42 percent of the meetings were canceled

1 during that period. And, yes, that did factor
2 into the number of meetings and the delay for
3 the period since they were canceled during
4 that period of time.

5 I do take note that the application
6 for development with the site plans were
7 submitted in November of 2019. Please note
8 that in February of 2020 -- this was prior to
9 COVID -- I viewed the site plans. I went to
10 the municipal hall and I looked at them. And
11 at that time, in February of 2020, I brought
12 to the attention of three Planning Board
13 members my concern about the 14 identical
14 buildings which I described as looking like
15 mini Hampton Inn hotels. I stated that they
16 were not attractive. They are not
17 complementary to a village. And yet I keep
18 hearing that this has gone on too long; that
19 this should have been vocalized earlier.

20 And I take personal offense at that
21 since I did bring this up in February. And at
22 that time, I was told that I had to follow the
23 process. The Planning Board had to review all
24 of the documents before them before there
25 would be any further discussion.

1 So I did bring this up in February
2 of 2020.

3 And as of December 8th, as of today,
4 this is the first time the public has been
5 permitted to comment. Yes, we could --

6 COORDINATOR COONCE: Thirty seconds.

7 MS. OGENS: We could ask questions.
8 I'll make it as fast as I can.

9 Is that three minutes or six
10 minutes, Debra?

11 COORDINATOR COONCE: Three minutes.

12 CHAIRMAN HANDS: Pam, if you could
13 just finish your quick sentence.

14 MS. OGENS: All right. My
15 perception of these hearings has been one of
16 thinly disguised contempt. I feel that there
17 has been sarcasm. There has been annoyance
18 when questions from the public have been
19 asked. I sense that in inflections. I've
20 seen that in facial expressions. And I even
21 think I have seen Board members sleeping
22 during these hearings.

23 There's been a feeling of
24 superiority, that this is a done deal. I want
25 to remind the Planning Board members, this is

1 your legacy. This is our town.

2 COORDINATOR COONCE: Three minutes,
3 30 seconds.

4 MS. OGENS: And with all due
5 respect, Chairman Hands, I know you love Long
6 Hill. You have said it to me. We are both
7 passionate about this area.

8 Are you going to really be able to
9 go past that site and know that we didn't do
10 all we could? This is not a village feel. We
11 have seen the plans from Mr. Kaufman. We see
12 what it can look like. This is our legacy.
13 We need to deny this application --

14 COORDINATOR COONCE: Okay. I'm
15 sorry. That was four minutes, Chairman. So
16 I'm sorry, Pam, I cut you off. If the Board
17 wishes for you to continue, then I will
18 restart -- I will allow you to talk again
19 but...

20 CHAIRMAN HANDS: I do actually think
21 Pam was just in her last couple of words
22 there. So please let her continue.

23 COORDINATOR COONCE: Okay. Go
24 ahead, Pam. You can finish. Pam?

25 MS. OGENS: I urge you to deny this

1 application as it has been submitted.
2 Violation of the architectural design
3 standards Ordinance 135, the uniformity of
4 architectural design of appearance. I agree
5 that these ordinances were not written
6 ideally, but certainly we have never had a
7 complex this large, this large, before the
8 Planning Board and it deserves additional
9 attention --

10 CHAIRMAN HANDS: Thank you.

11 MS. OGENS: -- and additional time.

12 CHAIRMAN HANDS: Thank you, Pam.
13 Thank you. Thank you, Pam. I think you got
14 to your point. Thank you.

15 Next, Deb.

16 COORDINATOR COONCE: Okay. Next we
17 have, I'm not sure if it's Christina. The
18 last name is Berquist, so I'm not sure which
19 Berquist.

20 Christina?

21 MS. BERQUIST: Yes. This is
22 Christina Berquist.

23 COORDINATOR COONCE: All right,
24 Christina. We can hear you. Go ahead.

25 MS. BERQUIST: I wasn't sure of

1 your -- okay. Yeah, hi, I'm Christina
2 Berquist. My husband and I, we've been living
3 in Millington for almost 20 years. We do love
4 this community.

5 And I know -- I know you do, too,
6 members of the Planning Board, because you
7 live here and you've dedicated hours and hours
8 of your time to this town. I know you
9 willingly took on this responsibility and you
10 knew you were going to have to make difficult
11 decisions representing our community as a
12 whole. And I truly want to thank you for your
13 time and effort. I know this has been a long
14 meeting. It's been many late hours. I thank
15 you for your time and your effort and the
16 commitment to our community.

17 And with that, I also would like to
18 appeal to you that you're going to make a
19 decision that will not only affect
20 Mr. Fourniadis and you as Board members, but
21 really the whole community of Long Hill. And
22 as it currently stands, this project, this
23 application, presents really serious concerns
24 for our community. And I don't feel that
25 these concerns are adequately being addressed.

1 The very size of this project alone
2 is a concern. You know that it will not only
3 change, drastically change, really, the face
4 of Millington and, you know, also with regard
5 to appearance, traffic, schools. You know,
6 we've talked about an influx of -- I think it
7 was over 100 school children potentially to
8 our school system. And also the safety.

9 But more importantly for me, the
10 project, you know, it poses a serious safety
11 concern due to its unique location alone.
12 It's on an EPA Superfund site, one of the most
13 polluted sites in the entire country. And for
14 me, the developer and his paid experts don't
15 seem to have addressed these concerns
16 adequately.

17 In fact, there's been many meetings
18 that they've been quite dismissive of our
19 legitimate concerns. And what underscores
20 this problem, as Pam has also just pointed out
21 right before, is the loud manner in which the
22 applicant commonly conducts himself.

23 Mr. Fourniadis is seeking approval
24 of our town and yet he commonly mocks our town
25 and the residents who it represents. It's

1 come up before and, you know, accommodating,
2 respectful, or reasonable really would not be
3 words that have come to my mind when I think
4 of this applicant. Quite frankly, most
5 nights, and the only exception to this have
6 been the last two meetings, Mr. Fourniadis's
7 manner of speaking would not be acceptable in
8 any other business. In school, we would call
9 that bullying. This kind of behavior is not
10 representative of someone who has the best
11 interests of our community in mind, but
12 someone who cares about his own interests.
13 Which he should. I understand that he is a
14 businessman, but he does not have our
15 long-term interest of the community, which,
16 incidentally --

17 COORDINATOR COONCE: Ms. Berquist,
18 that's the three-minute mark. So please wrap
19 it up.

20 MS. BERQUIST: I mean, you said a
21 warning at 30 seconds, right?

22 COORDINATOR COONCE: Well, we went a
23 little over for Pam. So all's I'm saying is
24 --

25 MS. BERQUIST: Oh, is this my

1 30-second warning?

2 COORDINATOR COONCE: -- so please
3 wrap it up.

4 MS. BERQUIST: Okay. So as I said,
5 my concerns aren't so much the aesthetics of
6 this project at this point. Gables and edges
7 really aren't it. But having a 60-foot-high
8 building in front of my house certainly is a
9 concern and so are -- I would also not
10 consider moving 25,000 tons as fill a tweak.
11 You know, and moreover, the unpronounceable
12 toxins in this site.

13 Given all this, I'm seriously
14 scared. I'm scared for my family, for my
15 children, and for the many families just like
16 ours in this neighborhood and the surrounding
17 towns.

18 COORDINATOR COONCE: Ten seconds.

19 MS. BERQUIST: The potential health
20 benefits and health effects that you can
21 unleash in this community, those kinds of
22 things don't show up in the next two years,
23 but 10, 15 years from now when Mr. Fourniadis
24 and members of the Planning Board aren't going
25 to be sitting here anymore. And I don't want

1 to have to sit here one day and say to my
2 children, I'm sorry for what you're going
3 through, but I chose to take this risk to stay
4 in this wonderful neighborhood. I didn't know
5 this was going to happen.

6 So I really would ask you, members
7 of the Planning Board, to not only consider
8 your -- the obligations, the legal
9 obligations --

10 COORDINATOR COONCE: I'm sorry.
11 That was four minutes and 30 seconds. So does
12 the Board want me to allow her to continue or
13 are we going to cut -- what are we going to
14 do?

15 CHAIRMAN HANDS: Let's go as we
16 proposed. We'll cycle through one time. I
17 think we got the sentiment from Christina with
18 her very passionate comments.

19 BOARD MEMBER FALVEY: Let's move on.

20 COORDINATOR COONCE: Okay. Thank
21 you, Ms. Berquist. Okay.

22 Next we have Trish Schmitt.

23 MS. SCHMITT: Yes, I'm here.

24 COORDINATOR COONCE: Are you there?

25 MS. SCHMITT: Yes.

1 COORDINATOR COONCE: Could you
2 please state your name and spell it for the
3 record? I don't believe we have you in the
4 record.

5 MS. SCHMITT: No, you don't. My
6 first name is Patricia. Last name is Schmitt,
7 S-C-H-M-I-T-T.

8 COORDINATOR COONCE: Okay. And are
9 you in Millington? Sterling? Where are --

10 MS. SCHMITT: I'm in Millington off
11 Long Hill Road at the top of the hill from the
12 train station, from the Millington train
13 station.

14 COORDINATOR COONCE: Thank you. Go
15 ahead.

16 MS. SCHMITT: In fact, Mayor Rae is
17 my neighbor across the street.

18 Seventeen years ago we wanted to add
19 4 feet to our kitchen. We had to send a
20 letter to the entire neighborhood as to why we
21 needed a variance for 4 feet onto our -- our
22 house. And we had to make everyone in the
23 neighborhood aware that this was going to be
24 something of an exception to the general rules
25 and the plan book and the rule book.

1 And it has been so hard to extract
2 or disseminate this information of what's been
3 going on with these hearing, with this town,
4 and with this development. And I have to say
5 I can barely pull out of my street anymore on
6 to Long Hill Road without nearly getting
7 sideswiped by a car coming up that hill.

8 This whole project -- and, granted,
9 it's going through and that's fine, but
10 between that and the environmental concerns
11 and how hard it's been to get information out
12 to the public about it has been ridiculous and
13 shameful.

14 Vice-Chairman Jones and Chairman
15 Hands have both said very eloquently here that
16 this is something worth considering. We're
17 going to make the project go forward despite
18 everyone's -- despite everyone's protests; but
19 at least, for God's sake, we're the people who
20 are living here for 20 some odd years, raising
21 families and putting our heart and soul into
22 this community. And all I've been hearing
23 about is complaints that someone had to sit
24 through 10 or 11 meetings.

25 I'm sorry, I put 20 years into this

1 neighborhood and this is my community and this
2 is where I've raised my family and you want to
3 poison us and completely drag down the entire
4 neighborhood and tell me that you've been
5 inconvenienced by ten meetings that I could
6 barely become a member of or watch.

7 You should be ashamed of yourself.
8 This is your job. You are supposed to look
9 out for the residents of this neighborhood.
10 We finally got together, hired someone to
11 represent us, and we're all being dismissed
12 like a bunch of people who don't matter and
13 are inconveniencing you.

14 And who is Mr. Fourniadis anyway?
15 Does he live here? Does he work here? Does
16 he die here? Why do I feel like George Bailey
17 for God sake?

18 Get over yourselves. You're paid to
19 do this job. Do your job. If the place is
20 going to look like hell when it's done, ten
21 meetings ago is not going to matter.

22 Bill Kaufman put out a great plan, a
23 wonderful architectural design --

24 COORDINATOR COONCE: Three minutes.
25 Please wrap it up, Ms. Schmitt.

1 MS. SCHMITT: Nobody is going to
2 dispute his plans because we're paying them
3 and supporting them and behind them. And you,
4 as Planning Board members, should be behind us
5 and supporting us as community members.

6 CHAIRMAN HANDS: Thank you. Pam --
7 Trish.

8 Who's next?

9 Thank you.

10 COORDINATOR COONCE: Okay. Karen.

11 MS. MELETA: Yes, hi. This is Karen
12 Meleta.

13 Can you hear me?

14 COORDINATOR COONCE: Yes.

15 MS. MELETA: Thank you very much.

16 THE REPORTER: Excuse me. Spell you
17 last name, please.

18 MS. MELETA: Sure. M-E-L-E-T-A.

19 Karen Meleta. I live in Gillette, 23

20 Lackawanna Boulevard.

21 I would also like to address how the
22 developer has behaved during this process and,
23 in fact, the issue around how long it's gone
24 on, ten to 12 meetings over a year.

25 And my concern that the Board should

1 consider in this case is that if he doesn't
2 have the resilience and the ability and the
3 fortitude to muster through a one-year process
4 in ten or twelve meetings, will he have what
5 it will take to maintain the property and the
6 development, because it's a rental, of
7 something of this magnitude and size,
8 providing the care and maintenance and
9 attention to its residents that is right for
10 this town? So you should consider that as you
11 make this decision.

12 The second thing I want to address
13 is the repeated comments by Mayor Rae and
14 Committeeman Verlezza about how long this has
15 gone on. Again, I also want to remind you
16 that you represent the residents of this town,
17 not the developer, so please act accordingly.

18 And I also do not feel that this
19 Planning Board on a regular basis asked the
20 kind of questions that needs to be asked
21 regarding this development. And it is
22 shameful that a group of people have to spend
23 their hard earned money to hire a planner and
24 hire a lawyer to ask the questions, to examine
25 the code.

1 And when Mr. Sandow brings up
2 questions about fill, there's no comment. No
3 one asked any further questions about that.
4 And we should all as residents be concerned as
5 to whether or not the due diligence on this
6 project has been completed. Because I, as a
7 resident, do not believe that that has
8 occurred.

9 And I also want to remind Mayor Rae
10 that Mr. Hands is the Chairman of this
11 committee. Please act accordingly.

12 Thank you.

13 CHAIRMAN HANDS: Thank you, Karen.

14 COORDINATOR COONCE: Okay. Thank
15 you, Ms. Meleta.

16 Okay. Mr. Arentowicz.

17 Mr. Arentowicz.

18 MR. ARENTOWICZ: Can you hear me?

19 COORDINATOR COONCE: Yes, we can
20 hear you.

21 MR. ARENTOWICZ: My name is Charles
22 Arentowicz, a mere 39-year resident of
23 Millington.

24 If you approve this application, I
25 recommend the approval be subject to the

1 following conditions: One, the agreement will
2 include an independent LSRP for hire for Long
3 Hill Township paid by the developer. Let me
4 remind you the LSRP representative of this
5 applicant has no experience with asbestos.

6 Two, a performance bond in an amount
7 to be determined for X millions of dollars in
8 case, in discovery by the developer, the
9 amount of contamination exceeds their
10 expectations and decides to leave town.

11 Three, require a remediation plan
12 upon a condition of approval. I will remind
13 you Mine Hill Township in Morris County
14 rejected an application at the Planning Board
15 because there was no remediation plan.

16 Four, include the appropriate
17 designs by the dedicated architect, Bill
18 Kaufman.

19 I would like to reiterate what Pam
20 Ogens just said. You canceled eight meetings
21 from this application when it was submitted,
22 whether it be September, when they signed it,
23 on the 6th, maybe submitted it in November,
24 but you canceled eight meetings. And on the
25 24th of November, Prism, the applicant, was

1 not at the meeting.

2 Now we're in a rush. A rush for
3 what? You have a responsibility to respect
4 the citizens of this town.

5 And let me tell you about
6 Mr. Fourniadis. I don't respect what he said.
7 One, the weekend after June 9th, the gates
8 were open over the dump site allowing people
9 to enter the contaminated area. I called the
10 DEP. I called the police. No one closed the
11 gates. It went on until Monday morning.

12 Mr. Fourniadis contended he's fixed
13 the asphalt holes in the parking lot. There
14 are so many asphalt holes in that parking lot
15 with asbestos going out you can't count them.

16 He says the current signs are
17 current. However, the LSRP sign is outdated.
18 There's no keep out signs that were there five
19 years ago.

20 The applicant states he doesn't know
21 the impact of what the student population is
22 going to be, but in his own application, he
23 uses the Rutgers study to say it's going to be
24 45 to 176.

25 And, Mr. Fourniadis, quit shaking

1 your head because you know it's in the
2 document.

3 COORDINATOR COONCE: Mr. Arentowicz,
4 you're at the three-minute mark. Please wrap
5 it up.

6 MR. ARENTOWICZ: The LSRP has no
7 experience with asbestos. No site visit yet.

8 Do not approve this application.
9 And I think this series of meetings on Zoom is
10 not acceptable for the last 12 months, the
11 taxpayers of Long Hill Township in such a
12 critical development.

13 I don't like what went on here. At
14 times I didn't know who was running the
15 meeting. The coordinator, the Chairman, the
16 applicant, the mayor. What a disgrace to the
17 taxpayers of Long Hill Township. I'm
18 embarrassed. I'd like to follow up. We have
19 to ask the questions hire an attorney, hire a
20 planner, because you weren't doing your job.

21 Have a great night. Thank you for
22 your time.

23 COORDINATOR COONCE: Okay.
24 Mr. Mike, I'm not going to try to pronounce
25 the last name. Mike?

1 MR. SMARGIASSI: Yeah. This is Mike
2 Smargiassi, Millington, New Jersey. I also
3 have my wife. So if I could have three
4 minutes and then if she could have three
5 minutes if that's okay.

6 COORDINATOR COONCE: Certainly. If
7 you could just announce each of you and spell
8 your last name for the court reporter, please.

9 MR. SMARGIASSI: Sure. The last
10 name is Smargiassi, S-M-A-R-G-I-A-S-S-I. And
11 this is Mike.

12 COORDINATOR COONCE: Okay. Go
13 ahead, Mike.

14 MR. SMARGIASSI: I'm going to talk
15 quick.

16 I agree with Mr. Arentowicz on his
17 requirements. I hope that you require them.

18 The applicant has stated that this
19 has been going on for more than a year, but
20 that's when he started submitting papers. And
21 this application wasn't deemed complete until
22 much later than that and that's when it really
23 started for the public and for this Board. So
24 that's a moot point and it's an excuse.

25 The buildings are soulless. I've

1 been to former East Islam countries, socialist
2 countries, and their developments are the
3 same. They're soulless. The same, all the
4 buildings, because that's the way they wanted
5 it. Everyone has to have the same things.

6 It's never too late to address the
7 public's concern. I continually hear that and
8 I'm disappointed by that.

9 I have the largest development
10 opportunity in Millington. It's sad that it
11 did not get to a better design. The poor
12 design is a reflection on the applicant, but
13 it's also a reflection on the architectural
14 standards that we have.

15 I was a member of the Planning
16 Board. I was a member of the Zoning Board. I
17 know the rules of the game. And I think that
18 if this is conforming to our zoning, it's a
19 shame on both our boards. It's a shame on our
20 Township Committee. It should never happen
21 again. The architectural requirements for
22 anything like this need to be crystal clear.
23 They need the change next week so that when
24 Fair Share comes in, tries to drive something
25 down our throat, which I believe they utilize

1 a form of extortion or they tell you they want
2 something approved or they will sue you, that
3 this does not happen again. We do not have
4 multiple buildings that look like they belong
5 in Romania.

6 And that is my comment.

7 CHAIRMAN HANDS: Thanks, Mike.

8 Deb, I don't see anybody else with
9 their hand up, do you?

10 COORDINATOR COONCE: I think
11 Mr. Smargiassi's wife wanted to say something.

12 CHAIRMAN HANDS: Oh, yes. I'm
13 sorry. Yes.

14 MS. SMARGIASSI: My name is Beth
15 Smargiassi and I'm a resident here in
16 Millington for 20 years. And I just want to
17 go towards Mr. Fourniadis's comment about the
18 town hates the proposal or something like
19 that.

20 And he also said that he looked at
21 our little Town of Millington for six years
22 and he drove around and he looked at all the
23 different buildings and he came up with that
24 plan, the first plan.

25 And if he looked at this town for

1 six years, he would realize that this plan is
2 way too big for Millington. It doesn't fit
3 into our little Town of Millington of 3,000
4 people. With the building of 140 units, if I
5 have my numbers correctly, it could go up to
6 500 people. His comment about the school
7 population going as high as 176. This is
8 going to change our town, and I know this has
9 been said over and over again; but if you're
10 here looking at our little Town six years, you
11 would see that the traffic isn't that bad and
12 bringing in all those cars is ridiculous for
13 our little town.

14 And our members of the Board and our
15 Township Committee, you know what Millington
16 is like. You've lived here for many years. I
17 see you on the street, you know.

18 So I really hope you take this all
19 into heart when making this really, really
20 big, big decision. You know, as the builder
21 is listening to the public speaking to you
22 over a year, you know this is not something
23 that we want. And I hope that this is really
24 taken into account.

25 We are a small, simple town. We

1 don't need much. That's what makes us happy.
2 We like our own little slice of heaven here in
3 Millington. And I just hope that people
4 representing our town really take all these
5 things into consideration. And I thank you
6 for your time.

7 CHAIRMAN HANDS: Thank you.

8 Deb, do we see anybody else at this
9 time?

10 COORDINATOR COONCE: Again, members
11 of the public, this is the time for public
12 comments. So if you have not yet made a
13 public comment and you wish to do so, please
14 raise your hand.

15 Mr. Jon Caputo. Jon. Jon.

16 MR. CAPUTO: Yes, hi. Good evening.
17 I just want to use my three minutes to address
18 one claim that's been made. We've heard that
19 Millington, Long Hill, and the neighborhood
20 wouldn't be happy with anything proposed for
21 this site. I don't think that's true. I
22 can't speak for everyone, but I can say with
23 some certainty that those -- an objection to
24 the plans that have also retained our own
25 professionals could reach a degree of

1 satisfaction with some design changes.

2 Mr. Kaufman's proposals have
3 embodied a lot of those as concepts. They
4 morally would meet the vision we all had when
5 the zoning overlay was passed four years ago.
6 The design was quite a surprise when we all
7 saw it because as a professional myself and
8 speaking to others, we would have -- we saw
9 the language of the mixed use zone and we
10 would have interpreted it differently.

11 And by having an objection to the
12 way that the buildings are sited, this isn't a
13 use of some obscure technicality in the
14 zoning. These are really core issues related
15 to zoning intent that we want to see better
16 addressed in the buildings proposed for this
17 site.

18 There are some other issues, too.
19 We feel that by grading the site differently,
20 this could be an overall safer plan by
21 disturbing less soil, particularly at the
22 lower end.

23 And I hope that this Board has the
24 ability to come together and figure out a way
25 to have some of our ideas, proposals, and

1 requirements for making this a safer
2 development taken into account.

3 Thank you.

4 CHAIRMAN HANDS: I see nobody else,
5 Deb.

6 COORDINATOR COONCE: I don't see
7 anybody. One last call, members of the
8 public.

9 I don't see anybody, Mr. Chairman,
10 so I would say we move into closing
11 statements.

12 CHAIRMAN HANDS: I think so.

13 Thank you, members of the public,
14 for speaking eloquently in many cases. I
15 appreciate that. Thank you.

16 Okay. Jolanta, how do we want to
17 start to close? Is that an opportunity for
18 the applicant to get to ourselves, to summate?

19 MS. MAZIARZ: Yes. So at this
20 point, both the applicant and the objector
21 will have an opportunity to give their
22 summations of the application. And by
23 applicant and objector, I mean Mr. Regan on
24 behalf of the applicant and Mr. Simon on
25 behalf of the objectors.

1 CHAIRMAN HANDS: Which order do we
2 prefer to go in?

3 MS. MAZIARZ: However -- however the
4 attorneys would like.

5 Mr. Regan, would you like to go
6 first or would you like Mr. Simon to go first?

7 MR. REGAN: I'd like to go last.

8 MS. MAZIARZ: Okay. Very good. I
9 mean, that's generally the order of things.
10 The applicant goes last.

11 MR. SIMON: I believe that's
12 appropriate as well.

13 CHAIRMAN HANDS: Okay.

14 MR. SIMON: Thank you.

15 So I want to, of course, start off
16 by thanking the Board. You know, it's never
17 easy to have an application that goes on for
18 many meetings regardless of what the subject
19 matter is. And we're trusting that this Board
20 is and has listened to all the evidence, all
21 the testimony, reviewed all the plans,
22 exhibits, that have been presented by all
23 sides.

24 But let's be clear about something.
25 This is not a fully conforming application.

1 And in this case, and we heard the developer
2 speak just a few moments ago, it is not true
3 that the developer here is following the rules
4 of the game, as he calls it, whether it's
5 Monopoly or any other game. There's no legal
6 obligation for this Board at this time to
7 approve this application in its current form
8 and based on its current design.

9 And to hear argument and complaints
10 that if we had just known of all these
11 problems that you had, we may have done
12 something. The word is "vapid" that comes to
13 mind. There have been multiple meetings.
14 Transcripts are all online. They speak for
15 themselves.

16 Many meetings when through comments
17 of this Board, comments of the public via
18 questioning, that the applicant knew all too
19 well in an extremely clear fashion the
20 concerns of this Board, the concerns of the
21 public, and the issues that it faces and faced
22 with regard to complying with the ordinance.

23 And at no time did the applicant
24 with regard to the residential buildings do
25 anything. The attitude is it's my project.

1 You heard it even tonight. If you want to
2 approve it, you approve it. If you want to
3 deny it, you deny it. This is what we're
4 doing. I'm not willing to work with you at
5 all despite what they may have said three
6 meetings ago. Now all of a sudden, they're
7 not willing to work with you, not willing to
8 work with the community because they don't
9 care.

10 You just heard the passion of
11 members of the public and their concerns that
12 have not remotely been addressed by the
13 applicant. The word is "dismissive." There's
14 no effort at all to try to come back with a
15 revision or, more importantly, as the
16 transcript and the evidence will bear out, no
17 evidence presented to this Board to
18 demonstrate why it can't be done. Why what
19 the public and the Board has concerns about
20 cannot be addressed.

21 There is a reason for a public
22 process. That is why notice is provided under
23 the Municipal Land Use Law, so that the public
24 can come out, that the public can ask
25 questions, the public can present testimony,

1 the public can present evidence by way of
2 alternatives to demonstrate that the applicant
3 is not complying with the ordinance
4 requirements.

5 But instead of reacting or
6 responding to that information that is
7 provided as part of the public record, as part
8 of the public process, that the Municipal Land
9 Use Law allows and encourages, the response is
10 this is what we've got, take it or leave it.

11 And I will tell you that there's no
12 need legally or otherwise for a rush to
13 judgment here. And this is a huge opportunity
14 that is being missed to do the right thing for
15 this community in compliance with the
16 ordinance.

17 Now, I will make a record as to some
18 issues that we respectfully disagree with
19 having to do with jurisdiction and use. So it
20 is clear, because there's ordinance provisions
21 that say that no more than one principal
22 building shall, which is mandatory, be
23 permitted on any one lot in the township
24 except in certain zones. There's five or six
25 zones. And the MOU (sic) zone is not included

1 in the list of zones that are excluded.

2 So, therefore, the subject zone
3 can't have more than one principal building on
4 any lot. And here we're talking about 14
5 principal residential buildings, one principal
6 commercial building, one clubhouse building.
7 Let me talk about the clubhouse for a second.

8 The clubhouse, of course, as we
9 know, is not delineated as a permitted
10 accessory use. There's been no proofs
11 whatsoever by the applicant. And we all know
12 that it's the applicant's burden of proof with
13 regard to this application. It is not the
14 Board's burden of proof. The applicant has
15 provided nothing to demonstrate that despite
16 it not being a delineated accessory use, that
17 a clubhouse building for a transit-oriented
18 development in the State of New Jersey, a
19 mixed-use project, is customarily incidental
20 to that project, namely 14 residential
21 buildings, one commercial building as part of
22 a transit-oriented development.

23 There's been no showing that that is
24 the case and it's just not accurate or
25 truthful as a matter of law.

1 With regard to the swimming pool,
2 not only is a swimming pool not customary,
3 incidental or subordinate to a
4 transit-oriented development mixed-use
5 project, and there's been no proof submitted
6 by the applicant to that effect, but, in fact,
7 the ordinance at Section 124.5 -- when I say
8 "the ordinance," I mean the land use
9 ordinances. That's how I'll be referring to
10 it.

11 LU 124.5 with regard to swimming
12 pools actually states that swimming pools
13 shall be a permitted accessory use in
14 delineated zone. It's like the C zone, the
15 R-2, the R-3 and the R-4 zone. Subject to
16 certain requirements.

17 The MOU (sic) zone is not one of
18 those zones. So the ordinance didn't miss it.
19 And usually when you have an accessory use
20 that's not stated in the ordinance, it is
21 because, in some cases, that that use was not
22 contemplated by the governing body at the time
23 the ordinance was created.

24 Clearly swimming pools were
25 contemplated and they were determined to be in

1 certain zones and not determined to be in
2 other zones, including the MOU (sic) zone.

3 So, and not to -- not to also state
4 that under the -- under LU 124.5, I believe,
5 Section A, that all swimming pools must be
6 located upon the same lot as the principal
7 building to which they are related, which
8 isn't the case certainly here.

9 So what do we have? We have a
10 mixed-use overlay zone with certain permitted
11 uses including commercial uses. Personal
12 service uses, restaurants, offices, as well as
13 multifamily dwellings.

14 And we've already provided
15 testimony, whether it was by Mr. Pessolano,
16 whether it was by Mr. Kaufman, that we believe
17 certainly that a D-6 height variance is
18 required in this particular case, especially
19 given that five proposed dwelling structures,
20 Buildings 1 and 14 that are facing the New
21 Jersey Transit tracks, and Buildings 10, 12
22 and 8, I believe, facing Division Avenue, that
23 have front doors facing Division Avenue are at
24 three stories and 45 feet, where the ordinance
25 limits the height to two and a half stories

1 and 35 feet. It's approximately a 30 percent
2 differential, or delta, and that's what
3 triggers a D-6 height relief requirement that
4 we all know can't be granted by this Board.

5 And I also want to remind this Board
6 that under Section 133.1, that's LU 133.1, I
7 believe, it refers to all yards facing on a
8 public street is a front yard; and that
9 clearly means the yard most oriented to the
10 street.

11 And similarly, with regard to the
12 other provision about buildings facing Stone
13 House Road and in the interior of the property
14 being a maximum of three stories and 45 feet.
15 You know, the fact that it declares that a
16 taller height limit is permitted for interior
17 buildings, that means that there has to be
18 interior buildings in one height and exterior
19 buildings in another height, which are clearly
20 the buildings on the edge of development that
21 are most oriented to and therefore facing the
22 public street, in this case, you know,
23 Division Avenue.

24 So certainly D-6 relief we also feel
25 is necessary for the excessive building height

1 along Stone House Road. So that's Buildings,
2 I believe, 6, 7 and 8.

3 And we also heard testimony that the
4 height measurement that is relied on by the
5 applicant we believe is distorted due to the
6 proposed significant filling and the creation
7 of steep slopes to artificially have the roof
8 at or near the same level of the other
9 buildings in the proposed development.

10 And you heard the testimony that as
11 a result of, for example, Building 6, that the
12 height proposed as a result of the filling is
13 going to be about 70 feet over the elevation
14 of Stone House Road at a distance of less than
15 40 feet from the front property line, clearly
16 way over the ordinance requirement. Clearly
17 not what the governing body could have
18 fathomly intended at the time that they put
19 the ordinance together.

20 And even if you don't believe that
21 any type of use variance, D-6 or otherwise, is
22 required for the height of the buildings, this
23 Board is nevertheless obligated to consider
24 the enormous scale of those buildings and the
25 negative visual impact that they will have on

1 the surrounding community.

2 The other thing to keep in mind here
3 is that under the ordinance, that the MU-0
4 zone is considered both a business zone, a
5 commercial zone, a mixed-use zone, a
6 multifamily zone, a nonresidential zone, and a
7 residential zone.

8 So that is significant in
9 determining what is relevant and what is not
10 relevant.

11 So, for example, for floor area
12 ratios in residential zones, it's clearly
13 identified as a residential zone, clearly
14 nonresidential uses can be put on this zone.
15 And as a result of that, we do believe, with
16 all due respect, of course, to the Board
17 planner, that Section 132.6 that talks about
18 floor area ratios in residential zones
19 certainly is applicable here.

20 Now, the other thing to keep in
21 mind, also, to remind this Board is that under
22 Section LU 103.3, any deviation from the
23 provisions of Section 130 in the ordinance
24 require not exception relief, but they require
25 variance relief, and those sections include

1 uniformity in architectural design and
2 appearance.

3 So the fact that these units all
4 look alike, and there's no dispute that they
5 do, and they clearly violate Section 135.1,
6 the applicant was required to provide proofs
7 with their burden of proof demonstrating
8 entitlement to a variance, not an exception:
9 A bulk variance.

10 And that is either under, of course,
11 C-1 or C-2. C-1 meaning there's a hardship
12 with regard to the lot itself and the property
13 that requires the applicant to demonstrate
14 that they have no choice, in essence, but to
15 go with these look alike provisions; and under
16 the C-2, the flexible benefits outweighing the
17 detriments, they need to demonstrate that what
18 they're proposing here, having all these
19 buildings, 14 residential buildings looking
20 exactly alike, is a better zoning alternative
21 for the property.

22 I would submit to you that the
23 variance relief wasn't applied for, it wasn't
24 noticed for. No proof was provided to
25 substantiate approval for any type of -- that

1 type of variance relief. And certainly if it
2 was provided, certainly it wouldn't be enough
3 for this Board to make a determination that
4 they met the positive and negative criteria
5 for that type of relief. And that's very
6 significant in terms of what is required of
7 the applicant. And, again, yet another
8 example as to why this is not a case where the
9 applicant has met all of the provisions set
10 forth in the ordinance.

11 There's also a site plan and design
12 standards that need to be met. And this Board
13 is well aware that an applicant is permitted
14 to make an application under the site plan
15 section of the ordinance or design section for
16 what's called exception relief. And that's in
17 Section 162.7 of your ordinance.

18 It's also in Section 51B of the
19 Municipal Land Use Law. And the language is
20 identical: That this Board has the power to
21 grant exceptions from the design or site plan
22 ordinance as may be reasonable and within the
23 general purpose and intent of site plan review
24 if, it's a big if, the literal enforcement of
25 one or more provisions of the ordinance is

1 impracticable or will exert undue hardship
2 because of peculiar conditions pertaining to
3 the land in question.

4 And that is an important standard to
5 think about with regard to sections such as
6 lighting. Section 153.2 that says that you
7 have .2 footcandle maximum and they're
8 proposing 1.9 footcandles proposed. You know,
9 multiple deviation there. There's no reason
10 the lighting cannot be made to conform.

11 Section 153.1B regarding
12 landscaping. There's 119 trees required.
13 They're only providing 96 saplings. And
14 certainly trees can be accommodated in an
15 increased amount with the reduction in total
16 pavement.

17 With regard to landscaping under
18 153.1G, that they have 29 additional trees
19 that are required in the parking area and
20 they're not providing the amount that they can
21 provide.

22 With regard to building design,
23 Section 152 of the ordinance, that I know
24 Mr. Kaufman and Mr. Pessolano talked about in
25 length, about buildings relating harmoniously

1 to the natural features and the surrounding
2 area.

3 All of those sections have been
4 violated by the applicant via the design that
5 has been presented. And it is incumbent upon
6 the applicant under those circumstances to
7 provide proofs demonstrating exception relief,
8 showing that what they're doing is reasonable.
9 They haven't done that. They have to show
10 that it's within the general purpose and
11 intent of the site plan ordinance. They
12 haven't done that. They have to show that
13 literal enforcement is impracticable. They
14 haven't done that. And they certainly haven't
15 shown that there's going to be any undue
16 hardship because of peculiar conditions
17 pertaining to the land in question that
18 prevents them from complying with the site
19 plan or design sections of the ordinance.

20 Before I leave this area, I just
21 want to also remind this Board that under
22 Section 162.5 of your ordinance, an applicant
23 may elect, of course, to file for both
24 preliminary and final approval, site plan
25 approval, simultaneously, right? They're

1 allowed to do that.

2 However, you know what it says? It
3 says applicant seeking simultaneous approvals
4 do so at the peril of added expenses if
5 changes in design are required. The point
6 being is that it's baked into this -- into
7 your ordinance that there may be circumstances
8 where the applicant made changes to the design
9 of their project.

10 Further, in Section 162.3 of the
11 ordinance, it talks about the fact that this
12 Planning Board is to determine whether all the
13 standards have been observed, which you have
14 the obligation to do during your deliberation;
15 whether you have the obligation to note
16 objections to parts of the plan that do not
17 meet the standards; that the Board has the
18 right to make not only corrections but
19 recommendations for desired changes to effect
20 compliance with the ordinance and be satisfied
21 that the site plan represents the most
22 desirable alternative for use and/or
23 development of the site in compliance with the
24 ordinance.

25 And it goes on to say that only

1 then, when the Board is satisfied that the
2 proposed development complies with the
3 requirements of the ordinance, at that point
4 only shall the app -- shall this Board approve
5 the application.

6 Again, that's Section 162.3 of your
7 ordinance. Very, very important.

8 So where are we with this? Where
9 are we is that there's no basis to grant any
10 variances that are within your jurisdiction.
11 There is no basis on the record for the
12 granting of any design waivers or exceptions
13 based on the record that is presented -- been
14 presented to you.

15 Instead what we have is a situation
16 where the applicant has made no effort to
17 attempt to take into consideration the
18 existing building designs in Millington
19 Village. There's been no attempt to use
20 complementary materials or designs to track
21 the local buildings and their materials.

22 As you all know, nearly all the
23 buildings along Division Avenue and Long Hill
24 Road in Millington are constructed of masonry
25 materials, including brick and stucco, with

1 earth tones. Clapboard finishes that are
2 being proposed here on these tall structures
3 are certainly going to be a mismatch in the
4 design fabric evident through Millington
5 Village.

6 And, of course, this is not a
7 surprise, because you heard through the
8 testimony that neither the applicant's
9 architects nor any member of their design team
10 has even bothered to visit Long Hill Township
11 or set foot in the village of Millington. And
12 this is obviously evident, excuse me, in the
13 project design. And it's more glaring when
14 considering that this development will
15 represent the largest single development in
16 the history of Long Hill.

17 And you have to take that, you know,
18 really into consideration in thinking about
19 what we're trying to accomplish here with this
20 applicant not complying with the ordinance
21 requirements.

22 And I remind this Board that one of
23 the ordinance goals set forth in Section 102
24 speaks to attaining compatibility with the
25 neighborhood setting. And certainly in this

1 case where you have a transit-oriented
2 development, which is unique and it's not --
3 it doesn't come around every day, every week,
4 every year, or every 20 years. It's
5 imperative to get it right and to strive for
6 the best design you can achieve under the
7 ordinance.

8 And here what we have is the
9 opposite. There's no demonstration whatsoever
10 that there's going to be compatibility with
11 the local architecture or history of the
12 Millington regional area as required by
13 ordinance.

14 Now, look, we all know that despite
15 me yelling and screaming at times, the reality
16 is that a proceeding before a Planning Board
17 is not essentially an adversary proceeding.
18 And there's a case on this. It's Smith versus
19 Fair Haven. And what it states is that the
20 Board is charged with obtaining all the facts
21 and then, in the exercise of its discretion,
22 "making a decision which best accords with the
23 rights of the applicants and the interests of
24 the public based on the record presented."

25 And I would certainly submit that

1 under these circumstances, it is not the
2 responsibility of this Board, it is not the
3 responsibility of the Board's professionals,
4 to redesign this proposal. This is the
5 applicant's obligation. And the applicant
6 knew of the concerns early on in this process
7 and chose to do nothing.

8 The burden remains on the applicant.
9 They were obligated to provide all pertinent
10 details needed to be submitted to comply with
11 the ordinance. And if they didn't comply with
12 the ordinance, it's their obligation to ask
13 for the appropriate variance or exception
14 relief.

15 This particular setting here,
16 opposite Millington Village center, warrants
17 careful attention to fit this type of project
18 in there. You know, you heard from
19 Mr. Pessolano. Again, you heard from
20 Mr. Kaufman as to what's going on here. And
21 we talked even tonight about the massive fill
22 that's going to be imported here and hauled in
23 to provide for massive retaining walls that
24 can be reduced by a significant extent if
25 there was an opportunity for this developer to

1 not ask for an approval tonight but instead to
2 come back with an intelligent plan.

3 All we are looking for in objecting
4 here is intelligent development. We are not
5 complaining about things that do -- that have
6 anything to do with matters that don't -- that
7 are not addressed by the ordinance that is
8 applicable here; and we want to make sure that
9 it's as least impactful as possible on the
10 surrounding community.

11 And, you know, you heard again, and
12 I don't have to repeat it, all the smart
13 comments from members of the public about the
14 impact this is going to have on this
15 community.

16 You know, I will also tell you
17 parenthetically when I hear the testimony and
18 participate in an application like this, I do
19 think back in all sincerity of a time when I
20 was a very young Board member of a town -- in
21 a town where I lived, my very first year, and
22 we approved a project that was very
23 questionable. I didn't know enough. And I
24 drive by it every single day and I cringe. I
25 know that has nothing to do with this. But

1 when I'm presenting here and listening to the
2 evidence and reading the transcripts, with all
3 due respect, that is what I continue to go
4 back to.

5 So on behalf of our clients, we
6 thank the Board for its consideration of our
7 evidence in opposition to the project as
8 currently proposed. We also, of course, thank
9 the applicant and its professionals, including
10 Mr. Regan, for their courtesies throughout
11 this matter despite my short stint with this
12 matter.

13 And we do sincerely encourage them
14 to seriously consider what we have submitted,
15 the arguments that we have made prior to
16 asking for a vote on this application, and to
17 ask that the public work together in a short
18 time frame, frankly, with the applicant, that
19 we have asked the opportunity to do a number
20 of times, to come up with a project that
21 everyone can be proud of.

22 Thank you.

23 CHAIRMAN HANDS: Thank you,
24 Mr. Simon.

25 Before we continue, it is 10:22 and

1 we have a history of rushing the last few
2 minutes. Obviously we're not in that position
3 tonight.

4 Are we willing to continue tonight?
5 Thumbs up all around? So 11 o'clock? Should
6 we go just to 11 and see how that takes us?

7 MAYOR RAE: I mean, just one thing.
8 I mean, we have another summation and then we
9 have our own -- then we have our own
10 discussion, which I think is going to be
11 reasonably long.

12 Do we really think that 11 o'clock
13 is going to be the time, that we're going to
14 be able to wrap it up by then?

15 I think, you know, given the things
16 that have been raised, the issues that have
17 been raised, our discussions, you know, could
18 very well take us to a lot longer than 11
19 o'clock, especially after the -- with another
20 summation to go.

21 CHAIRMAN HANDS: So your suggestion,
22 Brendan, is to have a second -- another
23 meeting? Is that your suggestion?

24 MAYOR RAE: I mean, I think that's
25 what we're really looking at. I mean, if we

1 really want to give this, you know, really the
2 thought and the discussion that it deserves,
3 right, I think we do need another meeting.
4 And I didn't think I'd be the one to say that.
5 But, you know, it really is. It's just -- we
6 would be here until -- unless we're prepared
7 to stay here until, you know, midnight and
8 maybe beyond, because I think it may very well
9 take that amount of time.

10 CHAIRMAN HANDS: Thank you.

11 Tom, you were going to say
12 something.

13 VICE CHAIRMAN JONES: Two questions.
14 One, do we have a time limitation on storage
15 of the video, Dennis?

16 BOARD MEMBER SANDOW: No. No. The
17 time limitation only applies when we're in the
18 courtroom and recording on the server
19 directly.

20 VICE CHAIRMAN JONES: Thank you.

21 BOARD MEMBER SANDOW: The Township
22 Committee ran four and a half hours last month
23 at one meeting, although I'm certainly not
24 going to recommend that.

25 VICE CHAIRMAN JONES: Okay. Thank

1 you.

2 Mr. Chair, I would say to propose
3 11:30 as opposed to 11.

4 CHAIRMAN HANDS: To Brendan's point,
5 though, do we think even that -- or does
6 everyone want to reflect on the additional
7 testimony and commentary made tonight and
8 postpone to the next meeting?

9 BOARD MEMBER VERLEZZA: Am I live?
10 I'm live. Based on the comments by Mr. Simon
11 and the members of the public, I probably have
12 a half an hour's worth of questions myself
13 right now. But while they're fresh on my mind
14 and fresh on all of our minds, maybe we might
15 go beyond 11 o'clock. I'm fine with it. I'd
16 like to try to, you know, push through as much
17 as we can tonight and make wise decisions,
18 again, while a lot of these facts and
19 questions are fresh in our mind. That's just
20 my opinion.

21 VICE CHAIRMAN JONES: Agreed. I'm
22 on vacation, so I've got nothing. So
23 respectfully, everyone's got work in the
24 morning.

25 MAYOR RAE: Yeah. And also, you

1 know, the late hour may very well cloud some
2 of the discussion as well, although it's still
3 fresh in our minds. That certainly has to
4 play into our discussion, our thoughts, on
5 whether we want to take this through. Because
6 I think if we do, then we're going the whole
7 way, however long it takes. We're kind of at
8 a point now where we can either stop or we can
9 go; but if we go on, we're going through till
10 whenever it ends and we have to be prepared
11 for that.

12 BOARD MEMBER VERLEZZA: I think I
13 might have not come across how I wanted to. I
14 think we should go to a reasonable time
15 tonight, but I think we're going to have to
16 continue. That's what I was getting at.

17 BOARD MEMBER PHEIL: Well, if you're
18 going to continue, there's no point -- if
19 you're going to continue to another meeting,
20 there's no point in going till 11 tonight
21 because you're still going to have to meet
22 again.

23 The issue is are we going to have
24 the same Board in January? That's my concern.
25 Because there are a number of members whose

1 terms expires.

2 MR. REGAN: A special meeting?

3 BOARD MEMBER PHEIL: If we're going
4 to have the same Board, fine. If we're not
5 going to have the same Board, then we've got
6 other issues in terms of who is going to be
7 able to vote, how many people are going to be
8 able to vote, et cetera. If I'm not mistaken,
9 there are three members whose terms is up.

10 CHAIRMAN HANDS: Fair point, Alan.
11 Thank you.

12 Deb, when's the next opportunity
13 should we want to --

14 COORDINATOR COONCE: Well, the only
15 thing I can say, as far as notices go, I mean,
16 we could do a special on the 29th of December.
17 Because I have to notice. I have to have ten
18 days. So I can't say we can do it the 22nd
19 because I don't think I could get it in the
20 paper in time in this week for notice. So I
21 would say to the Board -- not to mention
22 that's the holiday week anyway.

23 So I would suggest to the Board, if
24 the Board were willing to consider a special
25 meeting, it would be on Tuesday, December

1 29th.

2 CHAIRMAN HANDS: Not a good idea?

3 COORDINATOR COONCE: Well, no,
4 because of the holidays.

5 BOARD MEMBER PHEIL: I would think
6 that's the best option.

7 COORDINATOR COONCE: It's the best
8 option because of the holidays and because I
9 have to put the notices out.

10 BOARD MEMBER PHEIL: Sure. I'd
11 rather do that than go to 11:30 and have to
12 continue anyway.

13 MR. REGAN: Yeah. If I might,
14 Mr. Chairman, obviously we're very concerned
15 with the idea of this going into next year and
16 affecting the number of Board members, you
17 know, that would be eligible to vote.
18 Obviously, you know, we're prepared to
19 continue tonight, but it's ultimately your
20 decision. But we would appreciate, if
21 you're not going to go forward tonight, that
22 you schedule a special meeting before the
23 end of the year. We'll make ourselves
24 available.

25 CHAIRMAN HANDS: Absolutely.

1 There's no question on that one.

2 What's the Board's recommendation?

3 To postpone to the 29th, special meeting? No
4 time limit.

5 VICE CHAIRMAN JONES: Mr. Chair, I'm
6 good with that. I'm good with going tonight
7 and I'm good with going on the 29th.

8 CHAIRMAN HANDS: I'd like us all to
9 reflect a little bit further. And I agree
10 with some of the comments. I appreciate this
11 has been 11 hearings or whatever. I
12 appreciate we did go first with the
13 contamination considerations and that did take
14 up a lot of time. I think that was
15 appropriate.

16 So I do think we need to justify a
17 thoughtful time for reflection. We all
18 have -- and to the applicant as well, to be
19 honest, and let's see if we can power through
20 on the 29th of December.

21 COORDINATOR COONCE: So first and
22 foremost, we would need a motion and a second
23 to actually hold a special meeting on December
24 29th.

25 MR. FOURNIADIS: Can I ask a

1 question? Question.

2 COORDINATOR COONCE: Sorry. Go
3 ahead.

4 MR. FOURNIADIS: So what's going to
5 happen at the next meeting? Frank's going to
6 give his summation or maybe Frank could sum up
7 tonight, and then at the next meeting, it's
8 just deliberation, no more testimony, no more
9 public, no more alternative plans. Is that
10 what we're doing?

11 CHAIRMAN HANDS: Thank you. Thank
12 you.

13 Frank, how long was your summation
14 going to be?

15 MR. REGAN: I mean, if we're going
16 to do a special meeting, I think I would
17 prefer to wait until then and do it at the
18 outset. I mean, I don't anticipate it
19 being overly long, but I would think it
20 might be more appropriate to do it at that
21 time.

22 BOARD MEMBER PHEIL: I'd move for a
23 special meeting on the 29th of December.

24 BOARD MEMBER VERLEZZA: Second.

25 COORDINATOR COONCE: Okay. We have

1 a first and a sec -- a motion and second to
2 have a special meeting on the 29th of
3 December.

4 All in favor?

5 (Whereupon, a voice vote was taken;
6 chorus of "ayes" heard.)

7 COORDINATOR COONCE: Any opposed?

8 No. Okay. So now we will
9 officially have a special meeting on the
10 29th.

11 Now we will need a motion and a
12 second to carry this application to that
13 special meeting.

14 BOARD MEMBER PHEIL: So moved.

15 MAYOR RAE: Second.

16 MS. MAZIARZ: Without further
17 notice.

18 COORDINATOR COONCE: Correct.
19 Without further notice by the applicant.

20 All in favor?

21 (Whereupon, a voice vote was taken;
22 chorus of "ayes" heard.)

23 COORDINATOR COONCE: Any opposed?

24 No. Okay.

25 MS. MAZIARZ: And that will be at

1 7:30 p.m., correct?

2 COORDINATOR COONCE: Yes, ma'am.

3 7:30 p.m.

4 MS. MAZIARZ: Okay.

5 CHAIRMAN HANDS: Thank you, all. I
6 appreciate everybody's patience. And have a
7 happy holiday is all I can say.

8 BOARD MEMBER PHEIL: Thank you.
9 Merry Christmas.

10 COORDINATOR COONCE: We need a
11 motion to -- no, we'll see everybody this
12 Thursday for the master plan.

13 BOARD MEMBER PHEIL: Oh, that's
14 right. Okay.

15 CHAIRMAN HANDS: I need a motion to
16 adjourn for tonight.

17 MAYOR RAE: So moved.

18 BOARD MEMBER VERLEZZA: Second.

19 CHAIRMAN HANDS: Thank you, all.

20 COORDINATOR COONCE: All in favor?

21 (Whereupon, a voice vote was taken;
22 chorus of "ayes" heard.)

23 BOARD MEMBER VERLEZZA: Thank you,
24 everybody. Happy holidays.

25 CHAIRMAN HANDS: Thank you.

1 MR. FOURNIADIS: Thank you, all.

2 (Whereupon, the hearing on this
3 application was adjourned at 10:32 p.m. to
4 Tuesday, December 29, 2020, at 7:30 p.m.)

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C E R T I F I C A T E

I, BRIDGET LOMBARDOZZI, Notary Public
and Certified Shorthand Reporter of the State
of New Jersey, do hereby certify that the
foregoing is a true and accurate transcript of
the testimony as taken stenographically by and
before me at the time, place and the date
hereinbefore set forth.

I DO FURTHER CERTIFY that I am neither
a relative nor employee nor attorney nor
counsel of any of the parties to this action,
and that I am neither a relative nor employee
of such attorney or counsel, and that I am not
financially interested in the action.

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