TOWNSHIP OF EAST HANOVER
LAND USE PLANNING BOARD

411 Ridgedale Avenue
East Hanover, NJ 07936
Phone: (973) 888-6021
Fax: (973) 428-3026

AGENDA FOR THE LAND USE PLANNING BOARD MEETING ON
Tuesday September 22, 2026, At 7:00 PM
411 Ridgedale Avenue East Hanover NJ
No new matters considered after 10:00 p.m. - No new testimony beyond 9:30 p.m.

CHAIRMAN CALL THE MEETING TO ORDER AT 7:00 P.M

FLAG SALUTE AND INVOCATION: Mbr. Knoll

OPEN PUBLIC MEETING ACT:

Letter of Appointments of Members from the Mayor

Oath of Office of New Members

ROLL CALL:

Election of Vice Chairman for 2026

APPROVAL OF MINUTES: July 27, 2026

PUBLIC INPUT:

SWEARING IN OF PROFESSIONALS: Darlene Green & Craig Zimmermann

DISCUSSION:

RESOLUTION:

1. Hanover Owner LLC, 59 Route 10, Block: 99 Lot: 12.02 Variance for signage Zone SED
2. Christopher Odi, 51 South Ridgedale Avenue, Block: 128 Lot: 8 Variance for floor area for 864 sq ft detached garage.

PUBLIC HEARING:

1. 134 Ridgedale Ave LLC – Daniel Saporite, 134 Ridgedale Avenue Block: 130 Lots: 11.05 Preliminary & Final Site Plan & D1 Use Variance for outdoor storage.

2. Performance Ford of East Hanover LLC, 181 & 189 Route 10 East, Block: Lots: 6 & 7.02 – Extension of Time - Resolution 19-2024

Any other variances and or waivers that may be required for the above application.
ANY OTHER BUSINESS THAT MAY COME BEFORE THE LAND USE BOARD:

ADJOURNMENT:

Lisa G. Kiss
Land Use Planning Board Secretary

TOWNSHIP OF EAST HANOVER
LAND USE PLANNING BOARD

411 Ridgedale Avenue
East Hanover, NJ 07936
973-888-6021
Fax 973-428-3026

LEGAL NOTICE FOR LAND USE PLANNING BOARD MEETING ACTION TAKEN
PLEASE TAKE NOTICE THAT the Land Use Planning Board of the Township of East Hanover held a meeting on Tuesday September 22, 2026, at 7:00 PM in the Townhall, located at 411 Ridgedale Avenue East Hanover, NJ, and the following actions were taken.
Minutes: July 27, 2026, approved

RESOLUTIONS:

1. Hanover Owner LLC – 59 Route 10, Block: 99 Lot: 12.02 Variance for signage Zone SED RESOLUTION APPROVED
2. Christopher Odi, 51 South Ridgedale Avenue, Block: 128 Lot: 8, Variance for floor area for 864 sq ft detached garage. RESOLUTION APPROVED

PUBLIC HEARING:

1. 134 Ridgedale Avenue LLC – Daniel Saporite, 134 Ridgedale Avene Block: 130 Lot: 11.05 Preliminary & Final Site Plan & Di Use Variance for outdoor storage APPLICATION APPROVED RESOLUTION ON OCTOBER 27, 2026
2. Performance Ford of East Hanover LLC, 181 & 189 Route 10 East, Block: 6 & 7.02 Extension of Time – Resolution 19-2024. CARRIED TO OCTOBER 27, 2026

This notice is sent in accordance with P.L.2025, Chapter 72 of the Laws of the State of New Jersey

Lisa Kiss
Land Use Planning Board Secretary

Minutes of the Township of East Hanover Land Use Planning Board Meeting held on Tuesday September 22, 2026, located at East Hanover Township 411 Ridgedale Avenue.

Chairman Elwood called the meeting to order at 7:00 P.M.

Flag Salute and Invocation: Mbr. Knoll

Roll Call:	PRESENT	ABSENT
	Lombardi	Cosenzo
	Lembo	LaSalvia
	Castano	
	Knoll	
	Orgel	
	Forgione	
	Elwood	

Also Present: William Rush, Esq., Land Use Planning Board Attorney
Darlene Green, AICP, PP, Township Planner
Craig Zimermann P.E., Township Engineer
Lisa Kiss, Board Administrator

APPROVAL OF MINUTES: July 27, 2026

SWEARING IN OF PROFESSIONALS: Darlene Green, Craig Zimmerman

PUBLIC INPUT: None

DISCUSSION: None

Transcripts:
134 Ridgedale Ave LLC – Pages 1 to 63
134 Ridgedale Ave LLC – Page 94 to 177
Performance Ford LLC – Page 64 to 93

RESOLUTION:

Hanover Owner LLC, 59 Route 10 Block: 99 Lot: 12.02 – Variances for signage on Route 10 and Ridgedale Avenue (Cold Storage)

Applicant granted four freestanding signs along Route 10 consisting of two monument signs and two directional signs. And 7 wall signs, with two located internally on the site and not visible from the road

Resolution Approved

Christopher Odi – 51 South Ridgedale Avenue, Block: 128 Lot: 8 – Variance for floor area for 864 sq ft detached garage.

Applicant granted to construct a 24 x 36-foot detached accessory garage, approximately 864 square feet, for personal vehicle storage and residential storage. No commercial use on property.

Resolution Approved

PUBLIC HEARING:

134 Ridgedale Avenue LLC – Daniel Saporite, 134 Ridgedale Avene Block: 130 Lot: 11.05
Preliminary & Final Site Plan & variance for outdoor storage

Present:
Attorney: Rosemary Stone-Dougherty, Esq.
Engineer: Frank Matarazzo, P.E.
Applicant: Daniel Saporite
Planner: Alexander Dougherty, PP, AICP

Exhibits:
A-1: Colorized Existing Conditions Plan, Sheet 2 of 2, last revised June 2, 2026.

Attorney Rosemary Stone-Dougherty appeared on behalf of the applicant. The application seeks to legalize approximately 15,000 square feet of outdoor storage behind the existing building. The property contains Last Licks ice cream shop, a monument business, and a rear yard used by a landscaping tenant. Purchased the property approximately twelve and one-half years earlier.

Frank Matarazzo the existing building, paved parking and driveway areas, gravel storage yard, fencing, and six storage containers. Enter the rear storage yard from the existing driveway and enter through the gate behind the building.

The proposed improvements include pavement seal coating as needed and striping to provide 13 parking spaces, consisting of the existing five front spaces and eight additional spaces along the side. Will install a six-foot-high slatted chain-link fence along the property line. The shed will be removed.

The Board raised concerns regarding the number and size of vehicles using the storage yard, whether more than one landscaping business was operating there, and the owner's responsibility for monitoring tenant activities. Chairman Elwood also raised concerns about fuel cans, fertilizer, and equipment repairs observed at the property. The Board Engineer recommended prohibiting vehicle and equipment repairs and oil changes because of the potential for spills into the gravel surface. They agreed that no repair activities are permitted.

The applicant agreed to provide a ten-foot-wide landscaped strip in front of the storage-yard fence, on both sides of the gate, with staggered evergreen plantings at least six feet high at installation. The landscaping will be maintained and dead plantings replaced. The proposed landscaping will reduce impervious coverage.

At counsel's request, the Board temporarily held the application while the applicant and its professionals conferred regarding the Board's comments and parking calculations. The Board proceeded with the Performance Ford application, with the Ridgedale hearing to resume later in the meeting.

PUBLIC HEARING:

Performance Ford of East Hanover, LLC, 181 and 189 Route 10 East, Lots: 6 and 7.02. Request for a one-year extension of final site plan approval.

Present:
Attorney: Steven C. Schepis, Esq.
Licensed Site Remediation Professional: Edward G. Stratton

Attorney Steven C. Schepis appeared on behalf of the applicant and referenced his August 27, 2026 letter requesting the extension. Counsel stated that implementation of the approved improvements had been delayed by environmental remediation associated with the former dry-cleaning operation on the property.

Edward G. Stratton stated the former dry-cleaning operation had caused soil and groundwater contamination. A substantial excavation had previously been performed, approximately 100 feet long, 50 feet wide, and 18 feet deep. Additional investigation indicated that remaining contaminated soil continued to affect groundwater and that further excavation would be necessary. Bids are obtained for additional excavation and backfilling. Once commenced, the excavation and backfilling work was expected to take approximately one week. He anticipated that the soil work could be completed within one year and hoped to perform it during calendar year 2026, subject to weather, and necessary for disposal. Nine monitoring wells were located on the property.

Mr. Schepis stated that he had met with the dealership's new manager, provided the approval resolution, and explained the six-vehicle limitation. He stated that he had observed six vehicles on the property that evening and had received assurances of future compliance.

The Board discussed fencing portions of the property to prevent unauthorized vehicle storage and protect the area when excavating starts. The possibility of retaining a 24-foot-wide driveway for access from Farinella Drive was discussed. The Board also raised concerns about car-carrier unloading and the continued expenditure of Township enforcement resources.

Mr. Schepis stated that he did not have authority to agree to the proposed fencing restrictions and requested that the extension application be carried, so that he could confer with his client and return with a proposal. The Board agreed that Mr. Stratton would not need to return unless circumstances changed or further testimony was requested, and that updated information could be submitted to the Boards professionals.

Mbr. Lombardi made a motion to carry the application to October 27, 2026. Second Mbr. Castano.
All Ayes.
The application was carried to October 27, 2026. No extension was granted at this meeting.

PUBLIC HEARING — CONTINUED

134 Ridgedale Ave, LLC – Daniel Saporite, 134 Ridgedale Avenue, Block: 130 Lot: 11.02. Application for variance relief to legalize an existing outdoor storage area at the rear of the property. Property located in the I-3 Light Industrial Zone District.

Mr. Matarazzo stated that 13 parking spaces exceed the requirement and that no parking variance is required. The calculation will be included in the plans.

Open to Public: None

Daniel Saporite, owner/operator of Last Licks, stated that summer hours for the ice cream shop are 11:00 A.M. to 10:00 P.M. Winter hours are 11:00 A.M. to 9:00 P.M., with an additional hour on Fridays and Saturdays. The seasonal schedules generally change around Memorial Day and Labor Day. The monument business operates primarily by appointment, with relatively infrequent visits.

Mr. Saporite described the prior rear-yard storage activities and his replacement with deteriorated fencing. He stated that moving the front fence line farther back reduced the area enclosed for storage and improved the appearance of the property. He agreed to correct the fence encroachment into the Township right-of-way. The landscaping vehicles leaving in the morning and returning in the afternoon, before the ice cream shop's busiest evening period. He ensures that the storage-yard gate is closed each night and to take a more active role in monitoring the tenant's activities. The applicant also agreed to make the existing rear security camera functional.

Open to Public: None

Conditions of approval include:

The applicant shall comply with the Board Engineer's review letter dated July 31, 2026, and address the Board Planner's review letter dated July 31, 2026.

The plans shall show the parking calculation, the 13 parking spaces serving the building, and the required dimensions, striping, and signage for the van-accessible parking space.

The proposed 10-foot by 10-foot shed shall be removed from the plans.

The fence encroachment into Shanley Avenue right-of-way shall be removed, and the fence shall be relocated onto the applicant's property. The storage yard shall be enclosed with six-foot-high slatted chain-link fencing.

The storage containers shall be located five feet from the property line.

The rear storage yard shall be limited to no more than two tenants.

No more than 16 vehicles, trailers, and pieces of equipment shall be stored in the rear yard, in addition to the six storage containers. Each trailer and each separate piece of equipment shall count toward the 16-item limit.

Vehicles associated with storage use shall be under 26,000 pounds and shall not require a commercial driver's license.

134 Ridgedale Ave, LLC – Daniel Saporite, 134 Ridgedale Avenue, Block: 130 Lot: 11.02.

Revised plans to delineate the areas for storage along the sides of the yard and the center area reserved for circulation and maneuvering. No storage shall be permitted in the center circulation area.

Employees of the storage-yard tenant or tenants shall park within the storage yard rather than in the parking area serving the building.

A ten-foot-wide landscaped strip shall be provided in front of the storage-yard fence on both sides of the gate, with staggered evergreen plantings at least six feet high at installation. Landscaping shall be maintained, and dead plantings shall be replaced.

The plans will be revised to show the landscape and the resulting reduction in impervious coverage.

A railing shall be installed at the end of the ice cream shop's ramp, as discussed on the record, to prevent pedestrians from proceeding directly into the driveway.

No vehicle or equipment repairs or oil changes shall be performed in the storage area. No bulk materials, oil, or flammable materials shall be stored on the property, as stated during the Board's final review of conditions.

The applicant shall ensure that the storage-yard gate is closed each night, make the existing rear security camera functional, and actively monitor the storage use for compliance with the approval restrictions.

Open to public: None.

Will comply with Planners report dated July 31, 2026, Engineering report dated July 31, 2026.

Mbr. Forgione made a motion to approve the application, Second Mbr. Lombardi
Roll Call: AYES: Lombardi, Castano, Lembo, Knoll, Orgel, Forgione, Chairman Elwood.
NAYS: None.
Application approved.

ADJOURNMENT:

Mbr. Lombardi made a motion to adjourn the meeting. Second Mbr. Knoll.
All Ayes.
The meeting was adjourned at 10:28 P.M.

Respectfully submitted,

Lisa G. Kiss
Land Use Planning Board Secretary

TOWNSHIP OF EAST HANOVER
LAND USE PLANNING BOARD
REGULAR MEETING
EAST HANOVER MUNICIPAL BUILDING
415 Ridgedale Avenue
East Hanover, New Jersey 07936
Tuesday, September 22nd, 2026
Commencing at 7:02 p.m.

STENOGRAPHIC
TRANSCRIPT OF
PROCEEDINGS

- -

BEFORE THE EAST HANOVER LAND USE PLANNING BOARD
THERE BEING PRESENT:

ALAN ELWOOD, CHAIRMAN
COUNCILMAN FRANK DEMAIO (Absent.)
COUNCILWOMAN CAROLYN JANDOLI (Absent.)
GARY LOMBARDI
SIGI LEMBO
FREDERICK MARRA (Absent.)
MAURO CASTANO
STEPHEN COSENZO (Absent.)
LINDA KNOLL, Alternate #1
JUSTIN ORGEL, Alternate #2
MATHEW LASALVIA, Alternate #3 (Absent.)
CARLO FORGIONE, Alternate #4

A L S O P R E S E N T

DARLENE GREEN, P.P., AICP, Board Planner
CRAIG ZIMMERMANN, P.E., Board Engineer
LISA KISS, Board Administrator

TRANSCRIBED BY AND BEFORE:
Patricia A. Pucciarello, Professional Court Reporter,
and Notary Public of the State of New Jersey

SENTRY COURT REPORTING
&
LITIGATION SERVICES

100 Hanover Avenue, Suite 202
Cedar Knolls, New Jersey 07927
(973) 998-8685

APPEARANCES:

WILLIAM RUSH, ESQUIRE
Counsel to the Board

A.Y. STRAUSS ATTORNEYS AT LAW
BY: ROSEMARY STONE-DOUGHERTY, ESQ.
290 West Mount Pleasant Avenue
Suite 3260
Livingston, New Jersey 07039
973-287-0966
Counsel for the Applicant

LAW OFFICES OF STEVEN C. SCHEPIS, LLC
BY: STEVEN C. SCHEPIS, ESQ.
339 Changebridge Road
Pine Brook, New Jersey 07058
973-882-8400
Counsel for the Applicant

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EXHIBITS

NO.	DESCRIPTION	ID	EVD
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(Exhibits retained by counsel.)			

CHAIRMAN ELWOOD: I'd like to call the meeting to order. Please rise for the flag salute.

(All rise for a recitation of the Pledge of Allegiance.)

MS. KNOLL: Dear Lord, bless the individuals who volunteer their time to evaluate, deliberate, and vote on the wishes of the community. Give them the wisdom and fortitude to make the proper decisions for the Township of East Hanover. Amen.

CHAIRMAN ELWOOD: Adequate notice of this meeting held September 22nd, 2026, was provided by posting this resolution to the township website and the Daily Record which are circulated in East Hanover, New Jersey, and by filing a copy to all applicable parties, authorities and agencies.

This meeting is being held and conducted in accordance with PL 2025, Chapter 72 of the laws of New Jersey.

Can I get a roll call?

MS. KISS: Member Lombardi.

MR. LOMBARDI: Here.

MS. KISS: Member Castano.

MR. CASTANO: Here.

MS. KISS: Member Lembo.

MR. LEMBO: Here.

MS. KISS: Member Knoll.

MS. KNOLL: Here.

MS. KISS: Member Orgel.

MR. ORGEL: Here.

MS. KISS: Member Forgione.

MR. FORGIONE: Here.

MS. KISS: And Chairman Elwood.

CHAIRMAN ELWOOD: Here.

MS. KISS: Also present is Mr. Rush, our attorney; Mr. Zimmermann, our engineer; and Mrs. Green, our planner. Thank you.

CHAIRMAN ELWOOD: Thank you. Okay. I need approval of the minutes from July 27th.

MR. CASTANO: I make a motion to approve the minutes from July 27th.

MR. LEMBO: I'll second.

CHAIRMAN ELWOOD: We have a motion and a second.

MS. KISS: All in favor?

(Unanimous Aye.)

CHAIRMAN ELWOOD: Public input. At this time, if anybody has anything to speak about that is not on tonight's agent, please step up to the mike, state your name and address.

MR. LOMBARDI: I'll like to make a

motion to close public.
MS. KNOLL: Second.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
CHAIRMAN ELWOOD: Okay. Resolution, Hanover Owner, LLC.
MR. RUSH: Okay. This was an application basically for a sign package on the already approved project on Route 10 in -- let's see. They were looking for five bulk variances.
The Board approved this application with certain conditions. There were standard conditions and then there were significant conditions that were placed more or less relating to, you know, the signs, size of the signs and things of that nature. So if you want to go through them all, there were additionally 32 conditions.
CHAIRMAN ELWOOD: Yeah, I don't think we need to go through them all. We went back and forth with them, they made the changes. I think everybody is pretty good on that, so I need a motion to approve Resolution 24-2026.
MS. KNOLL: I'll make a motion to approve Resolution 24-2026.
CHAIRMAN ELWOOD: Anyone second?

MR. ORGEL: Second.
MR. FORGIONE: I second.
CHAIRMAN ELWOOD: Roll call.
MS. KISS: Member Castano.
MR. CASTANO: Yes.
MS. KISS: Member Lembo.
MR. LEMBO: Yes.
MS. KISS: Member Knoll.
MS. KNOLL: Yes.
MS. KISS: Member Orgel.
MR. ORGEL: Yes.
MS. KISS: And Chairman Elwood.
CHAIRMAN ELWOOD: Yes.
MS. KISS: Thank you.
CHAIRMAN ELWOOD: Okay. Then we have Resolution 25-2026 for Christopher Odi, 51 South Ridgedale Ave.
MR. RUSH: Okay. And, again, this was an application for construction of a detached accessory garage that was 24-by-36, 864-square feet floor area to be used solely for the resident's personal vehicle and storage.
It required a bulk variance and had three preexisting conditions, and the Board approved this unanimously with the standard conditions and had

additional conditions for the -- 50 conditions on this one, so...
CHAIRMAN ELWOOD: This one was a very cut-and-dry, simple application. I need a motion for approval.
MR. CASTANO: I make a motion to approve 25-26.
MR. ORGEL: Second.
CHAIRMAN ELWOOD: We have a motion and a second. Roll call, please.
MS. KISS: Member Castano.
MR. CASTANO: Yes.
MS. KISS: Member Lembo.
MR. LEMBO: Yes.
MS. KISS: Member Knoll.
MS. KNOLL: Yes.
MS. KISS: Member Orgel.
MR. ORGEL: Yes.
MS. KISS: Member Forgione.
MR. FORGIONE: Yes.
MS. KISS: And Chairman Elwood.
CHAIRMAN ELWOOD: Yes.
MS. KISS: Thank you.
CHAIRMAN ELWOOD: Okay. All right. Public hearings. 134 Ridgedale Ave, LLC, Daniel

Saporite, if I'm saying that right?
MR. SAPORITE: "Saporite."
MS. STONE-DOUGHERTY: Saporite.
CHAIRMAN ELWOOD: Saporite.
Oh, I'm sorry, hold on. We need to swear in our professionals. My fault.
MR. RUSH: Do you swear or affirm the testimony you should give the Board shall be the truth and the entire truth?
MS. GREEN: Yes, I do.
MR. ZIMMERMANN: Yes, I do.
MR. RUSH: Thank you.
CHAIRMAN ELWOOD: Okay. Ms. Stone-Dougherty, go ahead.
MS. STONE-DOUGHERTY: Yes. Thank you, Mr. Chairman, Members of the Board, Board professionals, Counsel. Attorney Rosemary Stone-Dougherty with the law firm of A.Y. Strauss here tonight on behalf of the applicant as indicated, 134 Ridgedale, LLC, who is the owner of the property located at 134 Ridgedale Avenue in East Hanover, also known as Block 130, Lot 1102, which is located in the I-3 light industrial zone.
With us tonight, we have an application to request to legalize the outdoor

storage that's occurring at the rear of the property. It's 15,000 square feet, all of us that have been residents in the town for at least the last two decades recognize.

In your application packets, I provided aerial photos going back to 2006 to show there is quite a long history of outdoor storage being done at this property in the rear.

What's interesting is my client has been at the property for 14 years. Although they did acquire the property only two and a half years ago, the 14 years they have been there, there has been outdoor storage to the rear because the previous owner/operator had a tree company and prior to that, a landscaping company, et cetera, in the back.

So this site does have a long history even with the applicant operating there of having that outdoor storage used at the rear.

However, in going through the old resolutions, even when the -- apologies -- I'm sorry. I was going to say, nobody ever told me I'm quiet.

Even going through the old records, it is correct that even in the previous resolution of approval for the predecessor ice cream parlor on the site, there was never any mention about the outdoor

rear storage being legalized or permitted. And that was what we are here tonight for the Board to ask for those variances for. All the variances that we will be seeking are directly correlated to the outdoor storage on the site.

So what I have for you tonight, Board members and Mr. Chair, is we have our engineer Mr. Frank Matarazzo, who is going to go through what the existing site is and some of the improvements my client is going to make to the site.

As well as we have a representative of 134 Ridgedale which is also a representative of the current Last Licks ice cream parlor, which is Mr. Daniel Saporite, who will explain how the two uses work together on the site.

And then thirdly, we have Mr. Alexander Dougherty, who hopefully will be here momentarily from his job at Dover to come in and provide planning.

With that being said, if we could start by having Mr. Matarazzo sworn in.

MR. RUSH: Raise your right hand.

Do you swear or affirm the testimony you should give the Board shall be the truth and the entire truth?

THE WITNESS: Yes, I do.

MR. RUSH: Can you state and spell your name for the record, please?

THE WITNESS: Frank Matarazzo, M-A-T-A-R-A-Z-Z-O.

MR. RUSH: Thank you.

VOIR DIRE EXAMINATION

BY MS. STONE-DOUGHERTY:

Q. So Mr. Matarazzo, I know you've appeared in front of this Board multiple times; is that correct?

A. Correct.

Q. As of this evening, all of your licenses are still current and active?

A. That is correct.

MS. STONE-DOUGHERTY: Mr. Chairman, would you like me to give a full voir dire?

CHAIRMAN ELWOOD: Mr. Matarazzo has been here plenty of times. We'll accept his qualifications.

MS. STONE-DOUGHERTY: Great. Thank you very much.

CHAIRMAN ELWOOD: As long as he talks into the microphone.

THE WITNESS: Okay.

MS. KISS: It's on.

THE WITNESS: You sure?

MS. KISS: Yup.

(Exhibit A-1, Existing Conditions, is marked as Applicant's Exhibit 1 for identification.)

DIRECT EXAMINATION

BY MS. STONE-DOUGHERTY:

Q. So Mr. Matarazzo, you heard my introduction, so can we maybe start by -- I guess we'll introduce this as A-1, Counsel, since it is a colorized version of the existing conditions plan, correct, that are in the Board member packets?

A. That's correct.

Q. And just confirm the date on your plan, the last revised date?

A. Last revision is June 2nd, 2026.

Q. Perfect. Thank you so much.

And it's just one page, correct, that's colorized?

A. Correct. Sheet 2 of 2 the site plan.

Q. Perfect.

Okay. So can you give the Board just kind of an overview of the existing conditions on the site today?

A. Sure. Well, the site's located on the

northerly side of Ridgedale Avenue opposite Murray Road. To the north is Rix pool service or as you look at this plan on the right side. On the left or would be the west -- westerly side is Richie's Automotive.

It's located in the I-3 zone. There's a one-story masonry building located near the front of the site where is the existing Last Licks ice cream shop. There's a second tenant in that building located in the rear.

The area I have shaded in gray is the existing pavement area on the site. So there's a two-way driveway coming in on the southerly side of the site off of Ridgedale Avenue. There's an existing parking lot in the front with five spaces, five parking spaces.

The area to the rear is currently fenced off and it's all -- the area I have shown here in white is actually the existing gravel area. There's six containers located in the rear of the site, six storage containers located in the rear.

Drainage pattern are basically from the front of the building, the stormwater flows towards Ridgedale Avenue; from the back of the building, it flows out towards Shanley Avenue.

Shanley Avenue is an existing unimproved roadway which is township property, it's a township right-of-way.

And as far as proposed improvements, we're proposing to stripe the westerly side of the parking lot, and we're proposing three new parallel parking spaces and then five perpendicular parking spaces, which is basically the overview of the site.

Q. Right. Besides the striping, the client is proposing any updated seal coating or anything that might be needed in both the front and the rear, correct?

A. Correct.

Q. To help bring back that pavement?

A. Correct.

CHAIRMAN ELWOOD: So Mr. Matarazzo, just for clarification, what's the total number of parking spaces?

THE WITNESS: Thirteen parking spaces.

CHAIRMAN ELWOOD: Okay. Thank you.

THE WITNESS: Also, there's an existing fence along the rear of the property which encroaches onto Shanley Avenue. We're proposing to remove that fence, remove that encroachment from the right-of-way and construct a new fence along the

property line of the site. That will be a six-foot-high chain link fence with slats.

Other than that, there's really no new construction improvements proposed. It's basically utilizing the site as it currently exists with the addition of some striping just to better manage parking on the site itself.

BY MS. STONE-DOUGHERTY:

Q. And just for clarity, because there is something on the plan that is not being proposed, correct? In the rear section that shows a proposed shed, there's actually no shed that's being proposed, correct?

A. Right, we show a proposed shed on the back of the property, but that shed will no longer be proposed.

Q. And just for clarity to follow up on Mr. Chairman's question about parking, I believe your testimony was there's 13 parking spaces being shown, correct, and 11 are what's required, correct?

A. Correct.

Q. Okay. So we do exceed parking. There's no variances associated with parking on the site, correct?

A. Correct. There are several variances

that we are proposing as part of this application, one is for the variance for a buffer area along Shanley Avenue, which is in the back.

The other is technically storage area in the front yard because we have frontage along a public right-of-way, that that is technically the front yard.

The accessory structure, side yard setbacks relating to these containers, they range from two-and-a-half to approximately three-and-a-half-foot setbacks where ten feet would be the minimum requirement.

Q. And before you move on, though, just touching base on the containers, under East Hanover's ordinance, do you know that even though the containers are movable, they're not, you know, cement, they are considered a structure, so that does require a setback?

A. That's correct.

And lastly would be the size of the proposed outdoor storage area here. We're proposing 15,000 square foot, where I think somewhere on our counts, 4,000 square feet is allowable. Well, it's actually a percentage of the proposed building's coverage. So we're proposing 41.1 percent where

15 percent would be required.
Q. Right. So 5,471 square feet, correct?
A. Right.
Q. And that is completely based off the calculation of building size for outdoor storage in the I-3 zone, correct?
A. Correct.
Q. So, again, if there's like a bigger building like next door at Rix, they'd have a lot more outdoor storage?
A. You'd have more allowable storage area.
Q. Okay. And then there's several preexisting nonconforming conditions. I think, just for clarity of the record, you can highlight them very quickly. I know you show them on the plan, but those are not new variances being sought here this evening, correct?
A. Yeah, we have existing side yards -- well, we -- we have lot area, we have currently 36,475 square feet where the minimum lot area in the I-3 zone will be 130,680 square feet.
Lot frontage at the street line, 200 feet is required, where 105.74 currently exists. Front yard along Ridgedale, 75 feet is required off

the main building, where 74.1 currently exists.
Combined side yard, as I mentioned, 25 feet required, where 15.3 currently exists. And then combined side yard, which would be 60 feet combination of both side yard and added together, 55.2 currently exists, where 60 would be the minimum requirement.
Q. And then additionally, of course, the original D(1) use variance that allows the ice cream parlor to exist to begin with, correct?
A. Um-hmm.
Q. And then something that the planner picked up on as well is even though our client has not made any changes to the exterior of the property, based off the previous resolution of approval as far as changes in paving and gravel, it does appear that the site now is at 90.8 percent impervious coverage, correct?
A. Correct.
Q. Okay. And so just for cleaning up those preexisting conditions and that not matching a previous site plan approval prior to our clients owning the property, that would be part of the variance relief sought this evening, correct?
A. Correct.

Q. So can you give the Board a little bit of flavor as to how the operation would work as far as any vehicle maneuvers in and out of the site?
A. Well, all of the vehicles would utilize the driveway out in the front. Patrons of the ice cream shop would pull in, utilize the parking spaces in the front, with excess would be parking in the blue-striped areas on the left side.
The vehicles utilizing the outdoor storage area in the back would drive straight through the site and into that outdoor storage area and, again, pulling straight out again.
So the two uses will never really interfere with each other. The hours of operation of the ice cream shop, I believe it's open at 10 a.m.
Q. 11 a.m.
A. 11 a.m. And they're open till 10 p.m. The outdoor storage area which will be used by the landscaping operation leaves the site at 7 a.m. and they return back at 4 p.m. It's mostly during the summer hours. Winter, it's really just for snowplowing that they use the site.
Q. Right. So for winter, really, both uses are even less, right?
A. Even less.

Q. The ice cream and the landscaping, right?
A. Correct.
Q. Okay. And then as far as the properties behind us, right, those -- there's some lots. If you can maybe point them out on your key map that are behind the property on the unimproved Shanley?
A. Yup, right there (indicating).
Q. And those are zoned residential, correct?
A. Yes.
Q. Okay. As an engineer with your expertise, what's the likelihood those lots would be developed for residential purposes anytime in the near, you know, 50 to a hundred years probably?
A. It would be a heavy lift to develop those properties. You have the Whippany River which has a floodplain associated with it and most likely, there are some wetlands associated on those lots as well.
Plus, we would have to improve Kane Place and Shanley Avenue just to get access to those lots. So it's highly unlikely in the near future that those lots would be developed for residential.

Q. But, again, that is triggering because Shanley is an unimproved right-of-way and it is on residential there, that is triggering the buffer requirement and the storage in the front yard, correct?

A. Correct. Correct. Currently, there's nothing back there except wooded areas. There's really -- buffering for that area is really kind of -- I don't want to say useless. It doesn't really serve any purpose.

Q. Okay. You had an opportunity to review the Board engineer's engineering review letter of July 31st, correct?

A. Yes.

Q. Okay. So just quickly highlighting, anything in his really honestly 13 comments, was there anything -- you know, most of them are addressed as "comment addressed." Is there anything that you're concerned about that maybe you can't address as an engineer or anything that maybe you disagree for some reason with the Board engineer about?

A. No, no. It's pretty straightforward.

Q. And were you able to address Comment Number 9 regarding the ADA-accessible parking space

about the adequate leave and space regulation?

A. The space that's there now appears to be compliant with a van-accessible space, but what we will do is dimension it to show that it's compliant.

Q. And if it's not compliant, based on the survey and the site work you've done, do you feel like you can make it compliant --

A. Absolutely.

Q. -- without losing any of the other parking spaces?

A. Absolutely.

Q. Okay. Thank you.

And then switching gears now to the Board's planning report done by the Board's planner, I know not all of these are really engineering, a lot of them are planning-related commentary. Okay?

But in regards to any of the engineering questions, more particularly under Survey and Site Plan which starts on page 8, Item Number 11, okay, was there anything in the letter that you felt that wasn't addressed or could not be addressed or that you disagreed with?

A. Item 11.

Q. Starting with Item 11, going through Survey and Site Plan, that will take you basically

Item 11 to Item 16?

A. No, I think that's Item 12. I think we discussed the -- we did discuss the site circulation just now. And, no, that would be it.

Q. Okay. And then what about Item 16, the concern about there not being enough replacement trees or concerns that there might have been some tree removal done in 2023 and 2024?

A. As far as what?

Q. As far as any replacement trees or if our client would be willing to do the 200 per replacement tree into the township's tree fund?

A. Yeah, there's no proposal to plant trees on the site.

Q. Right, but you did look at an area, right? You looked at that sloped area in the back behind the building, but determined that really wasn't a healthy area to be able to plant some trees there, correct?

A. That area is -- it's a steep slope. I think it would be difficult for trees to thrive on such a steep slope. I wouldn't recommend planting trees on the slope.

Q. But we did look at some areas and given that situation, the client is willing to

obviously pay for any replacement trees into the tree fund, correct?

A. Yes.

Q. Okay. And then I think that's it on the engineering-related comments on the Board's planing memo. Is there anything that you'd like to conclude with, Frank?

A. No, I think that just about covers it all.

Q. Well, don't go anywhere.

A. No, I won't go anywhere.

CHAIRMAN ELWOOD: Mr. Matarazzo, so the 13 parking spaces, I assume are for the building for the ice cream shop and the monument?

THE WITNESS: Yes.

CHAIRMAN ELWOOD: So the employees of the landscaping company, where are they supposed to park?

THE WITNESS: They're going to park in the outdoor storage unit.

CHAIRMAN ELWOOD: That's not where they currently park.

THE WITNESS: Well, that's where they're going to park.

MR. LEMBO: Unless they were all

bussed in the other day.

MS. STONE-DOUGHERTY: Well, I'm going to have Mr. Saporite provide testimony, but the Board will hear that they do park behind the gate is what some Board members may have been seeing, may not, depending on how long they were there.

You do have some of Rix employees who park behind there and then they walk around or walk over when Rix is really busy in the summer because Rix doesn't have enough parking for their employees. So I don't know if that's what --

MR. LEMBO: I mean, all the trucks were out and there were -- what was it, one or two vehicles in the parking lot?

CHAIRMAN ELWOOD: Three was three inside the storage area and there was 15 along the back fence.

MS. STONE-DOUGHERTY: Right. So you'll hear Mr. Saporite, but he does have a good relationship with Rix, has for many years, even before he owned the property, because Rix has been nice enough, you'll hear it in his own words and his own testimony.

I mean, you guys know, you live in town, sometimes people would rather park in the front

than along the side or the gravel or, you know, on the side of it, and sometimes park at Rix and come to his ice cream parlor, and he returns the favor and allows those seasonal employees to park in the rear.

And Rix does have a rather large crew of seasonal employees and they go out in their trucks and do their work. And this is pool-closing season, so a lot of those vehicles you saw were probably those vehicles.

CHAIRMAN ELWOOD: Okay. Was any consideration done being that Shanley Avenue has two front yards to making an entrance on that side?

THE WITNESS: No, we didn't consider it because -- do you mean the entrance to the outdoor storage area?

CHAIRMAN ELWOOD: Um-hmm.

THE WITNESS: No, you'd have to improve Shanley Avenue just to get to it.

CHAIRMAN ELWOOD: Okay. I'm just asking the question. I'm not telling you you had to.

MS. STONE-DOUGHERTY: Well, just by -- I'm sorry.

CHAIRMAN ELWOOD: Go ahead.

BY MS. STONE-DOUGHERTY:

Q. My follow-up to that, and I know the

Board planner is able to illustrate better, you actually have to get through a few things to be able to develop Shanley in the back there to come around, correct?

A. Yeah, yeah, absolutely.

Q. And early-on conversations with the predecessor-in-title was that the town might be more inclined to want to vacant Shanley than see it ever developed.

CHAIRMAN ELWOOD: Okay. When was the fence installed?

MS. STONE-DOUGHERTY: I think Mr. Saporite would have to answer that.

CHAIRMAN ELWOOD: All right. Better question for him, then.

Anybody else up here, some questions?

MR. LEMBO: As far as the outdoor storage, is that just the fenced-in area?

MS. STONE-DOUGHERTY: Yes, sir.

MR. LEMBO: All right. So all the monuments are going to go behind the fence?

MS. STONE-DOUGHERTY: Yes, that is the idea, yes, and not --

MR. LEMBO: Parking and everything for employees?

MS. STONE-DOUGHERTY: Right.

MR. LEMBO: Okay.

CHAIRMAN ELWOOD: Anyone else?

MR. LEMBO: Yeah, one more question.

Is there any way -- I mean, if you're looking to give money to the tree fund, is there any way you could put maybe some trees in front of that so it looks a little bit nicer?

MS. STONE-DOUGHERTY: It would be a question for our engineer.

BY MS. STONE-DOUGHERTY:

Q. I mean, is there any way to put even a small tree line on the inside of the fence so you don't lose parking?

A. Yeah, you could do that, put them right along the fence, let's say.

MS. STONE-DOUGHERTY: So the answer to your question is yes, that could be done. And I'm seeing my client nod, so they would be willing to do that, yes.

MR. LEMBO: I'd rather see him spend it there than just going into a fund.

MS. STONE-DOUGHERTY: This is why we come here. Sometimes we don't find the obvious.

MR. LEMBO: And as far as trucks going

in there, can we limit the size? Because we don't want five years down the road, you got all these tri-axles parked back there coming through.

MS. STONE-DOUGHERTY: Well, the easy answer is, I know you know this, but the answer is yes. In our application, we kind of self-limited ourself to nothing bigger than 15 feet in length, but we can certainly discuss, you know.

MR. LOMBARDI: Fifteen feet, that's a little short.

MS. STONE-DOUGHERTY: Listen, I'm just telling you what the tenant told me because I had Googled it and I said that doesn't seem right.

MR. LOMBARDI: Yeah.

CHAIRMAN ELWOOD: That's not accurate, though, because when a vehicle is pulling out, a truck and a trailer, it's certainly not 15 feet.

MR. LOMBARDI: Even a pickup is like 19 feet long.

CHAIRMAN ELWOOD: Yeah, yeah.

MR. LOMBARDI: Yeah, that you might want to change to --

MR. SAPORITE: I'll answer. We --

CHAIRMAN ELWOOD: You have to wait till you come up and get sworn in.

MS. STONE-DOUGHERTY: I mean, we did. I even called the client. I said, I don't think that's right, and I'm just using AI.

But, yes, we certainly have no issue because -- and you'll hear from the client when he testifies, he operates on the site, he doesn't want large, you know, big vehicles.

MR. LOMBARDI: You can do like a CDL.

MS. STONE-DOUGHERTY: No paving vehicles, anything that requires CDL, anything like that coming on the site because that would just not be the right mix of use for him.

CHAIRMAN ELWOOD: Mr. Zimmermann.

MR. ZIMMERMANN: Yes. The applicant has said that they would comply with my letter. They addressed Number 9 in regards to van-accessible handicap parking to make sure that it's posted or the geometry dictates that it is van accessible.

I agree with the applicant's engineer that it can be done as a condition of approval, just to be sure that the signage and the striping and the geometry all is correct.

There's not a lot of engineering involved with this application, per se, with design and stormwater, et cetera. The concern is more

operational and how it is harmony between the ice cream parlor, the monument company, and how to get to it.

You can see that -- and I'm just going to kind of review a little bit of what we've gone through so far. So it's a 15,000-square-foot area that's white or in the back area and essentially penned in with a six-foot-high chain link slatted fence; is that correct? I believe I have that correct.

THE WITNESS: That's correct.

MR. ZIMMERMANN: Some of the fencing on the back at Shanley, which is a right-of-way under municipal ownership or part of the right-of-way, it's a paper street. We all know a what paper street is. It's undeveloped, but it's still -- I mean, you're going to pull back onto your property because you're encroaching a little with the existing fence and you're going to put it as a six-foot fence that completely encapsulates the 15,000 square feet with a gate that is in the front. There's no access anywhere else here except from the asphalt pavement behind the ice cream building into the asphalt storage area; is that correct?

THE WITNESS: Correct.

MR. ZIMMERMANN: Okay.

THE WITNESS: Well, it's gravel.

MR. ZIMMERMANN: It's gravel, right. So from the asphalt area going past the gate it becomes gravel.

THE WITNESS: Correct.

MR. ZIMMERMANN: And all of that is penned in with only one ingress and egress.

THE WITNESS: Correct.

MR. ZIMMERMANN: Okay. The hours of operation, I think, is -- I just want to be sure we all understand that it's on record that -- and I don't know if I have it incorrect on my engineering report or not, the ice cream store is open 11 a.m. to 10 p.m.?

THE WITNESS: Yes.

MR. ZIMMERMANN: That's all year? Is that all year? Is that open all year, the ice cream store?

THE WITNESS: Yeah, they're nodding yes.

MR. ZIMMERMAN: Okay.

MR. SAPORITE: Right now it's 9 o'clock. It changes with the summer hours.

MR. ZIMMERMANN: I think when you come

up, I think we might want to get just an idea of the hours of operation. The reason I'm just a little mildly concerned, we go back to the landscaping company that's using that storage area, I have it 7 a.m. to 4 p.m.?

THE WITNESS: Correct.

MR. ZIMMERMANN: Okay. I had it 7 to 5.

MS. STONE-DOUGHERTY: And that's because when we were discussing it in TRC, and that's the attorney speaking, I always like to give an hour window especially in the summer when daylight hours are longer, so that if the Board were to stipulate, which I know the Board would if they were to grant approval on the application, to provide that window, Mr. Saporite will testify that now they're in by 4, but we all know traffic delays, employees don't make it back to the yard in time, we just -- I always like to put in an extra buffer, but...

CHAIRMAN ELWOOD: But how would that be enforced at all? Or especially you have two guys back there that are both snow removal in the wintertime. It's going to be 24 hours a day.

MS. STONE-DOUGHERTY: Correct. And that was going to be the clarification for winter,

right, when the ice cream parlor is very slow, even though they're open. And, again, it's probably best we just let Mr. Saporite instead of me keep improperly giving testimony.

MR. ZIMMERMANN: Right. There's a certain overlap, which I would like to be clear of, which there is an overlap of the business hours, whether it be landscaping vehicles coming back when the ice cream store is open --

MS. STONE-DOUGHERTY: Shop is operating, correct.

MR. ZIMMERMANN: And I just want to be sure that there's enough of a circulation in the harmony of how this all works together, but we can kind of come back to that.

The gate is locked when -- or how does the security work in regard to the gate? Can you please remind me of that or have that on record?

CHAIRMAN ELWOOD: There is none.

THE WITNESS: I don't think there is any lock on the gate.

CHAIRMAN ELWOOD: The gate is wide open?

MR. ZIMMERMANN: What about at nighttime after 4, 5 p.m.? That's what I'm asking.

Maybe that's something that --

MS. STONE-DOUGHERTY: I mean, currently the gate is not routinely locked because the only thing back there that is locked is the containers themselves and the vehicles that are locked.

You know, it's not for loose outdoor storage, you know, that's not what the application is requesting where people might come back there and steal equipment.

I mean, the gate could certainly be locked. I mean, it would be easy enough to put a lock on the gate.

MR. ZIMMERMANN: This is for storage area and for vehicular storage --

MS. STONE-DOUGHERTY: Correct.

MR. ZIMMERMAN: -- and equipment?

MS. STONE-DOUGHERTY: Correct.

MR. ZIMMERMANN: But no materials as posted on your plans as I'm looking at it to reconcile. Is there any mechanical fixing going on back there? Any changes of oil that's being done? Anything to suggest that it's more of a mechanical operation as opposed to storage?

MS. STONE-DOUGHERTY: No, they can go

next door to Richie's.

CHAIRMAN ELWOOD: Well, that's not true, because I have photos of a machine being worked on this past weekend.

MS. STONE-DOUGHERTY: It was a machine doing oil changes and stuff like that?

CHAIRMAN ELWOOD: Excavator.

MS. STONE-DOUGHERTY: Okay. Then we will address it with the tenant, because their lease does not allow any repairing of equipment or oil changes or automotive repairs or anything of that nature in the outdoor storage area.

All they're permitted to do is have their containers where they can put their landscaping equipment inside their containers and they can park their landscaping vehicles.

If they need anything else, they have to do like anybody else, tow it to a mechanic or take it to a mechanic or take it across town to the landscaping repair shop over here on Deforest.

MR. ZIMMERMANN: I would recommend that no fixing mechanics are done here, especially here in regards to the gravel component of this where there is a chance of oil volatile compounds, et cetera, getting into the ground and then you have an

environmental problem.

MS. STONE-DOUGHERTY: Agreed.

CHAIRMAN ELWOOD: Mr. Zimmermann, can I jump in for a moment?

MR. ZIMMERMANN: Yes, of course.

CHAIRMAN ELWOOD: So one of the concerns that's here is, obviously, outdoor storage is allowed in the zone.

MS. STONE-DOUGHERTY: Correct.

CHAIRMAN ELWOOD: It's the amount of outdoor storage. But as you know, we recently have had a couple applications come in where the outdoor storage that's being done is done by the owner of the property, it's not a third party.

So in this instance, there is a lot of gas cans there. I've seen a pile of at least 20 gas cans sitting there and I know there's fertilizer on the property. And as Mr. Zimmermann said, so when it's somebody's own property, they're obviously going to treat it a certain way and they're not going to worry about things leaking into the ground.

We're not too far from the river here, you know, for contamination, but even just contaminating the property itself, but, you know, what's going to be done to prevent issues with

contamination being especially that it's gravel? And so, you know, we can't see when something's spilled or even if it does spill, you really can't clean it up, it's just going into the ground.

MS. STONE-DOUGHERTY: Well, two parts to that question, because it's a very loaded question.

The first part is this an owner site where the owner operates on the site as well. So the owner is there seven days a week, 365 days a year. So even though the owner is not the landscaping business, per se, the owner owns the property, operates a successful business in town that's been here for 14 years and wants to keep the successful business in town for more than 14 years.

As we all know, tenants may come and go, okay? The landscapers is not a relative, it's not somebody that there's any reason to believe that they may be there 14 or 20 years, you don't know. They could be there two more months and then be gone and they might be getting a different tenant.

So to me, the person who owns the site is the one who's going to want to make sure that site is being taken care of like Mr. Chairman just said. And the fact that the owner operates on the

site and operates a family-friendly business where he deals with food products, it's in his best interest to go outside, walk the site, see something he doesn't like, tell his tenant, enforce the terms, or kick the tenant out, which he has all the rights to do.

Secondly on the environmental issue, because I can tell you, because I've been doing this over 30 years and I've handled some sites in town where arguably, you know, people were concerned about contamination.

Surface contamination is very different than what a lot of laypeople think. You know, if you have some oil, like from a body shop that drips from a wrecked vehicle or if you have things of that nature, even when we did the old tree company, which is now not a tree company, it's now a landscaping company, and we talked about the types of materials that are there.

If you have certain materials of a certain nature, and I know some of the Board members know this because of their own areas of expertise and their own building practices, there are certain requirements that you have to meet, there are certain permitting that you have to do even on the county

level.

So what I can tell you is, is that if this gets approved by this Board, and you'll hear Mr. Saporite testify to himself, he's going to make sure because he's putting in a substantial investment into the property and he's going to make sure his tenant complies. And if his tenant doesn't comply, his tenant is not going to be a tenant anymore.

CHAIRMAN ELWOOD: And currently, he has how many tenants?

THE WITNESS: Right now there's three as was testified. There's -- Mr. Saporite's ice cream parlor business is the main operating use on the property.

There's the monument business, if you want to call it that, which Mr. Saporite will testify to, where maybe the owner of that business is on-site maybe once every other week.

And then, of course, there would be the landscaping tenant proposed for the outdoor storage area.

CHAIRMAN ELWOOD: Okay. So I was actually speaking of the outdoor storage area, so right now there's only one tenant there?

MS. STONE-DOUGHERTY: That is correct,

Northern Hills Landscaping.

THE WITNESS: Well, what do you consider with like the storage of gas cans? It could either be required to be on trailers, but not on the ground or maybe kept in one of the storage containers so that the gas cans wouldn't be directly on the ground.

MS. STONE-DOUGHERTY: From experience, it's only on the trailers. They don't like them completely enclosed in the container, but, you know, that's my experience.

CHAIRMAN ELWOOD: That's part of the other things. So you're gonna have fuel there, I don't know if you're storing fertilizer or other chemicals in the containers that need to possibly be vented, but, you know, this is basically a business that nobody sees, so, you know, there's no fire inspection going on or --

MS. STONE-DOUGHERTY: Well, you're a little bit incorrect on that, because when you have a storage container on your site, that is required to be inspected by Morris County. And Morris County does come, they require them to open it and they require to see what's inside there. We have to list what's being stored inside the containers. So it may

not be open to you and I driving up, but it is regulated through the County.

CHAIRMAN ELWOOD: And how often are the inspections?

THE WITNESS: Well, they don't do them as routine once a year. They do them as completely pop-up inspections so that if people are storing things that aren't supposed to be there, they can catch them. And we've had a few clients in town who have had that issue come up.

CHAIRMAN ELWOOD: Okay.

MS. STONE-DOUGHERTY: But, again, if the Board stipulates it can't be there, it can't be there, you know. I mean --

MR. ZIMMERMANN: Yes, I think that would be a condition of approval, that would be my recommendation that no mechanical -- no fixing of vehicles, no oil getting into the ground.

CHAIRMAN ELWOOD: Or machinery.

MR. ZIMMERMANN: Or machinery that is a little fine tuned to suggest that this is just storage of vehicles. Apparently, it's going to be some parking of vehicles of the employees.

And then you defer to the County for any type of inspections, pop-up or otherwise, that we

are -- I think, and I'll speak for the town, please correct me, this environmental sensitivity is something that they're aware of. They don't want to have any issues with DEP, with groundwater infection, et cetera.

MS. STONE-DOUGHERTY: And we certainly share that sentiment a thousand percent here.

MR. ZIMMERMANN: I think I am good. Your engineer has suggested he will comply with everything else in my report. Unless I'm mistaken, I think that's what he said.

THE WITNESS: That's correct.

MS. STONE-DOUGHERTY: No, you are correct, sir.

MR. ZIMMERMANN: Okay. One, I defer to Ms. Green, but two is good. Three is good. There's no proposed shed anymore, correct? I think that's a 10-by-10 shed, if I remember correctly?

MS. STONE-DOUGHERTY: Yes.

MR. ZIMMERMANN: That will come off the plan. It's confirmed that 15,000 square feet, you talked about the six-foot-high chain link fence enclosure.

We talked about the hours. We're still going to have to make sure the hours when the

owner comes up.

We talked about Shanley Avenue. I agree that it's -- we went through this during DRC, you really can't even access it with some of the other operations that are going on back there.

I would agree with the applicant's engineer in regards to the developable tension of these other lots to the north and west up against the stream can't be done, but I would think it would be very problematic.

We talked about getting the encroachments off of Shanley Avenue regardless. We talked about 13 parking spaces where 11 is required. I am comfortable with the way that it would be restriped; is that correct, Rosemary?

MS. STONE-DOUGHERTY: Yes.

MR. ZIMMERMANN: Okay. Van accessible we talked about. And I think 10 through 11, 12 and 13 is all just matter of fact in regards to the GeoWeb and just some of the geometry I think.

I have no further questions for the applicant.

CHAIRMAN ELWOOD: Okay. Any testimony in regards to basically the fact that the outdoor storage is allowed in the amount, why do you need so

much more?

MS. STONE-DOUGHERTY: I can have Mr. Saporite probably testify more directly on that besides, obviously, the history of the site, but certainly can have him testify to that.

The only thing I would say that Mr. Matarazzo might be able to touch on a little bit is just maneuverability, which I think he did, behind the gate. The outdoor storage is proposed just for landscaping vehicles and the six containers to be able to allow maneuverability behind the gate so that there's no, you know, interference or, you know, issue towards the back of the property so that they're just not stacked in there like you see on some sites.

CHAIRMAN ELWOOD: Would it be correct to say that if there were two landscapers using it and only one was, you wouldn't need the site to be so large?

MS. STONE-DOUGHERTY: No, that wouldn't be correct, because it depends on, I guess, how successful the landscaper is and how many vehicles and how many crews the landscaper has.

I mean, there's all different levels of landscaping companies that are looking for,

because it's so hard to find, industrial areas where you can park their vehicles and trailers.

I mean, you can have a small mom and pop maybe has three trucks and you can have a larger one that might have 12 crews.

CHAIRMAN ELWOOD: So is it correct the testimony is that there is to only be one tenant back there and there's not going to be more?

MR. ZIMMERMAN: I thought we --

MS. STONE-DOUGHERTY: I mean, right now there is one tenant back there. I think the issue with the outdoor storage would be hypothetically in the future, if there was no landscapers and there was, you know, just a situation where you might have two tenants who want to park two or three vehicles each. I'm not sure how we would write that in a resolution, Counsel, or how we would stipulate to that, but there is only one landscaping tenant that's on the site and that tenant has rights to the whole yard, so...

CHAIRMAN ELWOOD: So he can sublease out the property?

MS. STONE-DOUGHERTY: No, no, there's no subleasing on the lease.

CHAIRMAN ELWOOD: There's more than

one landscaper parked in there.

MS. STONE-DOUGHERTY: Well, then that might be an issue. I don't know if he bought somebody else's vehicles or equipment that he hasn't rebranded, but there's only one that's supposed to be there operating.

And we can get the answer to that because, you know, I don't know if they bought something else, but there's only the one that's back there.

MR. RUSH: Would the applicant consider limiting the number of vehicles?

MS. STONE-DOUGHERTY: We could probably do something like that if we can come up with a way of calculating it and --

MR. RUSH: It would be an easier way to write it in the resolution too.

MS. STONE-DOUGHERTY: Right, that might be an easier way to do it rather than trying to calculate who's a tenant or not a tenant, right.

MR. RUSH: Then it doesn't matter.

CHAIRMAN ELWOOD: I also would like to limit the number of tenants so we don't have a situation where -- there's another spot in town where there's 50 different guys and it's a disaster. And

this is a pretty sizable piece of property.

MS. STONE-DOUGHERTY: I mean, I think the only thing with that would be -- and the issue that site has is there is no limit on --

CHAIRMAN ELWOOD: Not to cut you off, Counsel, but my issue from before about not being the owner and people are back there, especially when you have multiple people back there, we all know it wasn't me, it wasn't me. Who spilled that? It wasn't me, because that's what going to happen and at the end of the day, you know, we have a contaminated site.

MS. STONE-DOUGHERTY: Understood, understood. So when we're done with the Board's planner's comments and questions, we can have a quick little five-minute recess and discuss that.

CHAIRMAN ELWOOD: Sure.

MS. STONE-DOUGHERTY: Thank you.

MR. ZIMMERMANN: I want to just make one more comment real quick.

CHAIRMAN ELWOOD: Yeah.

MR. ZIMMERMANN: We talked about having landscaped screening somewhere near the fence. I think I heard it as either front of the fence -- okay. So that would just be something to consider in

regards to say a five-foot swatch that would be become pervious.

MS. GREEN: Wider, wider.

MR. ZIMMERMANN: What do you want?

MS. GREEN: I'll --

MS. STONE-DOUGHERTY: Just so we're clear, when you say in front of the fence, I just want to make sure we're clear that we're actually talking --

CHAIRMAN ELWOOD: Towards the ice cream.

MS. STONE-DOUGHERTY: On this side here (indicating).

CHAIRMAN ELWOOD: The whole point was to make it softer looking from the street.

MS. GREEN: You're right.

MR. ZIMMERMANN: I heard it as screening this here in front of the fence, the six-foot slat.

CHAIRMAN ELWOOD: Member Lembo was saying so this way you're not seeing the slats --

MR. LEMBO: Right.

CHAIRMAN ELWOOD: -- so it's more of a landscaped look.

MR. LEMBO: You're not seeing the

trucks from the road either.

MR. ZIMMERMANN: Right.

MS. STONE-DOUGHERTY: No, I think we're all saying the same thing. I just want to make sure we're talking about right here where the fence is, right.

So in front of the fence right here is where those trees would go. So like Member Lembo said, you wouldn't see the fence, you know, you'll see the gate, but you won't see the fence, right? And it would soften it even for the parking here with the customers for the ice cream shop.

MR. ZIMMERMANN: It becomes a condition of approval that becomes pervious area, which is good, you're 90.8 goes down, you might not make it down 85 percent or compliant, but still at least the variance acts as less, with a landscaping screen we should probably adjust that screen high.

CHAIRMAN ELWOOD: Minimum six-foot trees.

MS. STONE-DOUGHERTY: Thank you. I was just going to say that.

MR. ZIMMERMANN: I think we're on the same page. I just want the plans to show the pervious area and reduction of the pervious area,

which helps.

MS. STONE-DOUGHERTY: Right. Understood.

CHAIRMAN ELWOOD: And agree to keep it maintained, meaning if it's in the winter from salt and stuff, they die, they get replaced.

MS. STONE-DOUGHERTY: Correct, correct. Um-hmm.

MR. ZIMMERMANN: Very good. Thank you.

CHAIRMAN ELWOOD: Ms. Green.

MS. GREEN: Yes, thank you, Mr. Chairman.

Mr. Matarazzo, are you the correct witness to talk about perform standards or is that going to be deferred to someone else?

MS. STONE-DOUGHERTY: I would think that would be him as the engineer.

MS. GREEN: Okay. So then can you walk us through the township performance standards and how the outdoor storage complies? First we have fire and explosion hazards.

THE WITNESS: Well, as counsel stated, everything that's inside those containers will be periodically inspected by the County.

MS. GREEN: No, no, that's not the way our ordinance reads. So I guess is there any explosives on the site in the outdoor storage area?

THE WITNESS: No.

MS. STONE-DOUGHERTY: Well, I mean, obviously routine gas for landscapers.

THE WITNESS: Gas for lawnmowers and stuff like that.

MS. GREEN: Anything hazardous?

THE WITNESS: No.

MS. GREEN: Next we have --

THE WITNESS: There's no materials to be stored here, just vehicles.

MS. GREEN: Just vehicles outside of the containers.

CHAIRMAN ELWOOD: You want this?

MS. GREEN: Have you been -- I guess when were you at the property last?

THE WITNESS: Actually, this afternoon.

MS. GREEN: And you walked the outdoor storage area?

THE WITNESS: I drove in there.

MS. GREEN: And there were only vehicles, nothing else outside?

THE WITNESS: There were trailers, there was a small Bobcat, that's all I saw. I wasn't looking for anything else.

MS. GREEN: Okay. The next performance standard is smoke.

THE WITNESS: There's nothing there that would create smoke other than exhaust from trucks.

MS. GREEN: Okay. Liquid or solid waste?

THE WITNESS: Neither.

MS. GREEN: Vibration?

THE WITNESS: No, just vehicles entering and exiting the site.

MS. GREEN: Okay. Can you speak to noise?

THE WITNESS: Again, just the trucks' engines, but that would be just when they start the vehicles up and then leave the site. They wouldn't be there for a prolonged period of time.

MS. STONE-DOUGHERTY: And under the noise ordinance, they don't hit the decibel that equates to noise operating and starting, even if it's a diesel truck. And, again there's no residentials near the site.

MS. GREEN: Right. Glare, is there any illumination in the outdoor storage area?

THE WITNESS: No, none.

MS. GREEN: Fly ash?

THE WITNESS: No fly ash.

MS. GREEN: Fumes, vapors, and gases?

THE WITNESS: Again just exhaust from the vehicles.

MS. GREEN: Okay. Thank you.

Going through my letter -- oh, earlier in your testimony, you said that the site requires 11 parking spaces. I went back and I looked at the plans. I can't find the calculation of how you got to 11. Can you help me understand that?

THE WITNESS: I guess we can provide a parking calculation that would show that, but the parking proposed is more than adequate.

MS. STONE-DOUGHERTY: And it's also in the engineer's review letter saying 11 parking spaces are required. It's Item Number --

MS. GREEN: So I'm a bit confused because the prior application that was approved by the Board had 13 spaces and the building hasn't changed over, right?

MS. STONE-DOUGHERTY: Right. Did it

show required 13 or it just had 13 spaces?

MS. GREEN: Actually, more were required, it only showed 13. So the approval was for 13. Conveniently, those plans don't tell you what was required, they just told you what --

MS. STONE-DOUGHERTY: I was going to say because we looked at the same plans. There's really no even mention of what's going on in the rear at all really.

MS. GREEN: The plans show that part of it's wooded.

MS. STONE-DOUGHERTY: Right.

MS. GREEN: So I guess we're not really sure as we sit here tonight that it's 11 that's required?

THE WITNESS: We would have to provide the calculations for you.

MS. GREEN: Okay. And there's two floors, right? There's the top floor and there's a monument company floor?

THE WITNESS: Correct.

MS. STONE-DOUGHERTY: The monument floor is not a full floor.

MS. GREEN: Okay. We didn't receive building plans because you're not making changes. So

as a potential condition of approval, we'll get a parking calculation.

So I know we touched on tree removal and we've now pivoted and we're going to provide the landscaped area in front of the fence. That's going to run from the western property line to the gate?

THE WITNESS: Yes.

MS. GREEN: And then will it start up again on the other side of the gate to the eastern property line?

THE WITNESS: Sure.

MS. GREEN: Okay. And can we have that as a staggered row, 10-feet wide?

MS. STONE-DOUGHERTY: Can you make it fit in 10 feet, Frank?

THE WITNESS: Absolutely.

MR. ZIMMERMANN: Ten feet is standard.

THE WITNESS: Yes.

MS. GREEN: Because then that also will compensate for the tree removal. I know that happened before the applicant purchased the property, but it still happened without permits.

Thank you. That's all I have for this witness.

CHAIRMAN ELWOOD: And Darlene, does

anything to do with the parking calculation based on the fact that Rix is using part of that lot or it wouldn't matter because it's different?

MS. GREEN: No, because the way our ordinance is written, you only have to provide parking for the uses on your property.

If they're being a nice neighbor and letting someone else use their parking, you know, they could do that. They'll only harm themselves if --

CHAIRMAN ELWOOD: So your testimony is that the tenants in the outdoor storage are parking inside the outdoor storage parking, correct?

THE WITNESS: That is going to be Mr. Saporite's testimony. And that is our position, correct, that is their requirement so that they're not interfering with anything going on at the front of the property, correct.

CHAIRMAN ELWOOD: Anybody else?

MR. LEMBO: Yeah, I got a question.

From the safety standpoint, you've got a three-year old coming down that ramp, breaks away from his mother, there's a blind spot right there and there's a truck coming the other way, how are we -- how are we going to make it safe?

MS. STONE-DOUGHERTY: Well, in fairness, that could be any truck. It could be any vehicle.

MR. LEMBO: I understand that.

MS. STONE-DOUGHERTY: Could be anybody that's there.

MR. LEMBO: I mean, what's to make it safe between kids and trucks coming in?

MS. STONE-DOUGHERTY: Versus suburban moms who don't look and drive --

MR. LEMBO: Well, that may --

MS. STONE-DOUGHERTY: I would say -- is there a way --

CHAIRMAN ELWOOD: I think what -- I think part of Member Lembo's question is, if there was 5,000 square feet of outdoor storage, you've only got so many trucks versus 15,000 square feet.

MR. LOMBARDI: I agree.

THE WITNESS: One thing that can be done is at the end of the existing fence, you can install one of those blind spot mirrors, a large, mirror.

CHAIRMAN ELWOOD: Rosemary, what I think might work there is if there's a speed bump installed just beyond where that walkway is so

basically when they're coming from the back and the kids coming running down the ramp.

MR. SAPORITE: That's 7 o'clock in the morning. They're leaving at 7 o'clock in the morning.

CHAIRMAN ELWOOD: You've got to wait until --

MR. SAPORITE: Okay.

MR. RUSH: Let's get him up and under oath.

MS. STONE-DOUGHERTY: I understand what you're saying, or even a speed bump or, you know, possibly a mirror. But, yeah, I mean, what we have -- when we're done, like I said, if we can just have a short recess if we can discuss that. Okay?

CHAIRMAN ELWOOD: Sure.

MS. STONE-DOUGHERTY: In fact, I may be incorrect --

MS. GREEN: I'm done.

MR. CASTANO: So you can't go out into the driveway, you've got to go this way. If you put a little piece of railing there, you can't go into the driveway, you've got to come out into parking spots. You know what I'm saying?

MR. ZIMMERMANN: This is my

recommendation: It would be a rail out from the building.

MR. CASTANO: A two-year-old kid running down the driveway, he's not going to turn unless he has to, he'll go straight out, God forbid.

MR. SAPORITE: That makes sense.

MR. RUSH: I'll suggest it, but I don't think --

MS. STONE-DOUGHERTY: I understand. I'll ask --

CHAIRMAN ELWOOD: We're going to open to the public first, and then we'll take a break.

(At this point in the proceedings, a discussion was held off the record.)

MS. STONE-DOUGHERTY: Hey, Bill, he'd be willing to do that so the Board is not sitting around.

MR. RUSH: Why don't you propose it?

MS. STONE-DOUGHERTY: Again, apologies, Mr. Chairman, my understanding, and please correct me if I'm wrong, is that the Board professionals are done. I know we still have to open to the public.

Unless there's a lot more questions from yourself and other members of the Board, is what

I would request, and I'll just confirm with counsel for a point of order, we could do, if the Board was so inclined, because I don't want to be insensitive to your guys' time since you're all volunteers, is that we'll step outside, address a couple of those comments, concerns, maybe do some of those calculations.

But while we're doing that, if you guys want to proceed with the next applicant, we understand that it could still take a little bit of time and we might be waiting, we could do that because I don't want to be, again, insensitive to your testimony, unless you --

CHAIRMAN ELWOOD: That's fine. Don't worry. You don't have to stall anymore. Your son just walked in.

MS. STONE-DOUGHERTY: No, I wasn't worried about that.

CHAIRMAN ELWOOD: Okay. Does anybody up here have any further comments, questions for Mr. Matarazzo? If not, I'm going to open to the public.

So if anyone in the public has any questions of Mr. Matarazzo based on the testimony given, please step forward to the mike, state your

name.

Seeing no one, I need a motion to close.

MR. LOMBARDI: Motion to close public.

CHAIRMAN ELWOOD: All in favor?

(Unanimous Aye.)

CHAIRMAN ELWOOD: So we will take a recess till 8:20 or do you want to just go to the next application?

MR. RUSH: We're going to start the next application and we'll resume this application when that application is complete.

CHAIRMAN ELWOOD: Okay. Okay. Public hearing, Performance Ford.

MR. SCHEPIS: Good evening, everyone. Well, good evening. If you may recall about two years ago, I was here with regard to this application.

Under my letter of August 27th, 2026, I submitted a request to the Board for a one-year extension of final site plan approval. As I outlined in the letter, the delays that we've encountered have to do with site remediation.

And I would draw the Board's recollection to the site part of my client's

acquisition. There was an amended dry cleaner on the property and it was in need of substantial site remediation since the time before you approved the application.

My client did acquire title to the property and the Board approved the minor subdivision, so that lot now has merged with the -- I'm sorry, the lot still remains as a standalone lot, but it merged with that strip of land that was between the lot and the adjoining side street, Farinella Drive.

And the site has been extensively remediated. We have correspondence attached to my submission. We have a licensed site remediation professional who is actually here this evening, Mr. Stratton is here to answer any questions.

As I outlined in my letter, the property owner has extended nearly $750,000 in remediating the site. Unfortunately, several of the modeling wells have tested positive for chemicals associated with dry cleaning and the site will probably have to undergo further site remediation.

So rather than me giving secondhand information, maybe we can have Mr. Stratton come up. He drove up here from down in South Jersey.

So Mr. Stratton, why don't you come on up. I'm sure the Board is going to ask that you be sworn, then perhaps you can just explain to the Board what's gone on with the property since Mr. DePiero (phonetic) and his company Performance Ford of East Hanover acquired title and what lies ahead.

THE WITNESS: Absolutely.

MR. SCHEPIS: So if you would come up and perhaps be sworn and then tell us what you know, and put your credentials on the record as well.

MR. RUSH: Can you raise your right hand, sir?

Do you swear or affirm the testimony you should give the Board shall be the truth and the entire truth?

THE WITNESS: I do.

MR. RUSH: Thank you. Can you state and spell your name for the record and also provide your credentials?

THE WITNESS: Sure. Edward G. Stratton, S-T-R-A-T-T-O-N. I'm a licensed site remediation professional, and a little over 40 years experience in the state of New Jersey and about 14 other states in the Northeast and Midwest on investigation and remediating contaminated sites.

MR. RUSH: Okay.
CHAIRMAN ELWOOD: Your license is still current?
THE WITNESS: Correct.
CHAIRMAN ELWOOD: We'll accept your credentials.
DIRECT EXAMINATION
BY MR. SCHEPIS:
Q. So Mr. Stratton, why don't you tell us what's gone on with the site since we were here in 2024 and then perhaps you can just tell us what lies ahead.
A. Sure. So as was alluded to previously, there was a significant groundwater impact to the site from the former operations of the dry cleaner. The typical compounds -- and this has happened in many sites throughout New Jersey for these smaller dry cleaner facilities.
So there's two compounds, one known as TCP, one known as VCP, they're compounds that are utilized to clean clothing, but also clean mechanical parts. You see them used also in, for example, mechanical shops or in repair facilities. It was discharged, probably not purposefully, but over time at the facility during the historical use as a dry

cleaner.
When Mr. DePiero purchased the property, I was not the LSRP of the site, it was a different one. And he instituted a significant soil review excavation. When I say significant, it was an area of about a hundred feet long, about 50 feet wide, and about 18 feet deep. A lot of that soil was taken away to a landfill that was accepted these.
Unfortunately at this time, we believe that based on some additional information that I have done, our firm has done since we took over the project in 2022, that there are still some remnants of soil contamination that remain that are impacting groundwater significantly of this site.
So for us to ever get the groundwater contamination down to a much more manageable level, we believe at this time that we are going to have to conduct another remedial excavation, probably not as deep as the previous one and not as large, but still a significant excavation will be required.
I'm currently working on costs for our client to do that work. We're going to have to obviously adhere to all local and federal safety concerns. We'll have that site -- obviously when -- fenced off while it's -- work is being done and we'll

be cleaning up the site as fast as possible.
I don't have a time frame for that right now. We're currently placing -- we have bids out to contractors that I will be managing at the site that will do the excavation work and we're waiting for those bids to come back.
CHAIRMAN ELWOOD: Once you do, sir, what do you anticipate the timeline will be start to finish?
THE WITNESS: From the day we break ground to the day we get it backfilled so it's safe will be most likely no longer than one week.
CHAIRMAN ELWOOD: Okay. You said you don't have a timeline for when you would start, it's out to bid.
So currently there's some conditions with the prior approval that they're looking to -- Mr. Stratton said basically looking to extend.
Can you go through -- what are the reasons that none of the improvements have been done?
THE WITNESS: Well, I think mainly because of this excavation that I've been speaking about today, it would impact the area where the improvements are necessary.
I do know that this site had been

recapped with new asphalt throughout. I've been to the site many times, so I know that's been done, but your Board has been open for some additional improvements that were in the application which have not been conducted at this time and mainly due to the excavation that still has to be done.
I would not want to have our client install, say, for example, light stanchions, underground utilities such as electrical and/or vegetation and then six months later they're ripping it out of the ground.
CHAIRMAN ELWOOD: On the ground there, there's basically spray painted a circle or oval. Is that the area of contamination? Does that have to do with this?
THE WITNESS: Yes, it is related to this. So I've been to the site, there's two things on the ground. There is a rectangle that's basically a T that is the former footprint of the building that is marked down on the ground. And it's probably getting a little warmer at this time. I had that done by a surveyor using former site plans so we know exactly where the building was located.
And the oval that you alluded to is the former excavation. And we were able to determine

that work because the fill material is a bit different than the soil that's inside the site and we the ground radar equipment, we can determine where the excavation was within a few inches. Those are the white marks that you'll see at the site.

CHAIRMAN ELWOOD: You basically, you know, did a test pits and that are all there. You know, obviously it's a car dealership. People pull in, they walk around, a lot of parking of vehicles in this area that you're speaking of and right along it.

I think it would make the most sense moving forward as a condition of approval for extension would be to fence off this area to make sure that nobody is walking in that area and furthermore, that vehicles aren't being parked in that area, especially knowing that it's going to be excavated.

MR. SCHEPIS: What we'd ask for is certainly during the course of any type of site excavation that the site not be fenced off, but we're not sure when that's going to happen.

And the beauty of having this in conjunction with the adjoining automobile dealership is that enables us to access the automobile dealership from the side street rather than Route 10.

So it provides for a safer means of getting in and out of car carriers and, you know, delivery vehicles. There is still active repair of automobiles in the facility. The repair facility is ongoing there.

Now, I would also point this out to you. We had some problems along the time adhering to the six cars that the Board previously permitted be parked on the front.

CHAIRMAN ELWOOD: That was my next thing.

MR. SCHEPIS: So this is what happened: I contacted the dealer management who was actually over in the facility in Hanover Township, and I sat down with him and I brought him the resolution and he was recent to the job. I think he got appointed like sometime maybe in about June or July.

So I sat down with him and I went over the resolution and he said, "Nobody told me this. I just came into the job." And he said, "The prior manager never mentioned this to me either."

So I showed him the wording that the Board had incorporated and he said, "Now that I know that this is the case, I'll make sure that we adhere to no more than six vehicles."

So I drove over there tonight and I did count just six vehicles parked on the property. So I'd ask that the Board permit us to park that. And I have assurance from the manager.

And, you know, I did speak to my client about it. He said, "Steve, listen, I have all these dealerships. I called the guy up, I tell him what to do, either it's not filtering down or --

So I took the matter into my own hands and actually went to the place, sat down with the manager. He actually had me test drive a Ford Bronco with a stick while I was there because I mentioned that I like them. I wouldn't buy it.

But in any event, I can give you assurance that now that I have the branch manager's attention and I brought the resolution, he assured me that he would adhere to it. And it is helpful to use the property for something, albeit limited, we do have the ability to drive through, which I think is a better access point than Route 10, especially it enables us to get cars in and out without having to back into the site or even turn around on-site. So if you would please allow us to do that, that would be helpful.

Now, for other purposes, I'd like to

bring to your attention it has recently come to my attention that another application's been submitted to the Board for this property involving a car wash. I personally am not involved in that and my client is not the applicant. I believe it's Sparks Car Wash. And that matter is making its way through the completeness procedure, perhaps it will get approved. I think it's a D variance.

If it does get approved, then my client will probably come in with another building, I think what's anticipated. I haven't seen the plans, I've only heard of the plans, that the existing automobile dealership would be removed, another building would be built somewhere in the mix and a car wash, whether that be a subdivision or a realignment.

So perhaps that's the way this goes, but I think it's going to end up depending on what this Board does. If the Board denies the Sparks Car Wash application, then this is the project that will go forward.

You know, it's kind of like you don't know which way the Board is going to go. I would think you would probably approve the car wash. But then again, it's not permitted use, so one never

knows.

So we'd like the opportunity to pursue either one of them. If that fails, then this will be the one that we have. But you have his attention and like I say, I went there personally and I met with the manager to make sure this would be adhered to.

MR. RUSH: Mr. Schepis, just to give a brief history here, if you recall, we granted the six spaces due to the fact that it was the applicant's request to assist them in their adverse possession case.

So -- and, again, I know you've been involved in it. For the last over two years we've had a history, not seven or eight cars on the space, over 20, 25 cars at certain times.

The Board is concerned, very concerned with the fact that obviously they were gracious enough to assist the applicant in their adverse possession case, and the applicant essentially spit in the Board's face. That's the easiest way to put it.

I mean, time and time again they've been hauled into court and it's just not ending. And I know you went to the new management and everything. What can we do to say if we're going to give you a

second shot on six spaces, well, if you blow it this time, what's the recourse?

MR. SCHEPIS: Well, first I would say this: My client has a number of these dealerships and he personally didn't spit in the Board's face, although I could see how that could be interpreted as such.

With regard to the time extension, it's one year. If -- between now and the one year, you're going to hear this case of this car wash, so we're going to know what's going to go on with the site one way or the other.

I would also say what the Board did help us, because that adverse possession case ended up settling and the ability to access and the like, it helped. And my client actually ended up having to pay the people from Nielson to, I'll say settle.

So look, he's got an awful lot invested in this. He's got a lot invested in the township. He pays his taxes regularly. He asked for the courtesy of the six vehicles. I did go there tonight specifically to verify that. It does help to have the vehicles along the frontage. The idea that he had some limited use is helpful to access through the site. And we would agree that there should be

site excavation to fence off the areas so that there would not be any, I'll say incursions.

I mean, if you could give us the one year and then if anything happens between now and then, clearly I think the Board would be well within it's -- I'll say discretion not to grant further extensions.

MR. RUSH: Let me ask Mr. Stratton. Do you believe, you know, based upon your experience at the site that this could be completed and resolved within one year?

THE WITNESS: The soil excavation can be completely resolved within one years, but I want to make sure that the Board understands that the groundwater contamination issue is going to be a long-term thing.

The State allows us to leave behind a certain level of ground contamination under what's called Remedial Action Permit, and that requires us to monitor it over a very long time frame. It could lead to, like, 2050, 2060, it depends on the model for how we think the groundwater is going to degrade naturally over time.

So there could be based -- well, I don't want to say -- based on what I know about the

site at this time, I'm fairly certain we're going to have a long-term groundwater -- not soil, but groundwater issue that needs to be monitored and recorded to the State of New Jersey under the direction of an LSRP.

MR. RUSH: But the site is functional at that point, right?

THE WITNESS: Absolutely.

MR. RUSH: I'm talking about when the site won't be functional when you were talking about removing additional soil and removing contaminated soil and things like that.

THE WITNESS: That would be a short period of time that there would be -- that would be fenced off, there'd be a large excavation where we'd be removing contaminated soil and replacing it with clean soil. As I mentioned, I expect that to be an about a one-week period.

MR. RUSH: And based upon your time expectation, that would be that one-week period of work with bids going out, accepted and things of that nature, would be completed within a year?

THE WITNESS: Correct.

MR. SCHEPIS: I would also say this to the Board, not that you would have my client declared

a citizen of the year of East Hanover, but when he bought this building, it was a mess.

He paid 250,000 as-is. He had to pay Nielson 50 grand in order to have him settle. He had to pay his adverse possession lawyer another 50 grand. And then from there, he's already dropped 700 in site remediation, so he's well over a million dollars.

You know, some people think that land development is always a success. I think this is probably a glowing example of how sometimes you get involved in these properties and you wish you didn't.

Now, the benefit, of course, and I think we can assume the risk is the benefit of having the access onto the side street. There was a screw-up when he purchased the property. The survey clearly showed that there was no frontage on the side street owned by Nielson.

Somehow it got missed. It got missed by the attorney that did the closing, it wasn't me. And I remember the phone conversation when I told him, "Listen, you don't have any frontage on the side street." He said, "What are you talking about? That's the way I bought it." I said, "You do not." I said, "Take a look at your survey. This is a

seven-foot wide strip that runs along the side of the road."

But, look, if you could be gracious enough, and I know you have been gracious, and I realize that everything didn't go according to plan sometimes in life, despite the best interest and the best efforts.

But I can tell you this: It's certainly a lot better than it was two years ago when we were here and had a dilapidated dry cleaner. He's dropped an awful lot of money in it. And look, when it's all said and done, whether it's Sparks or he comes in and just finishes up this project, it's going to be something you can be proud of.

CHAIRMAN ELWOOD: So Mr. Schepis, you said that your client wasn't directly spitting in our face, but yet anybody who works for him directly or indirectly is controlling what goes on there.

And so you say he's spoken with the new manager, so if this Board were so inclined to grant this extension, would it be fair to say that if at any time during that period, if there's more than six vehicles on the lot, that would trigger an automatic fence in the lot, no vehicles at all in the lot?

MR. SCHEPIS: Well, as far as fencing the lot, I don't have the authority to agree to that. It could be a fire safety issue. I know that they're using it for access. The idea of access, I wouldn't want to agree to prohibiting any access, but certainly if there was a violation, the zoning office would pursue.

CHAIRMAN ELWOOD: Well, he used to not have the corner property, so if it was fenced off, what would be the difference? It wasn't his property prior to this.

MR. SCHEPIS: You know what? It wasn't, but I know they were driving through there for years and there was always that curb cut coming in and it seemed to be some means of access. So despite the fact that he didn't own it, I think that was one of the underlying claims, is that they were always cutting through.

CHAIRMAN ELWOOD: An important part of what I'm getting at is for him to follow the rules and not say what he wants right now. And then once we're done, when the Township says you're not doing what -- your end of the bargain and he does whatever he wants, there's got to be some type of repercussion.

MR. SCHEPIS: I will reiterate and I'll also contact the manager again. The man has kept his word to me and --

MS. GREEN: Thank you. Mr. Schepis, last Wednesday I was out at the property in the afternoon. There were 11 cars on the site. I was advised by the construction department that there was a summons issued in 2024 and that summons is still pending in municipal court because your client can't just count to six.

So I guess my question is, why does it take more than two years to get the number of cars down to six?

MR. SCHEPIS: I don't have your answer. I could only tell you that when I personally reached out to the person who recently took over the position as manager of the site, I sat down with him, went over the resolution.

Now, I guess it's my obligation to go find the actual manager and read him the resolution. So to that degree, that's the only factor that I can personally point to. You would think that it would filter down the line and the prior manger would have followed this requirement. But I can tell you that now, I do have the gentleman's attention and I'll

mention this 11 cars to him. But like I said, when I went by tonight, I went unannounced, I did count to six.

MS. GREEN: So, but the summons was issued to the property. So the property owner hasn't addressed the summons in two years.

MR. SCHEPIS: Yeah, but -- well, we are. We're continuing to appear in the municipal court and continuing to pursue this environmental cleanup. I mean, the environmental cleanup --

MS. GREEN: But the summons is for having more than six cars on the site.

MR. SCHEPIS: Correct.

MS. GREEN: So I guess I don't understand why it takes two years to move the cars off the site.

MR. SCHEPIS: It's not that it takes two years. I mean, as I said, when I went by tonight, I only saw six cars.

Now, look, I don't have your answer. I can't tell you what goes on within the minds of people that run local dealerships. It's beyond my understanding.

But I can tell you this: That Mr. Stratton is here to explain to you why it is that

we haven't put in the site improvements and then how there is an anticipation of further excavation and then potentially it's going to be done within a year and that other site will be developed.

So I mean, it seems reasonable in light of the entire picture. And, look, I realize that he didn't follow everything that was required, but you also have to offset the fact that he spent over a million dollars to get to the site where at least when you drive by, you're not astonished by this dilapidated --

MS. GREEN: So if I spent a million dollars in East Hanover, I can do whatever I want to do?

MR. SCHEPIS: Not at all. Not at all.

MS. GREEN: I'm feeling that's sort of the presentation tonight.

MR. SCHEPIS: No, that's not the case. The case is we're asking for a one-year extension of this final site plan approval because the site is dirty.

And money has been spent extensively to clean it up. And it appears the site will have further excavation in order to get it in compliance where it's in compliance with the State.

Apparently, the contaminated soil that is creating the groundwater contamination is still in site, so it has to be removed. And then as Mr. Stratton testified, the site is going to have to be excavated and material is going to have to be removed, and then we'll get to a point where clean material will result in a decrease in the groundwater contamination. Monitoring will probably occur for 20 years, if not more.

MS. GREEN: Mr. Stratton, you said the bids are out?

THE WITNESS: Correct.

MS. GREEN: And when are the bids due?

THE WITNESS: By the end of this month.

MS. GREEN: And did the package specify the timeline for removal?

THE WITNESS: No, it did not, but my plan is to do it this year, weather depending.

MR. RUSH: When you say this year, you mean calendar year 2026?

THE WITNESS: Calendar year 2026, weather dependant. I wanted to be able to do it this year, of course. I also need the final approval of my client to do the work. But he's aware that we're

going to be presenting these proposals and he knows that there's a significant effort that still needs to be conducted for the site.

MS. GREEN: So then it's possible based on your experience with the site, that the soil remediation could be done by the end of year?

THE WITNESS: It's possible, but I don't want to promise you something that doesn't occur. So given the variables that could happen here, I want to be able to say that within one year if it was tentatively granted today, it will be done, but I am uncertain to have it done this year because there's some variables that I don't control.

MS. GREEN: Right. So even if you didn't have all the paperwork signed by the wintertime, spring comes, snow melts. So I guess I'm just not sure why it takes 12 months to sign a contract and move some dirt. So is there a time between now and 12 months?

THE WITNESS: There's a bit more that goes on, so I'll go into the details.

So first off, there is -- because the soil information that's available for the site that was done by the prior LSRP, that is considered old through the disposal facility.

So to get new approvals through the disposal facilities, we need to do some additional soil samples, it's called a waste classification, and we need to send that to the various soil facilities. What I have out to bid right now is the actual excavation effort labor and equipment to remove that contaminated soil and to replace it with clean fill.

The problem is, and this is a problem throughout New Jersey, is that these wastes from these type of coordinated compounds, there are many facilities that will not takes them at certain levels. We have a high level here, unfortunately.

So when there's a high level, we have very limited facilities to take it to. And it may end up being something that's a significant distance over 200 miles away. When I talk about facilities, we're talking about landfills.

Most likely we're going to be seeing something in eastern to middle of Pennsylvania that would be willing to take the soil. It is highly unlikely that it would be able to be disposed of in New Jersey unless our waste classification actually turns out to be much better than anticipated it will be.

MS. GREEN: Thank you for that

information. The monitoring wells, there's nine of those on-site or something?

THE WITNESS: There's nine wells on-site.

MS. GREEN: And I know they're scattered across the site based on the map in your report. Are those monitoring wells set flush with the asphalt or is there a little bit of --

THE WITNESS: They're all flush.

MS. GREEN: They're all flush?

THE WITNESS: Yes.

MS. GREEN: So there's no tripping hazards on the site?

THE WITNESS: No. And I advised the personnel at the facility to not park on the wells. I don't want a tire or a 4,000-pound piece of car sitting on the well, so they know that. And -- but if someone drives over the well, that will not damage it permanently.

MS. GREEN: And what if a car carrier drives over the wall?

THE WITNESS: That's just -- it's permanent --

MS. GREEN: Permanently sitting on it?

THE WITNESS: -- for a significant

period of time that can cause damage.

MS. GREEN: Understood. Okay. Thank you.

CHAIRMAN ELWOOD: Just an FYI, and I didn't take this cover off, this cover was off, but that's certainly a tripping hazard for, you know, one of the test pits.

THE WITNESS: So I -- the last time I was on-site was in late July, so that's something that's happened since late July, so we will take care of that. I will send -- I will stop by personally to the site. In fact, I might even go tonight since I'm in the area, I'll go see which --

CHAIRMAN ELWOOD: He hasn't put the lights yet. I don't want you to trip.

THE WITNESS: Can you tell me where approximately on the site? In the front? Rear? Middle?

CHAIRMAN ELWOOD: I think this one was about the middle. It's closer to where the trucks are parked.

THE WITNESS: I will go take a look.

CHAIRMAN ELWOOD: Thank you.

Mr. Schepis, I still don't see where we're going as far as -- there's got to be something

here because of what's already gone on with your client and his lack of following the rules, there has to be something here for us if he's not going to follow the rules.

MR. SCHEPIS: Well, I can say this: Within one year's time --

CHAIRMAN ELWOOD: I don't want to talk about a year. I want to talk about now. So I don't know if you need five minutes to call your client, but I would like to see a fence put up.

MR. SCHEPIS: Yeah, I know it would be a waste of my time to call and tell him to put a fence up. I mean --

MR. RUSH: What about a fence with gates in it so that they can still bring cars in as long as they're traversing --

CHAIRMAN ELWOOD: Or even -- I assume you're talking about the curb cut out on Farinella which is towards the rear of the property, correct?

MR. SCHEPIS: Um-hmm.

CHAIRMAN ELWOOD: And I'm not saying this yet, Ms. Green, would you mind if it was fenced and that entrance was outside of the fence? Do you understand what I'm saying? So you could still use that as a driveway.

MS. GREEN: It is my understanding --
CHAIRMAN ELWOOD: But basically you wouldn't be able to park any vehicles. That's my goal.
MR. RUSH: Well, they're entitled to have six vehicles.
CHAIRMAN ELWOOD: Right, I meant behind the six.
MS. GREEN: It's my understanding the car carriers are not unloading on-site.
CHAIRMAN ELWOOD: They're still unloading on the street and they're unloading in Farinella as well.
MR. SCHEPIS: I was unaware of that.
THE WITNESS: I can tell you from my experience when I've been there, I've seen them come on-site and go up Route 10 and Farinella. I'm only there short time frames and, you know, every couple months or so. I have --
CHAIRMAN ELWOOD: I'm sure one driver does it one way, one driver does another.
THE WITNESS: I've had the conversation also with -- I believe it was probably her GM for the site about making sure those vehicles, since they had access through Farinella, come on-site

with those vehicles.
MS. GREEN: I have no problem if you want to allow a 24-foot-wide driveway. The issue we've been having is this is a major -- this site has been caramelizing a lot of time of the construction department because of the constant need to go to court, filing of summonses, all that takes time. And it's taking --
CHAIRMAN ELWOOD: That is why I would like to fence it off so it can't be used and if the remediation is done and the improvements are done, everybody is happy.
MR. SCHEPIS: Well, Mr. Chairman, I don't have any authority this evening. And I tried to get my client to no avail. Could we table this till next month so we can come back with a proposal and perhaps could address your concern?
CHAIRMAN ELWOOD: Darlene?
MS. GREEN: I'm fine with that.
MR. ZIMMERMANN: That's fine.
CHAIRMAN ELWOOD: Mr. Rush?
MR. RUSH: No, that would be a possible way to reach a resolution here.
CHAIRMAN ELWOOD: Any Board members have any questions or commenting regarding that?

MR. RUSH: I don't think it's necessary to bring Mr. Stratton back. I think his testimony --
CHAIRMAN ELWOOD: I think we're good with him, outside of any changes, I think you could send a report directly to our engineer or our planner, our secretary for the construction department. And if we need you, which I can't imagine we do, but we'll tell you to come, but I can't imagine that we'll need you.
MR. SCHEPIS: Okay, that works. What would be your next --
MS. KISS: October 27th.
MR. SCHEPIS: I'll be here.
MS. KISS: Me too.
CHAIRMAN ELWOOD: I need a motion to carry this application to October 27th.
MR. LOMBARDI: I'll make a motion to carry it to October 27th.
CHAIRMAN ELWOOD: Second?
MR. CASTANO: Second.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
MR. SCHEPIS: Thank you very much. Good evening.

CHAIRMAN ELWOOD: You want a break? So we're going to take a break till 8:50. Okay?
(Break taken at 8:39 p.m. to 8:53 p.m.)
CHAIRMAN ELWOOD: Call the meeting back to order.
MS. KISS: Member Lombardi.
MR. LOMBARDI: Here.
MS. KISS: Member Castano.
MR. CASTANO: Here.
MS. KISS: Lembo.
MR. LEMBO: Here.
MS. KISS: Knoll.
MS. KNOLL: Here.
MS. KISS: Orgel.
MR. ORGEL: Here.
MS. KISS: Forgione.
MR. FORGIONE: Here.
MS. KISS: And Chairman Elwood.
CHAIRMAN ELWOOD: Here.
MS. STONE-DOUGHERTY: Yes. Good evening, Mr. Chairman, members of the Board. Before we move on to our second witness, I'd like to recall briefly Mr. Matarazzo to address one of the questions raised by the planner that we got a conclusion for

while we were using our break efficiently.
BY MS. STONE-DOUGHERTY:
Q. Mr. Matarazzo, you understand you're still under oath?
A. Yes.
Q. Okay. Mr. Matarazzo, one of the questions raised by the planner was how did we come up with the parking requirement calculation, correct?
A. Yes.
Q. Okay. And how is it that we came up with 11 required spaces?
A. Eleven is actually out of the engineer's report. We did our own calculation outside for an eatery establishment, the parking requirement is one space for every two seats or stools. Okay?
In the ice cream shop, he has 12 seats which equates to six parking spaces. Also, he has two employees -- three employees which equates to one and a half parking spaces.
And then also, the monument shop downstairs is only a small office. A basement level is not the entire footprint of the building, so that would require one parking space. So that's eight and a half parking spaces.

Q. And the 11 parking spaces, though, was using the calculation as if the whole building was retail, correct?
A. If you were to look at the entire building as being retail, both floors, assuming the basement was the same square footage as the first floor, that would give you slightly over 3,000 square feet of building area and that parking requirement for retail would be one space per every 300 square feet.
Q. Which is where the 11 came from, correct?
A. Yes.
Q. So either way that we calculate the parking, just so the Board is clear and comfortable, a parking variance would not be required. Okay?
A. Correct.
Q. Thank you.
CHAIRMAN ELWOOD: I'm just going to open to the public based on --
So I'm going to open to the public. If anybody has any questions or comments regarding the testimony just given by Mr. Matarazzo, please step forward, state your name.
Seeing no one.

MR. LOMBARDI: Motion to close public.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
MS. STONE-DOUGHERTY: Okay. Our next witness at this time is Mr. Daniel Saporite who is one of the managing members of 134 Ridgedale, LLC, and also the owner operator of Last Licks, which is the ice cream use that is currently existing on the property.
So, Mr. Saporite, we'll have you sworn in.
MR. RUSH: Raise your right hand.
Do you swear or affirm the testimony you should give the Board shall be the truth and the entire truth?
THE WITNESS: I do.
MR. RUSH: Can you state and spell your name for the record, please.
THE WITNESS: Dan Saporite, S-A-P-O-R-I-T-E.
MR. RUSH: Thank you.
DIRECT EXAMINATION
BY MS. STONE-DOUGHERTY:
Q. Mr. Saporite, can you tell the Board how long you've been operating your ice cream parlor

on the site today?
A. Almost 14 years. We're starting our fourteenth year.
Q. And about how long ago did you purchase the property from the owner?
A. About two and a half years.
Q. Okay. And is the owner still operating on the site today?
A. No. The person that purchased the building from me?
Q. Yes.
A. No.
Q. Okay. And what is the relationship with the monument company?
A. It's -- he -- I guess he took over from the previous owner and he meets people by appointments.
Q. Okay. And roughly, how often do you see him on your site on a monthly basis?
A. Four times would be a lot.
Q. Okay. And currently, the upstairs operation of your business, right, you heard the engineer testify to your hours, but can you clarify for the Board, what are your hours during, I guess what you would consider to be summer hours versus

winter, and when do those hours typically change new season?

A. Our summer hours would be from 11 to 10, and then our winter hours would be 11 to 9, except on the weekends it would be an additional hour Friday and Saturdays. And they change usually right around Memorial Day and Labor Day.

Q. Okay. So right now you're already on winter hours; would that be an accurate statement?

A. That is correct.

Q. And you said you've been at the site for 14 years operating. Before you purchased the site, was anybody else using the back of the property?

A. Yes.

Q. And do you know what kind of business that was?

A. A tree -- a tree guy, I guess -- yeah, tree, landscaper, tree remover guy, removal.

Q. Okay. But, I mean, other than the tree guy, because at that time you were a tenant, right? You probably didn't ask a lot of questions of the owner. Was there a lot of stuff back there? I mean, how much was being stored in the rear?

A. He had machines, you know, backhoes

and trailers and big -- big dump trucks to pull the trailer with the backhoe and then certain tree equipment, I guess, maybe stump grinders or log splitters and some other equipment.

Q. Okay. And when you acquired the site, at some point in time -- well, let me rephrase that.

When you were operating the site as a tenant, was there a fence in the rear?

A. Yes.

Q. Okay. But did you change or replace any of the fencing since you've owned it now?

A. Yes, I did.

Q. Okay. And did you change the fencing or did you just replace it?

A. It was in very, very, very poor condition and it looked horrible, so I had that removed. And I know there was a lot of traffic, children parking and then walking through my property and going back to where those trains are back there, which I didn't think was a good ending, so I had them all closed in and I just thought it looks a hundred times better. And I did move the fence back to make that area smaller if you could see the white and the gray part.

Q. Right. So where the paved area stops

today, that's where the old fence used to be, correct?

A. Correct.

Q. Okay. But when you put the new fence in, you moved it back to the line it's at today, correct?

A. That is correct.

Q. Making the area in the back, in essence, smaller, correct?

A. Yes.

Q. Okay. And this fence was here and you had it replaced?

A. No, it just had it going across the front.

Q. And then your neighbor's fence here?

A. That was there, exactly.

Q. Okay. But you fenced the rear?

A. Correct.

Q. And you're the reason now that we have this encroachment that's going to be fixed, correct?

A. Correct, yeah. I had the guy match it, I had the fence company match it to the post that was there, but it was not -- didn't have that corner saved. It should be up a foot or so.

Q. And I remember you told me before that

there had been some remnants of fence in here, but not up here, which you put in to prevent vehicles from driving over into your neighboring property, correct?

A. Yeah, they used to have people driving the flatbed trucks with -- it was easier for them to pull into my lot, make a right, and then back up to their property and dump off the disabled vehicle and then go back out. And so I said I can't have that, so that's when I put the fence up the whole way going that way also.

Q. Now, you heard your engineer testify tonight that your intention is to reseal and repair the pavement in the front and behind your lot, correct?

A. That is correct, yes.

Q. And to stripe all of these spaces which are currently not stripped, correct?

A. Yes.

Q. And make sure this ADA spot is a hundred percent compliant, correct?

A. Correct.

Q. You heard some of the Board members' concerns about the way the ramp exits here, okay? Would -- sorry.

Would you be willing to put a railing up here so nobody could run down that gate into that area?

A. If that's -- absolutely. Fence, speed bump, whatever, railing -- I need a railing or a speed bump, whatever you think would be best to prevent any accidents.

Q. Okay. So you'd be willing to do either or both if the Board would be so inclined, a railing and a speed bump or one or the other?

A. Sure.

Q. Okay. And then can you explain to the Board kind of in your own words, the tenant you have now in the rear, the testimony provided by your engineer was that they come on-site around 7 and leave, and then come back at 4.

Even though it's not an engineering question, it's a very good question the Board engineer raised, how that potentially works, the two uses on the site, is there any conflict there. Can you tell the Board what your experience in 14 years of operating your own ice cream parlor?

A. Well, they're there and gone before I get there and -- in the morning. And they pretty much -- you could set your watch on they're back in

there by 4 o'clock, but I guess they would want to go home. But our business is -- usually takes off later in the evenings, you know, as far as being busier.

Q. Does that correlate with, you know, after sporting events and dinner times when you typically get more people visiting the ice cream shop?

A. That is correct, yes.

Q. So would you say with your 14 years of experience, you tend to start to see that uptick typically more around the 5 to 7 p.m. window of time?

A. Yes, even a little later than that, exactly.

Q. Okay. So even later than five most times?

A. Correct, yes.

Q. Now, during the summer when kids are not in school, do you notice a difference with the time of when you're busier?

A. No, you still have a fluctuation throughout the day, periodically some people coming and going, but it's still the majority of our business is done in the evening hours.

Q. So even in the summer --

A. That is correct.

Q. -- it's still more consistent?

A. That is correct when we do our scheduling with our employees, we make sure we have the nights covered as opposed to the days, you know.

Q. Now, in the winter, you're also open year round, correct?

A. That is correct.

Q. In the winter, you said you typically close an hour early, 9?

A. That is correct.

Q. And obviously, your landscaper is not going to be doing landscaping, but they'll be doing snow removal, right?

A. Yes, I -- yes, they definitely were doing some snow removal last winter.

Q. Okay. And is part of the arrangement they plow you first in and out before they go in and out for the day? So a little bit of benefit for the landlord to have a landscaper on-site, right?

A. They do take care of me first.

Q. And with that being said, when those trucks are going in and out, they're typically just trucks with plows, correct?

A. Yes, a pickup truck with a plow. And usually at that point if there's a snowstorm, there's

unfortunately no customers.

Q. Now, currently right now, the gate has been open, but you agree as the landlord and one of the Board member comments where we're proposing the 10 feet staggered with the trees, really that gate should stay shut, right? So --

A. It's -- I guess it's whoever the last guy is at night. Some nights it's pulled closed, some nights it's not. If it needs to be pulled closed every night, we can make sure that's on the list, they have to do it.

Q. Right. So as the owner operator, whoever your employee is at the end of the night, manager, whatever, if they haven't done it, you're going to make sure that gate is shut, correct?

A. Sure, sure.

Q. Okay. In connection with some comments or some concerns regarding, you know, Rix next door, you have a very longstanding relationship with them even before you owned the property, correct?

A. Correct.

Q. And it's just a good neighborly type of arrangement, right? There's no written agreement?

A. No.

Q. But during their busy time of year, which happens to be your busier time of the year in the summer, right, their building is much bigger than yours, correct?

A. Yes.

Q. And they have all their pool trucks that park in the back?

A. That is correct.

Q. So you allow some of their employees to park here along the side --

A. That is correct.

Q. -- right?

And in return, Rix is nice enough to say, hey, if some of your patrons park in the front of ours, we're not going to worry, we're not going to kick them out either, it's just this good neighborly relationship you have with them, correct?

A. That is exactly correct.

Q. Now, with this line being pushed back, you understand that that limits in the back for you, you know, if Rix is parked back there, correct?

A. I'm sorry, can you repeat the question?

Q. You understand by your outdoor tenant's storage area being back here, that limits

where Rix employees are parking here on your site, you understand that, and if that takes away from your parking --

A. Right. Then, unfortunately, then, if it becomes a -- like I said, they're usually gone also at -- before dinner.

Q. And that was the point I wanted you to get to.

A. Exactly.

Q. Because, again, they're a pool service and their employees are gone normally long before you hit your busy times for your business, correct?

A. That is correct, yes.

Q. Okay. With that being said, so, again, you've agreed to put in these trees, correct? The encroachment, make these improvements here. You're willing to do the rail. You're willing to do the speed bump, okay, and invest in obviously -- which I think in fairness, I'm only speaking for myself, I think the site of your property is pretty nice, I think most of the Board members would agree, landscape and so forth, but to do these other improvements to help really, you know, improve the quality of the front and the look of your property, correct?

A. Yes.

Q. And in the future, I think it's fair to say you shared that when the monument company guy is gone, you'd like to be able to maybe even further add some additional striped parking in the rear, correct?

A. Yes, the way he runs his business is, I guess it's different from -- things change. The previous gentleman, people wanted to see him I guess or whatever, that's why they were there. I guess they're different now, so they -- I would say all of those for the most part would be removed and disposed of.

Q. Right. So all of those existing monuments in the back, like you heard the testimony, are planned to be removed and no longer be stored in the back behind there, correct?

A. Correct.

Q. Now, you heard some of the comments from some of the Board members about what is going on here in the back, right? You currently lease to your tenant, correct?

A. Correct.

Q. Okay. And your lease with the tenant only allows them to store their trailers and their

vehicles and the containers, correct?

A. Correct.

Q. Anything else is to be stored within the trailers and the containers, correct?

A. Correct.

Q. Okay. Now, as the owner, you understand, and you heard Mr. Elwood, the chairman's concerns that, you know, you need to monitor what's back here just as you would if it's you, yourself back here to make sure this is not getting out of hand, correct?

A. Absolutely.

Q. And one of the things you mentioned is would you be willing to limit the amount of vehicles that can be stored back here so that we can make sure this doesn't end up, like he had indicated, an unnamed -- and probably several, in fairness to the Chairman, unnamed locations that have vehicles just stacked in which would really be difficult for fire as well, right, in the event there was an issue, correct?

A. Absolutely. I have no problem with putting a number on what can be put there, absolutely.

Q. Now, when we were meeting in the

hallway with your engineer, right, your engineer scaled that if we kept the parking just to the sides, right, so that we keep the interior open to allow for the vehicles to come in and out, hook up the trailers, if God forbid you needed fire access or anything, you know, in reality, they probably wouldn't bring the trucks back onto the site.

But anyway, just to keep that open access, not to have stacking, right, you and the engineer, and the engineer scaled it, and the way the engineer scaled it, you could fit, I think he said between 22 and 25 vehicles, but you're not going to ask for that, correct?

A. Correct.

Q. Because that's more than you want back there, right?

A. Absolutely correct.

Q. So you're actually going to limit the rear, because this is a very large area, it's 15,000 square feet. Given that that limitation would be vehicles and equipment, which in my interpretation as an attorney means those trailers too, you would want to limit it to 16, which would basically be eight and eight on each side, correct?

A. Yeah, should be 9, 10, 11 -- yeah, I

think that should be.

Q. So it would be the 16, plus the six containers in the back?

A. Perfect. I think that would be perfect.

Q. And that way -- not that your tenant has even that now.

A. Not that he has that many.

Q. But the point is, there would be plenty of spacing, nothing is stacked, leaves plenty of maneuverability in what your engineer's scale, and it's not being piggish asking for those 22 to 24 vehicles and it's not putting anything in the middle.

So you understand the condition of approval, if the Board would grant it, would probably require Mr. Matarazzo to basically show what we call, for lack of a better word, an outdoor parking plan to show where those spots would be on the side and that you would keep the inside open, right?

A. Okay.

Q. Now, one of the other questions the Board had is what happens to your tenant employees when they come to the site. So you don't let the employees park on your part, correct?

A. No. As far as I know, they all need

to be in the --

Q. Well, it's not as far as you know, it's what's required, right?

A. Well, sometimes if I see a car in the back, I don't exactly know if it's Rix guys or one of those guys, but it should never be any of them. If anybody parks in the back, if any -- I assume they're coming from Rix.

Q. Right. But with that being said, the way it works is the employees come in, they park their cars, which is not outdoor storage because they're not being parked overnight, they're dropping off their vehicle, they're taking the truck and they're going out, right?

A. Right, that is correct.

Q. Now, one of the other concerns one of the Board members raised, and I think it's more than one Board member, is what's the size of the equipment coming in and out of the site? And I know that you said it is a concern for you as well.

A. Absolutely. I know there's -- that's no CDL. And I know they have a box truck that is 15 feet, not the actual physical length, the box truck that's 15 feet. But once again, no CDL for that.

Q. And --

A. I think anything of that size, just the standard is -- should be fine. I don't need -- I don't think we should go with anything -- no straight jobs, no dualies or nothing crazy.

Q. No tri-axles?

A. Right, right, exactly.

Q. Anything of that size, you'd be willing to have that as a condition of approval?

CHAIRMAN ELWOOD: So would it be correct to say nothing larger than a mason dump or a 15-foot box truck?

THE WITNESS: I think that --

MR. LOMBARDI: No, I think you should go with the CDL.

MR. LEMBO: You've got to go by weight.

CHAIRMAN ELWOOD: So that's what, 16?

MR. LOMBARDI: 26,000 pounds.

THE WITNESS: CDL, sure.

MR. LOMBARDI: Which will cover the big tri-axle.

THE WITNESS: That's fine.

CHAIRMAN ELWOOD: Mr. Rush, you got that?

MR. RUSH: Yup.
MS. STONE-DOUGHERTY: And I think that's really it, right, is there anything --
CHAIRMAN ELWOOD: How many tenants do you have there?
THE WITNESS: It's a guy Matt and I don't know if he's acquiring another -- I don't know if he's acquiring another company or they work together or whatever. I don't know exactly.
CHAIRMAN ELWOOD: It certainly looks like there's two tenants there.
MS. STONE-DOUGHERTY: But Matt is your tenant that pays you, correct?
THE WITNESS: Right.
CHAIRMAN ELWOOD: So the zone allows you to have 5,471 square feet, which is not based on the building, it's based on the lot. But you're asking for 15,000, which is basically almost triple what's allowed. Why is so much space needed?
BY MS. STONE-DOUGHERTY:
Q. So let me rephrase that for you, Dan. The question is, is the space needed or how did you come up with the placement of where you put the fence, not having any idea what regulations there were for a fence in the zone?

A. The fence --
Q. Take this with you.
A. Sorry. Like I said, the original fence actually came to here (indicating). So when I pushed it back to match it up with where they're opening is, I actually made it more this way where, you know, I was thinking, you know, not realizing it's just -- it just slopes down and it's just there, looks like -- I mean, if what would I do -- there's -- no customer of mine is going to park back here and walk up to my ice cream store. They're going to park next door and come over, so that was why I -- it's just the way people are.
Q. And Mr. Saporite, by agreeing to limit the number of vehicles and equipment, even though this is a very large area, you're helping also by reducing the footprint of what could be stored there, correct?
A. That is correct. And I do know that they literally just pull in and turn around, back in. And the next morning, I guess they pull out or whatever, so I guess that makes it easier for them to do that.
Q. Right, which would be that turning radius and movement, right?

A. Correct, correct.
MS. STONE-DOUGHERTY: So, you know, yes, on paper, Mr. Chairman, it's 15,000 square feet because that's the area that's labeled "outdoor storage."
But if the Board were to be inclined to approve this with the outdoor storage plans showing the areas where those vehicles and equipment would be parked, if you scale back, it's actually a lot less than 15,000 and it's allowing that aisleway movement area in the middle.
But, I mean, I don't think -- I think Darlene would disagree with me if -- as an attorney, because this gate was here, maybe if this gate wasn't here, I could get away with it, that if we just took this measurement as the outdoor storage, but because that gate is physically acting as a barrier and separating the area, I think the argument, and in fairness to the Board, would be that this is the area you're considering outdoor storage, because if this was all an open site, the outdoor storage would be this area here (indicating).
CHAIRMAN ELWOOD: Ms. Green, anything regarding that?
MS. GREEN: The shape and size of

outdoor storage varies based on the application we have before us. So it sounds like the request is we have this extra area, we did not look at the code, this is the ask.
CHAIRMAN ELWOOD: So what about the fact that I did see -- not even down at the building, end of the construction office, there were, you know, some passage made there and they told you that what you're looking to do is not permitted, you went ahead and did it anyway.
MS. STONE-DOUGHERTY: Okay. Well, I can only assume what Mr. Chairman is referring to would be that there is a current violation pending on the property that depending on how this Board rules, will depend on how we resolve that violation.
Obviously, you know, this Board is more than familiar with and based just alone of denying an application because somebody has done something that the ordinance doesn't permit is not the basis.
You know, the reality is, is as our application package show, as anybody who's lived in this town for more than a year knows, that property has continuously had outdoor storage to the rear, whether or not it was not caught, whether or not it

wasn't enforced, whether or not any of those things happened, they happened.

The reality is now, is that the applicant could have been done one of two things. The applicant should said they're not complying and not have any outdoor storage back there. Or what the applicant decided to do is say, listen, I am going to come in front of the Board, do it the right way, get approval for outdoor storage, and as part of my approvals, I'm going to also make these additional enhancements and improvements to the site, which I think furthers my argument for the outdoor storage.

So the applicant had two ways they could have responded. They don't have to be here because of the violation. They could have just said, you know what? We don't want it, we don't need it, but it is permitted in the zone and it is permitted to have third parties use your outdoor storage in the zone. That's what the zone permits.

And as you guys will hear more in the planning testimony the variances associated with it, the majority of them are because of the fact that this is a through lot and we're on a paper right-of-way.

The one that you honed in on for the

area, you know, again, you heard my leap argument and you heard the client, he actually thought he was making it smaller. He didn't go big and try to make it bigger, he just never gone on because, as I'm sure many of you Board members know, until you sit up on this Board, I don't think a lot of people know how many ordinances and what they regulate in town do.

So he and I really thought he was making it smaller and then, you know, even when the engineer told him he could cram more in there, he said I don't want to be disingenuous to the Board because that's not what I'm looking for. So that -- that's the answer.

CHAIRMAN ELWOOD: If you go to the -- I guess it's the southwest side of basically adjacent to the auto repair, didn't there used to be a bunch of vehicles parked there prior to you purchasing?

THE WITNESS: You are correct.

CHAIRMAN ELWOOD: Wasn't that on your property? So I'm just not understanding --

THE WITNESS: You are correct. You are correct. They were -- Richie's used to just park his vehicles there.

CHAIRMAN ELWOOD: But correct me if I'm wrong, your testimony was you replaced the front

fence and the back fence, but not the side, right?

MS. STONE-DOUGHERTY: No, he did Richie's side. He didn't do Rix side because Rix already had a fence up.

THE WITNESS: There was a fence here, there was a fence across it. So it's here, here, and here (indicating).

CHAIRMAN ELWOOD: Right. So basically, my question is, if there used to be vehicles on the left side there, then how can you say the fence is basically going where it was or should have been? Why do you need to encroach so much on the side yard? Why can't you comply with the ordinance?

THE WITNESS: I'm not following.

BY MS. STONE-DOUGHERTY:

Q. What he's saying is, since there was -- and just to be clear, there was a small fence here that and all this was open (indicating)?

A. Right.

Q. And he's saying since Richie's used to politely, I guess --

A. I guess.

Q. -- come over and just park on your property.

A. Right.

Q. Okay? As well as past tenants that use the back here.

A. Correct.

Q. He's saying why can't you come in ten feet and eliminate the side yard variance?

And I think the simple answer is, is you'd still have it on this side because it's not -- the vehicles are just parking up against the fence to keep this area open and where the containers are, I mean -- you know?

CHAIRMAN ELWOOD: But it's 105 feet wide, correct?

MS. STONE-DOUGHERTY: Correct. It's 105 feet wide. It would be better if the containers went this way, and then they came in and out because you have eight and eight because then you might be able to fit it over.

I mean, Frank, you would have to scale it. I don't know.

CHAIRMAN ELWOOD: You have the same side yard setback and combined yard setback, but my question is, there was no fence there, so why does this new fence have to not comply with the ordinance?

THE WITNESS: I just -- I think for

visual. I mean, I know we're going to put trees up now, but I think it was done this way because you can't -- you don't see them, where if they're all spread out across the back, you would see -- you know what I mean? Whereas here, you only see one, you only see one. The other ones were --

CHAIRMAN ELWOOD: How is the stenographer doing this?

MS. STONE-DOUGHERTY: Did you like the sound effects?

CHAIRMAN ELWOOD: I just want to know how the stenographer gets that down.

THE WITNESS: I'm sorry.

MS. STONE-DOUGHERTY: So, I mean, I guess to be blunt, Mr. Chairman, we'll let the planner do the heavier lift with the variance proofs, but with the way the storage is now, the containers are, it just makes more sense with how the vehicles would pull in and park, it makes more sense with where the gate's located that they park up against the fence, not try to have them parking ten feet away from where the gate entrance is on the side, it would make that whole side -- you'd have the interference of the gate.

THE WITNESS: And on the other side of

this fence, on the other side of this container on the other side of this fence, there's another container, not that that means nothing --

CHAIRMAN ELWOOD: That doesn't mean anything.

MS. STONE-DOUGHERTY: But, I mean, the bigger issue is the gate isn't center. The gate is her. So if you came ten feet out, there would be no way to park here. And if the plan is to have eight here and eight here and keep this open, we're not going to be able to eliminate needing that side yard variance.

It's just -- you could eliminate it possibly on one side, but you'd still have it on the other, and the side that you have it on is up against the parking for the auto/mechanic/use that's next door.

CHAIRMAN ELWOOD: My question is just basically the size and the dimensions of it to better comply with the zone, you know, plus the impervious, because that also takes the impervious higher. So if you make it a little bit smaller, you make it a little bit better.

I think it's a big ask when you have 5400 square feet and you're asking for 15,000.

MS. STONE-DOUGHERTY: And I hear you, Mr. Chairman, but --

CHAIRMAN ELWOOD: No, on the drive aisle then, no, I gotcha.

MS. STONE-DOUGHERTY: You know, but not only that, the impervious is here (indicating). It's not that they put the impervious in or is proposing impervious for it. The impervious exists today.

CHAIRMAN ELWOOD: Right. And just because somebody else put it illegally doesn't mean that -- you know, I'm not blaming him for it. And I agree with you, it probably was there, but, you know, some of it.

MS. STONE-DOUGHERTY: Listen, I just want to be clear one thing as an attorney, because I argue this point in municipal court all the time, just because something is there doesn't always mean it was illegal, you know. Towns lose permits, records get lost, things get -- disappear, things happen, doesn't mean it was illegal.

We jump to that terminology, but that's not true. We don't know what happened when those trees were removed and this area was expanded for that impervious coverage. We don't know it was

illegal. We just don't know right now today how that happened.

The assumption is it was probably bad, but it may not have been bad, right? Because when the original ice cream shop came in, you know, some of this was noted as wooded, but when they came back for the ramp, that area wasn't noted as wooded.

So what happened? How did it happen? I don't know, I wasn't here. But all I'm going to say is the impervious coverage exists today. If we didn't have the gate here, which we think would be bad because we wanted to comply with ordinance and have the buffering and shielding, right, and put in those staggered tree lines, we could argue that the actual storage area is significantly smaller, we could.

But because we're putting that gate and we're closing it completely off, it's gonna make it seem like outdoor storage is bigger. But to compensate for that, we're agreeing as a condition of approval to limit how many will be back there. And when you look at other sites with this much space, with even less space, how much they have in there, and the ask is to have a total of no more than 16.

MR. LOMBARDI: No more than 16

vehicles.
MS. STONE-DOUGHERTY: The entrance and equipment and trailers and then the six storage bins.
MR. LEMBO: That's with the trailers, right?
MS. STONE-DOUGHERTY: With the trailers, right.
CHAIRMAN ELWOOD: Including a trailer, including a skid steer, they each count as one?
MS. STONE-DOUGHERTY: Correct. And then you have the six containers. And that's still probably a lot, but it may not be.
MR. LOMBARDI: That's a fair number.
CHAIRMAN ELWOOD: Is there any salt kept on the site?
THE WITNESS: Not that I'm aware of.
CHAIRMAN ELWOOD: Do they salt your parking lot?
THE WITNESS: Yes.
CHAIRMAN ELWOOD: Do you know where they get the salt?
THE WITNESS: They bring it in on that truck thing with the spreader.
CHAIRMAN ELWOOD: But they don't fill the truck thing on the lot?

THE WITNESS: That I don't know.
MS. STONE-DOUGHERTY: I mean, we could find out.
CHAIRMAN ELWOOD: I'm just saying there's no storage of salt on the site?
THE WITNESS: There shouldn't be any -- there shouldn't be anything stored there.
CHAIRMAN ELWOOD: All done?
MS. STONE-DOUGHERTY: Yes, sir.
CHAIRMAN ELWOOD: Anyone? Comments?
MR. LOMBARDI: I was going to ask about the salt, but you did.
MS. STONE-DOUGHERTY: I think a lot of landscapers now are using that nonsalt stuff too, not all, but some, right?
MR. LOMBARDI: I've never heard of nonsalt stuff.
MS. STONE-DOUGHERTY: Oh, they have it a lot in the HOAs now. It's like not true salt because the salt itself can hurt the sidewalks and so forth.
CHAIRMAN ELWOOD: The calcium, they're not putting that in the roads, just putting that on the sidewalk.
MS. STONE-DOUGHERTY: Right, right.

CHAIRMAN ELWOOD: So they're not filling up the things like that.
MS. STONE-DOUGHERTY: I know.
CHAIRMAN ELWOOD: Ms. Green?
MS. GREEN: Yes. Thank you, Mr. Chairman.
Are you on the property every day?
THE WITNESS: At least six out of seven days, absolutely.
MS. GREEN: When were you last in the outdoor storage area?
THE WITNESS: This afternoon.
MS. GREEN: Okay. And is there other things on the property in the outdoor storage areas that are not trailers or trucks or inside the --
THE WITNESS: There was two pieces of machinery that I hadn't seen before.
MS. GREEN: But I guess are there things scattered around the perimeter?
THE WITNESS: That's the salty thing that we're talking about that's leaning up on the one side that goes in the back of the truck, that's where they dump -- that's where the salt would get dumped into that spreader thing.
MS. STONE-DOUGHERTY: No, I think what

she's meaning, and I could be wrong, is, is there, like, other stuff that's supposed to be inside the containers? Is there, you know, I don't know, a ladder?
MS. GREEN: Ladders, backpack blowers, cans.
MS. STONE-DOUGHERTY: Right, the stuff that's supposed to be inside.
THE WITNESS: I believe there was some stuff outside that I had seen.
MS. GREEN: Right. So the testimony earlier was there's not supposed to be anything outside other than trailers and trucks, right?
THE WITNESS: From me, yeah, I don't want anything outside. So when I went through this afternoon, I was a little disappointed. So something is going to be said tomorrow about getting all that stuff into the trailers, you're absolutely right.
MS. GREEN: Do you have cameras on the property?
THE WITNESS: Not in the back. In the front and on the side.
MS. GREEN: So one thing we -- the shortfall, the shortcoming here is enforcement, so we need a partner with enforcement. And so what I'm

wondering is, how can you help the Board feel comfortable that what we're being told will actually be occurring on the site?

THE WITNESS: Once I tell the gentlemen there, I know it will get done, that's the kind of guys that they are that are back there. I wouldn't just have any riffraff coming through. They're upstanding people and I know if I tell them this has got to stay clean and this can't be here, and I don't want nothing going on here, plant my trees in the front over here for me, they're --

BY MS. STONE-DOUGHERTY:

Q. But you also understand as the owner of the site, if they don't comply and enforcement comes out, who gets hit with the summons?

A. Exactly.

Q. And who pays the fine?

A. Exactly.

MS. GREEN: Okay.

CHAIRMAN ELWOOD: Are you aware of all the gas cans that are there?

THE WITNESS: No, and I was trying to figure that out. I don't understand -- but I don't understand like how do you get into your vehicle or go to work and you need a gas can? That's what I'm

saying.

CHAIRMAN ELWOOD: There's a pile of no less than 20 gas cans sitting there, sitting on the ground.

THE WITNESS: I assume they're all empty.

CHAIRMAN ELWOOD: I didn't pick them up. I hope they're empty.

THE WITNESS: Right.

CHAIRMAN ELWOOD: They're not all standing up.

THE WITNESS: But what good would a gas can be if you're out on the road with all your equipment and the gas can is back at the shop?

CHAIRMAN ELWOOD: So why does he need them?

THE WITNESS: That's why I said he's got to clean everything up. It's all got to get cleaned up.

CHAIRMAN ELWOOD: And right next to it, looks likes five-gallon pales of hydraulic fluid which is right next to the machine that they were working on, which, you know, they were definitely working on it, it was tilted forward, the plate covers were off it.

THE WITNESS: That was the machine that I had never seen before, but that will be addressed.

CHAIRMAN ELWOOD: What about as far as storing like landscape pavers, pallets of other materials?

THE WITNESS: I mean, if they come off of a job with extra stuff, I don't know as far as storing it till they get rid of it, I mean, to reuse it. I don't know.

MS. STONE-DOUGHERTY: Well, just to be clear, your application is they're not to store it unless it fits inside a container and is permitted to go in a container, correct? There's no outdoor material.

CHAIRMAN ELWOOD: Your testimony was vehicles only.

MS. STONE-DOUGHERTY: Right.

THE WITNESS: Okay.

MS. STONE-DOUGHERTY: Okay?

THE WITNESS: Okay. You're right. They have -- it's got to be inside if -- yeah, I mean, if they get a delivery, they've got to go do a job.

BY MS. STONE-DOUGHERTY:

Q. But just to be clear, you don't even allow deliveries at your site if somebody --

A. No, you're right, you're absolutely right --

Q. -- wants pavers, they get delivered to the jobsite. And if the landscaper says, oh, I have extra materials, the landscaper knows, unless those extra materials are, one, can go into a container or, two, can fit into the container, which is why they have the containers, then they don't get to come to the site, correct?

A. Simple as that. You are correct.

CHAIRMAN ELWOOD: Okay.

BY MS. STONE-DOUGHERTY:

Q. And to answer the Board planner's concern, I mean, would you be willing to put cameras in the rear if you needed to to monitor and protect your site?

A. It should be there anyway and I actually have it, it's just not up.

Q. And running, correct?

A. I've just got to plug it in. It's on -- it's on the list.

CHAIRMAN ELWOOD: Anything else, Ms. Green?

MS. GREEN: Not at this time.
CHAIRMAN ELWOOD: Mr. Zimmerman?
MR. ZIMMERMANN: No further comment, no, sir.
CHAIRMAN ELWOOD: Anyone else before I open to the public?
At this time, I would like to open to the public. If anybody has any testimony given by this witness, please step forward, state your name.
MR. LOMBARDI: Motion to close public.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
THE COURT REPORTER: I need two seconds to plug in my laptop, is that okay, before we do the next witness?
CHAIRMAN ELWOOD: I'm going to time you.
(At this point in the proceedings, a discussion was held off the record.)
CHAIRMAN ELWOOD: Okay. Go ahead, Alex.
MR. RUSH: Do you swear or affirm the testimony you should give the Board shall be the truth and the entire truth?
THE WITNESS: I do.

MR. RUSH: State your name for the record, please.
THE WITNESS: Alexander Dougherty, D-O-U-G-H-E-R-T-Y, 136 Route 10, East Hanover.
MR. RUSH: Thank you.
VOIR DIRE EXAMINATION
BY MS. STONE-DOUGHERTY:
Q. Mr. Dougherty, I know you've testified in front of this Board several times. Can you confirm all of your licenses are current as of today, this evening?
A. They are.
Q. Okay.
CHAIRMAN ELWOOD: Mr. Dougherty is good. He's been here a million times.
THE WITNESS: So I don't want to belabor the Board. I know we're very well intimate with this site. It's kind of in the public eye, it's an ice cream shop, we've all been there.
This site, though, is kind of sandwiched in between, you know, a unique, I guess, corridor and somewhere, you know, really nothing else around it.
You've got the utility substation there and then it kind of just branches off before

you get more towards Route 10. It's kind of a pocket, if you will, about three or four properties from the Elks to Rix Auto Body, Last Licks, and then --
DIRECT EXAMINATION
BY MS. STONE-DOUGHERTY:
Q. Richie's.
A. I'm sorry, Richie's Auto Body and Rix Pool Supply.
So in the middle of that, you have a very family-oriented kind of business, so it's unique. I will say I've been there countless times and I always wondered what was going on. I couldn't put my finger on it and now I kind of know.
Unfortunately, I guess given the flight pattern over that side of town, much like the last application, I couldn't get my drone up. But I think we all know there's a lot going on back there. I didn't know there was a paper street until I got this application.
So with this project at 134 Ridgedale Avenue, Block 130, Lot 11.02, we have some variances, they're C relief, and lot of these variances relate to the placement front yard, if you will, considering we have the paper street behind us.

So with that, I'll kind of just jump into it. On the planner's report on page 3, you'll see some of the variances. The first one, if you look at it, the variance for accessory structure location, if you go through it, it requires services to be relocated to the rear yard. We, by definition, because it is a paper street, have two front yards. It's more of a technicality, but it is a variance on paper.
There's another variance on Point 3, Section 95.47(A)4(C), variance for outside storage location in the I-3 should be located in the rear or side yard. Again, this is a through lot. We have that paper street in the back, so a few more technical variance, but with that, I think from a planning standpoint, hopefully the planner and engineer agree, I don't believe personally, professionally that that paper street will be coming to fruition, given the wetlands and given the river back there, the remoteness, but nonetheless it is a paper street. If there were ever to be a possibility of developing that paper street, this technically would be in a front yard.
So with that, I call out these variances that exist to a paper street. This isn't

your typical property where we're putting a fence in the front yard or storage material in a front yard on let's say -- I forget what the name of that street was.

Q. Shanley.

A. Shanley. I never heard of that street until this application.

So with that being said, we do have a couple of other variances here. I think we're calling them out, a variance for outdoor storage and buffer area.

I know this also again kind of relates to Shanley Avenue, a ten-foot is required adjacent to residential or public, and Shanley will technically be that component for the road or public place, street.

With that, I know there was some conversation about also putting some buffers in front of the chain link fence as you pull into the property. I don't think that's necessarily a bad call. I think the collaborative effort from the Board is going to make this better, but visiting that site and driving on Ridgedale Avenue, I don't see the fence going and passing the property. Pulling into the property, certainly you would see the fence, but

from the public perspective on the street, you don't really see a fence.

You're driving past it, there's no sidewalks at this location. There's no sidewalks across the street. And I know across the street at Diamond Gymnastics, I think it would be hard for us to say you have a clear line of sight at that fence. But nonetheless, as far as requiring that as a variance, it would still exist even if we put buffering along the front of that fence.

With that, we have another variance here for the outdoor, and this is an interesting variance last 95-47(A)4(C) for outdoor storage area size. And the I-3 zone permits a maximum building coverage of 30 percent of the lot, outdoor storage will be 15 percent of that lot area, which would be a maximum of 5,471 and change. This is essentially 41 percent, not 15 percent, because it's proposed at 15,000 -- 1500 -- 15,000 square feet.

It's a variance given this property is unique, given there's only, you know, a handful of properties in this little island here in the I-3 zone off of Ridgedale Avenue, given the historical nature, as we all know, what's going on back here, I would argue from a planning standpoint, it would be more

efficient use of land to limit that down to a 5,000-square-feet outdoor storage.

I think that doesn't really bode well for what's been operating there and what's being proposed to operate there. And hopefully, you know, from a perspective what could possibly be back there. 5,000 square feet is a lot smaller to circulate, to store.

I think that's also kind of the intent is to have a support relationship with the principal use. This use is not supported to the ice cream, it's to independent uses.

So let's say the ice cream was a permitted I-3 industrial light manufacturing tenant, that storage of 5,000 would naturally kind of make sense. This 15,000 is for a separate entity altogether. But nonetheless, that is, I think from a planning standpoint, the bigger variance on the table from a special standpoint versus some of the more buffer related and through lot-related variances.

We also have a variance for the side yard. And I think we were just discussing that, if I'm not mistaken, for accessory structures, the side yard and requires ten feet. And I'm not sure if we left off that will rearrange the containers to comply

with that ten-foot side yard setback and have them along the rear line. Is that how we just left that last conversation off?

Q. We left the conversation with, you know, they would probably not be ten feet. They could be moved over a little bit, more like five feet, but the idea is to keep the containers and the vehicles along the fence line so the interior stays completely open for maneuverability.

A. So we're still going to request that side yard setback of ten feet. We'll land it on, like, five.

Q. Um-hmm.

A. So we'll be five feet shy of the requirement, but nonetheless, moving it in the right direction.

I also point out that the -- these are considered structures like a shed in a residential home. These structures are not essentially permanent structures. They didn't give -- they could be, you know, picked up and moved off site and relocated.

So do I think it's going to erode the intent of the zoning master plan by way of a structure? You know, I do not. These can certainly be moved.

With that being said, the last variance identified here is the impervious coverage. And my understanding is we've eliminated that variance, if I'm not mistaken, impervious coverage?

MS. GREEN: No.

THE WITNESS: No?

MS. GREEN: Unless you want to.

THE WITNESS: No, I just -- we drove it down?

MS. GREEN: Slightly.

THE WITNESS: Okay. So we needed to be at 85 percent, we're at 90. Where did we land? We did not lose the impervious coverage variance?

BY MS. STONE-DOUGHERTY:

Q. We didn't lose it. We don't know, maybe Frank can do a quick calculation. We agreed to put in the ten-foot buffer.

Mr. Dougherty, as you heard with the staggered tree line, so if the lot's 105 in width and it's ten feet times that, you know?

MS. GREEN: You're not doing it where the gate is?

THE WITNESS: You're not doing it in that entrance point?

MS. STONE-DOUGHERTY: Correct,

correct. So Frank would have to calculate.

THE WITNESS: 105 minus 24 standard?

MS. STONE-DOUGHERTY: I don't even know. Is the gate 24? 25?

MR. MATARAZZO: It looks like the gate is about 15, 16-feet wide.

MS. STONE-DOUGHERTY: So it's even smaller, yeah, because it's one way in, one way out to the outdoor storage.

THE WITNESS: So 15 feet minus the 105 times ten?

MS. STONE-DOUGHERTY: You're looking at --

MR. MATARAZZO: Which way are we going?

THE WITNESS: I'm still jet lagged.

MS. STONE-DOUGHERTY: So if you have 15 minus 105, right, that brings us to 90. That's 900 square feet. That's pretty easy.

THE WITNESS: 900 square feet reduction of the impervious coverage. What is our percentage on that now? I'll come back to you on that, but it's very possible we may comply. We were at --

MS. STONE-DOUGHERTY: No, you don't --

MR. ZIMMERMAN: You're going to be at nine.

THE WITNESS: We're moving it closer, but we're still going to ask for that impervious lot coverage.

MR. MATARAZZO: You'll be 88.3.

THE WITNESS: Not too far off, 85 required. So 3 percent over the requirement. And I'll put an asterisk, 83 to 89.

But those are our variances there today that we're asking the Board to look upon favorably with consideration with this application and the history at that location.

We do also have some existing preexisting variances also identified on page 4. Particularly the ice cream shop is a preexisting use associated with this approval back in 2023.

We also have the lot size requirement for the I-3 zone would be 130,000 in change. We're at 13,000 square feet -- I'm sorry, 36,000 square feet.

We also have a minimum lot frontage of 200. We're at 105.

We also have a 75-foot front yard setback. The existing is at 74, very de minimis or

perceivable, but still a variance. And 25-foot side yard setback and we have a 15.3 at the northern side.

And we also have an ordinance for a 60-foot combined side yard setback where our existing is 50 feet.

These are variances that we cannot change today whether this application is approved or denied. These are existing conditions associated -- and the way the lot is and sized today.

So with that, our -- our -- so the side yard -- side -- I don't know what you said, 20 by 100 total outdoor storage.

BY MS. STONE-DOUGHERTY:

Q. So just for comparison --

A. 4,000 square feet.

Q. So just for comparison, just to answer one of the questions that Mr. Elwood said, why Mr. Matarazzo was over here doing the quick calculation of impervious coverage, if -- since the application is proposed is only to have the storage along the side of each side?

A. Yes.

Q. Okay. If you took it from the 20 feet straight back on each side, then --

A. We would comply, yeah.

Q. You would be at 4,000 square feet of outdoor storage, which would be under that number required?

A. So, yeah. The technical physical location for storage would be under, where 5,471 would be. I think the intent here, the storage area, it's chained in as the area.

But, yeah, if we can stick to strict adherence to the code and location, then we would only be storing it in a 4,000-square-foot area, where 5,407 is allowed, but the general change in area is a lot larger.

With that, again, it comes with strict enforcement from the property owner to ensure that things are being stored only in that area for overnight parking and things being stored in the trailers.

But with that, these variances before the Board fall under what would otherwise be classified as C(2), a lesser-tier variance. This is a permitted use in the I-3 zone. The benefits of this application as a whole meet the same detriment here associated with these variances. I like to think candidly, you know, we have a grab bag of uses here. We have the monument, we have the ice cream,

we have an outdoor storage landscaping facility. It's worked here for nearly two decades.

So if there was a substantial negative impact that, you know, these three uses cannot coexist or this use cannot be recognized as a use on the site and with lawful permission from this Board, we would have heard about it over the past two decades.

I think the Board has made some great calls as far as their speed bumps and the railings and ensure there's no conflict with the residents at large that visited this facility, the ice cream facility.

I will say personally my concern was myself visiting the ice cream facility, not so much the landscape because I think the operational testimony kind of cleared that up, but with this, we have a site that can circulate, a site that can be buffered and screened, and a site that can otherwise comply with a lot of the major concerns, the intents of the ordinance, again, we have an undersized lot and a lot that has a paper through -- a paper street in the rear.

I don't believe given the material changes to the site are minimal, a lot of

enhancements in the front related to the ice cream parlor, striping, paving.

What's back there has been dirt and gravel. It's going to be dirt and gravel tomorrow. This is just putting a fence on it, some hedging, and really regulating where things can be stored within that area and the likes of that. I think this could only be a benefit to what is even happening at the site.

I think we have, from a planning standpoint, we have some purposes of the Municipal Land Use Law. We can argue we're advancing Purpose I for a desirable visual environment. We can clean this up and put some names on it and put some regulations on it, but most importantly, I think we can advance Purpose M with the view of lessening the cost of such development for a more efficient use of land.

We do have, again, a very small, unique property. A handful of properties right here where to the rear, there's a lot of activity. This is legalizing that activity, making a more efficient use of land.

There is no more plan to be developed. Candidly, in East Hanover, the blue collar kind of

trades are being pushed out across North Jersey and one of the communities is residential neighbors. They don't need a whole lot of size in this 15,000-square-feet area. I think it works for what's being proposed and what's been there, whether it's tree removal company, a landscape company.

We know history tells us 15,000 square feet is what is needed here. We have that. We can make a more efficient use of land. To cross over between that establishment and the ice cream establishment has always been in existence. There's little to no real conflicts going to and from that delivery of service for landscapers and the patrons coming to the Last Licks parlor.

I don't see any detriment, only benefits of what's been there. I think the Board can look upon this application and approve these variances with the intent that there is no substantial detriment that hasn't been kind of addressed with changing this, striping this, putting hours of operation in, and addressing the amount of vehicles that or material that could be stored out there.

So with that, I'll conclude. I believe the criteria for C(2) has been addressed and

approval could otherwise be warranted.
Q. Alex, before your final conclusion and before the Board members, and I'm sure the Board planner has some questions for you, you indicated in your testimony you visited the site quite often, correct?
A. Yes.
Q. And before this application, you didn't even know Shanley Road existed?
A. I did not.
Q. But as a planner hired for this, you took a walk back there, correct?
A. I took a big dive back there.
Q. Right. And as you indicated, this is just a little industrial pocket that starts with like the utility substation and ends with the lodge, correct?
A. Correct.
Q. Okay. When you went back there, you know, what were you seeing with the other neighborhood uses that are next to the property?
A. So Rix is clean. The whole back is paved. It's pretty clean. It's curbed. It's nice.
Q. And they have quite a few trucks that stay there, overnight parking, correct?

A. Yeah, there's actually also a loading dock in the back as well, but Rix -- my memory goes way back, it's always looked good. Seeing it in the back, boots on the ground, it still looks good.
Q. And roughly from your memory when you were there today, right, because they overnight stored their vehicle in the back for the pool company, correct?
A. No, they have -- we've all seen the Rix Pool Supply trucks, we seen them, but, yeah, you go in there as, you know, visiting ice cream and parking. I parked in the back, you know, at Rix Pool Supply.
In the past, there's vehicles parked behind Rix as long as I can remember, but Rix looks great. This property, I think, is trying to pull near that, screen it, they've not paved the entire property over, but resurfacing the asphalt they have, striping it, adding some plantings and kind of hedging it, what's back there, it's certainly going to be complimentary to what's going on with Rix.
The other site, that I think is where growing up I was most confused about what took place, because before the fence division, I don't know what was going on back there. I didn't see the tombstones

up in the front on Ridgedale Avenue. I had no idea what was going on.
But was it Ricky's Auto Body, that goes way back and I went back there, I want to say because I was retained, what was it, early spring, when we initially did the walkthrough to figure out where the property was and to try to identify that paper street, that use goes way beyond the paper street.
I think visually, that is the property. I think this would only mirror Rix Pool Supply and kind of be instinctive that these two properties are more aesthetically pleasing and are officially visually delineated. Without this fence, without the hedging, the back behind Last Licks kind of blends in with everything else that's going on in the back over there.
But from a planning standpoint, I don't believe this is the problem property. And it is a property that brings a lot of the kiddos out to it. There's an opportunity to kind of clean it up and make a hard delineation and separation between the rest of them.
Q. So you're a fan for, obviously, having the fence and keeping the outdoor storage contained

so there would never even be the opportunity --
A. To encroach, yeah.
Q. -- of it encroaching, moving beyond Shanley, anybody, you know, parking, right?
A. I think the dedication buffer in the front was a great call because when you pull in, it's going to give the site a completely different energy and experience from a family standpoint pulling in, you get nice trees, you're not seeing the black fence we're seeing through with your headlights or whatever it may be, I know it's slatted, I seen it was slatted, but you can still kind of see through a slatted fence.
So I think the vegetation in the front was a great call, but, yeah, fencing this entire thing helps stop that encroachment, which is going way back to the way we were.
Q. And even though fencing it all in now is creating this 15,000 square feet number, the actual storage itself, as you heard the applicant testify, if we didn't have that fence and it was measured in that way, would be in compliance, correct?
A. To some extent, yes. I think having it fenced in and delineating where they're going to

park and where the containers are, as you put it in numbers is 4,000 square feet, it's going to come to enforcement whether it's fenced in or not fenced in.

Q. Right.

A. Because if it's not fenced in, you have the encroachment issue that's been happening.

MS. STONE-DOUGHERTY: Thank you, Mr. Dougherty.

CHAIRMAN ELWOOD: Ms. Green?

MS. GREEN: If you're pulling the containers in five feet from the edge of the property line, is there an opportunity to add impervious coverage behind them to get you closer to compliance?

THE WITNESS: It's just gravel back there.

MS. GREEN: But we still count that.

THE WITNESS: You want to put grass back there?

CHAIRMAN ELWOOD: Or a tree.

MS. GREEN: Or evergreens.

CHAIRMAN ELWOOD: Nobody is going to water or cut the grass there.

THE WITNESS: So we pull it in five feet and make it grass?

MS. GREEN: I don't know that grass is

going to have a high likelihood for success. I would be fearful it would turn into a little mini patch.

THE WITNESS: Grass is big back there. It's wooded, unmanaged wood, vegetation. I don't know how to explain it. It's overgrown back there.

MS. GREEN: My fear is with grass things can be put on top of the grass whereas it's much harder to put something on top of a tree or shrubs.

THE WITNESS: I will say I don't think it's a bad call.

MS. GREEN: Because I think that helps with the delineation of there's not supposed to be something along this five-foot area.

THE WITNESS: I don't think it's a bad call to take care of that patch. But, yeah, if we're moving it in five feet.

MS. GREEN: It's going to be used less.

THE WITNESS: I don't think it's a bad call. It could only make the project better.

MS. STONE-DOUGHERTY: Are they doing that or not?

MS. GREEN: Rosemary is asking.

MR. RUSH: Okay.

MS. STONE-DOUGHERTY: So I spoke to the applicant. The applicant's request would be only because where it is up against on more Richie's side and the other side, which you can't see on the plan, is kind of the grade difference with Rix Pool, is to try two on each side behind the containers and --

CHAIRMAN ELWOOD: Two trees?

MS. STONE-DOUGHERTY: Two trees, to place some -- you know, kind of like this and like this to see how they survive, because the concern they have is you have a decent grade change here and there's actually a wall there. And then on this side, you have all of their parking (indicating).

So the concern is, is just, you know, the viability of the trees. I told him you guys, you know, some of you guys on this Board are probably professionals yourself and know that they'll be able to be viable, but the request is with doing all of these trees, if we did two and two on each corner, but kind of staggered them behind, like maybe it's like here and here (indicating) in between each one, do you pick up four trees in the back? Because the reality is, nobody is even going to see the trees in the back, but to make the effort.

CHAIRMAN ELWOOD: Ms. Green, at the

end of the day, are those trees going to make it?

MS. GREEN: Well, it depends on how well someone cares for them. I mean, if there's a landscaper on the site, that professional exists. I --

CHAIRMAN ELWOOD: We want to be up towards the front where there's a water source.

MS. GREEN: I was suggesting something behind the containers, not just push them in, but to make sure, then, that they don't become areas where things are stored outdoors that we don't necessarily want.

CHAIRMAN ELWOOD: Or pushed back.

MS. STONE-DOUGHERTY: If that's the concern, maybe I can suggest a different alternative which might have higher viability. It doesn't help with, you know, making the back beautiful, but if we did some type of hardier, like, brush, you understand what I'm saying, it would fill that back area and then probably --

MR. SAPORITE: What about the line by Rix in the front?

THE WITNESS: No, no.

MR. RUSH: Are we trying to split hairs here? Yeah, I think --

THE WITNESS: Those plants are on the front.
MR. RUSH: Like those trees are just going to be dead anyway.
(Crosstalk.)
CHAIRMAN ELWOOD: Darlene, even if they kept something behind the container, nobody can see it, who is it bothering? I understand, yes, we're trying to get to a certain point, but...
MS. GREEN: Listen, you guys make the decisions. I just throw out options.
CHAIRMAN ELWOOD: Something stored there with the tree.
MR. RUSH: So we're not going to do this.
MR. ZIMMERMANN: I don't think it's worth it. But, I mean, we love the ten-foot buffer in the front. That has way more value to it than getting some percentage points down on impervious in the back, that's already contained.
It just comes down to just enforcement and how it's written into the conditions approval what can be stored back there, et cetera. It would be fine and enforced.
MR. RUSH: How much more are we going

to redesign this? I think we're really getting to the point where we're designing an application right now. We're not hearing it anymore. We're designing it.
MS. STONE-DOUGHERTY: We offered ten feet, Counsel, which is --
MR. RUSH: No, I thought that was already agreed upon.
MS. STONE-DOUGHERTY: Right, it was.
MR. RUSH: Okay. Yeah, I'm just saying now, I don't know what we're talking about anymore because it just seems like we're throwing out ideas, let's redesign this right now. We're three hours into a hearing on an application that's been deemed complete, let's finish it.
MS. STONE-DOUGHERTY: I think the agreement is put nothing here because it will likely die behind the containers. Okay?
We have this beautiful buffer that is proposed here that is going to remain, the rail, speed bump, you know, those are all things that have been agreed to, making the camera in the back of the building that already exists functional.
And you heard the applicant's testimony that he will be out there more actively

monitoring and making sure that gate is closed.
MR. RUSH: No, I understand all that. I think that's all been testified to and that's fine. I'm just saying I think it's time to stop designing and redesigning this application.
CHAIRMAN ELWOOD: Mr. Zimmermann, any comments?
MR. ZIMMERMANN: No, I'm satisfied.
CHAIRMAN ELWOOD: Anybody up here? I guess I'll open to the public.
Anyone from the public who has any questions regarding the testimony given by Mr. Dougherty, Step forward, state your name.
Seeing no one.
MR. LOMBARDI: Motion to close public.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
MS. STONE-DOUGHERTY: Mr. Chairman, Board members, professionals, Counsel, I appreciate you being here at this hour. I want to start kind of -- I want to finish where I started.
Okay. The presumption is that whatever is occurring here happened. We don't know how everything happened, but the reality is, is the application aerials themselves them show for at least

two decades, and all of us that live in town and have lived in town for more than two years know there's always been something back here, whether it was permitted, whether it wasn't permitted, whether it's something that disappeared when the town watchdog's house was knocked down, who knows, right?
But this is an opportunity now where our client is coming in as a newer property owner in town, who's making an investment in the town, who's had a business in town for 14 years and wants to be in this town for 40, 50 years longer.
In fact, they've come in, they've acquired the property, they're proposing these improvements to the property because they want to make their property nicer and better.
And it wasn't in testimony, but this Board knows that this business in town does a lot of things in this town, it helps. It does a lot of things being here open year round to support what's going on in town.
And with that being said, he did make a mistake, right? He did pull a fence permit, but he didn't have the fence people do it the right way. He caused an encroachment in the back where he put up a fence that never existed, which you heard the planner

say is a good thing because we all know things tend to encroach and move further back, especially when we have paper right-of-ways.

He put a better fence on the side over here with slats in it to again, delineate and make sure that good neighborly sharing of property in the back wasn't occurring. And he brought it to the front to make sure people weren't driving over the railroad ties cutting across his property, which would not be safe for the business that he operates.

Did he make a mistake? Did he have somebody local to this area who came to him and said hey, I just had an emergency, let me park here? Yes, he made a mistake. We all make mistakes. Ninety percent of the application that come before this Board is because somebody made a mistake and that's why they're here.

And with that being said, he's now trying to rectify it. And to rectify it, he's showing this Board that he's made some pretty good efforts. He's not saying let me just keep the fence where it was. He's not saying let me just fill this with as many cars as my engineer can draw a 10-by-20 or even arguably a 9-18 space.

He's saying I don't even want that

because it's my own business in the front. And he agreed to limit it to the number that we already told the Board, which includes those trailers and those containers which are movable. We agreed that we would move those five feet. Okay? There won't be outdoor storage of materials. We're not going to be having pavers, salts, thing of that nature.

And I understand and I share the chairman and other Board members' concerns that, you know, you've walked the site and you've kind of seen, let's be honest, the tint is kind of lousy right now, right?

You know, but you heard the owner say it's not going to be -- he's agreeing to be the better landlord. He's agreeing to be out there and make sure all of this is compliant.

He understands now, probably more so than ever, because for most people, until you get a municipal summons and you have to pay the money to hire an attorney and you have to go to court, and you find out how much the daily fine can be for a zoning violation, you don't really appreciate the enforcement power a town has. He appreciates it now and he's going to make sure that this stays compliant.

I think at the end of the day, if the Board were to look favorably on this application, it's going to be a beautiful improvement, because what's been going on for decades back here -- and even if this Board says no, and the client sells or the client comes in with somebody else or somebody says, you know what? We're going to turn this industrial and we're going to put a bigger building, there's going to be outdoor storage out there, you know why? Because it's permitted.

This isn't a D(1) use. We're not asking for something we're not allowed to have. We don't want to have it. And if we didn't have the fence and we calculated outdoor storage like we do in all those other site plans, we'd be in compliance with the square footage. What's throwing the number is the fence, but the fence gives the benefit of keeping it a hundred percent contained and keeping it shielded so you don't see it.

To me, that's a huge positive. This is a through lot. Two of those variances are because of that. Now you get down to the other two. We're making it better. We're at five feet. We're not at ten, but we're asking for that because of movability of containers, that's really it.

And, again, it's way in the back of the property where nobody is ever going to see it, never going to go, never going to come on this property and say, hmm, I think they're too close to the fence. It's never going to happen.

But more importantly, we've made this area smaller. We've made it organized. We've put a lot of restrictions on it, which gives the enforcement power to this town so that they can make sure, besides my client, if my client drops the ball, that everything this Board votes on tonight is what happens, because if it doesn't, there's going to be a summons and there's going to be fines to pay, and there's going to be problems for my client, and that's not the relationship a business wants to have, one that's a family-oriented business wants to have with the town that it already has 14 years of service in.

So for all those reasons, again, I want to always -- as I always do, appreciate all of your time here this late hour, but I ask you to grant the approvals that we're seeking here tonight for all of the conditions that I've already said. I'm sure Bill will read to you again that were agreed to on the record. And, again, thank you for your time.

CHAIRMAN ELWOOD: Thank you.

I know you said the number of vehicles, but what about the number of tenants? And I'll tell you where I'm having a problem.

I'm having a problem because you're saying there's one tenant, there's obviously two.

As far as some of the storage, even in the aerial pic, I see a blue tarp, most likely that's salt underneath there.

So, you know, I'm trying to think that, you know, the applicant just wants to be a good neighbor and it seems like he does and it seems like he wants his site clean, but getting back to what I said earlier, it gets a little bit hard when the applicant is not the same person that's back there. And there's only so much policing -- he's got to worry about his ice cream business. There's only so much policing he can do in the back.

In addition to, you know, if the Board was inclined to approve, so you mentioned the drive aisle down the middle and the use on the sides. So are you saying that you'll also do as a condition that basically from the side fences, storage will only been within the first 20 feet on each side and nothing down the middle at all? Because that's kind

of the statement that you're saying.

MS. STONE-DOUGHERTY: So the statement we're saying is we're allowed to have a higher number, so we might have to give, I don't know, a foot or two, you know, maybe to make it 22 or 23 feet, but I was just using the standard 10 by 20 as an example, because if you do the 10 by 20, by the amount, I was just showing that we're well under what's allowed to be there.

So if that actual plan, you know, where the gate is to here, because I'm not an engineer, even though I pretend to be one, you scale it to here, it would probably be the line of that gate going straight back, which if this is our side yard setback line, you see what I'm saying, to here (indicating)?

But, I mean, we can provide a drawing that, yes, would be a condition of approval to show how that goes back. So will the total number be potentially -- and, again, I'm making this up, 4200? 4500? I don't know when you scale a foot or two. But, yes, the testimony you're hearing is it will go straight back like a line and no storage in the middle, because the middle --

CHAIRMAN ELWOOD: Except for the back

gate.

MS. STONE-DOUGHERTY: Right, because the middle here is just for the maneuverability of the vehicles, you know, coming in and out, you know, pulling their trailers, whatever the case may be, having that turnaround.

CHAIRMAN ELWOOD: But I definitely have an issue regarding the number of tenants. Because, like I said, there's another site in town that's just a complete disaster. And like most people, they have one spot, one spot, maybe two spots. I don't want to see 16 different guys parking here.

MS. STONE-DOUGHERTY: I mean, my only thought --

CHAIRMAN ELWOOD: I want to see one, so this way, when there's an issue there and he walks in the back and has an issue, there's one guy to point at. It's not oh, it's the other guy in the yard. He can go back there and basically, he's enforcing with one tenant.

And I'm only one person. I'm one vote up here. I don't know how the rest of the Board feels, but I feel that outside of one tenant is where this goes array.

MS. STONE-DOUGHERTY: I mean, I could talk to the applicant. We did talk about this before and maybe because I'm an attorney and I like to overcomplicate things or I like to think make them easier.

To me, the tenant issue wasn't an issue because by his agreeing to limit it to 16, unless you have two really small landscapers who only have like, you know, three trucks and three trailers, it wouldn't be viable.

You know, that was my thinking on it when he looked at exactly what the landscaper has now. And, you know, you always like to, when you present an application like I've done on other ones, the idea is if they're successful, growth, whatever, but also limiting it, that's why I wasn't hung up, because he only has one lease, one tenant.

And I can assure you the conversation I had with him, if there's a second person there that his tenant is somehow illegally subleasing to, he's going to have an issue, right? Because he didn't condone it. You see what I'm saying?

But hypothetically, what if the landscaper was only down to five vehicles and Rix Pool said, you know what? You have outdoor storage.

We'd really love to rent those other spaces from you. Can we park our guys back there rather than parking them up here on the fence?

That was kind of the conversation we had, which is why we didn't want to come in here and just quickly say, Mr. Chairman, of course we'd leave it to one tenant because really, the only other person he might ever rent space to, to be honest, would be Rix, because what other storage is going to come back here?

I mean, I don't have a problem, Mr. Chairman, if you wanted to say because you don't want to be like those other spaces, that he can't ever have more than potentially two, so you don't end up with like five, eight, ten people back there having one truck, one truck, one truck, one truck, and you end up with a hodgepodge mess.

I have no issue with that. I know the client doesn't, but we wanted to leave that door open because Rix --

CHAIRMAN ELWOOD: Let's limit it to two, that's what I'll tell you right now, makes it easy.

Anything from the Board, questions, comments? No.

MR. LOMBARDI: Are we going to hear the conditions again?

MR. RUSH: You want me to --

CHAIRMAN ELWOOD: I didn't say that, he did.

MR. LOMBARDI: I'm sorry.

MR. RUSH: I'll tell you what I have. I mean, there's going to be more, obviously, once I go through the transcript, but this is what I have, because a lot of things that we talked about are technically conditions.

But the main ones here are -- let's start with --

CHAIRMAN ELWOOD: Two tenants.

MR. RUSH: Two tenants in the rear.

Craig, you mentioned earlier that you had something about the signage being correct?

MR. ZIMMERMANN: The accessible -- it's in my -- van accessibility has to have --

MR. RUSH: So there's going to be no fixings or repairing of other vehicles, equipment on storage area. Also, I guess it was said should be no storing of oil on the property as well.

CHAIRMAN ELWOOD: Or any flammable materials.

MR. RUSH: We're going to need a calculation installed on the plan, ten-foot buffer in front of the fence with the staggered tree installation, installing the trees at six feet?

MS. GREEN: Yes, evergreens.

MR. RUSH: Six feet, evergreens.

And eliminating it to two tenants. And I think those were the main ones. Rosemary, if --

MR. ZIMMERMANN: The rail.

MR. RUSH: What was decided upon that? It was kind of another one thrown around.

MR. FORGIONE: Sixteen spots and no CDL.

MR. RUSH: Oh, 16 spots, yeah.

CHAIRMAN ELWOOD: And all vehicles to be under 26,000 GBW.

MR. RUSH: I had that.

MS. STONE-DOUGHERTY: That's the no CDL, that's automatic.

MR. RUSH: Yeah, the vehicles have to be under 26,000 pounds.

MS. GREEN: The railing parallel with the driveway along the ramp and/or a speed bump.

MR. RUSH: So that's what it was, it

was both that was agreed upon, that was going to be both?

MS. STONE-DOUGHERTY: Right, he said he'd do either or both, whatever the Board --

MR. RUSH: Okay. So there was a railing --

MR. ZIMMERMANN: I think the railing is --

CHAIRMAN ELWOOD: And no storage of bulk materials.

MR. RUSH: And a speed bump, though? Let's get consistent.

CHAIRMAN ELWOOD: That's up to the applicant.

MS. STONE-DOUGHERTY: I mean, I think the railing --

CHAIRMAN ELWOOD: The railing is better than what's there and as long as it's that.

MR. RUSH: And where is that railing going?

MS. STONE-DOUGHERTY: It's going to go at the end of the ramp so kids can't run down the ramp, so just be a railing.

CHAIRMAN ELWOOD: Especially a trailer with a speed bump, that's horrible.

MR. RUSH: All right.
MS. GREEN: They're moving the containers five feet off the property line.
MS. KNOLL: I'm trying to envision a railing, having trouble.
MS. GREEN: It works, don't worry.
MR. LOMBARDI: I can't, that's big.
CHAIRMAN ELWOOD: We're all good with everything? I need to open to the public one more time.
(Crosstalk.)
MR. RUSH: Because this is what we're doing now, we're doing DRC. Everybody bring the whole Board, because that's all we're doing here. We're here every single night till 11:30 at night redesigning applications. It's got to stop. Whatever. Let's finish this.
CHAIRMAN ELWOOD: At this time, I'd like to open to the public.
If anybody has any comments on anything regarding this application, please step forward, state your name.
Motion to close public input.
MR. CASTANO: I'll make a motion to close public input.

MR. LEMBO: Second.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
CHAIRMAN ELWOOD: Okay. Ladies and gentlemen, I need a motion to approve or deny the application.
MR. LOMBARDI: I'm going to make a motion to approve the application.
MR. FORGIONE: I'll second it.
CHAIRMAN ELWOOD: With?
MR. LOMBARDI: With all the conditions.
CHAIRMAN ELWOOD: We have a motion and a second.
Roll call.
MS. KISS: Member Lombardi.
MR. LOMBARDI: Yes.
MS. KISS: Member Castano.
MR. CASTANO: Yes.
MS. KISS: Member Lembo.
MR. LEMBO: Yes.
MS. KISS: Member Knoll.
MS. KNOLL: Yes.
MS. KISS: Orgel.
MR. ORGEL: Yes.

MS. KISS: Forgione.
MR. FORGIONE: Yes.
MS. KISS: And Chairman Elwood.
CHAIRMAN ELWOOD: Yes.
MS. KISS: Okay.
MS. STONE-DOUGHERTY: Thank you very much.
CHAIRMAN ELWOOD: I need a motion to adjourn.
MR. LOMBARDI: I'd like to make a motion to adjourn.
MS. KNOLL: Second.
CHAIRMAN ELWOOD: All in favor?
(Unanimous Aye.)
(Matter adjourned at 10:28 p.m.)

CERTIFICATE

I, PATRICIA A. PUCCIARELLO, a shorthand reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and accurate transcript of the testimony as taken stenographically by and before me at the time, place and on the date hereinbefore set forth, to the best of my ability.

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

Notary Public of the State of New Jersey
My commission expires April 7, 2029
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