

BOROUGH OF WATCHUNG

PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

**Regular Meeting
June 16, 2020**

**OFFICIAL MINUTES
Adopted July 21, 2020**

Chairwoman Schaefer called the Regular Meeting to order at 7:30 p.m. Board members present were Mr. Ellis, Ms. Pennett, Mayor Balla, Councilman Martino, Mr. Speeney, Ms. Spingler, Mr. Pote and Mr. Fiorilla. Also present were Francis P. Linnus, Esq., Board Attorney, Mr. Thomas Herits, Board Engineer, Mark Healey, Board Planner and Theresa Snyder, Board Clerk. There were 16 members from the public present.

Chairwoman Schaefer read the statement indicating the meeting was being held in compliance with N.J.S.A. 10:4-6 of the Open Public Meetings Act, the Municipal Land Use Law requirements, and the recording of the Minutes as required by law. She also stated that in order to comply with the executive orders signed by the governor, and in an effort to follow best practices recommended by the CDC, the meeting was being held virtually for all board members, board professionals, the applicant, the applicant's professionals, interested parties and members of the public. The Board members identified themselves for the record. She then led the flag salute to the American flag.

MINUTES

On motion by Mr. Speeney, seconded by Mr. Fiorilla, the transcript of the February 18, 2020, Regular Meeting was accepted and carried on voice vote.

Regular Meeting Minutes, May 19, 2020

On motion by Mr. Speeney, seconded by Mr. Ellis, the May 19, 2020, Regular Meeting Minutes were accepted and carried on voice vote.

Mayor Balla made a motion to rescind the Resolution to dismiss application PB 19-01 and grant Karka Investment and Phillip Properties the opportunity to file an amendment to the application and grant them a 90 extension.

Mr. Linnus advised that although the Mayor could make that motion, the Resolution reflects the action the Board took at their last meeting. He further advised that there was nothing in the Resolution that would hinder the property owner to file an application.

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The Mayor's motion would require a second. For the integrity of the action previously taken, he advised the Board to proceed with the Resolution.

Mr. Fiorilla seconded the Mayor's motion.

Mayor Balla requested to explain his motion. He opined that after reading the transcripts and doing further research, he had concluded the following four things:

1. The legal counsel for the Board said that the BNE could assign rights to the property owner.
2. The property owner does not have to be the designated redeveloper.
3. The property owner was listed on the BNE application, and there is a form to amend the applicant's name.
4. There is no legal issue that would require the property owner to go before the Mayor and Council.

Mr. Linnus advised to enter closed session.

Madam Chair read the Resolution PB 20-R7 to enter Executive Session.

On motion by Mr. Speeney, seconded by Mr. Pote, the Board entered executive session based on the following roll call vote:

Roll Call:

Ayes: Mr. Ellis, Councilman Martino,
Ms. Pennett, Mayor Balla, Mr. Speeney, Mr. Pote,
Mr. Fiorilla and Madam Chair

Nays:

Not Eligible:

Abstain:

Absent: Ms. Spingler

At the conclusion of the Executive Session, the Board closed the closed portion of the meeting, and Opened the Open portion of the meeting. Roll call was taken to ensure all members were present.

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RESOLUTION PB 20-R6

DISMISSING THE APPLICATION OF BONNIE BURN
URBAN RENEWAL ENTITY LLC (BNE)

Mr. Linnus gave a description of the action taken that resulted in Resolution PB 20-R6.

Madam Chair read the Resolution into the record.

On motion by Mr. Pote, seconded by Mr. Ellis, the Board memorialized the resolution based on the following roll call vote:

Roll Call:

Ayes:	Mr. Ellis, Ms. Pennett, Mr. Speeney, Mr. Pote and Madam Chair
Nays:	Mayor Balla
Not Eligible:	Councilman Martino and Mr. Fiorilla
Abstain:	
Absent:	Ms. Spingler

On motion by Mr. Speeney, seconded by Mr. Pote, the Board authorized Mr. Linnus to work with the borough attorney in response to the letter from Mr. Coakley based on the following roll call vote:

Roll Call:

Ayes:	Mr. Ellis, Councilman Martino, Ms. Pennett, Mayor Balla, Mr. Speeney, Mr. Pote, Mr. Fiorilla and Madam Chair
Nays:	
Not Eligible:	
Abstain:	
Absent:	Ms. Spingler

CASE NO.: PB 20-01; CITY MD URGENT CARE

ADDRESS: 1640 US RT. 22

BUILDING C

BLOCK: 6101 LOT: 5

Represented By: Patrick J. McNamara, Esq.

HD ZONE

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The contents of the City MD Urgent Care application are in the attached transcript.

On motion by Ms. Pennett, seconded by Mr. Speeney, the Board approved the application with conditions base on the following roll call vote:

Roll Call:

Ayes:

Mr. Ellis, Councilman Martino,
Ms. Pennett, Mayor Balla, Mr. Speeney, Mr. Pote,
Mr. Fiorilla and Madam Chair

Nays:

Not Eligible:

Abstain:

Absent:

Ms. Spingler

Mayor Balla asked if the Board would go back to his motion to rescind Resolution PB 20-R6 which dismissed the BNE application without prejudice.

Mr. Fiorilla was in favor of this motion and opined that dismissing the application might add unnecessary barriers to the construction of the site.

Madam Chair said she was following legal counsel.

Mr. Speeney opined that the Board should continue with what was already approved.

Councilman Martino expressed that he would like to see minimal exposure to litigation as not to extend Borough funds.

Madam Chair suggested that Mr. Linnus be authorized to work with the property owners in offering a special meeting if necessary.

Mr. Speeney and Mr. Ellis requested that the Mayor's motion be tabled until Mr. Linnus could talk with the property owners.

On motion by Mayor Balla, seconded by Mr. Fiorilla, the Board denied the motion to rescind Resolution PB 20-R6 and grant Karka Investment and Phillip Properties the

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opportunity to file an amendment to the application and grant them a 90-extension based on the following roll call vote:

Roll Call:

Ayes:	Councilman Martino, Mr. Fiorilla and Mayor Balla
Nays:	Mr. Ellis, Mr. Speeney, Mr. Pote and Madam Chair
Not Eligible:	
Abstain:	Ms. Pennett
Absent:	Ms. Spingler

On motion by Madam Chair, seconded by Mr. Speeney, the Board authorized Mr. Linnus to correspond with the property owners and offer them a special meeting to discuss what course of action they desire to take based on the following roll call vote:

Roll Call:

Ayes:	Mr. Ellis, Councilman Martino, Mayor Balla, Mr. Speeney, Mr. Pote, Mr. Fiorilla and Madam Chair
Nays:	
Not Eligible:	
Abstain:	Ms. Pennett,
Absent:	Ms. Spingler

On question of Madam Chair, Councilman Martino informed the Board that the "Fence Ordinance" was revised to take out the word "Walls". The Borough Council was concerned with land disturbance.

PUBLIC COMMENT

The meeting was open to the public. There were no comments from the public.

ADJOURN

The Board unanimously voted to adjourn the meeting at 10:34 pm.

Respectfully Submitted,



Theresa Snyder
Board Clerk

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IN THE MATTER OF:

TRANSCRIPT

Case No. PB-20-01

CITY MD URGENT CARE OF

1640 US ROUTE 22

Block 6101, Lot 5 PROCEEDINGS

HD Zone

-----x

Tuesday June 16, 2020

GoToMeetings Remote Hearing

Commencing at 8:53 p.m.

BOARD MEMBERS PRESENT:

TRACEE SCHAEFER, Chairwoman

DONALD SPEENEY, Vice Chairman

PIETRO (PETE) MARTINO, Councilman

ALBERT ELLIS

KAREN PENNETT

KEITH BALLA, Mayor

STEPHEN POTE

PAUL FIORILLA

A P P E A R A N C E S

FRANCIS LINNUS, ESQUIRE

Attorney for the Board

SCARINCI HOLLENBECK

BY: PATRICK J. McNAMARA, ESQUIRE

Attorneys for the Applicant

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

2

3

THERESA SNYDER, Board Secretary

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5 TOM HERITS, Township Engineer

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1 CHAIRWOMAN SCHAEFER: Okay. Now

2 we are on to Mr. McNamara and that group

3 and team. Thank you so much for putting

4 up with us and just working with us on

5 this tonight.

6 I'm now calling application PB

7 20-01, City MD Urgent Care. This

8 application is coming in front of us to

9 build out one of the pad sites of the

10 Seritage sites on Route 22.

11 As most of you remember,

12 Seritage, the old Sears site, was granted

13 preliminary and final approval on the site

14 which was not only consistent for retail,

15 but for pad sites. Each pad sites

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16 requires a final and this applicant is
17 coming in front of us to get approval in
18 building out one of the pad sites and this
19 requires some variances.

20 Mr. McNamara, you are on mute.

21 We can't hear you.

22 MR. McNAMARA: Thank you. Sorry

23 for that.

24 Pat McNamara from Scarinci

25 Hollenbeck on behalf of the applicant.

2 (Pages 5 to 8)

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1 Just to put this in the proper context, as
2 the Madam Chairwoman was saying, this has
3 been a multiyear phase project that
4 involved construction of the new Cinemark
5 Movie Theater, several retail
6 establishments where we have an Ulta, a
7 Sierra and a David's Bridal, Home Goods,
8 and hopefully one or two more tenants.
9 And two of the four pads have
10 been spoken for. There's a Chick-fil-A
11 that's under construction and soon to be
12 completed. And we recently received
13 approval from the Zoning Board to replace
14 the Zinburger, which unfortunately walked
15 away from the project, but fortunately
16 Miller's Ale House is here and we have an
17 approval for them to go on that pad.
18 So after tonight this would
19 hopefully leave just one pad left to be
20 developed at some point in the future.
21 With regard to the variance
22 relief, as has been noted in the reports
23 we received from the Board planner and
24 Board engineer, we believe the two
25 variances we've asked for are no longer

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1 co-founder of City MD.

2 MR. LINNUS: Okay. Your

3 witness, Counsel.

4 MR. McNAMARA: Thank you.

5 DIRECT-EXAMINATION

6 BY MR. McNAMARA:

7 Q. Dr. Shami, if you could please describe

8 for the Board what you're looking to propose with

9 the City MD facility that's of interest this

10 evening?

11 A. I'd be happy to. Thank you.

12 First, and foremost, thank you for having

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13 us at all on the agenda this evening, Madam Chair,
14 Mayor, and members of the Board. We appreciate your
15 time.

16 I'll give you a quick elevator pitch in
17 terms of who we are. City MD was founded in 2010.
18 We operate roughly 140 centers across New York and
19 New Jersey. And we were founded by a group of ten
20 physicians back in 2010, all of my partners, to
21 really do a very simple thing: To simplify access
22 to care to the communities we serve.
23 And we -- I'm an ER doctor by training.
24 And in that environment -- and hopefully none of you
25 have needed the ER, but if you have, that's the

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1 needed in terms of the setback and in
2 terms of the parking variance since that
3 was recently granted as part of the
4 amended approvals we secured for the
5 Chick-fil-A and Miller's Ale House. The
6 parking configuration on the plans that
7 are before you is identical to that that
8 was approved by the Zoning Board of
9 Adjustment. But just in case you defer on
10 that, I do have our planner here to
11 testify as well.

12 Our first witness will be
13 Mr. Nedal Shami from the City MD Urgent
14 Care. He will present. And I'd like to
15 ask that he please be sworn in at this
16 time so we can proceed.
17 N E D A L S H A M I, having
18 been duly sworn by the Board attorney, was
19 examined and testified as follows:
20 MR. LINNUS: And you want to
21 state your name and address for the record
22 and spell your last name, please.
23 THE WITNESS: Certainly. Nedal
24 Shami, S-H-A-M-I. I'm chief growth
25 officer and physician founder --

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1 environment we came from. We recognize a need in the
2 community for expeditious care that focused on access
3 to both primary and episodic care on -- in a timely
4 basis and in an environment that was consumer
5 oriented, if you will. We really simplified parts of
6 the health care equation for the customers. So that
7 was our broad -- broad mission of the company.
8 As it relates to our project here, we
9 are -- we're excited to enter the community,
10 hopefully. And this particular project is

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11 roughly -- to go to the location, is roughly
12 4,000-plus square feet. Nine exam rooms. It
13 would be our typical services, which are episodic
14 in nature, urgent care, from colds, coughs,
15 fractures. Anything that is nonlife threatening.
16 Life threatening would go to the emergency room,
17 of course. But any nonlife threatening yet urgent
18 matter is something our providers would see.
19 Our offices are all staffed by
20 physicians. There's always at least one doctor on
21 at each location with either a physician's
22 assistant and/or other ancillary staff. It was
23 roughly -- for a mature office, there's roughly 20
24 or so staff members. A little less in the
25 beginning as we ramp up. Again, that's one doctor

3 (Pages 9 to 12)

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1 at all times. Two or three folks, we call them
2 customer representatives, in the front to greet,
3 register and perform intake. And then an extra
4 technician and two or three other technicians that
5 assist the physician, whether it's blood draws or
6 scribing in the room. That's the general
7 staffing.
8 As I mentioned, the room has -- the average
9 site has about nine rooms in it with an x-ray -- with
10 x-ray capabilities in all our locations. So there is
11 an x-ray unit for orthopedic-type injuries and the
12 like.
13 And we roughly see -- at maturity we see in
14 New Jersey anywhere we see roughly 30 or 40 patients
15 a day. For us maturity usually occurs at around year
16 two, once we get into the community and people know
17 we're there.
18 We pride ourselves on quality and
19 speed. We think that's relevant for a lot of the
20 committees like yourselves that we've presented
21 to. Quality, you know, I can spend a lot of time
22 talking about that, but I don't know if that's --
23 I'm happy to do so, but we -- we have physicians
24 at every site, like I said, board certified
25 physicians. Predominantly emergency medicine

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1 the staff generally actually work the full shift.
2 So they arrive 30 minutes before and they leave at
3 the end of their shift typically.
4 In terms of deliveries and other things
5 to be expected, all of our patients arrive on
6 their own accord. We don't take any ambulance
7 transfers. We don't participate like a hospital
8 would. This is a private practice essentially.
9 We do on occasion have patients that have to leave

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10 by ambulance. That is considered a rare event for
11 us. But if someone were to present inadvertently
12 with a life-threatening illness, we would call
13 9-1-1 just as any other shop would do.
14 And we receive packages kind of like
15 any other retail. Really no special packages, I
16 would say. It's your typical box delivery which
17 tends to happen very early in the morning, as well
18 as some scheduled cleaning services which happen
19 late at night. Usually overnight for us.
20 And that's about -- that's about it in
21 terms of services. I will stop there with the
22 general overview.

23 Q. Let me -- let me jump in with a couple
24 of additional questions.

25 Does the facility provide COVID-19

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1 and/or internal medicine at all our locations.
2 As it comes to customer service and our
3 patient service, we really focus on the ability to
4 get someone in and out in a timely manner. And we
5 see a lot of patients in the tristate area. Our
6 average through time this year, from the minute
7 you finish your registration to the minute you
8 leave, is roughly 38 minutes. And we pride
9 ourselves on keeping that under an hour. Of
10 course there are cases that go above that, but on
11 average we are able to maintain a pretty timely
12 and efficient process for the members of the
13 community that we serve.
14 And that's a bit about City MD, an
15 overview of what we do. There might be some
16 specific questions relating to -- I think I was
17 asked to address some parking -- questions around
18 parking as well as our typical in and out.
19 So besides employees who usually arrive
20 about 30 minutes to 15 minutes before their shift,
21 our hours are roughly -- 12 hours a day, roughly 8
22 to 8 on the weekdays and 9 to 5, 9 to 6 on the
23 weekends, depending on the location. We are open
24 seven days a week predominantly most of our
25 centers -- all of our centers, I should say. And

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1 testing?

2 A. Yes, it does. All of our facilities
3 provide COVID 19 testing.

4 Q. And what type of PPE provisions do you
5 make for your employees and staff?

6 A. Yeah. So we are following the
7 guidelines of both the CDC and New York and New

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8 Jersey Department of Health. So the PPE for us
9 includes your typical N95 mask. We actually have
10 our own policy which exceeds both state and
11 federal. We're double mask, face shield, full
12 gown for our -- for all of other employees and
13 masks required in the facility with temperature
14 checks for all of our potential patients.

15 Q. Okay. In terms of handling both medical
16 waste and solid waste, could you briefly describe
17 how that's managed at these types of facilities?

18 A. Yeah. Generally regular trash is,
19 again, like traditional retailers, early morning
20 pickup, and the medical is roughly -- we contain
21 it. For the sharps that are contained on site,
22 are picked up twice a month.

23 Q. And those are the systems that are
24 regulated by the New Jersey Department of
25 Environmental Protection, the medical waste

4 (Pages 13 to 16)

Page 13

1 containers that are handled?

2 A. That's correct.

3 Q. Okay. In terms of security, does your
4 site -- does your site -- does your facility have
5 cameras? other types of monitoring? What's
6 provided in that regard?

7 A. Yeah, it does. Our entire -- all of our
8 facilities are managed through our security and IT
9 platform. All have roughly eight to twelve
10 cameras across the facility. The only thing
11 that's -- we have a locked cabinet with some
12 medications. We do not carry any narcotics on
13 site. The only medications, generally speaking,
14 are antibiotics and nonnarcotic pain meds, like
15 Advil and Motrin. But, nonetheless, we do keep
16 those in a locked facility on site. But there are
17 no regulated medications on site.

18 Q. Okay. And if the Borough requested,
19 you'd be more than willing to meet with the police
20 department to go over your security protocols,
21 camera securities and the like, so that they're
22 familiar with your establishment?

23 A. We'd be happy to.

24 Q. Thank you.

25 MR. McNAMARA: Madam Chair, I

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1 centers and all of them are primarily
2 focused in retail corridors.

3 Our suburban -- our suburban
4 footprint is primarily pad sites, is our

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5 ideal. You know, because of the nature of
6 our business, it's site-based care, we
7 like to have a top-of-mind presence as a
8 typical retailer with the ease of access
9 which is what makes -- what we believe
10 makes what CD is offering somewhat
11 convenient for the customer or patient.
12 But this is a typical layout, typical site
13 selection for us.

14 COMMISSIONER POTE: Thank you.

15 And then the -- one follow-up I
16 have is you did indeed talk about how
17 ambulances might need to arrive for a
18 patient that you have indicated needs that
19 type of assistance.

20 Do you feel that the facility
21 that you see in terms of the plans are
22 consistent with being able to get somebody
23 out quickly if necessary?

24 THE WITNESS: Yeah, absolutely.

25 Of course we follow all the ADA

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1 have no further questions of the witness
2 at this time.

3 CHAIRWOMAN SCHAEFER: Thank you.

4 Any Board members have questions
5 for this witness?

6 Okay. Yes, Mr. Pote.

7 COMMISSIONER POTE: Yes. Just a
8 couple of quick questions. You may have
9 asked it and I just missed it. In year
10 two, you hit the maturity. Did you
11 discuss the average number of patients
12 that you expect to see at that time?

13 THE WITNESS: It's roughly --
14 it's roughly 40 patients a day at
15 maturity.

16 COMMISSIONER POTE: Okay. The
17 configuration that exists with regards to
18 your facility on this pad site with the
19 retail that's around it, is this typical
20 of some of the configurations that you
21 have in some of the other facilities?

22 THE WITNESS: It is. It is.

23 Almost -- at almost all of our centers, as
24 I said, we are operating -- by the end of
25 the year, we'll be operating roughly 144

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1 guidelines, but we're very cognizant of
2 transport when and if needed and we feel
3 the facility is appropriately designed for

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4 that purpose.

5 COMMISSIONER POTE: Okay. Thank

6 you.

7 Thank you, Madame Chairperson.

8 CHAIRWOMAN SCHAEFER: Thank you.

9 Anyone else from the Planning

10 Board?

11 COMMISSIONER SPEENEY: Yeah, I

12 have a question, Tracee.

13 All right. With regard to the

14 employees and the shifts, typically how

15 many employees are there per shift? And

16 is there parking set aside for those

17 employees?

18 THE WITNESS: So the typical

19 shift, depending again -- I'll speak --

20 I'll speak at the maturity, at the

21 maturity level. You'll see roughly seven

22 employees there on a shift. Seven to

23 eight employees there on a shift.

24 In terms of whether parking is

25 set aside, not to my knowledge. We

5 (Pages 17 to 20)

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1 generally don't do that. I don't know if

2 we have that in this plan or not, but I

3 could defer to my team who might be on the

4 call. But generally we do not have

5 parking allocated specifically for our

6 team members.

7 COMMISSIONER SPEENEY: All

8 right. I'm okay.

9 CHAIRWOMAN SCHAEFER: All right.

10 I do have a question. You had originally

11 said 20 staff members. Did I -- did I

12 miss that?

13 THE WITNESS: No, that's the

14 total amount of people we would hire. But

15 based on that, that's the full-time

16 equivalent. Twenty people would create

17 about eight people per shift.

18 CHAIRWOMAN SCHAEFER: Got it.

19 Thank you.

20 THE WITNESS: We're hoping --

21 it's 80 hours a week, so it's...

22 CHAIRWOMAN SCHAEFER: Thank you.

23 COMMISSIONER PENNETT: Tracee?

24 CHAIRWOMAN SCHAEFER: Yes.

25 COMMISSIONER PENNETT: Can you

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1 people in the front as intake and a

2 manager and an assistant manager. So

3 about a five-three split.

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4 COMMISSIONER PENNETT: Okay.

5 Thank you.

6 THE WITNESS: Sure.

7 COUNCILMAN MARTINO: Excuse me,

8 Chair.

9 CHAIRWOMAN SCHAEFER: Yes.

10 COUNCILMAN MARTINO: I have a

11 question in with regards to fire

12 protection.

13 Is this building planned on

14 being sprinklered?

15 MR. McNAMARA: I believe the

16 building may be too small, but we did

17 receive comments from the borough fire

18 department. And Mr. Aguilar will testify

19 that we will meet all of those

20 requirements, but I'll defer to the

21 architect and engineer as to the exact

22 answer with regard to sprinklers. But

23 I'll have to defer to Mr. Kim. I think it

24 might be too small, but I'll defer to him.

25 COUNCILMAN MARTINO: Correct.

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1 hear me now?

2 CHAIRWOMAN SCHAEFER: Yes, we

3 can hear you.

4 COMMISSIONER PENNETT: Okay.

5 Okay. My mic came back on. I do have a

6 question.

7 You said your staff was -- you

8 said seven or eight per day or per shift?

9 THE WITNESS: Per shift.

10 COMMISSIONER PENNETT: Now, how

11 many -- is that all medical or is some of

12 that clerical?

13 THE WITNESS: Some of that is

14 clerical. The typical -- so we only

15 really have one doctor on per shift and,

16 plus or minus, a physician assistant if it

17 gets very busy. At 30 to 40 patients,

18 generally speaking, that is one doctor on

19 at all times. He would have an x-ray

20 tech, who's a clinical position, and he

21 would have a medical assistant and a

22 scribe. And those are all considered in

23 the clinical realm.

24 So there would be about four to

25 five clinical folks. There'd be two

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1 You're one story and you're under 10,000

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2 square feet. But just in public safety
3 consideration, we would love to see a
4 suppression system installed. I'll just
5 put that out there in the meeting.
6 Thank you.
7 CHAIRWOMAN SCHAEFER: Any other
8 comments -- or questions, I'm sorry, for
9 this gentleman?
10 MR. HERITS: Is a shift 12 hours
11 for your staff or is this some other
12 configuration?
13 THE WITNESS: Several
14 configurations. There are twelves, eights
15 and tens.
16 MR. HERITS: Okay. But the most
17 employees at any one shift would be
18 seven -- six or seven employees?
19 THE WITNESS: Seven or eight
20 roughly.
21 MR. HERITS: Okay. Thank you.
22 CHAIRWOMAN SCHAEFER: Any other
23 questions?
24 Anyone from the public have
25 questions for this witness?

6 (Pages 21 to 24)

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1 Okay. Mr. McNamara.
2 MR. McNAMARA: Thank you. I
3 like to call our architect, Mr. Kim.
4 May I have him sworn in, please?
5 MR. LINNUS: Where are you, sir?
6 Oh, Hi.
7 K E N N E T H Y. H. K I M,
8 having been duly sworn, was examined and
9 testified as follows:
10 MR. LINNUS: Do you want to
11 state your name and address for the
12 record? And please spell your last name.
13 THE WITNESS: Sure. It's
14 Kenneth Y.H. Kim. First name Y-O-N-G-H-O.
15 Last name is K-I-M, as in Mary.
16 MR. LINNUS: Your witness,
17 Counsel.
18 Oh, your address, sir. Your
19 address.
20 THE WITNESS: 154A Morningside
21 Lane, Palisades Park, New Jersey.
22 MR. LINNUS: Your witness,
23 Counsel.
24 MR. McNAMARA: Thank you.

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25 DIRECT-EXAMINATION

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1 CHAIRWOMAN SCHAEFER: Yes,

2 absolutely. Thank you.

3 MR. McNAMARA: Thank you.

4 BY MR. McNAMARA:

5 Q. Mr. Kim, we're showing what is part of

6 the application package and it's Sheet PB-2. If

7 you could please describe that and then proceed to

8 describe it in general terms, the overall exterior

9 layout of the proposed medical facility.

10 A. Sure. I'll show the facade and

11 elevation for the benefit of the Board since I

12 cannot show samples. If I can screen share for a

13 minute to show our previous project, City MD, I

14 think it would help the Board just to get a sense

15 of elevation and what the facade would be. I'm

16 new at this, so forgive me for a minute.

17 CHAIRWOMAN SCHAEFER: So are we.

18 So are we.

19 MR. LINNUS: Mr. McNamara, are

20 you about to present an exhibit?

21 MR. McNAMARA: I believe so. If

22 we do, we'll label it. I believe

23 everything that's been preloaded through

24 the Board secretary's office was part of

25 the application package.

Page 22

1 BY MR. McNAMARA:

2 Q. Mr. Kim, for the benefit of the Board,

3 would you please provide us with your educational

4 background, licensing as a professional architect

5 in the State of New Jersey and elsewhere? And

6 where have you previously testified and been

7 accepted as an expert in your field before other

8 land use boards here in the State of New Jersey?

9 A. Sure. I've been a licensed architect,

10 educated in Pratt Institute for undergrad and

11 graduate degree. I've been an architect, licensed

12 architect, with my own firm as a principal for

13 about 15 years. I've been a witness to hearings

14 at a board, in the last 15 years: Bergen County,

15 Palisades Park. Mostly Bergen County. Englewood

16 Cliffs. All those areas.

17 Q. And in front of all those boards, you've

18 been accepted as an expert in the field?

19 A. Yes.

20 Q. Thank you.

21 MR. McNAMARA: Madam Chair, I'd

22 like to request that Mr. Kim be considered

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23 an expert in architecture for the purposes
24 of testimony he is to provide this
25 evening.

Page 24

1 MR. LINNUS: All right. Any
2 exhibit that was not part of the
3 application package you'll need to mark
4 tonight.

5 MR. McNAMARA: Understood.

6 THE WITNESS: I mean, it's for
7 the sake of convenience, but I don't have
8 to show -- this is basically an elevation
9 or a Google map photo of a streetscape of
10 one of the sites that we had done
11 previously.

12 And I just -- let me see -- just
13 let me know if you could all see this
14 image.

15 MR. LINNUS: Excuse me, sir.

16 Was this part of the package
17 that was filed or is this something new?

18 THE WITNESS: This is part of my
19 testimony. If this is too complicated, I
20 will just disregard.

21 MR. LINNUS: No, just --

22 MR. McNAMARA: Hold on. Was
23 this in the application package? If it
24 was, good. If not, then we have to mark
25 it as Exhibit A-1, which is a photograph

7 (Pages 25 to 28)

Page 25

1 of a City MD Urgent Care facility.

2 BY MR. McNAMARA:

3 Q. What town is this located in?

4 A. This is in East Brunswick.

5 Q. Okay.

6 MR. McNAMARA: Okay. So for
7 purposes of the testimony, we'll refer to
8 this as Exhibit A-1.

9 A. Okay. So this will make it, from my
10 perspective, a lot easier because you have at
11 least a reference point to look at. I can assure
12 you that our proposed building will be much --
13 quite bigger, a little bit bigger and taller,
14 where the window placements are much taller in
15 regard.

16 But this was something that we did fairly

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17 recently and it will give you good idea of what an
18 interaction between refinishes and the stucco finishes
19 will be and, also, on the backdrop of our sign.
20 Since this East Brunswick project was a
21 renovation of the existing restaurant, we were
22 limited with the heights and existing shell of the
23 building. But, you know, on the Watchung project,
24 this is all new. So we would have a much taller
25 and a fairly -- a nicer building to compare.

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1 So we can go into a little bit of detail
2 later on when the site plan is reviewed, but basically
3 this will be a facade that our clients will sort of be
4 passing through. So I would consider this one of the
5 front facade of the building.

6 Q. Is it a little unique to have to design

7 a building where, in effect, all four sides of the
8 building are visible to the general public?

9 A. Yes, indeed. And, also, we have

10 additional sensitivity towards where the west
11 facade is facing the main parking lot of the mall,
12 but the office facade, east facade, is actually
13 the face of the street. So we all would have to
14 consider basically four sides altogether as the
15 front facade and treat it with a combination of
16 brick, stucco, so that it doesn't look, like,
17 boxy, out of proportion.

18 Q. Okay. Please continue.

19 A. PB-3, as you see, is -- so we started
20 off with the basically northeast elevation of the
21 front facade and we tried to, like I said before,
22 have all four sides not having a look of a back of
23 the building which culminated in this, sort of,
24 bisque color in this site, but we created a
25 signage proportion to it that's symmetrical. We

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1 But I just want to focus on the interaction
2 or integration of a brick finishes window and general
3 sort of proportion of the facade on the stucco. And
4 that will be what we will be looking at. In my
5 opinion of course Watchung is much better. We have
6 the luxury of extending it much more and starting from
7 scratch.

8 So I will stop sharing at this moment.

9 I will go into details of our exhibits.

10 Q. Thank you, Mr. Kim.

11 Mr. Kim, philosophically, as you're talking
12 about the proposed exterior design of this building
13 and the sign package, would it be fair to say that
14 these designs are part of the brand identification
15 that City MD is looking to achieve as it develops

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16 these facilities in the tristate region?

17 A. Yes.

18 Q. Thank you.

19 Please proceed.

20 A. If you have any further questions on the

21 elevations, I will just go very briefly.

22 Basically I'm presenting on PB-2, our exhibit

23 showing the upper portion of the drawing. It is a

24 north face elevation. And the bottom portion,

25 what we call east elevation.

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1 believe it was very sort of consistent with our

2 design team in the standard finishes that we

3 require.

4 If you see the southeast, south

5 elevation, we will have exterior lighting and

6 planting to break down the facade furthermore.

7 We also have -- on the right side of the

8 elevation is basically an exit and an entry to the

9 parking. But we also -- these are the metal doors

10 that we treated as a front facade or storefront.

11 And that's PB-3, bottom section of the

12 drawing, drawing labeled 4, is the southwest

13 elevation. And, once again, we have the glass

14 fenestration as storefront part of the left side and a

15 continuing band of brick at the middle height of the

16 building and above where we have the store motif is a

17 backdrop of our signage.

18 Q. Okay. And the materials as you've been

19 describing them is primarily brick and stucco?

20 A. That is correct.

21 Q. And the brick would wrap around the base

22 and, looking at P-3 -- PB-3, rather, a lot of the

23 area that's shaded are the areas where it will be

24 a primarily brick facade, correct?

25 A. That is correct.

8 (Pages 29 to 32)

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1 Q. Thank you.

2 And with regard -- there were a couple

3 of comments we had in the report from the Board's

4 planner, Mr. Healey. Specifically on page 3,

5 paragraph 3, "Architectural Design." If you could

6 please briefly touch upon these items and how this

7 building is designed to satisfy the requirements

8 of the town's ordinance.

9 A. So I think basically I mentioned in the

10 first part -- first two parts is what I described

11 as far as our design purpose and the sort of

12 breakdown of the elevations. And it doesn't

13 really -- I'm not sure if the site engineers could

14 further testify on my behalf, but basically I'll

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15 try to be as concise as I can on the material
16 finishes and brick and combinations of it as
17 requests in the note or the comment.
18 The last section, the signage, I'm sure
19 that our sign vendor --
20 Q. We can defer that to Mr. Aguilar's
21 testimony and if we need him to testify, he's
22 available as well.

23 MR. McNAMARA: Chair, I have no
24 further questions. Oh, one other thing.

25 Q. Mr. Kim, is the building designed to
Page 31

1 lighting on the exterior?

2 THE WITNESS: I'm sorry, one
3 more time? I didn't catch that.

4 CHAIRWOMAN SCHAEFER: Are you
5 the one who we would speak to about the
6 lighting on the exterior?

7 THE WITNESS: Yes.

8 CHAIRWOMAN SCHAEFER: Okay. So
9 do you want to talk to us about what type
10 of lighting fixtures?

11 THE WITNESS: This is a -- okay.

12 So there's a -- between northeast -- I'll
13 start with the PB-2, which shows an
14 elevation, northeast -- northwest
15 elevation/northeast elevation. Basically
16 on the border of two wings, I call it,
17 there will be exterior-mounted wall sconce
18 that basically act as a wall wash. And
19 that will be lit during the -- I believe
20 throughout the night just to avoid sort of
21 a dark spot. And that will be the same
22 manner, same light type, in the northeast
23 elevation as well.

24 I believe, also, the interior of
25 the -- interior of the space will be lit

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1 comply with all the applicable requirements with
2 the Americans with Disabilities Act and the New
3 Jersey barrier-free code?

4 A. Yes.

5 Q. Thank you.

6 MR. McNAMARA: Now I have no
7 further questions for the witness, Madam
8 Chair.

9 CHAIRWOMAN SCHAEFER: Thank you.

10 Any Board members have
11 questions for this witness?

12 Going once. Going twice.

13 COUNCILMAN MARTINO: Can we get

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14 the height of the building, please?

15 THE WITNESS: Sure. The top of

16 the building is 21 foot 8 inches to the

17 top of the pet.

18 MR. LINNUS: What was that, sir?

19 I didn't get that.

20 THE WITNESS: Twenty-one feet 8

21 inches to the top of the parapet of the

22 building.

23 MR. LINNUS: Thank you.

24 CHAIRWOMAN SCHAEFER: Are you

25 the one that we would talk to about

Page 32

1 partially. So a combination of exterior

2 wall-wash lighting and interior lights,

3 but it will not be a glaring light. It's

4 really not to have a presence of the

5 business during the night.

6 And if you go to PB-3, which

7 shows the southeast and southwest

8 elevation, it's the same manner of a

9 wall-wash lighting. But, also, we will

10 also have -- if you look at drawing number

11 3, top section of the building, we will

12 have five additional lighting on the wall.

13 And this is mainly for the design scheme

14 and to break up the space of that portion

15 of the building, but it will not --

16 basically it's a much dimmer portion than

17 a wall-wash lighting. And this is a

18 pretty standard practice that we do

19 basically -- our design building theme in

20 other sites as well.

21 CHAIRWOMAN SCHAEFER: So are

22 they dark sky compliant? That was one of

23 the questions from our engineer.

24 THE WITNESS: Yes, it is.

25 CHAIRWOMAN SCHAEFER: Okay. And

9 (Pages 33 to 36)

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1 then where the sign is, how is that lit?

2 THE WITNESS: I will give that

3 to our design expert who will testify

4 right after me.

5 CHAIRWOMAN SCHAEFER: All right.

6 Any other questions from Board members?

7 MR. HEALEY: Yeah. If I could

8 just have a follow-up question on the

9 ordinance.

10 So we -- I said it in my memo.

11 The ordinance requires that buildings that

12 have -- or developments that have two or

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13 more buildings have to have a consistent
14 design theme.

15 So did you look at the other
16 developments or other buildings in the
17 development and make some effort to tie
18 them together in terms of massing, use of
19 materials, et cetera? And if you did, can
20 you explain that?

21 THE WITNESS: I'm glad you asked
22 that. Basically from the start of this
23 design, besides the flow plan interior
24 scheme, we started our elevation from
25 our neighboring tenants, our neighboring
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1 blocking out lighting from inside to out?

2 CHAIRWOMAN SCHAEFER: Correct.

3 THE WITNESS: Is that your
4 concern?

5 The storefront is naturally
6 tinted due to it being energy -- was an
7 energy-efficient storefront. But the
8 question is whether it will block out, is
9 your concern. Usually other towns, most
10 of the towns, is concerned with whether
11 there's lights on roads during the night,
12 whether the building will have a glare for
13 the drivers and for road traffic.

14 CHAIRWOMAN SCHAEFER: Correct.

15 THE WITNESS: I don't think you
16 have to worry about that. The lighting we
17 provide is decorative lighting plus
18 downward tall hats. And it's a more
19 directional light than a glare for any
20 kind of accidents. I don't think you have
21 to worry about that part.

22 CHAIRWOMAN SCHAEFER: Okay.

23 Thank you.

24 Any other questions?

25 MR. HEALEY: If I could ask one

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1 prospective tenants. And the landlord
2 provided us with their design team and
3 their elevation. They're basically
4 our elevation mark, building elevation
5 mark.

6 What I mean by that is
7 storefront heights, parapets, signage.
8 Even the brick sort of delineation between
9 the stucco is all sensitive to that
10 elevation. So that our purpose of our

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11 design team was not to stand out, but to
12 be consistent with adjacent buildings.

13 MR. McNAMARA: Mr. Kim, the
14 lights will be turned out once the
15 facility closes up shop for the evening?

16 THE WITNESS: Yes. And we will
17 also have a dimmer switch for less
18 visibility.

19 CHAIRWOMAN SCHAEFER: Question
20 on that, on the interior lights.
21 The windows themselves, are they
22 somewhat blacked out or are they -- do
23 they use regular windows as far as
24 blocking out lighting?

25 THE WITNESS: I'm sorry,

Page 36

1 more follow-up.

2 The HVAC and other systems, are
3 they going to be on the roof? And, if so,
4 are they screened by parapets?

5 THE WITNESS: It is screened by
6 the parapet and the location of the unit
7 compared to parapet heights will be not
8 visible at all and certainly not visible
9 by nearby vehicular roads.

10 CHAIRWOMAN SCHAEFER: Any other
11 questions?

12 This is hard looking through
13 every person. So if you do have a
14 question, if someone can just say "I have
15 a question," because then we'll move
16 forward please.

17 Okay. Hearing none, anyone from
18 the public have a question of this
19 witness?

20 Okay. Mr. McNamara, thank you.

21 Next. Your next witness.

22 MR. McNAMARA: Tim Aguilar, our
23 civil engineer from Bohler.

24 MR. LINNUS: Where are you, Tim?

25 MR. AGUILAR: Right here.

10 (Pages 37 to 40)

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1 MR. LINNUS: Okay.

2 T I M O T H Y A G U I L A R,
3 having been duly sworn, was examined and
4 testified as follows:

5 MR. LINNUS: Do you want to
6 state your name and address for the
7 record? And please spell your last name.

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8 THE WITNESS: Sure. My name is

9 Timothy Aguilar. Last name is

10 A-G-U-I-L-A-R. Address is 30 Independence

11 Boulevard in Warren, New Jersey. ZIP code

12 07059.

13 MR. LINNUS: Your witness,

14 Counsel.

15 MR. McNAMARA: Thank you.

16 DIRECT-EXAMINATION.

17 BY MR. McNAMARA:

18 Q. Mr. Aguilar, for the benefit of the

19 Board and public, would you please provide us with

20 your educational background, licenses you hold

21 here in the state of New Jersey, and experience in

22 presenting before land use boards as a

23 professional engineer?

24 A. Yes, certainly. I graduated from the

25 New Jersey Institute of Technology in 2013 with a

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1 this is the plan I want to use to just briefly

2 describe what the Board approved back in 2017 as it

3 relates to pad A.

4 So for reference this plan is titled

5 "Overall Site Plan." This is Sheet 5 of 29 in that

6 2017 drawing set and this exhibit is dated August

7 15th, 2007. The reference north is to the top right

8 of the sheet.

9 The site itself is block 6101, lot

10 number 5. The site itself encompasses a total of

11 12.2 acres in area and the area we're here to talk

12 about today is a very localized or small component

13 of that property.

14 So what I'll do is I'll zoom in to pad

15 A on this sheet and touch in on a few brief

16 characteristics of what we see. Because what I

17 want to do is really have the Board have a good

18 visual in their head for when we turn over to the

19 proposed conditions so you can see really the

20 similarities and our plan is, you know, nearly

21 identical to what was previously approved.

22 As part of the initial application,

23 there was a generic retail restaurant building

24 proposed on pad A, total of 5,655 square feet,

25 situated at the front of Terrill Road, which is to

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1 bachelor of science in civil engineering degree.

2 I've worked with Bohler Engineering for about

3 seven years, where I continue to practice civil

4 engineering in land development.

5 I've been involved in this application.

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6 I've testified in front of planning and zoning boards
7 in front of -- throughout the state of New Jersey. In
8 the past, most recently, actually, in front of your
9 zoning board a few weeks ago. And I have a current
10 license in the State of New Jersey. That's a --

11 CHAIRWOMAN SCHAEFER: I think we
12 can stop you and accept you. Thank you.

13 BY MR. McNAMARA:

14 Q. Mr. Aguilar, if you could please
15 proceed, starting with the site plan. What's
16 currently being posted for the view of the Board
17 is part of the site plan package or is this
18 something separate? If it's separate, we need to
19 mark it as Exhibit A-2.

20 A. Yeah. So, again, thank you for letting
21 me speak tonight virtually and present this
22 application.

23 And what I'd like to do is, again,
24 introduce my first exhibit as A-2. And this plan I
25 think is important to touch on for this evening. And
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1 the northeast of the building where I'm
2 highlighting in blue.

3 On the -- on the northwest of the
4 building is the access into the overall center.

5 The interior rim road sits on the southwest and
6 then there's a parking area designated that's
7 shared with the overall center, but it is on the
8 southeast side of the facility.

9 As part of this application, one of the
10 items that's important to identify is a variance
11 was previously granted, as Mr. McNamara noted
12 originally at the onset of this meeting, for a
13 front yard setback of 90.5 feet, which I'm
14 highlighting in blue on my screen, to the front
15 yard setback of this building. As we switch over
16 to the proposed condition, you'll see that that
17 really remains consistent.

18 The parking itself, in this application
19 there was about 56 parking stalls in proximity to the
20 building. There's a trash receptacle on a concrete
21 mat that sat on the southeast side of the building.
22 There was pedestrian connectivity on all four sides of
23 the building, trash receptacle and benches, ADA
24 parking stalls on the southeast side. And that was
25 really the general nature of what we were looking at

11 (Pages 41 to 44)

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1 on pad A.

2 I'd like to give the Board a mental
3 picture of this area I've highlighted in blue,
4 which is pad A. And I'm going to flip over to

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5 what is really the plan discussion today, which
6 is -- as this loads, it's a colorized version of
7 the overall site layout plan C-3 that was provided
8 as part of our submission.
9 So I'll mark this as Exhibit A-3 as it is
10 a colorized illustrative plan. This sheet itself is
11 dated June 16th, 2020. And, again, on here you see
12 the same overall center, lot number 5, bound by U.S.
13 Route 22, Terrill Road on the northeast. And I want
14 to then begin and zoom into what was previously known
15 as pad A and is now the City MD development.
16 Just to orient the Board, Terrill Road
17 is on the right side of the sheet where it's
18 highlighted in blue. The access to the site to
19 Terrill Road -- sorry, it's still loading. The
20 access to the site sits just to the northeast
21 again, as discussed; the inroad on this southwest
22 of the building; parking for this facility on the
23 southeast end of the facility.
24 This facility is 4,226 square feet in
25 area as the total building envelope. The main
Page 43

1 the parking field to a total of 391 parking
2 stalls.
3 There was a review comment in
4 Mr. Healey's review letter regarding the total
5 square footage number, looking for some
6 clarification. So we've actually -- we actually
7 had an overcount on square footage on our plan,
8 and I remember that Mr. Healey identified, of
9 81,505 square feet in total is correct. So our
10 parking demand requirement right now is 403 spaces
11 and there are 391 proposed.
12 Based on the use, understanding that
13 there's, you know, really about seven to eight
14 employees for the facility that are working here
15 for their 12-hour shift; three to four cars per
16 hour that they typically see, you know, for a max
17 of around 40 patients per day. While we are
18 requesting -- or there was a variance that was
19 granted for that parking, we still believe that
20 the parking ratio for this area is adequate based
21 on the use that we see here today.
22 With regard to traffic, there is
23 relating to this pad specifically a reduction, a
24 slight reduction, based on I.T.E. Trip Generation
25 for the smaller square footage. We do have
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1 entrances for customers sit on the northeast
2 facade facing the parking field as well as an
3 alternate access point on the southwest side of

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4 the building.

5 There is another door on the southeast,
6 which I've circled in blue. That's an employee
7 access door that's at the rear, not for public
8 access.

9 So what I think the Board can identify
10 as part of this is the building size has shrunk
11 here just by over about a thousand square feet.
12 There's additional green space that's incorporated
13 onto this pad. And really all of these changes
14 that have occurred are isolated mostly to sit
15 within this curb line area or parking area.
16 As I noted previously, the building is
17 set back 90.5 feet off of the front of the setback
18 to Terrill Road, where 100 feet is required. That
19 variance was previously granted so we are
20 maintaining that previously approved condition.
21 With regard to parking and circulation,
22 the immediate parking near the City MD pad
23 features a total of 54 parking stalls on the
24 southeast side of the building, but there is
25 connectivity via crosswalks to the balance of
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1 amended approval from Somerset County with regard
2 to the signal and access that we'll provide to the
3 Board as part of our resubmission.
4 And we do have a letter of no interest with
5 the NJDOT that's still active based on a larger square
6 footage for the full build of the property than
7 currently is shown on this plan.
8 The building coverage on this plan in
9 this area is slightly reduced. But based on some
10 of the other improvements that have occurred for
11 the overall development, there is a larger
12 building square footage than what was previously
13 approved by the Planning Board based on some of
14 the Zoning Board approvals.
15 But what's important to note is the overall
16 square footage is about 28,500 square feet less than
17 when Sears existed on the property. The code permits
18 up to 40 percent coverage or around 16.9 for the site
19 so we're significantly below that value.
20 Similarly, impervious coverage for pad
21 A, when you look at this isolated area, there is a
22 reduction. But as part of some of the changes on
23 some of the other applications, the overall site
24 has seen a slight increase in impervious coverage
25 of around 15-, 1600 square feet.

12 (Pages 45 to 48)

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1 Relating to the Sears, though, we're
2 still about 73,000 square feet below what was on
3 the site at that time when they had the variance
4 for overall coverage and the site itself does
5 still comply with the coverage requirements of 75
6 percent.
7 The drainage patterns, the stormwater
8 conditions, there is really no change from what
9 the Board previously approved here. There's, you
10 know, isolated inlets within this pad area to
11 capture the runoff and convey it downstream. For
12 the pipes in our immediate area, there is a
13 reduction, again, in the impervious coverage.
14 Mr. Shami had identified a few items
15 with regard to trash pickup, loading operations.
16 I think I just want to expand a little more on
17 that. There's a trash enclosure again located on
18 the southeast facade of the building. It's in
19 the same location that the Board had previously
20 approved. And they expect that it's, you know,
21 picked up two to three times per week. And,
22 again, that can be regulated, the hours that's
23 done. And it would really pull forward and access
24 this. And depending on what kind of hauler it is,
25 what they would do is miles around here is pulled
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1 property that the applicant intends to connect to.
2 The site has an approved overall flow, based on water
3 square footage and what's here for that main.
4 The water meter will be inside of this
5 building so there won't be an external meter for
6 water.
7 There is a transformer that you see on this
8 northeast area that fronts onto Terrill Road. That's
9 actually currently constructed. This building will
10 pull power off of that, and meters for gas and
11 electric sit on this southwest part of the building
12 which are screened by landscaping.
13 As mentioned earlier, we did receive a
14 review letter from the fire department. And there was
15 no, I'll say, technical changes for layouts of the
16 plans. There were some items about a Knox-Box on the
17 building. You know, the applicant intends to agree to
18 address the conditions that the fire department had
19 incorporated in their review letter.
20 And one of the --
21 Q. Mr. Aguilar, let me stop you there for
22 one second. You were talking about the fire
23 department.
24 MR. McNAMARA: I just want to
25 respond to a question from a member of the
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1 forward, back in. And, you know, there's really a
2 full 360-degree circulation around this island to
3 access that.
4 The loading and -- or I'll say deliveries
5 to the facility is limited, again, to roughly two
6 times per week. And what type they typically see is a
7 box truck nature, something that would be
8 recognizable, like a FedEx facility truck, a UPS truck
9 which is an SU-30.
10 That would really pull in and at off-peak
11 times it would park in the parking area, somewhere in
12 here. And it would load through the doors of this
13 facility, but off-peak times to limit conflict with
14 parking.
15 And, again, we know how many clients will
16 be coming here. Three to four per hour with ten
17 employees, we're confident that there can be offset,
18 that that loading operation would work.
19 As this is part of an overall development,
20 there are items that are constructed on this site
21 today. So in Mr. Herits' review letter, there were
22 some items identified with regard to utilities. The
23 site does have a sanitary stub that's currently
24 constructed to the -- to this pad. There is a private
25 water main with New Jersey American Water on this
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1 Board. I have been advised by my client
2 the building will have a fire suppression
3 system.
4 COUNCILMAN MARTINO: Thank you.
5 BY MR. McNAMARA:
6 Q. Thank you, Tim, for allowing me to
7 interrupt. So if you can talk a little more, I
8 think you were getting to the landscaping and its
9 similarities and what's been enhanced since the
10 prior approval.
11 A. Yes, that's correct. So with regard to
12 the fire approval, we will address their comments.
13 They were limited in nature. Really the Knox-Box
14 and some technical items that don't have really
15 much of a barrier. The layout of the facilities,
16 just items to be added to the building and some
17 internal comments.
18 From a lighting comment, I heard
19 earlier as well, there are lights that are
20 constructed out here currently that were part of
21 the original approval. There are four lights that
22 are in proximity to this pad that I can highlight
23 on here. The one on the lower portion of this
24 screen in the southeast -- I apologize, it's
25 loading. There's another one in the southeast

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13 (Pages 49 to 52)

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1 parking field. There's one more and there's one
2 along the Terrill Road frontage.
3 These are all constructed. But, again, to
4 answer that question, they are dark sky compliant.
5 The lighting optics are rotated downward to eliminate
6 the upward glare. The lights along the property
7 frontages all have half-side shields so that they all
8 limit the visibility on adjacent property lines.
9 And with regard to landscaping, you
10 know, to comply with the landscaping design, there
11 has actually been some additional green space
12 incorporated. We've maintained the buffers to
13 Terrill Road and actually incorporated some
14 additional landscaping along that northeastern --
15 or I guess northwestern building facade along the
16 entrance to the building.
17 And I think the last item that I wanted
18 to touch on was with regard to building-mounted
19 signage and what they look like and their
20 compliance with the borough code.
21 So this plan was actually submitted
22 with the application. So what you'll see on this
23 plan is the four --
24 Q. Excuse me.
25 MR. LINNUS: Tim, do you want to

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1 feet in height. So it complies from an area
2 perspective and I think they scale appropriately
3 for the building.
4 With regard to the projection off the
5 building, there's a 4-inch projection in an
6 aluminum cabinet. They're interior, illuminated
7 by LEDs, high-efficiency LEDs. And with regard to
8 the package, the signs meet all of the criteria of
9 the township code.
10 I believe with regard to my direct
11 testimony I've addressed all the comments that I
12 had. I think from a technical standpoint I hit on
13 most, if not all, of the items in Mr. Healey's and
14 Mr. Herits' review letters, the two administrative
15 items and the outside agency approvals. And for
16 all those items, you know, the applicant agrees to
17 comply with them and provide the documentation to
18 the Borough.
19 Q. Thank you.
20 Mr. Aguilar, it was noted in Mr. Healey's
21 report a prior variance with regard to setback had
22 been granted at the time of preliminary approval.
23 And so no additional variance relief there was

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24 needed, correct?

25 A. Correct.

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1 identify that for the record, please, what

2 you're referring to?

3 THE WITNESS: Yes, correct. So

4 this is the plan that was prepared by the

5 sign vendor. This is by Signal Sign Co.

6 drawing SK-1 dated January 25th, 2020.

7 MR. LINNUS: Thank you.

8 THE WITNESS: You're welcome.

9 A. So the building itself incorporates four

10 facade signs, one on each of the facades that were

11 shown on the earlier uncolorized architectural

12 elevation. So this provides some more context to

13 those signs that you'll see on the site.

14 The signs themselves are each 3 feet 9

15 and one-half-inch tall, 14 feet 4 inches long.

16 The height is compliant with the municipal code of

17 up to 5 feet. And for this building length, the

18 sign length can be up to 32 feet 6 inches.

19 With regard to area based on the facade

20 area of these buildings, a sign of up to 140

21 square feet can be provided in compliance with the

22 code. The applicant's been cognizant of that,

23 recognizing that that's a big number for this

24 building. And they've incorporated a sign that's

25 about one-third of that size. It's 54.35 square

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1 Q. Thank you.

2 And it's your understanding from your

3 testimony you provided recently at the Zoning

4 Board of Adjustment that a parking variance was

5 granted and that parking configuration is

6 identical to the plans that are being presented

7 here this evening?

8 A. Correct, yes.

9 Q. Okay. And it's also your understanding

10 that in terms of the pylon sign, City MD is being

11 allocated one-half of a slice of one of the signs

12 that goes up on the pylon, correct?

13 A. Correct.

14 Q. Thank you.

15 With regard to the comments we received

16 in the May 1 letter from Mr. Herits from Maser

17 Consulting with regard to the various comments

18 that are in here, the applicant can satisfy all

19 of these items as a condition of the approval of

20 the Board should it act favorably on the

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21 application?

22 A. Yes.

23 Q. And the sidewalks' entrance points and

24 configuration of the building, you would concur

25 with the architect that it is designed to be

14 (Pages 53 to 56)

Page 53

1 consistent with the Americans with Disabilities

2 Act and New Jersey barrier-free code requirements?

3 A. That is correct.

4 Q. Thank you.

5 MR. McNAMARA: Madam Chair, I

6 have no further questions of the witness

7 at this time.

8 CHAIRWOMAN SCHAEFER: Okay. I

9 just have a couple questions.

10 You were talking about

11 deliveries and that they would be made at

12 off-peak hours.

13 What are considered "off-peak

14 hours"?

15 THE WITNESS: So for this

16 facility, I mean, the peak hours for --

17 for City MD from my discussion with them

18 is between 8 a.m. and 10 a.m. So that's

19 when they'll see their peak in their

20 facilities. So really outside of those

21 hours the deliveries could occur

22 throughout the day.

23 CHAIRWOMAN SCHAEFER: Between 8

24 a.m. and 10 a.m. is the peak?

25 THE WITNESS: Yes.

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1 property owner. Okay.

2 Okay. Any other questions from

3 Board members?

4 COMMISSIONER PENNETT: Yeah.

5 Tracee, I have a question. Tracee?

6 CHAIRWOMAN SCHAEFER: Yes. Go

7 ahead.

8 COMMISSIONER PENNETT: Okay.

9 You were talking about the waste and you

10 have a trash bin.

11 Do you need a special trash bin

12 for medical waste? And is that picked up

13 separately than, I'll say, regular trash?

14 THE WITNESS: Yeah. So

15 Mr. Shami identified earlier that the

16 medical waste is picked up about twice per

17 month, whereas this regular waste is

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18 picked up two to three times per week.

19 That waste would be stored inside the
20 building.

21 COMMISSIONER PENNETT: Okay.

22 But are two separate bins used or do you
23 use the same bin for it?

24 THE WITNESS: There's no

25 external bin for that waste.

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1 CHAIRWOMAN SCHAEFER: Okay. And

2 then a question -- actually I think our
3 engineer brought it up.

4 Is there any generators for this
5 building?

6 THE WITNESS: No, not that

7 I'm -- not that's on our plans. There's

8 none on site for this facility.

9 CHAIRWOMAN SCHAEFER: And who

10 maintains the landscape on this? I see a
11 lot of landscape going on.

12 THE WITNESS: Sure. So -- so

13 general property maintenance is part of

14 Seritage and their responsibility with

15 their tenants in this deal specifically

16 here with City MD. Similar for snow

17 removal. Trash would be City MD's

18 responsibility.

19 CHAIRWOMAN SCHAEFER: But, like,

20 if a bush died or whatever plantings died

21 around the building, who's responsible for
22 that?

23 THE WITNESS: That's the

24 property owner.

25 CHAIRWOMAN SCHAEFER: The

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1 COMMISSIONER PENNETT: Oh, okay.

2 THE WITNESS: That's stored

3 internally and picked up on that

4 twice-per-month basis.

5 COMMISSIONER PENNETT: Okay.

6 MR. McNAMARA: All medical waste

7 must stay inside the building. It can't

8 be put out into a dumpster area or other

9 areas where common office trash, things of

10 that nature, is being disposed of.

11 COMMISSIONER PENNETT: Okay.

12 Thank you.

13 CHAIRWOMAN SCHAEFER: Any other

14 questions?

15 MR. McNAMARA: I believe that's

16 regulated by DEP here in New Jersey. The

17 program was enacted, if people remember,

18 back in the late '80s, early '90s. We had

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19 medical waste washing up on our beaches.

20 That was the genesis of the medical waste

21 program which was one of the first in the

22 country.

23 CHAIRWOMAN SCHAEFER: Okay. Any

24 other questions from Board members?

25 Steve.

15 (Pages 57 to 60)

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1 COMMISSIONER POTE: Yes, Madam

2 Chairwoman.

3 CHAIRWOMAN SCHAEFER: Go ahead,

4 Steve.

5 COMMISSIONER POTE: Tim, one

6 comment. One question. First of all,

7 just as an aside, your use of the pointers

8 and highlighting is great. It's been

9 really helpful online to see that. So

10 thank you.

11 With regards to my questions, I

12 know this may not be in your purview.

13 It's more of an access question versus a

14 traffic question. If you're coming off of

15 22 going eastbound, there's several ways

16 you can get into this whole complex. The

17 first two -- right where you're

18 pointing -- you can come in and weave your

19 way through to get to your facility.

20 But the question I have is, is

21 if you're coming off of 22 onto Terrill

22 Road, so which is really like your last

23 opportunity, and you're coming in --

24 right, exactly. And then make a

25 right-hand turn. Right there. I don't

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1 THE WITNESS: That is correct.

2 COMMISSIONER POTE: Okay. Thank

3 you.

4 CHAIRWOMAN SCHAEFER: Any other

5 questions?

6 COUNCILMAN MARTINO: Question

7 for the Chair.

8 CHAIRWOMAN SCHAEFER: I'm sorry,

9 who's that?

10 COUNCILMAN MARTINO: Councilman

11 Martino.

12 CHAIRWOMAN SCHAEFER: Yes, sir.

13 COUNCILMAN MARTINO: So,

14 Mr. Aguilar, just a couple quick questions

15 for you.

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16 On Route 22, is there going to
17 be a sign on Route 22 for this facility?

18 THE WITNESS: There's a piece of
19 the pylon sign that's there.

20 COUNCILMAN MARTINO: Okay.

21 Thank you.

22 The other question is, I'm not
23 sure if you noticed, but this stretch of
24 Route 22 where this parcel sits is
25 actually part of the Blue Star drive

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1 see a stop sign and I don't see the
2 opportunity to turn left. So can you turn
3 left there?

4 THE WITNESS: Yes. Sorry.

5 So that -- that's a good question. So
6 some of those details are included in
7 the initial application. In the overall,
8 I'll say, design package. So this is --
9 this is illustrative. There -- there
10 would be ability to make a left in this
11 location.

12 COMMISSIONER POTE: Okay.

13 THE WITNESS: The idea here for
14 this access point is to allow vehicles to
15 free flow off of Terrill Road.

16 The other two points of, I'll
17 say, the other two points are stop
18 controlled. Because you don't want to
19 have the vehicles coming off of the
20 road, have the stop, and then have the
21 potential to back up in -- you know, in
22 some type of event.

23 COMMISSIONER POTE: Okay. I see
24 what you're saying. But you can turn left
25 as well as right there.

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1 program and this is a tribute to the Armed
2 Services of the United States. And
3 between North Plainfield and Mountainside,
4 this is designated section. And in that
5 program it incorporates dogwood trees.

6 And I assume you are responsible
7 for the landscape plan, correct?

8 THE WITNESS: Yeah, that is
9 correct.

10 COUNCILMAN MARTINO: Right. So
11 I know a lot -- I know there's -- not a
12 lot of people know the story, but there

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13 was a back story to that that's very
14 easily researched. But a lot of the
15 dogwood trees that were originally planted
16 have been basically removed due to
17 development over the decades.
18 So to be perfectly honest with
19 you, it's strictly a request out of
20 respect for that program, which is still
21 actually active. Is there any way that
22 you can incorporate any dogwood trees
23 within this pad site? Because I know
24 that's all your responsible for.
25 I see you got red oak, which is

16 (Pages 61 to 64)

Page 61

1 fine, but I would love to see some dogwood
2 trees incorporated. Flowering dogwoods
3 might not make it, but Kousa dogwoods may
4 make it. If you could put a few in for
5 us, it would be greatly appreciated and a
6 massive respect to the Armed Forces of the
7 United States.

8 Thank you.

9 THE WITNESS: Thank you.

10 MR. McNAMARA: And we will look
11 into that and try to accommodate your
12 request, sir.

13 COUNCILMAN MARTINO: That is
14 greatly appreciated. Thank you.

15 CHAIRWOMAN SCHAEFER: Anyone
16 else with questions?

17 MR. McNAMARA: I'll confirm
18 with my client. They'll be happy to pick
19 out some dogwoods and plant them
20 accordingly.

21 CHAIRWOMAN SCHAEFER: Thank you.
22 Do we have other questions from
23 Board members?

24 MR. HEALEY: Madam Chair, if I
25 could.

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1 of the correct square footage and the end
2 result is the correct number of required
3 spaces of 403.

4 So I guess I defer to Frank
5 Linnus about the best way to address
6 that, maybe as a "whereas" clause in a
7 resolution, but I don't think a new
8 parking variance is required.

9 MR. LINNUS: I think the way we

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10 can address it, Mark, I think you're
11 absolutely right on point. It doesn't --
12 as a matter of fact, if there were a
13 variance, I think the testimony is clear
14 in support of the variance. I would
15 phrase it as a technical variance and
16 reiterate what you just reiterated in the
17 "whereas" clause.

18 Do you have any objections to
19 that, Mr. McNamara?

20 MR. McNAMARA: Absolutely not.
21 I think that's a very reasonable way of
22 addressing it. And I would just remind
23 the Board there is still a fourth pad out
24 there and I'm sure that when we come in
25 for it at whatever point, depending on
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1 CHAIRWOMAN SCHAEFER: Yes.

2 MR. HEALEY: So just to clarify,
3 the variance that was received from the
4 Zoning Board for parking, was that for --
5 did that identify 406 required and 391
6 proposed?

7 THE WITNESS: That's -- that's
8 correct.

9 MR. HEALEY: Okay. So isn't
10 this a difficult or interesting situation
11 where you have one development with
12 several pad sites being approved by
13 different boards and then here we have a
14 situation where really just the number of
15 proposed spaces hasn't changed, but the
16 number of required -- and I guess it's
17 getting clarified.

18 So, you know, I would think it's
19 probably best to acknowledge that in the
20 resolution in some way. I don't think
21 you're necessarily required to have a new
22 variance since if the 391 figure was
23 approved by the Zoning Board and the
24 actual square footage of the development
25 isn't changing, it's just a clarification

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1 the user, parking will again get
2 revisited.

3 MR. LINNUS: Right, I think
4 so. But I think it is important we point

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5 out that the overall site parking is now
6 down to -- the requirement is now down to
7 403.

8 MR. McNAMARA: That's fine by
9 me. If you want to note it that way as
10 you described, that works fine.

11 MR. LINNUS: Okay.

12 CHAIRWOMAN SCHAEFER: Any other
13 questions from Board members?

14 Any questions from the public?

15 Okay. Mr. McNamara, next.

16 MR. McNAMARA: Since we've
17 resolved the issues with regard to the two
18 variances, I don't need to call Justin as
19 our planner at this point since the
20 application in effect is as-of-right and
21 it at this point would be deemed
22 variance-free. I'll make him available if
23 anyone has any questions. Otherwise,
24 that's our presentation.

25 We will address and include

17 (Pages 65 to 68)

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1 dogwoods in the landscaping plan as was
2 the request of the Board member. And
3 we'll make sure to coordinate with the
4 fire department with regard to the design
5 of the fire suppression system to be
6 installed in the building.

7 MR. LINNUS: All right. With
8 one caveat.

9 MR. McNAMARA: We ask for
10 approval.

11 MR. LINNUS: Mr. McNamara, with
12 one caveat. I think we're granting a
13 technical -- I know it's not a term of
14 art under the MLUL, but for the record
15 we're granting a technical variance, if
16 the Board approves it, for the plan you
17 presented.

18 MR. McNAMARA: Okay.

19 CHAIRWOMAN SCHAEFER: Okay.

20 Any other questions or comments at this
21 point? Okay. I'm sorry, I didn't look
22 up. Anybody have any comments?
23 Anything?

24 This is really hard, trying to
25 keep track of all of you. I feel like

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1 couple of options and one of the options

2 is to take action tonight and then, under

3 the MLUL, I would draft a resolution

4 memorializing the action the Board took

5 for the next meeting. But under that

6 scenario, you are approving it tonight

7 with conditions.

8 COMMISSIONER SPEENEY: And my

9 question to you is, do you have that list

10 of conditions?

11 MR. LINNUS: Well, yes, at this

12 point I do. It's my understanding that

13 the applicant has agreed to, on the

14 record, the conditions of compliance with

15 the reports they've testified to.

16 I am also going to go over the

17 prior resolutions to make sure that

18 there's no conditions that are

19 inconsistent with the prior resolutions,

20 and that would include the two Board of

21 Adjustment resolutions that were recently

22 adopted.

23 And then, of course, there's our

24 standard conditions that we always place

25 in site plan resolutions.

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1 you're all my kids.

2 Okay. So the Chair seeks a

3 motion in the affirmative to approve the

4 site plan with technical variance,

5 conditions and waivers. I'm seeking a

6 motion.

7 Anyone?

8 COMMISSIONER PENNETT: Yes. I

9 motion.

10 CHAIRWOMAN SCHAEFER: Thank you,

11 Karen.

12 Second?

13 COMMISSIONER SPEENEY: I'll

14 second it.

15 CHAIRWOMAN SCHAEFER: Thank you,

16 Don.

17 Discussion?

18 COMMISSIONER SPEENEY: Yeah. In

19 terms of -- it's more administrative at

20 this point.

21 Frank, can you make conditions

22 recorded that we could vote on tonight and

23 carry -- and then memorialize the issue

24 next month?

25 MR. LINNUS: The Board has a

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1 COMMISSIONER SPEENEY: Okay.
2 Thank you.
3 MR. McNAMARA: I think that's a
4 very reasonable course, Mr. Linnus.
5 CHAIRWOMAN SCHAEFER: Okay. So
6 can we -- any further discussion?
7 Okay. Theresa, roll call,
8 please.
9 SECRETARY SNYDER: Mr. Ellis?
10 COMMISSIONER ELLIS: Yes.
11 SECRETARY SNYDER: Councilman
12 Martino?
13 COUNCILMAN MARTINO: Yes.
14 SECRETARY SNYDER: Ms. Pennett?
15 COMMISSIONER PENNETT: Yes.
16 SECRETARY SNYDER: Mayor Balla?
17 MAYOR BALLA: Yes.
18 SECRETARY SNYDER: Mr. Speeney?
19 COMMISSIONER SPEENEY: Yes.
20 SECRETARY SNYDER: Mr. Pote?
21 COMMISSIONER POTE: Yes.
22 SECRETARY SNYDER: Mr. Fiorilla?
23 COMMISSIONER FIORILLA: Yes.
24 SECRETARY SNYDER: Madam Chair?
25 CHAIRWOMAN SCHAEFER: Yes.

18 (Pages 69 to 71)

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1 Thank you. Okay.
2 MR. McNAMARA: Thank you very
3 much for entertaining our application
4 tonight and we look forward to continuing
5 to work collaboratively with the Borough
6 and its professionals for this aspect of
7 the project.
8 CHAIRWOMAN SCHAEFER: Well, I
9 want to thank you for entertaining, you
10 know, some of the requests of these Board
11 members, especially the dogwoods. That is
12 important, you know. It might seem
13 frivolous, but it is a very, very nice
14 gesture on your part so thank you. Thank
15 you very much.
16 MR. McNAMARA: You're welcome.
17 Thank you.
18 CHAIRWOMAN SCHAEFER: Okay. Oh,
19 one other thing, Mr. McNamara. Can we
20 have a copy of the transcript, please?
21 MR. McNAMARA: Yes. Bridget, if
22 you could please. Bridget, you're sitting
23 in the -- it's like a combination of the
24 Brady Bunch and Hollywood Squares.

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25 CHAIRWOMAN SCHAEFER: Thank you,

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1 C E R T I F I C A T E

2

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

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

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19

20

21

22

23

24

25

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1 Bridget.

2 MR. LINNUS: The transcript
3 would be most appreciated, Mr. McNamara.

4 MR. McNAMARA: We'll provide one
5 to you.

6 MR. LINNUS: Thank you.

7 CHAIRWOMAN SCHAEFER: Thank you.

8 (Whereupon, the hearing on this
9 application was concluded.)

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