These minutes have not been approved and are subject to change by the public at its next meeting

The regular meeting of the Park Ridge Zoning Board of Adjustment has been called for Tuesday, August 18, 2009, at 8:00 pm in the Council Chambers of the Municipal Building.

PLEDGE OF ALLEGIANCE TO THE FLAG:

ROLL CALL: Mr. Martin, Mr. Capilli, Ms. Eisen, Mr. Walker, Mr. Brennan, Dr. von der Lieth, Mr. Hoskins, Mr. Raman, Mr. Flaherty

Absent: None

Also Present: John Ten Hoeve, Jr., Board Attorney
E. Sneikus, Professional Planner
Lyn Beer, Secretary to the Zoning Board

COMPLIANCE STATEMENT:

The Notice for this meeting required by Section 3(d) of the Open Public Meetings Act has been provided by the adoption of a resolution by the Park Ridge Zoning Board of Adjustment of January 20, 2009, setting forth a schedule of regular meetings by mailing of said schedule to The Ridgewood News and The Record on January 21, 2009, and by the posting of said schedule on the Municipal Bulletin Board and the continuous maintenance thereat and by filing the said schedule in the office of the Borough Clerk.

PENDING CASES:

CASE: 09-05 Lot: 6 Block: 2208	Application of ***Alan Israel,*** 45 Fairview Avenue for rear, side, building coverage and F.A.R. variances to construct addition to existing house in an R-15 residential zone. Hearing begun July 21, 2009, carried to August 18, 2009 for revised plans.

WALKER: I have to following item to be marked into evidence in regard to this application.

Item 10 is the Board secretary letter dated 7/22/09.
Item 11 is revised plan dated 8/04/09.

That is all that I have at this time, Mr. Chairman.

TEN HOEVE: You were both previously sworn in, I believe. You are still under oath.

FLAHERTY: Okay, we had asked you to come back this month and tweak your application a little bit, and it looks like you did that. Would you care to take us through the changes tonight?

ISRAEL: I am sorry, Mr. Felgraff couldn't be here tonight. He had another meeting to go to. The Board wrote us asking us to reduce the width of the 2-car garage by 2 feet, so the side yard width would not be so small. So, we made that adjustment. The garage was 22 ½ and it will now be 20 ½ feet.

That was the principle change to the plan.

FLAHERTY: On the original plan, you were how far off of the line. You were at 9.5 and now you at 11.5. We had reviewed the application last month, and everything other than that one piece of it looked fine to the Board. So, we appreciate you making the change.

Does anyone from the Board have any questions or comments for this application? This is a new drawing that the architect gave us, but it looks like the project data on the bottom hasn't been updated. It needs to be updated.

WALKER: This revision should eliminate one variance. I don't think that they need the F.A.R..

FLAHERTY: Ms. Beer is that something that the architect can get to the office? Do we need to see that and then they can call you?

BEER: Yes, we want the revision date placed on it and the schedule corrected.

TEN HOEVE: It is probably going to require a couple of changes. It will change the F.A.R..

BEER: I will call Mr. Felgraff tomorrow.

FLAHERTY: Can he call you later in the week? Thank you so much, we appreciate you making the change and coming back.

ISRAEL: Sure, thank you.

TEN HOEVE: They have to change the side yard. They have to change the F.A.R. and they have to probably, as Mr. Walker pointed out, change the …… We need to know that before we can do anything. I can't prepare a resolution, even if the Board elects to do that, without knowing ……

NEW CASES:

CASE: 09-06 Lot: 23 Block: 903	Application of ***Deidre Disanza,*** 6 Willow Court for Floor Area Ratio variance to construct new house over existing foundation with minimal ground level expansion in an R-10 residential zone.

WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

Item 1 is the application dated 7/24/09.
Item 2 is certification of service dated 7/24/09.
Item 3 is legal notification dated 8/07/09.
Item 4 is proof of payment of taxes dated 8/04.09.
Item 5 is the deed dated 5/21/04.
Item 6 is the survey dated 7/23/09.
Item 7 is floor plan and elevations dated 7/24/09.
Item 8 is 6 undated photographs.

That is all that I have at this time, Mr. Chairman.

TEN HOEVE: Could you raise your right hands please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

DISANZA: I do.

D. DISANZA: I do.

TEN HOEVE: Please state your names and address?

D. DISANZA: Deidre Disanza, 6 Willow Court, Park Ridge.

DISANZA: Peter Disanza, 6 Willow Court, Park Ridge.

FLAHERTY: Could you take us through the application yourself, or is that your architect with you?

D. DISANZA: He is our Engineer.

FLAHERTY: Engineer, okay. Okay, would you come this way and we can get your name on record.

TEN HOEVE: As long as you are going to testify, I will have to swear you in. Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

SKRABLE: I do.

TEN HOEVE: Please state your name and professional address?

SKRABLE: Thomas Skrable, 65 Ramapo Valley Road, Mahwah, NJ.

FLAHERTY: Can you take us through the application?

SKRABLE: Do you mind if I walk over to the plan? Since the plans were submitted, we did go over the F.A.R. numbers with the Architect. We wanted to make sure that the numbers were correct, that we presented. There were a couple of discrepancies between our plan and his, so I do have a new bulk table and F.A.R. calculations for you. It is only tenths of a percent, but the numbers are slightly different. Do you mind if I give the to the Board's Secretary?

FLAHERTY: Yes, please. Do we have to enter that?

WALKER: Yes. Item 10 is calculations and floor elevations.

SKRABLE: Just to orient everyone, North Avenue is pointing straight up on the drawing. The street, Willow Court, is down to the right side, so as you drive up the cul-de-sac from Pine Drive, we are the first house that is actually on the cul-de-sac. There is an existing ranch dwelling there. Basically the entire cul-de-sac area is ranch dwellings. There is one, I think it is number 3, possibly, on the East side that kind of has a bump out on the front. There is another one South of us that has a partial second story on it.

Basically, what we are proposing is a 2-story dwelling, a typical colonial 2-story dwelling. I should mention, also, that our lot is somewhat oversized, over 50% oversized. The requirement in the zone is 10,000 square feet, and we are at 15,539 ½. Most of the other lots in the zone aren't that 10,000 square foot number. So, again, we are significantly oversized.

The way that your ordinance is set up, it is a little bit unique in that it puts kind of a tight cap on the square footage of the dwelling. You are allowed .4 F.A.R.. So, on a 10,000 square foot lot, that is a 4,000 square foot home. But, there is a cap of 4,400. So, at least the way that I read it, we get very little benefit of the additional 5,000 square feet that we have. We are still stuck with that 4,400 square foot number.

Also, your ordinance includes basements, the only thing it excludes, I think, is the garage area, which makes it kind of tough to meet that 4,400 square foot number. Just to give you an idea, those ranches that are on the street now, are, all of them that I measured, and that was 5 or 6 of them, are between 58 and 60 feet wide. I couldn't measure the depth, because I would have to go on to the private property. But, even if they are only 35 feet deep, if you were to put a second story on those and include a basement, that F.A.R. would be over .6, so significantly higher than what we are requesting. From a drainage, grading, utility standpoint, the extra area on our lot easily allows us to do whatever we need to do as far as grading, so we are not going to impact the neighbors.

We are proposing a seepage pit in the rear to collect runoff from the roof area and also runoff that now travels, or currently travels across the rear yard and doesn't go on to our neighbors property. It will store that first, before it then continues southwesterly on to the neighbor's property.

The driveway area is all graded out on to the street, so that is not going to impact the neighbor. All the utility services are there. Really the one issue is the F.A.R.. I think that as far as the need for the variance, you should probably hear some testimony from the property owners and how they intend to use the house.

If you have any questions from me, I will try to answer them.

FLAHERTY: Okay, well if the property owners would explain some specific needs.

D. DISANZA: If you look at the map that we provided, we are not going over, we have a little ranch right now, with a 1-car garage. We have 2 small children and we plan on having more. We also have elderly parents and grandparents that come to visit, so that is why we need a first floor bedroom as well, to accommodate our family members that can't do the stairs.

AS far as the footprint of the house, we are only going back, not to much further than our covered patio right now. We are keeping our right side, you know where the right side is, we are pretty much the same as where our house currently is. We are just going to the left a little bit where, to meet the 15 feet.

So, we need, if you go down all the other numbers, we are very, you know, we are, where we have all the side, the front, the rear, we have everything. We have an oversized lot, which is a beautiful lot on the cul-de-sac. A lot of towns don't count the basement, and the porches, so when you add all of those things up, that is what is making our number go higher than what other people would building on that lot.

P. DISANZA: I just want to focus a little bit on the personal side of it. My wife and I, before we moved to Park Ridge, we used to live in Hoboken. When we were deciding on moving, one of the things that she wanted to do was, she wanted to go to some of the local towns where she grew up. She basically fell in love with Park Ridge, and fell in love with this lot. This goes back probably about 4 years ago. It has always been her dream to actually build her own house, but even also build a house on this lot, because this is a lot she saw 4 years ago and she said I love the town. I love the people. This is where I want to raise my family. When she saw this lot, she said this is where I want to build our house.

So, for us, this is really a dream of ours to build a brand new house here and we feel that, not only is it our dream, but I also think it is the dream of our neighbors, because this will definitely, there is already one house which has been built in our neighborhood. This house will be the second one and I think it obviously adds value to everyone else's house as well.

FLAHERTY: Okay, thank you. It is some lovely drawings that we have seen. It is good to see that we are not looking for variances on the sides or the back. But, as far as the F.A.R., that is a very significant variance that you are looking for. Did you work with the architect? Were there any other possibilities to say maybe we could scale that back? Were there any other drawings that you considered or designs that you may have considered, which may not have been resulting in such a large F.A.R.

D. DISANZA: We have been working for months. If you look at the plans, it is your typical living room, dining room, great room, kitchen area and with the extra bedrooms, that put us at 2,100 on the first floor. Once you go up on top of that, it just adds to it. With the front porch, we would love front porch. We are on a cul-de-sac. Our kids are always outside playing and the porch adds quite a bit of square footage as well.

We just tried to do it, I mean the rooms are normal sized rooms. There is nothing, we didn't add anything crazy that would make us get to this number. It is pretty typical of a new construction home in Bergen County.

FLAHERTY: I just want to confirm, the porch does count?

TEN HOEVE: Is it an open porch that we are talking about?

BEER: I don't know, I haven't seen the plans yet.

D. DISANZA: It is not enclosed, but it is covered. I was told that it was counted in the square footage.

BEER: They counted it because it has a roof on it.

SKRABLE: I don't know if this helps, we did count the porch, the covered porch in our numbers.

TEN HOEVE: I guess it is included then.

BEER: Yes. If has a roof attached to the house, it gets included. If it is open, it doesn't. It is capable of being enclosed and becoming a room, that is why.

FLAHERTY: Do you know how many square feet the porch is?

D. DISANZA: 330

TEN HOEVE: May I ask a couple of questions? You mention that other homes in the area are mostly ranch homes. Do you have any idea, or could you estimate what the floor area of those homes would be, not with second stories on, just what they are now?

SKRABLE: I can give you an approximate number. I think that they are deeper than 35, but I will use 35. That is 2,100 square feet per floor. The basement would be the same, about 4,200.

TEN HOEVE: Are most of the homes in the area that size?

SKRABLE: They are all very similar, with the exception of the one on the South side, that has half of a second floor. The one on the East side of the street is basically a ranch with a bump out on the front. Otherwise, they are very similar.

TEN HOEVE: Are most of the lots in the area smaller. The town went through a rezoning 5 years ago, perhaps, and created the different zoning districts. This is 5,000 square feet larger. I would assume that most of the other lots in this area are smaller lots? Is that true?

D. DISANZA: The house to the right of us and to the left, they both have about 15,000 square feet. Then, the other houses.....

TEN HOEVE: I meant the whole neighborhood, the whole R-10 zone there.

SKRABLE: Well running down the East side of the cul-de-sac, those are 100 by 110 or 100 by 100, so, those are right about 10,000, all along that East side. The ones around the cul-de-sac, and the one just South of us are larger.

D. DISANZA: Then, all the house down by the glen are all much bigger, as well. They are in an R-15 zone, which I think we used to be an R-15 zone, and it was changed.

TEN HOEVE: There was no R-15. At one time, the Borough only had R-40's and R-20's. There were no R-10's, R-15's. There weren't 4 separate categories, there were only 20's and 40's. When the rezoning was done several years ago, the Planner in

town went through and checked all the neighborhoods to basically determine what the average size of the lots were and classified them based upon the average lots in each district.

P. DISANZA: I would also like to say that on Pine Drive, that is where you have seen, I don't know what zone Pine is, if it is the same zone, or R-15's.

TEN HOEVE: On the North side of Pine or on the .....It looks like the lots on Pine, it looks like all the lots on Pine are smaller lots, unless you are talking about the South side of the street.

P. DISANZA: Yes, I mean the South side of the street.

TEN HOEVE: That may actually not be an R-10 zoned. It may be R-15 zoned. I would guess it would be because all of those lots are large. Those were my only questions.

FLAHERTY: It looks to me like the home, the 2 to the left of your property, probably 3 to your left, those look to be on the map to me more than 10,000 square foot yards.

D. DISANZA: Yes, the ones to the left are about 15,000 square feet as well. There are 3 of us whose property is bigger than anyone else.

WALKER: It is an oversized lot for the zone that you are in. But, if you were in an R-15 zone, your requirements would be a 30 foot front yard setback, two 18 foot side yards setbacks and a maximum floor area ratio of 5.775 feet. So, even if this house were in that zone that the lot is that size, this would still be oversized for that zone.

D. DISANZA: So, can we meet in the middle?

WALKER: Yes, I think some work needs to be done to, you know all of your neighbor's homes are going to be dwarfed by this house. I mean it is going to look.....

D. DISANZA: But if everyone put on a second floor and you counted the basement, everyone would be close to the .....

TEN HOEVE: But they can't do that. They are prohibited by the zoning ordinance from doing that. As Mr. Walker was just saying, even if you were in an R-15 zone, which is the size of your lot, 15,000 square foot, the R-15 corresponds to 15,000 square feet, you couldn't put this house in. You would still be 1,000 feet bigger, square foot bigger, than the maximum permitted in the R-15 zone. It is 5,775 if you consider the 15,000 square foot lot.

WALKER: It is a nice size lot. I think that the first thing that they ought to do is maybe look at the requirements for an R-15 and try to get something that would fit on an R-15 sized lot, with maybe 18 foot side yards and a 30 foot front yard setback. They do have plenty of space there.

D. DISANZA: We are under the 4,400. It is just when you include the basement and the porch that it makes it over..

WALKER: It is a massive house for that area. Yes, like I said, if you were in the R-15 zone with other lots of that size, this would be oversized for that R-15 zone. Even for the R-20 zone, the maximum floor area ratio is 6,600 square feet. You are even over the half acre lot zones requirements.

P. DISANZA: I guess I have 2 questions, because I don't understand this correctly. If the other zone is 2 houses away, and that whole side of Pine, which is literally 2 house away. It sounds to me, based on what you are saying, is considered to be almost a different neighborhood, for building purposes.

TEN HOEVE: If that is an R-15, that would be correct.

P. DISANZA: Well, let's just say it is, because someone is building and you said that they looked like they were different lots. What I, I guess a layman would think, that is all part of the same neighborhood, so when you talk about dwarfing other housed, you could take away half the basement and the standing structure would still look the same. Am I right or am I wrong.

WALKER: Yes, it would but you would be required to be further off of the side lines.

FLAHERTY: Yes you are going in the right direction. This is what I was asking about in my first line of questioning. There are ways to reduce the F.A.R., which could include not as large a basement. That is just something to consider. There are a number of things that you can consider and I am sure that the architect or the Engineer knows.

WALKER: The first thing to consider would be to consider the requirements of an R-15 zone. It is the first thing that I can think of.

TEN HOEVE: What he means is that in the R-15 zone, you can't build to 15 feet our on each side yard. In those bigger lots, in the bigger neighborhoods, you can't go as close to your side yards. You are restricted further.

P. DISANZA: In those lots, are they not wider than our lot?

TEN HOEVE: Not necessarily, no. There are a lot of lots that would be your size, 100 by 150, that would give you the 15,000 square feet. That is a typical lot.

FLAHERTY: We can draw drawer down on these side yards and all, but the point that Mr. Walker is trying to make, I think, if you were in the R-15, which might just be around the block, if your house was zoned to be in the R-15, the max in the R-15 is almost 5,800, so this would still be too large for an R-15, even if we are wrong and this is an R-15, so, if we could just shave that F.A.R. the Board would look a little more favorably on it.

TEN HOEVE: One of the things that you should know, is that this a difficult variance to obtain. You don't have a lawyer here, so it—there are "C" variances and "D" variances. A "C" variance is your basic setback bulk variances, how far you are from a front yard, side yard, and how high you can go. You only need a majority vote from the 7 member Board in order to get one of those variances.

A "D" variance, by statute, by virtue of the Municipal Land Use Law, requires 5 votes in order to get your approval, because it is considered a more serious variance. It is considered a more aggressive dangerous, if you want to use that term, variance. It is harder to get that type of variance. That is why the Board is focusing on the F.A.R. in particular.

I don't know if this Board has ever granted anything close to an F.A.R. variance of the magnitude that you are seeking here. It is a significant variance. I am just giving you some observations. I am not, I don't know how the other Board members feel here, and perhaps it might be a good idea to get some input from some of the other Board members before you move in any direction.

FLAHERTY: Does the Vice-Chairman have any comments?

VON DER LIETH: I just think it might be prudent just to look over the drawings and see what you could do to maybe get it down. Like Mr. Flaherty was saying, if it was in an R-15, it would still be almost 1,000 square feet over the required amount. So, if there is something that you guys could look back on? I am not saying redo all of the plans but maybe you could sit down and talk and say look maybe we could do this and maybe we could do that. Maybe you could come considerably closer to what is your required amount.

D. DISANZA: So would we come closer to the 5,700 number or the 4,400 number. I mean, I don't know what size of the lot?

FLAHERTY: All we can say, is that it is a process and I am sorry to say that you might have to come back again, but .....

P. DISANZA: Here is a question that maybe you can help me with. So, there is clearly a big difference between an R-15 and an R-10. I think these numbers are very different.

TEN HOEVE: It is 1,300 square feet in the F.A.R.

P. DISANZA: If we were to go down just from our plans to go to an R-10, that an even bigger difference. Am I right? So, are we talking, are you advising us to go back to our architect and say seek R-15, or are you advising us to go seek the R-10, because there is a big difference there.

FLAHERTY: There is and that is a great question. Does anyone else want to weigh in on this from the Board? Do we, as the Board, feel that it is appropriate top judge this case, perhaps, unofficially as an R-15. Is that something that I can throw out. Maybe the Attorney can help me. Can we judge this as an R-15?

RAMAN: Then we are changing the zoning. There are many such lots all over Park Ridge.

TEN HOEVE: You are absolutely correct. You can take into consideration, granting a variance, the fact that this an oversized lot in the R-10 zone. You can't establish as a position that we are going to apply R-15 standards, as you point out, to every 15,000 square foot lot in an R-15 zone. There are many factors that have to be taken into consideration.

This is a case where the Board might want to do a site inspection. They may want to look around and see what the neighborhood looks like. The impact on the neighborhood is a factor that is going to be taken into consideration. If you grant this variance, is it going to have a substantial negative impact upon the neighborhood or the zone scheme or the plan in the Borough?

WALKER: Probably my greatest concern, John, is that these other lots being 10,000 square foot, you know the type of house that is going to be on there, a ranch, a small cape, a small split.

P. DISANZA: There are lots that are bigger. I don't think you can look at as 5 houses away.

TEN HOEVE: Mr. Raman is correct. You can not establish as a policy that you are going to apply. I think that some of the Board members were saying is, they are pointing out the extent of the deviation by comparing it to an R-15 zone and saying, if you are going to make a modification, try to get it down and closer to something that wouldn't be as substantial a variance. I think that is what they are saying.

RAMAN: It is across the street that are the smaller lots.

P. DISANZA: We just wanted the R-15, because it is so much bigger than the R-10. I mean it is.....just give me something to look at.

FLAHERTY: I think that the Board has to consider the fact that this, although it is zoned as an R-10, it is a 15,000 square foot lot. I am not asking us to look at it like it should be zoned as R-15. That is not what I am saying. I think the reality is that it is a much bigger lot than any of the other R-10 that we see in town, and should be treated as such.

WALKER: I agree, there need to be some leeway there, but the F.A.R. is requesting is more than 50% over what the zone calls for. I would like to see them try to get closer to……..

P. DISANZA: I will do my homework. I will find out what that whole R-10 zone is and that will help us for next time when we come and sit down with you.

FLAHERTY: Is there anyone in the audience to speak to this application? Please come us?

TEN HOEVE: The Planner just looked that up and answered your question. That whole section across from the other side of Pine Drive is actually an R-20. It is not even an R-15. That area on the other side of Pine Drive, the South side of Pine Drive, if you look at your map, this area, all of these lots are actually R-20 zoned, which is 20,000 square foot minimum. You can go up, in that area, to a 6,600 square foot home, but those are 20,000 square foot lots. They require a 40 foot setback. They require 22 foot side yards. The zoning criteria is very different in that zone.

Would you raise your right hand? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

MC GUINNESS: I do.

TEN HOEVE: Please state your name and address for the record.

MC GUINNESS: Patrick McGuinness, Hillsdale, NJ.

TEN HOEVE: Hillsdale, NJ?

MC GUINNESS: That is my daughter and son-in-law. I am a builder and I build in all of these towns around here. This is the only town that does that.

TEN HOEVE: I couldn't answer that question.

MC GUINNESS: If you take a basement that is 2,000 square feet, right, most house are 3,000, so if you take a basement of 2,000, you are only able to build 1,000 square feet of living space, right?

TEN HOEVE: I can't answer your question about what other towns do. I can only tell you ……..

MC GUINNESS: I have built in Westwood. I built in Pearl River, Washington Township, and the basement is never included, nor the garage.

FLAHERTY: It is a challenge Mr. McGuiness.

MC GUINNESS: I mean if you have a 2,000 square foot basement, you can't get a decent house on the lot.

FLAHERTY: I understand, we hear it every month, but all I can say is that it is fairly applied to every applicant.

MC GUINNESS: Is the attic also included?

FLAHERTY: No.

TEN HOEVE: It can be. It depends. It has to be living space, before it would be included.

FLAHERTY: I think that the Board is going to have to discuss this at the end of tonight's meeting and you can call Mrs. Beer, in the office, for some direction tomorrow morning.

D. DISANZA: What would be the deadline to resubmit a revised plan.

TEN HOEVE: If you make a decision to change the plans and come back, you don't have to make a new application. You don't have to notify anybody about the hearing. You don't have to go through all of those steps that you went through the first time. You just need to get the plan in.

BEER: The answer to your question would be September 9th. The Board meets on September 15th. So if they are in by the 9th, I would be able to distribute them to the Board.

FLAHERTY: Thank you.

CASE: 09-04 Lot: 4 Block: 903	Application of ***Esty Street,*** 86 Spring Valley Road for variance to install a second sigh on side of building facing the parking lot in an R-20 residential zone. Carried to August 18, 2009 due to lateness of Notice.

WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

Item 1 is the application dated 6/30/09.
Item 2 is certification of service dated 7/13/09.
Item 3 is legal notification dated 7/10/09.
Item 4 is proof of payment of taxes dated 6/02/09.
Item 5 is the deed dated 10/20/08.
Item 6 is the survey dated 7/31/08.
Item 7 is undated photographs an sign specs.
Item 8 is the Planner's review dated 7/20/09.
Item 9 is the Board secretary letter dated 7/20/09.

That is all that I have at this time, Mr. Chairman.

REPETTO: I don't have anything further either. For the record, my name is Dave Repetto. I am an attorney with the law firm of Hallworth, Lloyd, in Hackensack, NJ. I am here this evening representing Esty Street Partners, LLC. To my right is Mr. Robert White. He is a licensed Professional Planner in the State of New Jersey. Behind me is the owner Tim Castreloga. I don't know Phil's last name, but he is the designer, and he has designed the sign, so he is here if there are any specific questions about the sign itself.

FLAHERTY: Very good.

TEN HOEVE: Do you want to start with the Planner, I assume, since he is there?

REPETTO: I am going to start and finish, hopefully, with him, unless the Board has any questions of my client or the designer.

TEN HOEVE: Would you raise your right hand please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

WHITE: Robert White, 440 Park Avenue South, Highland Park, NJ. I am a principal with the firm AKR.

TEN HOEVE: Thank you.

REPETTO: I think that Mr. Walker went through the background in terms of the application, and so did the Chairman. The property is located on Spring Valley Road. It is on Block 903 and Lot: 4.

Esty Street Partners is the new owner. They have owned the restaurant for approximately 1 year. I am told that, I have seen it, but I have not read it, that they are featured on the front cover of Dining Out Magazine in Bergen County. So, there are some good things being said about this restaurant that has been in existence for a number of years.

My client would like to place a sign on the wall facing the West side of parking lot, which is the West side of the building. I have spoken to your Planner, Burgis Associates, Brigette, and Mr. White will address the issues, particularly as they relate to the C-2 variance. I don't think that you need to hear anything else from me at this point in time, unless there is some specific questions. If I may, I would like to qualify Mr. White as an expert witness and then take him through his testimony if that is okay with the Board.

TEN HOEVE: You are a licensed Planner of the State of New Jersey?

WHITE: Yes, I am.

TEN HOEVE: Not necessary, we will accept him.

REPETTO: Mr. White, could you briefly describe the property?

WHITE: Sure. The property is a commercial property. It is a restaurant and it is approximately 18 table with 30 parking spaces. It is a 2-story building. The existing building fronts on Spring Valley Road.

REPETTO: Now, the front is on Spring Valley Road, but is there also a portion of the building that faces the parking lot and by that faces Spring Valley Road as well?

WHITE: The western portion of the property, and I have the property survey with me, is the parking area for the restaurant and ....does that answer your question?

REPETTO: I believe that the survey that was prepared by Currens and Associates, has been submitted and is part of our application. Mr. Ten Hoeve, I don't know if it is necessary to mark everything?

TEN HOEVE: No, it is not. When he read the exhibits in, he gave each one an item number. That is officially being marked as an exhibit here. So, if you need to refer to anything, you could ask Mr. Walker, but they are all in evidence at this point.

REPETTO: As long as everybody knows what it is. Mr. White, could you briefly describe the proposed development and specifically the sign?

WHITE: Sure, the sign is a modest size sign and it would go on the westerly wall of the building facing the parking area. It is approximately 66 inches by 44 inches, or 4 by 5 ½ feet. The colors are muted. I did bring some swatches, if you would like to see, sort of a brown, matching the existing color of the wall.

REPETTO: I think you probably do not have this, Mr. Ten Hoeve. Just so the record is clear, this is a color sample of what the sign will look like. Can you mark this please?

TEN HOEVE: Certainly. Just make that whatever item is next.

WALKER: Item 11 is color sample.

REPETTO: Mr. White, can you show the members of the Zoning Board what the sign will look like, and specifically, describe the materials that the sign...It is not a backlight sign or a sign that is billboard type of thing?

WHITE: I will talk about the elimination of.... I do have copies of the design. The designer is here. I will hold it up for the record. If you would like, I could hand out copies of the sign to you. The elimination of the soffit illumination, so it would be from underneath the soffit and the wattage would be in the vicinity of 50 to 100 watts. It is just sort of soft lighting.

REPETTO: Could you describe the surrounding development patterns, specifically a residential development surrounding the restaurant, please?

WHITE: Sure. The neighboring properties are primarily residential. I believe that up on Fremont Avenue, sort of at the junction of Fremont and Spring Valley Road, there is a Chiropractor's office, and a little further on the West on Spring Valley Road is a small day care center. I shouldn't say small, it is a day care center.

REPETTO: Mr. White, there is a residence located to the immediate West of the property, next to the parking lot, is there not?

WHITE: Correct.

REPETTO: Could you briefly describe that residence, specifically how far the residence will be from the sign which we are proposing for the West side of the building?

WHITE: Sure. As shown on the survey, the dimension is provided as well, it is 109 feet to the property line.

REPETTO: Is there screening?

WHITE: From the building to the property line.

REPETTO: Is there screening between our client's property and the residential property?

WHITE: Sure. There is a low rise wood fence, as well as a row of pine trees.

REPETTO: Approximately how high on the wall is the sign proposed to be?

WHITE: It is going to be eye level height. To the center of the sign will be about 5 ½ to 6 feet.

REPETTO: Now in your capacity as a Licensed Professional Planner, have you had an opportunity to analyze the zoning requirements, both under the Municipal Land Use Law and the requirements of the Borough of Park Ridge?

WHITE: Yes, I have.

REPETTO: Could you please just explain briefly those requirements and your analysis for the Board?

WHITE: Sure. There is Section 101-41.2E, which gives mostly dimensional requirements. There is Section 101, that talks about the lettering, the height of the lettering, and the size and area square footage that could be attributed to a secondary sign, which this is, because there is a sign in the front of the building. This sign is a second sign on the side of the building.

There are some dimensional requirements that need to be met. In this case, I can tell you that because of the aesthetics of the design of the sign, that it does slightly exceed the height, the lettering height of 2 feet, by 16 inches. But, in fact, the overall square footage is below what is allowed under, what I believe it is a 20 square foot sign, and allowed based on the front of the building and the overall front façade is up to 72 square feet.

REPETTO: Now, if this applicant were proposing to construct a sign in the business district, would this sign be conforming for the Borough of Park Ridge?

WHITE: Yes, it would.

REPETTO: Could you take us through those requirements, just briefly, so we have them on the record?

WHITE: Yes.

WALKER: Excuse me, I don't think that it would. The proposed sign would be permitted to be 24 inches in height. This is 44 inches in height. Where in the business zone it would still be .....

REPETTO: I meant in square footage, that is where I misspoke. Let me rephrase the question then, and I apologize for that. If the sign were proposed in the Business Zone, Mr. White, from a square footage perspective, would it be permitted?

WHITE: Yes, it would meet the square footage, and as I said earlier, the height is exceeds it slightly.

REPETTO: Now, have you analyzed the statutory criteria necessary under the New Jersey Municipal Land Use Law, specifically, under 40:55-D-70C for a C-2 variance?

WHITE: Yes, I have.

REPETTO: Could you give the Board the benefit of your analysis for purposes of variances sought?

WHITE: Certainly, Part One of the granting of the variance, it would enhance the intent and purposes of the Municipal Land Use Law. The sign will provide a safer traffic condition, in that a driver arriving to the restaurant, would be able to identify the property. Currently as you come in on Spring Valley Road, from the West, you can't really identify the building. But, with the sign I think you will be able to see it much better. And, with respect to any detriments on adjoining properties or uses, there should not be any with this sign, given its relatively small size and the muted illumination.

REPETTO: I, at this time, have no further questions of my planner, Mr. White, but perhaps the Board does.

HOSKINS: Did I hear correctly that the sign would be eye level?

WHITE: Approximately.

HOSKINS: That would be maybe 5 feet off of the ground?

WHITE: There about.

HOSKINS: Okay, 5 or 6 feet off of the ground?

WHITE: That side of the building was a standard sort of 10 foot height, so it would be in the center of that wall.

REPETTO: I think, and we were there tonight, it is probably just about the roof of a sedan that was parked, if you were standing in the parking lot.

HOSKINS: Okay.

CAPILLI: I have a question. You said that someone coming off of Spring Valley a driver would be able to see this sign. If it is on the side of the building, how would

somebody from Spring Valley be able to see it? Spring Valley is right in the front of the building.

WHITE: It continues West, correct?

CAPILLI: No, it ends right there.

TEN HOEVE: It actually, the name stays Spring Valley where it goes in front of Lollipop. It is not Fremont.

WHITE: I meant coming from the West, going eastbound.

TEN HOEVE: It stops being Fremont there. That is why it is confusing.

REPETTO: Just to be clear, so if we are looking across the parking lot from the street as you are proceeding from the West to the East, correct?

WHITE: Correct.

VON DER LIETH: The lighting you said was how many watts, 100 watt soffit lighting?

WHITE: I believe I said 50 or 100, if you would like more specifics, we could ask? I just wanted you to know it wasn't going to be a heavy illumination in terms of the signage. It would be under the soffit and wash down as opposed to the side.

VON DER LIETH: Is there currently lighting for the parking lot at night?

WHITE: There is, yes. The light comes from across the street from the telephone pole toward the parking lot.

FLAHERTY: What are the hours that the light would be on the sign?

WHITE: I believe that the…….

REPETTO: I think we better call the owner.

WHITE: Yes, you better call the owner. I believe it is one o'clock, but….

FLAHERTY: Okay, but before we do that, our Borough Planner, Mr. Sneikus, has prepared a report as well. Would you like to add a few questions?

SNEIKUS: Yes, our office did prepare a report. I am sure that you saw a copy of it. It was mentioned in the information. It was July 20, 2009. I have a few questions for your Planner from the standpoint of his testimony.

Just to clarify the ultimate lettering height that we are talking about, I think that you had noted that it was 16 inches taller than the maximum height of the lettering permitted. Is that correct?

WHITE: That is correct.

SNEIKUS: So, a total of 40 inches is the lettering height?

WHITE: It is 44. I am sorry, so it would be 20 inches.

SNEIKUS: So it is a total of 44.

WHITE: Oh, I am sorry, that is the overall sign. The lettering as you can see, the lettering is a portion of the sign.

SNEIKUS: Okay, but do you know what the height of that lettering would be?

REPETTO: We can find out.

SNEIKUS: It is something that is important for the record. Maybe not now, but it is something that could be brought up later on. For the purposes of that deviation, you had referenced the downtown standards and I wanted to identify that degree of difference from what is being provided.

You had mentioned the issue of improving safety on the property. Do you know of any problems, any safety problems of not seeing the sign or people driving past the sight?

WHITE: I am not aware of any. I drove through yesterday, and walked it myself. It is on a bend, and I consider that certainly this sign would help to identify the property as a destination. I think that is the objective of the applicant.

SNEIKUS: But you are not aware of any problems right now?

WHITE: No, I am not aware of any, no.

SNEIKUS: Can the sign be any smaller, at least one of them. I know that you are proposing 2 signs, correct, one in the front of the building and one on the side facing West?

REPETTO: Sir, one is up. I will call the owner and we will ask him that.

SNEIKUS: That was just one of my questions as to whether you would consider that from a safety standpoint, visibility, or the distance in which you feel that the view of the lettering itself. That comes into play as why you would size lettering at a certain height. That is something that you should consider. Do you have an opinion, Mr. White as to whether or not the sign as proposed, the lettering size proposed, would be adequate for safety purposes?

WHITE: I don't have an opinion on it.

TEN HOEVE: Can I just clarify some things. Maybe I will ask this of Mr. White and our Planner. If I understand the report that was provided, am I correct in assuming that there are 3 variances that are required for the sign? One is that wall mounted signs or more than one wall mounted sign would only be permitted if this were a corner lot, is that correct?

WHITE: That is correct.

TEN HOEVE: So, that is the first variance that is required. There is also a comment in the Planner's report that indicates that a second sign can not have an area exceeding the maximum area permitted for the front sign. According to the Planner's report, the sign of the front façade was 20.2 square feet in area. This proposed sign was 20.9 square feet and that it would exceed the one third of the permitted sign area, is that correct?

WHITE: That is correct.

REPETTO: That is the 39B section that Mr. White referred to.

TEN HOEVE: Right, both of those I think were 39B,. the first one that I mentioned and the second one that I mentioned. Then, the third variance is the letter size, and I am still not clear on what the answer to that was. You can't have letters, not the sign itself, but the letters on the sign, that are greater than 2 feet. What are these? Okay, we will hear that later.

REPETTO: Yes, we will hear that later.

TEN HOEVE: Those are just my questions. Were there any other variances, Ed, that were required?

BEER: Tom had a question.

HOSKINS: I just wanted to ask one question. The bottom line of that sign, is the height measured from the bottom line to the top of the line, because Esty Street is on an angle?

WHITE: Mr. Hoskins, I think that the 44 inches is from the very top of the "E" to the very bottom of the lot. If you went from the bottom of the word "Street", it would be less, but I think that the owner has to testify to that. It looks to me like the sign is 44 inches but because it is open, it is not, there is not a backboard per say, because it is open it is from the bottom of the "Y" to the very top of the "E".

HOSKINS: Thank you.

SNEIKUS: If I could just qualify one other thing for the purposes of the variances being discussed. There is a section of 101-41.2E, Item 1 and Item 2, they both address the issue of the sign height. One addresses the issue of the overall sign height of 2 feet, but then a maximum letter height of 2 feet. That is spelled out in that section on the second page 3, D-I and D-II.

WHITE: In that respect, if I may, as I understand it, and I will defer certainly to the Board, the height is 24 inches but we are entitled to 72 square feet for the sign. What we are proposing, according to your report, is a 40 inch sign and 20 square feet, so while the letters are taller, the size of the sign is smaller.

SNEIKUS: That would be correct. It is just a question of height that I wanted to point out.

CAPILLI: I have a question about the westerly property, the buffer that is there. There is a, what is that again?

WHITE: It is a parking lot of 109 feet between the building itself and the adjoining property. On the property line is a wood fence and on the West side of the fence, are pine trees, a row of pine trees.

CAPILLI: Whose fence is that? Is that your fence?

WHITE: No. It is the neighbor's. The pine trees are the neighbor's as well.

CAPILLI: So, you have no buffer on your side?

WHITE: No.

FLAHERTY: Okay, are there any other questions of the Planner?

TEN HOEVE: Will you both be testifying?

REPETTO: I am not sure, so swear them both in.

TEN HOEVE: Would you raise your right hands please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

LA BOSSIER: Yes.

CASTELLANO: Yes.

TEN HOEVE: Please state your names and addresses.

CASTELLANO: Tim Castellano, 41 Locust Lane, Saddle River, NJ.

LA BOSSIER: Philip La Bossier, 41 Locust Lane, Saddle River, NJ.

FLAHERTY: Our first question, with regard to the lighting on the sign. What were the hours for the lighting on the sign?

LA BOSSIER: My intention would be, I serve dinner on the weekends, the kitchen is open through 11 o'clock. So, as I receive guests in to the restaurant, I would keep the sign illuminated. I am thinking somewhere in the neighborhood of 11:30, or 12 o'clock, the sign would go dark on the side of the building.

FLAHERTY: On weekends?

LA BOSSIER: We are open 6 days a week.

FLAHERTY: So, the same time frame for all 6 nights? Okay.

REPETTO: Mr. La Bossier, there are a couple of issues. One is the illumination. Could you just tell the Board briefly what is proposed in terms of the wattage of the illumination?

LA BOSSIER: One 50 watt MR 16 floor, which is the small bulb about 2 ½ inch around, a MR 16 light bulb. It is the same bulb that is used on the front of the building, under the soffit or eve to illuminate the window boxes, which we have added the floral window boxes to the front, if anyone has driven by. They are not pictured. This is an old picture. So, it is that amount of light. It is a soft glow.

WALKER: It would be pointed at the building. It wouldn't be pointed out?

LA BOSSIER: The soffit is about 18 inches deep, so it would be at the gutter point of the soffit facing in. So, it is a flood wall washer type of floor bulb with a 50 watt max.

REPETTO: I think there are some questions about the size of the letters. Is it consistent with the sign that is on the front now, in terms of the size?

LA BOSSIER: It is the identical mechanical that was approved for the front and is now installed on the front of the building. So, it is the identical, we were planning the identical print sign, which is a floating letters, so the actual coverage of square inches is more ambiguous than a rectangle. We are picturing a rectangle here because it shows the brown background, which the building is painted brown, so it is merely the script that floats against the brown background. In truth, this is the side of the building.

REPETTO: It is the same size as the one that is there now? The idea is to keep both signs up?

LA BOSSIER: Yes. Both signs are uniform. To uniform the sign that is now pretty quiet over here, just repeat it on the side of the building, against the same brown background, the same lettering and the same soft lighting, and have greater visibility from the West as you are coming around the bend.

REPETTO: The height that is proposed, is it approximately at eye level?

LA BOSSIER: That wall is 9 foot, maybe 9 foot 4 off of the macadam to the gutter. So, on 9 feet, it would be mounted approximately 2 feet down from the gutter, with a 5 foot center.

REPETTO: And that is the only light in the parking lot?

LA BOSSIER: That sign, yes.

REPETTO: That is basically the only light that you have in the parking lot now?

LA BOSSIER: It is an indirect wall washing glow. There is no landscape lighting in the parking lot.

CASTELLANO: I have a, the parking lot is illuminated by a light that is on a telephone pole that is across the street, that is provided by the town. That is my only illumination of the parking lot.

REPETTO: That is on during business hours.

CASTELLANO: It is on dusk to dawn. They call it a dusk to dawn light.

REPETTO: As a point of comparison, can one of you testify to the current timing of the illumination on the sign in the front of the building, the existing sign in the front of the building.

CASTELLANO: The sign on the front of the building is on a timer and it clicks off, depending on the accuracy of the timer, somewhere between 12:30 and 1 am.

REPETTO: And it illuminates when?

CASTELLANO: It depends on the season. It is basically when it gets dark, the lights come on and they click off somewhere, depending on the accuracy of the timer, at 12:30 or 1 o'clock.

REPETTO: Have you had patrons say that they have had a hard time finding your establishment.

CASTELLANO: Oh, yes, I get calls continuously because as you are coming from the West, you just drive right by the restaurant. It is probably the most traffic route coming down into Park Ridge. People drive by and what they do, they are just making "U" turns in the junction of Fremont and Spring Valley, so it is a continuous circle.

REPETTO: The parking lot is about 109 feet in length?

CASTELLANO: Yes, it is.

REPETTO: How deep is it?

CASTELLANO: That I can't answer. It is on the survey, probably. I am guessing about 50 feet. It is sizable.

FLAHERTY: Are there any questions from our Board or our Professionals? Is there anyone from the public to speak to this application? Would you come up, please?

TEN HOEVE: You can stay there if you just slide that microphone over to there. Mr. Cornell, to you intend to testify or just ask questions?

CORNELL: I want to ask a question.

TEN HOEVE: I have to swear you in if you are going to testify.

CORNELL: Okay, just in case I get out of whack.

TEN HOEVE: Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

CORNELL: I do.

TEN HOEVE: Please state your name and address.

CORNELL: Edward Cornell, 60 Spring Valley Road, Park Ridge, NJ.

TEN HOEVE: Thank you.

CORNELL: I would like to first say that I was a former Mayor, as you know, John. I was the one that put the sign ordinance in to Park Ridge. It was with my Borough Attorney and Planning Attorney. There are always a lot of complaints about signs in Park Ridge. Downtown, we had to have one. We took it very seriously. By that, when I went into office, there were signs plastered all over windows of every store, meat sales and everything of that type. We straightened it out.

I am asking you to consider in this case that this is an R-20 residential zone, and that a corner sign is okay downtown, where the store is on a corner. But, an R-20 zone, which is residential primarily, except for Lollipop Day Nursery in the area. It has to be taken into consideration. The house is only 109 feet from the building, the neighbor. I don't care how much light you put on that. I don't know of anybody controlling the zoning variance approvals after they are in, you have to be careful. All of a sudden it is a brighten light and that causes problems in the neighborhood.

I just wanted to say that I am outside the 200 foot area. I am at the next corner. I do have neighbors, now, that have just put large investments in their homes, between me and Esty Street. I know that they are here and they are very concerned. They really don't know that much about testifying and so on. I ask you to give the highest consideration. That is all.

TEN HOEVE: Did you have any questions of him.

REPETTO: No, no, I don't. I do, I do, what year was the sign ordinance?

CORNELL: I believe it was, well I got into office in 1970. I think they probably did it in 1972. There have been a lot of amendments since then, however, if you need 3 variances to something that would be alright if it was downtown, we are talking about a residential zone.

FLAHERTY: Okay. Just for the record, Mr. Capilli, has to leave the meeting at this time, (9:05 pm). Is there anyone else from the public?

TEN HOEVE: Would you raise your right hand please? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

STEMSIC: I do.

TEN HOEVE: Your name and address please.

STEMSIC: Cathy Stemsic, 70 Spring Valley Road, Park Ridge. I am the house directly next to the parking lot.

TEN HOEVE: Thank you.

STEMSIC: I would like to take a closer look at the sign, and I am a little concerned about the lighting, because my master bedroom directly faces the parking lot. So I want to make sure that it is facing the sign and not going into my house. I would also like to see the survey, because I have had problems with the fence.

TEN HOEVE: I think that they can show you everything right now, if you would like to take a look at it.

REPETTO: While she is doing that, I spoke to my client. He certainly would agree, as a condition of approval, I mean obviously he has testified that this light is going to point at the sign, but limit the wattage to 50 watts, that would not be a problem, and if you want to impose the hours, that certainly seems reasonable.

FLAHERTY: Impose hours?

REPETTO: Hours of operation, consistent with what we have testified to, that we are going to have it lit.

CASTELLANO: I would be happy to do that, because I am looking at the survey as well, and it does look like the fence extends over the property line. There probably is something. I didn't handle the transaction.

TEN HOEVE: You can't have a conversation. It has to be on the record. Just so you understand, this Board can't resolve the questions concerning your fence, whether it is over your line or not, or whether it is your fence or not. That is not something that we have anything to do with. If you wanted to comment on whether that had some impact upon how the sign was possibly viewed from your property or something like that, you can do that. In terms of whether it is on your property or their property is not relevant.

STEMSIC: I understand.

REPETTO: I did not represent the applicant. We do have a title policy that covers that issue with the fence and the apparent encroachment, I will make provision to send a copy to the neighbor, of the title policy, it has all of that information.

TEN HOEVE: Are there any other questions? Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

SHANLEY: I do.

TEN HOEVE: Please state your name and address.

SHANLEY: My name is Jennifer Shanley and I live at 66 Spring Valley Road. I live 2 doors from Esty's, and directly beside Mrs. Stemsic. I moved into the neighborhood a year and a half ago, in a residential neighborhood. Surrounding me is slowly becoming commercial, and extra signs, granted it is on the West side. I probably will not see it, but it adds to the commercialization of the neighborhood, which is not what I intended to move into, when I moved myself, my husband and my 2 small children.

I have heard it stated that people have a hard time finding Esty Street. It is a very well know restaurant and it is in every quality magazine in Bergen County. People coming from the West side down Spring Valley, know it is right there on the right. There is a parking lot there. The people coming from out of town, and they get off of the turnpike, that is an illegal right, and you are not allowed to make that. You have to go left and go all the way around through Montvale. You eventually come to Spring Valley and there is Esty Street standing right there in front of you. There is a sign there.

They have done a great job there. They have added window boxes which definitely enhance the front of it. I am not quite sure why the side of it needs to be enhanced. But, if the sign is only going to be 5 or 6 feet from the ground, and there are SUV's in the parking lot, then, how much of the sign.....it is going to be blocked when you are coming West down the street. You are going to see the parking lot with all of the cars in the front and maybe a little bit of the sign itself, you know, people can still pass it. So, logistically, if the purpose is to see the sign, how many people are really going to see it? People can go right passed it again.

I just ask the Board to take into consideration the quality of life for the surrounding neighbors who live in a residential neighborhood.

REPETTO: Mrs. Shanley, is it? If I could, I would just like to ask Phil to describe the improvements that have been made to the West side of the building, to make

it more aesthetically pleasing. They have made changes to the West side in aesthetic ways, since the ……..

LA BOSSIER: We have really tried to class up the place. When we bought it, it looked like a haunted house. The building looked neglected and dingy, and dismal and we livened it up a great deal by aesthetically mounting window boxes with lush geraniums all over the front of the building. We painted the second floor an ivory color and put brown shutters on the windows to give it a more European charm.

We tried to cosmetically paint the duct work that is necessary and couldn't be removed, for the kitchen. All that duct work was unsightly, rusted, unpainted, galvanized metal, a big eyesore. We blended it in to the roof color, so that those would not be objectionable and industrial looking, to give the place more of a residential charm, and an old house look. Also, by painting the first floor, dark brown, it unified all of the dark brown glass and just made the first floor easier on the eye.

We are planning some floral plantings on either side in removable planters, up against the wall, to even further beautify the brown wall façade that is on that parking lot side. Right now it is a slab of brown, so when we add some floral dimension to the side of it, it is going to look just as pretty as the front. The front has truly become a much more attractive street presence. It still has a charm to it that is an old house look, sort of a European cottage look.

We plan on changing the window boxes seasonally, so that all that floral display will be year round. It is still an old house look, which sort of speaks to the residential need. I don't know how old the house is, but it has been a restaurant for 17 years. So, it would seem to me as though anyone viewing the neighborhood as residential had 17 years of knowing that it was a restaurant, even though it has a residential look to it. It has a house look.

So, we will be adding a little bit of floral plantings in pots on that side to enhance the West appearance and soften it.

REPETTO: You added some lattice to that?

LA BOSSIER: Yes, we did. Clematis will be growing up that. There will be a natural floral display growing up the lattice, just to give that slab an attractive appearance.

BRENNAN: I have a question. Where the sign is going, that part of the wall, isn't it recessed in. There are 2 support columns that protrude out?

LA BOSSIER: Yes, one of them is a duct work, ventilation and the other one is a cosmetic duplicate to balance it.

BRENNAN: So, the sign itself is going to be recessed back?

LA BOSSIER: Yes, you could say that.

BRENNAN: The question that I have then, with it being recessed back and the angle of the street when you pass, do you really think that you are going to accomplish what you want to by…….

LA BOSSIER: Well, it is perpendicular to the street. This façade, the West façade of the building is perpendicular to what we are calling Spring Valley, but everyone thinks of it as Fremont. So, as you come up Fremont, I think that there is a photograph of that, I thought this was a handout, no, you didn't get this?

This is taken from a driving position Eastbound on ……..

BRENNAN: But there are no cars in the block there. Do you feel if there are cars in the lot, the sign, the way it is sitting, that you will accomplish what your goals is to have people know where you are?

WHITE: Yes, absolutely, I think we have talked about hanging the sign at eye level, which is just about at the height of the top of a sedan, yes.

BRENNAN: But an SUV could block it?

LA BOSSIER: If an SUV parks in front of it, yes.

FLAHERTY: Okay.

FLAHERTY: Okay, Plus, when we are driving, we are not at eye level, we are sitting, so you are like at 3 feet. Thank you very much. We appreciate your time. This is one that the Board is going to debate tonight. There has been compelling points from everyone in the room tonight, and we appreciate all of your feedback.

VON DER LIETH: Could I just ask one more question? You claim that you want this illuminated to midnight, 12:30 hour. Practically, if the kitchen closes at 11 and somebody comes to your establishment, the kitchen is closed, correct?

Does it have to have to be illuminated if the kitchen is not open?

FLAHERTY: The notes that I have here said 11:00 to 11:30, is that when you are proposing to keep the lights on, to 11 or 11:30?

LA BOSSIER: Somewhere around 11:30. I do have late guests that come to the restaurant. They make an 11 o'clock reservation, and they may arrive a little bit late.

VON DER LIETH: So, just to give us a little something to argue amongst later, you are going to say 11:30?

TEN HOEVE: I have one question? I have one question for Mr. Cornell. Does it look better than Binovi's?

FLAHERTY: Okay, one more question.

SHANLEY: I would like to ask that they put a buffer on their side of the fence.

FLAHERTY: Bushes, trees, a fence, is that what you mean?

SHANLEY: Arborvitae, or something like that.

FLAHERTY: Is that a parking lot there though?

REPETTO: The parking goes right up to the fence there. So, I guess the issue is if the Board were inclined to require that, it might be an issue with the number of parking space. How many are there?

CASTELLANO: 31

REPETTO: And you would be loosing 1?

WHITE: You might be loosing more than that, as a result of the aisle width being reduced as well, and the entrance way.

FLAHERTY: It is an interesting request, and the Board will consider it and discuss it. We might have to go out and look at it.

BEER: Mr. Chairman, since in the audience that doesn't get picked up, the only thing that the transcriber would have is an interesting request. So, would you like to repeat it?

FLAHERTY: For the record, Mrs. Stemsic, who is the property adjoining the parking lot is requesting that the applicant put up a line of bushes to further block the view of the illuminated sign.

REPETTO: Mr. Chairman, we just discussed that. Why don't you just explain to the Board what you propose in respect to screening.

LA BOSSIER: I would be willing to put screening on the opposite side of the fence for my neighbor. I would have no problem with that. If the Board were to allow us to put up the sign, I would have no problem. We talked about this earlier when we talked about replacing the fence, even though it was on your property.

HOSKINS: Not to beat a dead horse, the 50 watt bulb, is that recessed in the unit? You will just see the light come down and you won't see the bulb?

CASTELLANO: Yes, it is recessed in a cylindrical fixture that is about 10 inches long and it is about 3 inches into that fixture. It is a typical, what in landscape they call a bullet light. It is a cylindrical tube and bulb is about 3 inches recessed into the tube and then it is facing away from the parking lot toward the restaurant.

TEN HOEVE: One of the Board members is pointing something out. If you take a look at your survey, lot 3 belongs to the Borough of Park Ridge.

CASTELLANO: It is an easement. That is the question. That is why I offered when Ms. Stemsic spoke to provide the …….

TEN HOEVE: It is not listed as an easement. It is listed on your list of property owners as actually being owned by the Borough of Park Ridge, not as being an easement.

CASTELLANO: That creates an interesting issue and I was going to provide a copy of our title report to the neighbor, because maybe then, not only is the neighbor's property, but the screening is in the Borough property, which may alleviate some of the issues with respect to the screening concerns.

TEN HOEVE: Is it a paper street, Ed, can you tell from ……..

BEER: It would have to be 50 feet wide, John.

FLAHERTY: For the Board, if there is an power line back here, there is an easement for the Borough to have access to it. It is like I have in my backyard. The power line is right in my backyard.

TEN HOEVE: Usually that would be handled by way of an easement as you said, where you can't build on it and it grants the Borough the right to cross your property. This is actually owned by the Borough.

BEER: John, on Kinderkamack Road, the access back to all of the lighting in the back is owned by the Borough and it is not an easement.

SNEIKUS: This is an actual lot. It is shown on the Zoning Map as a lot that actually continues further to the back or to the R-10 zone in the back.

TEN HOEVE: So the answer to the question, about whether anybody was going to plant anything, you wouldn't be able to do that without securing permission from the Mayor and Council.

REPETTO: Except that there are some very large pine trees there now, that must be 30 feet tall, and the issue with screening, I think the neighbor had raised a good point,

there are old pine trees where the bottom portion is kind of open and the top is very full, so you can't, as you stand in the parking lot of Esty Street, you can't see the upstairs of the house next door, but you can see the garage, or whatever is on the first level.

TEN HOEVE: That still doesn't change the comment that I made about plantings. You couldn't, even if the Board were inclined to say put plantings there, it couldn't be done without the approval of the Mayor and Council. We don't have the authority to do that.

FLAHERTY: But he could plant them on the end of his property, though?

TEN HOEVE: If it didn't impact the parking and traffic.

WALKER: His property ends at the pavement.

BEER: It is hard to believe that unless it is an access point to power lines, that an application to the mayor and council would be denied to put trees in, especially if the owner wanted to take care of them.

FLAHERTY: Okay, it just keeps getting more interesting.

REPETTO: I don't think we can offer anything more than we have offered unfortunately, and we will leave it up to the Board.

FLAHERTY: Okay and thank you again.

REPETTO: Thank you very much for your time.

CASE: 09-07 Lot: 5 Block: 1602	Application of ***William Spencer,*** 24 Wampum Road to modify existing approval to permit infant care in existing Day Care center in an R-20/AH-1 Zone.

WALKER: Mr. Chairman, I have the following items to be marked into evidence in regard to this application.

Item 1 is the application dated 7/27/09.
Item 2 is certification of service dated 7/31/09.
Item 3 is legal notification dated 8/07/09.
Item 4 is proof of payment of taxes dated 7/23/09.
Item 5 is the deed dated 9/05/09.
Item 6 is the plot plan 7/27/09.
Item 7 is 1 page of 4 undated photographs.
Item 8 is a Carousel brochure.
Item 9 is the Planner's report 8/06/09.
Item 10 is Board Secretary's letter dated 8/06/09.

That is all that I have at this time, Mr. Chairman.

MC HALE: Good evening Board members, Mr. Chairman and Mr. Ten Hoeve, How are you?

TEN HOEVE: Good, how are you?

MC HALE: My name is Mark McGale, my offices are located on Legion Drive in Bergenfield. I am here this evening with Mr. Spencer, a representative of the building owner and a representative of the new Child care center.

I am going to use that term because that is what your ordinance calls this, a child care center. Your ordinance calls it a child care center whether it is 2 to 6 or 2 months to 6. Your ordinance calls anything to do with day care, child care, not limited by age, it is

all Child care centers. That is what we were approved for. For those of you who I am sure are aware of the history.

In 1991, because I am sure that many of you are aware, there is an existing child care center there today. So, in 1991 Lilly Pond Day School applied for a child care center. During that application, they must have said the words 2 ½ years old to 6 years old. It wasn't limited to that. That wasn't a condition of the resolution, and your ordinance specifically says child care center is any age, but they said that. It has operated as a child care center within those constraints. The first thing Lilly Pond, subsequently being, I believe, Children's Design, and then becoming Kindercare. Kindercare is now going out and the new entity called Carousel Early Learning Center is going to come in.

Carousel currently operates 2 locations. One in Westwood, and one in Norwood. Carousel's operations just by happenstance, are not the same as Kindercare. Kindercare keeps their age limits from 2 to 6. Carousel starts at approximately 2 months old to 6 years old. So, that is why I am listed on the agenda for needing an approval for infant care.

In truth, I disagree, but I am not looking to be over technical. I think we should talk about what it is. I think Ms. Beer having sharp eyes and a good memory recalled this old resolution, where it was testified that it would be between 2 and 6. But, it was still a child care center. We are still a child care center.

So, having said that……..

TEN HOEVE: Before you start, do you have a copy of the resolution?

MC HALE: Yes, of course.

TEN HOEVE: While you are presenting testimony, maybe I could just take a look at it.

MC HALE: Of course, I can give you some highlights and I will hand it up to Mr. Ten Hoeve. We don't intend to challenge any of this. We believe that we are 100% bound by this and what the resolution requires is that we have no more than 135 kids, ever. We don't intend to violate that, although the ages of the kids will be changing, we will not change the number of kids. There was a requirement to put up fences, which are on the plans that are before you, are called proposed, because those plans are 18 years old. The fences are up now. The location of emergency exit lights, etc., on the plans are marked as proposed 18 years ago, but now they are in and the location of an upgraded fire hydrant is to be installed.

The application or the discussion is a child care facility for children between the ages of 2 ½ and 6, but I would contend that like if you approved a retail store for the sale of stationery and the stationery lease ran out and the guy came in for dress shop. It is still retail, it doesn't change anything in terms of zoning definitions, but I am not looking to be technical about that. The key is somebody flagged it as an issue. We are here to discuss that issue. The only thing we seek to change is that some of the kids will be younger than they used to be. Still it is licensed by the State and monitored by the State.

Now there is no site plan per say, because as you Planner observed, there is absolutely no changes to the building. The building, not one brick, not one stick, now one drain, not one light, it is going to be exactly what it is, which was approved in 1991.

So, really, that is why we are here. Again, if we were having this, if Mr. Ten Hoeve and I were having a cocktail and talking about the intricacies of Zoning Law, we could talk about technicalities of use variances, but I don't know that, that it is very necessary. Why don't I have the people explain to you, better than I could, what we are doing and moving on. Good, Mr. Chairman, is that acceptable?

FLAHERTY: Yes it is.

MC HALE: That is okay, I am sorry, see once you make us wait and you wind me up, I can't shut up. That is the problem. If I could, why don't I have Mr. Spencer come on up. These are the owners of the building. He can really give us a better overview of the events that have transcribed since 1991.

TEN HOEVE: Please raise your right hand. Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

SPENCER: I do.

TEN HOEVE: Please state your name and address.

SPENCER: William Spencer, 167 Twilight Court, Toms River, NJ.

TEN HOEVE: Thank you very much.

MC HALE: Mr. Spencer have a seat please. What is your relationship to the building at 24 Wampum Road?

SPENCER: I am the owner of the building.

MC HALE: Is that owned by a corporate entity or is that owned individually?

SPENCER: No, it is personally owned.

MC HALE: You have submitted a copy of the deed at the time the application was filed?

SPENCER: That is correct.

MC HALE: Were you the owner of the property in 1991?

SPENCER: Yes.

MC HALE: In 1991 did I think, at that time, that Lilly Pond come to the Board with an application?

SPENCER: That is correct.

MC HALE: Was that application codified by a resolution, which you gave me and I just gave the council?

SPENCER: Yes.

MC HALE: What was the nature of Lilly Pond's operation?

SPENCER: To operate a day care center for units C and D of the building. The building has 4 units, A, B, C, and D and 2 of those units, which represent 8,259 square feet of the building, represented their application for that particular space.

MC HALE: The balance of the building is general office use?

SPENCER: General office use is the rest of the building.

MC HALE: In 1991, the plans that we presented about Lilly Pond's day care center all show things that were proposed.

SPENCER: That is correct.

MC HALE: Of course, now, all of those things are done?

SPENCER: The drawings that were proposed, the "as built" is the same.

MC HALE: In 1991, did we have sufficient parking, as indicated on that resolution, for the 2 units which were day care and the 3 units which are general office?

SPENCER: Yes, we did. There was a total of 71 parking spots, and obviously at that time, it was my understanding that the parking requirement was 1 space for every 250 square feet. If you add that up, there was a total requirement then for 66 parking spaces and we have 71.

MC HALE: So back then, in 1991, we fully conformed to the parking with regard to the day care as well as the parking to the other 3 units which are general office, other 2 units, which are general office.

SPENCER: Right.

MC HALE: Now, in 2001, did the town revise its parking ordinance?

SPENCER: According to the report that we received, we weren't aware that recently where there seemed to be a narrower requirement of 1 parking space for every 5 children, plus a parking space for each of the staff members.

MC HALE: So, if we do the one parking space per 5 children, with a maximum number of children of what the resolution says, of 135, I believe, how many parking spaces do we need?

SPENCER: We would be short 3 spots at that point. We have a total of 71 and if you do the math on that basis, it would indicate that we needed 74 spots.

MC HALE: Does that include, also, the units for general office?

SPENCER: Right, that would be 33 parking spaces for the general office, including, obviously there is some rounding in there, so there are some additional spots that were required as a result of the rounding. So, 33 spots for the general office part of the building and then it would be 14 spots for staff and then 27 if you do the math. If you divide 135 by 5, it would be 27 spots to meet that requirement. We would be short 3 spots on that basis.

MC HALE: That is because, one of the reasons that contributes to that is that each of those 3 categories you rounded up as the ordinance requires?

SPENCER: That is correct

MC HALE: So, what I am suggesting to the Board members, if I could just take a break here, and forgive me for interrupting the flow of testimony. I am not so sure that the 2001 ordinance applies, because again, we are a use continuous from 1991. Just because we are adding infant care to the child care as opposed to just 2 to 6 for the child care, it is still child care under the ordinance. I would submit to you, I don't need a new parking variance, but given the fact that it is so diminimous, I would request that, and suggest to the Board that, it would be rare to find a structure such as this, which could meet the entire parking on the day care at 1 per 5 children, plus a full office component as well.

I also will have testimony which indicates to you, that never during the day is there more than 20 cars on the site. One thing about have the requirements being very small children, they seldom drive. So, our pick up and drop off is exactly the same, because it is the same number of kids, same number of parents, but we never have any more kids, any more cars at the site than we ever did. Two Week olds don't drive, 2 year olds don't drive, 8 years old don't drive, either their moms or dads drop them off.

If I could, Mr. Spencer, setting aside those legal technicalities, and Mr. Ten Hoeve and I can talk about them at some point. Even accepting the strictest requirements

that the Board could place upon us, we have a total of 71 spaces on site. Parking, including, parking demand, including rounding up in every category of items comes out to 74. If the Board requested or made the determination that we needed a parking variance, as to those 3 spaces, would you be comfortable amending the application and presenting that application here tonight?

SPENCER: Sure.

MC HALE: Now, with regard to the use, the uses, as you have indicated to me over the years, these child care centers often acquire each other, go in and out of business and in fact the history of the site is, I think, what, Children's Design acquires Lilly Discover Center, Children's Discovery acquired Lilly Pond, which was then Children's Discovery, which was later acquired by Kindercare, and now Kindercare has moved to a bigger facility somewhere or making other arrangements, and you continue to use the lease use to Carousel Early Learning Center?

SPENCER: That is correct.

MC HALE: Mr. Chairman, I have no further questions of this witness. I do have a representative of Carousel to really explain some more about the actual use of the building.

FLAHERTY: Thank you. Are there any questions for Mr. Spencer?

EISEN: I have a question. One hundred and thirty-five children, maximum, don't 23 month old and younger require more space?

MC HALE: No.

EISEN: They do not?

MC HALE: They require more staff, but not more space. Either way, when we calculated the staff requirement at 14, that is how many we would need. So, we have done the calculations of 33 spaces for general office based on general office square footage, 14 for the staff of Carousel, as is, and 27 for the 1 per 5 kids. That brings us a total parking demand of 74 and a total parking supply of 71.

I think the key component, it is a good question, but I think the key component is what has been running now for nearly 20 years is going to continue to be there on September 1st or October 1st, whenever the Kindercare lease ends and Carousel's lease kicks off.

There will be no difference except a handful of moms or dads who walk in their kid, are going to, instead of walking them by their hand, are going to be carrying them in a baby carrier. The pick up and drop off is the same. The parking is the same. The facility is the same. The State monitoring and State staffing requirements are still taken care of by the State. In fact, it is still a child care center under you ordinance, there is no difference under your ordinance. Really, in truth, it is what you have seen there for nearly 20 years.

EISEN: So, it only 135 children and it will never be more than 135 children?

MC HALE: That is what was put on us in the 1991 and we have never sought to change it. In fact, through 3 different child centers that have owned or operated the facility, now it is 4, none of them have sought to change this. Here is the difference, holding a kid by his hand or bringing the kid in, in a carrier. Some of the, the vast majority of them will still be walking in. It is that simple.

TEN HOEVE: I looked at the resolution and I think that I would agree with your interpretation, after taking a look at it. I don't think it was a specific condition in the resolution, but I am not sure that I agree with the parking analysis. If I understood what you said, if you applied the standards to the 2 to 6, you would need fewer staff.

MC HALE: We intend to have 14 staff either way.

TEN HOEVE: No, but my point is, if you apply the parking standard to this 135 student school, with students only between the ages of 2 to 6 or whatever it was, you probably wouldn't need a parking variance, because you would have fewer staff. Would it be 23 fewer staff?

MC HALE: Yes, however, the reason, the number 14 was in the original variance. So, what was specified in the original variance was 14.

TEN HOEVE: That was more than you needed under the standard that exists?

MC HALE: That is correct.

TEN HOEVE: One question that I have for you. I remember you appearing at the time of the first one. I was the Board Attorney at the time. I am trying to remember whether there was any significance to the 2 ½ to 6 year old.

MC HALE: It was their day care center and it was how they planned on operating and they testified to that without thinking. I am convinced that they not testified that was what they were going to do.

TEN HOEVE: Do you recall whether there was any discussion on the part of the Board, with regard to the significance of the fact that there wouldn't be infants?

MC HALE: No, I don't recall any testimony of that. One would imagine that if the governing body saw any significance to infants versus 2 year olds versus 4 month olds. The definition would be different for those 2 things and it is not.

Similarly again, because I do think, I think we are relatively speaking all on the same page here. If you agree with me that the use is grandfathered and that the grandfathering is not specific from 2 to 6, but is child care in general than the 2001 parking ordinance doesn't apply to us, because we would be grandfathered. The change of tenancy would no trigger……

TEN HOEVE: That is not necessarily true, because if the change is going to result in an increase parking need, that could be considered an expansion of the non-conforming use status. I think it is very insignificant.

MC HALE: I think so also. Again, we are not here to make argument. We are here to explain what we are doing and really say, come October 1st, you won't see any difference at all.

RAMAN: I have a question. This is hypothetical. If all 135 children were infants, what was the total of your staff? Is that how you got the 14?

MC HALE: No, I think, I wish you would allow me to call the operations person. However, the State has a very thick document that talks about, based on what age group, what the ratio, staff to the number of children, I think it is 1 for 4, and if they think that they can operate within the 14, they seem to think that the 14 would be fine. Either way, though, I would also hasten to add, even if the staffing requirement tripled to 40, there is only 10 cars there during the day. In other words, it wouldn't effect anything at all, because the real number of them on the site, is the 135 pick ups and 135 drop offs, which we agree are going to remain unchanged.

During the day, whether there are a few more staff either way, it makes absolutely no difference because during the day there is literally an empty parking lot there, in practical reality.

RAMAN: But, the thing is the parking capacity is designed for peak usage, not for slow usage or little usage. So you are right, maybe there are times when it is only 20,

but if your staffing did go up because you had more infants, and you don't know what that ratio could be.

MC HALE: The operator will be able to testify to how many infants will be on site. If that changes significantly, again, if it changed this slightly, we are talking within the constraint of rounding error, basically. People are dropped of and picked up on a staggered basis. They all don't show up at the same time. They plan it that way.

HOSKINS: I have a question about the parking. The amount of spaces that you have given us, does that include a handicapped?

MC HALE: Yes. That is correct. It is really quite remarkable, that given all this, and the passage of 20 years, and the passage of a new more restrictive ordinance, it is still right there. Can I call Ms. Lowery and let her go over some more operation stuff with us?

TEN HOEVE: Please raise your right hand. Do you swear that the testimony that you are about to give is the truth, the whole truth, and nothing but the truth, so help you God?

LOWERY: I do.

TEN HOEVE: Please state your name and address.

LOWERY: My name is Iris Lowery, 14 Laramie Way, Pearl River, NY. I am currently employed by Carousel Early Learning Centers as the CEO. I am here to take any of your questions.

MC HALE: Well first, before we go ahead, does Carousel Early Centers, operate 2 other facilities in the surroundings towns?

LOWERY: Yes.

MC HALE: What are those 2 facilities?

LOWERY: We operate in the Westwood town and in Norwood.

HOSKINS: Excuse me, can you hand her the microphone.

MC HALE: Oh, I am sorry. How long have you been associated with or been in the child care industry?

LOWERY: Personally, myself, I have been in the child care industry for 30 years. I am currently employed by Carousel Early Learning Center for the last 10 years.

MC HALE: How long have you been the CEO of that operation?

LOWERY: 8 years.

MC HALE: In the course of your 8 years, you have had experience both in Westwood and Norwood and now in setting up operation here?

LOWERY: Correct.

MC HALE: As to some of the questions, which the Board had, regarding the limitation of 135 children, that is acceptable to you and you have no problem with that being included in any resolution that this Board produces at this time?

LOWERY: No.

MC HALE: Okay, and in fact, was it correctly indicated to the Board that we are changing absolutely nothing about the site or exterior of the building in any way?

LOWERY: Correct.

MC HALE: You are not fixing to go out there and move drain pipes or anything like that?

LOWERY: No, nothing.

MC HALE: Okay, and was I correct when I indicated to the Board that in fact, you are monitored by the State and that Mr. Spencer, he tried to approximate the book, but I don't if it was quite thick or not?

LOWERY: Yes, we are State licensed and subject to State inspection.

MC HALE: With regard to that, could you help us break down some of those issues that the Board may have a question about, employees, and any differential in employees because we are doing some younger kids than was originally applied for?

LOWERY: Correct. We have our schedule for the young kids is a ratio of 1 to 4, however, not all the 1 to 4 year olds are, they all don't come in at 7 o'clock, so I will have staggered staff. I have a staff member that works from 7 to 1, and 8 to 2, and 9 to 3 and I might have afternoon staff.

MC HALE: Is this the way all of your other centers work?

LOWERY; Yes.

MC HALE: Approximately, given that relationship, how many staff would be on site at any one time?

LOWERY: At any one given time, maximum is 14.

MC HALE: And with a maximum staff of 14, that is consistent with the resolution, which was adopted in 1991, and you feel you could live within those constraints?

LOWERY: Yes, sir.

MC HALE: As far as the rest of the operation, is it, I don't want to say exactly, because I am sure you are proud of the way that you operate things as opposed to the way what anybody else does, but is it substantially to the untrained eye as Kindercare did, as Lilly Pond did, as Children's Discovery Zone did, it is essentially the same operation?

LOWERY: Yes, sir, it is.

MC HALE: With regard to keeping that staff at 14, you know, whether the staff is only 14, we also add to that the 27 more spaces, which is derived from the 1 space per 5 kids, for the entirety of the day, correct?

LOWERY: Correct.

MC HALE: Even adding the staff of 14, and the 27, for the 1 space for 5 kids, you know, motor vehicles are generally on site because of the number of kids during the day, we still adding to the 33 for general office, have a demand of 74 and a total parking supply of 71, correct?

LOWERY: That is correct.

MC HALE: Is there anything else that you would like to tell the Board about your operation? I didn't mean to cut you off. I just thought that given the hour, I would get the Board, get you to the most salient couple of questions.

LOWERY: Mr. Raman, you had a question about drop off and pick up. Our drop offs are staggered. Our operation is from 7 am to 6 pm. As you know, not everybody arrives at 7. There are some at 7:15, some at 7:30, some come at 8:30, depending on. Likewise with pick up in the evening, they are staggered. You know the teachers from the town or whatever uses, they come after school and some people that take the train and they come at 5 o'clock from the city. It is a staggered drop off and pick up.

RAMAN: So, you could have more than 135 kids as your total clientele I guess, because they are all staggered. At any one time, you won't have more than 135?

LOWERY: I can not, and will not.

RAMAN: I am just wondering about the operation, that is all. I mean technically you could have double that amount of actual kids using that facility?

LOWERY: Not at the same.

RAMAN: Not at the same time, but over the course of the day? It could be 200?

MC HALE: The reason why she looks so quizzical, is that I don't think it is anything like that.

LOWERY: No.

RAMAN: Again, this was a hypothetical question.

MC HALE: Again, if there were 135 in the morning, and 135 in the afternoon, we would be able to say we had 270 there. I guess you could.

LOWERY: We don't run that kind of a program.

BRENNAN: So, even with the staggering, at any one point in time, it is 135. It would be 135 there and nobody is leaving and somebody substitutes.

LOWERY: No sir. They are all full time kids.

WALKER: What is the ratio of staff to child for the 2 to 6 year old children?

LOWERY: From 18 months to 2 ½, it is 1 to 6. From 2 ½ to 3 ½ it is 1 to 8. from 3 ½ up it is 1 to 12.

MC HALE: I have to suggest that your ordinance picked 1 to 5 for a reason. The governing body thought about those differences. Some seem to be more than 1 to 5 and some seem to be less than 1 to 5. But, in the average, your governing body decided it is 1 to 5. We meet the 1 to 5 and the office and the staff within a fluctuation of 3 spaces, a portion of which is simply the rounding error by rounding up in each category. It is really that diminimous.

BRENNAN: I have one quick question. The facility itself, excluding parking, how many students could you possibly, what would be the maximum that you could have based on the structure?

MC HALE: If we weren't bound by the 1 to 5? If it was no longer 135 in the prior resolution, how many could you put in there based on State Code?

LOWERY: I would still remain the same, State Code is 135.

MC HALE: Maybe that is where the 135 cane from.

LOWERY: That is State.

MC HALE: They may refresh our memory a little bit.

VON DER LIETH: Mr. Chairman, I have on quick question regarding the play area. Is there any increase or adjustment that you need to make to the play area as a result of the changes of the age groups?

LOWERY: No, we don't.

FLAHERTY: Okay, any other questions from the Board or from the Professionals? Is there anyone from the public to speak to this application? Okay, well we thank you. We will discuss your application. You can call Mrs. Beer in the morning.

NEW BUSINESS:

None

CORRESPONDENCE:

None

APPROVAL OF MINUTES:

The Chairman entertained a motion that the April 21, 2009 minutes be approved as submitted. So moved by Ms. Eisen and seconded by Dr. von der Lieth.

ROLL CALL:

Ayes: Ms. Eisen, Mr. Flaherty, Mr. Hoskins, Mr. Martin, Mr. Raman, Dr. von der Lieth, Mr. Walker

Abstain: Mr. Brennan

The Chairman entertained a motion that the May 19, 2009 minutes be approved as submitted. So moved by Mr. Martin and seconded by Ms. Eisen.

ROLL CALL:

Ayes: Ms. Eisen, Mr. Flaherty, Mr. Hoskins, Mr. Martin, Dr. von der Lieth, Mr. Walker

Abstain: Mr. Brennan, Mr. Raman

APPROVAL OF VOUCHERS:

None

ANYONE IN THE AUDIENCE WISHING TO BE HEARD:

There was no one in the audience wishing to be heard.

DISCUSSION OF APPLICATIONS:

The first application to be discussed was ***William Spencer.*** The Board felt that there was no problem with the request. The Attorney advised that in looking at the prior resolution of 1991, he didn't feel that there was a condition of approval that they not have any infants. He also didn't recall that there was any testimony by the Board caring about the age. He felt that by having infants there, it may reduce traffic due to families with small children bringing them to the same day care facility. The Board advised the Attorney to draw a resolution that it is just a continuation of a non-conforming use and that no additional variances are needed.

The Board then discussed the Application of ***Allan Israel.*** The Chairman stated that the Board had requested the applicant to trim back their side yard request and that

they did that, and they are going to redo the calculations. The Attorney advised that he can not do a resolution until the revisions are submitted as he won't know which variances will be required until the calculations are in. The secretary to the Board advised that she will advise them to submit in a timely fashion so the resolution can be drafted for the next meeting.

The application of ***Esty Street*** was then discussed. Some members felt that it made good sense to have a sign on that wall, instead of having people to make "U" turns in the middle of Spring Valley Road or going down further and making a "U" turn in a side street. They felt that people going East on Spring Valley might not know where that restaurant is if they haven't been there before. They also felt that a 50 watt bulb wouldn't be a disturbance to anyone.

Some members felt that other businesses were made to adhere to the code, and that this sign is much larger in size. Some members thought it should be smaller while others stated that it was a duplicate of the one in the front. The visibility of the sign was also questioned by some members who felt that cars in the lot would probably block the view of the sign.

The Chairman felt that a site inspection should be done, and the application be carried to the next meeting.

The Board then discussed the application of ***Deidre Disanza.*** The members felt that if the applicant could bring the square footage closer to the R-15 zone, they could look more favorably on it. They all felt that the applicant should bring down the encroachments somewhat. The members felt that he would have to provide the side yard and front yards that is required by the R-15.

The Board felt that the applicant should be notified that they do provide the plans, and that they simply review and apply the zoning law and the Municipal Land Use Law. They felt that the applicant should go back to his architect and adhere to the R-15 zone, without exceeding it and go from there. He should be advised that it means sides and front dimensions.

The Board also felt that they would do a site inspection and look at the neighborhood and how this application would fit in.

ADJOURN:

There being no further business to come before the Board, by motion of Mr. Walker and seconded by Mr. Hoskins, the meeting was adjourned at 10:30 pm.

Respectfully submitted,

Margot Hamlin,
Transcriber