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BOROUGH OF WATCHUNG
ZONING BOARD
OF ADJUSTMENT
MAY 14, 2020
COMMENCING AT 7:30 P.M.

VIA THE GO TO MEETING VIRTUAL PLATFORM

APPLICATION OF: CHICK-FIL-A

MEMBERS PRESENT:

DANIEL CRONHEIM, Chairman
D.J. HUNSINGER, Vice-Chairman
SONDRA FECHTNER
RICHARD BROWN
HENRY KITA
MITCHELL TARASCHI
CHARLES GUNTHER
WAYNE HANLON

APPEARANCES: AMANDA WOLFE, ESQ.
STEVEN K. WARNER, ESQ.
ATTORNEY TO THE BOARD

ALSO PRESENT:

THERESA SNYDER
DAVID A. STIRES

SUSAN BISCHOFF, CCR, RPR
Certified Court Reporter
449 Columbia Boulevard
Wood-Ridge, New Jersey 07075
201-933-8220

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1 CHAIRMAN CRONHEIM: Theresa, can we call
2 a quick roll of the board because we sort of
3 (audio difficulty).

4 MS. SNYDER: Mr. Hunsinger.

5 MR. HUNSINGER: Here.

6 MS. SNYDER: Mr. Brown.

7 MR. BROWN: Here.

8 MS. SNYDER: Mr. Kita.

9 CHAIRMAN CRONHEIM: His mic is still
10 off.

11 MS. SNYDER: There he is.

12 MR. KITA: Here.

13 MS. SNYDER: Mr. Taraschi.

14 MR. TARASCHI: Here.

15 MS. SNYDER: Mr. Hanlon.

16 MR. HANLON: Yes.

17 MS. SNYDER: Chairman Cronheim.

18 CHAIRMAN CRONHEIM: Here. And Mr.
19 Stires is here as well.

20 MR. STIRES: I'm here.

21 CHAIRMAN CRONHEIM: Thank you, Dave. We
22 can proceed.

23 MR. McNAMARA: Thank you, Mr. Chairman.
24 Patrick McNamara, again, on behalf of the
25 applicant. This aspect of our application tonight

1 is seeking D variance relief because Chick-fil-A
2 is looking to install 16 outdoor seats at the
3 restaurant is that currently under construction.
4 I have Mr. John Martinez as our lead witness to be
5 followed by Ms. Cofone as our planner with regard
6 to the variance relief that is being sought here
7 this evening.

8 Mr. Martinez, you were previously sworn
9 in?

10 MR. MARTINEZ: I was not, no.

11 MS. WOLFE: Let me swear everyone as
12 well as Mr. Stires.

13 CHAIRMAN CRONHEIM: Right, new case.

14 MS. WOLFE: If you would all raise your
15 right hand. Do you swear to tell the truth, the
16 whole truth, and nothing but the truth, so help
17 you God?

18 ALL WITNESSES: Yes.

19 MS. WOLFE: Thank you. When you
20 testify, just give me your address. Thank you.

21

22 J O H N M A R T I N E Z, sworn:

23

24 BY MR. McNAMARA:

25 Q Mr. Martinez.

1 A Yes, good evening.

2 Q I need you at the outset to provide the
3 Board with the benefit of your background and
4 experience in the field?

5 A Sure. It's John Martinez, spelling on the
6 screen is correct, M-A-R-T-I-N-E-Z. My address is
7 5200 Buffington Road in Atlanta, Georgia. As you
8 can tell from my lack of a southern accent, I
9 actually live in New Jersey in Middlesex County.

10 I've been - my titled with Chick-fil-A
11 is development manager. I've been in this role
12 for about 6 years, principally my responsibility
13 is to develop new stores for Chick-fil-A not only
14 New Jersey, but Pennsylvania, Long Island, and
15 also work down in Virginia, Maryland, Delaware,
16 those states as well. I've been associated with
17 Chick-fil-A for just about 19 years.

18 Q Thank you. And if you could please
19 provide a description to the Board of the proposed
20 outdoor seating that you're seeking approval for
21 this evening?

22 A Sure, great. Yeah, what we're looking to do
23 is to install approximately 16 outdoor seats on a
24 patio that would be right adjacent to our main
25 entrance, just to the left of our main entrance

1 and that outdoor seating would be used seasonally
2 for customers principally, I would anticipate the
3 customers would use that area from about April
4 through October, say into November because clearly
5 in the winter time, it's not desirable to be out
6 there.

7 Those 16 seats would be a combination of
8 four tables, each having four seats with an
9 umbrella on them. We would also install trash
10 dumpster, trash barrel there for any customer
11 garbage.

12 Q And around the seating, will there be
13 bollards?

14 Mr. Aguilar, if you could put the site
15 plan up for the benefit of the Board, please, to
16 show the area in question?

17 MR. AGUILAR: Sure.

18 A While he's doing that, you know, we propose
19 to put in decorative wrought iron style fencing
20 around there. Due to the proximity of this
21 seating area being so close to the parking drive
22 aisles, the Board Engineer requested some bollards
23 for protection and that is not an issue at all.
24 We've done it before, so we can incorporate
25 bollards into the railing, so it will be a real

1 attractive look there. So you won't even know
2 that there's bollards protecting those folks. So
3 we can agree to do that.

4 CHAIRMAN CRONHEIM: Thank you.

5 A So one of the things -- so normally, we'll
6 come in right from the get go on our initial
7 application with outdoor seating, it's very
8 typical. We look for it in all our locations. We
9 generally look for somewhere between -- on the low
10 side of maybe 10 or 12 seats to as much as 40
11 seats. In some locations, I'll give you an easy
12 example, we're developing a store down near Long
13 Beach Island. With that -- you know, that area
14 there, we're going on the high side of about 36
15 seats. Here, being so close to the highway, we
16 feel that 16 seats is an appropriate combination
17 for our guests. Again, outdoor seating doesn't
18 drive traffic here to the site, it's really just
19 an accommodation for customers that choose to sit
20 outside during the nicer days.

21 Q I have some further questions for the
22 witness, Mr. Chairman.

23 CHAIRMAN CRONHEIM: Go ahead.

24 Q Mr. Martinez, you're familiar with the
25 Governor's Executive Order. If you are able to

1 open the restaurant and the Governor has not
2 rescinded the Executive Order with regard to
3 indoor seating in restaurants, will these seats be
4 covered or roped off in some way so they're not
5 utilized until the Governor's Executive Order is
6 either amended or lifted?

7 A That's correct. We will -- if the order
8 still stands once we have these installed, we will
9 definitely have these roped off and they will not
10 be used, that's correct.

11 MR. McNAMARA: Thank you. I have no
12 further questions at this time, Mr. Chairman.

13 CHAIRMAN CRONHEIM: I have a question
14 for Mr. Stires. Dave, is it your contention that
15 the site and the design of the outdoor seating is
16 safe?

17 MR. STIRES: Yes, with the addition of
18 the bollards, the fence with the bollards and
19 their posts, yes.

20 CHAIRMAN CRONHEIM: Thank you.

21 MS. WOLFE: Mr. Chairman, it's Amanda.
22 I have a question. Will there be waitress or
23 waiter service to these tables and chairs?

24 THE WITNESS: No. There's -- we just
25 have counter service. There will not be waiter or

1 waitress service to those tables.

2 MS. WOLFE: Do you intend to have music
3 piped throughout?

4 THE WITNESS: We typically do not have
5 any kind of speakers or music out there, no.

6 MS. WOLFE: So you'll stipulate to that?

7 THE WITNESS: Correct, we can agree to
8 that.

9 MS. WOLFE: Thank you.

10 MR. BROWN: Mr. Chairman, it's Rich
11 Brown. The outside seats, how close are they to
12 the actual road?

13 THE WITNESS: I would let the engineer
14 give you the exact dimension. But essentially
15 between the drive aisle and those seats, we would
16 have the railing bollards, railing we talked about
17 as well as landscaping, there's a strip of
18 landscaping in there. So, Tim, I don't know if
19 you're able to measure, but it looks somewhere in
20 the neighborhood of maybe four or five feet, but
21 I'll let you do that.

22 MR. AGUILAR: Yeah, it's about six feet
23 from the face of the curb to the back of the
24 chair.

25 MR. BROWN: Thank you.

1 CHAIRMAN CRONHEIM: Mr. McNamara, one of
2 the things of which you should be aware of is that
3 we have no real issue of the outdoor seating, if
4 it's safe, looking out to Route 22. If you want
5 to look over to Route 22, it's your decision. But
6 it's the decision of your clients, we really don't
7 feel -- there's no one near these sites and Mr.
8 Stires, how far do you think we are to the nearest
9 residential units in Watchung?

10 MR. STIRES: Oh, geez, I don't even
11 know.

12 CHAIRMAN CRONHEIM: A thousand feet, at
13 least. I think they're on top of the hill.

14 MR. STIRES: Yes, yes.

15 CHAIRMAN CRONHEIM: And obviously most
16 of the time, it's going to be people sitting
17 outside during daylight.

18 So I think, Mr. McNamara, you understand
19 our position generally?

20 MR. McNAMARA: Yes, I do sir, thank you.

21 I have no further questions of Mr.
22 Martinez, if members of the Board have any other
23 questions? Otherwise, I'll have Ms. Cofone come
24 up to give planning testimony?

25 CHAIRMAN CRONHEIM: Any further

1 questions from the Board? Seeing none, anyone in
2 the audience, the public, want to ask or say
3 anything? Continuing the trend of no one being
4 there, go ahead with your next witness.

5 MR. McNAMARA: Ms. Christine Cofone.

6

7 C H R I S T I N E C O F O N E, sworn:

8

9 THE WITNESS: Good evening, Chairman and
10 members of the Board.

11 CHAIRMAN CRONHEIM: Thank you. You've
12 already been qualified?

13 THE WITNESS: Yes, I have.

14 CHAIRMAN CRONHEIM: 10 minutes ago.

15 THE WITNESS: Yes.

16 CHAIRMAN CRONHEIM: Thank you.

17 THE WITNESS: You're welcome. Still
18 valid.

19 BY MR. McNAMARA:

20 Q Ms. Cofone, if you could please provide
21 us with your analysis from the planning
22 perspective as to the justification for the relief
23 being sought here this evening?

24 A Yes. Earlier I was asked to provide my
25 address again before I start testifying. So it's

1 125 Half Mile Road, Suite 200, Red Bank, New
2 Jersey 07701.

3 MS. WOLFE: Thank you.

4 A You're welcome. So what we're seeking
5 associated with the Chick-fil-A is a little bit
6 different because it's a D variance for the
7 outdoor seating area. As you know, the HD zone
8 restricts us not from having restaurants, but
9 having outdoor seating associated with those
10 restaurants. So even though we're only proposing
11 16 seats, four tables, less than 20 percent, a
12 very small percentage of our seating as outdoor
13 seating, we do need to request that D variance and
14 demonstrate that our site is particularly suitable
15 for this proposed outdoor seating.

16 I would submit to the Board that this is
17 the perfect location along 22 in a large and
18 commercially vibrant shopping center with a mix of
19 uses. I think this is an ideal location for the
20 proposed outdoor seating. The outdoor seating, as
21 previously recognized, is not proximate or visible
22 from residents within the Borough, so there's
23 going to be absolutely no negative visual impact.

24 In addition, we testified that we would
25 be willing to establish the bollards and we're

1 also proposing landscaping. So from our
2 engineer's report, we would like to see the site
3 be safe. But from a planning point, I think we
4 want the site to be attractive as well because
5 that goes into creating a vibrant center. So I
6 think the combination of the bollards and the
7 landscaping will allow us to meet our negative
8 criteria proof and establish that there's no
9 substantial detriment.

10 Some of the other things, operationally,
11 you heard is that we absolutely do not have
12 waitress service here, it's really just a
13 convenience to our customers. If it's a great day
14 like it was today or it's going to be tomorrow, it
15 gives them the opportunity to enjoy the site,
16 enjoy the center a little bit more, and sit
17 outdoors.

18 We can certainly accept that as a
19 condition of approval, so that the Board can be
20 comfortable, that the exact type of outdoor
21 seating that you're approving is the type of
22 outdoor seating that you'll get in conjunction
23 with the center. If that were to change, somebody
24 would have to come back before the Board and seek
25 additional relief.

1 So from a planning point of view, I
2 think the Board can rely upon criteria G, talking
3 about sufficient space in appropriate locations.
4 And criteria M, an efficient use of the land. I
5 think that the 16 seats are not taking away from
6 any of the other aspects of the center with
7 respect to parking or the ability to landscape it
8 or screen it. So I think the Board can be
9 comfortable that we have developed the site
10 efficiently and there's no substantial detriment.

11 Again, we are here in an opportunity
12 where the master plan calls for commercial uses in
13 this center of town. It calls for a balance of
14 commercial ratable and it is calls for vitality in
15 the shopping centers. All of that is certainly
16 accomplished with this application. I, as a
17 planner, am certainly in support of outdoor
18 seating. And I think it's really a nice addition
19 to the shopping center. So I can unequivocally
20 say from a planning point of view that we meet the
21 burden of proof with respect to particular
22 suitability, as well as the positive and negative
23 criteria for the D variance relief required.

24 MR. McNAMARA: Thank you. I have no
25 further questions for the witness, Mr. Chairman,

1 at this time.

2 CHAIRMAN CRONHEIM: Thank you. Does
3 anyone on the Board have any questions of our
4 witness? Hearing none, thank you. Does anyone
5 want to -- does anyone in the audience wish to
6 make a comment or a question for this witness?
7 Once again, seeing no one and hearing no one,
8 we'll close the public portion of the hearing.
9 And can we have a resolution to move forward?

10 MR. HUNSINGER: I move for acceptance,
11 Mr. Chairman.

12 CHAIRMAN CRONHEIM: Thank you, D.J.

13 MS. WOLFE: With all the stipulated to
14 conditions?

15 MR. HUNSINGER: Yes, absolutely.

16 MR. McNAMARA: Agreed, Counsel. And we
17 ask that the record now reflect all the
18 submissions made with respect to this application.

19 CHAIRMAN CRONHEIM: Excellent.

20 MR. BROWN: I'll second that, Mr.
21 Chairman, Rich Brown.

22 CHAIRMAN CRONHEIM: Thank you.

23 With that, Theresa, would you call the
24 roll, please.

25 MS. SNYDER: Mr. Hunsinger.

1 MR. HUNSINGER: Yes.

2 MS. SNYDER: Mr. Brown.

3 MR. BROWN: Yes.

4 MS. SNYDER: Mr. Kita?

5 MR. KITA: Yes.

6 MS. SNYDER: Mr. Taraschi.

7 MR. TARASCHI: Yes.

8 MS. SNYDER: Mr. Hanlon.

9 MR. HANLON: Yes.

10 MS. SNYDER: Chairman Cronheim.

11 CHAIRMAN CRONHEIM: Yes.

12 MR. McNAMARA: Thank you very much,
13 really appreciate the Board's patience while
14 conducting this hearing.

15 CHAIRMAN CRONHEIM: In the era of
16 COVID-19, I think it make sense to have more
17 outdoor seating, it's spreading people out, it's
18 going to help. So we appreciate your
19 applications.

20 MR. MARTINEZ: Thank you for hearing us.

21 (Discussion held off the record.)

22 MR. McNAMARA: Thank you for
23 entertaining our applications this evening. I
24 want to thank Theresa especially for her
25 assistance in all the technical issues involved

1 with making this happen remotely. Thank you very
2 much.

3 MS. SNYDER: Thank you.

4 CHAIRMAN CRONHEIM: Thank you, Patrick,
5 we appreciate it.

6

7 (Whereupon the matter was adjourned.)

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I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as taken stenographically by me at the time, place, and on the date hereinbefore set forth.

SUSAN BISCHOFF, CCR, RPR
LICENSE NO. 30XI00233700

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BOROUGH OF WATCHUNG
ZONING BOARD
OF ADJUSTMENT
MAY 14, 2020
COMMENCING AT 7:30 P.M.

VIA THE GO TO MEETING VIRTUAL PLATFORM

APPLICATION OF: MILLER'S ALEHOUSE

MEMBERS PRESENT:

- DANIEL CRONHEIM, Chairman
- D.J. HUNSINGER, Vice-Chairman
- SONDRA FECHTNER
- RICHARD BROWN
- HENRY KITA
- MITCHELL TARASCHI
- CHARLES GUNTHER
- WAYNE HANLON

APPEARANCES: AMANDA WOLFE, ESQ.
STEVEN K. WARNER, ESQ.
ATTORNEY TO THE BOARD

ALSO PRESENT:

- THERESA SNYDER
- DAVID A. STIRES

SUSAN BISCHOFF, CCR, RPR
Certified Court Reporter
449 Columbia Boulevard
Wood-Ridge, New Jersey 07075
201-933-8220

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1 CHAIRMAN CRONHEIM: That brings us to
2 the actual hearing. I'd like to thank Patrick
3 McNamara for working with us in Zoom or whatever,
4 Go To Meeting. Good to see you again.

5 MR. McNAMARA: Same here, Mr. Chairman.
6 Thank you for hearing us on both applications this
7 evening. The first one, Miller's Alehouse is
8 basically a replacement for the Zinburger that had
9 been previously approved by the Board.
10 Unfortunately, Zinburger wasn't able to proceed
11 with closing on the deal and moving forward. And
12 Miller's has been recruited by our client to come
13 in and be the new occupant of this pad. We have
14 five witnesses to present the case before you this
15 evening on Miller's. Joe Daniels to talk about
16 operations aspects, how the place runs on a
17 day-to-day basis; our architect, Andrew Dorin; Tim
18 Aguilar from Bohler to take on civil engineering;
19 John Harter, our traffic expert; and Christine
20 Cofone as our planner.

21 CHAIRMAN CRONHEIM: Thank you. Go
22 ahead, Mr. McNamara.

23 MR. McNAMARA: Thank you. Is Joe
24 Daniels on? I've got some people, but I'm not --

25 MR. DANIELS: Yes, I am.

1 MR. McNAMARA: Okay. Great. Can the
2 Board Attorney swear in my witness?

3 MS. WOLFE: Yes. Do you want to swear
4 all of them in at once?

5 MR. McNAMARA: Works for me.

6 MS. WOLFE: And our own Board
7 professional as well, Mr. Stires. If you would
8 all raise your right hand. Do you swear to tell
9 the truth, the whole truth, and nothing but the
10 truth so help you God?

11 ALL WITNESSES: Yes.

12 MS. WOLFE: Thank you. And just as
13 you're testifying, give me your name and address.

14

15 J O S E P H D A N I E L S, sworn:

16

17 BY MR. McNAMARA:

18 Q Mr. Daniels, if you can provide that
19 information, please?

20 A Okay. My name is Joseph Daniels, I reside
21 at 1765 Friendship Circle and that's in Hatfield,
22 Pennsylvania 19440.

23 MS. WOLFE: Thank you.

24 Q What is your job with the Miller's
25 Alehouse?

1 A I am director of real estate --

2 Q And the --

3 A -- of the Midatlantic region.

4 Q And in so doing, it's your
5 responsibilities to oversee once the places are
6 built and running, how they're operated in
7 conformance with company standards?

8 A That's not my general role, my general role
9 is related to getting the east done, getting
10 through zoning and permitting properly and turning
11 it over to management, in which case there's a
12 general manager who lives in Voorhees, New Jersey,
13 who will be responsible for collectively running
14 this location.

15 Q Okay. And Miller's already has several
16 restaurants here in New Jersey?

17 A We currently have four restaurants operating
18 in New Jersey, Paramus, Woodbridge, Mount Laurel,
19 and Rockaway, New Jersey, is our fourth unit right
20 now. And Watchung is --

21 Q Hours of operation for a restaurant?

22 A Well, a normal operation and this is subject
23 to local guidelines, based on traffic, business,
24 et cetera, but our general operation Monday to
25 Thursdays 11 to midnight, Fridays and Saturdays 11

1 to 2, Sundays, we're open 11 to midnight. That is
2 generally throughout the chain.

3 Q Okay. And have you acquired a liquor
4 license?

5 A Yeah. We've acquired the license from the
6 Zinburger who was the previous licensee here. So
7 it was just a person-to-person transfer, so we are
8 in control of that license.

9 Q Okay. And what would you project to be
10 the number of full and part time employees at a
11 restaurant of this size?

12 A Well, generally we hire between 85 and 90
13 people. Obviously of them are part time, given
14 the number of hours that we operator. Our general
15 modus operandi is to bring in a seasoned manager
16 or two. And the other 85 to 90 are hired from the
17 local community and they're trained by our
18 training staff.

19 My -- I think about half of those, maybe
20 a little more than half are part timers, but the
21 others are people that operate in the kitchen, the
22 bartenders and the cooks and generally five or six
23 managers in every unit. So 85 to 90, most of them
24 are coming from the community.

25 Q And if you could please review the

1 nature and type of deliveries and frequencies for
2 deliveries of various products over the course of
3 a week?

4 A Yeah. Generally, in a week, we have four
5 basic deliveries. For the sake of ease and
6 quickness, we kind of stage them during the week
7 and during morning hours when we're closed, as we
8 open at 11. Our major food items will generally
9 take two deliveries a week dropped by an SU-40
10 type truck, generally that's about a two hour
11 unload time. So that's generally probably between
12 8 and 10, prior to us opening.

13 Beer, we have two to three deliveries
14 from different local vendors, standard beer
15 trucks, that's about a -- between 10 and
16 30 minutes unload time. Wine and liquor,
17 depending on -- it's generally one delivery truck
18 per week for that. And then we get containers and
19 glassware and softwares, that's probably once a
20 month for delivery.

21 Q Okay. And in terms of managing solid
22 waste and recycling, how often is that picked up
23 and how is that being done?

24 A The refuse is three times weekly, that's
25 managed through the closed trash area by senior

1 manager in the restaurants, two employees taking
2 care of that. The refuse is actually removed
3 three time a week and then we would recycle quite
4 strongly and that's three or four times per week
5 is our recycling system.

6 MS. SNYDER: Excuse me. Mr. Kita, I
7 think you're sharing your screen right now and
8 that's what we're seeing. Can you please turn
9 that feature off?

10 (Pause in proceedings.)

11 MS. SNYDER: Thank you.

12 Q You were talking about how solid waste
13 recycling is handled. Is there a place inside the
14 building and outside the building where it's
15 containerized?

16 A Yes. We store that near the trash door
17 during the busy hours. And then, again, a manager
18 and one or two employees will help move that into
19 the enclosed refuse area until it's time for pick
20 up. But generally that occurs during the morning
21 as well, prior to opening. The trash trucks do
22 not come when we are operational.

23 Q And you hire your own removal services,
24 you don't look for the municipality to take care
25 of that for you?

1 A Generally, it depends on where we are.
2 Generally the municipality is not involved, we
3 hire our are refuse trash company. Quite often
4 the shopping center provides one and we generally
5 will use their for sake of ease. So we'll follow
6 whatever regulations with respect to that we need
7 to.

8 Q Okay. And you've testified previously
9 regarding the various types of deliveries you get.
10 With those deliveries, are you able to basically
11 control the time of it so that it's not
12 interfering with your lunch crowd, whether it's
13 your restaurant or the adjacent Chick-fil-A?

14 A Part of our delivery system is that we want
15 nothing to interfere with our operations for
16 management or customers during the day. So there
17 will be no deliveries between 11 a.m. and closing,
18 it's not feasible. So everything else happens,
19 trash trucks might come as early as 7 a.m., but
20 everything is out of there and complete and done
21 delivery wise by 11. We want no disturbance to
22 customers and employees.

23 Q Thank you. If you could briefly touch
24 upon the security mechanisms that are available in
25 a typical restaurant of this nature?

1 A Yeah. We have security cameras, full
2 interior and exterior mounted and monitored by
3 Miller's and recording are kept in perpetuity. So
4 if we ever need to look back or there's some
5 incident that needs to be reviewed by authorities,
6 we generally will always have those available.

7 Q Okay. And you're prepared to certainly
8 coordinate any such activities with the Watchung
9 Police Department and advise them as you proceed
10 toward opening operations as to the nature and
11 type of security you have in the restaurant?

12 A Absolutely.

13 Q Okay. Site lighting, if you could
14 briefly touch on how that's managed in and around
15 the restaurant?

16 A Okay. Our signage lighting is generally
17 shut off immediately on closing. We allow for
18 building lighting to stay on for one hour after we
19 close for safe deployment of employees to get to
20 their cars. So that's generally shut off an hour,
21 the shopping center itself controls its own
22 shopping center lighting. But around the
23 building, we would make sure all employees are
24 safely in their car, so it stays on one hour past
25 closing.

1 Q Okay. And for the employees that would
2 be manning the bar, is it your policy to make sure
3 they go through proper training and meet all the
4 requirements of the Division and Alcohol and
5 Beverage Control here in New Jersey?

6 A Yes. We've been through this numerous times
7 obviously, because we have four restaurants, we're
8 very familiar with the state. And all alcoholic
9 servers are very subject to very strict alcohol
10 training program and subject to ABC and other
11 federal and state regulatory requirements. So
12 we're very strict about that.

13 MR. McNAMARA: Thank you. Mr. Chairman,
14 I have no further questions of the witness at this
15 time and make him available to the Board and
16 public.

17 CHAIRMAN CRONHEIM: Thank you, Mr.
18 McNamara. Does anyone on the Board have a
19 question of this witness?

20 MR. BROWN: Yes, Mr. Chairman. Joseph,
21 hours of operation what -- again? I missed that.

22 THE WITNESS: 11 to midnight Monday
23 through Thursday, Fridays and Saturdays, it's 11
24 to 2 a.m., and then Sundays, it's 11 to midnight.

25 MR. BROWN: So lighting, the lighting

1 that's on the building is that the exterior
2 lighting that's on one hour after closing?

3 THE WITNESS: Correct. The lighting
4 around the building because -- for our employees'
5 safety, generally if we're closed at midnight that
6 will be on until 1:00 to allow for employees to
7 safely leave the premises.

8 MR. BROWN: Okay, great. Thank you.

9 CHAIRMAN CRONHEIM: Anyone else have
10 questions?

11 MS. WOLFE: Mr. Chair? I'm sorry, are
12 you planning on having any outdoor entertainment
13 or speakers or anything that would cause a
14 nuisance?

15 THE WITNESS: No, we do not. We have --
16 we don't even have a patio here. We have what we
17 call a Florida room, which is part of what's a
18 secondary dining room which has roll up doors,
19 which allow for kind of an outdoor feel. Those
20 doors come down and we never have live during off
21 hours in warmer weather. We never have live music
22 at any of restaurants. So we will not -- we will
23 testify we will not have any live music outside
24 here.

25 MS. WOLFE: Thank you.

1 THE WITNESS: Or inside the restaurant.

2 CHAIRMAN CRONHEIM: Thank you, Amanda.
3 Does anyone else on the Board have a question? Go
4 to your next witness, please.

5 MS. WOLFE: You want to open it to the
6 public?

7 CHAIRMAN CRONHEIM: Is there public?
8 It's hard to tell.

9 MS. WOLFE: I can't tell.

10 CHAIRMAN CRONHEIM: Is there anyone in
11 the public that wishes to ask a question of this
12 witness? Hearing and seeing no one, we will now
13 close that portion of the questioning. Mr.
14 McNamara, you can go to your next witness.

15 MR. McNAMARA: Thank you. Our next
16 witness is Mr. Andrew Dorin. Mr. Dorin's already
17 been sworn.

18

19 A N D R E W D O R I N, sworn:

20

21 BY MR. McNAMARA:

22 Q Mr. Dorin, for the benefit of the Board
23 and public, could you please provide us with the
24 benefit of your background, experience, your
25 licensing here in New Jersey as a professional

1 architect?

2 MS. WOLFE: And your address.

3 A Yes. So this is Andrew Dorin, nice to meet
4 everyone. I'm a registered architect in the State
5 of New Jersey. My address for the record is 1925
6 Prospect Ave., Orlando, Florida 32814.

7 MS. WOLFE: Thank you.

8 Q And you're an architect?

9 A Yes. Just for background, I'm a graduate of
10 Temple University, bachelor of architecture from
11 2007. I have my MBA from Georgian Court
12 University from 2012. And I am -- I was a long
13 time resident of the State of New Jersey with a
14 lot of experience throughout the state for over
15 12 years. I've appeared in front of numerous
16 boards throughout the state, I'll be glad to
17 provide a few examples, if needed.

18 CHAIRMAN CRONHEIM: Yes, please.

19 THE WITNESS: So I would say I've -- you
20 know, local to there, North Plainfield, I've been
21 in Wayne, Asbury Park, Toms River, Brick, Wall,
22 Ocean, Neptune, Freehold, Jackson, Middletown,
23 East Brunswick, Linden, as well as many others
24 over towards the west side of the state.

25 MS. WOLFE: Thank you. And your license

1 remains in good standing, right?

2 THE WITNESS: Yes.

3 MS. WOLFE: Thank you. Mr. Chair, can
4 we accept him as an expert in the field of
5 architecture?

6 CHAIRMAN CRONHEIM: Yes, we can. Does
7 anyone on the Board have any comments or
8 questions? Hearing or seeing none, we'll
9 continue. We can accept you as an expert.

10 THE WITNESS: Thank you very much.

11 BY MR. McNAMARA:

12 Q Please proceed, Mr. Dorin.

13 A So we submitted a floor plan drawing titled
14 dimension floor plan with a number on the sheet of
15 A-101. And we've submitted an elevation titled
16 exterior elevations, with a title -- a number on
17 the sheet of A-201. Just to kind of go through
18 the design of the project, I'll just try to touch
19 on a bit about the exterior design as well as a
20 little bit on the interior design. Would you like
21 me to pull the exhibits up on the screen to share
22 throughout the presentation?

23 CHAIRMAN CRONHEIM: If you can do that,
24 it would be easier for people to do that.

25 THE WITNESS: Okay. Let me see if I can

1 figure this out.

2 MR. AGUILAR: I can pull it up.

3 THE WITNESS: I think I got it here. I
4 just don't know if when I'm flipping back and
5 forth through .pdfs if it's only going to share
6 the one and I'll have to do that each time. Are
7 you able to see the floor plan of the restaurant?

8 CHAIRMAN CRONHEIM: Yes.

9 Q Yes.

10 A Okay. So to just touch base on the floor
11 plan of it. Can you see my mouse as I'm kind of
12 pointing here?

13 CHAIRMAN CRONHEIM: Yes.

14 A So looking at the plan, the civil plan will
15 show the orientation of the building from north to
16 south. But for clarity, the north side of the
17 building is down here, if you look at the key
18 towards the bottom, the layout of the building has
19 a centralized kind of focal entry point that you
20 come in through. You have the dining area that
21 kind of goes around the bar, there's some fixed
22 seating and some tables. This is the Florida room
23 that was discussed earlier. As you can see here,
24 there's a few roll down doors that come around the
25 outside perimeter of the building.

1 The kitchen is here in the back with a
2 lot of the back of house like the restrooms. And
3 then, you know, when we get in the elevations, I
4 can kind of show this a little bit, but the cooler
5 box as well as some of the back of house stuff is
6 happening behind the kitchen. So really the
7 kitchen becomes kind of the pivot point between
8 the public view that goes to the back for some of
9 the functioning of the building itself.

10 I'm going to try to flip to the .pdf of
11 the elevations. Is the elevations showing or is
12 it still the plan?

13 CHAIRMAN CRONHEIM: Looks like
14 elevations.

15 A So kind of going off of what was discussed
16 earlier, I'll try to zoom in on these a little bit
17 to get some clarity to it. But here's the main
18 entrance feature, this has been designated with a
19 change in architectural aesthetics. This area of
20 the building bumps up to around 28 feet, 9 inches
21 in height. It's got an architectural stone veneer
22 that is the material on it. As you kind of look,
23 it's kind of set there to focus the attention to
24 it.

25 The operations of the restaurant can be

1 spoken to a little bit more in depth, if needed.
2 But basically all of the access points into this
3 building comes from here for all patrons that are
4 visiting. There is an egress door that comes out
5 of the side of the Florida room, but this is not
6 an access point, this is merely to meet the egress
7 requirements. While the Florida room is in
8 operation, the roll down goes up, but there's
9 railings that come into place here, so it
10 maintains the containment within that area of the
11 restaurant.

12 When it comes to the overall building
13 materials, there's a mix of, you know, beachy high
14 wood panel, which is architectural wood, stone
15 veneer, architectural. There is EIFS with
16 multiple colors and tones to it that have been
17 designated throughout, as well as awnings and
18 canopies.

19 You know, the overall average height of
20 the building is at around 22 feet, 9 inches. So
21 other than the one area that pops at the very
22 front of the building, the rest of the building is
23 fairly consistent in its height at 22 feet,
24 9 inches. Except for as you get to the back, if
25 you can remember back to the plans, this is where

1 a lot of the back of house functioning is
2 occurring. And, you know, I think that the
3 overall design is, you know, it's got a unique
4 look to it to be consistent with the brand, but
5 it's also very consistent with the surrounding
6 development, the Cinemark across the street, as
7 well as you look into the shopping center itself
8 and you see the Sierra Trading Post, it's got a
9 very similar look and feel to the existing stuff
10 that's there.

11 The RPQs and mechanical equipment, we've
12 dotted in the background so that you can see it's
13 fully screened from all points of public view.
14 And, you know, as far as the signage is concerned,
15 I will let Patrick maybe speak a little more in
16 depth on that. But we are, across the board,
17 meeting all the requirements of the zoning.

18 So with that said, I'd open it up for
19 any questions that anyone might have?

20 MR. BROWN: Yes, Mr. Chairman, it's Rich
21 Brown again. The roll up doors, what direction do
22 they face in? Are they north or south? The roll
23 up doors.

24 THE WITNESS: Looking at it, the north
25 side is -- let me go back to the plan. The doors

1 are over here, they're facing -- the north side of
2 the building is over here, so they're really kind
3 of facing north from both sides. This one would
4 be northwest on this face and this one would be
5 the northeast face over here. If I was
6 interpreting that correctly.

7 MR. BROWN: So that's basically looking
8 out Route 22?

9 THE WITNESS: Correct.

10 MR. BROWN: Okay. That's fine, thanks.

11 CHAIRMAN CRONHEIM: Anyone else want to
12 ask a question?

13 Does anyone in the audience want to ask
14 a question? Hearing no one and not being able to
15 see anyone -- do you want to be continue or go
16 ahead?

17 MR. McNAMARA: We can go ahead. Our
18 next witness is our civil engineer.

19 (Technical difficulties.)

20 MR. McNAMARA: I didn't hear that.
21 Questions concerning the roll up doors? Andrew,
22 if you could briefly review that again? I think
23 there's a question regarding the location and
24 function of the roll up doors?

25 THE WITNESS: So that one doesn't give

1 the orientation. This is the north, aerial plan,
2 I just pulled this up. I prefer that Tim from the
3 civil side kind of goes through this plan in more
4 depth. But just to kind of use this as an
5 example. There's the main entrance doors here,
6 this is plan north. So this is north side of the
7 building. So here's your roll up doors here in
8 this plan. They are on that kind of northern side
9 of the building but because it's kind of tilted
10 and skewed on an angle, it turns this into the
11 northwest side of the building. And then this
12 would be the northeast side of the building with
13 those roll up doors. And they're facing out to
14 22.

15 MR. McNAMARA: And you mentioned there's
16 some type of fencing or other barrier so there's a
17 clear line of demarkation, there's no outdoor
18 seating being provided with this layout, correct?

19 THE WITNESS: Correct.

20 MR. McNAMARA: Does that address the
21 question that was raised Mr. Chairman?

22 CHAIRMAN CRONHEIM: I couldn't hear the
23 question, so you'll have to ask along with me.
24 But I would like to note Mr. Warner has joined us
25 for the record. And, Theresa, if you can mark

1 that?

2 MR. WARNER: Thank you, Mr. Chairman.
3 I'll be second seating, Ms. Wolfe will continue to
4 be designated counsel.

5 CHAIRMAN CRONHEIM: Okay.

6 MR. BROWN: Mr. Chairman, it's Rich
7 Brown again. I think the question being if these
8 doors -- if they're north facing and they're
9 facing the homes, just a concern about the noise
10 coming out of there. And I think they said they
11 weren't planning any outdoor music or playing in
12 the facility, so there shouldn't be any adverse
13 noise, I wouldn't think, coming when those doors
14 are up facing the hill.

15 MR. McNAMARA: If I can just briefly
16 recall Mr. Daniels. Mr. Daniels, are your
17 operations such that you comply with the decibel
18 requirements of the New Jersey noise control laws?

19 MR. DANIELS: Yes, correct.

20 MR. McNAMARA: Thank you.

21 CHAIRMAN CRONHEIM: Thank you, Mr.
22 McNamara. I think we're ready for your next
23 witness.

24 MR. McNAMARA: Our civil engineer, Tim
25 Aguilar.

1 MR. AGUILAR: Hi, how are you?

2

3 T I M O T H Y A G U I L A R, sworn:

4 BY MR. McNAMARA:

5 Q Tim, for the benefit of the record,
6 please provide your name and address and your
7 qualifications?

8 A Sure. My name is Timothy Aguilar, last name
9 is A-G-U-I-L-A-R. I graduated from Institute of
10 Technology in 2000 with a bachelor of science
11 degree in civil engineering. I have a
12 professional engineering license in the State of
13 New Jersey, license is valid and in good standing.
14 I've testified in front of zoning and planning
15 boards in the State of New Jersey in the past. A
16 few examples are Union Township; Lacey, New
17 Jersey; Morristown; Elizabeth, New Jersey. And
18 I'm happy to be here presenting in front of this
19 board. Office address is 30 Independence
20 Boulevard, Suite 200, in Warren, New Jersey.

21 CHAIRMAN CRONHEIM: You have testified
22 at boards before and you are a PE?

23 THE WITNESS: Yes, that's correct.

24 CHAIRMAN CRONHEIM: We can accept you as
25 an expert witness.

1 THE WITNESS: Thank you.

2 MR. McNAMARA: Thank you, Mr. Chairman.

3 Q Tim, if you could, your firm has been
4 involved with this dating back several years to
5 the first series of applications. If you can just
6 give the Board a brief review of the revisions
7 that are being made to the site plan as a result
8 of the swap out from the Zinburger to the Miller's
9 Alehouse?

10 A Sure. And in doing so, I'll share my screen
11 with the first exhibit. And again thank you for
12 letting us be given the opportunity to present
13 virtually. So what I pulled up on the screen,
14 I'll introduce it as my first exhibit, it's the
15 site layout plan for Zinburger. As you can see,
16 the bottom right of the sheet, this exhibit was a
17 colorized version of the site plan that was
18 previously approved by this Board, it's dated
19 November 8, 2018. For reference, north is to the
20 top right of the sheet.

21 This is Block 6101, Lot number 5. And
22 the application we're here to talk about has prior
23 approval really is isolated to the northern
24 quadrant in the site, it's a small piece of the
25 overall development. So what I'll do is I'll zoom

1 in to get a better picture of this plan relative
2 to what was previously approved and where we're
3 going now with this application tonight.

4 So Zinburger was here previously for a
5 4,775 square foot restaurant that included a
6 similar open air seating area on this western
7 corner of the building. The building itself
8 contained 207 seats, circulation drive aisles
9 around all four sides, parking around all three
10 sides of the building with immediate connectivity
11 as well as connectivity from an accessible path to
12 the balance of the parking field on the eastern
13 side of the building.

14 With regard to the changes, what I think
15 is important to note as you look at this plan is
16 that the applicant and the work that's taking
17 place is very much isolated to a select area that
18 really hugs in the interior parking that I'm
19 circling with this blue line on the screen. When
20 you look at this line, the scope of work really is
21 isolated to that area with the exception of some
22 greening in the pavement areas just to make some
23 modifications on the Miller's building work, but
24 the scope of work is very much isolated to that
25 area. When you look at the surrounding perimeter

1 of the site that abuts the egress route to
2 Route 22, the frontage along Route 22, as well as
3 the corner where it intersects with Terrill Road,
4 those items are generally consistent with what the
5 Board has seen in the past.

6 A few items I'd like to note that were
7 variances that relate to the application that
8 we're going to hear tonight, there was a front
9 yard setback variance for the proximity of the
10 building to Route 22, where 100 feet is required
11 and a variance was granted for 65.7 feet.

12 There was a variance granted for parking
13 setback to Route 22 frontage, which is located at
14 this northern most parking stall, adjacent to
15 Route 22. And just for clarity, there was a
16 comment that Mr. Stires had in his review letter
17 about the proximity of the two parking stalls that
18 were here to talk about today. I can confirm that
19 the dimension on our plans was actually measured
20 to the curb line and not the Route 22
21 right-of-way. So we're not requesting an
22 intensified variance for the parking setback to
23 Route 22, it remains the same tonight. So it's an
24 item we will revise with our resubmitted
25 documents, so no further variance requested with

1 that.

2 MS. WOLFE: Just to clarify, you're
3 looking for 67.3 feet?

4 THE WITNESS: It is 8.3 feet. It was
5 correctly noted on the prior application and the
6 variance that was granted. Okay. So I'll flip
7 now to the next exhibit, if there's no questions
8 on anything that was previously approved.

9 The next exhibit that I will utilize is
10 a colorized version and it's loading at the
11 moment. But it's a colorized version of the
12 overall site plan being C-3 that was prepared by
13 our office. This exhibit is dated May 14th, 2020,
14 but the submitted drawing was January 16th, 2020.
15 And the only difference between this plan and what
16 the Board has in front of them is this is
17 colorized for illustrative purposes.

18 So I'll zoom into the pad again that's
19 the focal point on this northern quadrant of the
20 property. You can see the balance of the site in
21 the exhibit that I referred to earlier. So as I
22 zoom into the plan, you'll see what I described
23 previously, looking around the perimeter, the
24 plans are generally consistent and there's really
25 no noticeable changes. The curb lines are

1 proposed where they were previously. And really
2 the scope of work is isolated to that interior
3 island, I'll say, the building, parking,
4 landscaping, and sidewalks.

5 The building itself as part of this
6 application is a total of 7,510 square feet in
7 area, which is an increase from what we had seen
8 previously. The building itself has a total of
9 239 seats, which is also a few more than were
10 proposed in the Zinburger application. What's
11 important to noted is the building has grown in
12 this westerly direction towards Route 22 at the
13 top of the page. And in doing so, the building
14 has gotten closer to the Route 22 frontage. So we
15 have a variance request that we are asking for
16 tonight for relief on for proximity from the
17 canopy to the right-of-way line or a setback of
18 41.2 feet. As well as a setback to the actual
19 building of 43.7 feet where 100 feet is required.

20 I think it's important to note that
21 while there's additional building here, the parts
22 we did previously on the other drawing sits where
23 I kind of sketched the blue line in this location.
24 And there was development that was taking place in
25 similar proximity and landscaping proposed along

1 the frontage of the perimeter.

2 Circulation, again consistent with what
3 you've seen on the prior plan, what was previously
4 discussed. Circulation is 360 degrees around the
5 building. There are a total of 44 parking stalls
6 in the immediate vicinity of the building as well
7 as connectivity through the accessible ramps to
8 the balance of the parking field where there's a
9 total of 391 parking stalls that are proposed for
10 the full build scenario.

11 The parking itself is based on a 4.5 per
12 1,000 square foot requirement and therefore our
13 development, based on the increased building size
14 actually increases the demand up to 412 stalls and
15 we have lost a few parking stalls on this western
16 side of the building. So our office, based on
17 different uses of the site, we believe this is an
18 adequate number, but we have a traffic expert here
19 tonight who will discuss and prepared an analysis
20 for the evaluation for the different uses on-site,
21 he will speak to that later.

22 I mentioned that the building coverage
23 where the building's grown, but what's important
24 to note is that the building coverage itself is
25 compliant with the code, it's up about 2,700

1 square feet overall from what this Board has seen
2 in the past, but still a reduction of about 26,000
3 square feet from what previously existed on the
4 development.

5 Similarly, the modifications, based on
6 the removal of the parking stall, we reduced the
7 impervious coverage, even with accounting for a
8 pad that we'll talk about later, Chick-fil-A. And
9 the impervious coverage actually comes down a
10 nominal amount, about 374 square feet for the
11 overall development, still complying with the code
12 for coverage. With regard to the coverage, it's
13 important to note that the drainage pattern is
14 remaining the same as what the planning board
15 engineer had reviewed and the inlets are in
16 generally the same locations and they convey
17 localized pipe runoff to different inlet areas
18 that bring it to the stormwater system on site,
19 ultimately complying with Township and DEP
20 standards.

21 I've already addressed the comment about
22 the setback, which we will update on the drawings,
23 just to clarify again, the setback is 8.3 feet to
24 the right-of-way line, there's no increase in the
25 variance request in that location. There were a

1 few items that Mr. Stires identified in his review
2 letter with regard to utilities that I'd like to
3 address at this time. The pad itself has the
4 utilities actually brought to it. And they're
5 already stubbed at that location for gas, sewer,
6 water for this building to pick up based on the
7 development, there's mains that were already
8 stalled with private mains for New Jersey American
9 Water, transformers have been incorporated into
10 this development as well for this facility. So
11 there was a comment about the potential for
12 securing additional well service, but I don't know
13 if it's necessary as part of this application,
14 since the approvals are in place. There will be
15 construction permits that may still be required
16 from the utility agencies, but with regard to all
17 the services, they are there for this facility.

18 Similarly for emergency access, fire
19 suppression systems, the fire hydrant is still in
20 the same location that was previously proposed
21 along this main drive aisle that's east of the
22 building. The hydrant is located around this
23 location with the entry. And access is still
24 provided along all four sides of the building.

25 I think it's important to note the trash

1 room that's proposed on Miller's relative to the
2 Zinburger, if you remember there was a much larger
3 concrete area that stuck out here. We've actually
4 been able to incorporate some additional greenery
5 on this side as well, some additional shrubs with
6 that reduced trash area, and still operated in the
7 same way. As you've heard, they do the loading
8 operations on off-peak hours and the store opens a
9 little later in the morning. So generally no
10 conflicts with what we expect for customers being
11 on site for the Miller's Alehouse and can use the
12 drive aisles next to the building.

13 In terms of the lighting, the lighting
14 fixtures are consistent with what we proposed at
15 our current and to be constructed development of
16 25 feet, LED high efficiency fixture. And as well
17 as landscaping, as you can see the perimeter
18 landscaping has the same and there's additional
19 supplemental plantings around the building itself.

20 A couple other items in Mr. Stires'
21 letter were about approvals. So we've actually
22 provided the board secretary, Mr. Stires, the
23 amended soil conservation district approval, the
24 Somerset County Planning Board approval, as well
25 as the letter of no interest from the New Jersey

1 Department of Transportation, that's still valid
2 for the site based on the full build scenario and
3 the square footage that's actually larger than
4 what's currently on the side.

5 In addition, there's a treatment works
6 approval question about the flow and even with the
7 increase in size and overall square footage
8 identified on the plan, there's a total of 353
9 seats allotted in that TUA approval. This
10 application, including the additional seats we'll
11 hear about later for Chick-fil-A is still below
12 that total of 353 seats.

13 That concludes my direct testimony. I'm
14 happy to answer any questions.

15 CHAIRMAN CRONHEIM: Does anyone on the
16 Board have any questions to ask of this witness?
17 So basically you're saying fewer seats in the
18 revised plan than the original plan?

19 THE WITNESS: There are more seats on
20 this plan compared to the Zinburger plan.

21 CHAIRMAN CRONHEIM: No, I mean combined?

22 THE WITNESS: So the application from a
23 sewer perspective counted for a larger number than
24 currently on the plan and that number is below.
25 But the total seats on this plan are larger than

1 the seats provided as part of the Zinburger
2 application.

3 MR. McNAMARA: So in your opinion, it is
4 in terms of providing adequate sewer capacity for
5 this development?

6 THE WITNESS: Yes, that is correct.

7 CHAIRMAN CRONHEIM: That took into
8 account the two pad sites that have not been
9 constructed, correct? So you may have to amend
10 that in the future.

11 THE WITNESS: Yes, that is correct. So
12 I read the numbers and we're about 700 gallons per
13 day or so below, based on the plan we're seeing
14 here, what the TUA is active and approved for.

15 MR. STIRES: Okay. So at some point,
16 you're going to have to amend but not now?

17 THE WITNESS: If there is a use that
18 bumps us over, yes.

19 MR. STIRES: Mr. Chairman, I agree with
20 the testimony that the application relatively from
21 a site planning perspective is relatively
22 consistent with what was approved previously by
23 the Board of Adjustment with the bump out towards
24 Route 22 of the building and the reduction on 10
25 parking spaces. I think the thrust of the

1 application is the parking and that will be
2 testified to, I'm sure.

3 CHAIRMAN CRONHEIM: Thank you, Mr.
4 Stires.

5 MR. McNAMARA: Mr. Chair, I don't have
6 any other questions.

7 CHAIRMAN CRONHEIM: Does anyone else
8 have any questions?

9 MR. McNAMARA: I'm sorry.

10 CHAIRMAN CRONHEIM: Go ahead, Pat.

11 MR. McNAMARA: I have no other questions
12 of the witness, Mr. Chairman.

13 CHAIRMAN CRONHEIM: Thank you. Amanda,
14 is that you?

15 MR. HUNSINGER: Mr. Chairman, quick
16 question.

17 CHAIRMAN CRONHEIM: Go ahead. D.J.?

18 MR. HUNSINGER: Are the sides
19 illuminated on the building? Can you hear me?

20 CHAIRMAN CRONHEIM: Yes.

21 MR. McNAMARA: Mr. Dorin, would you
22 please answer the question regarding the lighting
23 on the signage?

24 MR. AGUILAR: This is Tim Aguilar.
25 They're internally illuminated.

1 MR. DORIN: Sorry, I didn't get to my
2 mic in time. Thanks, Tim.

3 MR. HUNSINGER: The ones that face Route
4 22, how long do they stay lit?

5 MR. DANIELS: They go off at closing.

6 MR. DORIN: It's off at closing.

7 MR. HUNSINGER: They're on til 2 a.m.
8 facing the mountain; is that correct?

9 MR. DANIELS: Well, Friday and Saturday,
10 yes. Unless the store chooses hours that are
11 shorter and they choose to close at 1, which is a
12 local prerogative. Then they would be off at that
13 time. We just have the allowance in our system,
14 as does the liquor license, allow us to be open to
15 2, but it's possible that this may only be open to
16 1:00, but they do go off every night at closing.

17 MS. WOLFE: If I may, Mr. Chair?

18 CHAIRMAN CRONHEIM: Yes, go ahead.

19 MS. WOLFE: The hours --

20 MR. HUNSINGER: Did not --

21 MS. WOLFE: Mr. Chair?

22 CHAIRMAN CRONHEIM: Yes, go ahead.

23 MS. WOLFE: So the hours proposed are
24 until 2 then or 1?

25 MR. DANIELS: No. We are proposing to

1 go to 2, it's possible that if the business does
2 not warrant we be open til 2, that's a local
3 decision to maybe close earlier than that, but the
4 proposal is that on Friday and Saturday, until 2
5 a.m., the other nights are midnight.

6 MS. WOLFE: Thank you.

7 MR. BROWN: This is Rich Brown. The
8 signs will go out one hour after closing, I assume
9 is that when the lights go out?

10 MR. DANIELS: No, the lights on the
11 building will go one hour after closing for
12 allowing a secure departure of our employees. The
13 building sign lights will go out at closing.

14 MR. BROWN: Great, thank you.

15 MR. McNAMARA: Mr. Chairman, if there
16 are no other witnesses, I'd like -- questions of
17 the witness, I'd like to call Mr. Harter.

18 MS. WOLFE: Can we maybe open it to the
19 public?

20 CHAIRMAN CRONHEIM: I was going to say
21 that. Is there anyone from the public that have
22 any comments or questions to make at this time?
23 Hearing no one and still seeing no one, we'll let
24 you proceed, go ahead.

25

1 J O H N H A R T E R, sworn:

2

3 BY MR. McNAMARA:

4 Q Mr. Harter, you're intimately familiar
5 with this project having testified numerous prior
6 occasions regarding this project before this Board
7 and the Planning Board of the Borough?

8 A Yes, that's right.

9 Q If you could, please you've prepared an
10 analysis which has been submitted to the Board's
11 professionals to update your overall review of
12 traffic and parking and if you could please
13 proceed to review the contents of your report for
14 the benefit of the Board.

15 THE WITNESS: Is it fair to say I've
16 been and qualified accepted --

17 CHAIRMAN CRONHEIM: Yes.

18 THE WITNESS: -- or should I go through?

19 CHAIRMAN CRONHEIM: Why don't you run
20 through it for a minute.

21 A Yeah. I've gained a little more experience
22 since I was last before you and testified before
23 some other boards. But I have a civil engineering
24 degree from Lehigh University, have been working
25 in the field of traffic engineering for more than

1 25 years at Atlantic Traffic and Engineering,
2 we're located at 30 Independence Boulevard in
3 Warren, New Jersey. Licensed in this state and
4 several others as an engineer. And I have been
5 accepted and testified before this Board and more
6 than 150 others in New Jersey.

7 CHAIRMAN CRONHEIM: John, that's for the
8 record, so I have no problem with it.

9 THE WITNESS: Thank you.

10 CHAIRMAN CRONHEIM: Go ahead.

11 A So I think I can run through the key points
12 on the traffic. Tim mentioned, just to start on
13 the big picture with New Jersey DOT permits sites
14 from a perspective of trip generation and traffic
15 sites generate. In March of last year, we did
16 obtain a letter of no interest which confirms no
17 new access permit is needed for DOT. And that
18 remains now because that -- the plan at the time
19 we sent to DOT did include the same Chick-fil-A
20 with drive thru and totalled just over
21 93,000 square feet. And the current plan is
22 actually smaller, the total area is 91,440 square
23 feet. So given that, the DOT says this is a lower
24 generator than what they actually approved, so
25 there should be no need to do anything further

1 from an access permitting perspective.

2 In terms of the parking variance, we did
3 prepare a traffic or parking letter report that
4 was submitted to the Board. But first I want to
5 just talk a little bit about ITE. We didn't
6 provide any ITE projections in our report, but I
7 think it's fairly pertinent in this case. So
8 similar to trip generation manual that you always
9 hear about in testimony from traffic engineers,
10 ITE also has a parking generation manual. It's
11 the 5th edition, it's the current version. And it
12 is a very useful tool as well because for shopping
13 centers, as they're classified as the DOT
14 classified the site, DOT has studied numerous
15 parking demand at various shopping centers. So
16 the parking generation manual may have found that
17 the non-December, so you have some research that's
18 done around Christmas time, which is not what you
19 want to rely on for design purposes.

20 But outside of December, they have
21 studied 37 facilities on a Friday and 58
22 facilities on a Saturday. And the data, what the
23 ITE will do is they'll grab the data and perform a
24 regression analysis, just to see how well the data
25 projects other facilities that we're looking at,

1 not just this one. And that value is referred to
2 as an R-square variable. Those are one of the
3 more particular that this data is of a site that
4 we're looking at. And for the Saturday and Friday
5 that is .96, .95, so it's a very high R-square
6 value. So that gives us good confidence in this
7 data.

8 The ITE provides not only a curved
9 estimate based on the graphed data, but also an
10 85th percentile which is considered really more of
11 a maximum estimate for a site. And when you look
12 at that 85th percentile from the ITE parking
13 generation for shopping center, based on our
14 91,440 square foot shopping center, we're getting
15 an 85th percentile projections of 346 parked
16 vehicles.

17 As Tim described earlier, we actually
18 have 391 spaces provided. And so under the ITE
19 scenario with really that worst case
20 85th percentile, we still have a buffer of over
21 11 percent of open parking during a maximum
22 parking demand scenario. So I think that's
23 reassuring to see. And that buffer is a good
24 amount. You like to see 10 percent buffer if you
25 can in a retail facility. So that certain people

1 are circulating, looking for parking, there's
2 sufficient open spaces to find. So that's an
3 important point I thought.

4 We also conducted a parking study of the
5 site itself and ITE recommends to use local data
6 when you can. And obviously your site itself is
7 the best local data you can find. In this case,
8 there are four tenants that are currently
9 occupied. And they're -- I would consider them
10 really lower generating type uses, Sierra Trading
11 Post, Home Sense, David's Bridal and Ulta. And
12 they total almost 59,000 square feet. So when we
13 go out and study those and get a sense of what
14 kind of parking rates we're seeing now. And then
15 also look at what the restaurants in addition to
16 that and other retail spaces within the facility.
17 So the two restaurants as you know the Chick-fil-A
18 and this proposed Miller's Alehouse. And the
19 there are also five other tenant spaces that are
20 not yet occupied.

21 So for the remaining tenant spaces that
22 are unoccupied, we're using the study rates that
23 we got under the existing conditions. And then
24 we're doing another step where we're looking at
25 the two restaurants themselves. David Stires'

1 review letter back in February raised the point
2 that he would like to look at the restaurants,
3 rather than from a building area perspective,
4 based on the number of seats. And just a point on
5 that, the Zinburger actually had 207 seats and now
6 the Miller's Alehouse is increasing that slightly
7 to 239. So it's not really a significant change
8 in terms of the seats.

9 However, we did do the exercise to
10 develop the parking demand working it out as
11 described, a second look out of the ITE shopping
12 center. We conducted counts, now Dave's latest
13 review letter, I think brought up a valid point.
14 We're obviously under very unique conditions with
15 COVID-19 right now. His report did mention that
16 from May 5th and raised, you know, should --
17 there's some concern he has with the data. The
18 actual counts were done on Thursday, March 12th
19 and Saturday, March 14th. And we collected ten
20 and a half hours of data of the current parking
21 demand in 15 minute increments, which is a typical
22 procedure. And that was done during the peak
23 times, week day, Thursday at the lunch time,
24 Thursday evening into the nighttime. And then
25 Saturday midday at the early afternoon. And I

1 think we're obviously under very unique situation
2 with the COVID. But at that time, for example,
3 our office was still open into the next week
4 through Wednesday March 18th. And I almost feel
5 that the time we were studying was a period when
6 you actually had more activity. The COVID
7 situation was evolving and people were out.
8 There's a lot of shopping going on, people were
9 worried about having supplies and things. So I
10 almost expect that the numbers may be higher than
11 a typical period that you would see. But that's
12 my just expectation of that period.

13 From that study, we did find the
14 Saturday period to be the busiest, that's typical
15 in a shopping center during the 2:15 to 2:30
16 period, we saw 115 parked vehicles on the site for
17 those four tenants. And then we create a rate of
18 demand for that based on the building area. And
19 that was 1.96 parked vehicles per thousand square
20 feet. So now we have that rate, we can apply it
21 to the remaining other retail tenants, as I said.
22 And we did that for Saturday, that came out to
23 153. So now we have all the retail component of
24 the shopping center, estimated as a maximum
25 parking demand. Now we want to look at the two

1 residential and doing that based on the number of
2 seats rather than the building areas, as Mr.
3 Stires had asked.

4 So when we do that, the ITE has two
5 different restaurant categories that are
6 appropriate for Miller's Alehouse and Chick-fil-A.
7 There's a high turnover, sit down restaurant,
8 which is appropriate for Miller's Alehouse, 239
9 seats, that was used to estimate parking demand
10 from parking generation. And then for the
11 Chick-fil-A, 19 seats. And we used the category
12 fast food with drive-thru. From that exercise,
13 the ITE research indicates the Miller's Alehouse
14 would generated 103 maximum parked vehicles and
15 the Chick-fil-A would generate 36 maximum parked
16 vehicles. I think the ITE does not give you the
17 ability to look at when are those peaks really
18 occurring. They will give you a weekday or a
19 Saturday, for example. But they do not give you
20 the actual peak of these types of uses. And it's
21 hard to know there's so many variations of
22 restaurants now. However, it's pretty clear from
23 my experience that Chick-fil-A is really a lunch
24 time generator, typically that's when you would
25 see their peak. The Miller's Alehouse, because of

1 the liquor license and the focus around ale in
2 this case that their peak would be more in the
3 evening, in the nighttime. So I think what we
4 would see is these two residential really having
5 their own peaks at different times which is good
6 for the overall shopping center.

7 But when we go through the exercise, so
8 we've got our retail, our own counts, we have a
9 retail rate of demand and then we add the two
10 restaurants together, Saturday in our exercises,
11 our analysis, comes up with a maximum parking
12 demand of 294 parked vehicles, which is well below
13 the 391 number of spaces provided.

14 So we have both our study, we have
15 concerns with the COVID, you know, situation,
16 which is a bit obviously unprecedented. But we
17 also have the ITE research that's very extensive
18 and demonstrates we would still have at least an
19 11 percent buffer during the peak parking demand
20 periods.

21 So that really, I think, from me, in
22 summary, we're asking for a small parking
23 variance, it's a 5 percent deficiency from the
24 Borough's requirement. And not only our study
25 indicates that there would be sufficient parking,

1 the ITE extensive studies of other shopping
2 centers also indicates the same. So given those
3 findings, I think it's reasonable to grant the
4 parking variance for the project.

5 CHAIRMAN CRONHEIM: Does anyone on the
6 Board have any questions of this witness?

7 MR. HUNSINGER: Can you guys hear me?
8 Again, respectively, I've been by a Chick-fil-A at
9 dinner time and any one I've ever been by, it is
10 packed. It is not at all just a lunch time thing.
11 And it is usually packed, both inside and in the
12 drive-thru, it's usually backed up, creating a lot
13 of traffic. If you've been to the other
14 Chick-fil-A down on 22, that parking lot has
15 become a nightmare to get in and out for both --
16 there's two other businesses in there. And you
17 just can't get in and out. And I have concerns
18 that, you know, the numbers -- I think that during
19 that May 18th or whatever, I think people weren't
20 out in numbers. And I'm concerned we're going to
21 put something in there and then when the site gets
22 packed, we're going to have some trouble here.

23 THE WITNESS: I hear you.

24 CHAIRMAN CRONHEIM: Let's see what Mr.
25 Stires says. Mr. Stires, what do you think?

1 MR. STIRES: Well, D.J., you know,
2 that's why we raised the concerns with the
3 parking, you know, with the square footage and
4 number of seats and the high intensity of the
5 Chick-fil-A. I think it's adding up to a concern.
6 You know, John did a good job explaining this to
7 me. I have a little more comfort level.

8 There is a peak, you know, if you say
9 they're both pretty heavy evening wise of 139
10 spaces according to his testimony and, you know,
11 that you dont' have half that amount of parking
12 for those two pad sites without encroaching into
13 other areas of the parking fields, you know. The
14 other thing is you do have two future pad sites
15 and maybe kick this thing down the road a little
16 bit. Or if there is a concern with the Board, you
17 have to consider it.

18 MR. HUNSINGER: Thank you.

19 MR. McNAMARA: We understand if there's
20 a need for updated analysis once we're prepared to
21 come back in for the other two pads, we'll
22 certainly take these into consideration.

23 THE WITNESS: That's what I was going to
24 say as well. I think no traffic engineer can sit
25 here and give you the exact projection of what

1 these, you know, the Chick-fil-A will do at a
2 certain time or the Miller's Alehouse and having
3 the ability to see them operate, you know, really
4 would be helpful and the give us the best
5 information. I think what I was alluding to is
6 Chick-fil-A from my experience, I worked on a lot
7 of those on Long Island, and the lunch time is
8 typically their peak, not that they're not busy in
9 the evening, but lunch time is their true maximum
10 peak.

11 And I think what you'll see is as
12 this -- as this restaurant is opened, the one in
13 Union, for example, which I've heard as well is
14 very busy, well, they're in the same market. And
15 that will relieve that site as well. And that's
16 what they've seen in Long Island with sites, as
17 they added -- there are only a handful now, but as
18 they've added more, they settle down in terms of
19 the peak parking demands.

20 CHAIRMAN CRONHEIM: One other additional
21 comment, which in my mind, leans slightly toward
22 when the next two pad sites are considered, with
23 this COVID right now, we're not sure if you will
24 sit 50 in a 90-seat restaurant, we're not sure --
25 we don't know if it will be anywhere. We really

1 are changing the entire world in terms of packing
2 in a restaurant. You're going to see restaurants
3 spreading the tables out way more than they are
4 now. You'll see a lot of restaurants probably
5 have a problem because they don't have enough
6 seating in distances for the safety of their
7 clients.

8 So I would be willing to allow and look
9 at the next two pad sites, because it's going to
10 be different. Does anyone else have any
11 questions?

12 MS. WOLFE: Mr. Chair, if I may? It's
13 Amanda.

14 CHAIRMAN CRONHEIM: Yes, you may.

15 MS. WOLFE: Mr. Harter, do you have any
16 conflict between the queuing of the vehicles at
17 Chick-fil-A and accessing the parking lot for the
18 new Miller's Alehouse?

19 THE WITNESS: I would -- well, under
20 COVID, it's hard to say. What I know from my
21 experience with Chick-fil-A is the sites as
22 they're opened, they will have a grand opening
23 team that comes and helps train the new operators.
24 And the first handful of weeks is when they're
25 really busiest, as the market opens up. And the

1 good thing that -- you know, I've talked to
2 Chick-fil-A about that situation for this site.
3 And what really, I think, works well is that the
4 Miller's Alehouse will not be up and running
5 during that period. So Chick-fil-A will be the
6 sole restaurant on the out parcel and operating.
7 So I think that will be very good and will learn
8 to operate the drive-thru very well, especially
9 beginning as they, you know, deal with that grand
10 opening situation.

11 MR. McNAMARA: And, Mr. Harter, is it
12 your understanding that the grand opening is
13 slated for later in June, so they'll certainly be
14 ahead of Miller's and will provide a summers'
15 worth of data for you as we go forward with more
16 pads?

17 THE WITNESS: Right, exactly, that's
18 well put. And that period I think they usually
19 see, you know, two to 4 weeks will occur in that
20 grand opening period. I think what none of us
21 know is with COVID that extends out from here,
22 will we see -- obviously the drive-thru is a
23 feature if it remains open in this condition, we
24 won't see much parking happening. But we may see
25 higher than usual drive-thru activity.

1 MR. McNAMARA: And then that live data
2 can be used as each of the other pads are
3 considered and eventually presented for
4 consideration before the Boards?

5 THE WITNESS: That's correct.

6 MR. McNAMARA: Thank you. I have no
7 other questions of the witness, Mr. Chairman.

8 CHAIRMAN CRONHEIM: Thank you. Does
9 anyone here have a question of the witness? Does
10 anyone in the public have a question for the
11 witness?

12 MR. HANLON: Mr. Chairman, it's Wayne.
13 Quick question as far as you could say that we
14 were equating back to parking, we didn't address
15 the number of employees that are also going to be
16 requiring parking spaces. In the opening
17 statements, we talked about 85 and 90, half of
18 which are going to be part time employees. On any
19 given day, what are we looking at as far as
20 employees and my question goes to the fact that
21 most of these employees will probably be driving
22 their own vehicles, so you're looking at one
23 employee for one vehicle. I'm trying to figure
24 out how that applies in this whole matrix.

25 THE WITNESS: That's a good question, I

1 can answer that, too. So all of the data that
2 I've just provided does include employee,
3 customer, all types of demand, the ITE as well.
4 So any of the studies I just referenced and the
5 rates that are used include employees. I know for
6 example, just a little more on that, that
7 Chick-fil-A, as a standard, has their employees
8 park away from the building. And then would look
9 to park in the least desirable spaces on the site
10 so they leave as much open adjacent to their
11 facility.

12 MR. McNAMARA: Mr. Harter, it's my
13 recollection that there's a New Jersey Transit bus
14 stop in close proximity, if I remember correctly?

15 THE WITNESS: That's correct. So I do
16 expect some employees would not be -- would use
17 public transportation.

18 MR. HANLON: Thank you.

19 MR. McNAMARA: Or they use other
20 alternate transportation, as in take out the phone
21 to call mom or dad to come pick me up, please.

22 CHAIRMAN CRONHEIM: True.

23 MR. McNAMARA: I have no further
24 questions of Mr. Harter. Mr. Chairman?

25 CHAIRMAN CRONHEIM: Anyone in the

1 audience wish to make comments or a question?
2 Hearing no one, we'll look to get to the next
3 witness.

4 MR. McNAMARA: Next witness is our
5 planner, Christine Cofone and our last witness on
6 this application.

7 CHAIRMAN CRONHEIM: Thank you.

8 MS. COFONE: Hi, good evening.

9 MR. McNAMARA: Ms. Cofone, I think you
10 may have been out of the room. I'm going to ask
11 Counsel to swear you in and ask you to please
12 provide your qualification.

13 MS. WOLFE: Could you raise your right
14 hand? Do you swear to tell the truth, the whole
15 truth, and nothing but the truth, so help you God?

16 MS. COFONE: Yes, I do.

17

18 C H R I S T I N E C O F O N E, sworn:

19

20 MS. WOLFE: Can I just have your
21 address?

22 THE WITNESS: Yes. Good evening.

23 (Audio difficulties) the business address is 125
24 Half Mile Road, Suite 200, Red Bank, New Jersey.

25 MS. WOLFE: Thank you.

1 CHAIRMAN CRONHEIM: And, Christine,
2 you've recently appeared before this Board,
3 haven't you?

4 THE WITNESS: I have, yes.

5 CHAIRMAN CRONHEIM: We can accept you
6 the same we did last time, the Board has already
7 accepted you.

8 THE WITNESS: Thank you. Nice of you to
9 say.

10 BY MR. McNAMARA:

11 Q Christine, if you could please provide
12 with your analysis of the variance relief that's
13 being sought as part of the application pending
14 before the Board this evening?

15 A Yes. Good evening. Of course, we did our
16 usual, we reviewed the application, submission
17 documents, and site plans. And we reviewed Mr.
18 Stires' May 6, 2020, correspondence on the
19 application. And we reviewed the zoning
20 ordinances (audio difficulty).

21 And this is a substantially compliant
22 application, when we look at what was previously
23 approved for the (audio difficulty) we're actually
24 replacing for Zinburger, (audio difficulty) the
25 area with a Miller's Alehouse restaurant.

1 So the only impact (audio difficulty)
2 what was previously approved by the Board were as
3 Mr. (audio difficulty) testified earlier, we are
4 increasing the front yard setback to about 41.7
5 (audio difficulty) or (audio difficulty) to what
6 was previously approved by the application.

7 If you look again, when you see the
8 substantial change between the end of the pavement
9 and right-of-way of 22 and parking (audio
10 difficulty) park area, so in some respects, you
11 can consider (audio difficulty) less of an impact
12 than what was previously approved because we've
13 taken (audio difficulty) of that. So (audio
14 difficulty) Mr. Aguilar (audio difficulty) the
15 blue line of disturbance area.

16 So I don't think there's going to have a
17 very substantial impact from the front setback.
18 The zone requires 100 feet and the Board
19 previously granted relief for this and what we're
20 asking for in conjunction with this application
21 given the geography of Route 22, (audio
22 difficulty) the improvements that are on the site,
23 I think the Board can certainly grant the variance
24 relief on (audio difficulty) statutory criteria,
25 (audio difficulty) invoking (audio difficulty) of

1 the land use law talks about provide sufficient
2 (audio difficulty) in appropriate locations.
3 (Audio difficulty) I think it's applicable here,
4 which talks about a desirable visual environment.

5 Mr. Dorin, our architect -- the (audio
6 difficulty) there's going to be (audio difficulty)
7 with the setback of the building --

8 THE COURT REPORTER: I'm having a very
9 hard time hearing the witness.

10 A You are?

11 CHAIRMAN CRONHEIM: It's breaking up.

12 A I hear you fins, so maybe I should --

13 CHAIRMAN CRONHEIM: There's a whistle.

14 A I'm in Mr. McNamara's room, we're in the
15 same building, not socially distanced really. So
16 I'm going over here.

17 So since the court reporter I don't
18 think got that, so I'm just going to back up. And
19 I'm sorry, I apologize. I'll go through that
20 again. I was talking about the front yard setback
21 variance that we're requesting for the Miller's
22 Alehouse building of approximately 41.2 feet. And
23 I testified that I had testified on the prior site
24 for this. And the geometry of 22 and how the
25 current -- in conjunction with the current

1 application, we're actually taking the parking
2 field that was in front of the building out of
3 that area and we just now have our building, which
4 I believe as Mr. Dorin explained earlier is a very
5 attractive building with canopy elevations.

6 So I think in granting this variance,
7 the Board can rely on criteria G, which talks
8 about efficient space in appropriate locations for
9 a variety of uses, but also criteria I, which
10 talks about creating a desirable visual
11 environment. Because I think there will certainly
12 be curb appeal, a desirable visual environment
13 despite the fact that we're not meeting the 100
14 foot setback and we are coming somewhat closer to
15 22 than what was previously approved in
16 conjunction with the application. I think given
17 reliance on those two purposes of the land use
18 law, G and I, the Board can be comfortable that
19 the positives are satisfied for the grant of the
20 variance.

21 As far as the negative criteria, the
22 Board is asked to hold us and any other applicant
23 to the standard just that the benefits of the
24 grant of the variance outweigh any detriments.
25 When you look at the fact that this is in a

1 commercial corridor, not only is it in a
2 commercial corridor, but in such a corridor that
3 your Borough and your master plan encourage for
4 this type of commercial development and commercial
5 vitality. And specifically to promote new
6 development of non-residential uses. So I think
7 that the mix of uses -- the mix of restaurant
8 types, as Mr. Harter explained, is going to be
9 beneficial to this center.

10 I don't disagree that Chick-fil-A does
11 have a lot of traffic throughout the day. But I
12 think that we're only adding an additional 32
13 seats to the Miller's Alehouse over what was
14 approved in conjunction with the Zinburger. So
15 when you look at the ITE standard and the fact
16 that we really exceed what those requirements
17 would be -- and another thing, we find quite a bit
18 these days, I think you're finding that Uber and
19 Lyft will reduce definitely the need for parking,
20 as well as other things that you see, such as
21 Doordash, Grubhub and things like that.

22 So I think we, as planners, have
23 definitely recognized a reduction in the amount of
24 parking that's associated with restaurants. And I
25 think that is definitely a suburban phenomenon as

1 well as a phenomenon that's in more metropolitan
2 areas. I am a professor at Monmouth University, I
3 teach special topics in real estate. And I took
4 my class one night to observe a board meeting in
5 Rumson and there was a restaurateur there who has
6 all his restaurants in suburban towns. And I was
7 very compelled by the statement he gave about Uber
8 and Lyft and how it impacts his business and the
9 parking that's associated with restaurants these
10 days.

11 I've also been on a couple panels, the
12 planners conference where this topic has come up.
13 And I do think as a board you do have an
14 opportunity because we don't have those two other
15 pad sites occupied, that if there is an issue down
16 the road to capture and deal with it. We want our
17 center to be successful as much as you do. So I
18 think we can certainly be comfortable from a
19 planning point of view that there is no
20 substantial detriment from either one of these
21 variances. And that the burden of proof with
22 respect to the negative and positive criteria is
23 satisfied.

24 MR. McNAMARA: Thank you, Ms. Cofone. I
25 have no further questions of the witness, Mr.

1 Chairman.

2 CHAIRMAN CRONHEIM: Anyone on the Board
3 have questions of Ms. Cofone? Anyone in the
4 audience have any comment or question for our
5 witness? Hearing no one, I'm going forward.
6 Patrick, I think you're finished with this
7 application with Ms. Cofone?

8 MR. McNAMARA: Yes, we are, Mr.
9 Chairman. That concludes our case-in-chief and we
10 request that the Board act favorably upon the
11 application as presented before you this evening.

12 CHAIRMAN CRONHEIM: Thank you, Mr.
13 McNamara.

14 Does anyone on the Board have any
15 comments they want to make before they say
16 anything or does anyone want to make a motion?

17 MR. BROWN: I have one question for --
18 I'm not sure who. I guess what type of a facility
19 is this, is this primarily a drinking facility or
20 is it a dining facility?

21 MR. DANIELS: I'll speak to that, Mr.
22 Brown. We are a family restaurant with -- a
23 sports-themed family restaurant. So this is not
24 considered a -- we don't considered ourselves a
25 sports bar by any means. We feel our menu appeals

1 to all people, young and old. We call ourselves
2 from highchairs to wheelchairs as a brand. So we
3 (audio difficulty) the demographics. And we
4 consider ourselves a sports-themed family
5 restaurant.

6 MR. BROWN: Thank you.

7 MR. HUNSINGER: I have a question. I'm
8 not sure if it's for Dave or Amanda. We've talked
9 about if we have a parking problem, we can do
10 something with the other pads that are not taken.
11 But they can still get (audio difficulty) but
12 that's only if they need a variance, right? If
13 they don't need a variance, can we cut down what
14 they have for parking? Does that make sense?

15 MS. WOLFE: So you're saying if they
16 don't have a variance and they're fully compliant,
17 do they have to come to the Board at all?

18 MR. HUNSINGER: Right. Like we can have
19 a parking problem and we keep saying we'll make it
20 up on the two other pads, but they can fill out at
21 their maximum without coming to us and now we have
22 just a bigger parking problem.

23 MR. McNAMARA: Well, we would have to
24 come back in for site plan approval for each of
25 the two remaining pads, so we would anticipate

1 that we would be asked to give an updated traffic
2 analysis, as we said earlier, we would certainly
3 agree to do that and understand that's going to be
4 part of any subsequent application we make to this
5 board or the planning board for the other two
6 pads.

7 MR. HUNSINGER: My biggest concern here
8 is that we're creating a mess we're not going to
9 be able to clean up. I mean we're giving an extra
10 bunch of right-of-way and not even getting the
11 parking to comply.

12 MR. McNAMARA: Well, as I stated, it's
13 something that the applicant is going to have to
14 address as it comes forward with either of the
15 other two pads. So it's certainly going to be
16 part of that discussion, whether the next
17 application is before you or before the planning
18 board. We fully understand that this is going to
19 be an ongoing and evolving issue that we're going
20 to have to address head on. I don't know who the
21 other potential tenants will be, but it is not
22 uncommon in commercial settings to have easements
23 where certain tenants are guaranteed or required
24 to have a certain amount of parking provided to
25 them as a condition of their lease.

1 So we're looking at not only meeting the
2 ordinance requirements that the Borough has, but
3 from a business and economic standpoint, it's not
4 going to do my client any good to have a lease of
5 a space and the tenant says where's my parking,
6 oh, we gave it all away already, you have to fend
7 for yourself. That's not going to fly with
8 anybody.

9 MR. HUNSINGER: So we're reducing the
10 available spots in the other pads right now?

11 MR. McNAMARA: Would that be a fair
12 description, John?

13 MR. HARTER: I'm sorry, the question is
14 we're reducing the parking?

15 MR. HUNSINGER: Are we reducing the
16 available parking for the undeveloped pads? Does
17 this take away from their available parking?

18 MR. HARTER: All the tenants are sharing
19 parking, so that's the concept of a shopping
20 center. So I'm not really --

21 MR. HUNSINGER: Okay, I understand.

22 MR. HARTER: Yeah.

23 MR. STIRES: I think, D.J., to the
24 extent that they're asking for a variance, yes,
25 they are reducing the available parking for the

1 pad sites that have been -- that are undeveloped.

2 MR. HUNSINGER: Okay, thank you.

3 MR. WARNER: Mr. Chairman, if may? The
4 remaining -- and I would ask counsel for the
5 applicant, as well Ms. Cofone, the planner, would
6 it be accurate to say that the Board has the
7 discretion to consider the impact of any parking
8 deviation request with respect to any pad within
9 the shopping center in conjunction with -- the
10 impact it would have on the shopping center
11 parking as a whole in the context of considering a
12 variance or exceptions, waiver relief being sought
13 for each individual pad?

14 MR. McNAMARA: I think that's a fair
15 statement. We understand that we have to look at
16 it holistically, we can't look at it piecemeal.

17 MR. WARNER: In that way, perhaps that
18 part addresses -- perhaps not the concern
19 expressed by Board Member Hunsinger, but actually
20 puts into context the relevance and materiality of
21 the question that he posed. And maybe that needs
22 to be further addressed, I think, as a Board, by
23 Mr. Harter and/or any other of your witnesses.

24 MR. McNAMARA: John, if you want to take
25 a stab at responding to Counsel?

1 MR. HARTER: Oh, my gosh, could we ask
2 that question again? Could you redirect the
3 question?

4 MS. WOLFE: Hang on one second.

5 CHAIRMAN CRONHEIM: Can you restate the
6 question? I'm not clear what the question was.

7 MR. WARNER: Steve Warner again. The
8 question essentially was, I think, from your
9 counsel, can you further address Mr. Hunsinger's
10 inquiry, since it is both relevant and material to
11 the decisionmaking process of this Board this
12 evening as to the impact that the parking
13 deviation requested on this pad with respect to
14 the application for this pad will not only have in
15 isolation on this particular application, but also
16 holistically on the shopping center as a whole?
17 Since it's, I think, now being conceded to be both
18 a relevant and material question by Mr. Hunsinger
19 with respect to this application.

20 MR. HARTER: Yes. I think I talked
21 throughout my testimony that each tenant
22 throughout the shopping center will have -- it's a
23 shared parking concept, that's what a shopping
24 center involves. And some tenants are going to be
25 more intense in terms of parking and have parking

1 demands at different times of the day. And I
2 think what's being alluded to is that Chick-fil-A,
3 for example, and Miller's may contribute to more
4 parking demand than other tenants within the
5 facility. And we recognize that, that's really
6 typical of any shopping center. And that's the
7 rationale of coming back and looking at parking
8 demand as these other tenants come into our build
9 and operating, such as Chick-fil-A.

10 So, yes, I expect it will be more of a
11 demand generator than some other tenants that are
12 potentially -- which we expect to be other retail
13 tenants in the future. So that combination of
14 lighter generators along with a more intensive
15 generator, we anticipate will work for this
16 center.

17 MR. HUNSINGER: Thank you.

18 CHAIRMAN CRONHEIM: Anyone else with
19 questions on this matter from the Board? Hearing
20 no one, is there anyone in the public? We'll
21 close the public session. And does anyone wish to
22 make a proposal for either approval or denial of
23 this application?

24 There was no public comment because
25 there's nobody here. Once again, no public

1 comment, no one here. No one can be seen.

2 MR. BROWN: Mr. Chairman, there's a
3 number of variances we need to approve with this
4 as well, I assume, right?

5 CHAIRMAN CRONHEIM: Yes. Amanda, that's
6 correct, right?

7 MS. WOLFE: Yes. I believe the front
8 yard setback and the parking variance, correct?

9 CHAIRMAN CRONHEIM: Correct.

10 MR. McNAMARA: Correct.

11 MS. WOLFE: So it's just those two and
12 that would be a majority vote. And I believe Ms.
13 Cofone said it would be under the C-2 standards
14 because the benefits would outweigh the
15 detriments.

16 CHAIRMAN CRONHEIM: Correct, that was
17 the testimony.

18 MS. WOLFE: And we also need the amended
19 preliminary and final site plan approval, with all
20 stipulated to conditions, unless stated otherwise
21 by counsel.

22 CHAIRMAN CRONHEIM: Correct.

23 MR. McNAMARA: We agree to all
24 conditions, by the way, for the record. And we
25 would ask that the application package exhibits

1 and reports be moved into the record at this time.

2 MS. WOLFE: Mr. McNamara, do you want to
3 mark each of them separately or how -- I don't
4 recall which ones were submitted in advance and
5 which ones were not.

6 MR. McNAMARA: I believe Mr. Aguilar can
7 respond. I think there was a submission made?

8 MR. AGUILAR: Yeah.

9 MR. McNAMARA: Or indexed as part of the
10 overall submission package.

11 MR. AGUILAR: So the Zinburger exhibit
12 which was the prior application, the overall site
13 exhibit sheet C-3, and I can re-share these again,
14 Amanda, directly with you. They're with the
15 architectural plans that Mr. Dorin had referred
16 to. Those mentioned, the architectural floor plan
17 sheet A-101, dated January 28th, 2020. Exterior
18 elevations, sheet A-201, dated January 28, 2020.

19 MS. WOLFE: And the sign packet was
20 already submitted 10 days in advance, correct?

21 MR. AGUILAR: Yes.

22 MS. WOLFE: Thank you.

23 MR. AGUILAR: Mr. McNamara, one of the
24 items mentions all the conditions of the review
25 letter, but I think we addressed in the testimony

1 about the will service from utility companies that
2 wouldn't necessarily be necessary since service is
3 already provided to the building.

4 MR. McNAMARA: Understood. I think
5 there's been correspondence on those and so that
6 reflects accurately, thank you.

7 MR. WARNER: If I may, Mr. Chairman,
8 this is co-counsel. The exhibits were submitted
9 and designated as A-1 through A, whatever the last
10 number was, would that be correct? When they were
11 pre-submitted?

12 MR. AGUILAR: They were in their
13 destination when they were submitted.

14 MR. WARNER: Okay. So they'll go into
15 the record with that submission with those
16 designations. And if our court reporter needs
17 further clarity, that can be provided because
18 they're on the agenda or linked to the agenda.
19 Just a housekeeping matter. Thank you for letting
20 me interject.

21 CHAIRMAN CRONHEIM: Would someone like a
22 make a resolution for or against this matter?

23 MR. BROWN: I'd like to move for this
24 application with the agreed variances we're
25 talking about.

1 MS. WOLFE: And the conditions
2 stipulated to?

3 MR. BROWN: Yes.

4 MS. WOLFE: Thank you.

5 MR. BROWN: All the above.

6 MS. WOLFE: Thank you.

7 CHAIRMAN CRONHEIM: For the record,
8 would you say who made the resolution, please?

9 MR. BROWN: That was Richard Brown.

10 CHAIRMAN CRONHEIM: I know. I can see
11 you, but I don't know if others could see you. So
12 thank you, Richard.

13 Is there a second on this resolution?

14 MR. TARASCHI: Second by Mitch Taraschi.

15 CHAIRMAN CRONHEIM: Thank you. All
16 right. Any comments anyone wants to make before
17 we vote? Hearing none, Theresa, would you call
18 the roll, please?

19 MS. SNYDER: Mr. Hunsinger.

20 MR. HUNSINGER: Yes.

21 MS. SNYDER: Mr. Brown.

22 MR. BROWN: Yes.

23 MS. SNYDER: Mr. Kita. We'll come back.
24 Mr. Taraschi.

25 MR. TARASCHI: Yes.

1 MS. SNYDER: Mr. Hanlon.

2 MR. HANLON: Yes.

3 MS. SNYDER: Chairman Cronheim.

4 CHAIRMAN CRONHEIM: Yes.

5 MS. SNYDER: Mr. Kita, can you put your
6 mic on, please? Mr. Kita.

7 MR. KITA: The light is green. Yes.

8 CHAIRMAN CRONHEIM: Thank you.

9 MS. SNYDER: Thank you.

10 CHAIRMAN CRONHEIM: With that, it's
11 six-zero, it's passed unanimously. I thank you
12 for your time.

13 I have only have one other comment to
14 make. We have a stenographer here tonight.
15 Susan, if you need a break, would you put your
16 hand up? You want a break?

17 THE COURT REPORTER: Yes, please.

18 CHAIRMAN CRONHEIM: Okay. Please take
19 two minutes. And let us know when you're back.

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22 (Whereupon the matter was adjourned.)

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I HEREBY CERTIFY that the foregoing is a true and accurate transcript of the testimony and proceedings as taken stenographically by me at the time, place, and on the date hereinbefore set forth.

SUSAN BISCHOFF, CCR, RPR
LICENSE NO. 30XI00233700

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