

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 29, 2020  
Zoom Remote Hearing  
Commencing at 7:29 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

DECOTIIS, FITZPATRICK, COLE & GIBLIN, LLP  
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  
                                  Coordinator

3                 ELIZABETH LEHENY, Township Planner

4                 MICHAEL LANZAFAMA, Board Engineer

5                 ROBERT FOURNIADIS (Previously sworn)

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WITNESSES:

(No witnesses presented)

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(No exhibits marked)

1                   CHAIRMAN HANDS: Thank you.

2   Welcome, everybody. It's 7:29. This is a  
3   special Planning Board meeting of the Long  
4   Hill Township Planning Board. Call to order.  
5   Adequate notice of this meeting has been  
6   provided by posting a copy of the public  
7   meeting dates on the municipal bulletin board  
8   and website, by sending a copy to the Echoes  
9   Sentinel newspaper and filing a copy with the  
10   municipal clerk.

11                   Any hearing conducted by the Board  
12   is a quasi-judicial proceeding. Any questions  
13   or comments must be limited to issues that are  
14   relevant to what the Board may legally  
15   consider in reaching a decision, and decorum  
16   appropriate to a judicial hearing must be  
17   maintained at all times.

18                   Meeting cutoff. Announcement is  
19   made that, as a matter of procedure, it is the  
20   intention of the Planning Board not to  
21   continue any matter past 10:30 p.m. at any  
22   regular or special meeting of the Planning  
23   Board unless a motion is passed by the members  
24   then present to extend the meeting until a  
25   later specified time.

1                   With that, do you have the flag,  
2    please?

3                   (Pledge of Allegiance.)

4                   CHAIRMAN HANDS: Thank you,  
5    everybody. Thank you, Deb, for that.

6                   COORDINATOR COONCE: Okay.

7                   CHAIRMAN HANDS: Roll call.

8                   COORDINATOR COONCE: Yes. Mayor  
9    Rae?

10                  MAYOR RAE: Present.

11                  COORDINATOR COONCE: Committeeman  
12    Verlezza?

13                  BOARD MEMBER VERLEZZA: Present.

14                  COORDINATOR COONCE: Mr. Falvey?

15                  BOARD MEMBER FALVEY: Here.

16                  COORDINATOR COONCE: There he is.

17    Okay.

18                  Mr. Malinousky?

19                  BOARD MEMBER MALINOUSKY: Here.

20                  COORDINATOR COONCE: Mr. Pfeil?

21                  BOARD MEMBER PFEIL: Here.

22                  COORDINATOR COONCE: Mr. Richardson  
23    is recused tonight.

24                  Mr. Sandow?

25                  BOARD MEMBER SANDOW: Here.

1                   COORDINATOR COONCE: Vice Chairman  
2 Jones?

3                   VICE CHAIRMAN JONES: Present.

4                   COORDINATOR COONCE: Chairman Hands?

5                   CHAIRMAN HANDS: Here.

6                   COORDINATOR COONCE: Mr. Chairman,  
7 we have a quorum.

8                   CHAIRMAN HANDS: Thank you. Thank  
9 you, Deb. Thank you, everybody.

10                   One topic tonight is a continuation  
11 of the application for Prism, major,  
12 preliminary and final site plan, lot commonly  
13 known as Tifa. I think this is, what, the  
14 twelfth or thirteenth meeting. And if I  
15 recall from the last meeting, we concluded  
16 with all the testimony and we left it to this  
17 meeting to offer Mr. Regan, I think it was, to  
18 offer closing remarks and -- remarks for the  
19 application on behalf of Prism. And that's  
20 where I think we left it.

21                   And then at that point, there will  
22 be a discussion with the Board to deliberate  
23 the findings and the discussions that have  
24 been had over the last 12, 13 meetings and  
25 come to some resolution or conclusion with the

1 application.

2 So with that said, Deb or Jolanta,  
3 was there anything just off the top that we  
4 wanted to discuss before I hand it over to  
5 Frank?

6 MS. MAZIARZ: Chairman, I think you  
7 covered all of it. I think that is exactly  
8 what happened at our last hearing. At our  
9 last hearing, if I recall correctly, the  
10 objector's attorney was given an opportunity  
11 to sum up, to give a summation, because the  
12 hearing had been closed at that point.

13 So while technically the hearing  
14 isn't closed but the public testimony portion  
15 had been closed. So today, you are correct;  
16 the only thing left is for the applicant's  
17 attorney to sum up before the Board speaks and  
18 the Board deliberates.

19 CHAIRMAN HANDS: Thank you, Deb.

20 Deb, any points of order or are we  
21 good with that?

22 COORDINATOR COONCE: No, I think  
23 you -- again, I think you covered everything.

24 CHAIRMAN HANDS: Thank you.

25 Frank, is it fair to hand it over to

1 you at this point?

2 MR. REGAN: That would be fine,  
3 Mr. Chairman. Thank you very much.

4 CHAIRMAN HANDS: Please do. Please  
5 continue.

6 MR. REGAN: On behalf of the  
7 applicant, I want to thank the Board, its  
8 professionals, and the public for their  
9 attention and input on the application. It's  
10 been a long process. The application was  
11 submitted in November 2019 and the first  
12 hearing was held on June 9th of this year in  
13 the midst of the pandemic. And tonight is, in  
14 fact, the twelfth hearing and there's been  
15 approximately 28 hours of hearings.

16 While the pandemic has caused the  
17 hearings to be held virtually, I do not  
18 believe that it's affected the Board and the  
19 public's ability to participate and have their  
20 say. The State Municipal Land Use Law  
21 required the Board to proceed with the  
22 application and I believe the Board has done a  
23 very effective job at conducting the hearings.

24 The applicant has tried to  
25 reasonably address all the questions and



1 comments of the Board, its professionals, and  
2 the public. The first two hearings were  
3 focused on the environmental condition of the  
4 property, which is not required for site plan  
5 approval, but recognizing the public's  
6 concerns, the applicant did its best to  
7 address these concerns.

8           Unfortunately, many members of the  
9 public did not appear satisfied with the  
10 information provided by the applicant on this  
11 issue, but what is clear is that the applicant  
12 is required to comply with all applicable  
13 environmental laws and regulations, has done  
14 so to date, and will continue to do so  
15 regarding the current condition of the  
16 property and any further conditions as a  
17 result of any development of the property.

18           The applicant, its professionals,  
19 and in particular Bob Fourniadis, on behalf of  
20 the applicant, have been willing to address  
21 every question and concern raised by the  
22 public even though many of the questions and  
23 concerns were asked again and again by the  
24 public and even though it was determined by  
25 the Board's professionals this is a completely

1 conforming as-of-right affordable housing  
2 project.

3           The applicant is a property owner in  
4 the township and pays taxes just like other  
5 residents, so it's unfair to characterize them  
6 otherwise or treat them or this application  
7 any different than you would a resident  
8 seeking to build a house or a business in the  
9 township.

10           The applicant acquired the property  
11 three years ago, an underutilized former  
12 industrial property currently containing a mix  
13 of industrial and commercial uses. Some  
14 objectors have characterized this project as  
15 ugly or inconsistent with the Millington  
16 aesthetic.

17           The project is neither ugly nor  
18 inconsistent. What is ugly and inconsistent  
19 is the out-of-place and incompatible  
20 industrial building that this project is  
21 replacing.

22           Let's not lose sight of the fact  
23 that this property is not farm land or open  
24 space. It's a functionally obsolescent  
25 50-year-old hodgepodge 160,000-square-foot

1 industrial building that provides no positive  
2 contribution to the township.

3 The applicant, on the other hand,  
4 acquired this property with the intent to  
5 clear what it views as a use inconsistent with  
6 the area and replace it with a new mixed-use  
7 development located at the New Jersey rail  
8 station while assisting the township in  
9 addressing its affordable housing obligations.

10 The goal has always been to improve  
11 Millington Village Center which is currently  
12 comprised of a mix of uses and structures,  
13 many of them underutilized, obsolete, and  
14 total lack of consistent architectural styles.

15 The public and the objectors have  
16 consistently avoided mentioning the fact that  
17 this project is part of the Township's  
18 affordable housing settlement which obligates  
19 it to provide its constitutional fair share of  
20 affordable housing, something it avoided to do  
21 for many years.

22 While the Board has the right to  
23 make suggestions and provide other inputs,  
24 since this is an affordable housing project  
25 permitted by ordinance as part of the

1 Township's affordable housing settlement, the  
2 Board's review and approval must not cause the  
3 project to be more expensive than it already  
4 will be by imposing unreasonable or  
5 unrealistic conditions.

6 As indicated, this property is not a  
7 virgin, undeveloped site, but one that  
8 contained an industrial facility that operated  
9 for many years, altering the site's  
10 environmental and physical condition. And the  
11 applicant's vision for acquiring the property  
12 was to redevelop it for a more productive,  
13 compatible use while eliminating these  
14 negative property conditions.

15 The proposed redevelopment of this  
16 property is the result of the Township's  
17 affordable housing settlement with the Fair  
18 Share Housing Center which was approved by the  
19 Superior Court on September 27th, 2017. That  
20 settlement required the adoption of a Fair  
21 Share plan and housing element to the master  
22 plan, which this Board did on April 10th,  
23 2018.

24 The Township Committee subsequently  
25 adopted Ordinance No. 413-18 on May 9th, 2018,

1 creating the MU-O, mixed-use overlay, zone for  
2 this property only, which ordinance this Board  
3 reviewed prior to its adoption.

4 The purpose of the mixed-use overlay  
5 zone is to provide zoning for affordable  
6 housing which allows a realistic opportunity  
7 for the construction of very low, low- and  
8 moderate-income housing.

9 Since the project is proposed to be  
10 rental, 15 percent of the units or 21 of the  
11 140 proposed will be affordable housing.  
12 These units will be spread throughout all  
13 buildings. The units will comply with all  
14 applicable State laws and regulations required  
15 for affordable housing.

16 The property is 11.9 acres in size  
17 and currently occupied, as previously noted,  
18 by industrial buildings and paved parking and  
19 loading areas, all of which will be demolished  
20 and removed as part of the project.

21 The applicant proposes to develop  
22 approximately two-thirds of the property with  
23 the balance remaining undeveloped due to the  
24 environmental restrictions as a result of its  
25 prior industrial use and closed landfill.

1           A portion of the property to be  
2           redeveloped will be remediated in accordance  
3           with all applicable environmental laws and  
4           regulations with oversight by a licensed site  
5           remediation professional who is licensed by  
6           the State Department of Environmental  
7           Protection, who must report all remediation  
8           activities to the DEP as part of the  
9           remediation and redevelopment of the property.

10           The applicant, as property owner, is  
11           obligated by law to remediate the property  
12           prior to any development while monitoring and  
13           maintaining the closed landfill on the  
14           property pursuant to an administrative consent  
15           order with the DEP.

16           The applicant proposes the  
17           construction of 140 residential units in 14  
18           ten-unit buildings with parking garages and  
19           surface parking and approximately  
20           4,000-square-foot commercial/retail building  
21           and a total of 330 parking spaces inclusive of  
22           bank parking, along with various site  
23           amenities, approximately 1,800-square-foot  
24           community building and pool and other site  
25           improvements.

1           The applicant could have put forth a  
2 plan with 140 units and a single structure,  
3 the likes of many apartment buildings you see  
4 being constructed throughout the state.  
5 However, the applicant recognized the need to  
6 reduce the scale from what has existed to  
7 provide more open space for view corridors and  
8 natural light and to create more of a village  
9 feel with individual buildings whose sizes are  
10 consistent with the surrounding neighborhood.

11           The majority of the residential  
12 units will be two-bedrooms, 126 of the 140,  
13 with the balance being three-bedrooms. The  
14 residential buildings will be three stories in  
15 height with ground-floor parking, garage  
16 parking.

17           The proposed development complies  
18 fully with the requirements of the MU-0 zoning  
19 for the property and no variances are  
20 required. The Board planner's memo of June  
21 4th, 2020, confirms such compliance.

22           I will not object -- I'm sorry.

23           I will not address the objections  
24 raised by members of the public and their  
25 legal counsel and planner other than to say

1 that the legal counsel and planner for the  
2 objectors do not represent the Township or the  
3 Board. They were not hired by the Township or  
4 the Board. They are not paid by the Township  
5 or the Board. They were hired and paid by a  
6 small group of objectors, a dozen or so out of  
7 a population of over 3,000 in Millington who,  
8 for one reason or another, don't like my  
9 client's project.

10 The issues raised were addressed by  
11 the professionals for the Board that are, in  
12 fact, hired and paid for by the Board and  
13 charged with the duty to protect the Township  
14 and the Board and I agree with the opinions of  
15 the Board attorney and the planner with  
16 regards to many of the objections raised.

17 The applicant doesn't agree that  
18 Section 135, Uniformity and Architectural  
19 Design or Appearance, applies to this  
20 application since, like other parts of the  
21 land use ordinance, it is inartfully written,  
22 ambiguous, and uses different terms  
23 interchangeably, such as "dwelling" and  
24 "house," and we believe it was intended to  
25 apply to single-family subdivisions, not



1 multifamily developments since the Board has  
2 approved other multifamily developments with  
3 uniform appearance.

4           As to Section 152, Building Design,  
5 the applicant believes the application  
6 complies since there are no natural features  
7 of the site since it is a developed site and  
8 one that has been altered over time and the  
9 applicant believes it does relate harmoniously  
10 to the existing buildings and substantial  
11 structures in the vicinity that have a visual  
12 relationship to the project since the  
13 surrounding neighborhood is a mix of  
14 architectural styles.

15           But let's not forget three important  
16 points: The project is an inclusionary zoning  
17 multifamily housing project intended for the  
18 Township to meet its affordable housing  
19 obligations and the zoning was amended for  
20 this property specifically.

21           The Board's professionals have  
22 determined this is a conforming project and  
23 the ordinance that was adopted by the  
24 Township Committee creating the MU-0 zone  
25 adopted in 2018 created this zone and it

1 provides a provision that "any and all other  
2 ordinances or parts thereof in conflict or  
3 inconsistent with any of the terms hereof are  
4 hereby repealed to such extent as they are so  
5 in conflict or inconsistent."

6 The applicant's professionals have  
7 provided extensive testimony and responded to  
8 many questions from the Board, its  
9 professionals and the public.

10 As previously noted, the applicant's  
11 environmental consultant spent two hearings, a  
12 total of almost six hours, providing testimony  
13 regarding the existing condition of the  
14 property, the proposed demolition and  
15 clearance of buildings, and the remediation of  
16 the property prior to and during construction,  
17 even though these items are outside the scope  
18 of the Board's authority and have no bearing  
19 on whether or not an approval should be  
20 granted.

21 Plans and reports have been revised  
22 multiple times by the applicant and its  
23 professionals, including the site plans,  
24 architectural plans, renderings, to address a  
25 number of issues and concerns raised by the

1 Board, its professionals and the public,  
2 including, but not limited to, relocation of  
3 the Stone House Road driveway, parking,  
4 landscaping, lighting, earthwork, and the  
5 retail building.

6 The applicant has reviewed the memos  
7 dated December 28th, 2020, received today from  
8 the Board engineer and the Board's planner  
9 with regards to possible conditions of  
10 approvals. The applicant agrees to the  
11 recommendations in each memo, including  
12 paragraph 4 of the Board engineer's memo,  
13 provided that that doesn't result in -- with  
14 respect to fill and earthwork, doesn't result  
15 in any changes to the design of the buildings  
16 or the layout of the buildings, excessive  
17 slopes aren't created, steps added, garages  
18 removed, parking eliminated, driveways moved,  
19 increase in height and retaining walls. I  
20 don't think that's the intent, but we wanted  
21 to make sure that the Board understood that.

22 And, again, this is an affordable  
23 housing project and we're trying to, you know,  
24 not result -- not result in an increase in the  
25 overall cost of the development.

1           In addition, and notwithstanding our  
2 position, as shared by our professionals, that  
3 this is a fully conforming as-of-right  
4 application, the applicant has heard the  
5 concerns of the Board and the public and is  
6 willing to accept as a condition of final  
7 approval to have its architect develop design  
8 alternatives consistent with the suggestions  
9 made by the Board planner in her December  
10 28th, 2020 memo provided the basic design and  
11 location of windows, doors, stairs and garages  
12 do not change and the applicant be given  
13 flexibility for the use of various types of  
14 materials. Again, an affordable housing  
15 project and we're trying to keep it  
16 economically feasible.

17           In closing, we believe the applicant  
18 has provided a conforming and compliant  
19 application which has been revised to address  
20 many of the concerns and questions raised by  
21 the Board, the professionals and the public  
22 and the Board should approve the application  
23 as presented with the conditions recommended  
24 by the Board's professionals in their  
25 respective memos dated December 28th, 2020.

1 Thank you.

2 CHAIRMAN HANDS: All right. Thank  
3 you very much for that.

4 Just one point of quick  
5 clarification. When you said you accept the  
6 conditions, I think from Casey & Keller, they  
7 included all the points that were outstanding  
8 in his reports, last one dated September 18,  
9 2020, I think.

10 Would that be true?

11 MR. REGAN: That would be true, yes.

12 CHAIRMAN HANDS: Thank you.

13 So at this point, unless, Jolanta,  
14 there's anything you want to add in first, and  
15 I'm not sure if we need to discuss the points  
16 on the -- normally we would go through the  
17 points from the planner and the engineer just  
18 to make sure we're in agreement to understand  
19 them, but it sounds like, at least Frank has  
20 said it, Prism is already accepting of those.  
21 You made the point about the grading. I think  
22 it was the grading where you had some question  
23 marks. At least for my purposes, do you mind  
24 just repeating what you said there? Just so  
25 we're clear.

1           MR. REGAN: I think overall the  
2 concern, and I think Mr. Lanzafama has, you  
3 know, acknowledged this or talked about this  
4 in his prior comments and so on and I don't  
5 think it's the intent, though he can obviously  
6 speak for himself. I guess the concern that  
7 we have is we've proposed a fill plan and  
8 earthwork and what we don't want to find  
9 ourselves is in a situation where, as a result  
10 of making changes to that plan, that it  
11 requires, you know, a change in the overall,  
12 you know, layout of the site, creates unsafe  
13 conditions. Again, I don't think that that  
14 was Mr. Lanzafama's intent. As I said, we  
15 don't want to have to redesign certain parts  
16 of the project to satisfy, you know, a  
17 reduction or a significant reduction in fill.  
18 But obviously we recognize that there's  
19 opportunities there and we're willing to  
20 explore those opportunities to reduce the  
21 amount of fill.

22           CHAIRMAN HANDS: And the example  
23 here is at the southwest corner of Stone  
24 House, the suggestion here is a reduction of  
25 that 3 feet or as much as 3 feet? Is that

1 still --

2 MR. REGAN: I think ultimately we  
3 have to look at that, Mr. Chairman. So we  
4 haven't delved into that. Obviously if  
5 Mr. Lanzafama has looked at that and that's a  
6 conclusion he's come to, then obviously we're  
7 willing to explore that with him. We  
8 haven't -- we haven't had our engineers look  
9 at that yet.

10 CHAIRMAN HANDS: Thank you.

11 And these reports dated 28th and  
12 29th of December, they are now up on the  
13 website, I believe, so if anybody else want to  
14 look at -- I think the engineer's report is at  
15 the top of the list, right, Deb?

16 COORDINATOR COONCE: Yes. I made a  
17 change to where the webmaster put it, but  
18 Mr. Lanzafama's is towards the top of the list  
19 on the Prism page and it is entitled  
20 "Engineering Memo Dated 12/28/2020," uploaded  
21 12/29/2020. The webmaster will just have to  
22 put the note that it's a Board engineer  
23 report, so she put it in the area where the  
24 applicant's reports are.

25 And then the Board planner's, Liz

1 Leheny's, report is located under her reports,  
2 "Board Planner Report, Phillips Preiss Memo,  
3 50 Division Avenue, December 28th," that's  
4 further down the page.

5 CHAIRMAN HANDS: Thank you.

6 I'm going to just ask the  
7 professionals for the sake of them asking the  
8 question, from what Frank has said, did you  
9 have any further -- do either of you have any  
10 further comments other than what you have  
11 expressed on the memos in the last day or two?

12 MR. LANZAFAMA: Mr. Chairman, the  
13 only thing I'd like to confirm for the  
14 applicant and his attorney is that my  
15 intention was not to reengineer the entire  
16 project. The goal was to reduce the amount of  
17 fill. I looked at it. I saw certain  
18 opportunities that could be done with the  
19 regrading of the site that could reduce the  
20 volume of fill and the height of those  
21 structures on the southwest corner.

22 So I believe we all have the same  
23 objective: Reduce the overall cost of the  
24 project, reduce the massing of that element of  
25 the project in the southwest corner. And I



1 think me working with their engineer, I think  
2 we can accomplish that.

3 CHAIRMAN HANDS: Thank you.

4 And may I also include -- I think  
5 there was some conversation about the  
6 northeast corner as well, being low to --  
7 below grade -- or below street?

8 MR. LANZAFAMA: Well, that's -- the  
9 commercial building is currently slightly  
10 below grade, the street grade. I did not  
11 study that aspect, Mr. Chairman.

12 CHAIRMAN HANDS: Would that be fair  
13 to -- if there were further study, would it be  
14 fair to include that corner as well?

15 MR. LANZAFAMA: Well, in as much as  
16 my proposed condition was that we restudy the  
17 grading in an effort to reduce the amount of  
18 overall fill on the project and try and lower  
19 the heights of the structures on the terrain,  
20 I would assume that we would look at the  
21 entire project and not just one small corner  
22 of it. And, you know, that -- in an effort to  
23 do that, that's how you can create a rolling  
24 effect that would end up in a greater  
25 reduction in fill over the entire site.

1           So we'll look at -- my intention was  
2   to look at the entire site, not just that  
3   corner.

4           CHAIRMAN HANDS: Thank you.

5           Frank, is that the way you would  
6   understand it as well?

7           MR. REGAN: I think we agree and  
8   understand that, yes. And I do --  
9   Mr. Fourniadis is obviously here, so he'll  
10  jump in if I say something that I shouldn't.

11          MR. FOURNIADIS: No, I agree with  
12  everything that's said. But, again, even  
13  though I'm not an engineer, it's not my first  
14  rodeo. You know, the challenge of the retail  
15  building was one that we grappled with. Just  
16  keep in mind, and I think Mr. Lanzafama will  
17  agree, if we're talking about trying to take 2  
18  to 3 feet off the site, that kind of makes the  
19  retail building situation worse, not better.  
20  But we're willing to take a look at it. I'm  
21  sure we can reach a resolution.

22          CHAIRMAN HANDS: Just so we're --  
23  thank you for that.

24          As we've always introduced this,  
25  this is an application for preliminary and

1 final site plan.

2 If there were conditions placed, are  
3 we able to separate the two at that point and  
4 potentially have a preliminary site plan with  
5 conditions discussion tonight and final -- and  
6 separate that from the final site plan?

7 MS. MAZIARZ: That really is up to  
8 the Board. If the Board believes that the  
9 plans that have been submitted up to this  
10 point are -- you know, they were enough to  
11 review for discussion purposes in order for  
12 the Board to determine whether or not they  
13 comply with the ordinance in a preliminary  
14 manner, then the Board certainly can grant  
15 preliminary approval this evening if the Board  
16 is inclined to approve this application and  
17 the applicant would have to comply with these  
18 conditions, resubmit these plans, and then  
19 come back to the Board at the applicant's  
20 leisure, really, because I do understand that  
21 the applicant has a great deal of work that  
22 needs to be done before there is going to be  
23 any building permits issuing for the site.

24 So once the applicant has completed  
25 these plans, the applicant can come back for

1 final site plan approval. And at that point,  
2 if everything complies with preliminary, then  
3 the Board simply grants final site plan  
4 approval so long as everything -- everything  
5 complies.

6 So the conditions that are -- that  
7 will be imposed this evening if the Board  
8 chooses to approve this application has to be  
9 specific enough so that the applicant knows  
10 what the applicant is complying with, what  
11 those plans are going to look like, before  
12 they come back for final site plan approval  
13 and that no amendments to the preliminary plan  
14 will be needed.

15 Now, if there are any amendments  
16 needed, then they can apply for an amendment  
17 as well, an amended preliminary and the final  
18 amendment site plan at the same time.

19 So, you know, if the Board grants  
20 final site plan approval this evening along  
21 with preliminary, then the Board will no  
22 longer be able to review these plans that are  
23 going to not be coming before the Planning  
24 Board but will be handled by the professionals  
25 separately.

1                   So that is the Board's choice. The  
2 Board can still grant preliminary without  
3 granting final. That's perfectly acceptable,  
4 and actually with very large applications, and  
5 this is, quite frankly, one of the largest  
6 applications that this Planning Board has seen  
7 in a very long time, it's appropriate to grant  
8 final -- I'm sorry, grant preliminary without  
9 final. This is not a minor site plan  
10 approval. It's a large development.

11                   MR. REGAN: If I might, just,  
12 Mr. Chairman, you know, the applicant  
13 obviously applied for both preliminary and  
14 final major site plan approval and that's what  
15 it's requesting. We understand that there's  
16 going to be conditions as part of any  
17 approval. And obviously even if you grant  
18 final approval, it will be subject to  
19 the conditions, you know --

20                   THE REPORTER: I can't hear you,  
21 Frank.

22                   CHAIRMAN HANDS: Bob, I think --  
23 okay. Can you just repeat, please, Frank?

24                   MR. REGAN: You couldn't hear me?  
25 I'm sorry. Can you hear me now?

1                   CHAIRMAN HANDS:  Yes.  You were  
2   fine.  It's background noise elsewhere.  Don't  
3   worry about it.

4                   MR. REGAN:  I guess my point was, is  
5   the applicant obviously has submitted and is  
6   seeking preliminary and final major site plan  
7   approval.  We recognize that any approval that  
8   may be granted by the Board will include  
9   conditions.  And obviously the applicant would  
10  need to satisfy those conditions in order to  
11  proceed with, you know, even getting a  
12  building permit to construct the project.

13                  So, I mean, we would ask the Board  
14  to seriously, you know, consider granting both  
15  the preliminary and final site plan approval  
16  as opposed to just granting preliminary site  
17  plan approval.

18                  CHAIRMAN HANDS:  Okay.  Thank you  
19  for that.

20                  MS. MAZIARZ:  I think that a fair  
21  compromise because I've been looking back over  
22  the ordinance.  The ordinance defines building  
23  permit to include a demolition permit.  What  
24  the Board might grant, if the Board were  
25  amenable to only grant preliminary and not

1 final, is to also allow the applicant to apply  
2 for any demolition permits that will be  
3 necessary.

4 Now, the Board doesn't have  
5 jurisdiction over the implementation of the  
6 demolition permit, but the Board certainly can  
7 waive the applicant having to wait until after  
8 final approval in order to obtain a demolition  
9 permit.

10 MR. FOURNIADIS: Is it appropriate  
11 if I say something or is that past?

12 CHAIRMAN HANDS: No, Bob, please.

13 MS. MAZIARZ: Well, as long as we're  
14 not testifying. If we're talking about -- if  
15 we're talking about conditions and legalities,  
16 I suppose it's okay as long as you're not  
17 going to start testifying. I'll let you know.

18 MR. FOURNIADIS: Okay. You stop me.  
19 I will talk slowly and pause between thoughts  
20 so you have time to object.

21 MS. MAZIARZ: Okay.

22 MR. FOURNIADIS: You may recall, and  
23 it's in the record when we first floated this  
24 idea, there were several members on the Board  
25 who actually, you know, talked me out of it

1 saying what are the standards? How will we  
2 ever do it?

3           You know, we have agreed -- we have  
4 proposed this and, you know, we were  
5 struggling over the holidays to try and come  
6 up with some standards that I think work.  
7 We've done this before. We did it in  
8 Bloomfield. We did it in Dunellen. But then,  
9 fortunately, Ms. Leheny came up with some  
10 language which I read this morning and I said,  
11 oh, she did in one memo what I've been trying  
12 for weeks to articulate and put in writing and  
13 these are conditions that I know we can live  
14 with. We were going to come up with something  
15 that satisfies those and that they'll be happy  
16 with.

17           But to me going -- having to come  
18 back in for final is just something I'm not  
19 interested in doing because it's just opening  
20 up this application and continuing it and  
21 going through the same process we just went  
22 through for the past six months.

23           You know, I know what Jolanta said.  
24 It is a big application, but it's not  
25 unprecedented for a 140-unit application to be



1 granted preliminary and final with conditions  
2 and sometimes pages and pages and pages of  
3 conditions.

4 So that's why we proposed what we  
5 proposed. We heard the Board. We heard the  
6 public. We want to -- we want to be done so  
7 we can get to work satisfying the conditions  
8 and getting all our other approvals.

9 MR. REGAN: And just a further, you  
10 know, point to what Bob is saying is obviously  
11 there are other outside agencies that the  
12 applicant will need to obtain approvals from,  
13 you know, and those sometimes require, you  
14 know, the applicant to come back and seek an  
15 amendment to the application if it's  
16 necessary. So there's a lot of hurdles that  
17 we have to go through and the idea of having  
18 both the preliminary and final, even if it's  
19 subject to multiple conditions, I think is  
20 helpful for the applicant moving forward with  
21 obtaining other permits and approvals.

22 CHAIRMAN HANDS: Thank you.

23 Why don't we just hold that  
24 consideration until after -- until a bit later  
25 and see -- actually, let's take -- if we were

1 to approve to the Board with that, maybe it's  
2 worth going through the conditions a little  
3 bit and see how -- how those would look or  
4 stack up or line up and what the resolution of  
5 those conditions are and maybe that will give  
6 us some clues as to whether we can separate  
7 the two between final -- preliminary and final  
8 or combine into one.

9 MS. MAZIARZ: Okay. Well, before  
10 we -- before I -- I think you're looking at  
11 me, Chairman, but before we start that, I  
12 think perhaps if maybe the Board members have  
13 any comments on the application, I think it  
14 will be better for me to hear what they have  
15 to say so that I'm, you know, not being  
16 either -- you know, I'm not coming up with  
17 conditions that they disagree with that are  
18 redundant or, you know, so if I can hear the  
19 Board first and then I'll compile all the  
20 conditions. There may be some that I've  
21 missed, you know, and there may be some that  
22 people haven't thought of. So if we have a  
23 discussion together, I think, before I just  
24 rattle off conditions, I think that --

25 CHAIRMAN HANDS: That was not my

1 intent.

2 MS. MAZIARZ: Okay.

3 CHAIRMAN HANDS: I was going to go  
4 through my list of outstanding items first,  
5 but I'm happy to go to the Board if anybody  
6 else wants to jump in before that because I  
7 certainly have some old notes with a couple of  
8 things. I just want to make sure they're  
9 being clarified and cleared up or still open,  
10 because I did make notes, especially where  
11 people said that may be a condition or  
12 suggested a condition.

13 MS. MAZIARZ: Sure.

14 CHAIRMAN HANDS: Or I could just  
15 stop at this point and allow the Board to  
16 speak and thoughts. I think we've got a  
17 general idea of some of the concerns that have  
18 been raised. Obviously the remediation is a  
19 big one and monitoring. I think a monitoring  
20 plan is a big one. Obviously there's  
21 jurisdictions outside the Board. It's more  
22 DEP relevant. However, we talked about a  
23 remedial investigation to be completed at some  
24 point. And I think some of the landscaping  
25 and lighting plans have been updated

1 sufficiently. So any package -- then, you  
2 know, the grading, I know the retail building.  
3 I'd like to think about that a little bit  
4 further.

5 The architect, sounds like we're  
6 moving in the right direction there. I  
7 appreciate Bob and Frank for their review and  
8 general acceptance of Liz's memo, so I  
9 appreciate that.

10 The public space that we added  
11 outside the retail building, there's that  
12 additional seating area. I know we modified  
13 and updated that.

14 So all plans have been updated, et  
15 cetera. So I think the sidewalk going up  
16 Stone House, I just wanted to double-check on  
17 that.

18 I had a list of a few things; but  
19 before I rattle off any further, how about we  
20 just now open to the Board to think about  
21 fundamentally, you know, I guess, to approve  
22 or not. And, if approved, is that then any  
23 conditions that should be applied or not? And  
24 if there were to be some, what would they be?  
25 And then finally determine if the approval

1 would be final -- preliminary and final  
2 together or separate between preliminary  
3 approval, site plan approval, and final at a  
4 later date, making -- assuming that a later  
5 date is not onerous to anybody.

6 That's my couple of minutes. Who  
7 wants to jump in and give some thoughts or  
8 comments?

9 MAYOR RAE: You know, David, if you  
10 want, if you don't mind, I'll lead off just  
11 with my thoughts on the application over the  
12 meetings that we've sat -- that we've been  
13 through over the last 11 -- the last 11  
14 meetings.

15 And I think Jolanta makes a good  
16 point, right? This is probably the biggest  
17 application that this Board has heard in its  
18 present format and it's an important one  
19 because it really shapes the -- the Town of  
20 Millington and, to a certain extent, you know,  
21 maybe sets the tone for the whole township,  
22 right. I mean, I think about people coming in  
23 and out on the railway there, they work -- the  
24 get their impression from what they see out  
25 the window.

1           And, you know, so that makes this a  
2 particularly important decision that we  
3 absolutely get right. So that's one thing.

4           And I think the other thing is that  
5 whether we like it or not, there's going to be  
6 development that we're going to drive -- that  
7 this is going to drive in Millington and  
8 perhaps beyond, but certainly in Millington.  
9 And in many ways this is going to set the  
10 tone. And if we don't get this right, then,  
11 you know, we'll be living with this plus, you  
12 know, it's a progeny, let's say.

13           And so whatever I -- as we've  
14 been -- as we've been listening to the  
15 professionals from -- from both sides and  
16 we've been listening to the input from our  
17 residents, and I think there are three things  
18 that have come over quite -- quite clearly as  
19 concerns, right, and certainly in my mind,  
20 there could very well be more, but three  
21 certainly -- certainly squared with me.

22           The first was this whole idea of  
23 remediation, right. And there is a -- it's --  
24 it's extremely important to everyone. And,  
25 you know, again, the Town doesn't have

1 jurisdiction; DEP does. And there's an LSRP  
2 process. And it's really asking everybody to  
3 kind of put their faith in governmental  
4 entities and agencies. And I think there's --  
5 I think not everybody's prepared to do that  
6 nowadays for a right reason or not. They do  
7 want to see some kind of oversight.

8           And so one of the things that I  
9 would -- you know, apart from all of the  
10 conditions that the applicant has already  
11 agreed to, as far as -- as far as the  
12 remediation is concerned, I think there's -- I  
13 hope that they would be amenable to working  
14 with someone from the Town, whether it be an  
15 LSRP or an environmental scientist. We  
16 could -- we could work out what the -- what  
17 the appropriate qualifications would be, but  
18 we would -- we would like to have kind of  
19 somebody in the Town's corner who is -- who is  
20 able to communicate back to the Town and to  
21 the residents to say, yeah, this is -- this  
22 is -- this is appropriate. Things are --  
23 things aren't being overlooked. Things aren't  
24 being kind of swept under the proverbial  
25 carpet. So that would be one thing where the

1 applicant would definitely work with an  
2 individual there and there would be ample  
3 communication with the residents.

4           The second one is the -- is the look  
5 of the buildings. And I think especially at  
6 our last meeting, it was -- you know, the  
7 residents were -- were quite vocal in their --  
8 in their -- in their -- in their opinion that  
9 these were really not -- don't fit with the  
10 Town of Millington.

11           And I've lived here 24 years, right,  
12 and, you know, I -- whenever I moved here, the  
13 Millington bank, the Kearny bank, the building  
14 was already there. I must say whenever I --  
15 the first time I came down there, it was  
16 jarring to me because it just didn't fit in  
17 with the rest of the -- with the rest of  
18 Millington and it still doesn't to this day.

19           You know, the only thing there, when  
20 I moved in, I thought, well, this town must be  
21 a good town if that's the size of the building  
22 that they build in order to keep it running,  
23 it's probably a good place to live. But the  
24 way it worked, it just wasn't particularly --  
25 it didn't seem right to me.



1           And, you know, here -- here we are,  
2   you know, potentially doing something the same  
3   again because there probably isn't a distinct  
4   sale within -- within -- within the town --  
5   the Town of Millington. But the way that this  
6   particular thing is set -- this particular  
7   development is set up, it's -- it's -- it's  
8   really not seen anywhere within the -- within  
9   the town and I think it's out of place.

10           And I hope that as part of what we  
11   can do, we can actually, as a -- as a Board,  
12   we can -- we can work with the applicant and  
13   through our planner's memo to work out some  
14   conditions that are -- that are workable,  
15   because I'm against obviously -- I've ruled  
16   against it before. I'm against this whole  
17   idea that we get a self committee together and  
18   we work on it because I don't think it serves  
19   the applicant's interests and it doesn't serve  
20   ours. But I hope that we can somehow or other  
21   fashion conditions, and I believe we can, that  
22   we can make the actual architecture something  
23   which seems more common in Millington.

24           And then I think -- the last and  
25   final thing I'll say is the fact that it's the

1 amount of fill -- and I think it's on  
2 everybody's mind -- that's being brought into  
3 this -- that's being brought into this area.  
4 And I think the applicant can't be blamed for  
5 it, right? They wanted to make this as a --  
6 they wanted to make this job as easy as  
7 possible for themselves and so they brought in  
8 this huge amount of fill, flattened it, and  
9 decided to -- and decided to build on that, on  
10 that flat surface.

11 Now, what that does is it creates a  
12 landscape there beside the -- beside the  
13 railway station which is absolutely not in  
14 keeping with the village, and that's something  
15 that -- or with the Town of Millington. And  
16 that's definitely my -- I think my biggest  
17 problem with -- with -- with the plans as --  
18 as written.

19 And I'm heartened to see that our  
20 engineer has proposed somehow or other some  
21 kind of regrading there that makes it  
22 certainly, you know, whenever you walk along  
23 Stone House, it makes it more -- it makes it  
24 less imposing and more of the streetscape that  
25 we envisioned whenever we talked about this --

1 this ordinance.

2           The -- the -- the idea here was  
3 that -- and I think it was pointed out, both  
4 by the Board members and also by members of  
5 the public, that we had originally looked at  
6 as near as possible a kind of regular -- a  
7 normal streetscape on Stone House with the  
8 rest of the buildings being bigger because it  
9 kept within the contours of the site. And  
10 we've moved drastically away from that.

11           And so I'd like to see us be able to  
12 come back as much as we can to that. And I  
13 realize that there are reasons why we can't  
14 just do that. There has to be some grade in  
15 there, but we should keep that to an absolute  
16 minimum.

17           So there is -- those are the three  
18 things that I've -- that I've -- that strike  
19 me about the application. I'd like to see --  
20 I'd like to see it discussed and get -- and  
21 perhaps change.

22           And, you know, the only other -- the  
23 only other thing is, you know, to get back to  
24 the question of preliminary versus final,  
25 this, you know, as I said at the beginning and

1 Jolanta said, this is one of the biggest  
2 things that we've worked on. It's the biggest  
3 thing, I think, that we've worked on and it's  
4 important.

5 And so, you know, given just what  
6 I'm thinking about, not what everybody else is  
7 necessarily bringing to the table here  
8 whenever they talk about the application, I  
9 certainly would like to see -- you know, be  
10 able to see the plans again before giving the  
11 final approval once we've -- once we've kind  
12 of taken everything and that we've put it  
13 together and we'll put it in perspective.

14 I certainly would -- I like the idea  
15 of preliminary with the ability to look at,  
16 again, one last time. And, you know, as I  
17 say, the reason for that is I think there --  
18 there -- there are substantial changes that I  
19 think we have to make and be sure that they  
20 have -- that they're being made. And, you  
21 know, it's just such an important application  
22 for Millington and for Long Hill Township as  
23 we -- as we move to the future.

24 So I -- so that was maybe a little  
25 bit long-winded, but that's -- I thought I'd

1 kick off with that. And thank you for  
2 allowing me to.

3 CHAIRMAN HANDS: Brendan, I think  
4 you obviously put a lot of thoughts together  
5 and really very relevant categories. So thank  
6 you for that. Appreciate it.

7 Anybody else want to jump in?  
8 Dennis?

9 BOARD MEMBER SANDOW: I'd like to  
10 concern -- talk about the fill issue a little  
11 bit more. Our engineer has proposed reducing  
12 the fill by as much as 3 feet at the southwest  
13 corner. To me that's inadequate.

14 He states that the entire site  
15 should be held to a 5 percent grade. Well, 5  
16 percent grade taken from the northeast corner  
17 to the southwest corner is 5 percent of about  
18 750 feet, which is 37 feet, which is about the  
19 total extent of the fill that is proposed. We  
20 can do nothing on that site and still have an  
21 average grade of 5 percent.

22 The problem is the 5 percent grade  
23 is not linear from corner to corner. It's  
24 much more pronounced at the southwest corner.  
25 But, nonetheless, as many of you know, I've

1 got a three wheel electric scooter which many  
2 of you have seen when I take it out on the  
3 streets and I can negotiate the existing slope  
4 with that scooter.

5           So if ADA is the issue, I don't see  
6 that any fill at all would be required to make  
7 the site available for ADA. If you going to  
8 fill to raise that corner slightly, this I can  
9 understand because that would make the grade a  
10 little more uniform across the entire site,  
11 but a reduction of 3 feet is inadequate. I  
12 would prefer to see that the amount of fill at  
13 that corner be no more than about 8 or 10  
14 feet, which is a reduction of 10 or 12 feet at  
15 that corner. This is my biggest concern.

16           Now, the Township ordinance for fill  
17 permits requires that the Township Committee  
18 visit the site and make a determination as to  
19 whether or not the clerk can issue a fill  
20 permit. The judgment of the Township  
21 Committee is entirely unspecified. They can  
22 either approve or disapprove and there are no  
23 standards.

24           Now, the ordinance on fill permits  
25 goes on to say that if a site plan is involved

1 and a site plan is approved by the Board, then  
2 that stands in the place of a fill permit.  
3 But to the extent that the approving authority  
4 within the ordinance has no guidelines as to  
5 how much fill is permitted, then I would  
6 suggest that the Planning Board, taking over  
7 the role of approving authority for the fill  
8 permit, likewise has no restrictions on how  
9 much fill it can permit or not permit. That  
10 would leave it up to the applicant to explain  
11 in great detail why it needs that much fill  
12 and the only explanations that I have heard to  
13 date are the convenience and accessibility.

14 Well, we need a little bit more than  
15 that. As I said, the 5 percent slope which  
16 we're targeting would not require any fill at  
17 all. I'm willing to compromise somewhat on  
18 the amount of fill that is required, but we  
19 need more testimony as to just what is  
20 required for accessibility. Does the  
21 accessibility extend from corner to corner of  
22 that site or does it only apply to getting  
23 from your car into your apartment on a micro  
24 level rather than on a macro level?

25 We have not heard that testimony.

1 We have not heard any indication as to why the  
2 fill permit should be granted to the extent  
3 that it is, 25,000 yards.

4 And so I would suggest that the  
5 applicant be given the opportunity to examine  
6 a much greater reduction than 3 feet and  
7 that's a reason for bringing it back again for  
8 a final approval and letting -- just sticking  
9 with the preliminary approval as the mayor has  
10 suggested.

11 That's my major concern. Thank you,  
12 Mr. Chairman.

13 CHAIRMAN HANDS: Thank you, Dennis.  
14 Thank you. Thank you for the detailed  
15 thought.

16 Anybody else? Victor, please jump  
17 ahead.

18 BOARD MEMBER VERLEZZA: All right.  
19 I would say that to me, the LSRP, having the  
20 applicant work with our LSRP is huge, safety  
21 being, you know, the utmost importance in the  
22 forefront of our minds here.

23 Nextly, I think that when it comes  
24 time for Millington, Millington has kind of  
25 like a warm, colonial, eclectic personality



1 about it, not a uniform kind of cold  
2 personality to it. So I think that another  
3 condition would be a design that more fits  
4 Millington's personality.

5 And then, thirdly, my third  
6 condition is definitely the height. I'm under  
7 the impression currently from the sidewalk to  
8 the highest point on the rooftop, we're  
9 looking at, like, 70 feet. If there's any way  
10 that we can reduce that height and reduce the  
11 fill, as the mayor and Dennis just mentioned,  
12 that would be a third condition that was of  
13 the utmost importance to me.

14 CHAIRMAN HANDS: Thank you, Victor.  
15 Can I then presume that you would go with the  
16 preliminary first and final second approach?

17 BOARD MEMBER VERLEZZA: I'm sorry?

18 CHAIRMAN HANDS: Can I then presume  
19 you would go with the preliminary first and  
20 the final second rather than together?

21 BOARD MEMBER VERLEZZA: Correct.  
22 I'm under that impression right now based on  
23 the amount of things that still need yet to be  
24 discussed.

25 CHAIRMAN HANDS: Thank you.

1           Anybody else want to jump in next?

2           VICE CHAIRMAN JONES: Yeah,

3 Mr. Chairman. I'd like to first thank you

4 very much for leading us through this effort.

5 I agree wholeheartedly with Mayor Rae and

6 Committeeman Verlezza with regards to the

7 building and the descriptions and some of the

8 concerns that have been raised by the

9 residents as well as myself. So I thank

10 Mr. Fourniadis and Mr. Regan for reviewing the

11 submittance and being amicable to addressing

12 those concerns.

13           I think the health and safety is a

14 big concern. So I know at some point a final

15 remediation plan was supposed to have been

16 completed some here in Q4 of 2020. So I'd

17 like to get an update on that if at all

18 possible.

19           And if we can follow the contours,

20 the topology of the land, I definitely would

21 like to explore that, but I don't want to

22 belabor that further as Mr. Sandow has covered

23 that in great detail.

24           And the sidewalk that stretches from

25 Division down to River Road, because there is

1 a small sidewalk across the street from the  
2 Prism application site and it's right there  
3 under the light, just before you get to the  
4 bridge on the -- I'm going to say it's the  
5 south side of Stone House. So if that  
6 sidewalk can come all the way down to there  
7 and pick up where that sidewalk crosses Stone  
8 House, that would be -- that would be great.

9 Thank you.

10 CHAIRMAN HANDS: Thank you, Tom.

11 And just for confirmation or  
12 clarification, we had a discussion about  
13 preliminary versus final. Are you in the  
14 preliminary first and then come back for  
15 final?

16 VICE CHAIRMAN JONES: My question  
17 there, Mr. Chair, would be if you only receive  
18 preliminary, does that hold up the applicant  
19 from seeking approvals from the -- from all  
20 the other agencies that they have to go in  
21 front of? Because I know we're just one small  
22 piece in the -- in the machine. So I'd like  
23 that question answered. I'm of the  
24 preliminary mindset.

25 MR. LANZAFAMA: The preliminary

1 approval would allow the applicant to pursue  
2 his sewer extension permit and his water main  
3 extension permit, which are probably his two  
4 most difficult permits to get. As you know,  
5 we're under a self-imposed sewer moratorium.  
6 We have an INI issue. They've agreed to do a  
7 downstream sewer study to help identify any  
8 issues such as extraneous flows into the  
9 system so that we can better assess the  
10 potential impact to this development, not only  
11 on our collection system, but on the treatment  
12 plant as well.

13 So they can -- they can pursue all  
14 of that under their preliminary approval.

15 CHAIRMAN HANDS: How would that  
16 impact any demolition plan and remediation  
17 plan? Do they fall under the same category?

18 MR. LANZAFAMA: No, that would have  
19 no bearing on any -- he has to get his soil  
20 erosion and sediment control certification  
21 prior to doing any demolition; and any  
22 remediation and demolition can be conducted  
23 under preliminary approval.

24 CHAIRMAN HANDS: So just for  
25 clarification, no negative impact for the

1 preliminary site plan?

2 MR. REGAN: Well, Mr. Chairman, if I  
3 might -- and Bob can jump in -- the reality  
4 is, you know, the studies that Mr. Lanzafama  
5 just talked about are going to be costly. And  
6 what I'm hearing, you know, from the Board  
7 members, you know, about preliminary approval  
8 and not final approval and then as the mayor  
9 said at the end, you know, talking about  
10 substantial changes. I mean, that concerns us  
11 significantly, particularly in the area of the  
12 fill.

13 I don't -- I don't know why the  
14 applicant would go ahead and spend, you know,  
15 all kinds of money doing preliminary -- you  
16 know, the studies that are necessary based on  
17 preliminary approval knowing that it has to  
18 come back to the Board and deal with the fill  
19 issue, you know.

20 And from what we're hearing from one  
21 Board member saying, you know, it should be  
22 brought down significantly to -- you know, to  
23 what's recommended by your engineer, where  
24 he's projecting 3 feet, you know, it's an  
25 issue that concerns us immensely and I'm not

1 sure that the applicant, you know, is going to  
2 be willing to agree to that and we may  
3 ultimately ask the Board to just take a vote  
4 on the application as it's currently  
5 presented.

6 Bob, do you have anything to add?

7 MR. FOURNIADIS: No. There isn't a  
8 single ancillary approval I could go for  
9 because what I've heard is we're going to have  
10 to reengineer the site, come back and spend  
11 God knows how many months getting a new plan  
12 reapproved, and that's just not what we had in  
13 mind.

14 And as far as demolition goes, I'm  
15 not going to demolish the property during  
16 preliminary and before final because the way I  
17 hear things going right now, that building may  
18 never be demolished. I may just clean it up,  
19 put the sidewalk in on Division Avenue, and  
20 start renting it again because you're  
21 basically asking me to start all over again,  
22 which I'm not going to do.

23 And since you've given me the floor,  
24 just so -- in case somebody else wants to  
25 bring it up, the suggestion about the LSRP is

1 a nonstarter. The LSRP is licensed by the  
2 State of New Jersey, the DEP. He is  
3 essentially the DEP. That's who he is  
4 responsible to to make sure things are done.

5 We cannot insert any other entity,  
6 not this Board, not the Township, not an LSRP  
7 you hire, to come in and peer review anything  
8 that we're doing. Now, that LSRP that you  
9 hire is free to file an OPRA request and get  
10 everything that we file with the DEP available  
11 to him and he can look at it and he can tell  
12 you, yeah, they know what they're doing or,  
13 no, don't trust the DEP, it's a rigged system,  
14 they're changing votes, and, you know, do  
15 whatever he wants. But he cannot tell us what  
16 to do. He can't tell our LSRP what to do. He  
17 can't tell the DEP what to do. And I'm sure  
18 you ask any professional, any LSRP, they're  
19 going to tell you the same thing.

20 It becomes a question of liability.  
21 Our LSRP puts his license on the line and is  
22 liable for what he designs and proposes and is  
23 not going to do what some other LSRP says who  
24 doesn't have that liability because he's not  
25 the project LSRP.

1           So I respectfully submit that we  
2 will not accept that as a condition to this  
3 approval. I'm sorry.

4           MS. MAZIARZ: I don't know that  
5 anybody suggested that. I believe that what  
6 Board members are suggesting is that Prism  
7 make any reports available to the Township.  
8 They're public record anyway. And that Prism  
9 not impede any Township expert's review in any  
10 way and that there be some cooperation between  
11 the applicant and the Township.

12           I don't think that any Board member  
13 has suggested that any expert that might be  
14 hired, any environmental consultant that may  
15 be hired by the Township, they haven't hired  
16 anybody yet, that that person is going to  
17 dictate anything to Prism or to the LSRP.

18           Obviously both myself and the  
19 Township attorney, I'm sure, is not going to  
20 want for the Township and will not advise the  
21 Township to take liability on itself. There  
22 is not an environmental consultant out there  
23 that is going to do that either. And that's  
24 never been -- that's never been discussed to  
25 my knowledge.



1           The condition that was in my mind at  
2    least while the Board members were discussing  
3    this is simply a collaborative cooperative  
4    process by which any Township consultant  
5    simply be allowed to work with your  
6    consultant. That doesn't seem unreasonable.

7           MR. FOURNIADIS: Well, I think it's  
8    very unreasonable because I don't know what  
9    "collaborative" means. I don't know what  
10   "work with my consultant" means. We answer to  
11   the DEP. The information that goes to the DEP  
12   can be obtained by anybody. And if they think  
13   we're doing something wrong, if they don't  
14   trust our LSRP, if they don't trust the DEP,  
15   if they don't trust the government in New  
16   Jersey, they're free to follow whatever  
17   avenues they want to address those grievances.

18           But when you start putting language  
19    in like cooperate and collaborate, that's  
20    exactly what I can't and won't do.

21           MS. MAZIARZ: Okay.

22           MR. FOURNIADIS: So what you're  
23    saying is absolutely true, Jolanta. And  
24    because it's true, you can do that without  
25    putting anything in the resolution. Whoever

1 you hire can get everything that we submit to  
2 the DEP. There's no secrets here. And they  
3 can review it. And if they want to make noise  
4 to the DEP that our LSRP doesn't know what  
5 he's doing, they're free to do that. We don't  
6 need to put it in a resolution and I'm not  
7 going to agree to it in a resolution.

8           MAYOR RAE: Jolanta, sorry, if I  
9 could just add one more thing to this  
10 discussion because I think you put it very  
11 well. You stated it very well what our  
12 intention was. It was never to usurp the L --  
13 the Prism LSRP's position or what they were  
14 doing. And I think that's why, you know, I  
15 said either an LSRP or environmental scientist  
16 or -- but it was somebody who the residents at  
17 least feel is in their corner. And I think  
18 whenever you work collaboratively, it actually  
19 works to the benefit of Prism as well and --  
20 if they seem to be working collaboratively  
21 with someone from the town. And it's really  
22 to -- you know, if there are major -- major  
23 disagreements, then, sure, okay, there are  
24 avenues that the Town can pursue. Maybe or  
25 maybe not. But I think in general, it just --

1 it makes everybody certainly in Millington  
2 sleep a little bit easier at night knowing  
3 that there's someone from the Town or who's  
4 been hired by the Town just to kind of make  
5 sure that everything is being done by the  
6 book. Nothing's being swept under the carpet.  
7 That's it. It's as simple as that.

8           Actually it probably works even more  
9 to Prism's benefit because you won't get  
10 residents taking photographs or videos or  
11 whatever they do and then reporting that to  
12 DEP and DEP having to come down and  
13 investigate. It leaves that whole suspicion  
14 on the part of the residents and actually  
15 makes the whole process, I think, work that  
16 much better.

17           VICE CHAIRMAN JONES: Yes,  
18 Mr. Chair, I agree with Mayor Rae. It's also  
19 applying four-eye principle, right? It's  
20 inspecting what's being inspected. And it  
21 removes that cloud of doubt. And  
22 unfortunately we have someone on our Board who  
23 is in that arena but can't be here today  
24 because of the fact that there's a -- he had  
25 to recuse himself for obvious reasons. So,

1 you know, we don't want to put him in an  
2 uncomfortable situation. But there's value in  
3 that.

4 And, Mr. Fourniadis, I get what  
5 you're saying, but there are challenges with  
6 that site. And I know you're going to hold it  
7 to the law because otherwise the penalties on  
8 you would be just too great. And I don't  
9 think that the LSRP that they hired wants to  
10 risk losing his livelihood, so he's going to  
11 be doing what he needs to be doing to make  
12 sure things are done appropriately.

13 But I think that added layer of  
14 piece of mind can go a long way.

15 MR. FOURNIADIS: You already have  
16 that added layer. Your LSRP can go down to  
17 Trenton and spend as much time as he wants  
18 reviewing the submissions and reviewing the  
19 files. He doesn't have to talk to us. We  
20 don't have to collaborate with him. And you  
21 already have that. I just don't understand --  
22 I've said my piece.

23 MR. REGAN: And I don't want to  
24 belabor the point. Mayor, I think the  
25 Township can hire someone. We don't disagree

1 with that. And I think, you know, you have  
2 every right to do that. But the idea that the  
3 Township consultant would have some type of,  
4 you know, oversight, access to the site,  
5 cooperation, it just -- it creates liability  
6 concerns, you know, for the applicant.

7 The information that's generated by  
8 the LSRP, as Mr. Fourniadis said, you know, is  
9 all going to be public information that can be  
10 reviewed by the Township consultant. I  
11 just -- I just --

12 MS. MAZIARZ: You know, with all due  
13 respect, I have no idea what kind of liability  
14 any of this creates. I mean, if the  
15 consultant is providing reports that he is  
16 submitting to the DEP anyway, why is it a big  
17 deal for this person to just submit that to  
18 the Township simply for the Township's review?  
19 Regardless of who's reviewing it. It might be  
20 just members of the public who want it on the  
21 website, who just want to look at it. I don't  
22 understand what type of liability -- liability  
23 that is.

24 And, by the way, you know, we've  
25 been having this discussion and that's great.

1 But this is the Board's show. The Board is  
2 the one who's going to make this decision one  
3 way or another. The Board is going to impose  
4 reasonable conditions. And I haven't heard  
5 anything unreasonable yet.

6 I appreciate the applicant's input,  
7 but this really is for the Board to decide  
8 ultimately. And I am aware of certain members  
9 of the public who are perhaps not happy with  
10 how this is occurring. So just for members of  
11 the public, let me say that, first of all,  
12 this is Board deliberation. There is no more  
13 public input.

14 I'm sorry, is that me squeaking like  
15 that? I'm sorry. I apologize. Am I breaking  
16 up?

17 CHAIRMAN HANDS: No, you're good.

18 MS. MAZIARZ: Okay. First of all,  
19 this is Board deliberations. The applicant is  
20 the applicant. And the applicant is  
21 discussing conditions in an as-of-right  
22 application with the Planning Board. Any  
23 memoranda that come from the Planning Board's  
24 professionals is a recommendation to the  
25 Board. It is not for cross-examination. It

1 is not for anybody's benefit except the  
2 Board's benefit. So it can come late. It can  
3 come early. The Planning Board professionals  
4 have been working over the holidays, working  
5 and reading and rereading all the transcripts  
6 in order to be able to compile all of their  
7 recommendations based on what is on the  
8 record -- because they're not making this up  
9 on their own -- in order to create  
10 recommendations that the Planning Board can  
11 use in fashioning conditions. This takes  
12 time.

13 Our last meeting was on December 8th  
14 so that is the reason for the Board  
15 professionals' reports coming when they did.

16 And, again, let me reiterate. Those  
17 reports are for the Board, not for the public  
18 to cross-examine. Not for anyone else. They  
19 are public record. They can be OPRA'd. We  
20 have put them on the website because, of  
21 course, anything produced is a public record.

22 And by the way, any work that  
23 professionals do on this application is paid  
24 by the escrow of the applicant and not members  
25 of the public. I just wanted to put that out

1     there just so there was no misinformation  
2     floating around because I've been seeing  
3     things. So that's it.

4             CHAIRMAN HANDS: Thank you, Jolanta.  
5     And thanks, everybody, for the conversation so  
6     far.

7             Tom, you can now speak. I'll get to  
8     you next. And then Dennis. I want to hear  
9     from Tom.

10            BOARD MEMBER MALINOUSKY: What I  
11     would suggest is we mentioned having an LSRP  
12     represent the town. I don't think we need a  
13     second LSRP overlooking the work of the first  
14     LSRP. I would suggest a construction  
15     management firm or person with a strong  
16     environmental background because there's going  
17     to be a lot of reports coming out, the  
18     remediation report, the air quality monitoring  
19     report, health and safety plans. There's  
20     going to be plans for material coming in, the  
21     sewer line hookups. When it's all said and  
22     done, the response action plan.

23            That -- somebody that could take a  
24     look at those plans, read all these technical  
25     plans, and then turn around and report to the



1 citizens and residents is what we'd be looking  
2 for. Whether they put it on the website, come  
3 to Township Committee meetings, or just  
4 report, you know, in a newsletter to people  
5 what's going on. This way it will take some  
6 of the fear of the unexpected away. And I  
7 think it would help calm the fears of the  
8 residents and their concerns about their  
9 health and safety.

10 Thank you.

11 CHAIRMAN HANDS: Thank you, Tom.

12 That seems to make some sense to me at least.

13 Tom, while you've got the floor for  
14 a minute, is there anything else you wanted to  
15 add?

16 BOARD MEMBER MALINOUSKY: I think  
17 everything else, it seems like we all have the  
18 same concerns. The fill. Although, you know,  
19 the applicant did agree to make some reduction  
20 in the amount. The 3 feet seems reasonable to  
21 me. I know where I live, my neighbors across  
22 the street are 25 foot from where I am in back  
23 of me or 30 feet above where I am.

24 So I know this is trucked-in fill,  
25 so it's a different story from a natural fill,

1 but we are on hills in Long Hill.

2 And the architectural design, I  
3 never really had a problem with it. But,  
4 again, if the applicant's going to make some  
5 changes to satisfy the residents, I'm fine  
6 with that also.

7 CHAIRMAN HANDS: Thank you. Thank  
8 you.

9 Before I go to Dennis, Dennis, if  
10 you don't mind, I'd like everybody on the  
11 Board to at least speak once before we all go  
12 back.

13 Alan, would you jump in?

14 BOARD MEMBER PFEIL: Yes. Thank  
15 you, Mr. Chairman. The opposing attorney and  
16 his professionals -- his professional, as well  
17 as our Board professionals, seem to be in  
18 agreement that the ordinance creating the  
19 overlay zone was not artfully crafted, as they  
20 put it. I certainly concur with that.

21 What I've learned from this  
22 application is that the Township needs to be  
23 very specific in terms of what we want and  
24 what we won't accept when we're writing these  
25 ordinances for these mixed-use affordable

1 locations.

2           Hopefully the Township will take the  
3 opportunity to take a close look at the other  
4 zones and the ordinance for those sites before  
5 we receive applications; but once we receive  
6 an application, the application is to be  
7 judged based on the ordinance.

8           Clearly Prism, I believe their  
9 application is in conformance with the  
10 ordinance as it's written. I don't believe  
11 the Planning Board can deny the site plan  
12 approval. I was in the camp after the last  
13 meeting that I wanted to see a little bit more  
14 flexibility from Prism with regard to the  
15 comments that were raised.

16           I was delighted this evening to see  
17 that Prism has agreed to the conditions that  
18 our Board engineer's reports stated and  
19 they've also agreed with our Board planner  
20 relative to design enhancements. In my  
21 opinion, that's huge.

22           What Prism is proposing is a huge  
23 improvement on what's there now. That place  
24 is a disgrace. It's been a disgrace for  
25 years. We're going to add green space and

1 landscaping where there's none now. We're  
2 going to replace, hopefully replace, poorly  
3 maintained and unattractive buildings that  
4 will go a long way to improving the area in  
5 town.

6           Having said that, I just want to  
7 make an observation. I think we should all  
8 consider this. These 140 units are likely to  
9 be only the first of what's probably going to  
10 be 400 or more if we're going to be building  
11 all these to -- or allowing these to be built  
12 to conform to the Fair Share Housing  
13 agreement.

14           When prospective renters are looking  
15 to rent one of these 400 or so units, the free  
16 market is going to determine whether they like  
17 the way the place looks, whether it's  
18 maintained, and the competition that will be  
19 created in the fair market, you know, will  
20 drive Prism to make further improvements. I  
21 don't think we need to do that now.

22           Again, I don't think the Board can  
23 deny the site plan approval. And, further, I  
24 would support tonight approving both  
25 preliminary and final since I think all the

1 conditions that are in the ordinance have been  
2 met. So thank you.

3 CHAIRMAN HANDS: Thank you very  
4 much. I appreciate that.

5 Jim, please jump in.

6 BOARD MEMBER FALVEY: I guess I  
7 somewhat agree with Mr. Pfeil.

8 BOARD MEMBER PFEIL: Thank you.

9 BOARD MEMBER FALVEY: My opinion as  
10 a Millington resident, not as a Board member,  
11 because I think this whole project is a  
12 judicially imposed abomination, I think it is  
13 inappropriate for that site.

14 However, my quibble is not with the  
15 developer who's put a lot of time and effort  
16 --

17 BOARD MEMBER PFEIL: Exactly.

18 BOARD MEMBER FALVEY: -- and spent a  
19 lot of money and essentially played by the  
20 rules. Now, I don't like the rules. My  
21 quibble is with the courts and special  
22 interest groups that are allowed to run  
23 roughshod over taxpayers of this state. I  
24 applaud the Town Council. I think they got  
25 the best deal they could playing by the rules

1 imposed by the court.

2 My concern is that if we try to  
3 impose a lot of ambiguous conditions on the  
4 developer, he could simply say no and go to  
5 court. I believe he's already scaled back  
6 this project. That's my concern. I somewhat  
7 sympathize with the developer about  
8 eleventh-hour, last-minute conditions.  
9 That's -- that's as a Board member. Like I  
10 said, as a Millington resident, I hate this  
11 whole thing, but I'm going to be fair to the  
12 developer.

13 CHAIRMAN HANDS: John, thank you.  
14 Appreciate it.

15 BOARD MEMBER PFEIL: I would second  
16 what Mr. Falvey just said. I don't want to  
17 see this back here again after a court says  
18 you guys are crazy. I mean, we've done -- I  
19 think we've done as much as we can do based  
20 upon the ordinance that was written and the  
21 application that was submitted in accordance  
22 with that ordinance.

23 If we -- if we -- if we try to twist  
24 arms any further, this is going to wind up  
25 back here or God forbid we get a builder's

1 remedy that's happened in townships like Wayne  
2 where they lost total control of the zoning of  
3 a site. You know, we could wind up with the  
4 400 units that were originally planned for  
5 this or the 200 and something units and a  
6 high-rise and God knows what else. Take what  
7 we've got and learn from it.

8 CHAIRMAN HANDS: Thank you, Alan.

9 Dennis, did you have your hand up a  
10 minute ago?

11 BOARD MEMBER SANDOW: Yeah. I just  
12 wanted to observe that with regard to the  
13 Town's monitoring of the environmental issues,  
14 the mayor used the word "collaborate," but  
15 perhaps if we started using the word  
16 "monitor," that would be consistent with what  
17 I believe we heard the commenters from the  
18 public talk about, is someone to monitor the  
19 environmental issues. Perhaps that would make  
20 it easier for the applicant to understand the  
21 role that the residents of the town have asked  
22 for.

23 Mayor Rae, would you go along with  
24 using the word "monitor" rather than  
25 "collaborate"?

1           MAYOR RAE: Yeah. I mean, I think,  
2 Dennis, you know, I would -- monitor certainly  
3 is perhaps more -- more accurate, but at the  
4 same time, it's not a matter -- it definitely  
5 isn't one of those things where -- one of  
6 those relationships where the Town -- the --  
7 the -- the Town representative really has any  
8 say over the day-to-day operations of the  
9 LSRP. We all know that Prism's LSRP is in  
10 charge and is putting their livelihood at  
11 stake, you know, with the decisions that they  
12 make.

13           But certainly, you know, monitoring  
14 those, as you say, is perhaps a better term  
15 and then explaining to the -- to the  
16 township -- to the township residents just  
17 what's going on and -- and -- and how things  
18 are being done.

19           And, you know, as I say, it's --  
20 it's -- you know, everybody wins in that  
21 situation because if we go ahead without that  
22 type of system in place, then I believe that  
23 the DEP is -- you know, is basically going to  
24 be on speed dial and it's going to be -- it's  
25 going to be to the detriment of the -- of the



1 development of the site.

2 So, again, long-winded perhaps, but  
3 I think, you know, I would -- monitor would  
4 be -- would be a better word.

5 CHAIRMAN HANDS: Thank you for that.  
6 Thanks for the additional clarification.

7 Is it fair to say then, without  
8 belaboring this point too much more, that that  
9 type of monitoring is outside the conditions,  
10 obviously, I would think, should we place  
11 anything on the application? But it's, if you  
12 will, a request of the Township to do exactly  
13 that and to take that review, that monitoring.

14 And as Tom mentioned, Malinousky  
15 mentioned, an engineering firm with maybe that  
16 specific knowledge, including health and  
17 safety, the air contamination monitoring  
18 program as well, presuming that information is  
19 readily and easily accessible as a matter of  
20 course and can be independently worked upon  
21 without detriment, is that something the  
22 Township would then look to do, to work arm's  
23 length with the applicant -- and I wouldn't  
24 say work with, but just arm's length with the  
25 applicant? And I presume there's recourse

1 should something, you know, be identified as a  
2 problem.

3 MS. MAZIARZ: Well, I think what  
4 you're saying, Chairman, is that if the  
5 Township hires any type of a consultant,  
6 regardless of what type of consultant it is, a  
7 construction consultant, environmental  
8 consultant, LSRP, you know, obviously the  
9 Board cannot bind the Township in a resolution  
10 and force them to do anything, whether to  
11 oversee or monitor or whatever other word we  
12 use.

13 All we're doing right now is  
14 discussing potential conditions. We've  
15 already heard from the applicant that the  
16 applicant is absolutely unwilling to accept  
17 anything. But the Board is going to have to  
18 make a decision about what this is supposed to  
19 look like. The applicant's concerns are duly  
20 noted.

21 Perhaps this should be something  
22 along the lines of an intermediary. Perhaps  
23 someone who necessarily interfaces with the  
24 applicant's professionals or the applicant's  
25 LSRP, but someone, after obtaining

1 documentation, reviews it, and almost, you  
2 know, for lack of a better term, translates it  
3 for the Township and the residents so everyone  
4 understands what stage the applicant is  
5 entering into, what is being done, what is  
6 happening on the site to allay the fears of  
7 the residents that live in close proximity to  
8 the site.

9 Now, that seems very reasonable. I  
10 don't know if the applicant's attorney would  
11 agree to something like that. Obviously that  
12 doesn't pose any type of liability for the  
13 applicant. I don't see it.

14 MR. REGAN: I mean --

15 MR. FOURNIADIS: Frank. Frank.  
16 Excuse me. I would just like to just remind  
17 everybody here of one thing. Several meetings  
18 ago -- it's in the transcripts; I'm sure  
19 you'll find it there -- I agreed that whatever  
20 we submit to the DEP, we would submit to  
21 Mr. Lanzafama. And then somebody said, well,  
22 maybe Mr. Lanzafama's not the right person to  
23 whom we should submit it. And I said, fine,  
24 tell me whoever it is you want it to go to to  
25 save them having to do the OPRA process.

1                   Now, I can agree to that as a  
2                   condition, but I can't agree to monitoring. I  
3                   can't agree to -- I won't agree to an  
4                   intermediary. I won't agree to collaboration  
5                   because I don't understand why you need it.  
6                   Your professional can get the documents either  
7                   from me or from the DEP if he thinks or if  
8                   people in the town think I'm not giving him or  
9                   her all of the documents, that I'm hiding  
10                  stuff. And then once he gets it, he can look  
11                  at them and then he can sound the clarion call  
12                  if there's a problem with what we're doing.

13                  Putting this as collaboration,  
14                  cooperation, and monitoring in a resolution  
15                  condition is something that, you're right, you  
16                  can vote, but I will take an appeal of that.  
17                  I can't live with that because it's illegal.

18                  CHAIRMAN HANDS: Jolanta, let me  
19                  jump in here. My intent was your view, Bob, I  
20                  think. And thank you for offering documents  
21                  to be proactively provided. I think where I  
22                  was taking the conversation, this is more  
23                  directed to the Township and less a condition  
24                  of the -- to be included. Right?

25                  So if you say you're going to submit

1 documents as a matter of course, then I think  
2 that's essentially how we go. The other side  
3 of the coin is the Township is over to you  
4 then to work and do what you need to do  
5 independently of anything -- any resolution  
6 conditions within the potential application.

7 MS. MAZIARZ: Well, here's the  
8 problem. I understand that the Board does not  
9 have jurisdiction over this matter. It  
10 doesn't. That's a simple fact.

11 And I do recall and I did pull those  
12 excerpts out of the transcript. I have them  
13 in front of me. I can tell you, you know,  
14 verse and -- you know, chapter and verse where  
15 it was stated. And I think that's very  
16 helpful and that's very nice that the  
17 applicant has offered to supply all of those  
18 reports and things to the Township.

19 However, if we don't have that  
20 written down anywhere, I know it's in the  
21 transcript, if we don't have it written down  
22 anywhere, if it's not imposed as any type of  
23 requirement, it may or may not happen.

24 And I understand that these are  
25 public documents and I understand that they

1 are reviewable and that they are obtainable  
2 from the DEP, but the applicant did say and  
3 did mention on the record, and I do have that,  
4 that they would be provided to the Township.

5 Now, you know, if the applicant's  
6 attorney can provide me with some kind of  
7 explanation as to why that poses some type of  
8 a great hardship or issue or liability upon  
9 the applicant, if it's simply stated, recited  
10 in the resolution, I'll take it out. I mean,  
11 I will share the language, whatever language I  
12 come up with, I will share with the  
13 applicant's attorney to ensure that we are not  
14 imposing anything beyond what the applicant  
15 already promised to do during the hearings.

16 MR. REGAN: As long as -- I mean, if  
17 it's consistent with what Bob just said about  
18 sharing, you know, providing the information,  
19 we have no problem with that.

20 MR. FOURNIADIS: It's in the  
21 resolution.

22 MS. MAZIARZ: I've been prewriting  
23 these conditions --

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

1 MR. FOURNIADIS: I'd like to speak.  
2 Jolanta, I'm sorry if I wasn't clear. I said  
3 I would agree as a condition to our approval  
4 that everything we supply to the DEP will also  
5 be supplied to the Township, whoever they  
6 direct us to supply it to --

7 MS. MAZIARZ: Right.

8 MR. FOURNIADIS: -- without having  
9 to go through the OPRA process. I just want  
10 words like "collaboration," "cooperation," and  
11 "monitor" in there. It's just confirming what  
12 I agreed to do months ago. Whatever we give  
13 to the DEP, we'll give to the Township. We  
14 have nothing to hide.

15 MS. MAZIARZ: Very good. That's --  
16 I think that's all the residents want to know  
17 and I appreciate that. Thank you. And, you  
18 know, while we discuss collaboration, we  
19 discuss an intermediary, we discuss many  
20 different things, but, you know, that really  
21 is something that is going to be dealt with  
22 after the fact. And if the Board is  
23 comfortable with imposing that as a condition,  
24 I don't have a problem with that.

25 I don't think that the Board was

1 looking for much more than that, actually.

2           MAYOR RAE: Yeah, I mean, actually,  
3 you know, I think whatever word we used,  
4 collaboration, monitor, I mean, I think what  
5 you're willing to do is that -- that's  
6 basically the definition in my head, right.  
7 It was to do just what you were doing. Before  
8 you said, no, you can go down and OPRA it.  
9 Well, that wasn't -- that wasn't working with  
10 us, that wasn't collaborating with us. And  
11 so, you know, just the -- just that statement  
12 that you'll provide them to us at the same  
13 time that you're submitting them to DEP, I  
14 think that certainly satisfies me. And then  
15 we can -- as a Town, we can do whatever we  
16 want to do with them, whether we go and we  
17 hire somebody or not, whatever the Township  
18 Committee decides at that point.

19           BOARD MEMBER SANDOW: On a technical  
20 note, Mr. Fourniadis has said that he would  
21 share everything that he's providing to the  
22 DEP.

23           Does that also go to any input to  
24 the DEP from his LSRP? Would his LSRP also be  
25 bound to share everything that he submits back



1 to the DEP?

2 MR. FOURNIADIS: Well, the answer is  
3 yes. The LSRP works for me. I don't submit  
4 anything. I'm not an LSRP. But whatever our  
5 professional submits to the DEP in compliance  
6 with whatever it is we have to comply with  
7 from an environmental perspective, we will  
8 give to the Township. They're public  
9 documents. We have nothing to hide.

10 BOARD MEMBER SANDOW: Thank you.

11 MAYOR RAE: And -- and just one --  
12 sorry. One thing I thought you were asking,  
13 Dennis, with what the DEP gives back, the  
14 answers the DEP gives to the LSRP, that  
15 correspondence will be shared as well?

16 MR. FOURNIADIS: Sure.

17 MAYOR RAE: Okay.

18 MR. FOURNIADIS: Yeah. Nothing to  
19 hide.

20 MAYOR RAE: Yep.

21 CHAIRMAN HANDS: Thank you.

22 Victor, were you going to say  
23 something?

24 BOARD MEMBER VERLEZZA: No, I think  
25 we're all in agreement on that issue. That's

1 what I'm hearing. Am I hearing it wrong?

2 CHAIRMAN HANDS: No, I don't think  
3 so personally. Then all we're saying from the  
4 Planning Board now is to the Township  
5 Committee, that there's -- that's what we  
6 would support, right, asking basically do you  
7 guys accept?

8 BOARD MEMBER VERLEZZA: Yep.

9 CHAIRMAN HANDS: Sounds good.  
10 Jolanta, after that substantive  
11 conversation, on some of the other points,  
12 where's the balance, if there is one, between  
13 preliminary versus final and conditions that  
14 can be monitored without them necessarily  
15 coming back for a final site plan and just put  
16 it as conditions? How do we cross that -- as  
17 we work down the list of suggested conditions,  
18 again this is assuming approval, of course,  
19 does it work going down that list and get an  
20 idea of what we're talking about and how that  
21 best fits in with final versus preliminary?

22 MS. MAZIARZ: Certainly, Chairman.  
23 I've been going through some of the  
24 transcripts, through some of the professional  
25 reports. And I think that at this point, I

1 think it's appropriate to have that  
2 conversation about which of those conditions  
3 the Board is going to impose, which of those  
4 the Board is still uncomfortable with or, you  
5 know, that still need clarification. Because  
6 there are a couple of little outstanding  
7 things that I picked up on. And I know Liz  
8 and Mike have as well.

9           So conditions that would usually be  
10 applied, which are applied on every applicant,  
11 of course, is that the applicant will comply  
12 with their representations and their testimony  
13 before the Board, any exhibits that were  
14 provided. The applicant will comply with  
15 Township ordinances except as specifically  
16 modified by any resolution of the Board if the  
17 Board chooses to approve this application.  
18 The applicant will need to secure the approval  
19 and permits of every other agency maintaining  
20 third-party jurisdiction over the proposed  
21 development, such as, but not limited to,  
22 those agencies that are listed in the Board  
23 engineer's memoranda, as well as the  
24 Department of Environmental Protection, the  
25 DCA potentially.

1           Okay. Yes. And the applicant will  
2     comply with the Board engineer's comments in  
3     his report, first dated December 28th, 2020.  
4     I believe that the applicant has already  
5     stipulated that that -- the applicant would  
6     comply with those seven conditions.

7           The first condition references the  
8     Board engineer's memorandum that was last  
9     revised on September 18th, I believe. It's a  
10    long one. I'm trying to get up to the top.  
11    September 18th, 2020. There are certain  
12    conditions and certain recommendations in that  
13    report that have not been complied yet. The  
14    first is on page 3 under "Technical Review,  
15    Site Plan, C-1." The updating of the zoning  
16    relief table to include a waiver for tree  
17    species groups. In addition, okay, amend the  
18    plans to include all of the waivers on page 4,  
19    under C-2, the existing conditions plan. They  
20    need to still provide a survey signed by a  
21    licensed planner -- a licensed surveyor, I  
22    apologize.

23           Going to page 7, under paragraph  
24    number two, subparagraphs B, C and D, which  
25    relate to signage, that is still outstanding.

1           Let's see. Okay. On page 15, again  
2 under a paragraph numbered 2, subparagraph B,  
3 that references a sewer study that's still  
4 outstanding.

5           On page 16, under C-9, the lighting  
6 plan, those lighting fixtures still need to be  
7 updated on plans and resubmitted.

8           Also on page 20, under paragraph O,  
9 subparagraph 3 -- three little I's -- those  
10 are the tree planting requirements. And, in  
11 addition -- okay. And that's it for the  
12 engineer's memorandum.

13           The applicant has also stipulated  
14 here on the record tonight that the applicant  
15 will comply with the planner's report dated  
16 December 28th, 2020.

17           Now, going back to the engineer's  
18 report, I think there is still a discussion to  
19 be had with regard to the fill. Board  
20 members -- some Board members -- some Board  
21 members indicated that they would like the  
22 Board engineer to work with the applicant's  
23 engineer to come up with more of a -- I'm  
24 sorry, I apologize. Somebody's texting me.  
25 It's difficult for me to concentrate -- with

1 more removal of fill from the site. That's  
2 still outstanding. We're still going to  
3 discuss that. I don't think that I have a  
4 handle on what that condition needs to look  
5 like.

6 So the engineer's memo, the December  
7 28th memo, number 4, to be continued after I  
8 get through this list so we can discuss other  
9 things. So that I don't think is something  
10 that we have fully -- that I haven't fully  
11 understood what the Board expects the  
12 condition to look like yet.

13 The next condition, this is a  
14 general condition that we generally place in  
15 every resolution, that the applicant will  
16 replenish the escrow. The applicant has to  
17 make sure that the real property taxes are  
18 paid and will supplement escrow account as  
19 needed.

20 The applicant has to comply with all  
21 statutory requirements in accordance with the  
22 Municipal Land Use Law and Township ordinances  
23 for bonding and guarantees.

24 As Mr. Lanzafama did note in his  
25 report, there may be some guarantee or bonding

1 required for the extensive amount of fill that  
2 is being brought to the site. There are also  
3 site improvement performance bonds,  
4 maintenance bonds, that will need to be  
5 submitted to the Township.

6 The applicant will enter into a  
7 developer's agreement with the Township  
8 Committee in a form and satisfactory to the  
9 Township attorney.

10 As stipulated to and agreed to on  
11 the record, the applicant -- and we just  
12 discussed this a moment ago. Actually, no, we  
13 didn't discuss this. But the applicant will  
14 provide an air monitoring plan which shall  
15 include a plan for monitoring the interior of  
16 the site and a plan for monitoring the  
17 perimeter in accordance with the regulations  
18 that are applicable to such plans and shall  
19 further ensure that an appropriate expert is  
20 present on the site to conduct the monitoring  
21 as required.

22 I also pulled testimony from the  
23 applicant's professional who appeared at the  
24 first June meeting who effectively testified  
25 in this regard.

1           The next condition as stipulated and  
2 agreed to on the record, the applicant shall  
3 submit its remediation plan, monitoring plans,  
4 any other health and safety plan to the  
5 Township. I believe any documentation that is  
6 produced by the LSRP to be submitted to the  
7 DEP will be submitted to the Township. And I  
8 think that we asked if -- any expert retained  
9 by the Township would not be prevented from  
10 reviewing this material. But if that is  
11 unacceptable language, then I will leave it  
12 out.

13           Now, there were still some questions  
14 about lighting that were left over. I think  
15 that the applicant discussed dimming the  
16 lighting overnight. Mr. Lanzafama has the  
17 illumination, the total illumination, in his  
18 engineering report and it does far exceed what  
19 the Township's standard is and, therefore, the  
20 applicant does need a waiver.

21           Mr. Lanzafama, in his introductory  
22 paragraph in his December 28th report, goes  
23 through the waivers that are still required.  
24 Lighting is one of them. The applicant on the  
25 record testified that they would dim the



1 lights overnight, so I think it's an  
2 appropriate time at this point for the Board  
3 to make a decision, perhaps guided by the  
4 applicant and maybe by Mr. Lanzafama, as to,  
5 you know, how dim the lights should be dimmed,  
6 what level.

7           And, also, the applicant has to also  
8 ensure that the lights will be downward  
9 facing, any lights, in accordance with our  
10 ordinance, and that they will be dark sky  
11 compliant.

12           So, Mr. Lanzafama, what say you  
13 about the dimming of the lights overnight?

14           MR. LANZAFAMA: Well, the light  
15 fixtures -- the ordinance requires that the  
16 light fixtures do not have a lumen level  
17 greater than 4,000. Unfortunately, to get the  
18 lighting levels that we need to do and create  
19 a nice uniform lighting level that's not  
20 offensive, we have to use lights with a  
21 greater lumen value. And that's why I would  
22 support the waiver that the Board has  
23 requested -- or the applicant has requested,  
24 excuse me.

25           We did have an in-depth conversation

1 with their engineers. They did modify the  
2 lighting plan to the greatest extent possible.  
3 What we allowed them to do was have different  
4 lighting levels in the parking areas versus  
5 the residential courtyards. That still  
6 produced an average footcandle of 2.3, where  
7 under the ordinance, after 2 (sic) p.m. we're  
8 supposed to be down to .2 footcandles.

9 In my opinion and in conversations  
10 with other professionals in my office, we felt  
11 that that lighting level was much too low for  
12 safety reasons for this type of development.

13 In -- in my opinion, we need to have  
14 a minimum lighting level of 1 footcandle in  
15 that parking area. And in the courtyard  
16 areas, that could go down to .5 footcandles in  
17 my opinion.

18 So that would be my recommendation.  
19 I'm sure I could work that out. With the  
20 technology we have now with the LED fixtures,  
21 they do have dimming capabilities. So, in my  
22 opinion, we should be able to achieve that  
23 with the applicant's engineer and their  
24 assistance.

25 With regard to the trees, we had a

1 conversation with their landscape architect  
2 and he agreed that he would modify the  
3 distribution of the trees. By that I mean in  
4 our ordinance we have three different  
5 categories -- Group A, B and C -- that we need  
6 to choose trees from. He was going to adjust  
7 the different species of trees so that their  
8 distribution met our ordinance requirements.  
9 So that waiver was no longer required.

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

12 So then the condition will be that  
13 the applicant will ensure that the lighting is  
14 dimmed overnight to a level acceptable  
15 effectively to the Board engineer is what I'm  
16 hearing.

17 MR. LANZAFAMA: Correct.

18 MS. MAZIARZ: Okay. Very good.

19 And I think that another condition  
20 that -- and I believe that I heard this in  
21 testimony. The applicant's attorney can  
22 correct me if I'm wrong. But the applicant  
23 will restrict the use of the community  
24 building, that's that building with the pool,  
25 to resident use only, is that correct?

1 MR. REGAN: That is correct.

2 MS. MAZIARZ: Thank you. Because I  
3 believe that during the testimony, the  
4 applicant referenced those amenities as being  
5 accessory. So, yeah, they will be restricted  
6 to use by residents only.

7 The applicant also testified that  
8 parking spaces will be designated for the  
9 units, correct?

10 MR. REGAN: Correct.

11 MS. MAZIARZ: Okay. Another  
12 condition that was brought up by a Board  
13 member is adding a sidewalk from Division to  
14 River Road. And would the applicant be  
15 amenable to doing that?

16 MR. REGAN: I think we -- Bob, I  
17 believe we were okay with that, correct?

18 MR. FOURNIADIS: Yeah. Yeah, we  
19 are.

20 MS. MAZIARZ: Okay. Thank you.  
21 Very good.

22 BOARD MEMBER SANDOW: Can I chime in  
23 on that sidewalk issue?

24 CHAIRMAN HANDS: Yes.

25 BOARD MEMBER SANDOW: I understand

1 and have observed that there's a lot of foot  
2 traffic coming off of River Road. Walkers,  
3 dog walkers, and so on. It turns out that the  
4 Stone House Road is not as unoccupied as it  
5 would appear to be, and so the sidewalk design  
6 has to cater to access from River Road even  
7 though that's at the tail end of the  
8 development. Probably -- probably also going  
9 as far as the bridge.

10 VICE CHAIRMAN JONES: Dennis, it  
11 will fall short of the bridge because I did  
12 take a look at that space. You can see that  
13 there is a small crosswalk on River Road and  
14 it's just, I'm going to say, about 20 to 30  
15 feet before the bridge. That's as far as it  
16 would come down. Thank you.

17 MR. FOURNIADIS: So long as it  
18 doesn't leave our property. I'm not going to  
19 put a sidewalk in front of -- can't put a  
20 sidewalk --

21 VICE CHAIRMAN JONES: No, it's not  
22 beyond your property.

23 MR. FOURNIADIS: All right.

24 MS. MAZIARZ: Okay.

25 BOARD MEMBER SANDOW: Well, your

1 property extends as far as the bridge except  
2 the last couple feet is the capped Superfund  
3 site, but it is still a part of your property.

4 MR. FOURNIADIS: Okay.

5 MS. MAZIARZ: Okay. Now, going back  
6 to two big conditions. The first, the  
7 architecturals. So the applicant is -- and I  
8 know that I did mention that as a condition,  
9 compliance with the planner's memorandum dated  
10 December 28th, 2020. And the condition there  
11 is that the applicant is committed to working  
12 with the Board's professionals to change the  
13 design, the architectural design, the facades,  
14 of those buildings in accordance with the  
15 suggestions in that memorandum, correct?

16 MR. REGAN: That is correct. I just  
17 do want to point out, you know, in the last --  
18 on the last page of the memo, under  
19 "materials," it says the building should use  
20 HardiePlank or other fiber cement siding  
21 instead of vinyl siding. Obviously the  
22 applicant would like the flexibility, you  
23 know, in working with the Board professionals  
24 to explore the use of all kinds of materials.  
25 We don't want to be required to use

1 HardiePlank, which is obviously a specific  
2 manufacturer, but obviously also says other  
3 fiber cement siding, you know.

4 MR. FOURNIADIS: We also don't want  
5 to be locked into no vinyl. There is  
6 good-looking vinyl and we think we can work it  
7 into the design. But, again, it will be  
8 subject to collaboration with the Town's  
9 professionals.

10 MS. MAZIARZ: Okay. Now, finally,  
11 the fill issue. Okay. So the applicant  
12 initially agreed that the applicant would  
13 comply with the entirety of the December 28th,  
14 2020 memorandum, including paragraph 4, which  
15 deals with the earthwork and the fill that is  
16 brought to be on the site. There were a  
17 couple of Board members -- there were a couple  
18 of Board members who suggested -- I'm sorry, I  
19 have to plug in my phone because it's dying --  
20 that suggested that the site be reworked in  
21 order to remove perhaps more fill from the  
22 site than what was suggested by the Board's  
23 engineer.

24 Would the applicant be amenable to  
25 working with the engineer to remove as much

1 fill as possible without -- you know, while  
2 still in compliance with ADA requirements,  
3 obviously RSIS requirements. If the removal  
4 of any fill is going to remove parking spaces  
5 or it's going to alter pedestrian walkways,  
6 then obviously it can't happen. No one has  
7 looked at it. Our engineer hasn't looked at  
8 it that extensively. But would the applicant  
9 be willing at least to explore that  
10 possibility with the Board's engineer with the  
11 knowledge that the Board is not going -- is  
12 not asking -- I haven't heard anyone on the  
13 Board ask the applicant to redesign the entire  
14 site, but to remove and lower the site, if  
15 it's possible, if it's possible, with the  
16 understanding that fill was brought in in  
17 order to make some of the parking, the  
18 driveways, the pedestrian accessways possible.

19 MR. FOURNIADIS: If I could ask my  
20 attorney a question.

21 Frank, the language that you put in  
22 your summation has the caveat to complying  
23 with Mr. Lanzafama's suggestions and working  
24 with Mr. Lanzafama. I think if we could put  
25 that in as part of the condition, I'd be okay



1 with that. If you want to go over that again  
2 for Jolanta and the Board.

3 MR. REGAN: Yeah. I think -- you  
4 know, I think conceptually, you know, the Item  
5 Number 4 in Mr. Lanzafama's memo, you know, is  
6 agreeable to the applicant and I think it's  
7 consistent with what Jolanta just said. We  
8 just -- that the extent of those changes, you  
9 know, do not result in the need to redesign  
10 the buildings, create excessive slopes, that  
11 we have to add steps to buildings, remove  
12 garages, eliminate parking, move driveways,  
13 affect retaining wall height. Those are the  
14 concerns we have because those go to, you  
15 know, essentially changing, you know, the  
16 design of the project.

17 MR. FOURNIADIS: And potentially  
18 increasing the cost, which you're not supposed  
19 to do on an affordable housing project.

20 MR. LANZAFAMA: Well, Mr. Chairman,  
21 can I chime in?

22 CHAIRMAN HANDS: Before you do that,  
23 I just want to add we have a limitation as  
24 much as 3 feet. I'll just question if we need  
25 to have that as opposed to maximum amount

1 possible. But --

2 MR. LANZAFAMA: My goal was to  
3 quickly -- and I didn't have a huge amount of  
4 time to study the entire site. I just quickly  
5 looked at the area from Division -- the  
6 intersection of Division and Stone House Road.  
7 And I just moved across that one section of  
8 the site and I was easily able to lower  
9 Building Number 6 by 3 feet.

10 So I have to believe that if we look  
11 at the entire project, there might be the  
12 ability to lower it even further. And as  
13 Mr. Fourniadis and his attorney have pointed  
14 out, my goal was not to change the  
15 architecture of the building. If anything, to  
16 eliminate retaining walls and to make sure  
17 that the site was still ADA compliant. And  
18 those were our goals.

19 And Mr. Sandow, I know, had  
20 indicated that he can maneuver the site with  
21 his motorized scooter. However, the DEP and  
22 the building code requires that any walkway  
23 that's over 5 percent be classified as a ramp  
24 and certain additional elements have to be  
25 installed such as handrails and things of that

1 sort.

2 So we wanted to try and avoid that  
3 and we still want to make sure that all of the  
4 first floor apartments are ADA accessible as  
5 required by building code.

6 So I think we can achieve the goal  
7 of reducing the fill, lowering the buildings.  
8 I don't believe that we're going to eliminate  
9 the fill on the southwest corner of the site  
10 completely. We have fills in the neighborhood  
11 of 12 to 15 feet on that side of the site. If  
12 I can get that down or if the applicant's  
13 engineer can get that down to, say, 8 feet or  
14 9 feet, I think that's a huge accomplishment  
15 and I think that would save the applicant a  
16 huge amount of money in having to bring fill  
17 in and reduce the potential impact on the  
18 community because it's that -- that many less  
19 trucks that need to come to the site.

20 CHAIRMAN HANDS: Okay. With that --

21 BOARD MEMBER SANDOW: My concern  
22 here is that the language of Recommendation  
23 Number 4 says "as much as 3 feet." That means  
24 3 feet or less. So what I propose to do --  
25 what I am proposing is that 3 feet would be an

1 absolute minimum amount of reduction and a  
2 reduction of more on the order of 10 feet  
3 would make that retaining wall issue a lot  
4 less concerning than it is now. But as much  
5 as 3 feet is not enough.

6 MR. LANZAFAMA: What I was trying to  
7 point out in my memo was what I was able to  
8 accomplish in the short period of time that I  
9 had to review. It was not my intent to limit  
10 them to just 3 feet of reduction. If we can  
11 achieve more, I'm sure the applicant would be  
12 happy to see that happen and still make sure  
13 that the buildings work with regard to access,  
14 providing garages, entries that work under ADA  
15 requirements.

16 If the number is greater than 3  
17 feet, we can certainly change the wording in  
18 the condition. This was just my comments to  
19 the Board.

20 If we want to say to the greatest  
21 extent possible, that --

22 BOARD MEMBER SANDOW: Mr. Regan has  
23 agreed that he would -- Mr. Regan has agreed  
24 with the phrase "as much as 3 feet," so he has  
25 to agree to something a lot more aggressive

1 than that.

2 MS. MAZIARZ: Well, that's why I  
3 left that out. That's why I wanted to talk  
4 about it at the end and just not leave it in  
5 the middle. I wanted to amend paragraph 4 as  
6 a condition.

7 What I could do is that the  
8 applicant will comply with 1, 2, 3, 5, 6 and  
9 7, those paragraphs from the report, and not  
10 4, and we can fashion our own Number 4. And  
11 that's what I'm trying to do now.

12 So I think that Mr. Lanzafama's  
13 suggestion that we leave it as to the greatest  
14 extent possible so long as it doesn't alter  
15 the positioning of any buildings, garages,  
16 pedestrian walkways, doesn't eliminate  
17 parking. It does not cause the applicant to  
18 have to expend substantial costs in order to  
19 do this.

20 And also that it doesn't impede or  
21 go against any rules or regulations for the  
22 remediation of the site. Because we also have  
23 to keep in mind that there's a possibility,  
24 and I don't know that this is true or not,  
25 that the LSRP or that the regs will require

1 some fill for this site. So we can't lose  
2 sight of that. Because if that comes into  
3 play, then the applicant is not going to be  
4 able to reduce it as much. So I think that to  
5 the greatest extent, understanding that there  
6 may be circumstances which will dictate that  
7 they will have to have fill.

8 I think that understanding is fair.  
9 I think that's a fair condition. Now I'm  
10 going to have to figure out a way to write it.

11 BOARD MEMBER SANDOW: I'm troubled  
12 by the statement that there's a lot of  
13 additional expense involved. The fact of the  
14 matter is 25,000 yards of fill is a million  
15 dollars of added cost in the project as it  
16 stands right now. To the extent that that  
17 fill can be reduced dramatically, that's a  
18 saving to the project. It's not an added  
19 cost.

20 MS. MAZIARZ: Oh, absolutely agreed.  
21 Absolutely right, Mr. Sandow. I'm going to  
22 have to figure out a way to write that. So  
23 when I'm talking about additional costs, I'm  
24 talking about costs that would be -- that  
25 would -- well, obviously the cost, any cost,

1 would have to be offset by a savings. But any  
2 additional cost to the applicant once we  
3 reduce the savings of the fill, anything  
4 that's substantial, which might require some,  
5 I don't know, redoing of parking areas or  
6 something else on site that's going to cost  
7 more money than it's saving them, is probably  
8 what I'm trying to say, would be --

9 BOARD MEMBER SANDOW: There are  
10 trade-offs. There are trade-offs in the  
11 design. There's no question about that.  
12 There are cost trade-offs.

13 MS. MAZIARZ: Right, but I'm just --

14 BOARD MEMBER SANDOW: There's no --

15 (Indiscernible cross talk; reporter  
16 requests one speaker.)

17 MS. MAZIARZ: We're not coupling  
18 architectural with this. The applicant  
19 already agreed to that. We're only talking  
20 about the fill issue in this one condition.

21 CHAIRMAN HANDS: Thank you. Thank  
22 you.

23 BOARD MEMBER SANDOW: The difficulty  
24 that I have with even using the word "cost" is  
25 that that can be played either way in later

1 discussions. I think the use of "cost" in  
2 your resolution is unnecessary. I think good  
3 engineering will always result in a reduced  
4 cost. We don't have to say that.

5 MAYOR RAE: I --

6 CHAIRMAN HANDS: I agree.

7 MAYOR RAE: I would agree with  
8 Dennis. And just one other thing, and,  
9 Jolanta, this may be, you know, completely  
10 unnecessary, but in the resolution that it  
11 would -- that whatever is done, whatever  
12 amount of fill is reduced, has to meet -- has  
13 to be to the satisfaction of Mr. Lanzafama.

14 MS. MAZIARZ: Yes, absolutely. No.  
15 That, yeah, any -- any condition that requires  
16 engineering reviews will be to the  
17 satisfaction of Mr. Lanzafama and any  
18 condition in the application that has to do  
19 with the planning aspects will be to the  
20 satisfaction of Board planner, Liz Leheny.

21 MAYOR RAE: Okay. Thank you.

22 CHAIRMAN HANDS: Thank you.

23 Victor, please jump in.

24 BOARD MEMBER VERLEZZA: I'm sorry, I  
25 may be batting out of order here. But we're



1 talking about costs, unperceived costs, and,  
2 you know, moving soil. At one point we had  
3 mentioned some type of bond that the applicant  
4 would be responsible for putting up so that  
5 they just couldn't walk away from this project  
6 should they deem, you know, midway through  
7 that it's too expensive, the remediation is  
8 more than they originally anticipated, and,  
9 you know, they decided to just stop and walk  
10 away with it and leave us all in the bag.

11 I thought we discussed or mentioned  
12 at some point some type of bond.

13 MS. MAZIARZ: Well, there are a  
14 couple of different types of bonds that can be  
15 required. The ordinance prescribes a bond for  
16 fill and excavation, I believe. I think I --  
17 yeah, I did see that. That is in  
18 Mr. Lanzafama's report.

19 There are also bonding requirements  
20 that come right out of the Municipal Land Use  
21 Law that were codified into your ordinance.  
22 So there are performance bonds. They are --  
23 they are now the new safety and stabilization  
24 bonds that developers may be required to  
25 submit and then there are maintenance bonds

1 that are submitted after the fact.

2 Now, these bonds are -- they're  
3 prescribed by the Municipal Land Use Law and  
4 by other laws, by your ordinance. It's not  
5 something that's within the Board's purview.  
6 This is something that is going to be enforced  
7 eventually by the Township and the Township  
8 Committee because this developer is being  
9 required to enter into a developer agreement  
10 with the Township Committee. And that  
11 developer agreement, once it goes to the  
12 Township Committee, will have all of those  
13 requirements in it. So this really isn't for  
14 the Planning Board, per se. It's really for  
15 the Township. So that will happen.

16 BOARD MEMBER VERLEZZA: Thank you  
17 for that point of clarification.

18 THE REPORTER: Excuse me. I'm going  
19 to need a break. We've been going over two  
20 hours.

21 CHAIRMAN HANDS: So how about we do  
22 that. 9:45 we can return. I have some  
23 additional comments on the retail building and  
24 on the fill again. So, yeah, at 9:45, please.

25 (Whereupon, a recess is taken.)

1                   CHAIRMAN HANDS: To continue,  
2 Jolanta, you had been toward, I think, the end  
3 of your conversation or suggestions and  
4 conditions. I did have a couple of things,  
5 but I'll wait until you continue on.

6                   MS. MAZIARZ: I think I'm done.

7                   CHAIRMAN HANDS: Is that right?

8                   MS. MAZIARZ: I am.

9                   CHAIRMAN HANDS: Okay. I still want  
10 to discuss the retail building as well. But  
11 before that, can I just clarify a couple of  
12 points? I know this is back of the envelope,  
13 Mike. You were sort of sketching out a  
14 thought. Above and beyond the three things,  
15 you rattled off some different numbers, 10  
16 feet and stuff. This is back of the envelope,  
17 I know.

18                   But just in my mind, where do you --  
19 do you go beyond that 3 foot amount?

20                   MR. LANZAFAMA: I'm sorry, I didn't  
21 quite get the whole question. I think you're  
22 asking me how I arrived at that number, is  
23 that --

24                   CHAIRMAN HANDS: No, no, no. Sorry.  
25 Let me just clarify my question again. A few

1 minutes ago as we were doing this, you started  
2 to do back of the envelope that we could get  
3 above and beyond 3 feet and you said something  
4 more 8 feet or so. I don't want to hold you  
5 to anything --

6 MR. LANZAFAMA: No, no. What I was  
7 saying was that when I looked at their cut and  
8 fill plan, the area on that southwest corner  
9 is they're indicating fills between 12 and 15  
10 feet roughly.

11 CHAIRMAN HANDS: Right.

12 MR. LANZAFAMA: And I was saying if  
13 we could get those numbers down to about 8  
14 feet, I think that would be a huge  
15 accomplishment.

16 CHAIRMAN HANDS: You're talking  
17 about 5 to 7 feet possible.

18 MR. LANZAFAMA: Correct.

19 CHAIRMAN HANDS: At least that's  
20 what you're suggesting right now. Thank you.

21 MR. LANZAFAMA: That's why I felt  
22 that the wording of "to the greatest extent  
23 possible" is more appropriate because I can't  
24 be certain that I can get it down by 5 or 7  
25 feet.

1           CHAIRMAN HANDS: Okay. Okay. I  
2 just wanted to frame in my mind what that  
3 number was.

4           The other thing I wanted to just  
5 confirm, we talked about the LSRP documents to  
6 be provided and maybe correspondence. So all  
7 correspondence going backwards and forwards  
8 from the LSRP to the State, et cetera.

9           You used the word "air monitoring  
10 plan." Can I just clarify, does that still  
11 fall under the LSRP, air monitoring plan?

12           MR. REGAN: I don't believe that it  
13 does, Mr. Chairman. That was not my  
14 recollection.

15           MS. MAZIARZ: No.

16           CHAIRMAN HANDS: Air monitoring  
17 plan, even if it doesn't fall under DEP, would  
18 it be the same -- would it take the same  
19 condition, to provide any information to  
20 whoever the Board -- the Township appoints?

21           MR. REGAN: Yeah. I think -- I  
22 think Jolanta had touched upon that in terms  
23 of environmental. I mean, the air monitoring,  
24 you know, is going to be dependent, I think,  
25 you know, is going to be tied into

1 particularly the demolition and clearance  
2 activities. But, yeah, I mean, whatever  
3 reports are generated by any of the, you know,  
4 professionals involved in the remediation and  
5 the demolition and clearance, I believe Bob  
6 had previously said we're fine with sharing  
7 that information.

8 CHAIRMAN HANDS: I just wanted to  
9 make sure we weren't limited to DEP-type  
10 reports only. That's the point.

11 MS. MAZIARZ: Right. And I did have  
12 that in one of my conditions. I have it as  
13 Number 10, but not that that means anything to  
14 anybody because I haven't circulated these,  
15 but I will.

16 I have that. That any air  
17 monitoring plans, because as I understand and  
18 I reread that part of the transcript where the  
19 applicant's professional, well, the LSRP, when  
20 he testified, he testified that he was not the  
21 professional that was going to be monitoring  
22 any air monitoring plan or implementing any  
23 air monitoring plan; that that would be a  
24 different entity or contractor. And so in  
25 that condition, we request that they provide

1 any -- any remediation plans, health and  
2 safety plans. Any plans that are prepared for  
3 the site, whether for demolition or  
4 remediation, be submitted to the Town. And  
5 the applicant I think agreed to that. And I  
6 believe they agreed to it on the record as  
7 well. I pulled a couple of excerpts from that  
8 transcript and I believe that they did.

9 CHAIRMAN HANDS: And then all  
10 correspondence with any agency with the DEP,  
11 correct?

12 MS. MAZIARZ: Yes. I believe that  
13 they're required anyway. If they obtain any  
14 kind of a soil movement permit, they have to  
15 submit that to the Township. If they receive  
16 approval from Morris County, they submit that  
17 to the Township. It all becomes part of our  
18 records. So, yeah, they're required to submit  
19 that in the first place.

20 And that's in the condition and I  
21 generally put that in the condition, where  
22 they're required to get any outside agency  
23 approvals, they're also required to submit  
24 those outside agency approvals to the Township  
25 for our records.

1           CHAIRMAN HANDS: Okay. One thing  
2 still in my mind at least, I know we talked  
3 about the retail building. I know you finally  
4 provided revised plans for the retail  
5 building. I know we saw some other suggested  
6 plans for what that retail building could look  
7 like, a little bit more expansive than what  
8 you have right now. I'm just asking just the  
9 Board right now. Does anybody -- I would like  
10 to see a little bit more with that retail  
11 building to tie in more to the neighborhood,  
12 more to the corner, more to the town, more to  
13 Millington. And we saw some plans from  
14 Mr. Kaufman.

15           Is anybody inclined to discuss or  
16 wish to consider more to the retail building?  
17 Alan, do you want -- Dennis.

18           BOARD MEMBER SANDOW: I would just  
19 like to agree. I think a change of style  
20 would be appropriate.

21           CHAIRMAN HANDS: Alan?

22           BOARD MEMBER PFEIL: I think we went  
23 down that path and they did change the style.  
24 I think the biggest thing that I saw from  
25 Mr. Kaufman's submission was a second floor.



1 And I know from testimony long, long ago, that  
2 the applicant doesn't have a plan for one --  
3 for single floor apartments. So that's out as  
4 far as I'm concerned.

5 I think they did a credible job  
6 listening to the concerns that were voiced a  
7 long time ago and made architectural changes.  
8 And I think it's fine as is.

9 VICE CHAIRMAN JONES: I concur with  
10 Mr. Pfeil.

11 CHAIRMAN HANDS: Anybody -- just so  
12 I'm on record, I prefer the -- I actually  
13 prefer the original retail building, which is  
14 more towards what Mr. Kaufman has, you know,  
15 sketched out. So I had a preference to the  
16 original building even though the revised is  
17 currently shown. Just making my point clear.

18 Anybody else?

19 BOARD MEMBER MALINOUSKY: I'm fine  
20 with the retail building that was resubmitted  
21 when we asked for it.

22 CHAIRMAN HANDS: Anybody else?

23 BOARD MEMBER VERLEZZA: I like the  
24 revised version. I'm with Mr. Pfeil on that.

25 CHAIRMAN HANDS: Sorry, Victor, you

1 broke up. Can you just repeat? Victor, are  
2 you okay with the revised version? I think  
3 he's frozen.

4 MR. FOURNIADIS: I could have sworn  
5 he said he liked it.

6 MS. MAZIARZ: I think he did.

7 CHAIRMAN HANDS: I wonder why. I'm  
8 sure you did.

9 Victor, is that true?

10 BOARD MEMBER PFEIL: Good  
11 translation.

12 CHAIRMAN HANDS: So nobody else had  
13 any comments about the retail building?

14 MAYOR RAE: No.

15 BOARD MEMBER FALVEY: No.

16 CHAIRMAN HANDS: Okay. With  
17 everything said, Jolanta, you went down that  
18 list of potential conditions and we obviously  
19 have to see, you know, still whether that's  
20 all true with them or agreeable, do you see  
21 anything under discussion between preliminary  
22 and final where there's a consequence to doing  
23 this all -- to doing them both as one or --

24 MS. MAZIARZ: It's really up to the  
25 Board. I mean, the Board -- if the Board

1 believes that, you know, the Board and the  
2 applicant would benefit from another -- you  
3 know, another trip back to the Board before  
4 final for final approval, the Board can -- you  
5 know, I understand that the applicant did  
6 request both preliminary and final, but boards  
7 are empowered to grant or deny that which they  
8 believe is appropriate. If the Board believes  
9 preliminary itself is appropriate, then that's  
10 a perfectly reasonable stance to take and the  
11 Board can grant preliminary if the Board is  
12 inclined to grant this application.

13           If the Board is inclined, the Board  
14 can also grant preliminary and final approval  
15 with the understanding that these conditions  
16 will be worked out with your professionals and  
17 that this Board will not have the ability to  
18 review these plans again. You know, to review  
19 them before you issue any final approval.

20           Obviously you'll be able to see  
21 them. They're going to be public record. You  
22 know, everyone in the public is going to be  
23 able to view them, but the Board will not be  
24 able to approve them because, you know, they  
25 will have been sort of approved after final.

1           It's a little bit of a nuance, I  
2 think, because the conditions still have to be  
3 complied with regardless. Even if you grant  
4 final today, they still have to comply with  
5 the conditions. I think the only difference  
6 is you don't get to see them as a Board again.  
7 And I think hearing the applicant, the  
8 applicant's concern was coming back to the  
9 Board and having another 12 hearings. I think  
10 that's what the applicant's concern is.

11           CHAIRMAN HANDS: Okay.

12           MAYOR RAE: What if we cap the  
13 meetings at 11 for the next one?

14           MS. MAZIARZ: You want to cap -- you  
15 want to make that a condition on any approval,  
16 that final approved is capped at 11.

17           MR. FOURNIADIS: So long as we do it  
18 over one weekend.

19           CHAIRMAN HANDS: There you go.

20           MS. MAZIARZ: That's it. One  
21 weekend. That's all we get.

22           MAYOR RAE: You know, David, I mean,  
23 I think that's -- I mean, personally speaking,  
24 it's kind of, as I say, you know -- I said in  
25 the beginning, this is the most major -- this

1 is the first major application that this  
2 Board's heard as we're currently constituted.  
3 I mean, I think next year we're going to be  
4 pretty much the same group. So, you know, I  
5 think it would be -- it would be good -- I  
6 would like to see -- I would like to have one  
7 more look at it in its entirety. And so I  
8 would be more inclined to go with preliminary  
9 and just be able to kind of, you know, one  
10 more look at everything. Because, you know,  
11 these -- especially the design -- the  
12 architectural changes, I'd like to see just  
13 what was agreed to and how they were agreed to  
14 as well as the whole thing and -- as well as  
15 the whole discussion on the fill. I'd like  
16 to -- I'd like to have some kind of a -- an  
17 idea of just how far we went and satisfy  
18 myself that we went as far as we possibly can  
19 because that's a -- that's a -- that's a big  
20 issue for me.

21 And actually, you know, this --  
22 maybe I'm kind of, you know, come late to it  
23 at this point in the discussion, but it was on  
24 my mind because the massing along -- along  
25 Stone House is still -- even if we manage to

1 reduce it, the fill, that goes some way to  
2 satisfying my -- my -- the issues I have.

3 But, you know, would there be any  
4 possibility to move the buildings back a  
5 little bit? Right now it's 20 feet. Maybe  
6 move them back 10 feet or whatever just to --  
7 just to, you know, make that maybe a little  
8 bit more visually appealing? I don't know  
9 whether anybody else has that same, you  
10 know -- shares that issue with me, but I just  
11 throw it out there for the Board's  
12 consideration.

13 CHAIRMAN HANDS: Thank you.

14 Alan, jump in. Yes.

15 BOARD MEMBER PFEIL: A couple of  
16 comments. One, with regard to the building  
17 setback, they're conforming to the ordinance.  
18 If we wanted bigger setbacks, we should have  
19 written them that way. And hopefully we'll be  
20 able to revisit some of the other zones, as I  
21 said before. If we think this one, this  
22 ordinance, was poorly written, let's fix it  
23 for the next time.

24 The other point I want to make is  
25 that when we -- when we -- when we went out to

1 look at changing our professionals, I think  
2 universally we felt that we needed a stronger  
3 group of professionals. We went through a  
4 process and we selected two outstanding firms  
5 and they've -- they've spent a lot of time,  
6 they have a lot of wisdom that this Board just  
7 frankly doesn't have, and they made some  
8 recommendations.

9 I think at some point, we've got  
10 to -- we've got to let this go and say we  
11 believe in the engineering professionals,  
12 Casey & Keller, and, you know, we believe in  
13 Preiss Phillips and Liz and Mike. And let's  
14 just -- let's approve this application with  
15 preliminary and final and let the details rest  
16 with the professionals who we agreed -- we  
17 strongly support and move on.

18 Thank you.

19 CHAIRMAN HANDS: Thank you.

20 MAYOR RAE: If I could just say one  
21 thing, David. And if I'm -- if I'm cutting  
22 anybody off, then I'm willing to keep it  
23 until -- until later.

24 CHAIRMAN HANDS: No, go ahead,  
25 please.

1           MAYOR RAE: Okay. I mean, I think,  
2 you know, we're all familiar with how -- or  
3 many of us are familiar with how this  
4 ordinance was shaped. Right? It was -- and I  
5 think, as I said earlier, the idea was that  
6 there would be more kind of -- or less scale,  
7 right, certainly along Stone House and maybe  
8 Division. And we never -- I don't think we  
9 ever envisaged what has actually come to pass  
10 where we would get this huge amount of fill  
11 and flatten the site completely and build.

12           That was just something that  
13 certainly wasn't on my mind and I don't think  
14 it was in any of our minds. Right? And so  
15 whenever we say, yeah, the applicant has  
16 complied with the letter of the -- with the --  
17 with the letter of the ordinance, that may be  
18 true, right, but they didn't comply with the  
19 spirit of it.

20           And I know that Mr. Fourniadis was a  
21 frequent visitor to our PB meetings around  
22 that time and certainly I would imagine,  
23 knowing how diligent he is, he certainly  
24 probably reviewed the tapes. And so I  
25 think -- you know, I think that that -- how we



1 viewed the ordinance and how it came to pass  
2 was very -- is known to the applicant and was  
3 known to the applicant.

4 And so, you know, in the spirit of  
5 working together because we're going to be --  
6 we're going to be colleagues, neighbors,  
7 hopefully friends for a long, long time, and  
8 so I think that's really in the -- you know,  
9 it's in that vein that these -- that certainly  
10 my comments are made.

11 Let's -- let's look to -- you know,  
12 Alan, you were chairman at the time. You --  
13 you -- you -- you shared, I think, the  
14 sentiments that I just stated and let's try  
15 and, you know, work together as best we can to  
16 get a product that at least we're reasonably  
17 happy with. None of us may be entirely happy  
18 with it, but at least reasonably so. And  
19 those -- you know, the reduction of the fill  
20 and whatever we can do to make that better,  
21 plus maybe a setback. It may not be possible.  
22 It may not be something that anybody feels is  
23 important, but I just think it's worthy of a  
24 discussion and worthy of consideration by the  
25 applicant in the vein of working -- working

1 with the Town, a town where, you know,  
2 hopefully there's going to be a long and happy  
3 relationship with.

4 CHAIRMAN HANDS: Thank you, Brendan.

5 By the way, I think I echo your  
6 sentiments. I think the difference of 3 feet  
7 to maybe 8 to, you know, 5 to 7 feet, that's  
8 material. That's material. And I think I  
9 would like to see that.

10 Dennis, please, go ahead.

11 BOARD MEMBER SANDOW: I am concerned  
12 about the fact that if we grant final now and  
13 leave it up to the professionals, the public  
14 will not see another set of plans. All they  
15 will see some two, three, four, five years  
16 from now is construction beginning and they  
17 will not have seen the plans that reflect  
18 these final adjustments that are made by the  
19 professionals, not that I look forward to  
20 having another hearing and going through  
21 another debate about the result of those final  
22 plans. I think it would be well to have an  
23 opportunity to put the final plans on the  
24 table for the public to see before  
25 construction begins.

1           CHAIRMAN HANDS: Thank you for that.  
2           Anybody else?

3           BOARD MEMBER PFEIL: However, the  
4 risks of only granting preliminary site  
5 approval, in my opinion, the risks far  
6 outweigh the benefits. You're not going to  
7 get -- you're not going to get much more than  
8 our planner and our engineer have already --  
9 have already suggested and we've agreed upon.  
10 You're just not going to get it. If you  
11 wanted more setbacks, we should have written  
12 that three years ago. We didn't. So let's  
13 learn from that.

14           But this project is approvable in  
15 its current form and I hate to see this come  
16 back to us in a court mandate to say you've  
17 got to approve this or, God forbid, you know,  
18 bypassing this Board in favor of a builder's  
19 remedy. The risks are way too high in my  
20 opinion. Let's just end this.

21           MS. MAZIARZ: Mr. Pfeil, if you're  
22 granting an approval of preliminary or final,  
23 it's still an approval.

24           BOARD MEMBER VERLEZZA: Thank you.

25           BOARD MEMBER PFEIL: But granting

1 preliminary and final and letting the details

2 --

3 (Indiscernible cross talk; reporter  
4 requests one speaker.)

5 MS. MAZIARZ: Even if you're  
6 granting preliminary, you're still granting --  
7 you're still granting the application. You're  
8 still granting it.

9 CHAIRMAN HANDS: Jolanta --

10 BOARD MEMBER PFEIL: But you're  
11 not -- but you're not -- you're not granting  
12 it to the satisfaction of the applicant.

13 MS. MAZIARZ: Well --

14 BOARD MEMBER PFEIL: And I don't  
15 see -- and I don't see what is going to change  
16 between now and -- and a final site approval.  
17 You still have an ordinance that they have to  
18 comply with and, in my opinion, they've  
19 complied with it.

20 MS. MAZIARZ: Okay. Well, of  
21 course. That's what the Board is deliberating  
22 upon right now, so...

23 CHAIRMAN HANDS: Jolanta, may I ask,  
24 are we able potentially to put the final  
25 contingent only on one or two points, e.g.,

1 architectural design and fill?

2 MS. MAZIARZ: Well, no. I mean, if  
3 you're going to grant preliminary and final,  
4 it will be subject to the conditions that we  
5 have already articulated --

6 CHAIRMAN HANDS: Not preliminary and  
7 final. I said preliminary.

8 MS. MAZIARZ: Oh, preliminary.

9 CHAIRMAN HANDS: Preliminary and  
10 with the notion of what final means. Is it  
11 just a review of very specific points, i.e.,  
12 architecture and fill?

13 MS. MAZIARZ: Okay. Generally final  
14 approval, for lack of a better term, is a  
15 rubber stamp. Once an applicant has complied  
16 with the conditions that were imposed at  
17 preliminary -- and some of those conditions  
18 obviously can and do survive final approval,  
19 such as, you know, they'll be dimming their  
20 lights. They're not only going to be dimming  
21 their lights for a few months while working on  
22 getting final approval, you know, they'll be  
23 dimming their lights forever. And that  
24 condition will survive a final approval. But  
25 for the conditions that need to be satisfied

1 before final approval, such as coming up with  
2 the architectural design so they can come up  
3 with the architectural plan, that has to be  
4 done before final obviously.

5 And if you do grant final, they're  
6 still going to have to do that but, as I said  
7 before, it simply won't come before the Board  
8 again. It will -- as other Board members have  
9 mentioned, it will simply be done after the  
10 fact. And, no, the public will not have an  
11 opportunity to opine on it.

12 But even when the applicant comes  
13 back for final, no other conditions can be  
14 imposed on the applicant other than what was  
15 imposed at preliminary because this is your  
16 opportunity now because you've had the  
17 opportunity to see what this is going to  
18 generally look like and you have satisfied  
19 yourselves, if you grant an approval at this  
20 point, whether preliminary or otherwise,  
21 you've satisfied yourself so far that they are  
22 compliant with the ordinance.

23 So if there are tweaks, which is  
24 what conditions are, things that they still  
25 have to comply with and complete, if there are

1 things that you want them to do, then  
2 obviously they're going to have to do that  
3 after preliminary, but you're not going to be  
4 able to come up with new things as a result of  
5 looking more into the zoning ordinance or  
6 whatever it is. You're not going to be able  
7 to impose new conditions on them post final.

8 So I hope that answers your  
9 question.

10 CHAIRMAN HANDS: It does. It just  
11 leads to the question of the consequences,  
12 right. So, for example, if you said  
13 architectural standards -- or the  
14 architectural design, rather, and we allow Liz  
15 to work with -- you know, with the applicant  
16 and they came up with something that they feel  
17 comfortable with, if it comes back as a  
18 condition for final, what's the -- what's  
19 the -- what's the leeway that we have at that  
20 point? Is it just, yeah, this is great or,  
21 no, we want to tweak it further?

22 MS. MAZIARZ: I think it's somewhere  
23 in the middle. You know, it's -- you know, I  
24 don't think that after they are complying with  
25 these conditions, after our Board

1 professionals are relatively satisfied with  
2 what's going on here, I don't think that, you  
3 know, you get to redo the entire architectural  
4 plan when they come back for final. I don't  
5 think that can happen.

6 Now, can the Board offer some  
7 suggestions at that time? Small suggestions;  
8 you know, things that are, you know, kind of  
9 minimal and still within the same vein, same  
10 parameters that were established for  
11 preliminary. Because, look, some of the  
12 parameters being established for preliminary  
13 or for any approval for conditions that we've  
14 been talking about, you know, are a bit  
15 subjective. The applicant understands that.  
16 The applicant agreed to them. But they are a  
17 little bit subjective. That's why, you know,  
18 the applicant is not able to work on them on  
19 their own, but they will consult with the  
20 Board's professionals because they are a  
21 little bit subjective. They are subject to a  
22 little bit of interpretation, artistic  
23 interpretation, I think, if you're dealing  
24 with architecture.

25 So in that -- in that respect, can



1 the Board redo the whole thing? No, when they  
2 come back for final, because they're working  
3 within the parameters that you're setting  
4 right now.

5 A couple of suggestions?

6 Absolutely. If the applicant's amenable, if  
7 it's something that maybe was perhaps  
8 overlooked, great idea, you know, something  
9 that doesn't change it too much, then I think  
10 that would be acceptable and I don't think the  
11 applicant would really object to something  
12 like that. But it really has to be that minor  
13 and working within those parameters that we've  
14 established.

15 Now, if the Board -- and there are  
16 certain Board members who might be concerned,  
17 the Board might establish a subcommittee to  
18 work alongside our professionals, perhaps two  
19 or three Board members that could review this  
20 also in conjunction with the professionals.

21 The Chairman and the Board are  
22 entitled to form any types of subcommittees  
23 that they need. The Municipal Land Use Law  
24 actually, you know, recognizes that there may  
25 be subcommittees of this type to assist and to

1 help in reviewing applications and perhaps  
2 design like this.

3 CHAIRMAN HANDS: The thing is, how  
4 can this be discussed, if at all, and make  
5 sure everybody has a final look into what  
6 these plans, in this case the architectural  
7 plans and the fill? How do we have a final  
8 look into that if we don't -- if we grant  
9 final tonight as well.

10 MS. MAZIARZ: Well, if you grant  
11 final, then the Board is not going to have a  
12 final look. I mean, the Board might also --  
13 after final approval, the Board might also  
14 appoint a subcommittee of the Board, of Board  
15 members effectively, to work with the  
16 professionals. And that subcommittee can come  
17 back and make reports to the Board about  
18 what's going on and how these conditions are  
19 being complied with. I mean, if the Board is  
20 satisfied with something like that, that can  
21 also be done.

22 CHAIRMAN HANDS: Then it's between  
23 preliminary and final but still give the  
24 opportunity to get some visibility to what  
25 those plans are, particularly architectural

1 and fill.

2 BOARD MEMBER SANDOW: Regardless of  
3 the level that we -- of approval that we give  
4 tonight, at the end game, construction cannot  
5 begin until the Board has signed off on the  
6 final plans that may come out of the  
7 collaboration with the Board's professionals.

8 MS. MAZIARZ: Absolutely. So  
9 regardless --

10 BOARD MEMBER SANDOW: So ultimately  
11 some -- one person or the Board is going to  
12 have to make a decision on the plans;  
13 otherwise, there's no construction permits.

14 MS. MAZIARZ: Absolutely true,  
15 Mr. Sandow. Until the conditions have been  
16 complied with, whether it's via preliminary,  
17 final, it doesn't matter. Even if the  
18 conditions are being complied with as a result  
19 of any final approval, the Chairman and the  
20 Board secretary are not going to sign the  
21 final plans until the professionals have  
22 issued their compliance reports and the  
23 compliance reports indicate that all the  
24 conditions have been satisfied.

25 So nothing gets signed and they

1 are -- they do not get to apply for  
2 construction permits until the plan is final.

3 BOARD MEMBER SANDOW: And that is  
4 essentially a judgment by the Board secretary  
5 or the Board chairman that they accept the  
6 final reports, final compliance reports, of  
7 the professionals. And if they -- and that  
8 leaves the judgment to them, I guess, as to  
9 whether or not they're going to accept those  
10 reports as being fully compliant.

11 MS. MAZIARZ: Yes. Yeah, agreed.  
12 Because it is really within the purview of,  
13 yes, absolutely, the Chairman who signs off on  
14 the site plan as a result of reviewing the  
15 compliance reports and upon the  
16 recommendations of the engineer and the  
17 planner that they're finished.

18 CHAIRMAN HANDS: The consequence if  
19 they don't sign off if they don't like  
20 something?

21 MS. MAZIARZ: If the -- if the --

22 CHAIRMAN HANDS: If they're saying  
23 the --

24 MS. MAZIARZ: Well --

25 CHAIRMAN HANDS: If they don't like

1 it, don't sign off, what's the consequence?

2 MS. MAZIARZ: Well, if you don't  
3 sign off, well, you know, then that becomes  
4 another issue that we may explore down the  
5 road, hopefully not. But, you know, look,  
6 while this is happening, that's why I'm  
7 suggesting perhaps a subcommittee of the Board  
8 to have a conversation with your professionals  
9 and, you know, to bring reports back to the  
10 Board on how we're doing, that may inform our  
11 professionals in their review and -- because  
12 you don't get past final -- a final-final  
13 sign-off without the professionals saying we  
14 recommend that this is finished.

15 CHAIRMAN HANDS: All right.

16 MS. MAZIARZ: At least in terms of  
17 site plan. Because then there are other  
18 things that need to happen. But at least in  
19 terms of site plan.

20 VICE CHAIRMAN JONES: Mr. Chairman,  
21 the time --

22 CHAIRMAN HANDS: Yes, it's 10:17.  
23 Should we extend the meeting to 11 o'clock.

24 MAYOR RAE: So moved.

25 CHAIRMAN HANDS: Thank you.

1 BOARD MEMBER VERLEZZA: Second.

2 CHAIRMAN HANDS: Thank you. All in  
3 favor?

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

6 MAYOR RAE: You know -- oops, sorry.

7 BOARD MEMBER MALINOUSKY: Jolanta,  
8 can you just clarify the timeline if we grant  
9 preliminary approval? Do they have three  
10 years before they come back? Can they come  
11 back at any time?

12 MS. MAZIARZ: The applicant can come  
13 back whenever they want. Upon granting  
14 preliminary approval, what that does is it  
15 affords the applicant a three-year period of  
16 protection from any zoning changes. So if the  
17 Township decides that they are going to change  
18 the zoning for this site, which is not likely  
19 in this case, or change any requirements in  
20 the zoning ordinance, the applicant, upon  
21 securing preliminary approval, is almost, I  
22 guess you can say, grandfathered into the old  
23 ordinance and that none of those aspects can  
24 change on their site.

25 So if the applicant isn't ready,

1 let's say, in three years to come back for  
2 final approval because they're still working  
3 through conditions or for whatever other  
4 reason that they don't come back, they can  
5 apply to the Board for extensions of that  
6 preliminary approval for two more years. But  
7 that's up to the applicant. It's not up to  
8 the Board to -- you know, the Board can grant  
9 those. Obviously they can ask.

10 But the applicant can come back in a  
11 couple of months if they've worked through  
12 these issues with the professionals. They  
13 believe that they have a plan that complies  
14 with the parameters and the conditions that  
15 are being established. They can come back  
16 immediately and request final as soon as, you  
17 know, they're finished doing what they said  
18 they would do.

19 BOARD MEMBER MALINOUSKY: Are there  
20 any restrictions on what they cannot do with  
21 preliminary? Can they still go ahead with all  
22 of their planning and testing?

23 MS. MAZIARZ: They can do all of  
24 that. Any remediation that's going on right  
25 now, the Board doesn't have jurisdiction over

1 that anyway. All of that is going to  
2 continue. The only thing that they cannot  
3 do -- and obviously they can't anyway. They  
4 don't have architectural plans. They can't  
5 get a building permit and construct anything.  
6 But they can't anyway. The architectural  
7 plans aren't complete.

8 BOARD MEMBER MALINOUSKY: But  
9 nothing would be put on hold on preliminary  
10 with them moving forward?

11 MS. MAZIARZ: Look, we gave the  
12 applicant an opportunity to tell us on the  
13 record here today what exactly is going to be  
14 put on hold? Nothing is going to be put on  
15 hold. The only thing, the only thing that I  
16 see, and that's only according to the  
17 definition of construction permit in your  
18 ordinance, is demolition is under the  
19 definition of construction permit. So if the  
20 Board waives that in any approval and says,  
21 look, you don't need to wait for final if you  
22 want to start demolition tomorrow if you're  
23 able to, the Board can say that in this  
24 resolution. The Board can add that. I think  
25 that the rest of the ordinance in the way it's



1 structured supports that type of an exception  
2 from the ordinance, from the land development  
3 ordinance. And I think the Board can do that.

4 So the applicant wouldn't be  
5 precluded from doing any remediation work, any  
6 site work, demolition work. You know, the  
7 only thing they can't do is construct, at this  
8 point construct buildings, but they can't  
9 anyway.

10 Even if you were to grant final site  
11 plan approval tonight, they still can't  
12 construct anything until they've satisfied the  
13 conditions because until they satisfy them,  
14 you're not going to have architectural plans  
15 that are going to be able to be designed, you  
16 know, and finalized by an architect.

17 BOARD MEMBER MALINOUSKY: Okay.  
18 Thank you.

19 CHAIRMAN HANDS: Just, David, to  
20 the -- let me ask another question to Board  
21 members. Other than fill, architecture,  
22 possible setback, and I have a note on the  
23 sidewalk, and I'll leave the retail building  
24 out now, does anybody see any other areas of  
25 substantial -- you know, where they might want

1 to review any changes? Whether it be lights,  
2 whether it be landscape. Or are we just  
3 really focused at this point on architectural,  
4 fill, in particular architectural, fill, plus  
5 we add the sidewalk and I'm not sure about  
6 setback. I just want to make sure there's  
7 nothing else.

8           MAYOR RAE: Yeah, I mean, I think  
9 that seems to be it, David, right. But, I  
10 mean, I don't know whether you're going  
11 towards limiting a review of a potential  
12 final, but I really don't see -- I don't see  
13 the need to limit it, right, I mean, because  
14 I'd like -- you know, as I say, I'd like to  
15 see it, one final -- one final view of it.  
16 You know, as Jolanta said, in many respects,  
17 it's kind of a rubber stamp if everything's  
18 been met. I'm okay with that. But I'd like  
19 to see it all, right.

20           And Dennis made I think a really  
21 important point and that is that the  
22 residents, right, who you may not always agree  
23 with them or the way that they express  
24 themselves necessarily, but they've been  
25 really very, very engaged in this, in all of

1 these -- you know, we've sat through 12  
2 meetings. They have, too, and they've been  
3 very engaged with it. And I think, you know,  
4 we owe it to our residents for one last  
5 hurrah, just say, okay, here's where all the  
6 work that you've put in has taken us and this  
7 is what you've achieved, right. I mean,  
8 because they have been -- you know, as I say,  
9 they've really been kind of partners with us.  
10 They've definitely helped this process  
11 immensely.

12           And so, you know, to Dennis's point,  
13 I think that would be -- that in itself to me  
14 is -- you know, justifies preliminary, let's  
15 look at it, and then do the final.

16           And, also, I hadn't thought of this  
17 before, but Jolanta mentioned that, you know,  
18 maybe there's a subgroup of the Board who  
19 could work with -- who could work with our  
20 professionals and the applicant, you know, and  
21 these three important points that you just  
22 mentioned, you know, have risen to the top,  
23 maybe that's something that we want to  
24 consider as well and that just makes it that  
25 much better. Because some of us have strong

1 opinions on certain aspects and others don't  
2 share necessarily those strong opinions. But  
3 I think we could work together that way and  
4 feel confident, you know, whenever we do see  
5 the final that it's a good work product.

6 CHAIRMAN HANDS: Thank you.

7 And, Jolanta, with -- if you go down  
8 that sort of approach, still coming back for  
9 final, but not making a -- I hate to use the  
10 word rubber stamp, but certainly not a drawn  
11 out process before the Board, with a  
12 subcommittee maybe working with the  
13 professionals beforehand, are we limiting  
14 ourselves to final to being -- or can we limit  
15 to a very specific review?

16 MS. MAZIARZ: I think final by its  
17 nature has to be a very specific review  
18 because the only thing that you do in final is  
19 confirm that they are in compliance with the  
20 same zoning regulations that you found them to  
21 be in compliance with during preliminary and  
22 that they've satisfied any conditions, you  
23 know, in order to enable them to be more in  
24 compliance with the zoning ordinance and the  
25 design standards. I think that's all you do

1 in final, is just -- you are ensuring that  
2 they've done what they said they were going to  
3 do in preliminary. What the Board imposed  
4 upon them in preliminary is done. And that's  
5 the reason why applicants often will apply for  
6 preliminary and final together because final  
7 is that much of a rubber stamp. It is that  
8 much of a simple acknowledgment that  
9 everything that they got in preliminary has  
10 been completed.

11 CHAIRMAN HANDS: Thank you.

12 BOARD MEMBER SANDOW: I think that  
13 it's important to notice that the gating issue  
14 here is probably the reinforcement of the  
15 sewer system by American Water and that is  
16 very likely to take the contractual length of  
17 time, which is, I think, five years. If we  
18 grant final approval tonight, there probably  
19 won't be construction for another four or five  
20 years and that's a long time to expect the  
21 citizens who have commented to wait around and  
22 see just what they're going to get when the  
23 bulldozers start working, which is why I think  
24 a final review at some point just prior to  
25 construction start would be appropriate in

1 terms of maintaining relationships with the  
2 residents who put so much into this.

3 CHAIRMAN HANDS: Okay.

4 MS. MAZIARZ: Okay. Except that if  
5 the applicant who chooses when to come back  
6 for final. So it's up to the applicant  
7 really.

8 CHAIRMAN HANDS: Just before we go  
9 to -- turn it over to Bob and Frank, just to  
10 maybe summarize, there's many conditions that  
11 you suggested, Jolanta. Some of them are very  
12 functional, right. They have to comply with  
13 testimony, et cetera. Very functional stuff.

14 MS. MAZIARZ: Yes.

15 CHAIRMAN HANDS: One or two are a  
16 little bit above and beyond, like the, you  
17 know, correspondence backwards and forwards  
18 with various agencies, things like that,  
19 that's reasonably okay.

20 The subcommittee, if we went down  
21 that path, do we just limit that review to,  
22 I'll just use the words architecture and fill  
23 for the moment, are they able to limit that  
24 review just to those points and then they'll  
25 have final at a later point in time? All

1 being well, it's not a rubber stamp, but it's  
2 not a drawn-out process at that point.

3 MS. MAZIARZ: Right. Well, it  
4 shouldn't be a drawn out process at that  
5 point.

6 CHAIRMAN HANDS: Is that a fair way  
7 to summarize it?

8 MS. MAZIARZ: Yes.

9 CHAIRMAN HANDS: Frank, Bob, you've  
10 heard the conversation.

11 MR. FOURNIADIS: Oh, yeah, I've  
12 heard it, and I thought we were going in the  
13 right direction, but now we're talking about  
14 coming back for final in four years and  
15 changing setbacks, which, by the way, is 30  
16 feet, not 20 feet. And we're not changing the  
17 setbacks. We're not redesigning the site.  
18 We're not moving the buildings further away  
19 from Stone House Road. I mean, we've agreed  
20 to everything that you've asked for. And  
21 every time we agree to it, you ask for  
22 something else, which I'm envisioning now  
23 since someone mentioned the public, that when  
24 we come back for final, we're going to have  
25 public comment and we're going to have another

1 eleven meetings while everybody is debating  
2 whether the plans that we submitted are good  
3 enough for Millington or whether the -- we  
4 should have tried harder to reduce the site to  
5 5 feet instead of 3 and 1/2 feet. And  
6 obviously you don't trust your professionals  
7 because you want a subcommittee to oversee  
8 their work.

9           And I'm getting to the point right  
10 now that I don't think this application is  
11 ever going to be approved, you know, without  
12 us having to go to court. Because what I'm  
13 hearing right now says we're just going to  
14 kick the can down the road, we're going to  
15 public -- you can give me preliminary and  
16 final and have the professionals and the  
17 subcommittee address the issues that we talked  
18 about if you don't just want the professionals  
19 to do it.

20           And one Board member is leaving I  
21 heard at the end of this year.

22           CHAIRMAN HANDS: Yes.

23           MR. FOURNIADIS: So another Board  
24 member leaves. If somebody's not reappointed,  
25 I -- I don't know.



1                   CHAIRMAN HANDS: Jolanta, how do  
2 we -- how do we --

3                   MR. FOURNIADIS: I just don't know.  
4 I thought we had made some progress with the  
5 conditions, but now it looks like everybody  
6 wants to have more public hearings, invite the  
7 public, let them tell me how much they don't  
8 like our project or our designs and how much  
9 I'm destroying the character of Millington  
10 Village, which still no one's ever defined for  
11 me. So I know that's not an answer to your  
12 question, but frankly I don't know how to  
13 answer your question, David.

14                   CHAIRMAN HANDS: Thank you.

15                   MR. FOURNIADIS: I'm done.

16                   MAYOR RAE: I mean, Bob, if I can  
17 just say a word to one thing. I think the  
18 whole setback thing was really -- it came from  
19 me. It was a suggestion. It certainly didn't  
20 seem to get any traction with the rest of the  
21 Board. So, you know, it was a thought. It  
22 was more of a -- it was more in the vein of,  
23 you know, what do you -- is it something that  
24 would be feasible? It certainly wasn't -- I  
25 wasn't presenting it as -- as a -- as a -- as

1 a -- as necessarily a condition that had to be  
2 complied with. It was more just is it  
3 something that would help? So, you know, that  
4 was -- I hope you didn't take that --

5 MR. FOURNIADIS: No matter what I  
6 took, we haven't even met with Mr. Lanzafama  
7 to show him the grading plan and you're  
8 already talking about moving buildings around.

9 MAYOR RAE: No, as I say, it was a  
10 thought. It was a thought on my part because  
11 I'm concerned about the -- about the massing  
12 of the -- of the buildings on that  
13 particular -- or of the site on that  
14 particular road.

15 So, you know, I hate for you to kind  
16 of blow that suggestion up for more than --  
17 for more than it was. And I think all we're  
18 really doing here is -- it's not a matter of  
19 we don't trust our professionals. We  
20 absolutely trust our professionals. But I  
21 think what we want to do here is we -- you  
22 know, I think Board members feel -- as I said  
23 before, do have strong -- strong opinions on  
24 certain subjects. And it's, like, well, if we  
25 want to have a better product at the end of

1 it, where everybody feels -- feels more  
2 ownership, then perhaps we move forward with  
3 the -- with the subcommittee idea.

4 And then the idea is that at the end  
5 of it -- I'm not looking for 11 hearings,  
6 right. That's -- that -- that doesn't serve  
7 any of us. What I'm looking for here is that  
8 at the end of it, we can -- we can -- we can  
9 present. This is -- this is -- this is -- the  
10 conditions were all met. This is how they  
11 were met. We're all happy with that.

12 And as I said, I think Dennis, you  
13 know, was the first one to make the point. I  
14 think we do have a very engaged group of  
15 residents here and it -- it -- it allows them  
16 to see what the final product looks like. And  
17 that's -- and that's -- that inures to the  
18 benefit of both the Town and you as well  
19 because, again, you don't -- you don't have a  
20 group of suspicious residents who are, you  
21 know, looking at everything you do and  
22 wondering what it all means.

23 It's -- it really just goes to what  
24 you had -- what you had spoken about in prior  
25 hearings and I kind of warmed to, that you do

1 want to be, you know, a good kind of corporate  
2 citizen here in -- here in Long Hill, and I  
3 think you have been, right? I've been  
4 impressed by how much you've been willing to  
5 work with us. And this is all I'm really  
6 looking for. It's just an extension of that,  
7 of what I've seen before. It's not trying to  
8 make your life or Prism's life any more  
9 difficult.

10 BOARD MEMBER SANDOW: And as an  
11 aside, Prism will become the largest taxpayer  
12 in town and that can only work to reduce my  
13 tax bill.

14 MS. MAZIARZ: That's irrelevant,  
15 Dennis.

16 CHAIRMAN HANDS: Jolanta, are we --  
17 okay. Let's just go a little bit further  
18 from -- the discussion about setbacks is off  
19 the table now. So design, fill, must be a  
20 sidewalk, subcommittee. Is that something  
21 that Bob is supportive of, a subcommittee  
22 working with the professionals?

23 MR. FOURNIADIS: I'm supportive of  
24 that as a condition of final.

25 CHAIRMAN HANDS: I understand.

1           MR. FOURNIADIS: A subcommittee of  
2 as many people as you like. We'll meet with  
3 them as often as they can stand us. I'm going  
4 to get to work on the revised plans starting  
5 tomorrow, maybe even tonight. I'm going to  
6 wake up the architect and the engineer. But  
7 as a condition of final, a subcommittee,  
8 professionals, the more the merrier.

9           CHAIRMAN HANDS: Right.

10          BOARD MEMBER PFEIL: I suggest we go  
11 down that route. We already -- we already --  
12 I think we already agreed that we trust our  
13 professionals. Let's -- let's get -- let's  
14 get three members of the current Planning  
15 Board and those who will be around next year  
16 to form a committee to work with them and  
17 proceed to final site plan approval tonight.

18          CHAIRMAN HANDS: Anybody dis --  
19 anybody else, comments on that? I think  
20 that's essentially a given at this point, a  
21 subcommittee. It's a question of final versus  
22 not final tonight, if -- if -- if as a  
23 condition of approval.

24                    Anybody else, comments?

25                    So, Tom, without putting words in

1 your mouth, you sound like you have final and  
2 preliminary tonight.

3 BOARD MEMBER MALINOUSKY: Say again,  
4 David.

5 CHAIRMAN HANDS: I think without  
6 putting words in your mouth, you are along the  
7 lines of Alan of final and preliminary at the  
8 same time?

9 BOARD MEMBER MALINOUSKY: I would  
10 tend to agree, yes.

11 CHAIRMAN HANDS: Okay. Victor,  
12 which side are you? Final and preliminary at  
13 one time or is it preliminary and final later?

14 BOARD MEMBER VERLEZZA: I'm  
15 preliminary and final later.

16 CHAIRMAN HANDS: Okay. Brendan,  
17 which way are you still?

18 MAYOR RAE: I'm still the same.  
19 Preliminary with final.

20 CHAIRMAN HANDS: Dennis?

21 BOARD MEMBER SANDOW: Preliminary  
22 and final later.

23 CHAIRMAN HANDS: Yeah. John.

24 BOARD MEMBER FALVEY: Well, I think  
25 if you only did a preliminary, I think

1 Mr. Fourniadis is going to go to court and  
2 then you're going to get stuck with something  
3 disgusting.

4 BOARD MEMBER PFEIL: Amen. Amen.

5 BOARD MEMBER FALVEY: I don't like  
6 to think that. That's what I think.

7 CHAIRMAN HANDS: You're preliminary  
8 and final.

9 BOARD MEMBER FALVEY: And to be  
10 fair, it's probably the right thing for his  
11 company. Maybe not the right thing for  
12 Millington.

13 CHAIRMAN HANDS: Tom, where would  
14 you be on this?

15 VICE CHAIRMAN JONES: Preliminary  
16 and final later.

17 Was this a pre-vote?

18 MS. MAZIARZ: No, just polling the  
19 Board.

20 BOARD MEMBER VERLEZZA: Just to be  
21 clear, I just want to get -- I think I do have  
22 my head wrapped around this. It's been  
23 explained enough. If we give preliminary  
24 approval with final approval later, we are  
25 giving an approval. It just has to come up

1 with -- we just get to see it one more time  
2 before the final approval.

3 VICE CHAIRMAN JONES: Yes.

4 MS. MAZIARZ: Yes.

5 BOARD MEMBER VERLEZZA: So it's not  
6 going to -- it's not going to put a halt to  
7 the process. It's not going to slow down  
8 Mr. Fourniadis and his process of getting the  
9 site developed. He can give us one last look  
10 at it before we get to final approval, but he  
11 is getting an approval.

12 MS. MAZIARZ: Right.

13 MR. FOURNIADIS: And if you disagree  
14 with what your professionals recommend, then  
15 I'm back to the drawing board until the next  
16 time you disagree with what the professionals  
17 recommend.

18 BOARD MEMBER VERLEZZA: Is that  
19 true? Is that true?

20 CHAIRMAN HANDS: Jolanta?

21 MS. MAZIARZ: Is what true?

22 BOARD MEMBER VERLEZZA: In other  
23 words, I thought -- I'm under the impression  
24 if we grant a preliminary approval tonight,  
25 it's an approval. It comes up in front of us



1 one more time, we take a look at it, the  
2 public gets to take a look at it, and he gets  
3 his final approval. I'm not under the  
4 impression that the applicant risks going to  
5 the drawing board all over again. That I  
6 wouldn't be okay with.

7 VICE CHAIRMAN JONES: Yeah, I'm not  
8 under that impression either.

9 CHAIRMAN HANDS: Go ahead, John.

10 BOARD MEMBER FALVEY: I was under  
11 the impression -- let's say we give  
12 preliminary approval pending issues with the  
13 fill, pending, you know, setback requests,  
14 pending architecture which you seem to be  
15 willing to work with the Town on architecture.  
16 So let's say he doesn't do that, he comes back  
17 in four years and the Board then says, well,  
18 we're not granting you final approval because  
19 you didn't remove X amount of yards of fill,  
20 you didn't set it back. I mean, is that what  
21 preliminary means? Like, you can start work,  
22 but you still have to comply with a few more  
23 things we threw in?

24 MS. MAZIARZ: Well, that goes -- the  
25 same is true for final. The only difference

1 is -- you still have to comply with everything  
2 for final as well. I mean, not for final, but  
3 after final. You still have to comply with  
4 everything that you'll have to comply with  
5 after preliminary. The only difference is if  
6 preliminary and final is granted today, then  
7 the applicant simply doesn't have to come back  
8 later.

9 But I understand the applicant's  
10 concern. The applicant's concern -- and I  
11 hear Mr. Falvey's concern and also Mr. Pfeil's  
12 concern, is that the applicant comes back,  
13 these conditions, as I mentioned before, you  
14 know, the parameters of some of the conditions  
15 are -- you know, they're a little bit open  
16 ended, like the architectural, the  
17 architectural design. What is acceptable to  
18 one person or beautiful to one person may not  
19 be the same as to another person. But I think  
20 that the architectural design criteria is  
21 tight enough, you know, and with the change  
22 from HardiePlank to something else, that, you  
23 know, I think it's good enough that we have a  
24 pretty good guide.

25 But the fear is that the applicant

1 comes back for final sometime in the future,  
2 it could be three years from now if that's  
3 what the applicant chooses, it could be two  
4 months from now if that's what the applicant  
5 chooses, and that we are going to have many  
6 hearings again and that the Board might be  
7 persuaded by members of the public at that  
8 point to completely change the plan.

9 I can tell you that that should not  
10 happen. I can't tell you that that will not  
11 happen. I will try to advise the Board at  
12 that time, if the Board should grant  
13 preliminary and not final, that that should  
14 not happen.

15 If the parameters and guidelines  
16 have been complied with, then final approval  
17 is final approval and it is -- as I said  
18 before, for lack of a better term, it's a  
19 rubber stamp. It's just simply an  
20 acknowledgment that, yes, they've complied  
21 with what they promised to comply with in  
22 preliminary.

23 And as I said before, that's why  
24 oftentimes applicants ask for both at the same  
25 time, because final should not be a

1 regurgitation of everything that happened in  
2 preliminary. So, in other words, the public  
3 isn't going to get an opportunity to come out  
4 and say, no, no, no, now we're going to  
5 object, we're going to give you plans, we're  
6 going to change the whole thing. No, we're  
7 all working within whatever was imposed in  
8 preliminary. That's it.

9 BOARD MEMBER PFEIL: But that's not  
10 what you just said.

11 BOARD MEMBER VERLEZZA: I know. I'm  
12 confused.

13 MS. MAZIARZ: No. Wait. What did I  
14 --

15 BOARD MEMBER PFEIL: What you just  
16 said, I think what I heard, was that the Board  
17 could entertain other -- other points from the  
18 public and require significant changes again  
19 after --

20 MS. MAZIARZ: No, no, no. I said --  
21 I shouldn't have said "could." I said it  
22 might.

23 BOARD MEMBER PFEIL: Well, I is --

24 MS. MAZIARZ: Might is --

25 (Indiscernible cross talk; reporter

1 requests one speaker.)

2 MS. MAZIARZ: Sorry.

3 BOARD MEMBER PFEIL: But "might" is  
4 risk to the applicant when the applicant --  
5 when the application he's submitted is  
6 conforming. That's what I don't get.

7 MS. MAZIARZ: If that's what the  
8 applicant is concerned with, then that's what  
9 the Board has to grapple with at this time, is  
10 that, yes, certainly if the applicant comes in  
11 for final in a couple of months, if the Board  
12 declines to grant final right now, might the  
13 public show up and try to redo the entire  
14 plan? Yes, they might. Might the Board allow  
15 them? Hopefully not. But might, yes, that's  
16 what the applicant is afraid of. But what I'm  
17 trying to tell the Board is that should not  
18 happen.

19 And the Board is going to have to  
20 review this application not like it's coming  
21 to you anew, only to the extent that the plans  
22 had to be amended in accordance with those  
23 conditions that we are fashioning for if it's  
24 preliminary, it's preliminary.

25 If final is granted tonight, if

1 there is an approval and it's for preliminary  
2 and final, the applicant is still going to  
3 have to comply with those conditions before  
4 they're going to be able to do any  
5 construction on the site, before they're going  
6 to be able to build anything.

7 So the only difference is it doesn't  
8 come back before the Board. It goes directly  
9 to the professionals and then the  
10 professionals sign off.

11 Now, if there's an argument about  
12 what a condition means, you know, or whether  
13 or not an applicant has satisfied it after  
14 final, then the applicant has a couple of  
15 choices. Either the applicant comes back  
16 before the Board, the applicant goes to court.  
17 The applicant has -- you know, has their  
18 remedies at law and they're going to have to  
19 decide what they're going to do about that. I  
20 mean, I'm not going to advise the applicant at  
21 this point. But the applicant is concerned  
22 and I think the Board should consider the  
23 applicant's concerns, obviously, and I think  
24 it's a reasonable concern given that we've  
25 been doing this for 12 hearings. So

1 understood.

2 CHAIRMAN HANDS: Thank you.

3 MR. FOURNIADIS: I'm not concerned  
4 about the Board reopening the entire  
5 application no matter how much the public  
6 comes in and pleads. My concern is I spend  
7 three months working with your professionals  
8 to come up with a plan, elevations that  
9 everybody loves. We bring it in front of the  
10 Board. Half of the Board members, including  
11 the new member, no, I don't like it.

12 Then the public stands up. I don't  
13 like it either. I don't like it either.  
14 Nineteen people have been showing up for 11  
15 months, all stand up -- because these aren't  
16 stupid people. These are very smart people.  
17 They're good people. You know, as I said many  
18 times, they're welcome to come rent apartments  
19 if we ever build this thing. Yeah, we're  
20 going to come in and complain that we don't  
21 like it. It's destroying the character of  
22 Millington Village. Okay, Mr. Fourniadis,  
23 Mr. Lanzafama, Ms. Leheny, back to the drawing  
24 board, come back in three months and we'll  
25 consider it again. And then this happens

1 again and again and again and again.

2           And that's very difficult to appeal  
3 because I agree to it. But if I get final  
4 with a condition required to be satisfied,  
5 satisfy the professionals and a subcommittee  
6 of the Board, that I can live with because  
7 eventually you have to be reasonable. But if  
8 I just have preliminary, I'm going to be here  
9 forever. Actually, I won't be here forever  
10 because I'll probably be asked to leave for  
11 totally screwing up this application and not  
12 getting an approval by agreeing to things that  
13 I don't have to agree to.

14           You don't have an architectural  
15 review provision in your ordinance. You can't  
16 force it on me. You can't deny me because of  
17 it. You can't deny me because of the grading.  
18 And I'm agreeing to all these things now. And  
19 once I agree to them, I'm stuck with them.  
20 And I'm just going to be on a hamster wheel.  
21 And I'm not going to do that.

22           If I don't get preliminary and final  
23 tonight, I'm not going -- I'm going to  
24 withdraw those conditions that I agreed to and  
25 take my chances in court. As you pointed out,



1 we're not getting sewer for three or four  
2 years, so I've got plenty of time to go to  
3 court and come back and build exactly with  
4 what's in front of you today.

5 But I don't want to do that. I want  
6 to give you something that you like, even  
7 though you're not entitled to it. But you  
8 have to be reasonable with me. And I think  
9 with yourselves, too, because you don't want  
10 to go through this again, but you're going to.  
11 And I'm really done for the evening. I'm not  
12 going to talk anymore.

13 CHAIRMAN HANDS: Thank you, Bob.

14 Having now heard those comments, I'm  
15 going back over the same questions as earlier.  
16 Final versus preliminary if we approve it,  
17 both together or not? Has anybody changed  
18 their opinion?

19 BOARD MEMBER VERLEZZA: Yeah,  
20 because what's exactly the difference based on  
21 what Mr. Fourniadis just said? He agrees to  
22 the subcommittee. He agrees to this -- if we  
23 granted -- since he agrees to those  
24 conditions, if we granted, you know,  
25 preliminary and final tonight versus

1 preliminary and then final, since he agrees to  
2 the conditions that he just mentioned, what's  
3 the real difference? Is there really any  
4 difference other than it prevents the  
5 possibility of this happening another 12  
6 times?

7 CHAIRMAN HANDS: Dragging out the --

8 MS. MAZIARZ: Yes.

9 CHAIRMAN HANDS: Just so you know,  
10 I'm still leaning towards that way. A  
11 subcommittee, let's get it done, final and  
12 preliminary.

13 BOARD MEMBER VERLEZZA: Did I hear  
14 yes? I'm sorry, did I hear yes, Jolanta?

15 MS. MAZIARZ: Yes, you're correct.  
16 I mean, the only difference is granting  
17 preliminary and not final is, you know, for  
18 the Board to be able to review this once again  
19 before you grant final. But if you're  
20 satisfied, if the Board is satisfied to grant  
21 preliminary and final with conditions and a  
22 subcommittee, the Board is perfectly entitled  
23 to do that. That's what the applicant asked  
24 for.

25 BOARD MEMBER PFEIL: Well, then, why

1 don't we move forward with selecting or  
2 getting volunteers for a committee and let's  
3 get this to a vote?

4           MAYOR RAE: I mean, are we really --  
5 you know, I've heard all the posturing, right,  
6 you know, and I still think there's good  
7 reason -- look, we're not going to go through  
8 another 11 meetings here with a preliminary.  
9 We're just not. It's basically we're going to  
10 hear back, this is what it looks like, this is  
11 it. There's going to be -- we -- if -- the --  
12 the professionals are going to be satisfied,  
13 otherwise they wouldn't bring it, that  
14 everything's been done, we get to look at it.  
15 We get everybody -- the residents get to look  
16 at it and that's it. They've complied.

17           There's going to be no more 11  
18 meetings. It will just be -- again, it's  
19 just -- it's tying a bow around this  
20 application which has gone on for 12 meetings,  
21 right. And a lot of people are confused as  
22 to, okay, what is the final thing actually  
23 going to look like in its entirety? That's  
24 all we're doing here, is saying give everybody  
25 that last shot at doing that, tie it up in a

1 bow and let that happen.

2 The applicant is not being -- from  
3 everything that's been said, preliminary, yes,  
4 tonight is not impeding them in any way, shape  
5 or form in moving this project forward. It's  
6 not.

7 MR. FOURNIADIS: Not true.

8 MAYOR RAE: And so I think  
9 that to -- you know, to say, as Mr. Fourniadis  
10 said, hey, I'm -- if I don't get it, I'm going  
11 to court and I'm going to roll the dice in  
12 litigation and all the rest of it, okay, that  
13 may very well be what he does, but I don't  
14 think it's the prudent thing to do. You have  
15 a preliminary approval. You have a path  
16 forward. And all we're asking for here is one  
17 final. This is -- everybody, this is what it  
18 looks like, Board members and public, this is  
19 what it looks like at the end of the day.  
20 This is what you spent all those 12 meetings  
21 sitting about talking. This is it. And then  
22 you're done.

23 So that's what we're -- that's what  
24 we're doing. And I think -- I personally  
25 think that's important.

1                   BOARD MEMBER VERLEZZA: I do, too,  
2 but what you just said, is there any way of  
3 guaranteeing that that's what happens?

4                   MAYOR RAE: Well, first of all, we  
5 have --

6                   BOARD MEMBER VERLEZZA: I'm not  
7 arguing, by the way. I just --

8                   MAYOR RAE: It's all to do with --  
9 with -- with the Board and -- and how we  
10 conduct our business. And it can be done that  
11 way that we get to review it just as I've  
12 said. No -- no going back to the drawing  
13 board. No tweaks. Nothing else. It's just  
14 this is what we have and this is what it looks  
15 like in its entirety. Everybody gets to see  
16 it. The Board members, public. We're all  
17 happy at least that we've seen it.

18                   BOARD MEMBER VERLEZZA: Okay.

19                   MAYOR RAE: And we've seen the  
20 fruits of the labor, right, because this has  
21 been a long road for us, for us and the  
22 residents. And so let's just -- let's just  
23 show everybody this is -- this is the final  
24 product. And that's all I'm asking for here.  
25 And --

1                   VICE CHAIRMAN JONES: Can we put  
2 that in the resolution?

3                   MAYOR RAE: It's just being  
4 collegiate.

5                   BOARD MEMBER VERLEZZA: I agree.

6                   VICE CHAIRMAN JONES: Can we put  
7 that in a resolution?

8                   MAYOR RAE: Sorry?

9                   VICE CHAIRMAN JONES: Can we put  
10 that in the resolution?

11                  MAYOR RAE: What's that? I'll  
12 ask -- I'll ask Jolanta.

13                  MS. MAZIARZ: Well, you know, what  
14 Mayor Rae just said a moment ago is absolutely  
15 true. It's a matter of how Board business is  
16 conducted. The Board has now heard I think  
17 for the last, what, three hours, and you talk  
18 about the same thing over and over, that final  
19 approval is not for redoing the application or  
20 redoing the architectural aspects of the  
21 application or anything else.

22                  It is an opportunity for the Board  
23 to simply confirm -- all right? I'll use that  
24 word -- confirm that the conditions have been  
25 complied with. And upon the recommendation of

1 your professionals and perhaps a subcommittee,  
2 who will make a recommendation to the Board  
3 that we're done, the Board gets it done.

4 CHAIRMAN HANDS: And legally we can  
5 stand behind that, Jolanta? There's nothing  
6 that's going to hurt -- that's fine from a  
7 legal perspective?

8 MS. MAZIARZ: I mean, I can't bind a  
9 future Board to, you know, how they're going  
10 to behave, you know. If it's still this  
11 Board, I mean, I -- you know, we've learned a  
12 lot I think over the last 12 hearings, you  
13 know, and I think that maybe things would go  
14 differently if we had this to do all over  
15 again. So, you know, I have that kind of  
16 faith, but I don't know what's going to happen  
17 in the future.

18 CHAIRMAN HANDS: Yeah, I don't know.  
19 That's the problem.

20 BOARD MEMBER PFEIL: But if you --  
21 if you have another hearing for final site  
22 plan approval, there's nothing to prevent  
23 another group of residents hiring another  
24 objecting attorney and going through the whole  
25 process again. You can't stop that, right?

1 MS. MAZIARZ: No. Actually, at that  
2 point, I don't know what they would be  
3 objecting to. At that point, if the Board  
4 upon consideration of what it's supposed to be  
5 considering for final, that the conditions  
6 from preliminary have been complied with, I  
7 don't think there's anything to object  
8 thereto. I mean, I suppose that someone can  
9 put something on the record, but I think that  
10 what the Board needs to do at that point and  
11 what I would recommend is leave the objectors  
12 to their -- to their legal remedies. Once an  
13 approval is granted for final, they can go and  
14 sue if they like.

15 BOARD MEMBER PFEIL: But the same  
16 thing could be accomplished by granting  
17 preliminary and final tonight.

18 MS. MAZIARZ: You are correct. And  
19 that --

20 BOARD MEMBER PFEIL: And that would  
21 eliminate the risk of potentially having, you  
22 know, a greatly expanded, you know, hearing  
23 six months, a year, two years from now and  
24 meanwhile the applicant is stuck trying to  
25 figure out what he can do and what he -- you



1 know, assuming greater risk all the time.

2 MS. MAZIARZ: You are correct,  
3 Mr. Pfeil, and that is part of this discussion  
4 and deliberation. And, you know, the  
5 applicant has already indicated those same  
6 concerns and has placed them on the record.  
7 So you've heard from him. This is something  
8 that the Board is going to have to weigh.

9 BOARD MEMBER PFEIL: I, for one,  
10 just -- I see Thomas's hand up. I, for one,  
11 would volunteer for that subcommittee.

12 VICE CHAIRMAN JONES: I as well.  
13 Also, note the time.

14 CHAIRMAN HANDS: Yeah. Can we  
15 extend to 11:30?

16 MAYOR RAE: Second.

17 BOARD MEMBER VERLEZZA: Yes.

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

20 CHAIRMAN HANDS: Thank you.

21 MAYOR RAE: I mean, David, rather  
22 than go round and round, right, why don't we  
23 take a straw poll on it now and move on?  
24 Because I think we've all said everything that  
25 we're going to say on it.

1           CHAIRMAN HANDS: My feeling is,  
2 Jolanta, I don't know how far we can, you  
3 know, limit or we should or should not limit a  
4 final approval discussion in the future. I  
5 find it difficult, but, Jolanta, unless you've  
6 got a way of doing that.

7           MS. MAZIARZ: I don't think that I  
8 do. I mean, it is -- again, as Mayor Rae  
9 said, it's part of how the Board conducts its  
10 business. Final approval is final approval.  
11 The MLUL says what it says about what final  
12 approval is. And I've reiterated it a couple  
13 of times. Confirmation that conditions of  
14 preliminary have been satisfied. That's all  
15 it is.

16           CHAIRMAN HANDS: Confirmation.

17           MS. MAZIARZ: It's confirmation.  
18 We're not rehearing everything. It's  
19 confirmation. It's a review and confirmation  
20 that everything's been satisfied from  
21 preliminary because preliminary approval is an  
22 approval.

23           CHAIRMAN HANDS: Right. So let's --  
24 what's the downside? Sorry to belabor this.  
25 What's the downside --

1 MS. MAZIARZ: It's a conditional  
2 approval. So the downside from what I'm  
3 hearing from the applicant's perspective is  
4 reopening a hearing, having objectors and  
5 having this drag out for another, you know,  
6 six months and also perhaps having Board  
7 members themselves unsatisfied with what the  
8 professionals have presented as a final  
9 product and redoing the whole thing. That is  
10 the applicant's -- that is the applicant's  
11 concern and it's fair.

12 And the Board's concern, on the  
13 other hand, is not allowing the Board, the  
14 full complement of the Board and the public,  
15 to have an opportunity to view everything and  
16 have, you know, a discussion about whether or  
17 not it complies with those parameters that  
18 have been established for the applicant before  
19 granting final approval.

20 So that's where you are right now.

21 CHAIRMAN HANDS: All right. So  
22 let's go back then and let's poll the Board if  
23 we can. So between final and -- preliminary  
24 and final together or separate?

25 VICE CHAIRMAN JONES: Mr. Chairman,

1 maybe I make a recommendation. We go to vote  
2 for preliminary, see what that says, and then  
3 go to vote for final.

4 MS. MAZIARZ: I would prefer not to  
5 do that. Let's poll the Board and let's come  
6 up with a motion and second. Otherwise, this  
7 gets way too confusing. Way too confusing.

8 CHAIRMAN HANDS: All right. Who  
9 wants to go first?

10 MAYOR RAE: You know, I'm still the  
11 same. I'm still for preliminary and then  
12 final for all the reasons I stated.

13 CHAIRMAN HANDS: Yep. Alan, you're  
14 the same as you were? Alan, you're on mute.  
15 Alan, you're on mute. Alan, unmute.

16 BOARD MEMBER PFEIL: Preliminary and  
17 final tonight.

18 CHAIRMAN HANDS: All right. Victor?

19 BOARD MEMBER MALINOUSKY: The same.

20 BOARD MEMBER VERLEZZA: From my --  
21 from my position on the Board, I owe it to the  
22 public for them to have a final look. So I am  
23 preliminary tonight as a -- same as Brendan  
24 Rae. Same as the mayor.

25 CHAIRMAN HANDS: Tom M?

1                   BOARD MEMBER MALINOUSKY: I'm still  
2 the same. Preliminary and final.

3                   CHAIRMAN HANDS: Vice Chairman  
4 Jones, where are you again on this?

5                   VICE CHAIRMAN JONES: I'm with Mayor  
6 Rae and Committeeman Verlezza.

7                   CHAIRMAN HANDS: Preliminary  
8 tonight. John?

9                   BOARD MEMBER FALVEY: Something's  
10 getting built there. Right now we have some  
11 say in it. We have some goodwill. You know,  
12 my concern -- look, if I was the developer,  
13 I'd be concerned having to come back here with  
14 all new people. Look, it is what it is. You  
15 know, the courts have spoken. This is the  
16 best deal the Town could cut. You know, why  
17 belabor the point. You know, preliminary and  
18 final.

19                   CHAIRMAN HANDS: Thank you.

20                   BOARD MEMBER FALVEY: I don't like  
21 it, but it's fair.

22                   CHAIRMAN HANDS: Dennis?

23                   BOARD MEMBER SANDOW: Separate.  
24 Preliminary now, final later.

25                   CHAIRMAN HANDS: So I have, I think,

1 four for preliminary and three for preliminary  
2 and final.

3 Am I counting that correctly?

4 MAYOR RAE: I think so, David.  
5 You're the -- you're the man.

6 BOARD MEMBER MALINOUSKY: Final  
7 vote.

8 CHAIRMAN HANDS: Jolanta, what  
9 happens if we can't agree on this? Which way  
10 does the equation sit?

11 MS. MAZIARZ: Okay. So far from the  
12 straw polling, what I'm hearing is the Board  
13 seems amenable to approve this application. I  
14 think I'm correct, right, in that?

15 CHAIRMAN HANDS: Yes.

16 MS. MAZIARZ: Denial is totally off  
17 the table.

18 CHAIRMAN HANDS: That's correct.

19 MS. MAZIARZ: This should be easy  
20 then. If it's simply an approval, you know,  
21 the Board is going to have to come to some  
22 kind of consensus because at this point you're  
23 tied.

24 CHAIRMAN HANDS: Well, we're not  
25 tied yet because I haven't voted.

1 MS. MAZIARZ: Well, no, no, no, no,  
2 no. But your straw poll indicates that there  
3 is a -- you know, there has to have -- there  
4 has to be some common ground in all of this.  
5 And I would -- my expectation would be that  
6 anyone who makes a motion for approval,  
7 regardless what type of approval that is, you  
8 know, that it will be supported by the Board  
9 because everybody's looking at approval one  
10 way or another. That's what the straw poll is  
11 looking like. I'm not going to put words in  
12 your mouth, because once someone makes a  
13 motion, maybe somebody will change their mind  
14 at the very last minute. I don't know.  
15 That's up to you.

16 BOARD MEMBER SANDOW: Don't we need  
17 five votes of the eight in order to pass  
18 anything?

19 MS. MAZIARZ: Five affirmative  
20 votes, yes.

21 BOARD MEMBER SANDOW: Okay. And by  
22 my count, we can't -- we don't have five  
23 affirmative votes for final even regardless of  
24 not knowing how Chairman Hands is going to  
25 vote.

1 BOARD MEMBER PFEIL: That's my read.

2 CHAIRMAN HANDS: Yeah.

3 BOARD MEMBER VERLEZZA: We have  
4 five -- if Chairman Hands voted preliminary  
5 and then final I thought, you would have five.

6 CHAIRMAN HANDS: We would.

7 BOARD MEMBER VERLEZZA: One, two,  
8 three, four, five.

9 CHAIRMAN HANDS: Jolanta, do we need  
10 a majority? If it's a four-four tie, it  
11 doesn't serve us any purpose, does it?

12 MS. MAZIARZ: One, two, three, four,  
13 five. Yeah, you have -- I mean, by my count,  
14 you know, just -- we're straw polling now, so  
15 three people think it should be both and five  
16 people think it should be preliminary, you  
17 know.

18 CHAIRMAN HANDS: Thank you.

19 BOARD MEMBER PFEIL: Four people  
20 think it should be preliminary. Mr. Hands  
21 hasn't voted yet.

22 CHAIRMAN HANDS: What if I went with  
23 preliminary and final tonight? What if it's a  
24 tie? What's the consequence?

25 BOARD MEMBER PFEIL: You're tied.



1 CHAIRMAN HANDS: I know. What's the  
2 consequence?

3 MS. MAZIARZ: Wait a second.

4 CHAIRMAN HANDS: If we're tied,  
5 what's the consequence?

6 BOARD MEMBER PFEIL: It doesn't  
7 pass.

8 MS. MAZIARZ: But it's ridiculous  
9 because you're all talking about approval. So  
10 if you're all talking about approval, you need  
11 to agree to some kind of an approval. This is  
12 an approval we're talking about. You're not  
13 debating a denial versus an approval.

14 CHAIRMAN HANDS: What's the  
15 consequence if we still can't agree on whether  
16 to --

17 MS. MAZIARZ: You know, look --

18 BOARD MEMBER FALVEY: How about take  
19 a vote --

20 (Indiscernible cross talk; reporter  
21 requests one speaker.)

22 BOARD MEMBER FALVEY: Take a vote.  
23 Whatever happens, happens.

24 MS. MAZIARZ: If you refuse to go  
25 forward and a motion doesn't carry because the

1 argument is between an approval and approval,  
2 this applicant is going to court. I mean, I  
3 don't see any other way. So if you're talking  
4 about an approval, I think you should discuss  
5 this further.

6 CHAIRMAN HANDS: Yeah.

7 MAYOR RAE: So, David, what's your  
8 vote? I mean, you're the one we're waiting  
9 on, right?

10 CHAIRMAN HANDS: If we vote for  
11 preliminary, then what's the consequence of  
12 that? And if that's a road we don't want to  
13 go down. That's my only concern about going  
14 preliminary.

15 MAYOR RAE: Then, yeah, I mean, we  
16 have a problem, right, if it's preliminary, if  
17 you're there, you know, as Jolanta just  
18 explained.

19 CHAIRMAN HANDS: Yeah.

20 MAYOR RAE: You know, and it  
21 probably requires more -- somebody -- somebody  
22 breaking, right?

23 CHAIRMAN HANDS: There's only eight  
24 of us right now, you know; there's not nine,  
25 right? So there's not a full Board. Right

1 now we're leaning towards preliminary only and  
2 final later. That's the way it's leaning. At  
3 best. Because at best it's going to be four  
4 and four. So I think four and four, you have  
5 to go towards preliminary first.

6 BOARD MEMBER VERLEZZA: I think  
7 we're -- sorry.

8 CHAIRMAN HANDS: Go ahead, Victor.  
9 Go ahead, Victor.

10 BOARD MEMBER VERLEZZA: I'm sorry.  
11 I just want to reiterate we're all in  
12 agreement with approval. That we're all in  
13 agreement with. And we're also in agreement  
14 with --

15 MS. MAZIARZ: So far.

16 BOARD MEMBER VERLEZZA: -- to not  
17 have this drag on for another 12 meetings.  
18 One more meeting and the applicant gets their  
19 final approval. Is that what I'm hearing?  
20 Should we go with preliminary and then final?

21 CHAIRMAN HANDS: Yeah. The drawback  
22 of final is what happens -- what if it doesn't  
23 go as smoothly as that? What happens if now  
24 some Board members now suddenly change their  
25 view? What happens?

1           MAYOR RAE: They can't change their  
2 views. I mean, you know, there's -- maybe  
3 this is splitting the baby, right, Jolanta,  
4 but --

5           MS. MAZIARZ: Oh, yes, yes, you're  
6 splitting this baby.

7           MAYOR RAE: Maybe even multiple --  
8 but, you know, is there some way -- I mean, I  
9 think really all we're looking to do here --  
10 or I'm looking to do anyway is to say, hey, I  
11 want to see what this final thing looks like.  
12 That's all. Right? And then I think the  
13 public deserves it, we deserve it, just for  
14 doing what we've done.

15           So, Jolanta, if we went through with  
16 a preliminary and final, is there some way  
17 that that could be stipulated that that's what  
18 happens, that we get that as a --

19           MS. MAZIARZ: Okay. If you do  
20 preliminary and final right now, right,  
21 nothing that this applicant is going to do in  
22 the future will be done in secret. It's all  
23 going to be public record. No, it's not going  
24 to come before the Board anymore as a hearing  
25 or for a hearing because they're not going to

1 be required unless something happens, unless  
2 they want a condition clarified or excised or  
3 whatever. Then they might happen to come  
4 before the Board again.

5           If something goes wrong and they  
6 need to amend their site plan in any way, they  
7 will have to come back before the Board for an  
8 amended site plan. None of those things are  
9 off the table because none of this is really,  
10 you know, complete to the -- you know, to the  
11 extent that it is absolutely finished and  
12 we're going to be signing off on site plan  
13 tomorrow.

14           So any of those things could happen.  
15 So, you know, there may still be an  
16 opportunity for a hearing even if you grant  
17 final now. But if they comply with all of  
18 your conditions, then, no, they will not be  
19 coming back for any reason before the Board.  
20 But there is absolutely no reason for a  
21 subcommittee who is working with the  
22 professionals not to be able to come back  
23 before the Board and report on what's going  
24 on. I mean, you can appoint a subcommittee to  
25 do pretty much anything, to engage in any work

1 that the Planning Board is doing.

2 And if you have a subcommittee  
3 that's working with the professionals and the  
4 applicant after a final, for instance, there's  
5 nothing that precludes them from coming back  
6 and making a report that this is what  
7 happened, this is, you know, what the  
8 professionals and the subcommittee approved.  
9 This is what satisfied the conditions. This  
10 is what is happening. And that can be done in  
11 public and the public can have an opportunity  
12 to take a look at it then.

13 So, yeah, the Planning Board can  
14 still talk about this after the fact. It just  
15 won't be an application.

16 CHAIRMAN HANDS: With that said,  
17 Jolanta, is it possible that that approach  
18 could be taken before this final site plan is  
19 signed, the site plan is signed?

20 MS. MAZIARZ: Absolutely. Before --  
21 yes. Before the final site plan is signed by  
22 the Chairman, yeah, absolutely. The  
23 subcommittee can report back to the Planning  
24 Board just to tell them how everything is  
25 going.

1           CHAIRMAN HANDS: With that -- then  
2 would that at least get it back to the  
3 Planning Board without -- would that be  
4 satisfactory? Would that be satisfactory to  
5 anybody who wants to do preliminary only  
6 tonight? The subcommittee works with the  
7 professionals, keeps abreast of what's going  
8 on, presents a report before the site plan is  
9 -- the final site plan is signed by the Chair  
10 and the -- and the secretary.

11           MS. MAZIARZ: I'll make a  
12 suggestion. Anyone who's concerned and who is  
13 suggesting that it be preliminary only -- and  
14 this is just a suggestion -- perhaps should  
15 volunteer for the subcommittee and be part of  
16 what happens after approval. Post-approval  
17 compliance.

18           MAYOR RAE: I mean, I think that,  
19 you know, we're at a deadlock here and it's  
20 crazy, you know, really, you know, because  
21 we're kind of all saying the same thing. We  
22 want to have approval.

23           MS. MAZIARZ: It's very crazy, yeah.

24           MAYOR RAE: And, right. And so, you  
25 know, I think that's -- I think that

1 suggestion is probably a good one and the  
2 reports back to the -- to the Board so that at  
3 least these major pieces can be -- can be, you  
4 know, seen by the Board and then also by --  
5 you know, most importantly by the -- by the  
6 public. You know, I think I would be -- that  
7 is something I guess, you know, it's one of  
8 those things where, you know, I would  
9 compromise on that. I mean, I'm not happy  
10 with it necessarily. It's not what I want,  
11 but I think I would be -- I could compromise  
12 on that. Because it's really kind of  
13 achieving what I want, what I think is  
14 important here.

15 CHAIRMAN HANDS: Appreciate that,  
16 Brendan.

17 BOARD MEMBER PFEIL: Can we have a  
18 motion to do that then?

19 BOARD MEMBER MALINOUSKY: I agree.

20 CHAIRMAN HANDS: Before we do that,  
21 I just want to make sure. I heard Victor say  
22 you're okay with Vice-Chair Jones, were you  
23 comfortable with that approach?

24 MR. REGAN: Are you asking us, the  
25 applicant?



1                   CHAIRMAN HANDS: No, no. Mr. Tom  
2 Jones. I just want to see what your opinion  
3 was, if it changed -- again, to clarify, if we  
4 do preliminary and final tonight, still with a  
5 subcommittee, subcommittee reports back to the  
6 Planning Board in public prior to the site  
7 plan being signed by the Chairman and the  
8 secretary at the time.

9                   VICE CHAIRMAN JONES: I'm going to  
10 be on the subcommittee, so --

11                   MS. MAZIARZ: So you're a yes.

12                   VICE CHAIRMAN JONES: Don't put  
13 words in my mouth.

14                   MR. FOURNIADIS: I hate to --

15                   VICE CHAIRMAN JONES: I'm still on  
16 the preliminary and final later. That's where  
17 I'm at.

18                   BOARD MEMBER SANDOW: From our point  
19 of view as members of the Board, the  
20 subcommittee reports at every meeting, then we  
21 get to discuss it at every meeting for the  
22 next two years.

23                   MS. MAZIARZ: If that's what you  
24 want to do.

25                   BOARD MEMBER VERLEZZA: I think the

1 vote has swayed. I think based on the  
2 conditions that we just discussed, that we  
3 would go with a preliminary and final based on  
4 those conditions. Is that what I'm hearing,  
5 Mayor Rae?

6 MAYOR RAE: I think, yeah, I mean,  
7 yeah, it seems that way. I think we've moved  
8 it because we have to get -- we have to come  
9 to a decision here on --

10 BOARD MEMBER PFEIL: I think the  
11 applicant has his hand up.

12 CHAIRMAN HANDS: Wait, wait.

13 MAYOR RAE: I'm done.

14 CHAIRMAN HANDS: Thank you. Bob,  
15 please.

16 MR. FOURNIADIS: I hate to interrupt  
17 this Kumbaya moment after I said I wouldn't  
18 talk anymore, but I've been doing this a long  
19 time. So the subcommittee comes back to the  
20 Board and says here's what we came up with and  
21 we strongly recommend it, what happens? Can  
22 the Board vote no? And if they can, then it's  
23 just like giving me preliminary and I've got  
24 to come in for final for a vote.

25 CHAIRMAN HANDS: I think at this

1 point, my way of taking it is it's presented  
2 to the Board and for public review, and it's  
3 not -- it's not a change to whatever the  
4 subcommittee and the professionals and the  
5 applicant agree to.

6 MR. FOURNIADIS: So the Board does  
7 not have to vote to approve it.

8 CHAIRMAN HANDS: No. If you get  
9 final tonight, I mean, what's --

10 MR. FOURNIADIS: I'm saying when the  
11 subcommittee comes back, Chairman, and says  
12 we've met with the applicant. They've come up  
13 with a plan that we really, really like; we  
14 had some input, here it is, isn't it  
15 beautiful? And the Board says, eh, do they  
16 have to vote to accept the recommendation of  
17 the subcommittee? Because if the answer to  
18 that is yes, then you're still just giving me  
19 preliminary and I have to come back in for  
20 final.

21 CHAIRMAN HANDS: That's not my way  
22 of taking it, but, Jolanta, what's your --  
23 just give a legal --

24 MS. MAZIARZ: No. Once this Board  
25 grants preliminary and final, if that is

1 the -- look, if the only reason that this  
2 Board is granting preliminary is so that the  
3 Board and the public will still get an  
4 opportunity to see what is going to be built  
5 on that site, then that will be accomplished  
6 with this subcommittee idea coming in after  
7 final.

8           If there is -- if there is a desire  
9 for the Board to have more input than that,  
10 then -- then it's preliminary and not final.  
11 But in this case -- and what I've been hearing  
12 from the Board for the last hour is that the  
13 idea here is to allow others to see what is  
14 going to be built on that site. This  
15 accomplishes that.

16           And once the Board votes to grant  
17 final, it's final. The only thing the  
18 applicant is going to be required to comply  
19 with are these conditions and the conditions  
20 are going to have parameters and limits. So  
21 it's not going to be where the subcommittee  
22 comes back and somebody says push the  
23 buildings back 40 feet because that's not in  
24 the resolution. That's not a condition.  
25 That's not within the parameters, you know,

1 and I don't -- you know, and there has to be a  
2 happy medium. It's not one or the other. If  
3 the subcommittee comes back and says, look --  
4 you know, they're looking at, I don't know,  
5 stucco in this one spot and somebody says, no,  
6 I'd rather have siding, is it that big of a  
7 deal to change that along the way? I don't  
8 know.

9 MR. FOURNIADIS: No, it's not. It's  
10 not. Look, I think we've shown that we're  
11 willing to work with you.

12 MS. MAZIARZ: Precisely. Precisely.  
13 And I believe that you said, Mr. Fourniadis,  
14 initially that you'd be willing to work with  
15 any subcommittee after the fact.

16 MR. FOURNIADIS: Right.

17 MS. MAZIARZ: So that's what I'm  
18 hearing. I'm trying to -- I'm trying to help.

19 CHAIRMAN HANDS: Tom, did you want  
20 to say something?

21 VICE CHAIRMAN JONES: No.

22 CHAIRMAN HANDS: Alan, you've got  
23 your hand up.

24 BOARD MEMBER PFEIL: Are we ready  
25 for a motion then?

1                   CHAIRMAN HANDS: I'm getting close  
2 to it.

3                   Bob, can I just make sure with you,  
4 Mr. Fourniadis, that you're okay with what you  
5 just heard?

6                   MR. FOURNIADIS: I'm okay with what  
7 I just heard.

8                   CHAIRMAN HANDS: All right.  
9 Jolanta, how do you want to proceed with -- do  
10 we need to go through those conditions again  
11 or have you got them on record and we're  
12 sufficient with that?

13                   MS. MAZIARZ: We have them on  
14 record. And let me just clarify that the  
15 suggestions that were made, pushing buildings  
16 back were rejected by the balance of the  
17 Board. So that will not become a condition.  
18 There was a discussion opened about perhaps  
19 revisiting the retail building, which was also  
20 rejected by the balance of the Board. So that  
21 will also not become a condition because the  
22 Board is satisfied with what the applicant's  
23 last iteration is.

24                   So all of the other conditions that  
25 we read into the record, those will be the

1 conditions of any approval if the Board  
2 approves this, and I'm thinking that's where  
3 we're going. And I will certainly, just so  
4 that everybody is comfortable and everyone  
5 understands that this is a site plan  
6 application, an as-of-right application, based  
7 upon an ordinance that was written  
8 specifically for this site. It is an  
9 affordable housing inclusionary site. And,  
10 you know, I understand that the Board -- the  
11 straw polling that we've been doing all of  
12 this time, the Board is leaning toward  
13 approval, which is probably the right thing to  
14 do.

15           So it will be subject to these  
16 conditions and then also what we have also  
17 mentioned about the subcommittee. And at this  
18 point, if anyone -- if any member of the Board  
19 would like to make a motion, then if we have a  
20 second and a majority vote, I think we can  
21 move on with this.

22           And I certainly will collaborate  
23 with Mr. Regan and with the Board to make sure  
24 that these conditions -- and of course with  
25 our Board professionals, to make sure that

1 these conditions are acceptable, make sure  
2 they're tight, make sure that they comport  
3 exactly with what happened on the record.

4 CHAIRMAN HANDS: Thank you. So very  
5 quickly, do we need to go into subcommittee  
6 members now or is that something we can do  
7 later?

8 MS. MAZIARZ: That's something you  
9 can do later. The Planning Board always has  
10 the power to appoint a subcommittee to do its  
11 work.

12 CHAIRMAN HANDS: Does anybody have a  
13 desire to tackle that now or we do it another  
14 time?

15 BOARD MEMBER PFEIL: Another time.

16 CHAIRMAN HANDS: All right. So let  
17 me have -- Jolanta, I think the suggestion --  
18 or the motion is to grant preliminary and  
19 final site plan, conditions noted,  
20 subcommittee to work with the applicant and  
21 Board professionals until -- prior to the  
22 final site plan -- and report back to the  
23 Board prior to the site plan being signed by  
24 the Chairman and the secretary at the time.

25 Is that the way I'm understanding



1 it?

2 MS. MAZIARZ: Right.

3 CHAIRMAN HANDS: Yes?

4 MS. MAZIARZ: Right.

5 CHAIRMAN HANDS: All right. Do I

6 have a motion for that?

7 BOARD MEMBER PFEIL: So moved.

8 CHAIRMAN HANDS: And a second?

9 BOARD MEMBER MALINOUSKY: Second.

10 MAYOR RAE: Second. Sorry, Tom.

11 CHAIRMAN HANDS: Roll call.

12 COORDINATOR COONCE: Mr. Pfeil?

13 BOARD MEMBER PFEIL: Yes.

14 COORDINATOR COONCE: Mayor Rae?

15 MAYOR RAE: Yes.

16 COORDINATOR COONCE: Committeeman

17 Verlezza?

18 BOARD MEMBER VERLEZZA: Yes.

19 COORDINATOR COONCE: Mr. Falvey?

20 BOARD MEMBER FALVEY: Yes.

21 COORDINATOR COONCE: Mr. Malinousky?

22 BOARD MEMBER MALINOUSKY: Yes.

23 COORDINATOR COONCE: Mr. Sandow?

24 BOARD MEMBER SANDOW: Yes.

25 COORDINATOR COONCE: Vice Chairman

1 Jones?

2 VICE CHAIRMAN JONES: No.

3 COORDINATOR COONCE: I'm sorry?

4 VICE CHAIRMAN JONES: No.

5 COORDINATOR COONCE: No. Okay.

6 Chairman Hands?

7 CHAIRMAN HANDS: Yes.

8 COORDINATOR COONCE: Motion -- the  
9 yeses have it. Motion carries.

10 MR. FOURNIADIS: Thank you.

11 CHAIRMAN HANDS: Thank you to the  
12 Board. Thank you to the public. Everybody  
13 who's bared with us for these many hours of  
14 meetings. And, Bob, thank you to yourself  
15 and --

16 MR. FOURNIADIS: What -- what do I  
17 do now the second and fourth Tuesdays of the  
18 month, Chairman?

19 CHAIRMAN HANDS: Work with the  
20 subcommittee.

21 BOARD MEMBER PFEIL: Watch football  
22 games.

23 MR. FOURNIADIS: As soon as they're  
24 public again, I will be there. Thank you. I  
25 look forward to working with the subcommittee

1 and the professionals.

2 CHAIRMAN HANDS: Thank you. Thank  
3 you.

4 Deb, just one minor thing of last  
5 business unless there's anything else that's  
6 on your mind?

7 COORDINATOR COONCE: No, nothing. I  
8 will see everybody at the reorganization  
9 meeting on January 12th.

10 CHAIRMAN HANDS: Thank you. So with  
11 that said, then, I think, John Falvey, this is  
12 your last meeting. I appreciate all the work  
13 you've done over the last couple of years now,  
14 I think it is, and your views have definitely  
15 helped us strengthen the applications that  
16 we've seen before the Board so thank you for  
17 your time.

18 BOARD MEMBER PFEIL: Thank you.

19 MAYOR RAE: John, thank you. And  
20 I'll miss you. So thanks for everything.

21 BOARD MEMBER FALVEY: I'll be  
22 around. I'm going to watch that thing get  
23 built.

24 CHAIRMAN HANDS: So with that, do we  
25 have a motion to adjourn the meeting?

1                   MAYOR RAE:    So moved.

2                   BOARD MEMBER PFEIL:   Just a happy  
3 New Year to everybody first.

4                   CHAIRMAN HANDS:    Yes.

5                   BOARD MEMBER MALINOUSKY:   Motion to  
6 adjourn.

7                   CHAIRMAN HANDS:    Happy New Year.

8                   COORDINATOR COONCE:   Happy New Year,  
9 everybody.

10                  MS. MAZIARZ:    Happy New Year.

11                  CHAIRMAN HANDS:    I think, Alan, you  
12 seconded.   Tom, you approved the motion.  
13 Everybody have a good new year.   Thank you.

14                  (Whereupon, the hearing was  
15 concluded at 11:21 p.m.)

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