

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

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5 REGULAR MEETING FOR:

6 THE LEARNING EXPERIENCE
7 BLOCK 7801, LOT 1
8 100 UNION AVENUE

9 CASE NO. PB 19-02
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11 TUESDAY, JULY 20, 2021
12 COMMENCING AT 7:30 P.M.
13 TRANSCRIPT OF PROCEEDINGS
14 VIRTUAL PUBLIC HEARING

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16 BOARD MEMBERS PRESENT:

17 TRACEE SCHAEFER, CHAIRPERSON
18 KEITH S. BALLA, MAYOR
19 PAUL FIORILLA
20 PIETRO MARTINO, COUNCILMAN
21 YVETTE NORA
22 KAREN PENNETT
23 STEPHEN POTE
24 TROY SIMS
25 DONALD SPEENEY, VICE-CHAIRPERSON
26 ELLEN SPINGLER

27 ALSO PRESENT:

28 FRANCIS P. LINNUS, ESQUIRE, BOARD ATTORNEY
29 RICARDO MATIAS, P.E., BOARD ENGINEER
30 MARK HEALEY, P.P., BOARD PLANNER
31 JOHN JAHR, P.E., PTP, TSOS, BOARD TRAFFIC ENGINEER
32 THERESA SNYDER, BOARD SECRETARY

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1 A P P E A R A N C E S: (Via Video Conference)

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I N D E X

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WITNESSES

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NONE.

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PUBLIC COMMENT:

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None.

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E X H I B I T S

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EXHIBIT

DESCRIPTION

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None.

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<p style="text-align: right;">4</p> <p>1 (Time noted, 7:34 p.m.)</p> <p>2 CHAIRPERSON SCHAEFER: Ellen, please</p> <p>3 call our next application.</p> <p>4 MEMBER SPINGLER: Case Number</p> <p>5 PB 19-02, The Learning Experience, 100 Union Avenue,</p> <p>6 Block 7801, Lot 1, BB Zone. Expiration 7/31/21.</p> <p>7 CHAIRPERSON SCHAEFER: Thank you.</p> <p>8 Last month, both the applicant and the</p> <p>9 opposer gave their closing arguments, and we are now</p> <p>10 ready to vote on this application.</p> <p>11 Before we do, Frank, can you go over</p> <p>12 the particulars for our board members?</p> <p>13 BOARD ATTORNEY: Yes. Thank you very</p> <p>14 much, Madam Chairperson.</p> <p>15 As the board and members of the public</p> <p>16 are well aware, this is, I think, our tenth hearing</p> <p>17 on the above matter. There have been many exhibits,</p> <p>18 both introduced by the applicant, as well as the</p> <p>19 objector. Tonight we're here for deliberations, and</p> <p>20 a vote and taking action on the application.</p> <p>21 Before we proceed, by matter of</p> <p>22 housekeeping, I note that we do have a full board</p> <p>23 here tonight. As a matter of fact, I counted ten</p> <p>24 board members, which would include one alternate.</p> <p>25 Theresa, has everybody -- is everybody</p>	<p style="text-align: right;">6</p> <p>1 identified the following variances, basically, from</p> <p>2 Mark Healey's reports:</p> <p>3 Relief is required for lot frontage.</p> <p>4 Relief is required for parking lot</p> <p>5 setback.</p> <p>6 I'm not sure relief is required for</p> <p>7 building setback, front yard building setback.</p> <p>8 Mark, have you looked into that?</p> <p>9 BOARD PLANNER: Yes. And when you</p> <p>10 posed that question to me earlier today, I had to</p> <p>11 really stretch my power of recollection.</p> <p>12 Originally they had asked for requested</p> <p>13 variances when it was initially proposed in 2019,</p> <p>14 but they have subsequently revised the plan, and</p> <p>15 they comply with the front yard setback along both</p> <p>16 streets. So there is no setback for front, for the</p> <p>17 front yard setback.</p> <p>18 BOARD ATTORNEY: Okay. And then</p> <p>19 there's the issue as to whether a parking variance</p> <p>20 is required. As the board may recall, the applicant</p> <p>21 took the initial position, and probably is still the</p> <p>22 same position, that state law preempts the local</p> <p>23 ordinance for childcare centers and that parking</p> <p>24 requirements are not necessary. However, we do have</p> <p>25 an ordinance, and our ordinance states that the</p>
<p style="text-align: right;">5</p> <p>1 eligible to vote tonight?</p> <p>2 BOARD CLERK: Yes, they are.</p> <p>3 BOARD ATTORNEY: Okay. So there would</p> <p>4 be a full-board vote. Certainly, Yvette Nora would</p> <p>5 be the second alternate. She can deliberate and she</p> <p>6 can participate, but she's not eligible to vote.</p> <p>7 All right, having said that, basically,</p> <p>8 what we're going to be acting on tonight is</p> <p>9 preliminary site plan. As you are aware, the</p> <p>10 applicant has elected to proceed with preliminary</p> <p>11 site plan only, which means that if he gets</p> <p>12 preliminary site plan, that some day you're going to</p> <p>13 see the final site plan, and that will be presented</p> <p>14 to the board.</p> <p>15 There were a number of variances, and</p> <p>16 I'll detail them later because there are a couple of</p> <p>17 threshold issues that need to be addressed on the</p> <p>18 number of variances, as well as the design waivers.</p> <p>19 So at the end of the day, you will deliberate and</p> <p>20 take action on the preliminary site plan, the</p> <p>21 identified variances and the exceptions to your</p> <p>22 development standards, your site plan standards.</p> <p>23 CHAIRPERSON SCHAEFER: Thank you,</p> <p>24 Frank.</p> <p>25 BOARD ATTORNEY: All right. I have</p>	<p style="text-align: right;">7</p> <p>1 ordinance has no specific parking requirement for</p> <p>2 the use, nor are there any parking requirements for</p> <p>3 a similar use. And in such instances, our ordinance</p> <p>4 indicates that the off-street parking requirements</p> <p>5 are to be determined by the board based upon</p> <p>6 accepted industry standards.</p> <p>7 What does that mean? You have heard a</p> <p>8 lot of testimony regarding what the industry</p> <p>9 standards are. The objectors took -- the objector</p> <p>10 took the position that ITE was the standard to be</p> <p>11 applied; that's the Institute of Transportation</p> <p>12 Engineers. And if that standard is applied, then my</p> <p>13 recollection of the testimony -- which doesn't mean</p> <p>14 anything, it's your recollection -- was that 52</p> <p>15 parking spaces were required by ITE standards.</p> <p>16 The applicant is proposing, I believe,</p> <p>17 31 parking spaces. The applicant took the position</p> <p>18 that other standards applied, not the ITE standards.</p> <p>19 So there's a threshold issue; one, what standard</p> <p>20 does apply? And that's a board decision. Is it ITE</p> <p>21 or any other standard? And if the answer is yes, a</p> <p>22 standard applies, then the question becomes should a</p> <p>23 variance be granted. And that, of course, would be</p> <p>24 based on all of the testimony as you received it and</p> <p>25 whether there's adequate parking for the proposed</p>

<p style="text-align: center;">8</p> <p>1 use.</p> <p>2 So at this point, Madam Chair, I think</p> <p>3 the board should make a determination as to whether</p> <p>4 the ITE standard applies, that is, the 52 parking</p> <p>5 space standard, or some other standard applies.</p> <p>6 CHAIRPERSON SCHAEFER: So what I'm</p> <p>7 going to do is I'm going to ask Rick or John, John</p> <p>8 Jahr or Rick Matias, their opinion on this. If you</p> <p>9 would like to share an opinion, please?</p> <p>10 BOARD TRAFFIC CONSULTANT: Okay. I</p> <p>11 would say that it's Bright View's opinion that they</p> <p>12 are providing 30 -- as stated in our last memorandum</p> <p>13 to the board, I would say that we have pretty much</p> <p>14 indicated that it's our opinion that they are</p> <p>15 providing 32 spaces, and we feel that that is</p> <p>16 adequate. So from a -- if the question is clearly,</p> <p>17 does Bright View feel 32 parking spaces will be</p> <p>18 adequate for this use, it's our opinion that it is.</p> <p>19 BOARD ATTORNEY: All right. That's</p> <p>20 not the real question, Madam Chairperson, although</p> <p>21 it's good that you're getting this information from</p> <p>22 our consultants and our professionals.</p> <p>23 The question before the board, the</p> <p>24 threshold question is what standard applies. And</p> <p>25 then we get into whether there's a variance --</p>	<p style="text-align: center;">10</p> <p>1 So I think, if I understand you</p> <p>2 correctly, you're stating that in your opinion there</p> <p>3 is an ITE standard, and that is the departure -- the</p> <p>4 point at which they would have to depart.</p> <p>5 BOARD PLANNER: I think I could speak</p> <p>6 to the first part of the question, which is what is</p> <p>7 the -- what standard to apply.</p> <p>8 The language of the ordinance says in</p> <p>9 the absence of a standard in your ordinance, that</p> <p>10 you should seek the industry standard. So then the</p> <p>11 question is, what is more appropriate to apply as</p> <p>12 far as setting a standard, the ITE or the</p> <p>13 information that Ms. Dolan supplied. Again, for the</p> <p>14 purpose of setting the standard.</p> <p>15 It's my opinion, I think, that ITE is</p> <p>16 an industry standard. So I think it would be</p> <p>17 appropriate to apply that as the requirement for the</p> <p>18 site.</p> <p>19 And then again, the second part -- as</p> <p>20 Frank explained, the second part of the question is,</p> <p>21 have they supplied sufficient justification in their</p> <p>22 reports and in their testimony to, you know, support</p> <p>23 relief from that standard. That second part, I will</p> <p>24 defer to Mr. Jahr.</p> <p>25 But I do feel comfortable, again,</p>
<p style="text-align: center;">9</p> <p>1 whether there's proof sufficient for the variance.</p> <p>2 CHAIRPERSON SCHAEFER: And I think</p> <p>3 that is my question.</p> <p>4 So, John, can you elaborate on that,</p> <p>5 please?</p> <p>6 BOARD TRAFFIC CONSULTANT: Well, you</p> <p>7 know, this is a quasi-legal engineering question, I</p> <p>8 suppose, Frank. You know, my feeling would be that</p> <p>9 because the ordinance very clearly says that the</p> <p>10 threshold would be the ITE number, and we all agreed</p> <p>11 that the ITE number was 52 spaces, then I don't</p> <p>12 think it's -- it's nothing that this board hasn't</p> <p>13 done before. My feeling would be they should be</p> <p>14 asking for a variance, and my recommendation to the</p> <p>15 board would be to grant one because they're -- they</p> <p>16 have 32 spaces, and they only need 29.</p> <p>17 So, you know, I guess it's somewhat a</p> <p>18 little bit out of the engineering part and into the</p> <p>19 legal part, I suppose.</p> <p>20 Frank, am I hitting the question</p> <p>21 somehow? I'm not sure if I'm getting this right.</p> <p>22 BOARD ATTORNEY: You're getting it</p> <p>23 partially right. The board has to determine what</p> <p>24 standard applies, and then they could vote on the</p> <p>25 variance at the appropriate time.</p>	<p style="text-align: center;">11</p> <p>1 indicating to the board that it's my opinion that</p> <p>2 the ITE standard should apply because it is an</p> <p>3 industry standard.</p> <p>4 BOARD TRAFFIC CONSULTANT: I agree. I</p> <p>5 agree with Mr. Healey that the ITE is the standard</p> <p>6 that would apply.</p> <p>7 And I would also like to remind the</p> <p>8 board that there was extensive testimony about how</p> <p>9 the ITE establishes its universal number, but in the</p> <p>10 preface of the ITE it says, "Always rely upon a</p> <p>11 local study," and that information was submitted by</p> <p>12 both the objector, and by our office and Ms. Dolan's</p> <p>13 office. So there was a significant amount of</p> <p>14 information provided.</p> <p>15 I'll point out that I think that one of</p> <p>16 the things that is a little gray here is that the</p> <p>17 ITE global standard or number that you pick based on</p> <p>18 the charts and graphs they have in the book is 52</p> <p>19 spaces. However, the ITE has a catch-all that says,</p> <p>20 "If you can produce a local study, then that would</p> <p>21 be the preferable data to use."</p> <p>22 So that's where things get a little - a</p> <p>23 little tricky here because what Mark and I are</p> <p>24 saying is that there needs to be -- and the</p> <p>25 ordinance says, there has to be a standard. All</p>

<p style="text-align: right;">12</p> <p>1 right? We're all agreeing that the ITE is the</p> <p>2 standard. The problem is, is that the ITE puts us</p> <p>3 in a bad spot because they have a definitive number</p> <p>4 that you pick from a chart and say, Okay, that's it</p> <p>5 for day cares, but in the beginning of their book it</p> <p>6 says, But if you have something local, it's better</p> <p>7 to go by that than go by -- I mean, because</p> <p>8 remember, the ITE numbers are national. And they're</p> <p>9 very, very good. They're very good to rely upon.</p> <p>10 All right? But a lot of testimony was given both to</p> <p>11 more and to less, you know, with regard to that.</p> <p>12 I honestly think that a variance would</p> <p>13 be appropriate just to codify that and to make</p> <p>14 certain that, you know, if they ever want to make</p> <p>15 any changes, this site is operating under this kind</p> <p>16 of variance, it would be much easier for the zoning</p> <p>17 officer and the town to match it if a variance was</p> <p>18 granted for this reason. This way, if they ever</p> <p>19 wanted to, you know, add an addition or make any</p> <p>20 changes, then, you know, this variance would</p> <p>21 certainly, you know, put some limitations on that.</p> <p>22 Something to consider, board. The</p> <p>23 decision is ultimately with you. There is so much</p> <p>24 information on this. I would say this is a tough</p> <p>25 one for the board to consider and what my -- my</p>	<p style="text-align: right;">14</p> <p>1 CHAIRPERSON SCHAEFER: Don?</p> <p>2 VICE-CHAIRMAN SPEENEY: Yes, I support</p> <p>3 the ITE standard.</p> <p>4 CHAIRPERSON SCHAEFER: Troy?</p> <p>5 MEMBER SIMS: I guess I will defer to</p> <p>6 the professional, who indicates that the ITE</p> <p>7 standard is what we should go by, but he also</p> <p>8 suggests that a variance should be approved. So</p> <p>9 however you want to -- if you want to go to the ITE</p> <p>10 and have them get a variance, fine, but I'm taking</p> <p>11 the advice of the professional.</p> <p>12 CHAIRPERSON SCHAEFER: Thank you.</p> <p>13 Councilman Martino?</p> <p>14 COUNCILMAN MARTINO: Yes, I also agree</p> <p>15 since future use groups or change of occupancies may</p> <p>16 occur here, I agree also with the variance.</p> <p>17 Thank you.</p> <p>18 CHAIRPERSON SCHAEFER: Mayor?</p> <p>19 MAYOR BALLA: I agree with the</p> <p>20 standard and to go with the variance.</p> <p>21 CHAIRPERSON SCHAEFER: Thank you.</p> <p>22 Yvette?</p> <p>23 MEMBER NORA: Yes. I agree with</p> <p>24 Mr. Jahr and Bright View's recommendation.</p> <p>25 CHAIRPERSON SCHAEFER: Thank you.</p>
<p style="text-align: right;">13</p> <p>1 professional opinion and the professional opinion of</p> <p>2 Bright View is, ITE is the standard, and I believe a</p> <p>3 variance is appropriate.</p> <p>4 CHAIRPERSON SCHAEFER: Thank you.</p> <p>5 I'm going to look to our board members --</p> <p>6 BOARD ATTORNEY: Madam Chair, do you</p> <p>7 want to poll the board on that issue?</p> <p>8 CHAIRPERSON SCHAEFER: I was just</p> <p>9 doing that, Frank. I was going to look to the board</p> <p>10 members for their input on this so we can decide if</p> <p>11 a variance is warranted or not.</p> <p>12 So I'm going to start with Ellen first.</p> <p>13 MEMBER SPINGLER: I think we should go</p> <p>14 with a variance.</p> <p>15 CHAIRPERSON SCHAEFER: Okay. Steve?</p> <p>16 MEMBER POTE: I think, as well, we</p> <p>17 should go with the variance. In absence of that</p> <p>18 standard we're seeking something else, and I just</p> <p>19 think we're missing by too much; to go from 52 to</p> <p>20 29, that's 60 percent. I think we should have that</p> <p>21 as a standard, ITE.</p> <p>22 CHAIRPERSON SCHAEFER: Okay. Thank</p> <p>23 you. Karen?</p> <p>24 MEMBER PENNETT: I'd go with the ITE.</p> <p>25 I think a variance is going to have to be required.</p>	<p style="text-align: right;">15</p> <p>1 Who am I missing? Paul. I'm going --</p> <p>2 so, Paul, the reason why you're last is because</p> <p>3 you're the last on my screen.</p> <p>4 So, Paul, your input? Paul?</p> <p>5 MEMBER FIORILLA: Yeah. I'm going to</p> <p>6 -- I guess I will concur with, you know, the</p> <p>7 comments that I have heard so far. I would rely on</p> <p>8 our professionals because -- what's that?</p> <p>9 CHAIRPERSON SCHAEFER: Okay.</p> <p>10 MEMBER FIORILLA: Can you hear me?</p> <p>11 CHAIRPERSON SCHAEFER: I can hear you,</p> <p>12 but just so you know, your screen --</p> <p>13 MEMBER FIORILLA: Hello?</p> <p>14 CHAIRPERSON SCHAEFER: Paul? Hello?</p> <p>15 MEMBER FIORILLA: Yeah?</p> <p>16 CHAIRPERSON SCHAEFER: Paul, can you</p> <p>17 hear --</p> <p>18 MEMBER FIORILLA: Yeah. Can you hear</p> <p>19 me?</p> <p>20 CHAIRPERSON SCHAEFER: I could hear</p> <p>21 you, but just so you know, your screen is frozen.</p> <p>22 Okay?</p> <p>23 MEMBER FIORILLA: My volume is kind of</p> <p>24 -- my volume is breaking up, I guess, a little bit</p> <p>25 here.</p>

<p style="text-align: right;">16</p> <p>1 CHAIRPERSON SCHAEFER: But your screen 2 is frozen. 3 MEMBER FIORILLA: Yeah. Sorry about 4 that. 5 CHAIRPERSON SCHAEFER: No problem. 6 MEMBER FIORILLA: I mean, GoToMeeting 7 is terrible. We should do Zoom. 8 CHAIRPERSON SCHAEFER: Well, we have 9 GoTo so you -- 10 MEMBER FIORILLA: I don't know what to 11 do about that. I think -- do you want me to call 12 in? 13 CHAIRPERSON SCHAEFER: I think that 14 worked for you last time. 15 MEMBER FIORILLA: I mean, I -- 16 CHAIRPERSON SCHAEFER: You're back. 17 MEMBER FIORILLA: Yeah. All right. 18 But, you know, last time I was on -- last time I was 19 using a computer, so this time I am using a tablet. 20 But I guess that's still not perfect, so I will -- I 21 didn't have any problems with the volume until just 22 now though, so anyway. 23 CHAIRPERSON SCHAEFER: I think -- 24 MEMBER FIORILLA: I'm going to call 25 in.</p>	<p style="text-align: right;">18</p> <p>1 whether to grant -- if there is a requirement, to 2 grant relief from it. So I'm going to read from the 3 ordinance because, again, this is somewhat similar 4 to the parking. 5 It says, "For every building or part 6 thereof which is to be occupied by manufacturing, 7 storage, goods display, retail store, wholesale 8 store, or warehouse, market, hospital" -- and this 9 is the key part -- "or other use similarly requiring 10 the receipt or distribution in vehicles of materials 11 or merchandise, there shall be provided a loading 12 space." 13 So here, you know, my opinion, the 14 question is if -- it doesn't mention a day care, but 15 it does say that other uses that require the receipt 16 or distribution of materials or merchandise, that 17 they have to provide a loading space. 18 So here, again, it's my opinion that 19 the first determination the board needs to make is 20 does a day care require a loading space. Then if 21 you do -- if it does, I should say, then have they 22 provided sufficient testimony in support of a grant 23 of relief from that requirement. 24 So I think that's the issue in a 25 nutshell.</p>
<p style="text-align: right;">17</p> <p>1 CHAIRPERSON SCHAEFER: I think you're 2 okay. 3 Okay. So the consensus is is that a 4 variance would be needed for the parking. 5 BOARD ATTORNEY: I think there's one 6 other threshold issue, one issue that I'm not clear 7 on, and that's the loading space. If there's a 8 loading space variance required, it's what we call a 9 design or standard exception, which is a little bit 10 less onerous than a variance request because it's in 11 the design standards of our ordinance. 12 I'm going to defer to Mark, he looked 13 at the ordinances and -- for his input on whether a 14 loading space design exception is required. 15 CHAIRPERSON SCHAEFER: Paul, can you 16 put yourself on mute, please? Thank you. 17 BOARD ATTORNEY: So, Madam Chair, I'm 18 calling upon Mark for that issue. 19 CHAIRPERSON SCHAEFER: Okay. Mark? 20 BOARD PLANNER: Sure. And this issue 21 is similar, in my opinion, to the parking 22 requirement, which is -- it's kind of a two-part 23 determination for the board. The first part is to 24 determine whether there is a requirement and then 25 whether -- and then the separate one would be</p>	<p style="text-align: right;">19</p> <p>1 CHAIRPERSON SCHAEFER: Thank you. 2 So as you-all remember, there was a lot 3 of testimony on the loading area, and the testimony 4 was that they were going to be doing it off-hours. 5 They didn't have a lot of -- they didn't have any 6 large trucks coming in because there was nothing of 7 large consequence being delivered. 8 Rick, do you think that they have 9 provided enough testimony for relief on this? 10 BOARD ENGINEER: I believe they have, 11 but I do believe that it's also worth potentially 12 putting on some conditions as part of any approval. 13 So, for example, they did testify that 14 they would be doing any deliveries off-hours, so 15 that should be a part of any approval and of any 16 resolution that gets adopted, that no deliveries are 17 to be taking place while the day care is under the 18 normal operating hours where students and children 19 are within the building. 20 So they would have to be, essentially, 21 off-hours, and they would have to commit to that. 22 And it would be under the jurisdiction of the 23 borough to enforce that. And, you know, someone can 24 obviously call the borough, or the borough can be 25 proactive and check up on them.</p>

<p style="text-align: right;">20</p> <p>1 CHAIRPERSON SCHAEFER: Okay. Thank</p> <p>2 you.</p> <p>3 So same thing, I'm going to poll the</p> <p>4 board on what their thoughts are on this. So now</p> <p>5 I'm going to go from the bottom up.</p> <p>6 Paul?</p> <p>7 MEMBER FIORILLA: Ask me the question</p> <p>8 again.</p> <p>9 BOARD ATTORNEY: The question is, is</p> <p>10 the loading space required under the design</p> <p>11 standards of the ordinance?</p> <p>12 MEMBER FIORILLA: I didn't hear that</p> <p>13 quite -- I'm sorry, can I get --</p> <p>14 BOARD ATTORNEY: Approval on the</p> <p>15 exception.</p> <p>16 MEMBER FIORILLA: My sound is not</p> <p>17 great. Say that one more time.</p> <p>18 BOARD ATTORNEY: The question is, does</p> <p>19 our ordinance require a loading space for this child</p> <p>20 care facility? And even if the answer is yes, then</p> <p>21 you will be voting on whether there should be an</p> <p>22 exception based on the testimony.</p> <p>23 MEMBER FIORILLA: Well, I would just</p> <p>24 state, you know, I mean, the testimony was that they</p> <p>25 weren't going to have a lot of products being</p>	<p style="text-align: right;">22</p> <p>1 retail use that it requires a loading space. That's</p> <p>2 the issue. Does the ordinance in this instance</p> <p>3 require a loading space?</p> <p>4 CHAIRPERSON SCHAEFER: Or have they</p> <p>5 provided enough information from relief on that?</p> <p>6 BOARD ATTORNEY: That's the second</p> <p>7 question. We first have to determine whether it's</p> <p>8 applicable.</p> <p>9 CHAIRPERSON SCHAEFER: Sorry.</p> <p>10 BOARD ATTORNEY: Does it apply? And</p> <p>11 then you are going to vote on whether they have</p> <p>12 supplied enough information to have the waiver or</p> <p>13 exception granted.</p> <p>14 CHAIRPERSON SCHAEFER: Okay. Paul, do</p> <p>15 you want me to start with the other new question, or</p> <p>16 do you want to answer?</p> <p>17 MEMBER FIORILLA: Can I listen to some</p> <p>18 of the discussion before I respond again?</p> <p>19 CHAIRPERSON SCHAEFER: Sure. Sure.</p> <p>20 MEMBER SIMS: I'll answer. I'll jump</p> <p>21 in.</p> <p>22 CHAIRPERSON SCHAEFER: Okay.</p> <p>23 MEMBER SIMS: If the ordinance is</p> <p>24 talking about manufacturing and retailing, it's</p> <p>25 obvious that they're not selling anything retail.</p>
<p style="text-align: right;">21</p> <p>1 delivered, if that's the standard. So...</p> <p>2 CHAIRPERSON SCHAEFER: One of the</p> <p>3 conditions, Paul, would be that any deliveries would</p> <p>4 be made off-hours when children are not there. So</p> <p>5 that's the question, how do you feel about that? Or</p> <p>6 do you think that they sought relief enough to</p> <p>7 allow, you know, the -- proper relief to -- for the</p> <p>8 elimination of a loading zone, so to speak? It's a</p> <p>9 parking space.</p> <p>10 MEMBER FIORILLA: Well, I guess I</p> <p>11 would say, you know, that they, you know -- that</p> <p>12 there should be some sort of loading area, you know,</p> <p>13 on the site.</p> <p>14 CHAIRPERSON SCHAEFER: Okay. Frank,</p> <p>15 can you explain it a little bit better?</p> <p>16 BOARD ATTORNEY: Okay. I'll do my</p> <p>17 best. Mark just read to everyone the ordinance</p> <p>18 requirement. The first issue is -- we'll get into,</p> <p>19 and the board will get into whether an exception is</p> <p>20 necessary or not. But the first threshold issue, is</p> <p>21 an exception necessary? And then you will vote on</p> <p>22 whether the exception is necessary.</p> <p>23 The ordinance would indicate that it's</p> <p>24 within the board's purview to determine whether this</p> <p>25 proposed use is so similar to a manufacturing and</p>	<p style="text-align: right;">23</p> <p>1 Nobody's coming in and out, and they're not</p> <p>2 manufacturing any products. So them needing a</p> <p>3 loading dock, I guess, is not a requirement there.</p> <p>4 It seems that they would have things delivered,</p> <p>5 whether it be food, and supplies, and all that other</p> <p>6 stuff. So if we wanted to condition them not to have</p> <p>7 things delivered during the peak hours, I guess</p> <p>8 between 7:00 and 9:00 and 4:00 to 6:00, I'm not even</p> <p>9 sure if making them have deliveries when the</p> <p>10 children aren't there is necessary because once the</p> <p>11 children enter, it's going to be few cars and very</p> <p>12 little activity of people coming in and outside of</p> <p>13 the parking lot anyway.</p> <p>14 So I think we can make --</p> <p>15 CHAIRPERSON SCHAEFER: I get what</p> <p>16 you're saying, but their testimony was that their</p> <p>17 deliveries would be off-hours.</p> <p>18 MEMBER SIMS: Well, watch this; if</p> <p>19 that's what they said, then we'll go by it. But if</p> <p>20 that's what they put in testimony, then we'll adhere</p> <p>21 to what they're saying.</p> <p>22 But I definitely don't think that we</p> <p>23 need to hold them to having a loading dock because,</p> <p>24 again, they're not manufacturing any parts, anything</p> <p>25 that is coming out of there is going to be in the</p>

<p style="text-align: right;">24</p> <p>1 way, and they're not -- it's not a retail store</p> <p>2 where somebody can get hurt coming in and out of.</p> <p>3 If they're going to do it after hours, then that's</p> <p>4 what they said, then we'll hold them to it then.</p> <p>5 CHAIRPERSON SCHAEFER: Okay. Thank</p> <p>6 you.</p> <p>7 Ellen, I'll go to you.</p> <p>8 MEMBER SPINGLER: When you read the</p> <p>9 ordinance, it wasn't just -- there was another</p> <p>10 caveat at the end; could they re-read that</p> <p>11 ordinance? It wasn't just manufacturing. It said</p> <p>12 any building that has a delivery.</p> <p>13 Wasn't that correct?</p> <p>14 BOARD PLANNER: Why don't I read that</p> <p>15 last section again?</p> <p>16 MEMBER SPINGLER: Would you, again,</p> <p>17 please?</p> <p>18 BOARD PLANNER: Sure. Again, it does</p> <p>19 indicate those specific uses such as manufacturing,</p> <p>20 storage, retail, warehouse, et cetera. And then it</p> <p>21 says, "Or other use similarly requiring the receipt</p> <p>22 or distribution in vehicles of materials or</p> <p>23 merchandise." So those type uses would require a</p> <p>24 loading space.</p> <p>25 MEMBER SPINGLER: All right. I'm</p>	<p style="text-align: right;">26</p> <p>1 operation.</p> <p>2 CHAIRPERSON SCHAEFER: Thank you.</p> <p>3 Councilman Martino?</p> <p>4 COUNCILMAN MARTINO: Yeah. I see no</p> <p>5 reason for a loading dock. We have office buildings</p> <p>6 throughout the borough. We have mixed uses</p> <p>7 throughout the borough. There are very few loading</p> <p>8 docks in these facilities. And when you're looking</p> <p>9 at use groups and the word "merchandise" -- if you</p> <p>10 look up "merchandise," stuff that is brought in to</p> <p>11 be resold, supplies that are brought in to be</p> <p>12 stocked, I look at this as a quasi-professional use</p> <p>13 group. I do not see a storage facility for</p> <p>14 materials.</p> <p>15 So I'm really not sure how all of these</p> <p>16 other structures were built within our borough</p> <p>17 without loading zones, but this is a very specific</p> <p>18 use, and I really feel that -- I don't see -- I</p> <p>19 haven't heard anything that they're going to be</p> <p>20 stocking on this site. So I don't see a forklift.</p> <p>21 I don't see a large door for loading. And I'm a</p> <p>22 stickler for use groups.</p> <p>23 So, again, I will go to Mr. Healey. I</p> <p>24 am not sure if you will know this; is this its own</p> <p>25 specific use group in the Department of Community</p>
<p style="text-align: right;">25</p> <p>1 going say, from what I'm hearing, I don't think it's</p> <p>2 a requirement.</p> <p>3 CHAIRPERSON SCHAEFER: Okay. Steve</p> <p>4 Pote?</p> <p>5 MEMBER POTE: I believe a loading</p> <p>6 space is required. It's not necessarily a loading</p> <p>7 dock, but loading space. I think that it's</p> <p>8 impossible to fully control what comes in and out</p> <p>9 over the course of any given week. You can say it's</p> <p>10 after hours, but you're not always going to -- for</p> <p>11 just general merchandise, you're not going to be</p> <p>12 able to control that.</p> <p>13 CHAIRPERSON SCHAEFER: Karen?</p> <p>14 MEMBER PENNETT: Based on the</p> <p>15 ordinance, I think a loading dock is going to be</p> <p>16 required because material will be going in and out.</p> <p>17 Grant you, it's not going to be much. I didn't</p> <p>18 think it was needed until after I heard the</p> <p>19 ordinance, but with the ordinance saying "any</p> <p>20 material," material is going to be going in and out.</p> <p>21 So I think it will be needed.</p> <p>22 CHAIRPERSON SCHAEFER: Don?</p> <p>23 Thank you, Karen.</p> <p>24 VICE-CHAIRMAN SPEENEY: Yeah, I think</p> <p>25 a loading dock is required with this particular</p>	<p style="text-align: right;">27</p> <p>1 Affairs through the Uniform Fire Code and Uniform</p> <p>2 Construction Code?</p> <p>3 BOARD PLANNER: I do not know the</p> <p>4 answer to that. I am sure there are specific</p> <p>5 requirements for signage and egress due to the use</p> <p>6 and the age of the people occupying the space, but</p> <p>7 I'm not a building code official, so I can't answer</p> <p>8 that definitively.</p> <p>9 COUNCILMAN MARTINO: Yeah. Because</p> <p>10 there are specifics within the code before this.</p> <p>11 So, again, use group classification is very</p> <p>12 important here. So I'm not -- I, personally, am not</p> <p>13 seeing any reason for a loading dock. So thank you.</p> <p>14 CHAIRPERSON SCHAEFER: Thank you,</p> <p>15 Councilman.</p> <p>16 Mayor?</p> <p>17 MAYOR BALLA: Yes. It's not factory</p> <p>18 manufacturing or retail with sales of material or</p> <p>19 merchandise. I equate it more to an office use like</p> <p>20 my office, and we never needed a loading dock except</p> <p>21 to move furniture in the beginning. But on an</p> <p>22 operational basis, I would say there is no need for</p> <p>23 a loading dock for this use.</p> <p>24 CHAIRPERSON SCHAEFER: Thank you.</p> <p>25 Yvette?</p>

<p style="text-align: right;">28</p> <p>1 MEMBER NORA: I am still uncertain</p> <p>2 with deliveries involved, and not knowing the scope</p> <p>3 of the deliveries, and with having the option to,</p> <p>4 you know, in part two, to add those conditions in.</p> <p>5 I would like to err on the side of caution and, you</p> <p>6 know, keep the requirement for a loading space.</p> <p>7 CHAIRPERSON SCHAEFER: Thank you.</p> <p>8 Don?</p> <p>9 VICE-CHAIRMAN SPEENEY: Yeah. Tracee,</p> <p>10 I just want to add to my comment. I believe there</p> <p>11 is a mix of traffic in the parking lot that requires</p> <p>12 a loading space only because there's children</p> <p>13 involved in moving in and out with, luckily, with</p> <p>14 parents hopefully, but you know -- so I still</p> <p>15 reenforce my decision of the requirement.</p> <p>16 CHAIRPERSON SCHAEFER: Okay. Paul,</p> <p>17 are you prepared now?</p> <p>18 Can't hear you, Paul.</p> <p>19 BOARD ATTORNEY: You're muted, Paul.</p> <p>20 MEMBER FIORILLA: I wasn't muted, so I</p> <p>21 don't -- can you hear me now?</p> <p>22 CHAIRPERSON SCHAEFER: We can hear</p> <p>23 you.</p> <p>24 BOARD ATTORNEY: Yes.</p> <p>25 MEMBER FIORILLA: Okay. I was</p>	<p style="text-align: right;">30</p> <p>1 All right. So, basically, then here is</p> <p>2 what the board will be considering tonight:</p> <p>3 You will be considering preliminary</p> <p>4 site plan approval only. Not final. Assuming</p> <p>5 preliminary is granted, the applicant has to come</p> <p>6 back before you for final site plan.</p> <p>7 You will be considering the following</p> <p>8 variances: For lot frontage, for parking lot</p> <p>9 setback and the number of parking spaces.</p> <p>10 You're going to consider -- I have</p> <p>11 taken a list of what I think are design standard</p> <p>12 exceptions, and that would be the landscaping</p> <p>13 island, the lighting intensity, groundwater recharge</p> <p>14 and infiltration, and those are the only exceptions</p> <p>15 that I see, the only design standards that I see.</p> <p>16 As the board may further recall, you</p> <p>17 asked me to provide you with a compilation of a list</p> <p>18 of proposed conditions. I did that and you have</p> <p>19 them, and basically they include what would be our</p> <p>20 standard conditions and then tailored towards the</p> <p>21 testimony, as well as a review of the transcripts.</p> <p>22 So you're being asked tonight to make a</p> <p>23 decision on whether, A, you should grant preliminary</p> <p>24 site plan approval with the variances, with the</p> <p>25 exceptions, and adding any conditions that you would</p>
<p style="text-align: right;">29</p> <p>1 listening to the ordinance. You know, there are</p> <p>2 specific uses that require a loading dock, and then</p> <p>3 there's also this, you know incredibly broad, you</p> <p>4 know, anything that might get a delivery, I guess,</p> <p>5 something -- you know, whatever the wording was was</p> <p>6 very vague and broad.</p> <p>7 So, I mean, I just -- it sounds to me</p> <p>8 like there just is not going to be a lot of</p> <p>9 deliveries that would require, you know, a</p> <p>10 dedicated, you know, loading area at this site, so I</p> <p>11 would say no.</p> <p>12 CHAIRPERSON SCHAEFER: Okay. Thank</p> <p>13 you, Paul.</p> <p>14 So, Frank, we have the answer.</p> <p>15 BOARD ATTORNEY: What's the vote?</p> <p>16 CHAIRPERSON SCHAEFER: It's -- one,</p> <p>17 two, three, four -- five to -- one, two, three --</p> <p>18 four.</p> <p>19 BOARD ATTORNEY: All right, five</p> <p>20 indicating that the ordinance applies?</p> <p>21 CHAIRPERSON SCHAEFER: Does not apply.</p> <p>22 BOARD ATTORNEY: Does not apply, okay.</p> <p>23 So, therefore, no exception is necessary.</p> <p>24 Of course, you can condition the</p> <p>25 loading space situation based on the testimony.</p>	<p style="text-align: right;">31</p> <p>1 like to make with respect to any motion for</p> <p>2 approval.</p> <p>3 CHAIRPERSON SCHAEFER: Thank you,</p> <p>4 Frank.</p> <p>5 Before I get into the motion, Mr. Hehl,</p> <p>6 we have a couple of questions. I spoke to Mark</p> <p>7 Healey, our planner, this evening, earlier, and</p> <p>8 there were four questions that came up that, if you</p> <p>9 are okay, I would like to ask you the answers. I</p> <p>10 think I know them, but we want to confirm.</p> <p>11 This was based off of Mark's memorandum</p> <p>12 dated April 14th, and Item Number 7 had to do with</p> <p>13 the required tree replacement. And you have 42</p> <p>14 qualifying trees, but there's 51 that are required.</p> <p>15 I believe you said you were going to do it, but if</p> <p>16 you didn't you would be paying the Tree Fund; is</p> <p>17 that correct?</p> <p>18 ATTORNEY HEHL: That's correct, yes.</p> <p>19 CHAIRPERSON SCHAEFER: The second one</p> <p>20 was Item Number 8, the hairpin striping. You agreed</p> <p>21 to do that?</p> <p>22 ATTORNEY HEHL: That's correct.</p> <p>23 CHAIRPERSON SCHAEFER: Okay. Number</p> <p>24 9, the street trees have been proposed along the</p> <p>25 developed portion of the site every 40 feet on</p>

<p style="text-align: right;">32</p> <p>1 center. But the trees should be placed on the</p> <p>2 subject site, not in the right-of-way. You agreed</p> <p>3 to that as well, correct?</p> <p>4 ATTORNEY HEHL: That's correct.</p> <p>5 CHAIRPERSON SCHAEFER: Okay. And then</p> <p>6 the final one had to do with the sidewalk. You said</p> <p>7 you would be willing to put the sidewalk along the</p> <p>8 frontage?</p> <p>9 ATTORNEY HEHL: That's correct.</p> <p>10 CHAIRPERSON SCHAEFER: Okay. Thank</p> <p>11 you, Mr. Hehl. That's all I had for you.</p> <p>12 ATTORNEY HEHL: I'll go back on mute.</p> <p>13 CHAIRPERSON SCHAEFER: Okay. So what</p> <p>14 we're going to do is I'm going to make a motion.</p> <p>15 We're then going to have discussion. After the</p> <p>16 discussion, we will then have a vote. And whatever</p> <p>17 the vote may be, Frank will then memorialize</p> <p>18 whatever the action is that will be taken by this</p> <p>19 board.</p> <p>20 So I seek a motion to approve</p> <p>21 Application PB 19-02, The Learning Experience, with</p> <p>22 conditions, waivers and variances. Do I have a</p> <p>23 motion?</p> <p>24 MEMBER SPINGLER: So moved.</p> <p>25 CHAIRPERSON SCHAEFER: Thank you,</p>	<p style="text-align: right;">34</p> <p>1 loading is required by the Municipal Land Use Law of</p> <p>2 New Jersey and the Borough of Watchung.</p> <p>3 I further conclude that the development</p> <p>4 is too large for the suitable space to create the</p> <p>5 development.</p> <p>6 Now, my first issue on parking is that</p> <p>7 there's insufficient parking. The applicant's</p> <p>8 triangular parking field with three sites at the tip</p> <p>9 of the triangle -- it's a non-parallel nature of the</p> <p>10 proposed parking field -- requires a significant</p> <p>11 15-foot relief from the borough's 20-foot setback</p> <p>12 requirement for parking. And the particular relief</p> <p>13 for this parking is in the front yard, six sites.</p> <p>14 Now, the applicant is unable to meet</p> <p>15 their own calculated parking requirements without</p> <p>16 the significant relief from the borough's code.</p> <p>17 Applicant's parking space calculation, based on the</p> <p>18 applicant's small set of data, indicates 31 sites</p> <p>19 are sufficient while it's been testified by Objector</p> <p>20 Weldon that a more robust industry standard and</p> <p>21 statistically significant calculation results and</p> <p>22 would require 52 sites, but a range is offered for</p> <p>23 52 down to 42. And the board has already discussed</p> <p>24 this, but the significant discrepancy of at least</p> <p>25 ten sites in parking further demonstrates that the</p>
<p style="text-align: right;">33</p> <p>1 Ellen.</p> <p>2 Do I have a second?</p> <p>3 MEMBER SIMS: Second.</p> <p>4 CHAIRPERSON SCHAEFER: Troy, was that</p> <p>5 you?</p> <p>6 MEMBER SIMS: Yes. Second.</p> <p>7 CHAIRPERSON SCHAEFER: Discussion.</p> <p>8 Anybody have discussion?</p> <p>9 Don.</p> <p>10 VICE-CHAIRMAN SPEENEY: Yeah, Tracee,</p> <p>11 I have several points that drives me to vote the way</p> <p>12 I'm going to vote, and I would like to air out these</p> <p>13 points. It'll take a few minutes.</p> <p>14 CHAIRPERSON SCHAEFER: Okay.</p> <p>15 VICE-CHAIRMAN SPEENEY: Okay. The</p> <p>16 state allows this day care use in our zone. The</p> <p>17 state left site plan approval up to the local</p> <p>18 approving boards, in this case our planning board,</p> <p>19 and my presumption is they did that because they</p> <p>20 thought the boards would know better than having the</p> <p>21 state mandate the approval of the site plan.</p> <p>22 So I conclude that the proposed site</p> <p>23 plan, Application PB 19-02 for the Learning</p> <p>24 Experience, does not provide for safe and efficient</p> <p>25 vehicular and pedestrian circulation. Parking and</p>	<p style="text-align: right;">35</p> <p>1 developable area of the site is not large enough for</p> <p>2 the size of the proposed use.</p> <p>3 I believe the triangular parking field</p> <p>4 is impractical at best, basically unsafe, as shown</p> <p>5 in traffic maneuvering exhibits OW-13(A), OW-13(B),</p> <p>6 and additional circulation exhibits OW-23 and OW-24.</p> <p>7 I conclude the submitted parking field design is a</p> <p>8 forced fit to meet applicant's own minimum</p> <p>9 calculations for parking. And this triangular</p> <p>10 parking field layout is not typical, is unsafe for</p> <p>11 vehicles and, as such, unsafe for subsequent student</p> <p>12 drop-offs.</p> <p>13 And another significant issue is</p> <p>14 traffic safety. The inadequate parking field forces</p> <p>15 ingress traffic to queue excessively on Union Avenue</p> <p>16 as shown on stacking Exhibit OW-22 and impedes</p> <p>17 egress traffic from the site as well. Add to this</p> <p>18 that for 2016, 2017, 2018 traffic accidents data</p> <p>19 shown in OW-20 for Bonnie Burn Road and New</p> <p>20 Providence Road is an average of 34.3 accidents per</p> <p>21 year and most of them listed as daylight conditions.</p> <p>22 This equates to an average rate of one</p> <p>23 accident every one and a half weeks, and such</p> <p>24 accidents at this location may cause drivers of</p> <p>25 these huge vehicles exiting Weldon Quarry and other</p>

<p style="text-align: right;">36</p> <p>1 southbound New Providence Road motorists to detour 2 east down Union Avenue and cause other motorists 3 from Route 22 to travel westerly onto Union Avenue, 4 all of which further conflicts with ingress and 5 egress of the traffic negotiating The Learning 6 Experience site.</p> <p>7 The limitation on the site circulation 8 as shown in Exhibits OW-12, OW-13(A), OW-13(B) are 9 other examples that bring site traffic and 10 pedestrian safety into serious question.</p> <p>11 Applicant Exhibit A-10 shows the 12 complexity of parking. Off-day deliveries must be 13 made. And in this case they show an easy parking 14 maneuver without other vehicles being shown, 15 requires a FedEx truck to use an unencumbered 16 parking site. So there are no guarantees made that 17 the 100 percent off-duty deliveries can be adhered 18 to.</p> <p>19 Environmental safety. Weldon Quarry's 20 been in business at this location since 1892 and has 21 testified on the expectations to continue mining 22 business for the next 80 years. Our land use QU 23 Zone for Weldon Quarry enables mining activities to 24 within 30 feet of New Providence Road. This 25 includes blasting with its subsequent noise and</p>	<p style="text-align: right;">38</p> <p>1 Applicant's water detention proposal is 2 only practical. My absolute worry is that no local 3 water detention system can deal with what we have 4 already experienced over the years, flash floods.</p> <p>5 Applicant's Exhibit A-9 shows U.S.G.S. 6 topography map of the entire area, including New 7 Providence Road, and it can be seen from this 8 satellite image that New Providence Road is in the 9 gap nested with the Green Brook between two steep 10 slope elevations, one side the Weldon Quarry, the 11 other side portions of the Watchung Reservation. 12 Here, New Providence Road and the Green Brook are 13 shown as a funnel, and typical flash flood waters 14 that we have experienced can mount ferocious speeds 15 heading to the downstream communities. And one of 16 the very first sites of these downstream communities 17 at the bottom of the funnel is The Learning 18 Experience site.</p> <p>19 I conclude that this terribly conceived 20 situation adjacent to the quarry is enough for me to 21 vote no, recommend that members vote no. And most 22 importantly for me, I will not vote in favor of 23 placing teachers, caregivers and the 154 very young 24 children at the bottom of the New Providence-Green 25 Brook funnel.</p>
<p style="text-align: right;">37</p> <p>1 underground vibration, stores of sand piles subject 2 to the whims of the wind, recycling materials and 3 other materials associated with the business 4 activity of the Weldon companies.</p> <p>5 In Mr. Leonard Cilli's report, Weldon 6 is an approved Class B recycling facility. 7 Materials of the type of recycling were explained by 8 Mr. Weldon and characterized as recovered road 9 materials made for reuse.</p> <p>10 Mr. Cilli's report further indicates 11 that Weldon is in a federal database for a site that 12 can generate, transport, store, treat and/or dispose 13 of hazardous waste.</p> <p>14 And a final issue I have here is about 15 flooding safety. It's been put on record by 16 Mr. Butler, representing Objector Weldon, that in 17 the last 3 years, there have been 12 flooding events 18 from the Green Brook to Route 22. Significantly 19 more than opined by the applicant.</p> <p>20 Mr. Weldon submitted photos from a 2015 21 storm that resulted in New Providence Road flooding 22 with water from the quarry running down onto the 23 site in question. The same storm that brought down 24 Weldon property brick retention wall designed for 25 holding back earth, by the way, onto cars below it.</p>	<p style="text-align: right;">39</p> <p>1 Thank you.</p> <p>2 CHAIRPERSON SCHAEFER: Thank you, Don. 3 Any other discussion?</p> <p>4 Okay. Paul?</p> <p>5 MEMBER FIORILLA: Yeah. I'm sorry to 6 keep doing this; can you hear me?</p> <p>7 CHAIRPERSON SCHAEFER: Yes, we can 8 hear you. Go ahead.</p> <p>9 MEMBER FIORILLA: You know, I have 10 some -- share some of the concerns that Don has. 11 And I think the biggest concern I have is with the 12 traffic that is presumably, you know -- most of the 13 children will be dropped off at rush hour when, you 14 know, the traffic at those intersections is the 15 heaviest.</p> <p>16 I hear the concerns about the flooding, 17 although I don't think it's severe enough or often 18 enough to create danger to occupants, but at the 19 same time there seems to be a lot of [Zoom 20 distortion] to approve through mediation with the 21 State and all the other relevant agencies just to 22 [Zoom distortion], you know, a use of this size and 23 nature.</p> <p>24 And, you know, I'm also concerned 25 about, you know, with quarry, you know, obviously</p>

<p style="text-align: right;">40</p> <p>1 that creates issues, and we have heard testimony 2 about that. And even the owners of the quarry have 3 talked about that. But then at the same time I 4 think, well, then you're kind of punishing the owner 5 of this site for the use of other sites, and I'm not 6 sure, you know, how, you know -- whether that's fair 7 to, you know, this particular owner. 8 And, you know, it seems to me there 9 would be a lot better places to build something like 10 this. But, then again, also, you know, on the other 11 hand, I'm not sure that, you know, as a planning 12 board member, that's really my, you know, 13 jurisdiction to talk about or, you know, rule on 14 something like that. 15 So, yeah, it's very definitely, you 16 know -- there's -- there's some issues that I think 17 make this problematic. You know, just my opinion, 18 I'm just not sure that it's enough to vote no. So I 19 share some of Don's concerns, but at the same time I 20 am not sure that those concerns are enough to tilt 21 the favor to no. 22 Thank you. 23 CHAIRPERSON SCHAEFER: Thank you, 24 Paul. 25 Any other comments, discussion?</p>	<p style="text-align: right;">42</p> <p>1 spaces. There's heavy traffic that is immediately 2 next to the facility, even closer with the requested 3 setback variance. 4 Yes, the potential water and flood 5 conditions will be reviewed by the DEP, but, you 6 know, given that all that -- that water that was 7 shown in those maps, it's of a concern. And while I 8 have no doubt that the fire officials are accurate 9 in their assessment of a fire truck's access and 10 egress, I'm concerned about the greater possibility 11 of a perfect storm of conditions that would impair 12 that fire vehicle to access in a timely manner those 13 154 students. 14 You know, I was having trouble 15 reconciling all of this, so I actually went out and 16 visited eight other Learning Experience 17 facilities -- Warren, Basking Ridge, Piscataway, 18 Edison, Somerset, East Brunswick and Hillsborough. 19 And what I will say is I was looking for why do they 20 exist successfully, and were there mitigating things 21 that were at these locations that should be in any 22 Learning Experience area. 23 Of the ones that I just talked to you 24 about, all but one had what I perceived to be 25 somewhere between 40 and 60 spaces. Sometimes</p>
<p style="text-align: right;">41</p> <p>1 Steve? 2 MEMBER POTE: Yes. You know, one of 3 the concepts of having a Learning Experience in 4 Watchung makes a lot of sense. And while I have 5 heard the arguments and justifications for, you 6 know, having TLE at this site, I continue to have 7 issues with the application in terms of what we're 8 trying to do. I do feel like we are trying to put a 9 round peg in a square hole in regards to this, this 10 site. 11 You know, despite some -- I think some 12 admirable efforts by the applicants, I cannot agree 13 with the collective picture that I see painted. 14 Without going into the details that Don just went 15 into, you know, the site plan, I feel like we're 16 force-fitting the parking spaces. I think that the 17 variance request is significant in terms of what 18 we're asking for. And I'm certainly not an expert, 19 but having a standard that is saying 52 and we're 20 dealing with 31 or 29, I just think is -- there's 21 just something there that needs to be, you know, 22 looked at. 23 I'm probably most concerned with the 24 flow of the traffic of the circulation in and out of 25 the site when considering the placement of parking</p>	<p style="text-align: right;">43</p> <p>1 marked, sometimes unmarked, but certainly the 2 building was part of a larger parking lot. Most 3 front entrances to these buildings were located 4 either at the end of a larger building, behind the 5 building, or were isolated by themselves, making it 6 a lot safer for pedestrian traffic. One had a very 7 large dedicated fire lane, which, you know, I said 8 to myself, why isn't that part of most or all of, 9 you know, other areas. 10 One location had a huge semicircle for 11 drop-off, and, you know, most had parking spaces 12 that stretched out, you know, over a long area where 13 you had better visibility, both cars and 14 pedestrians. And ingress and egress just seemed to 15 be more simplified based on where the building and 16 the spaces were placed. 17 So I guess what I'm saying is I saw 18 what's possible and what should be required of this 19 type of facility, and I respectfully can't support 20 this application, as much as I think the concept has 21 merit. 22 CHAIRPERSON SCHAEFER: Thank you, 23 Steve. 24 Any other comments? 25 Okay. We're going to go to a vote.</p>

<p style="text-align: right;">44</p> <p>1 Roll call, please.</p> <p>2 BOARD CLERK: Ms. Spingler?</p> <p>3 MEMBER SPINGLER: Yes.</p> <p>4 BOARD CLERK: Councilman Martino?</p> <p>5 COUNCILMAN MARTINO: Yes.</p> <p>6 BOARD CLERK: Ms. Pennett?</p> <p>7 MEMBER PENNETT: No.</p> <p>8 BOARD CLERK: Mayor Balla?</p> <p>9 MAYOR BALLA: Yes.</p> <p>10 BOARD CLERK: Mr. Speeney?</p> <p>11 VICE-CHAIRMAN SPEENEY: No.</p> <p>12 BOARD CLERK: Mr. Pote?</p> <p>13 MEMBER POTE: No.</p> <p>14 BOARD CLERK: Mr. Fiorilla?</p> <p>15 MEMBER FIORILLA: Yes.</p> <p>16 BOARD CLERK: Mr. Sims?</p> <p>17 MEMBER SIMS: Yes.</p> <p>18 BOARD CLERK: Madam Chair?</p> <p>19 CHAIRPERSON SCHAEFER: Yes.</p> <p>20 Okay. Frank, please prepare a</p> <p>21 resolution memorializing the action the board took</p> <p>22 this evening.</p> <p>23 BOARD ATTORNEY: Will do.</p> <p>24 ATTORNEY HEHL: On behalf of the</p> <p>25 applicant and everyone participating, we would like</p>	<p style="text-align: right;">46</p> <p>1 ATTORNEY BUTLER: I just have two</p> <p>2 short questions, and I know the Objector Weldon lost</p> <p>3 at this point, but there certainly is no animosity</p> <p>4 between me and my client and the board members and,</p> <p>5 of course, Mr. Hehl and his witnesses. I just have</p> <p>6 two quick questions, and I think Frank can answer</p> <p>7 them.</p> <p>8 So I gather that a resolution will be</p> <p>9 brought up for a vote in the August vote -- in the</p> <p>10 August meeting?</p> <p>11 BOARD ATTORNEY: Well, I'll do the</p> <p>12 best I can within the time period. I can't</p> <p>13 guarantee that it will be here in August.</p> <p>14 ATTORNEY BUTLER: No, no. I'm not</p> <p>15 pushing you, you know that.</p> <p>16 But the soonest it could be is next</p> <p>17 August -- at your August meeting, your regular</p> <p>18 meeting?</p> <p>19 BOARD ATTORNEY: I can assure you that</p> <p>20 the soonest it would be would be the August meeting.</p> <p>21 ATTORNEY BUTLER: Okay, that's fine.</p> <p>22 That's fine. Mr. Linnus, I know how busy you are,</p> <p>23 and I know how busy most good lawyers are, okay? So</p> <p>24 that's all I had to say about that.</p> <p>25 The other thing is and what I'm about</p>
<p style="text-align: right;">45</p> <p>1 to thank you for your time and comments with</p> <p>2 everyone involved at this stage for a productive</p> <p>3 evening, and we'll see you again soon.</p> <p>4 CHAIRPERSON SCHAEFER: Thank you,</p> <p>5 Mr. Hehl. Thank you for indulging us for as long,</p> <p>6 you know -- going through COVID and --</p> <p>7 ATTORNEY BUTLER: Madam Chair, may I</p> <p>8 just make a comment?</p> <p>9 CHAIRPERSON SCHAEFER: I'm right in</p> <p>10 the middle of saying something, Mr. Butler. Please</p> <p>11 let me finish.</p> <p>12 ATTORNEY BUTLER: Oh, I'm sorry. I'm</p> <p>13 sorry. I apologize.</p> <p>14 CHAIRPERSON SCHAEFER: No problem.</p> <p>15 I just want to say thank you to</p> <p>16 Mr. Hehl for indulging the time element, and I know</p> <p>17 that it's been a long haul -- we've gone through</p> <p>18 COVID; we've gone through GoToMeetings; we have gone</p> <p>19 through a lot -- and I just want to say thank you</p> <p>20 for indulging us and for being so genuine in</p> <p>21 extending your application to be able to get to a</p> <p>22 point of finality.</p> <p>23 ATTORNEY HEHL: Thank you.</p> <p>24 CHAIRPERSON SCHAEFER: Mr. Butler?</p> <p>25 I'm sorry.</p>	<p style="text-align: right;">47</p> <p>1 to ask is probably self-evident because tonight you</p> <p>2 took a voice vote and you approved the application.</p> <p>3 Mr. Hehl, the attorney for the applicant, has</p> <p>4 extended to July 31st. In other words, I think that</p> <p>5 goes out the window now. The approval -- July 31st</p> <p>6 means nothing at this point.</p> <p>7 BOARD ATTORNEY: That's correct.</p> <p>8 ATTORNEY BUTLER: That's correct,</p> <p>9 okay.</p> <p>10 BOARD ATTORNEY: Action was taken</p> <p>11 tonight.</p> <p>12 ATTORNEY BUTLER: I have no further</p> <p>13 questions. Thank you.</p> <p>14 CHAIRPERSON SCHAEFER: Thank you,</p> <p>15 Mr. Butler.</p> <p>16 Okay. Ellen, can we call the next</p> <p>17 agenda item?</p> <p>18</p> <p>19 (Application concluded at 8:30 p.m.)</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>

C E R T I F I C A T E

I, ANGELA C. BUONANTUONO, a Notary Public and Certified Court Reporter of the State of New Jersey and Registered Professional Reporter, do hereby certify that prior to the commencement, the witnesses were duly sworn to testify the truth, the whole truth and nothing but the truth.

I DO FURTHER CERTIFY that the foregoing is a true and accurate transcript of the proceeding as taken stenographically by and before me at the time, place and on the date hereinbefore set forth.

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



Angela C. Buonantuono, CCR, RPR, CLR

NJ State Board of Court Reporting

License No. 30XI00233100 Dated: August 5, 2021

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