

BOROUGH OF WATCHUNG

PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

**Regular Meeting
November 17, 2020**

OFFICIAL MINUTES Adopted December 15, 2020

Vice Chairman Donald Speeney called the Regular Meeting to order at 7:30 p.m. Board members present were Mr. Al Ellis, Ms. Karen Pennett, Councilman Pete Martino, Mayor Keith Balla, Ms. Ellen Spingler, Mr. Steve Pote, Mr. Paul Fiorilla and Mr. Troy Sims. Also present were Francis P. Linnus, Esq., Board Attorney, Thomas J. Herits, Board Engineer, Mr. Mark Healey, Board Planner and Theresa Snyder, Board Clerk.

Vice Chairman Speeney 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. He 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. He then led the flag salute to the American flag.

MINUTES

On motion by Mr. Sims, seconded by Mr. Speeney, the minutes from October 29, 2020, Special Meeting, were accepted and carried on voice vote with Mr. Ellis abstaining.

RESOLUTION

RESOLUTION PB 20-R14; EMERGENCY MEETING PROTOCOL

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

Roll Call:

Ayes: Ms. Spingler, Mr. Ellis, Councilman Martino,
Ms. Pennett, Mayor Balla, Mr. Pote
Mr. Fiorilla, Mr. Sims and Vice Chairman Speeney

Nays:

Not Eligible:

Abstain:

Absent: Tracee Schaefer

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

CASE NO.: PB 19-02; THE LEARNING EXPERIENCE

100 UNION AVENUE

BLOCK: 7801 LOT: 1

BB ZONE

Expiration: 12/31/20

The contents of the hearing for the above referenced application is recorded in the below transcript.

BOROUGH OF WATCHUNG PLANNING BOARD
COUNTY OF SOMERSET - STATE OF NEW JERSEY
- - - - -

REGULAR MEETING FOR:
THE LEARNING EXPERIENCE
BLOCK 7801, LOT 1
100 UNION AVENUE
CASE NO. PB 19-02
- - - - -

TUESDAY, NOVEMBER 17, 2020
COMMENCING AT 7:30 P.M.
TRANSCRIPT OF PROCEEDINGS
VIRTUAL PUBLIC HEARING
BOARD MEMBERS PRESENT:
DONALD SPEENEY, VICE-CHAIRMAN
KEITH BALLA, MAYOR
ALBERT ELLIS
PAUL FIORILLA
PIETRO MARTINO, COUNCILMAN
KAREN PENNETT
STEPHEN POTE
ELLEN SPINGLER
TROY SIMS

ALSO PRESENT:
FRANCIS LINNUS, ESQUIRE, BOARD ATTORNEY
TOM HERITS, P.E., Board Engineer
MARK HEALEY, P.P., Board Planner
JOHN JAHR, P.E., Board Traffic Engineer
THERESA SNYDER, Board Secretary
STENOGRAPHICALLY REPORTED BY:
ANGELA BUONANTUONO, CCR, RPR, License No. 30XI00233100
AB COURT REPORTING, LLC

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

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I N D E X

FOR THE APPLICANT:

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ELIZABETH DOLAN, P.E.

BY MR. HEHL 8

BY MR. BUTLER 43

LEONARD CILLI

BY MR. HEHL 73

BY MR. BUTLER 99

ALSO PRESENT:

GERRY GESARIO, P.E.

MATTHEW JARMEL, AIA

E X H I B I T S

FOR THE APPLICANT:

EXHIBIT DESCRIPTION PAGE

NONE.

4

1 (Time noted, 7:40 p.m.)

2 VICE-CHAIRMAN SPEENEY: Ms. Spingler,

3 would you please call Case Number PB 19-02.

4 MEMBER SPINGLER: Yes. Case Number

5 19-02, The Learning Experience, 100 Union Avenue,

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6 Block 7801, Lot 1, BB zone. Expiration 12/31/20.

7 VICE-CHAIRMAN SPEENEY: Thank you.

8 ATTORNEY LINNUS: All right, before the
9 applicant proceeds this is a continuation of the
10 public hearing of October 20th.

11 VICE-CHAIRMAN SPEENEY: Is Mr. Hehl
12 here?

13 ATTORNEY HEHL: I'm here, Mr. Speeney.

14 VICE-CHAIRMAN SPEENEY: Before we
15 start, I would like to ask if you've got a copy of
16 the Environmental Commission concerns?

17 ATTORNEY HEHL: Yes.

18 VICE-CHAIRMAN SPEENEY: You did?

19 Okay. Now it's an undated document. So, Frank, we
20 should put a date on this thing?

21 ATTORNEY LINNUS: Yes, we should. Is
22 the author of the document here?

23 VICE-CHAIRMAN SPEENEY: The document
24 was sent Monday.

25 ATTORNEY HEHL: Yeah, yesterday.

5

1 ATTORNEY LINNUS: Okay, then it should
2 be dated yesterday. So that if and when it's
3 referred to, it will be the Environmental Commission
4 document dated November 16th, 2020.

5 VICE-CHAIRMAN SPEENEY: Right. Thank
6 you very much.

7 Mr. Hehl, are you okay with that?

8 ATTORNEY HEHL: Yes, that's fine.

9 Thank you.

10 VICE-CHAIRMAN SPEENEY: All right.

11 Now according to my notes, we should be expecting to
12 hear from traffic, planner and environmental.

13 ATTORNEY HEHL: Yes, that's correct.

14 VICE-CHAIRMAN SPEENEY: Okay, keep our
15 fingers crossed. And I'll turn it over to you to
16 continue your presentation.

17 ATTORNEY HEHL: Great. Thank you very
18 much. And again, I would like to extend our
19 appreciation to the board and the board
20 professionals and any members of the public who are
21 participating to accommodate these hearings, these
22 difficult times in the virtual setting.

23 We do appreciate Theresa always sending
24 us the reports that are issued on a timely basis
25 along with the links and the agenda.

6

1 So just at the last hearing we had a
2 recap of the testimony that was originally presented
3 at the first hearing by Gerry Gesario. He's here
4 again this evening. And by Matthew Jarmel -- Gerry
5 is our site engineer, P.E. who testified as to the
6 site.

7 We then had Mr. Mathew Jarmel who had

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8 also testified at the first hearing to provide
9 operational testimony based upon his experience with
10 child care centers, and also is our architect.
11 I guess I'm getting some feedback. I
12 don't know where that's coming from.
13 Anyhow, so that was what was presented
14 at the last hearing. And just again by way of
15 background from our first two presentations, the
16 first one was before this crazy new normal, but this
17 is an application for a childcare center. It's a
18 permitted use in the zone. And we have identified
19 previously the two variances that are associated
20 with the application.
21 So yes, Mr. Speeney, where we left off,
22 we were going to present the testimony of Elizabeth
23 Dolan, our traffic engineer. I see Betsy on the
24 screen. So I would like to call upon Ms. Elizabeth
25 Dolan to testify at this time.

Dolan - Direct

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1 And, Frank, I guess you will...
2 BOARD SECRETARY: Frank, you're muted.
3 ATTORNEY LINNUS: Okay. You want to
4 raise your right hand, Betsy?
5 MS. DOLAN: Yes.
6 ATTORNEY LINUS: Okay. Hi, how are
7 you?
8 MS. DOLAN: Good.
9 E L I Z A B E T H D O L A N, P.E., sworn.
10 ATTORNEY LINNUS: Your witness,
11 counsel.
12 ATTORNEY HEHL: Thank you very much,
13 Mr. Linnus.

14

15 D I R E C T E X A M I N A T I O N

16 BY ATTORNEY HEHL:

17 Q. Ms. Dolan, if you can please provide
18 the board with the benefit of your work, educational
19 experience, area of expertise and whether you have
20 been accepted by any boards or courts in the State
21 of New Jersey as an expert in your field, and also
22 whether or not you have not been -- on boards not
23 been accepted?

24 A. Yes. I have a bachelor of science
25 degree in civil engineering. I'm a licensed

Dolan - Direct

8

1 professional engineer registered in New Jersey, New
2 York, Pennsylvania and Delaware. And for I think
3 34 years now I've focused in the area of traffic
4 engineering. Since being licensed I've testified in
5 over 250 municipalities throughout the state on
6 behalf of land use applications.
7 I have also had the benefit of

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8 reviewing traffic, parking and DOT aspects of site
9 plan applications for planning and zoning boards
10 throughout New Jersey.
11 I'm also a member of the Institute of
12 Transportation Engineers. And to answer your
13 question, I don't believe I have ever not been
14 accepted by any board in New Jersey. And my license
15 is in good standing.

16 VICE-CHAIRMAN SPEENEY: And that's
17 fine, Mr. Hehl. Correct me if I'm wrong, once did
18 some presentations for this planning board?

19 THE WITNESS: That's right. Many
20 years ago.

21 ATTORNEY HEHL: Great.

22 VICE-CHAIRMAN SPEENEY: Proceed,
23 please.

24 ATTORNEY HEHL: Great. Thank you very
25 much.

Dolan - Direct

9

1 BY ATTORNEY HEHL:

2 Q. Ms. Dolan, I know you have done
3 extensive studies in connection with this site,
4 prepared reports, had an opportunity to review the
5 reports from the board professionals and also from
6 Mr. Butler?

7 ATTORNEY HEHL: Hey, Bill?

8 ATTORNEY BUTLER: Yeah.

9 ATTORNEY HEHL: You're not muted. I
10 don't know if you want to mute for now?

11 ATTORNEY BUTLER: No, no, no. I just
12 wanted to indicated that I had no questions
13 regarding the expertise of Betsy Dolan.

14 ATTORNEY HEHL: Oh, great. Thanks,
15 Bill.

16 ATTORNEY BUTLER: Is the court
17 stenographer here tonight?

18 ATTORNEY HEHL: Yes.

19 ATTORNEY BUTLER: Okay. Can I put my
20 identification on the record so she has it, Mr.
21 Chairman?

22 VICE-CHAIRMAN SPEENEY: Go ahead.

23 ATTORNEY BUTLER: I'm Bill Butler of
24 Butler & Butler. I represent the objector, Weldon
25 Materials, Inc., that owns the Weldon Quarry, right
Dolan - Direct

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1 across the street from the subject application.

2 Thank you.

3 ATTORNEY HEHL: Thanks, Mr. Butler.

4 ATTORNEY LINNUS: And while we have
5 the ear of the shorthand reporter, please correct
6 the spelling of my name, it's with an "I" rather
7 than an "E". Thank you.

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 BY ATTORNEY HEHL:

9 Q. All right. So, Ms. Dolan, now that you
10 have been qualified, if you can now provide the
11 board with an overview of your findings in
12 connection with this site?

13 A. Yes. And to do so I just want to make
14 reference to the reports and letters that we have
15 filed and have been reviewed by Brightview
16 Engineering. We have a July 25th, 2019, Traffic
17 Impact Study; a two-page letter, dated March 27,
18 2020; and then one more letter dated September 2,
19 2020.

20 And the studies, the letters, and the
21 reviews really break up the traffic study into two
22 elements. The first being the trip generation or
23 the driveway volumes that are expected during the
24 busiest hours at The Learning Experience and the
25 impact to the roadway system. And then the second
Dolan - Direct

11

1 part really focuses on parking which I know is of
2 interest to the board and the objector.
3 So starting with the traffic study from
4 July 25, 2019, by the time we were contacted to
5 participate in the project and schedule our traffic
6 counts school had already closed. But we
7 nevertheless did perform traffic counts at the
8 intersection of New Providence Road and Union
9 Avenue. Those counts were performed on Wednesday,
10 June 27th from 4 to 6:00 p.m., and Wednesday,
11 July 10th, 2019, from 7 to 9.

12 We isolated the peak hour, which is
13 what traffic studies focus on, the busiest peak hour
14 when the combination of street and site traffic,
15 driveway volumes are highest, during all other hours
16 the combination of site and street volumes are
17 lower. We test the driveway operations during those
18 most constrained periods, knowing that during all
19 other hours the operations will be better than
20 during the peak hours.

21 Now, as I said, we missed the school
22 and, of course, in 2019 school was in regular
23 session. Now, the DOT has a traffic-counting
24 station on New Providence Road, just north of Union
25 Avenue. So we were able to use those volumes to
Dolan - Direct

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1 seasonally adjust and our study focused on an
2 analysis of the site driveways that are proposed on
3 Union Avenue.

4 Once we collected and identified the
5 appropriate adjustments to account for peak seasonal
6 activity for the existing traffic volumes --
7 (transmission interference) is that me? -- okay, we

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8 next identified or estimated the traffic that is
9 expected to enter and exit The Learning Experience
10 during the morning peak hour and during the evening
11 peak hour. And to do that we reference the ITE's
12 *Trip Generation Manual*, which is the go-to source.
13 And because we are under county jurisdiction it's
14 the required source for estimating peak hour
15 driveway movements.

16 The ITE manual provides daycare trip
17 rates based on the building area and also the number
18 of students. So we ran both sets of numbers and we
19 took the highest. And we estimated during the
20 morning peak hour 64 entering, 56 exiting for a
21 total of 120 peak hour volume. And then in the
22 evening peak hour, 57 entering, 65 exiting for a
23 total of 122 peak hour driveway volumes.

24 And, as I said, when we had originally
25 met with the county those were the volumes that they
Dolan - Direct

13

1 were requiring us to use. They generally prefer us
2 to use the building area but in this case, as I
3 said, the number of students was a little bit higher
4 just by a handful of trips. So those were the
5 numbers that we modeled.

6 It's recognized that parents are
7 dropping off and picking up to suit their commuting
8 patterns and, therefore, much of the daycare traffic
9 is -- is what we call pass-by. The parents are
10 already passing by the day care site. It's a
11 convenient location to drop off their children on
12 the way to work and pick up on the return trip. ITE
13 has a 56 percent pass-by credit. We didn't apply
14 any of that credit because the original traffic
15 study just looked at the driveway analysis, the
16 driveway on Union Avenue. And we factored in some
17 growth, and as I said we had adjusted the Union
18 Avenue volumes to account for non-summertime, you
19 know, activity when school is actually in session.
20 And then we ran the driveway analysis and we
21 calculated favorable Levels of Service A and B at
22 the site driveway intersection. And we modeled all
23 traffic at one location even though there's that
24 separate exit driveway.

25 Subsequent to the submission and review

Dolan - Direct

14

1 Brightview had asked us to analyze the intersection.
2 And that was contained, that analysis was performed
3 and addressed in our September 2, 2020, letter to
4 the board.

5 I think anyone who is familiar with the
6 location, and as we talked about in our original
7 traffic study, and at the time, and I know things

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 are a little bit different now, but at the time in a
9 normal operating activity New Providence Road was at
10 capacity northbound in the morning and southbound in
11 the evening, and movements to and from Union Avenue
12 are generally made using courtesy gaps. The counts
13 that we performed and based on my knowledge of the
14 area, I live, you know, in Fanwood, there was really
15 no need to make a left from Union Avenue onto New
16 Providence, because you can use Union Avenue, 22
17 West, up to Bonnie Burn and get you to the same
18 place. So we're not seeing any lefts. It's a very
19 difficult intersection during peak hours. So
20 without any calculation we said it was at capacity,
21 which is level of service F. But the submitted
22 analysis provided the formal calculations requested
23 by Brightview, and it shows that movements off of
24 Union Avenue to New Providence are at F during peak
25 hours. The left from New Providence Road onto Union
Dolan - Direct

15

1 Avenue is at B and C levels during the peak hours.

2 And I know at the last meeting someone

3 asked about is it permissible to turn left onto

4 Union Avenue from New Brunswick and, yes, it is,

5 except for heavy trucks. I believe it's a limit of

6 six tons or more.

7 So with the trip generation, the

8 traffic volumes passing the site and the level of

9 service analyses addressed and accepted by

10 Brightview, the other portion of our report has to

11 do with a brief review of the site access and

12 circulation and then, of course, the parking.

13 As Gerry Gesario testified at the prior

14 hearings, and as Mr. Hehl has mentioned, we did meet

15 with the county at the onset of this project to talk

16 about the access requirement from their perspective.

17 And the design that is before you is based on

18 county's requirement and, of course, the DEP and

19 environmental issues that Gerry talked about.

20 So the on-site circulation is pretty

21 standard. And I believe now we're down to 31

22 parking spaces, which, from our perspective, is

23 appropriate given the building size and the number

24 of enrolled students.

25 When I spoke with Mr. Fishinger of

Dolan - Direct

16

1 Brightview, he had asked me to provide the

2 information that we referenced in our report about

3 extensive studies of day care parking demands. What

4 I submitted in my September 2 letter was a sampling

5 of some Morris County sites that had been nicely

6 summarized and was in a good format to provide in

7 our supplemental submission. But as I had

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8 referenced in my September 2nd letter, it was simply
9 a sampling.

10 We've been studying day cares since
11 2003, and that was before Dolan & Dean started and
12 it was Gary Dean Associates, who had done extensive
13 studies for the Goddard school to assess parking
14 demands. And then since that time, and until
15 recently, in the past few years we have been
16 studying The Learning Experience, Primrose,
17 KinderCare, Goddard School and some Montessori
18 schools throughout New Jersey. And in our studies
19 we have found that the -- the magic number is about
20 30 to 35 spaces for daycare centers with enrollments
21 of about 180 to 190 children. That I think
22 correlates with the average rate in the ITE's
23 Parking Generation Manual. And just to give the
24 board an idea of some of the recent traffic studies
25 we've done, five for Primrose, six for TLE and a few
Dolan - Direct

17
1 for Goddard and Montessori, we've consistently
2 recommended a range of, at a low end, of 23 based on
3 a very small building area. But generally 30 to 35
4 parking spaces is what we've consistently
5 recommended. And then in looking at the parking
6 spaces that were actually provided on the site
7 plans, the approved site plans, they're generally in
8 the 30 to 40/45 range with one Morris County
9 Montessori School that actually had 50. It was the
10 conversion of an office building to a day care. If
11 you look at the actual supplies that are mentioned
12 in the 5th Edition of the Parking Generation Manual,
13 again it's consistent with the provision of the
14 parking supply that is proposed at this site, which
15 is now 31 parking spaces.

16 So from the extensive data that we've
17 collected from the early 2000s until recently,
18 combined with the actual approved site plans of many
19 daycare facilities, I feel confident that the
20 parking supply that is proposed at this location
21 will support the demands. And as has been testified
22 by prior witnesses this is not a school with defined
23 start and dismissal times. This is a day care
24 facility that parents will drop off and pick up over
25 a few hours; drop off in the morning, and then pick
Dolan - Direct

18
1 up occurs over a few hours in the afternoon and
2 evening.

3 So there's not a concentration of
4 arrival of all the parents at the beginning of a
5 school day and then trying to pick up at dismissal
6 time. This is a gradual drop off and pick up of
7 students. And I don't know if it's been testified

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8 but I think Matt Jarmel may have talked about, you
9 know, it's about an average seven-minute parking
10 duration for a parent to park and escort their child
11 into or out of the building.

12 So this is certainly a consistent
13 parking supply with TLE. And, in fact, I believe we
14 looked at the parking, parking demand at 49 New
15 Jersey sites and the ratio is .26 per student. So
16 it is, again, consistent with the average parking
17 supply from the ITE, which is .24. And ITE also
18 provided us with an average parking supply, which is
19 actually lower at .21 spaces per student, than the
20 average parking demand that they cited for day
21 cares.

22 So there's been a lot of research at a
23 lot of different sites not just by our firm but also
24 by ITE, and I would conclude that the 31 parking
25 spaces proposed for the enrollment of 154 students
Dolan - Direct

19
1 and the slightly reduced building area is expected
2 to satisfy the parking demands of both parents and
3 staff.

4 And the only other thing I just
5 realized I wanted to put in because I don't know if
6 it has been addressed at the prior hearings, but
7 there was a September 12th, 2019, letter to the
8 Watchung Planning Board from Chief Joe Cina,
9 C-I-N-A. He has reviewed the documents submitted
10 regarding The Learning Experience: "I found their
11 traffic study to be reasonable and I believe it to
12 be an accurate representation of the traffic
13 operations that already exist in the area. And what
14 the day care will be once the day care center is
15 operational."

16 Q. And, Ms. Dolan, you have also had an
17 opportunity, I know you touched on it, to review and
18 I think there were three revisions to it of the
19 Brightview report, March 19th, this year, September
20 11, 2020 and October 16th, 2020.

21 Could you just highlight any key issues
22 that you found there? And I think the endorsement
23 of the adequacy of the parking is one of the key
24 items.

25 A. Sure. First traffic is about the
Dolan - Direct

20
1 traffic analysis and traffic data. They concur that
2 we've provided traffic data with the appropriate
3 seasonal adjustments. They did their own comparison
4 of the data with the DOT count data and found our
5 volumes to be acceptable.
6 They have asked that, number two, to
7 provide any correspondents between the applicant and

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8 the county. I don't have that but I'm sure someone
9 else in the project team does. And if we don't have
10 it yet we'll provide it once it's available.
11 They're agreeing with our background
12 growth rate. They're agreeing with our trip
13 generation. They did ask for brief testimony about
14 the pass-by. And as I had indicated 56 percent
15 pass-by credit has been published by ITE.
16 In our calculations we didn't bother
17 applying any pass-by credit. But I would think that
18 this site being on the way to 78, which is a major
19 commuting route and why New Providence Road is busy
20 northbound in the morning and southbound in the
21 evening. It is a location that would be prime for
22 that type of pickup/drop off on the way to and from
23 the 78 corridor.

24 They agreed that we had provided sample
25 data from other facilities in support of the parking
Dolan - Direct

21

1 supply. And I believe that is everything from the
2 traffic study portion of the Brightview letter.
3 They then go on to site access and circulation which
4 I think Gerry Gesario covered in his testimony.

5 Q. Thank you, Ms. Dolan.

6 ATTORNEY HEHL: I have no further

7 preliminary questions at this time.

8 VICE-CHAIRMAN SPEENEY: Okay, good.

9 What I would like to do is ask John Jahr if he has
10 comments relative to the report that has been given
11 so far?

12 ATTORNEY LINNUS: John, were you
13 previously sworn in?

14 BOARD TRAFFIC CONSULTANT: Yes.

15 ATTORNEY LINNUS: You understand
16 you're still under oath?

17 BOARD TRAFFIC CONSULTANT: Yes.

18 ATTORNEY LINNUS: Do you want to
19 identify yourself first for the record?

20 BOARD TRAFFIC CONSULTANT: John Jahr,
21 with Brightview Engineering. Regarding the day care
22 application. I have -- I would like to ask Ms.

23 Dolan if she would be kind enough to explain why we
24 should rely on the studies and not the standard
25 ordinance or ITE designations for the parking. If

Dolan - Direct

22

1 she would be kind enough to please elaborate on the
2 differences between those three different data
3 points and why traffic -- from a traffic engineering
4 standpoint, we would rather rely on the actual
5 studies that she performed and other consultants
6 performed locally in the area.

7 Betsy, could you give us more

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8 background on that?

9 THE WITNESS: Sure. And I think it

10 really goes to the ITE because it's my understanding

11 that there's no day care specific requirement in

12 Watchung.

13 The ITE provides their data really as a

14 starting point. It's informational as opposed to

15 recommended ratios. And one of the things ITE

16 suggests is that the data be reviewed and then

17 compared with local studies.

18 Over the past 20, 25 years day cares

19 have become very popular. At the onset of the day

20 care development boom there wasn't a lot of data.

21 And so we did collect data to make sure that the

22 older ITE data was still relevant.

23 Now I did go back to the fourth

24 edition, the third edition of the Parking Generation

25 Manual. Those were from 2004, 2010. And the rate

Dolan - Direct

23

1 per enrolled students hasn't changed much, but I

2 think that, again, we've got a lot of data that we

3 have collected, and not just that our office has

4 collected but some of our colleagues in New Jersey,

5 and then also looking at the, in this particular

6 case, TLE, a summary of the actually parking

7 supplies at 49 locations. I think that helps to

8 show that these, specifically TLE because that's

9 what we're here for, is comfortable with the parking

10 supply that is proposed. And I would say, again,

11 that it's consistent. And we have, Dolan & Dean,

12 has consistently recommended 30 to 35 parking spaces

13 for enrollments of 180 to 190. And this falls just

14 south of that and, I believe, 154 is the enrollment

15 that we're talking about.

16 So ITE suggests that you do collect

17 local data and use their information as a starting

18 point and get extra data to make sure you've got the

19 right information and that you're targeting the

20 appropriate parking demand for your use.

21 ATTORNEY LINNUS: John -- John --

22 excuse me, John. But before you proceed further I

23 do want your qualifications placed on the record,

24 please.

25 BOARD TRAFFIC CONSULTANT: John Jahr.

Dolan - Direct

24

1 I'm the principal of Brightview Engineering. I have

2 a bachelor of science degree from Rutgers

3 University. I have been a transportation engineer

4 professional for 30 years.

5 I have testified before over 100 boards

6 in the state. And I currently serve many boards as

7 their traffic consultant. I'm a professional

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8 transportation planner and traffic signal operations
9 specialist.

10 All my credentials are in good standing
11 order.

12 ATTORNEY LINNUS: All right. Chair,
13 do you accept his qualifications?

14 VICE-CHAIRMAN SPEENEY: Absolutely.

15 ATTORNEY LINNUS: Okay. All right,

16 John, you can proceed.

17 BOARD TRAFFIC CONSULTANT: Ms. Dolan,
18 you mentioned about the circulation. I do have -- I
19 still have some continued concerns about the
20 circulation on-site. I guess it might be a little
21 challenging in our current form, but can you -- can
22 you address those a little bit more?

23 I'm still not comfortable with the
24 circulation. Now you say the site plan engineer did
25 address some of it, but I was wondering if you would
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1 be kind enough to opine a little bit on how say, the
2 small children-mover buses or a waste refuse vehicle
3 is going to be able to navigate through the site and
4 how that's going to work.

5 THE WITNESS: Well, I believe that the
6 parents are supposed to be bringing the children to
7 and from the site. I don't know that TLE has a van
8 or a small bus. I think that is site-specific and is
9 also based on local demand.

10 But it would -- certainly the site has
11 been designed with a 24-foot two-way circulation
12 aisle. Parking on the outside so it's a pretty
13 basic layout.

14 I honestly I believe that the refuse
15 vehicle will probably come in that -- well it has to
16 come in the main site driveway, pull forward, back
17 in to pick up the refuse. And then leave the
18 northerly driveway closer to New Providence Road.
19 And I think Gerry Gesario had talked
20 about how it would have to be off peak. It can't be
21 during the pick off/drop off activity.

22 BOARD TRAFFIC CONSULTANT: Okay. I
23 think as any -- if the board were to look favorably
24 on this application would you be willing to agree
25 that any condition of approval would have to be
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1 prefaced by providing a turning template to the
2 board engineer, Mr. Herits' satisfaction, that
3 either a small van or a small school bus, the ones
4 that you would typically see at this facility, would
5 be able to circulate through the parking lot without
6 impacting any parking spaces.

7 My concern is very -- to get right to

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8 my concern, I'm concerned that if there's a -- one
9 of these small school buses are a little wider,
10 they're a little longer than a car. If there were
11 to be any types of those coming to this facility,
12 I'm concerned that -- that they may not be able to
13 circulate adequately. So it would be important to
14 us to see that and I think that that needs to be
15 provided to Tom for his approval. We would also
16 look at it, as well.

17 And I guess the other thing is, is with
18 regard to the garbage, I'm really -- I'm not too
19 concerned if the garbage truck, you know, can drive
20 wherever they want in the parking lot, but we should
21 definitely make it clear that they're not going to
22 be there during the same times that the parents and
23 children are there. Right?

24 Is the garbage going to be done
25 off-hour or can you please tell me -- give me a
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1 little bit more information on that.

2 THE WITNESS: I don't know that I can.

3 We might have to go back to the site engineer or
4 maybe Mr. Hehl can comment on that. I was not
5 prepared to address that this evening.

6 BOARD TRAFFIC CONSULTANT: Okay. If
7 we could firm that up a little bit. Again, just to
8 be clear, you know, we need to either -- the garbage
9 truck needs to be able to circulate without
10 exceeding parking spaces or what not, or the garbage
11 truck really can't come there during the time that
12 the place is in operation.

13 My preference would be that they agree
14 that the garbage truck will not be there when
15 children or parents are there.

16 ATTORNEY LINNUS: Mr. Hehl, do you
17 want to respond to that please?

18 ATTORNEY HEHL: I don't think there
19 will be any issue with that. That makes -- we'll
20 confirm that operation and let you know in a second.

21 ATTORNEY LINNUS: All right. That
22 would be with the condition proposed on the turning
23 template and also the garbage truck to be there off
24 hours.

25 BOARD TRAFFIC CONSULTANT: I would
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1 like to reserve further comments and questions.

2 The applicant, I believe -- I believe

3 that there's an objecting traffic engineer. And I
4 would like to listen to any other concerns before
5 finalizing any comments to Ms. Dolan, if that's
6 acceptable to the board.

7 VICE-CHAIRMAN SPEENEY: John, I'm

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8 sorry, what is it that you're trying to get?

9 BOARD TRAFFIC CONSULTANT: I would
10 like to reserve the opportunity to ask additional
11 questions, or have further comments after the
12 objecting traffic engineer addresses the board and
13 any public addresses the board.

14 VICE-CHAIRMAN SPEENEY: That's fine.

15 BOARD TRAFFIC CONSULTANT: That's all
16 I have for now.

17 VICE-CHAIRMAN SPEENEY: Okay. Board
18 members, do we have any questions/comments for Ms.
19 Dolan?

20

21 MEMBER PENNETT: Yeah, Don, I have a
22 couple of questions.

23 VICE-CHAIRMAN SPEENEY: Karen.

24 MEMBER PENNETT: Okay. When all the
25 traffic studies are done and so forth, nearby this
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1 site on Bonnie Burn Road, a large development will
2 be going in. Has the additional traffic from that
3 development been considered at all and in any of
4 these reports?

5 THE WITNESS: No, it hasn't. As I
6 called out in the traffic study New Providence Road
7 in normal times and when we initiated and submitted
8 all these studies, it's at capacity. So you can
9 only get so much traffic up New Providence Road in
10 the morning and down New Providence Road in the
11 evening.

12 And the reason our numbers when we
13 counted in June and July were a little lower than
14 DOT's is because school was out of session and the
15 numbers were a little bit lighter. But the road is
16 at capacity. And so you can't -- you can't push any
17 more traffic than is creeping up northbound in the
18 morning and coming back southbound in the evening.
19 So it's sort of a processed volume as opposed to
20 being able to add that traffic.

21 We did include background traffic
22 growth, a growth rate when we analyzed our driveway
23 on Union Avenue. And that would account for the
24 additional trips from the residential area. But you
25 just really can't add more traffic than New
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1 Providence Road in an hour. It's already at
2 capacity.

3 MEMBER PENNETT: Okay. Then also are
4 there any type of activities that the learning
5 center would provide like, you know, little
6 graduations or holiday parties and so forth, that
7 would have impact?

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8 I mean if you have all the parents
9 there for 100 children, there could be a problem,
10 you know.

11 THE WITNESS: I believe Matt Jarmel
12 testified that -- that, no, they would not be having
13 large-scale operations like that because they know
14 they can't accommodate it on-site. So they might
15 have any large-attended events off-site.

16 ATTORNEY HEHL: That's correct.

17 MEMBER PENNETT: Then I just have a
18 few more questions.

19 There's a ball field across the street
20 on Union Avenue. I don't know how active that ball
21 field is but I do know from experience from the ball
22 fields very close to me that when there's a game
23 going on, there's a lot more traffic from the, you
24 know, players' parents and so forth. Will that
25 affect --

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1 THE WITNESS: I don't think it will
2 affect the driveway movements to and from this
3 location. Certainly there's times when there's more
4 traffic but I think a lot of the use of the field
5 may be more after school and weekends. I don't know
6 that for certain.

7 MEMBER PENNETT: Right. But that
8 after school and weekends will really be hitting
9 during one of the peak hours, you know, around 5 or
10 6.

11 THE WITNESS: Right. So when we
12 counted and adjusted, you know, we tried to adjust
13 and account for those types of things. But I don't
14 have any specific counts or information from when
15 the field was in use and there might have been more
16 traffic.

17 MEMBER PENNETT: Okay. You talked
18 about the garbage trucks being able to go through at
19 off hours or when the school is not in session.
20 Would that also include the recycling trucks?

21 THE WITNESS: Yes. Whichever trucks
22 are picking up refuse, it would have to be off
23 hours.

24 MEMBER PENNETT: Okay. And when you
25 did your study going up and down Union Avenue did
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1 you ever -- were you able to take note, is it more
2 trucks, heavy truck traffic from the quarry or was
3 it just general car traffic?

4 THE WITNESS: From being on Union
5 Avenue and the counts I don't believe we had many
6 heavy vehicles on Union Avenue. As I said earlier
7 there is a prohibition, there's a weight limit

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8 posted at the intersection. So the trucks aren't
9 supposed to use it.

10 MEMBER PENNETT: Okay. Okay, that's
11 all my questions.

12 VICE-CHAIRMAN SPEENEY: Thank you,
13 Karen. Anyone else?

14 Any other board members?

15 COUNCILMAN MARTINO: Yeah, Mr. Chair,
16 Councilman Martino.

17 VICE-CHAIRMAN SPEENEY: Okay,
18 Councilman.

19 COUNCILMAN MARTINO: Good evening. I
20 was just wondering, I mean I know you got on this
21 garbage truck situation. Was there a fire
22 department ladder truck radius survey done for this
23 location?

24 THE WITNESS: That was all Mr.
25 Gesario's work and testimony. And I will tell you
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1 honestly I participated and I listened but I don't
2 recall everything he said and did not read the
3 transcript. So that was his testimony and he will
4 either have to be recalled to discuss or maybe Mr.
5 Hehl can answer that.

6 COUNCILMAN MARTINO: Yeah, because
7 that could probably clear up a lot of this because I
8 believe the radius on the fire apparatus is probably
9 bigger than the garbage vehicle. So I don't know if
10 that will save us a little bit of time.

11 Thank you.

12 ATTORNEY HEHL: Thank you, Councilman.
13 I think we did after the -- either prior or after
14 the initial hearing, the live hearing, we did get
15 feedback and approval from the fire department and
16 that letter was submitted to the board. I think
17 Theresa distributed it to everyone. Thank you.

18 VICE-CHAIRMAN SPEENEY: Anyone else?

19 Okay, Mr. Pote.

20 MEMBER PENNETT: Steve Pote has a
21 question.

22 MEMBER POTE: Couple questions. Thank
23 you. When you were doing the traffic study and
24 you're looking at the flow coming off of New
25 Providence making a left onto Union, or in the
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1 evening leaving -- actually day or night, leaving
2 Union Avenue and trying to make a left out of there,
3 did you consider the potential backup and the delays
4 that are created by just like you said, the
5 at-capacity traffic that exists?
6 And then how does that affect the whole
7 operation of either leaving, which very quickly you

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8 can imagine a set of cars piling up to get out of
9 there onto New Providence, or trying to get in in
10 the morning.

11 THE WITNESS: Right. We did in our
12 counts, we identified the left turn I think that
13 you're asking about, and it was 16 -- a maximum of
14 16 lefts in one hour.

15 MEMBER POTE: Okay.

16 THE WITNESS: And, you know, and you
17 compare that with 157 right turns in the morning
18 coming off of Union Avenue to go up towards 78.
19 So the left turn is even lower in the
20 evening peak hour, it was 11. And as I said it's
21 sort of self-policing because you can go around the
22 block and take 22 over to New Providence and it gets
23 you back to -- I'm sorry, to Bonnie Burn to get you
24 back to New Providence.

25 The only way traffic during capacity is
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1 getting on and off of Union Avenue is with what we
2 call a courtesy gap. Somebody leaves the
3 intersection open and someone, for example,
4 traveling northbound stops before the intersection
5 to allow a southbound person to turn left onto Union
6 Avenue. Same thing trying to get off of Union
7 Avenue during busy periods, as often a north-bound
8 vehicle will pause and let them come out.
9 So it's a courtesy gap that is allowing
10 the majority of those movements to be processed
11 during peak traffic hours. We did discuss this with
12 the county. The county traffic engineer had gone
13 out there. She talked about seeing two or three
14 cars max queue. That is consistent with what we
15 were seeing.

16 So, you know, the site is going to
17 be -- regardless of a daycare or whatever else may
18 be developed on this property, is going to have the
19 same issues. Because New Providence Road is a main
20 artery between 78 and 22, and you know, it's just
21 like Park Avenue going from all the way back into
22 when it's Lake Avenue in Clark through Fanwood,
23 through Scotch Plains. It crawls in the morning.
24 People are trying to get up to 78. And the reverse
25 happens in the evening.

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1 So that's endemic to the site location.
2 And it's not going to change until people continue
3 to stay at home and the volume never gets back to
4 what it had been at capacity.

5 MEMBER POTE: Okay. Thank you. I
6 appreciate that, that analysis. The question I have
7 as a follow-up to that is are there -- are there any

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8 considerations when you put these buildings in place
9 about the safety issues, right, because you're
10 saying it's a courtesy thing that people are
11 allowing people to make a left out or a left in.
12 But the reality is, like you said, you're at
13 capacity. You're going to have to be making those
14 left turns, whether it be 16 or 10 or 20. And as a
15 result it -- it becomes just a natural safety issue
16 when you have those situations.

17 Is this typical? Or how do you deal
18 with that? How did the county deal with that?
19 THE WITNESS: Well the county
20 hasn't -- and again, I have not been a party to the
21 county discussions or correspondence for many, many
22 months. I did participate in the early meetings and
23 made sure that they received the traffic volume
24 information and analysis that they wanted for their
25 purposes.

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1 They had not made any suggestions or
2 requested anything from the applicant, at least when
3 I was meeting with them, to modify/adjust the
4 intersection other than to straighten out the
5 pavement across the site frontage and formalize the
6 two-lane approach to the intersection. The
7 intersection is too close to Bonnie Burns, for
8 example, to be signalized. It also wouldn't meet
9 warrants for signalization. So, you know, in other
10 cases we have done things like Do Not Block the Box.
11 I don't know if the county would be interested in
12 anything like that.

13 But, as I said, it's endemic to the
14 site. So if a parent perceives this as a place
15 where they don't want to drive or have their
16 children dropped off because they don't like the
17 traffic, there's other day cares in the area that
18 they can choose.

19 From a convenience perspective that the
20 site is on the way to 78, I think in that regard it
21 may be attractive to some people. But I also think
22 that the world we're living in right now is likely
23 to curtail some of the historic commuting activity
24 that we have seen. I know people who will not be
25 returning to their offices and I know many people

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1 running offices are fine with certain employees
2 working from home.
3 So I think that -- it may take quite
4 some time to get back to the normal commuting
5 pattern but, again, it's something that goes with
6 the site. And as a permitted use, the off-site
7 traffic isn't really a part of the application, but

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8 certainly we can't ignore that New Providence Road
9 is a very busy roadway and it's right -- it's right
10 next to the site.

11 MEMBER POTE: Okay. Thank you. One
12 more question. Given the uniqueness of the area
13 from the standpoint that the building will literally
14 be on the corner, right, of New Providence and
15 Union, I think the setback was -- is it 25 feet
16 there? Is that of any concern given the -- what I
17 will say is the proximity of the building to such
18 a -- such a busy intersection of roads?

19 THE WITNESS: The county probably has
20 sight distance requirements. And as long as there's
21 no impact to the lines of site then it would be
22 acceptable from that perspective. But the whole
23 idea is to make sure that there's a clear line of
24 sight from the intersection approach to and from the
25 north on New Providence.

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1 MEMBER POTE: Okay. Thank you.

2 THE WITNESS: You're welcome.

3 VICE-CHAIRMAN SPEENEY: Anyone else?

4 Ms. Dolan, I have a comment here. The
5 Site Plan Subdivision Committee was out at
6 10:00 a.m. on the day you went out, which was the
7 Friday, November 15th. At 10:00 a.m. we experienced
8 significant heavy-duty truck traffic leaving Weldon
9 quarry. And some of these drivers appeared to speed
10 up within the quarry egress road to merge with
11 existing traffic on southbound New Providence Road.
12 Now these trucks also exhibited loud engine exhaust
13 noises. Also the automobile traffic seemed to be
14 bumper-to-bumper going northbound on New Providence
15 Road except for momentary openings because of the
16 traffic signal at New Providence Road and Bonnie
17 Burn Road.

18 We had issues with pulses of traffic on
19 Union Avenue in each direction. And this is at
20 10:00 a.m. And we didn't see too many courtesy
21 openings with the southbound drivers turning left
22 from New Providence Road onto Union Avenue. And we
23 observed that this caused a backup on New Providence
24 Road with the existing turning lane.

25 Now my comment -- my question is the

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1 mix of traffic and the use of a school particularly
2 for very young children. Do you have a concern for
3 this mix of traffic?

4 THE WITNESS: That's an interesting
5 question. From my perspective there's certainly an
6 acknowledgement that there's heavy traffic and
7 there's the wide opening of the quarry I will say

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8 driveway, if you will, and that the trucks are
9 entering and exiting.
10 I don't think that that's a traffic
11 engineering question associated with the proposed
12 use. I think that's more of the applicant's
13 decision to propose this use at this location,
14 recognizing that there is routine truck traffic.
15 And then again, it goes to the potential success of
16 the facility. If that's a turnoff or a concern for
17 perspective parents, then maybe they don't have as
18 many people as they might otherwise.
19 But that's a -- I think that's more of
20 a business decision and more of a parental decision
21 as to whether or not they're comfortable with the
22 site. Otherwise the roadway is -- it's an existing
23 condition. And then the quarry is certainly
24 omnipresent. I mean, it's there. It's generating
25 truck traffic. That's part of the existing
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1 condition of the site setting.
2 VICE-CHAIRMAN SPEENEY: Well relative
3 to the allowed use for this particular application
4 at that site, the problem -- the problem is that
5 that allowed use is mandated by the state and I
6 don't think -- I think this mix of traffic, I'm
7 talking about 10:00 a.m. in the morning, very large
8 trucks coming out of the business, I really think
9 that in addition to this being a parental decision
10 that it's really a decision for the community, the
11 planning board and its professionals in terms of
12 making a statement about whether this is a good -- a
13 good use on that corner with that mix of traffic.
14 So, you know, and I realize that
15 it's -- I accept what you have said about the
16 business making a decision and the parents
17 using -- making a decision whether they use that
18 school or not, but I really -- I really think from
19 what -- you know, you talk about it being -- the
20 roads being at capacity now, they're at capacity now
21 with no improvement.
22 And so, you know, I think if you're
23 standing on that testimony that it's at capacity,
24 then the board should take that into account
25 seriously about the mix of traffic. All right?

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1 THE WITNESS: Again I can't -- I can't
2 render an opinion on the mix of traffic. I know
3 that there's heavy trucks there, there's a use that
4 generates truck activity, and that's just -- that's
5 part of the site. So beyond that there's no traffic
6 testimony I can provide.
7 VICE-CHAIRMAN SPEENEY: All right.

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8 Thank you very much.

9 THE WITNESS: You're welcome.

10 VICE-CHAIRMAN SPEENEY: Tom, any
11 comments? Do you have any comments, Tom, at this
12 time? Because I'm going to open it up to the
13 public.

14 BOARD ENGINEER: Not at this time.

15 VICE-CHAIRMAN SPEENEY: So open to the
16 public, questions to the expert, Ms. Dolan.

17 MR. BUTLER: Yes, Mr. Speeney, Bill
18 Butler. I would like to ask Ms. Dolan several
19 questions, if I may.

20 VICE-CHAIRMAN SPEENEY: Go right
21 ahead.

22 ATTORNEY BUTLER: Thank you, sir.

23

24 C R O S S E X A M I N A T I O N

25 BY ATTORNEY BUTLER:

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1 Q. Ms. Dolan, you indicated that you had
2 rendered several traffic reports in preparation for
3 your testimony; is that correct?

4 A. For other day care applications, yes.

5 Q. Yeah. Well, no. I'm talking about for
6 this particular application?

7 A. I had testified about the preparation
8 of other traffic studies, yes.

9 Q. I'm talking about the traffic studies
10 that you rendered. And I'm going to talk to you
11 about the traffic studies you rendered for this
12 application.

13 A. Right. There were three documents I
14 referenced.

15 Q. Right. Now let me talk to you first,
16 if I may, if any time I'm confusing you, you
17 interrupt me, because I'm not trying to trick you or
18 anything but between you and I, I don't like this
19 format, okay. I would rather be looking at you and
20 be next to you.

21 But, Betsy, let's talk about your
22 report of July 25th, 2019. Can we start off with
23 that?

24 A. Yes.

25 Q. That was your first report, right?

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1 A. That's correct.

2 Q. Now, I want to start off and talk about
3 parking first, if I may.

4 ATTORNEY HEHL: Let me just ask,
5 Betsy, do you have a copy of that report with you
6 there?

7 THE WITNESS: I do, yes.

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8 ATTORNEY HEHL: Thank you. Sorry.

9 BY ATTORNEY BUTLER:

10 Q. I assume you have all of your reports

11 in front of you?

12 A. I do, yes.

13 Q. Sure. I assume that.

14 Now on Page 7 when you talked about

15 parking and you concluded that 29 parking spaces was

16 adequate, you made this statement, I want to quote

17 from you. The second sentence of your next to last

18 paragraph you said, "Based on extensive parking

19 demand research."

20 Those are your words, aren't they?

21 A. Yes.

22 Q. When I read "extensive parking demand

23 research," I got the impression that we were talking

24 about multiple sites?

25 A. Yes.

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1 Q. Okay. Now in this particular report --

2 I know you did other reports but let's stick with

3 July 25th, 2019.

4 In that report you don't mention one

5 other site that you analyze; is that correct?

6 A. That's correct.

7 Q. Now let's go to your next report. I

8 have a report in front of me that you authored,

9 dated September 2nd, 2000.

10 So do you have that report?

11 A. I have it in front of me, yes.

12 Q. Okay. Now in that report -- your

13 reports, and I'm not being critical, they're not

14 paginated. So I might have a little difficulty

15 letting you know where I want to start.

16 I would like to -- there's an area

17 after your report, or as part of your report it says

18 Morris County research sites.

19 Do you know what I'm talking about?

20 A. Yes.

21 Q. Okay.

22 A. It has a subtitle, Site Data and

23 Parking Demands.

24 Q. Right. Would you put that page in

25 front of you, please. Do you have it?

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1 No, no, no, no, no. I just want to ask

2 you questions about it.

3 A. Okay. I thought you...

4 Q. No. Now, Ms. Dolan, you identify two

5 sites, do you not; one in Parsippany and one in

6 Whippany/Hanover, correct?

7 A. Correct.

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8 Q. And these two sites are
9 approximately -- these are day care centers and
10 they're approximately the same size as what the
11 applicant is proposing, around 10,000 square feet;
12 is that correct?
13 A. Yes.
14 Q. Okay. And -- and the first site in
15 Parsippany has 41 parking spaces, right?
16 A. Yes.
17 Q. Okay. Now, there's an enrollment there
18 of 143, correct?
19 A. Yes.
20 Q. And you have a column that is next to
21 the last that is called maximum parking demand.
22 What does that mean?
23 A. When we went to the facility, to that
24 specific Learning Experience in Parsippany and
25 performed counts back in October of 2012, that was
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1 the maximum number of parking spaces counted at any
2 one time on the property.
3 Q. Okay. Now you did that one day,
4 October 9th, 2012, 8 years ago; is that correct?
5 A. That's correct.
6 Q. You couldn't give us anything more
7 current?
8 A. This is what we had summarized at the
9 time and this is what we had submitted. And I had
10 discussed it with Brightview, in terms of having
11 data but not having data summarized in a format to
12 present. But this had been formally provided and
13 submitted as part of another application. And so it
14 was mutually agreed, between Mr. Fishinger and I,
15 that I should submit this as a sampling of our
16 research.
17 Q. Okay. I asked you, you know, why you
18 couldn't give me anything more recent than eight
19 years. Why couldn't you give us, the board, any
20 more than a study of one day?
21 A. We typically only study one day at
22 each research site.
23 Q. All right. Now, let's go down to
24 KinderCare site in Whippany, Hanover Township.
25 Again, that's a day care center. It's
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1 a little bigger than our building, the one you
2 propose. I call it our building, it's the subject
3 application. It's 11,700 square feet.
4 There's 140 people enrolled; is that
5 correct?
6 A. Correct.
7 Q. And that has 38 parking spaces --

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8 A. Correct.

9 Q. -- is that correct?

10 A. Yes.

11 Q. And again your maximum parking demand

12 you went back October 12th, 2012, 8 years ago. And

13 again you just used one day, October 4th, 2012.

14 Is that correct?

15 A. That is correct.

16 Q. Okay. Now, so when -- when I read your

17 report, your first report, and you said based on

18 extensive parking demand research, you're talking

19 about those two sites?

20 A. No.

21 Q. What else are we talking about?

22 A. I was talking and I mentioned in my

23 testimony earlier that my partner, Gary Dean, his

24 firm prior to Dolan & Dean had specifically studied

25 parking for the Goddard School. We had counted The

Dolan - Cross

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1 Learning Experience in Somerset a few years ago.

2 Q. Was this in your report?

3 A. No, it's not.

4 Q. Well, you know, in all due respect to

5 this board and to me as an objector, I have a

6 problem with you testifying about stuff that is not

7 in your report that your partner did.

8 I only have your reports. I'm not a

9 mind reader.

10 ATTORNEY HEHL: Mr. Butler, she

11 testified to it. If you want to ask her questions

12 about what she testified to, that's fine. If you

13 want to make a comment on the -- her data, that is

14 certainly fine when you put your case-in-chief on.

15 ATTORNEY BUTLER: Well, she's

16 testified about two reports, okay, and she said she

17 did extensive reports.

18 BY ATTORNEY BUTLER:

19 Q. And now I would like to go back, Ms.

20 Dolan, to your September 2, 2020 report. We talked

21 about those two sites. Go two pages beyond that, if

22 you would. As I said they're not paginated, so I

23 can't help you out like I would like to.

24 Do you see that part of your report

25 where you say, "hourly staff parking demands?"

Dolan - Cross

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1 A. Yes, with the subtitle, Primrose

2 sites.

3 Q. Yes. And you have 1, 2, 3 -- you have

4 four sites. One is proposed. 1, 2, 3, 4 are in

5 existence. But these -- it's entitled Hourly Staff

6 Parking Demands. This is just for staff. This

7 doesn't include children or parents or anything

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 else, does it?

9 A. That's incorrect. We provided the
10 enrollment capacity, the number of enrolled and the
11 number of staff. But this is the total parking
12 demand. It's not staff parking demand.

13 Q. Well why is it called Hourly Staff

14 Parking Demands; that's the heading of the page?

15 A. Yes, you're correct. This was from

16 Primrose, and as you said, it's from a few years

17 ago. So, I'm sorry, but I can't quite answer that

18 question. It was my understanding that this was

19 total parking demand for these sites but it may be

20 staff parking demand.

21 Q. And Betsy, how does that help us, just

22 staff -- how does that assist the board in

23 determining whether you made the proper opinion as

24 to the required parking spaces?

25 A. Sure, because the staff parking peaks

Dolan - Cross

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1 in the middle of the day outside of the parent pick

2 up/drop off activity, that's why those hours are

3 highlighted. 9:00 a.m. to 4:00 p.m. is when you get

4 the maximum staff parking demand. The turnover

5 associated with the parent pick up/drop off in the

6 earlier part of the day and the later part of the

7 afternoon is when there's fewer staff on-site.

8 So the purpose of this exhibit was to

9 show the gradual increasing of the staff parking

10 demands -- yes, it's coming back to me now -- versus

11 the lower staff count at the time when parents need

12 parking for pick up/drop off.

13 Q. Okay. So I think you're agreeing with

14 me that this page reflects just staffing and not

15 parking for parents and infants and children, right?

16 A. Right. This was the staff parking at

17 five Primrose sites, correct.

18 Q. And I'm looking at the sites. Three of

19 these sites it says are -- there was 1, 2, 3, 4 --

20 there's five existing sites. Three of them are in

21 Atlanta, right?

22 A. Yes.

23 Q. And one of them is in Washington, D.C.?

24 A. Suburb, yes.

25 Q. And there's another one in Minneapolis,

Dolan - Cross

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1 St. Paul, right?

2 A. That's correct.

3 Q. Okay. Bear with me one minute.

4 Now I want to talk to you --

5 VICE-CHAIRMAN SPEENEY: How about

6 asking some questions rather than talking to her?

7 ATTORNEY BUTLER: Well, you know, to

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 ask questions you have to talk.

9 Q. On your original report, 7/25/19, would

10 you go to Page 4?

11 A. Okay.

12 Q. Now you did something that is very

13 commonly done which all traffic -- all good traffic

14 -- like you are, all good traffic engineers do, and

15 that is you determine how much traffic is at a site,

16 you know, before it's built, and then you determine

17 how much a proposed use, after it was going to be

18 built, how much it would generate, right?

19 A. Right.

20 Q. And that's what you did on Page 4,

21 right?

22 A. Correct.

23 Q. And you indicated that you're a member

24 of the Institute of Transportation Engineers, didn't

25 you?

Dolan - Cross

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1 A. I did, yes.

2 Q. And that's commonly abbreviated with

3 ITE, right?

4 A. Yes.

5 Q. Okay. And you use the ITE data to

6 determine trip generation, how many more people were

7 going to use the road if this thing ever got

8 approved and built, right?

9 A. Yes.

10 Q. However, when it came to determine

11 parking you didn't use the ITE manual, did you?

12 A. No.

13 Q. Now I'm looking at, and I want you to

14 confirm, the ITE does have a parking manual for day

15 care centers; does it not?

16 A. The parking generation manual does

17 include day cares, yes.

18 Q. And I'm looking at something called

19 daycare center in parenthesis, it has 565.

20 What's that, the code name for day care

21 centers, 565?

22 A. Yeah, that's ITE's Land Use Code,

23 correct.

24 Q. Now are you familiar with the day care

25 center ITE projected parking requirements; are you

Dolan - Cross

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1 familiar with it?

2 A. Yes.

3 Q. Do you have it in front of you?

4 A. I do. Parts of it. I don't have the

5 whole thing.

6 Q. Take your time and get it. I want to

7 ask you a couple of questions about it.

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 A. Sure. I got it.

9 Q. Now this, the ITE projects for 154
10 students it predicts or suggests 42 parking spaces;
11 is that correct?

12 A. Let me just -- there's a couple of
13 different rates so I want to be sure we're talking
14 about the right one.

15 ATTORNEY HEHL: Mr. Butler, if you
16 could -- if there's a particular section or page, if
17 you could identify it for Ms. Dolan so we're all on
18 the same page here.

19 ATTORNEY BUTLER: It's only one page.

20 She says she has it in front of her.

21 THE WITNESS: Can you repeat the
22 question?

23 BY ATTORNEY BUTLER:

24 Q. I'll absolutely repeat it. I would be
25 happy to. It established that -- it suggests 42
Dolan - Cross

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1 parking spaces for 154 students. And the question I
2 asked you, the one that is pending, is, and this ITE
3 study for parking at day care centers is predicated
4 upon 39 studies?

5 A. Okay. If you apply the ratio per
6 student and --

7 Q. No, no, answer -- how many studies was
8 it based upon? Am I wrong, based on the studies?

9 ATTORNEY HEHL: Mr. Butler, she's
10 trying to answer your question. Let her answer
11 please.

12 THE WITNESS: Yes.

13 ATTORNEY BUTLER: Excuse me?

14 THE WITNESS: Yes.

15 ATTORNEY BUTLER: Yes, okay. That's
16 all I wanted to get into the record.

17 Q. And you're asking the board to accept
18 your 29 spaces predicated upon two, two site
19 locations; is that correct?

20 A. No.

21 ATTORNEY HEHL: If you could let her
22 explain without interrupting her, please.

23 A. No.

24 ATTORNEY BUTLER: Wait, wait, wait.

25 Mr. Hehl, I think I've given her opportunity to
Dolan - Cross

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1 explain. And I'll let her explain all she wants. I
2 know you might not like this cross-examination, but
3 I have to do it and --

4 VICE-CHAIRMAN SPEENEY: Mr. Butler --

5 ATTORNEY BUTLER: -- and get straight
6 answers.

7 VICE-CHAIRMAN SPEENEY: Mr. Butler, no

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 cross-talking now, come on. Ask questions of the
9 applicant expert here.

10 ATTORNEY BUTLER: And that's what I'm
11 doing.

12 VICE-CHAIRMAN SPEENEY: Well, getting
13 a little bit beyond asking questions. Go ahead.

14 BY ATTORNEY BUTLER:

15 Q. Okay. 45 parking studies, 42 spaces.

16 Okay. Now, we talked a little bit about traffic
17 that you analyzed.

18 Now I'm going to talk to you, if I may,
19 about your report of September 2nd, 2020. Okay?

20 A. Yep.

21 Q. Now the first four pages have traffic
22 counts, left/right hand turns. And when you put it

23 all together, you summarize it for us. It's called

24 AZS7, two-way stop control report.

25 Do you have that? Do you see that?

Dolan - Cross

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1 A. Yes, I do.

2 Q. Now this page analyzes a.m. level of
3 service, for the intersection of Union Avenue and

4 New Providence Road, doesn't it?

5 A. Yes.

6 Q. And you analyzed it as a T

7 intersection; is that correct?

8 A. Yes.

9 Q. A T intersection meaning New Providence

10 Road running -- excuse me, Union Avenue running

11 perpendicular to New Providence Road, right?

12 A. Yes.

13 Q. Now you heard Don Speeney, our

14 Chairman, talk about the site committee's visit to

15 this area, 10:00 a.m. in the morning. And he talked

16 about all the traffic coming out of the Weldon. And

17 I represent to you, and Bob Weldon is going to

18 testify, that across the street from your proposed

19 building is the only exit.

20 VICE-CHAIRMAN SPEENEY: Mr. Butler?

21 ATTORNEY BUTLER: -- out of the quarry

22 is the --

23 VICE-CHAIRMAN SPEENEY: Mr. Butler,

24 you're making more than just asking a question. Ask

25 questions and then when you get your opportunity to

Dolan - Cross

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1 present your case, you can expand all you want on

2 this issue.

3 ATTORNEY BUTLER: Okay.

4 BY ATTORNEY BUTLER:

5 Q. Ms. Dolan, with that background, why

6 didn't you analyze this intersection as a four-way

7 intersection instead of a T-intersection?

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 A. Because that fourth leg is wide open,
9 it's not a defined fourth leg. And the trucks are
10 entering and exiting at different points not just
11 across from Union Avenue. That's why we only
12 analyze it as a T. I'm not disputing there's
13 traffic entering and exiting the quarry.
14 Q. But I mean, as a fact, there's a lot of
15 traffic coming in and out of that -- or out of that
16 quarry at that location, isn't there?
17 A. I can't quantify "a lot." I would
18 have to go back to my traffic counts and see what we
19 had on those sheets.
20 Q. Okay. All right. Let's look at what
21 you found when you didn't take into consideration
22 the quarry traffic and you analyzed it as a T
23 intersection. Okay?
24 Now the first page is a.m. existing,
25 right?
Dolan - Cross
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1 A. Right.
2 Q. New Providence Road and Union, right?
3 A. Correct.
4 Q. And there's a section they
5 call -- that's called delay, queue length and level
6 of service; is there not?
7 A. Yes.
8 Q. And you have the amount of time
9 somebody would have to wait if they were on Union
10 Avenue and they wanted to make a left or right onto
11 New Providence Road during morning peak hours; is
12 that correct?
13 A. That's correct.
14 Q. Now would you agree with me that Union
15 Avenue is a one-lane road, it doesn't have a turning
16 lane?
17 A. Yes.
18 Q. You would agree with me?
19 A. Yeah, there was partially striped a
20 two lane but it's not a full two-lane approach. I
21 analyzed it as one.
22 Q. As a one lane. Well, that's what it
23 shows when you go out there and physically look at
24 it, doesn't it?
25 A. Yes.
Dolan - Cross
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1 Q. Now, for the -- see where you have the
2 68, you get a level of service F whether somebody
3 wants to make a left or a right onto New Providence
4 Road; is that correct?
5 A. Yes.
6 Q. Now we're talking about time when we
7 talk about level of service, what is the time span

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 of F; can you remember?

9 A. It's anything above 50 seconds for an
10 unsignalized intersection.

11 Q. Anything above -- anything that takes
12 longer than 50 seconds is an F?

13 A. Yes.

14 Q. Okay. So now you have making a left
15 from Union onto New Providence, you have it taking
16 68.2 seconds. That's for the average left-hand
17 turn, right?

18 A. Correct.

19 Q. And going to the right, if they were on
20 Union Avenue they wanted to make a right on New
21 Providence Road, it would take 57.8 seconds; is that
22 correct?

23 A. That's the calculation, yes.

24 Q. Now let's go to the next page. Because
25 the page I just discussed with you was existing
Dolan - Cross

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1 before -- before the build, right?

2 A. Right.

3 Q. And now the next page covers the same
4 type of material but it anticipates level of service
5 at the intersection after you build the daycare
6 center, right?

7 A. Right.

8 Q. And if I read it right under the
9 section, Delay, Queue Length and Level of Service,
10 with build, somebody wants to make a left-hand turn
11 from Union to New Providence, they're going to have
12 to wait 73.9 seconds, is that correct?

13 A. That's the calculation.

14 Q. And if somebody wanted to make a right
15 on New Providence Road you would have to wait -- he
16 or she would have to wait 96.3 seconds, right?

17 A. That's the theoretical calculation,

18 yes.

19 ATTORNEY HEHL: Mr. Chairman, at this
20 point, we can go through her report. The times are
21 contained in her report. Just asking her to confirm
22 what's in a report I think is counter-productive.

23 It's in the report. And if there's specific
24 questions that Mr. Butler has regarding those
25 findings, but just asking her to confirm what's in
Dolan - Cross

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1 the report, I guess --

2 ATTORNEY BUTLER: I'm about to ask her
3 a very important question regarding those --
4 regarding that.

5 VICE-CHAIRMAN SPEENEY: Well I'm going
6 to allow Mr. Butler to continue through the report
7 which has been put into the record.

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TRACEE SCHAEFER, CHAIRWOMAN

8 Go ahead, Mr. Butler.

9 ATTORNEY BUTLER: Thank you, Mr.

10 Speeney. And also I might add that all you
11 volunteers might not have the opportunity to go
12 through this report like I have.

13 MEMBER FIORILLA: Is that a reference
14 to the board members, Mr. Butler?

15 Mr. Butler, can I ask you a question.

16 Mr. Butler, were you calling us volunteers; was that
17 a criticism or some kind of a comment of the
18 qualifications of the board members?

19 ATTORNEY BUTLER: No, the
20 qualifications of the board members are exceptional
21 and volunteers and I admire each and every one of
22 them.

23 MEMBER FIORILLA: Okay. Well, there's
24 no need for that kind of talk.

25 ATTORNEY BUTLER: Who is talking now?
Dolan - Cross

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1 MEMBER FIORILLA: This is Paul. My
2 camera cut out so you can't see me.

3 VICE-CHAIRMAN SPEENEY: Okay.

4 ATTORNEY BUTLER: Okay, Paul.

5 BY ATTORNEY BUTLER:

6 Q. Now with all this queuing you have an
7 ingress and an egress, down toward probably the
8 middle of the site. You know what I'm talking
9 about? It's the only ingress and egress that you
10 have.

11 A. Yes.

12 Q. Won't this queuing back up and prevent
13 people from getting in and getting out of the site?

14 A. Not if people continue to provide and
15 use courtesy gaps on and off of Union Avenue. This
16 is a theoretical calculation but it's not
17 representing the actual condition that is occurring
18 in the field.

19 Q. Well, in other words, I think your
20 answer is that it would back up the ingress and
21 egress but you're expecting that people, out of the
22 goodness of the heart, will let you cut in, right?

23 A. Yes, as they do now.

24 Q. Well right now there's no intersection,
25 we don't have a build. I'm talking about the

Dolan - Cross

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1 ingress and egress to go into the day care center
2 after you build it.

3 A. In my opinion, based on the operations
4 of the intersection, queues will not block the
5 ingress.

6 Q. Well, wait a minute, if they have to
7 wait 96.3 seconds to make a right-hand turn and

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 there's only one lane, everybody is behind one
9 another, the guy making the left has to wait until
10 the guy that makes the right and vice-versa, why
11 wouldn't there be a queuing with the ingress and
12 egress?
13 A. Because under existing conditions
14 you've got 58 seconds of delay and that's enough
15 time, people are processed through through courtesy
16 gaps. And under the proposed condition we're
17 opening up the paved full right turn lane, so there
18 will be a formal right turn and left turn lane in
19 the future.
20 Q. Well this is what you're hoping for,
21 right?
22 A. No, it's the existing condition and
23 the operation of the intersection. It's operating
24 with courtesy gaps. I would expect that that would
25 continue.
Dolan - Cross
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1 Q. And would you expect that it would
2 continue in the ingress and egress into the day care
3 center off of Union Avenue?
4 A. Somebody is speaking in the
5 background.
6 Q. I'm sorry, Betsy, I didn't hear you.
7 A. I'm sorry, there's someone speaking in
8 the background. I'm sorry, could you ask the last
9 question again, please?
10 Q. Absolutely. Absolutely.
11 Now are you also expecting these
12 courtesy gaps on the ingress and egress into the day
13 care center, as well?
14 A. If need be. But I don't think we're
15 going to have queuing past the site driveway
16 location. We've currently got under existing
17 conditions, 100 and -- over 170 vehicles passing the
18 site headed towards New Providence Road and we're
19 not achieving the routine queuing that the
20 calculation is showing. And so I wouldn't expect in
21 the future to have that driveway ingress blocked.
22 If it were blocked and someone wanted
23 to turn left in, they would have to wait for the
24 queue to advance towards New Providence and get a
25 courtesy gap or the queue would clear. And anyone
Dolan - Cross
66
1 who might be in a queue approaching in a westbound
2 direction towards New Providence Road would wait
3 until the queue moved beyond the driveway and then
4 turn into the driveway.
5 Q. Did you analyze -- looking at your
6 build condition it's going to take 96 seconds, over
7 a minute and a half, to make a left-hand turn on

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

8 Union onto New Providence Road, okay. Have you done
9 a study to determine the question I'm asking?

10 In other words, I'm concerned about a
11 queuing on your ingress and egress because it's all
12 blocked up.

13 A. Well that's not what is happening in
14 reality. And it's why in my March submission I did
15 not provide the analysis. It was after Mr.
16 Fishinger of Brightview called me and asked me to
17 please provide it that I did.
18 I talked with him about the fact that
19 the intersection is at capacity and that it's the
20 theoretical analysis. We called it out as being at
21 capacity. There's no hiding that. We called it out
22 that you need courtesy gaps during peak periods to
23 get on and off of Union Avenue.

24 So the analysis is theoretical. It's
25 analyzing the numbers, but it's not analyzing the
Dolan - Cross

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1 true conditions and operations of the intersection.

2 Q. Ms. Dolan, do you know the distance
3 from the intersection of Union Avenue and New
4 Providence Road to the day care center's ingress and
5 egress? Do you know how many feet it is?

6 A. I think it's on the order of -- it's
7 350 or so. I don't have the exact measurement with
8 me.

9 Q. Excuse me. Excuse me one second.
10 Now I appreciate your candor regarding
11 your comment that New Providence Road is at
12 capacity. Now as a layman, I assume --
13 VICE-CHAIRMAN SPEENEY: Are your
14 asking a question, Mr. Butler?

15 ATTORNEY BUTLER: I'm going to ask a
16 question.

17 VICE-CHAIRMAN SPEENEY: Okay.

18 Q. -- I assume that that means it can't
19 take any more traffic.

20 Am I wrong?

21 A. It's slow moving continuously and it's
22 at capacity. So the peak hour is processing as much
23 vehicle demand as can be processed. So the peak
24 hour is extended. It's a longer period of peaking
25 because people are using the roadway to get between
Dolan - Cross

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1 Point A and Point B. And that's right, you can't
2 fit any more vehicles on New Providence Road to and
3 from the north because the volume demand is so
4 great.

5 ATTORNEY BUTLER: And I'm almost
6 through, Chairman, Chairman Speeney.

7 BY ATTORNEY BUTLER:

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8 Q. I think you said it was 385 feet the
9 distance between New Providence Road and the
10 intersection of Union Avenue and the ingress and
11 egress to the daycare center, right?

12 A. It's not that long. It's more like
13 200 feet.

14 Q. Is it more like maybe 175 feet?

15 A. That's what I just said, 175. I don't
16 have a scale with me but I'm scaling it off.

17 Q. Okay.

18 A. And 175, yep.

19 Q. That's fair. That's fair. That's what
20 we got. Now having that statistic and not the
21 larger one, do you still feel as though there won't
22 be any queuing to the intersection going in and out
23 of the day care center?

24 A. Well there's queuing for -- 1, 2, 3,
25 4, 5, 6, 7 -- 7 to 8 vehicles before you get to the
Dolan - Cross

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1 main driveway. And again, while we've calculated
2 that for the a.m. peak hour, I don't see that as a
3 realistic queue.

4 Q. Okay. All right, Ms. Dolan, thanks for
5 cooperating with me. I appreciate your candor. If --

6 VICE-CHAIRMAN SPEENEY: Are you
7 finished, Mr. Butler?

8 ATTORNEY BUTLER: I'm through.

9 VICE-CHAIRMAN SPEENEY: That's all you
10 had to say.

11 ATTORNEY BUTLER: Well, you know, it
12 got a little -- maybe it went overboard a little
13 bit, and if it did, I apologize. I want to
14 apologize to Betsy Dolan.

15 I'm just trying to bring out the facts.

16 VICE-CHAIRMAN SPEENEY: Mr. Hehl?

17 Where is Mr. Hehl; where did he go?

18 ATTORNEY HEHL: I'm here. People move
19 around.

20 VICE-CHAIRMAN SPEENEY: I know. I
21 want to open up to members of the public.
22 Now Mr. Butler is probably one of these
23 interested parties that I read about when I open up
24 a meeting, but members of the public, if there's any
25 questions from members of the public?

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1 Then hearing none, I will come back to
2 the board. Board, any final questions of Ms. Dolan?

3 Okay, Mr. Hehl.

4 ATTORNEY HEHL: Yes. I would now like
5 to call upon our environmentalist.

6 VICE-CHAIRMAN SPEENEY: Finished, Ms.
7 Dolan?

8 ATTORNEY HEHL: I'm sorry?

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9 VICE-CHAIRMAN SPEENEY: Yep.
10 ATTORNEY HEHL: Yeah, so I would like
11 to call upon our environmental consultant next. Can
12 I call Len Cilli?
13 ATTORNEY LINNUS: Okay. Do I see you?
14 Can I see the next witness, please? Would you raise
15 your hand? Hi, how are you. Okay, do you want to
16 raise your right hand please, sir.
17 Do you swear or affirm that the
18 testimony you are about to give will be the truth,
19 the whole truth and nothing but the truth?
20 Didn't hear you say anything.
21 ATTORNEY HEHL: Len, can you hear him?
22 Len, you look like you're unmuted but we can't hear
23 you.
24 ATTORNEY LINNUS: All right. Let's try
25 it again. Do you want to raise your right hand,
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1 sir.
2 Do you swear or affirm that the
3 testimony you are about to give will be the truth,
4 the whole truth, and nothing but the truth?
5 I see lips moving. I don't hear
6 anything.
7 BOARD SECRETARY: Make sure your
8 computer volume is up. Make sure your computer
9 volume is up.
10 ATTORNEY LINNUS: All right, did you
11 say yes? You're shaking your head yes. That's
12 okay, but I don't know how you're going to testify.
13 VICE-CHAIRMAN SPEENEY: How do we get
14 audio, Mr. Hehl? Theresa?
15 BOARD SECRETARY: He can maybe call in
16 and use the phone as the audio.
17 Do you want to try that? Or, you know,
18 sometimes if you leave the meeting and come back
19 that also works.
20 ATTORNEY HEHL: Len, do you want to
21 try that? All right, he's going to try.
22 BOARD SECRETARY: Yeah, and just make
23 sure that your volume is up. Okay, move on to maybe
24 something else, or maybe wait a minute and let him
25 leave and come back.
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1 ATTORNEY HEHL: I see he just left so
2 hopefully he'll be back in a second and be able
3 to...
4 BOARD SECRETARY: Yeah.
5 VICE-CHAIRMAN SPEENEY: What's his
6 name, Mr. Hehl?
7 BOARD SECRETARY: All right, he's
8 coming back now.
9 ATTORNEY HEHL: I see him there.
10 MR. CILLI: Can you hear me now?
11 ATTORNEY HEHL: Very good, yes.

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12 ATTORNEY LINNUS: Len, would you raise
13 your right hand again, please.

14 MR. CILLI: Yes.

15

16 L E O N A R D C I L L I, sworn.

17

18 ATTORNEY LINNUS: Your witness,
19 counsel.

20 ATTORNEY HEHL: Okay. And so if you
21 could please --

22 ATTORNEY LINNUS: Let's start out with
23 his name.

24 MR. CILLI: My name is Leonard Cilli,

25 C-I-L-L-I.

Cilli - Direct

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1 D I R E C T E X A M I N A T I O N

2 BY ATTORNEY HEHL:

3 Q. And Mr. Cilli, if you can please give
4 the board, as did Ms. Dolan, the benefit of your
5 work, educational experience, any degrees you hold,
6 and your qualifications?

7 A. I'm a 1985 graduate of NJIT with a
8 bachelor's in civil and environmental engineering.
9 I've testified before numerous boards on various
10 environmental topics and issues.

11 I have prepared preliminary assessments
12 for daycare centers either for new or existing
13 renewals. I have owned -- I have been in the
14 environmental business over 30 years. And I have
15 owned Cilli Environmental for the last 20 years.

16 ATTORNEY HEHL: I would offer Mr.
17 Cilli as an expert in the field of environmental.

18 VICE-CHAIRMAN SPEENEY: Any licenses
19 or certifications needed?

20 THE WITNESS: I have a -- I'm a
21 licensed subservice evaluator with the DEP.

22 ATTORNEY LINUS: Are you an LSRP, sir?

23 THE WITNESS: No.

24 BY ATTORNEY HEHL:

25 Q. Just again perhaps, Mr. Cilli, if you
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1 can give a little more background on your experience
2 with preparing preliminary assessments -- or doing
3 preliminary investigations, and I know we'll get
4 into specifics of this case, preliminary initial
5 evaluations for sites, including childcare
6 facilities, and then submissions necessary for the
7 ultimate issuance of a remedial response action
8 outcome.

9 A. Well for the last 30 years I have been
10 working on various industrial and development sites.
11 I have prepared site investigations, remedial
12 investigations, remedial actions, cleanups both for
13 soil and air and water.

14 Since the LSRP program, I have an LSRP

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15 on staff and at times I will assist him in preparing
16 the documents. Prior to the LSRP program I was
17 certified to perform the preliminary assessments,
18 the site investigations, submit the documents and
19 have them approved by the DEP.

20 ATTORNEY HEHL: Mr. Chairman, I
21 believe that certainly qualifies him to address the
22 environmental --

23 VICE-CHAIRMAN SPEENEY: Let me ask,
24 Mr. Cilli, you indicated you were sworn in as an
25 expert before other planning boards or boards of
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1 adjustment; is that correct?

2 THE WITNESS: Yes.

3 VICE-CHAIRMAN SPEENEY: Could you name
4 one or two of the more recent ones?

5 THE WITNESS: Elizabeth. Jackson.

6 VICE-CHAIRMAN SPEENEY: Okay. And
7 about when were you sworn in as an expert before
8 Elizabeth and Jackson board of adjustment or
9 planning board?

10 THE WITNESS: It was several years
11 ago.

12 VICE-CHAIRMAN SPEENEY: All right.

13 Frank, are you there?

14 ATTORNEY LINNUS: Yeah. There's
15 no -- apparently there's no licensing required for
16 the testimony. He has educational background. He
17 has experience in the field. I think the board
18 could accept him as an environmental consultant.

19 VICE-CHAIRMAN SPEENEY: Accepted.

20 Thank you.

21 ATTORNEY HEHL: Thank you very much.

22 And, Mr. Chairman, just one comment I wanted to make
23 because Mr. Cilli did prepare and submit a report
24 and he'll touch on, dated March 20th, 2020, of this
25 year.

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1 And I will also comment that we did
2 receive, and he'll touch on some of the items in the
3 Environmental Commission report, and we truly
4 appreciate the concerns that the commission has
5 raised. I will comment further that many of those
6 are technically not before the board but we --
7 because they're considerations that are at a
8 different licensing authority, and just by way of
9 information, childcare centers must receive
10 environmental review before the Department of
11 Children and Family Services, and that the office's
12 licensing have to approve the childcare centers, and
13 then an assessment needs to be done. And as I
14 mentioned, an RAO has to be issued.

15 So I just wanted to that that these
16 childcare centers are strictly regulated by state in

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17 their licensing process. So I just want to throw
18 that out first. But we will address some of those
19 items.

20 BY ATTORNEY HEHL:

21 Q. Mr. Cilli, if you could first take us
22 through a little bit about what is normally done in
23 connection with evaluating a site for environmental
24 purposes for a proposed childcare. And then we can
25 move on to this site specifically and what you have
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1 done to date.

2 A. Well typically for a child -- for a
3 childcare center we would do what is considered a
4 preliminary assessment. And it's exactly what it
5 says, it's an assessment of the property from an
6 environmental standpoint. We would take a look to
7 see what kind of operations were on the site either
8 existing or prior to the development. We would look
9 to see if those -- if it was an industry or
10 commercial property or residential, what did they
11 do? How did they do it? Did they generate any
12 hazardous materials?

13 And then off-site we would then look at
14 the adjacent properties within maybe a quarter mile,
15 half a mile, to see if there were any environmental
16 concerns. Like another industry, or were there any
17 environmental spills or discharges, if there's a
18 cleanup site, if there's a hazardous waste site
19 nearby that could impact the property. We would
20 then take all that into consideration, determine
21 whether or not that could affect the property.
22 If it could then we might take this
23 property off the list and not go any further. If
24 there was an issue then we would go into the second
25 phase, which would be some site sampling, the site
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1 investigation to see is there actual areas of
2 concern. Soil sampling. Air sampling. Water
3 sampling. Could be surface water, could be
4 groundwater. Then we would take and look at those,
5 that data, determine whether that is -- does it
6 exceed any of the state regulatory levels and if it
7 does then, obviously, we would take that -- take
8 that property off the table.

9 Q. And I mentioned in brief comment before
10 that the childcare centers need to be -- need to
11 have an environmental review by the Department of
12 Children and Family offices, licensing and that
13 ultimately you would have to prepare the complete
14 assessment and obtain an RAO.

15 Is that correct?

16 A. Yes.

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17 Q. Okay. And in that case if your office
18 was working on it you would have your LSRP work with
19 you to prepare -- prepare that and get that
20 approved; is that correct?

21 A. Correct.

22 Q. And a childcare site would not be
23 approved unless it received that approval of the
24 Department of Children and Families offices of
25 licensing; correct?

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1 A. Correct. They have a blueprint, if
2 you will, a cookbook, you know the different steps
3 in order to perform the preliminary assessment.
4 Like I explained, you know, there's a preliminary
5 assessment and possible site investigation. And
6 then if everything is good to go then the LSRP would
7 issue the response action outcome, the RAO, send
8 that out to the Department of Children and Families
9 and then hopefully they would issue the approval and
10 the application.

11 Q. Okay. And based upon our previous
12 discussions what you explained that you normally do
13 an initial overview of a site to see if it would
14 qualify ultimately for that licensing, and then
15 after local jurisdiction approval you would move on
16 to the actual licensing part.

17 Is that correct?

18 A. Yes.

19 Q. Okay. So if you could touch on now
20 what you did in connection with this site to, in
21 essence, give it the go-ahead as an initial
22 overview?

23 A. In the beginning of the year, this
24 year, the applicant, the owner of the property asked
25 us to do exactly that, to perform an evaluation.

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1 You know, are we going to make the first cut.
2 So one of the things that we did, we
3 contacted an outside company, Environmental Data
4 Resources, EDR. And we asked them to get us copies
5 of the certified Sanborn Fire Insurance maps, aerial
6 photos and their actual radius report.
7 The Sanborn Fire Insurance maps they
8 were generated at the turn of the century and to
9 current by several different companies, Sanborn
10 being one of them. What they did was in the -- in
11 certain areas, usually the industrialized areas of
12 all the cities across the country, what they did was
13 they looked at what the industry was and there is
14 certain coding in their maps. They would identify
15 what the business did; sometimes what they stored,
16 how did they store it; was it above

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17 ground/underground; and then what their operations
18 were. So from an environmental standpoint we can
19 glean a lot of information about what that industry
20 or that property was used for.

21 We looked at the Sanborn maps. We were
22 able to get maps for this area in time periods 1924,
23 1933, 1947 and 1954. And in reviewing the data,
24 which was attached to my letter report, the property
25 was undeveloped. And it's vacant and undisturbed
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1 vegetation and trees as it is now.

2 We then went over and took a look at
3 the aerial photos. We looked at the aerial photos,
4 they provided us with 1931, 1940, 1951, 1954, 1961,
5 1963, 1970, 1974, 1984, 1991, 2006, 2010, 2013 and
6 2017. And in reviewing the aerial photos, which are
7 also attached, they verified that the site was
8 undeveloped, vacant land from -- continuously from
9 1931 to present.

10 So then we took a look at their radius
11 map. And that's a comprehensive search, a data
12 search of over 100 different databases, whether
13 they're local, county, state, federal, whatever is
14 available. We took a look at that. And the only --
15 the only listing of this site, which is typically
16 called a target site, was a general database for the
17 DEP. And it had to do with permitting and it was
18 for the fresh water wetlands, a Letter of
19 Interpretation. So that showed up in our database,
20 that's the only thing that showed up on the database
21 for this particular site. So looking at those three
22 things we didn't see anything that precluded the
23 proposed development.

24 So then we went to the next step and we
25 said, well, we know that the quarry is across the
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1 street, let's take a look at the air sampling. So
2 we did some air quality testing for asbestos and
3 lead. We figured, you know, it's preliminary, let's
4 take a look at a couple of things for the first cut,
5 and we looked for those and we didn't -- we didn't
6 find any levels of lead or asbestos.

7 So then we went to the next step and we
8 said, okay, there's a lot of truck traffic. The
9 intersection of New Providence and Union is pretty
10 busy. Let's see what the particulate or the dust
11 measurements were.

12 So we set up an aerosol monitor on the
13 site in February, the middle of February/end of
14 February, up until the 2nd of March. And we let it
15 run for a few days, over about a week and a half,
16 two weeks. And we didn't find anything that was

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17 over the -- the respiratory limits. And we had
18 several graphs of the -- of the aerosol monitor
19 attached.

20 There were some, if you look at the
21 graphs you would see that there's cyclical
22 fluctuations, typically in the morning and then in
23 the after -- then late in the afternoon, during the
24 workweek. And then there's usually a peak Saturday
25 morning. And then it drops down for the rest of the
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1 day. And then a little bit on Sunday but not as
2 high. And then typically Monday morning there was a
3 big peak, which reflects a lot of the traffic in the
4 area.

5 So based on this preliminary
6 investigation we think that we would be successful
7 in putting together a preliminary assessment and
8 having it approved by the state.

9 Q. Okay. Now as I mentioned in my outset
10 and you confirmed that licensing of this state -- of
11 this site would require approval from the State.
12 You've had an opportunity, and I know
13 we discussed it today, to take a look at
14 environmental commission concerns, and in particular
15 Items 1, 2 and 3. And if you could briefly comment
16 like how these, I assume, would be items that would
17 be addressed in more detail at the licensing stage
18 when you do your full investigation; is that
19 correct?

20 A. Yes.

21 ATTORNEY LINNUS: I assume, Mr. Hehl,
22 we're referring to what was previously identified as
23 an Environmental Commission document and we put a
24 date on it, November 16th, 2020; is that correct?

25 ATTORNEY HEHL: That is correct.

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1 Thank you, Counsel.

2 BY ATTORNEY HEHL:

3 Q. So, Mr. Cilli, if you can just briefly
4 touch on how those items would be addressed in your
5 preliminary assessment and ultimately the RAO?

6 A. So as part of the preliminary
7 assessment we would -- we would definitely take a
8 look at Item Number 1, the air quality dust
9 particulate. We would try to -- we would find out
10 from the quarry when they are doing blasting and we
11 would check the air quality and the dust, the
12 particulate before, during and after blasting
13 activities.

14 We might not only look at the air
15 quality on our site but we might take a look at the
16 air quality upwind, so to speak, downwind. We would

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17 take a look at what the wind direction is depending
18 on what time of year we do it.

19 We would take a look to see in the
20 third bullet, you know, is the quarry operating at
21 full capacity. Obviously we would have to be in
22 touch with the quarry operator to find out when
23 they're at full operation, when they're not.
24 And then the question about the trees,
25 the type of trees that are on the property. Right
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1 now, when we did our investigation in February or
2 March, there were no leaves on the trees. We
3 wouldn't expect to have much of a difference once
4 the trees are gone from what we found in
5 February/March. But, obviously, we would -- we
6 could put some of our monitors near the roadway at
7 the edge of the property. Like I said we might even
8 do some off-site.

9 As far as the high-volume of diesel
10 truck traffic, I think our graphs show that there is
11 a marked increase in the particulate matter in the
12 morning and later in the afternoon. So some of that
13 is from the truck traffic and some of it is,
14 obviously, from the normal traffic in the mornings
15 and afternoon during rush hours.

16 Number 2, the other pollutants, we
17 would take a look to see what the quarry is doing
18 and then adjust our analysis for that. The volatile
19 organics, typically we wouldn't -- we wouldn't be
20 looking at volatile organics unless there was a
21 volatile organic source. If there was a source that
22 was identified either on-site or adjacent which we
23 didn't see through our -- in our preliminary
24 assessment we would certainly add the volatile
25 organics.

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1 As far as the asphalt operation we
2 would want to -- like was suggested with the
3 blasting, we would want to do our testing or
4 additional testing when the asphalt plant is in
5 operation. So certainly we would be looking at the
6 volatile organics for that.

7 And then Number 3, with the
8 contaminated sites, I think I already addressed
9 that. The site with our preliminary investigation
10 we didn't identify anything on the site or
11 immediately adjacent to the site that is
12 contaminated.

13 Obviously with the full-blown
14 preliminary assessment we would be looking at all
15 these.

16 Q. So you have no concern that all of

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17 these items on Page 1 of the Environmental
18 Commission concerns report, dated 11/16/20, would be
19 addressed as part of your submission and licensing
20 with the state?

21 A. Yes, they would be addressed in the
22 preliminary assessment and the subsequent site
23 investigation, which would be the sampling.

24 Q. Great. And I believe the balance of
25 the report would be addressed by -- by other
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1 witnesses. It doesn't appear that those are within
2 your field of expertise; is that correct?

3 A. Correct.

4 Q. Okay. All right.

5 ATTORNEY HEHL: I have no further
6 questions, preliminary questions at this time of Mr.
7 Cilli.

8 VICE-CHAIRMAN SPEENEY: Okay. I'll
9 open up to board members. Questions?

10 MEMBER PENNETT: Don, I have a couple
11 of questions.

12 VICE-CHAIRMAN SPEENEY: Karen.

13 MEMBER PENNETT: Yeah. Mr. Cilli, you
14 said more tests were being done with all this to be
15 submitted.

16 THE WITNESS: If the board approves
17 the application then we would then go forward with
18 the full-blown preliminary assessment as part of the
19 application to the Department of Children and
20 Families.

21 MEMBER PENNETT: And if things, you
22 know, don't pass the way you would expect them to,
23 then I guess the day care facility would not be able
24 to go up, or you would have to take --

25 THE WITNESS: Yes --

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1 THE WITNESS: If we collected samples
2 and they didn't pass the DEP's criteria, then the
3 LSRP wouldn't be able to issue the RAO and without
4 the RAO then the Department of Children and Families
5 couldn't approve the application.

6 So it's almost like a two-step process,
7 we have to meet the DEP's requirements and then the
8 Department of Children and Families could rule on
9 it.

10 MEMBER PENNETT: Okay, thank you. So
11 there's really not much more you can do until you
12 proceed with that?

13 THE WITNESS: Correct.

14 MEMBER PENNETT: Okay. Thank you.

15 VICE-CHAIRMAN SPEENEY: Okay, Karen.

16 Anyone else on the board at this time?

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17 Yes, Steve.

18 MEMBER POTE: Thank you. So the
19 testing that you did do, you said you did during
20 March or February?

21 THE WITNESS: Yes, the end of February
22 beginning of March, yes, of this year.

23 MEMBER POTE: Okay. Where did you set
24 up the equipment for that?

25 THE WITNESS: We set it up more or
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1 less in the center of the property bias towards the
2 corner of Union and New Providence.

3 MEMBER POTE: Okay. So while there
4 may not be leaves out you did have some barrier, you
5 were in the middle of the woods?

6 THE WITNESS: Correct.

7 MEMBER POTE: Okay.

8 THE WITNESS: We were in a clearing
9 but -- there's a clearing. I don't know how
10 familiar you are with the site, but when we did set
11 it up we were in a substantial clearing of maybe
12 like a 30-by-30 clearing.

13 MEMBER POTE: Okay. And you said you
14 did it at a time where you could tell that there was
15 a difference, an increase in the particulates during
16 rush hour periods?

17 THE WITNESS: That's correct.

18 MEMBER POTE: Okay. So you had it on,
19 you said, for a couple of days?

20 THE WITNESS: Yes. This was a
21 continuous monitoring 24 hours a day. And it was
22 about a week and a half, ten days.

23 MEMBER POTE: Okay. Thank you.

24 THE WITNESS: You're welcome.

25 MEMBER PENNETT: Wait, Don, I do have
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1 another question.

2 VICE-CHAIRMAN SPEENEY: Go ahead.

3 MEMBER PENNETT: Sorry, I forgot
4 something. Now when you did your testing was
5 blasting going on at the time?

6 I don't know about the quarry. I don't
7 know if they're seasonal or not when they do the
8 blasting. But was blasting going on during this
9 testing?

10 THE WITNESS: I do not know. We would
11 set it up. We were there for a few hours when we
12 set it up, made sure everything was running. And
13 then every day we would come back for an hour or so
14 just to check.

15 We didn't notice any blasting going on
16 for those little periods of time we were there. It

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17 may have happened before or after. I have no idea.

18 MEMBER PENNETT: I guess we can ask

19 Mr. Weldon if the quarry is blasting at that time of
20 the year. I don't know...

21 VICE-CHAIRMAN SPEENEY: We don't have

22 Mr. Weldon.

23 MEMBER PENNETT: Yeah, so we can ask

24 him...

25 VICE-CHAIRMAN SPEENEY: I heard

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1 earlier Bill Butler saying something like Mr. Weldon

2 will be making a presentation. So I would say,

3 Karen, hold that.

4 MEMBER PENNETT: Yeah.

5 VICE-CHAIRMAN SPEENEY: If we get

6 Mr. Weldon later we can ask him.

7 MEMBER PENNETT: Okay. And also up

8 the street from Weldon quarry, I believe, they have

9 an asphalt plant.

10 I didn't hear what you said. Did you

11 take the extra testing for the study of emissions

12 and dust measurements, air quality for the asphalt

13 plant? Which, again, was that operating at the

14 time?

15 THE WITNESS: We don't believe it was

16 operating at the time and we didn't collect the

17 volatile organics, or the VOC, analysis for that.

18 MEMBER PENNETT: Okay. So when

19 everything gets passed and so forth will you be

20 redoing all these tests?

21 THE WITNESS: Oh, absolutely. We

22 would be doing more tests and they would be longer

23 in length.

24 MEMBER PENNETT: Okay. And you would

25 do it at a time when the quarry is operating; you

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1 would try to make a point to do that?

2 THE WITNESS: Yes. We would try to

3 find out when they're going to be blasting and get

4 some measurements there. We would also want to do

5 it while the asphalt plant is operational.

6 MEMBER PENNETT: And also when we were

7 talking about it being a contaminated site, and you

8 had your -- I wrote them down here, different tests

9 from previous things done, could the site still be

10 tested? Because people do a lot of dumping in

11 different areas. They see open space and they dump

12 whatever.

13 So could something be done to ensure it

14 was not a contaminated site?

15 THE WITNESS: Absolutely. That

16 would -- we did a preliminary site walk-through to

17 identify if there was anything glaring. But we

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18 would definitely have to do that as part of the
19 preliminary assessment to identify potential areas
20 of concern. And yes, that would definitely be a
21 potential area of concern. If the LSRP saw anything
22 then, yeah, we would have to collect some samples to
23 either confirm it or not.

24 MEMBER PENNETT: Okay. And would we
25 be able to get a copy of all these reports and tests
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1 that you have done?

2 THE WITNESS: Oh, absolutely.

3 MEMBER PENNETT: Okay.

4 THE WITNESS: Once we -- once we put
5 the report together and issue the RAO it becomes
6 public document, so absolutely.

7 MEMBER PENNETT: Okay, thank you.

8 VICE-CHAIRMAN SPEENEY: Through the
9 chair, Councilman Martino.

10 VICE-CHAIRMAN SPEENEY: Go ahead,
11 Councilman.

12 COUNCILMAN MARTINO: Thank you. Mr.

13 Cilli, thank you very much. A couple quick
14 questions.

15 This equipment that you set up, it was
16 set up for a certain amount of time? I wasn't sure
17 if I picked up on that.

18 THE WITNESS: Yes. It was continuous
19 so it ran --

20 COUNCILMAN MARTINO: Go ahead, I'm
21 sorry.

22 THE WITNESS: Yes, we set it up so it
23 ran continuous.

24 COUNCILMAN MARTINO: What was the
25 period, what was the time period?

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1 THE WITNESS: I think the first time
2 it ran for five days and then the next one ran for
3 four days. I would have to double-check.

4 COUNCILMAN MARTINO: All right.

5 Because basically through the regulations any
6 blasting is well documented. And if the asphalt
7 plant was open during that amount of time, that's
8 also documented. So I'm sure we can always go back
9 and cross-reference to Weldon's paperwork on when
10 they did blasting. And the asphalt -- the asphalt
11 is run out there too, they pretty much run almost
12 every day with the asphalt. So I'm sure we can
13 figure that out with your dates. That is for the
14 air monitoring.

15 Did you do any stormwater monitoring
16 for contamination for runoff?

17 THE WITNESS: No, we did not.

18 COUNCILMAN MARTINO: Okay. Because
19 that is a massive concern because there is a lot of
20 water that comes off of that site across the street.

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21 So would that be something that gets done later on?

22 THE WITNESS: We would have to take a

23 look -- we would have to take a look to see during

24 our preliminary assessment if that stormwater is

25 coming onto the site. If it is then it might be a

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1 concern. If it's not coming onto the site then it

2 wouldn't be a concern.

3 COUNCILMAN MARTINO: And I assume that

4 there may possibly be soil borings done for

5 stability of the soil and any contaminants also in

6 the future, correct?

7 THE WITNESS: The geotechnical borings

8 and all that, that that would be done by the other

9 engineers. But if we identified during a

10 preliminary assessment any areas that needed to be

11 sampled, then that would come under the site

12 investigation so, yes, we would be collecting soil

13 samples.

14 COUNCILMAN MARTINO: Okay. And my

15 last question again sort of overlaps with the

16 Environmental Commission, and that is with the tree

17 removal.

18 I see that there are still a lot of ash

19 trees still on this location. As you know with the

20 emerald ash borer we don't have a long life left on

21 these trees. I would like to make a recommendation

22 that any trees probably in the disturbed area remove

23 them now. I mean I'm looking at a 30-inch ash tree

24 no more than 20 feet from the building. It looks

25 like it's staying. To me it makes no sense because

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1 that's just going to be a hazard for the future.

2 So I hope you take into consideration

3 any species that may be damaged or become damaged in

4 the near future and take that into consideration

5 now, especially for what kind of site this is with

6 children utilizing it.

7 That's it. Thank you.

8 VICE-CHAIRMAN SPEENEY: Thank you.

9 Anyone else?

10 Hey, Theresa, is everybody on that is

11 supposed to be on?

12 BOARD SECRETARY: Yes, everyone is

13 here.

14 VICE-CHAIRMAN SPEENEY: Okay. It got

15 awful quiet.

16 One of the -- one of the things I'm

17 picking up here out of this report is that a lot of

18 work will be conditioned on whether they can receive

19 approval or not. And in this particular case, you

20 know, I have to look. Theresa, maybe, can help me

21 out. This is for preliminary approval, this

22 application?

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23 BOARD SECRETARY: Yes.

24 VICE-CHAIRMAN SPEENEY: Okay. So what

25 that means is that if there is further findings as

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1 conditions then the board actually would be

2 receiving that information based on the applicant

3 coming in for final approval.

4 So a lot of this stuff won't go by the

5 boards -- "won't go by the board" is not a pun, but

6 a lot of this stuff won't go into the world of

7 conditions and approvals by others that this board

8 won't ever see it again. And so I just want to make

9 that a point, that clearly anything that we do here

10 in terms of creating a set of conditions and

11 preliminary approval, we would expect to see

12 resolved at final approval.

13 Right, Frank?

14 ATTORNEY LINNUS: Mr. Speeney, I would

15 like Mr. Hehl to confirm that this application at

16 the current time is for preliminary approval only.

17 ATTORNEY HEHL: I believe it was for

18 preliminary and final, but we can review that and

19 with the applicant and I can -- yeah, I would

20 indicate that certainly what the chair indicates

21 certainly makes a lot of sense.

22 VICE-CHAIRMAN SPEENEY: Yeah, Mr.

23 Hehl, typically -- typically the board is asked by

24 applicants to do preliminary and final. The policy

25 of the board has always been separating preliminary

Cilli - Direct

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1 and final for reasons that we're talking about right

2 now.

3 So I would suggest that you should have

4 been aware of that or been made aware of that from

5 when you initially applied. But I will accept what

6 you're saying now in terms of preliminary as one

7 document and final as another document; is that

8 correct?

9 ATTORNEY HEHL: Yes.

10 VICE-CHAIRMAN SPEENEY: Frank, does

11 that represent a modification of the application?

12 ATTORNEY LINNUS: Well I don't know

13 whether the original application was for preliminary

14 and final, but at the very least we will need a

15 written confirmation from Mr. Hehl that this

16 application is for preliminary only.

17 VICE-CHAIRMAN SPEENEY: Very good.

18 Mr. Hehl?

19 ATTORNEY HEHL: Yes.

20 VICE-CHAIRMAN SPEENEY: Okay. He said

21 yes.

22 ATTORNEY HEHL: Well we'll review and

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23 make that submission, as counsel has indicated, in
24 writing to the board.

25 VICE-CHAIRMAN SPEENEY: Okay. I find

Cilli - Direct

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1 that it's extremely important only because in this
2 particular application, not necessarily in others
3 but in this particular one there seems to be a lot
4 of contingencies that if this happens and that
5 happens and so on and so forth, we'll move to gain
6 approvals from the State. And then once we get
7 that, then we are going to get approvals from the
8 board. That's how I see it.

9 So moving right along, anyone else?

10 Members of the public?

11 First let me -- this is my interested

12 parties. Mr. Butler, do you have any questions at
13 this point?

14 ATTORNEY BUTLER: Yeah, I have a

15 couple, very short. I thought the testimony was
16 excellent.

17 C R O S S E X A M I N A T I O N

18 BY MR. BUTLER:

19 Q. Mr. Cilli, I have your report dated

20 March 20, '20. I just have a couple quick

21 questions, won't take more than a couple of minutes.

22 On the bottom of the page you refer to Sanborn maps,
23 right?

24 A. Yes.

25 Q. And you made reference to those Sanborn

Cilli - Cross

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1 maps in your direct testimony, didn't you?

2 A. Yes.

3 Q. And on that last page, that last

4 paragraph you talk about Cooks Pond; do you not?

5 A. Yes.

6 Q. And in your Sanborn maps, your earliest

7 map is 1933; is that correct?

8 A. There was an earlier one, 1924.

9 Q. Okay, excuse me. Let's go to the

10 one -- you're absolutely right and I stand

11 corrected.

12 Would you go to the 1933 map?

13 A. Okay.

14 Q. And it shows a Cooks Pond, doesn't it?

15 A. Yes.

16 Q. And the 1947 Sanborn map shows a Cooks

17 Pond on this property, right?

18 A. Yes.

19 Q. And the 1954 map also shows a Cooks

20 Pond; does it not?

21 A. Yes.

22 Q. What happened to that pond?

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23 A. We don't know. Based on the aerial
24 photos it seems that it was silted -- silted in and
25 it became part of the wetlands.

Cilli - Cross

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1 Q. Could it have been filled?

2 A. Possibly. It didn't appear that way
3 on the aerial photos, but it could be.

4 Q. I have no further questions. Thank
5 you.

6 VICE-CHAIRMAN SPEENEY: Oh, thank you,

7 Mr. Butler.

8 I'll open up to members of the public.

9 Hearing none, I'll come back to the planning board
10 members for questions.

11 MEMBER PENNETT: Don, I had more
12 questions from my report but I got the impression
13 that Mr. Chair would only go over the first three.

14 VICE-CHAIRMAN SPEENEY: That's right,
15 first three.

16 MEMBER PENNETT: But now who would I
17 approach on the other?

18 VICE-CHAIRMAN SPEENEY: Mr. Hehl?

19 ATTORNEY HEHL: Let me unmute, sorry.

20 Our planner will address those other items and if
21 more testimony is needed from perhaps our site
22 engineer, we'll have them address that.

23 MEMBER PENNETT: Okay. Thank you.

24 ATTORNEY HEHL: No, thank you.

25 VICE-CHAIRMAN SPEENEY: Karen, noise
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1 is four.

2 MEMBER PENNETT: Yeah, four, wetlands,
3 drainage, recycling, insects to the wetlands,
4 testing.

5 VICE-CHAIRMAN SPEENEY: Mr. Hehl,
6 where are -- we are going to get answers to these
7 issues?

8 ATTORNEY HEHL: Much of it is going to
9 be addressed by our professional planner who is also
10 a landscape architect.

11 I believe that the recycling and
12 drainage and wetlands were already touched upon by
13 -- between Mr. Gesario and Mr. Jarmal, but we can
14 always have them confirm them if there's specific
15 questions related to it.

16 VICE-CHAIRMAN SPEENEY: I want to make
17 sure that Karen has Environmental Commission issues
18 covered. And going forward, let's see, Mr. Hehl,
19 tonight there isn't a lot of time left for tonight,
20 but is there an expert here that can address an
21 issue real quick for you?

22 ATTORNEY HEHL: I could have -- Gerry,
23 do you want to touch briefly on 5 and 6? Because I

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24 think we probably covered that in pretty much
25 detail, but that could just address the questions
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1 that Ms. Pennett had.

2 MR. GESARIO: Sure.

3 ATTORNEY HEHL: You are still under

4 oath and you are still qualified as you previously
5 testified.

6 MR. GESARIO: Yes, understood.

7 ATTORNEY HEHL: If you could briefly

8 touch on items Number 5 and 6 in the report.

9 MR. GESARIO: Sure. Item 5 with regard

10 to the wetlands, it's the first bullet says how will

11 wetlands be maintained. Our proposed plan does not

12 encroach into the wetlands so we're not disturbing

13 the wetlands, nor are we disturbing the wetlands

14 buffer associated with the wetlands. As I testified

15 in the last hearing we have a new Letter of

16 Interpretation that confirms our wetlands on the

17 drawings.

18 MEMBER PENNETT: Well I have a

19 question about that. Where you're putting up a

20 building and you're putting a parking lot that is

21 going to be covering a lot of space. So that's

22 going to be affecting the whole drainage process.

23 MR. GESARIO: Correct. And I was

24 going to get to that in answering your next bullet

25 item about the proposed drainage system. All runoff

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1 from the building and the site goes into a

2 subsurface detention basin. Prior to that runoff

3 from the pavement, the asphalt goes through a water

4 quality treatment device for the one-year storm. So

5 it goes through a water quality chamber into the

6 subsurface detention system before it gets

7 discharged back into the Green Brook.

8 MEMBER PENNETT: Okay.

9 MR. GESARIO: Item 6, drainage, is

10 kind of a continuation of that. As mentioned, we'll

11 have the detention basin and there is a water

12 quality treatment device that has to meet the DEP.

13 It's a major development so we have to design

14 according to the New Jersey DEP Best Management

15 Practices Manual, and that involves runoff quantity,

16 and runoff quality and groundwater recharge.

17 So our site will have to comply with

18 all those items in accordance with the DEP Best

19 Management Practice Manual.

20 MEMBER PENNETT: Okay, thank you.

21 MR. GESARIO: You're welcome.

22 VICE-CHAIRMAN SPEENEY: Mr. Hehl,

23 thank you.

24 ATTORNEY HEHL: You're very welcome.

25 Relative to environmental --

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1 MEMBER PENNETT: Yeah, I still have a
2 few more questions about noise, recycling.
3 ATTORNEY HEHL: You know what, Matt, I
4 think you're on. Maybe you can just touch on Number
5 7. I think you may have covered that in your
6 operational. But perhaps we can have him address
7 that right now.

8 VICE-CHAIRMAN SPEENEY: Okay.

9 MR. JARMEL: Sure. Let me just figure
10 out how to turn -- there you go.

11 ATTORNEY LINNUS: You're still under
12 oath, Mr. Jarmal.

13 MR. JARMEL: I understand, Mr. Linnus.
14 Thank you.

15 ATTORNEY HEHL: Yes. So, Mr.

16 Chairman, this is Matthew Jarmel who testified as
17 our architect and operational testimony.

18 So, Matt, if you can take us through
19 Number 7.

20 MR. JARMEL: I'm sorry, I don't have
21 it in front of me. Would you mind just reading it?

22 ATTORNEY HEHL: Oh, I'm sorry.

23 There's three bullets points and I'll read each of
24 them.

25 Will recycling be set up so that paper,
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1 cans and plastic are collected and then put out for
2 collection?

3 MR. JARMEL: Yes. So the operator will
4 hire a private hauler for trash and The Living
5 Experience is big on doing recycling and there will
6 be separate dumpsters. There's enough room on the
7 dumpster pad for that.

8 ATTORNEY HEHL: Okay. The second
9 bullet point, will trucks be able to pick up within
10 the parking area?

11 MR. JARMEL: So I think Ms. Dolan
12 provided quite a bit of testimony on trucks and
13 trucks' access. The basic answer is yes.
14 What we find with these childcare
15 centers is that there's traffic in the mornings.
16 There's traffic in the afternoons for drop off and
17 pick up. But for the most part during the day the
18 parking lot is empty with the -- and not active,
19 with the exception of staff.

20 ATTORNEY HEHL: Okay. And then the
21 third bullet point kind of ties into number one:
22 Will recycling bins be set up outside The Learning
23 Center to enable recycling trucks access for
24 collection of paper or cans and plastic?

25 MR. JARMEL: Again, yes, through the
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1 private hauler.

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2 ATTORNEY HEHL: And then, Matt, you
3 probably can also touch on just some of the
4 operational with respect to insects. I know that's
5 Number 9.
6 Do you feel comfortable?
7 MR. JARMEL: I mean I can certainly
8 comment on it. You know, I have designed upwards of
9 250 childcare centers for The Learning Experience
10 and, as I may have testified, I also act as real
11 estate developer. I currently own four and I have
12 four I'm involved in building right now. And I have
13 never been aware of them hiring someone to spray for
14 insects. Potentially could be a need on this site,
15 but that is certainly something we could examine and
16 look at and make sure the proper insecticides are
17 used, if it's needed. We would even ask the
18 Environmental Commission to make a recommendation,
19 but I don't really foresee a need for it.
20 ATTORNEY HEHL: And certainly, if it
21 was required, the proper and appropriate chemicals
22 would be used?
23 MR. JARMEL: Certainly.
24 ATTORNEY HEHL: I think that covers
25 the items that, again --
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1 VICE-CHAIRMAN SPEENEY: Another
2 question.
3 MEMBER PENNETT: Right. What about
4 the noise level? And, you know, you're
5 right -- very close to the quarry. There will be
6 explosions, the building may vibrate due to the
7 explosions. I mean I'm quite distant and there was
8 one explosion that went off and we felt it. You
9 know, the children may be a little scared of these
10 explosions and the shaking. How is that going to be
11 handled?
12 MR. JARMEL: Well the building itself,
13 there was a question earlier about whether or not
14 geotechnical reports would be done, I think it was
15 more related towards environmental contaminants, but
16 geotechnical reports will be done in terms of
17 stability of the soil to support the building. And
18 the geotechnical engineer will make a recommendation
19 to my firm as to foundation type for the building.
20 Is it going to be pilings? Is it going to be spread
21 footings? What the bearing capacity is.
22 We'll certainly coordinate with them
23 and they'll be aware of the fact that there may be
24 blasting nearby and they'll make sure that the
25 recommend foundations that are appropriate to sort
109
1 of withstand the blasting.
2 As far as acoustics are concerned, I'm
3 fairly confident that the children within the -- and

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4 the occupants within the building would be shielded
5 from acoustics because we're building a brand new
6 building, we're following the latest and greatest
7 energy codes which are quite strict.
8 Now you might ask what energy codes
9 have to do with acoustics but energy codes require a
10 tremendous amount of insulation in the building.
11 Exterior-wise we need to have continuous insulation.
12 And typically the way you combat acoustics and loud
13 noise is with lots of insulation. Also have
14 double-pane windows.
15 So I'm fairly confident that the
16 explosions will not rattle the building. They may
17 be heard, but I don't think they'll be terrified.
18 And --

19 MEMBER PENNETT: Well --

20 MR. JARMEL: -- as far as --

21 MEMBER PENNETT: I'm sorry. Go ahead.

22 MR. JARMEL: I was going to comment
23 about the playground. I mean, certainly that would
24 be a concern. That sounds like a very valid
25 concern. That you wouldn't want children outside
110

1 while there might be an explosion across the street.
2 So I would hope that our operators could work with
3 the neighbors and be friendly neighbors and
4 coordinate when that's going to happen so that the
5 children aren't outside at that time.

6 MEMBER PENNETT: But you're also
7 saying that your buildings are going to be so well
8 insulated they're not going to be hearing the
9 explosions?

10 MR. JARMEL: No, I said that --

11 MEMBER PENNETT: I mean, also --

12 MR. JARMEL: Just let me answer,
13 respond to you. I said that -- I don't know that
14 they will not hear it, but I'm confident that it
15 will muffle the sound quite a bit.

16 MEMBER PENNETT: But they'll still
17 hear some type of explosion and so forth. And even
18 some of those explosions, I don't think it's the
19 foundation so much but sometimes the building will
20 shake. I mean other people in the area have felt
21 it. So is there anything you can do to prevent
22 that?

23 MR. JARMEL: Well, correct if I'm
24 wrong, but isn't the shaking a result of the ground
25 shaking?

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1 MEMBER PENNETT: Yes, yeah.

2 MR. JARMEL: So, you know --

3 MEMBER PENNETT: But other homes in
4 the area have felt the vibration of -- of the
5 quarry.

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6 MR. JARMEL: And it's possible that
7 those homes haven't had the benefit of, you know,
8 kind of modern design practices and geotechnical
9 reports done before they were built.
10 MEMBER PENNETT: Okay.
11 MR. JARMEL: And we're required to do
12 geotechnical reports and submit them to your
13 construction code official to validate our
14 foundation design.
15 MEMBER PENNETT: Okay.
16 ATTORNEY HEHL: And Matt, I assume
17 based upon your involvement in making submissions
18 for the review and licensing, that these are all
19 items of consideration as far as licensing the
20 state -- with the state for these sites?
21 MR. JARMEL: Yeah. I mean, so we
22 design these buildings -- it's kind of a challenging
23 question to answer. We design these buildings in
24 accordance with facility standards. And facility
25 standards kind of deal with absolutes like how many
112
1 square feet per child per age, how many teachers per
2 age group. There is somewhat of what I will call a
3 subjective review by the state, where they come to
4 sites and they investigate them and they may, if
5 there are specific circumstances associated with one
6 site, they may suggest or require mitigating factors
7 to that.
8 ATTORNEY HEHL: Thank you.
9 MEMBER PENNETT: Okay. And then one
10 of the questions was as people enroll their children
11 into the day care facility, will you be telling them
12 beforehand that there's a quarry nearby, or is that
13 their own responsibility to know?
14 MR. JARMEL: I don't know the answer
15 to that. And I'm not the operator, I'm just
16 designing the building.
17 MEMBER PENNETT: Okay.
18 MR. JARMEL: I would think that
19 everybody that drives by this site and familiar with
20 the area would know that there's a quarry there.
21 You know, what I will say, and I think our traffic
22 engineer talked about this, too, is parents pick
23 childcare centers first for convenience, are they
24 close to home or are they close to work, so they're
25 generally familiar with the area. And then they
113
1 pick them, believe it or not, second for the quality
2 of the facility.
3 MEMBER PENNETT: Okay, thank you.
4 MR. JARMEL: Thank you.
5 VICE-CHAIRMAN SPEENEY: Mr. Hehl, two
6 things, two areas. One is for, I guess it was Mr.
7 Jarmal, was talking about the -- minimizing the

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8 effects of the explosions and coordinating that with
9 the people running the school so that they could be
10 prepared and maybe prepare the children.

11 And what was brought out was the
12 building itself was going to be constructed in such
13 a way that it shouldn't shake, but that doesn't
14 preclude the ground vibration. It doesn't mean the
15 building shakes, but you get the ground vibration.
16 And this is something that the children would
17 experience. And so I want to know, is there going
18 to be any -- any effort to minimize or not have the
19 ground vibration affect the school?

20 ATTORNEY HEHL: Matt, is that -- I
21 think he already testified that those steps would be
22 made as part of their geo --

23 MR. JARMEL: Yeah, we would take the
24 potential -- so to me ground vibration is not unlike
25 -- unlike seismic design, right, so when we design
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1 buildings, depending on where they're located
2 geographically, they fall into different seismic
3 zones, especially in, believe it or not, there are
4 certain areas in New Jersey that require more. This
5 is something that we'll take up with our
6 geotechnical engineer and talk to them about the
7 fact that there are explosions nearby and we want to
8 make sure that the foundations are designed in such
9 a way that they can absorb -- absorb any vibration.
10 We can't control vibration outside and, you know,
11 what I would suggest is that, as I said earlier,
12 that there's a coordination between our childcare
13 operator and the quarry operator that they give us
14 their schedule for blasting so that our children
15 aren't outside when that's happening.

16 VICE-CHAIRMAN SPEENEY: All right.
17 Then the other -- Mr. Hehl, the other issue, I heard
18 in one of your experts here talk about recycling.
19 Okay, here it is. Recycling and bins being set up
20 outside The Learning Center to enable recycling
21 access for collection of paper cans, plastic.
22 Are those bins shown on your drawing?
23 MR. JARMEL: We have a dumpster pad,
24 it's sized to accommodate just a basic trash
25 dumpster, which would be for things like diapers and
115

1 food, and then a recycling bin as well.
2 VICE-CHAIRMAN SPEENEY: So the
3 dumpster pad will contain all types of dumpsters
4 that you need relative to servicing trash and
5 recycling?

6 MR. JARMEL: That is the intent, yes
7 sir.

8 VICE-CHAIRMAN SPEENEY: Now, it's
9 late. And what I would like to do is sort of align

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10 what we're doing. Now we need to hear -- let's see,
11 we have -- Mr. Hehl?
12 ATTORNEY HEHL: Yes.
13 VICE-CHAIRMAN SPEENEY: Any other
14 experts you're going to present?
15 ATTORNEY HEHL: Yeah, we will have our
16 professional planner next.
17 VICE-CHAIRMAN SPEENEY: All right,
18 that guy, that's the one. Okay, professional
19 planner.
20 Now after your planner do you have any
21 other experts that you might bring on?
22 ATTORNEY HEHL: We don't believe so at
23 this time.
24 VICE-CHAIRMAN SPEENEY: No, okay.
25 What I would like to do is ask Mr. Butler if he
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1 would be willing to follow the planner at the next
2 meeting with whatever testimony, expert witness
3 presentation that he might want to come up with.
4 ATTORNEY BUTLER: Absolutely. We were
5 prepared to do that tonight in case Mr. Hehl got
6 through tonight.
7 VICE-CHAIRMAN SPEENEY: Okay. All
8 right, Mr. Hehl --
9 ATTORNEY HEHL: Yes.
10 VICE-CHAIRMAN SPEENEY: -- the way I
11 see it we'll do the planner, we'll do your
12 professional planner next month.
13 And we'll then rest your presentation
14 and go over to Mr. Butler for his presentation. And
15 any drawings that Mr. Butler wants to present, I
16 presume, are already on record.
17 And what experts are you going to
18 present, Mr. Butler, besides the drawings that are
19 on record?
20 VICE-CHAIRMAN SPEENEY: Mr. Speeney,
21 we're going to have the following witnesses: We're
22 going to have a fellow called Al Lapatka. Al
23 Lapatka is an engineer. He's an expert on-site
24 plans. He's an expert on flood hazard areas,
25 wetlands, 100-year storms and buffers associated
117
1 with them.
2 VICE-CHAIRMAN SPEENEY: Okay, that's
3 Al.
4 ATTORNEY BUTLER: I plan on him to be
5 my first witness. I might have to take them out of
6 turn.
7 Look, then my next witness I plan on
8 being -- call Hal Simoff, who is a traffic engineer.
9 VICE-CHAIRMAN SPEENEY: Okay.
10 ATTORNEY BUTLER: And then I was going
11 to call Bob Weldon.

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12 VICE-CHAIRMAN SPEENEY: Okay.
13 ATTORNEY BUTLER: And then I was going
14 to call Peter Steck, our planner.
15 VICE-CHAIRMAN SPEENEY: Okay.
16 ATTORNEY BUTLER: Now Peter Steck is a
17 busy guy and I had him scheduled for the 15th. I
18 might have to take him out of order, and I
19 apologize. But if I don't get him on the 15th --
20 and he's listening someplace -- he'll -- I might not
21 get him, or I might not get him until it's too late.
22 But that's my program.
23 VICE-CHAIRMAN SPEENEY: That's your
24 program. And it could be Peter Steck first?
25 ATTORNEY BUTLER: Well, I hope not.
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1 That's not the way I want to do it.
2 VICE-CHAIRMAN SPEENEY: Well, who's
3 the guy you want to go first?
4 ATTORNEY BUTLER: Al Lapatka. The
5 expert on all water-related issues.
6 VICE-CHAIRMAN SPEENEY: Mr. Hehl?
7 ATTORNEY HEHL: Yes, Mr. Chairman.
8 VICE-CHAIRMAN SPEENEY: Okay, are you
9 aware now of what is following?
10 ATTORNEY HEHL: Yeah, I generally had
11 an idea anyway. I mean I know Mr. Simoff, Mr.
12 Steck.
13 VICE-CHAIRMAN SPEENEY: I don't want
14 you to -- I don't want any surprises.
15 ATTORNEY HEHL: No.
16 VICE-CHAIRMAN SPEENEY: So that's why
17 I asked Mr. Butler to lay out where he's going so
18 you understand where he's going, and you may need
19 your witnesses present.
20 It's just my concern that both you and
21 Mr. Butler had an even playing hand here.
22 ATTORNEY HEHL: And I did have, Bill,
23 I know you submitted Hal's report. Just to Mr.
24 Speeney's point, are there any other documents or is
25 that the extent of any other reports or documents
119
1 that would be submitted?
2 ATTORNEY BUTLER: First of all, Hal is
3 in the process of revising his report. You're going
4 to get a second report from Hal Simoff.
5 You're going to get plans from Al
6 Lapatka. Okay?
7 I have to talk -- Bob Weldon is in
8 Florida. His mother got the virus. She's in the
9 hospital. I would have him here today. He's going
10 to -- he's going to -- I'm going to show pictures
11 of water flooding and so on. I'll get them to you
12 in advance as well.
13 ATTORNEY HEHL: Okay.

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14 VICE-CHAIRMAN SPEENEY: Thank you.
15 ATTORNEY BUTLER: Steve, as you know,
16 you can always call me any time you want.
17 VICE-CHAIRMAN SPEENEY: All right.
18 Mr. Butler, you received drawings October 13th, and
19 they're pretty blue drawings, stuff like that. It's
20 all about the wetlands, can you see that? Now are
21 these drawings, are you going to be using these
22 drawings or are they going to be revised?
23 ATTORNEY BUTLER: I think they're
24 going to be revised. You know, it's hard for me to
25 see what you have. I think they'll be revised. I
120
1 think they've already been revised.
2 VICE-CHAIRMAN SPEENEY: Well, I've got
3 three drawings, October 13th, October 13th and
4 October 15th. Now, all I want to do is to have
5 these drawings on hand about ten days before the
6 next meeting.
7 ATTORNEY BUTLER: You will get them
8 before then.
9 ATTORNEY HEHL: Yeah, Mr. Chairman, if
10 there could be a commitment that they actually be in
11 at least ten days before.
12 VICE-CHAIRMAN SPEENEY: Yeah.
13 ATTORNEY BUTLER: I mean there's no
14 requirement but -- but Mr. Speeney asked me for it
15 and I'll do it. There's no requirement. An
16 applicant has the requirement, but cross-examination
17 you don't even usually give documents to your
18 adversary.
19 But I have no problem, Mr. Speeney,
20 getting those documents in ten days ahead of time.
21 VICE-CHAIRMAN SPEENEY: Thank you, Mr.
22 Butler. I appreciate that.
23 ATTORNEY HEHL: Yeah, thank you.
24 VICE-CHAIRMAN SPEENEY: Mr. Hehl, so
25 I'm going to continue this application to December
121
1 the 15th, 7:30 p.m. and we're going to be doing
2 virtual.
3 And, Frank, is there anything else
4 we've got to add to that? They don't have to notify
5 --
6 ATTORNEY LINNUS: First of all, this
7 announcement you just made, Mr. Speeney, is the
8 pronouncement to the public that there will be no
9 further notice, that this meeting is carried to the
10 next regular meeting at the time and date you
11 indicated, and it will be virtual. So this is your
12 notice, any member of the public.
13 Secondly, I'm an eternal optimist but I
14 do note the time within which the board has to act
15 is through December 31st of this year. So I am
16 asking Mr. Hehl to prepare, if necessary, to grant
17 the appropriate extension should we not complete the

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18 application at that time.
19 ATTORNEY HEHL: Okay. Well, we'll
20 certainly address that on the 15th, yeah. Thanks
21 for the heads up.
22 VICE-CHAIRMAN SPEENEY: Okay, thank
23 you. Thanks, Frank. I appreciate that
24 clarification.
25 And as soon as I find my agenda, the
122
1 application will be moved to December 15th. And the
2 board has extra work to do yet relative to executive
3 session.
4 ATTORNEY LINNUS: It will be very
5 short and quick.
6 VICE-CHAIRMAN SPEENEY: But everybody
7 else has to go off.
8 ATTORNEY HEHL: Okay. Thank you very
9 much. Have a great night, everyone and we'll see
10 you -- and have a safe and Happy Thanksgiving in
11 this crazy world, and we'll see you next month.
12 ATTORNEY BUTLER: And on behalf of me
13 and Weldon, I wish you all a Happy Thanksgiving.
14 And also a Happy Thanksgiving to Steven and all his
15 witnesses.
16 ATTORNEY HEHL: Thanks, Bill. Take
17 care.
18 (Application adjourned at 11:17 p.m.)
1 C E R T I F I C A T E
2
3 I, ANGELA C. BUONANTUONO, a Notary Public
4 and Certified Court Reporter of the State of New
5 Jersey and Registered Professional Reporter, do
6 hereby certify that prior to the commencement, the
7 witness was duly sworn to testify the truth, the
8 whole truth and nothing but the truth.
9 I DO FURTHER CERTIFY that the foregoing is a
10 true and accurate transcript of the deposition as
11 taken stenographically by and before me at the time,
12 place and on the date hereinbefore set forth.
13 I DO FURTHER CERTIFY that I am neither a
14 relative, nor employee, nor attorney, nor counsel of
15 any of the parties to this action, and that I am
16 neither a relative, nor employee of such attorney or
17 counsel, and that I am not financially interested in
18 the action.
23 Angela C. Buonantuono, CCR, RPR, CLR
24 NJ State Board of Court Reporting
25 License No. 30XI00233100 Dated: December 7, 2020

EXECUTIVE SESSION

Ms. Spingler read the Resolution PB 20-R15 into the record.

The motion by Ms. Spingler to enter Executive Session, seconded by Mr. Pote, was accepted and carried on voice vote.

BOROUGH OF WATCHUNG PLANNING BOARD

TRACEE SCHAEFER, CHAIRWOMAN

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 10:28 pm.

Respectfully Submitted,



Theresa Snyder
Board Clerk