

The meeting was called to order by Chairman Paul Boisvert and the opening statement was read by the Board Secretary.

ROLL CALL: Showed the following members were present: Brian Greenfield, Nicholas Huszar, John Leggio, Robert Seaman, Megan Talente, Brian Tannenhaus, Councilman Fred Gasior, Christopher Mercer, Jacqueline Pike and Chairman Paul Boisvert. Joseph Cristiano was excused.

Also in attendance were Anne Marie Rizzuto, Board Attorney, Jordan Rizzo, Board Engineer, Jennifer Beahm, Board Planner, Shari Spero, Board Licensed Tree Expert, Kevin Chen, Board Traffic Engineer and Eileen Rubano, Board Secretary.

PLEDGE OF ALLEGIANCE:

APPROVAL OF MINUTES: There were no minutes to approve.

VOUCHERS: None

CORRESPONDENCE: The Board Secretary said she had a letter from Todd Cohen, Attorney for Avet Brothers LLC, which is on tonight's agenda. Mr. Cohen would like the application carried to the Board's August 3, 2023 meeting with no further notice. Board Attorney Rizzuto made the announcement for members of the public.

She also said she sent Ordinance O-23-22 to the members for review, discussion and comments at tonight's meeting. After Ms. Beahm explained the ordinance Mr. Tannenhaus made a motion that the ordinance was substantially consistent with the master plan. Motion was seconded by Ms. Talente and carried with Mr. Greenfield, Mr. Huszar, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer and Chairman Boisvert voting for the motion.

RESOLUTIONS:

a. **Proposed Ordinance No. O-23-18 / Apiary Practices and Bee Keeping**

Mr. Tannenhaus made a motion to memorialize the resolution finding Ordinance O-23-18 substantially consistent with the master plan. Motion was seconded by Councilman Gasior and carried with Mr. Greenfield, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer, Ms. Pike and Chairman Boisvert voting to memorialize.

b. **Case No. SP-1114 / Lowe's Home Centers, Inc.**

Mr. Leggio made a motion to memorialize the resolution granting submission waivers to Lowe's Home Centers. Motion was seconded by Mr. Tannenhaus and carried with Mr. Greenfield, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer, Ms. Pike and Chairman Boisvert voting to memorialize.

c. Case No. SD-3006 / Benzion Yungreis

Mr. Huszar made a motion to memorialize the resolution granting Preliminary and Final Major Subdivision approval with Ancillary Variance and Design Waiver Relief to Benzion Yungreis. Motion was seconded by Mr. Greenfield and carried with Mr. Greenfield, Mr. Huszar, r. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer and Chairman Boisvert voting to memorialize.

SUBMISSION WAIVERS BEFORE THE BOARD: There were no applications for submission waivers at this meeting.

MASTER PLAN HEARING: Farmland Preservation Plan Element

Ms. Beahm, Board Planner, explained that the Farmland Preservation Plan is required by the State and County for grant programs. They will pay you for your development rights and you deed restrict your property for farmland preservation. Sixty percent is paid by the state, 24% by the County and 16% by the municipality out of the Open Space Farmland Preservation Fund.

She explained that the town adopted the Farmland Preservation Plan in 2005 and then it was updated in 2011. This will supersede that preservation of farms and the Farmers Advisory Committee has been working diligently on this project. She also said that in 2018 there were 597 Farm Assessed Properties but not all are farmland preserved. There are 5,645 acres of farmland, about 14 percent of the total acres in town. Agriculture has declined over the last thirty-five years by about 17 percent. There are currently 750 acres under preserved farmland and the goal is to have 1200 acres within the next ten years.

Ms. Beahm explained that there are requirements based on land area and soil type and you need to be in the town or county ADA and have a minimum number of acres.

The Chairman opened the hearing up to members of the public and the following appeared:

Lawrence White, 15 Wren Way, wanted to hear more about plans for the future and thought the average was less than adequate. He also asked if this was a voluntary program.

Elaine Taylor, 1055 Maxim Southard Road, said she is a member of the Farmers Advisory Committee and the Farmland Preservation Committee. She wanted to thank the Board and encouraged the public to get active in the community.

Seeing no other members of the public wanting to speak, the Chairman closed the public portion of the hearing.

Mr. Tannenhaus made a motion to approve the Farmland Preservation Plan Element of the Master Plan. Motion was seconded by Mr. Huszar and carried with Mr. Greenfield, Mr. Huszar, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer and Chairman Boisvert voting for the motion.

**HOWELL TOWNSHIP PLANNING BOARD
REGULAR MEETING HELD AT HOWELL MIDDLE SCHOOL SOUTH
APPLICATIONS BEFORE THE BOARD:**

**3
JUNE 1, 2023**

a. Case No. SD-2998 / Wadsworth Development LLC – Ramtown Estates

Attorney Michael Herbert appeared and said this is just a settlement hearing and they would be coming back with fully engineered plans. He gave the history of the project saying the application was for homes entering on Michele Boulevard, the application was denied, they entered litigation with the town and are now coming back with a cul-de-sac concept, fully contained with ten lots.

Board Attorney Rizzuto said they are here tonight solely for the Board to approve the settlement hearing and set a hearing date for the new concept.

Mr. Herbert said the revised plans would have no driveways on Michele Boulevard and the only access would be from Ramtown Greenville Road into the cul-de-sac and the revised stormwater management plans were reviewed by Ms. Neumann, Board Engineer and it is compliant with both New Jersey and the Township requirements.

Mr. Tannenhaus made a motion to authorize the settlement agreement with Wadsworth Development. Motion was seconded by Councilman Gasior and carried with Mr. Greenfield, Mr. Huszar, Mr. Leggio, Mr. Seaman, Ms. Talente, Mr. Tannenhaus, Councilman Gasior, Mr. Mercer and Chairman Boisvert voting for the motion.

It was also decided that the applicant would come back to the Board for a Whispering Woods Hearing on August 3, 2023. Board Attorney Rizzuto made an announcement for members of the public that this application would be carried to the August 3, 2023 meeting at Town Hall with no further notice.

b. Case No. SP-1082 / Richard Sieb

Nicholas Montenegro, Attorney for the Applicant, appeared and said the applicant is Seashore Amusements and they are seeking site plan approved for the storage of shipping containers

Jeff Carr, PE, PP, was duly sworn, gave his credentials to the Board and was accepted as an expert witness. Richard Sieb, Owner, was also duly sworn.

Mr. Carr testified that the site is 4.8 acres and fronts on Lakewood Farmingdale Road. It is two lots combined (24 and 24.01) and is long and narrow with wetlands at the rear of the lots. There is a tavern and residence on either side of this property and across the road is open space owned by the State of New Jersey. They are looking to redevelop the site by reconfiguring the driveway, widening Lakewood Farmingdale Road, installing curbing and using the building on the right as an office building for three people. They would have parking on either side of the driveway including ADA parking.

He explained that Seaside Amusements rents out equipment, such as dunk tanks, blow up slides, and bouncy jump houses. The storage containers on site are rented out but there is no retail on site. All deliveries to the site are with box trucks or trailers and this is a permitted use.

Ms. Beahm stated that there is a residential zone or a residence adjacent to this site so a 50 foot buffer is required or they need variance relief. She also said the outdoor storage is not screened and they need side yard variance relief as well and the applicant was informed of this at the tech meeting.

Mr. Carr stated that they are eliminating two existing non-conforming uses and replacing them with a very low intensity use; namely pickup up and delivering equipment of a seasonal nature.

Jordan Rizzo, Board Engineer, asked if Mr. Carr could testify on the parking and storage and Mr. Carr stated that the trailers will be stored with rides on them, they have reduced the limit of the outdoor storage and added some fencing. Mr. Rizzo said they have room to do a buffer so it is not too much to ask.

Ms. Beahm stated that the basin needs relief for being in the front yard and both Ms. Neumann and Ms. Beahm had stressed this at the tech meeting. She thinks they need to rethink the site plan and try to comply with some of the items in the review letters and those discussed at the tech meeting and come back.

Attorney Montenegro asked for the application to be carried to another date and the Board Attorney made an announcement for members of the public that this application would be carried to September 21, 2023 with no further notice and the meeting would be held in the main meeting room at the Township Municipal Building. Mr. Montenegro also granted the Board an extension of time to hear the application through September 30, 2023 on the record.

c. Case No. SP-1105 / AAVRHW Property LLC – Victory Road

SEE TRANSCRIPT ATTACHED.

MASTER PLAN STATUS REPORT: There was no update at this meeting.

Mr. Greenfield made a motion to adjourn. Motion was seconded by Councilman Gasior and carried with all members voting to adjourn.

The meeting adjourned at 10:15 p.m.

Respectfully submitted,



Eileen Rubano
Recording Secretary

NOTE: A CD or DVD of this meeting is available on request.

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TOWNSHIP OF HOWELL PLANNING BOARD
COUNTY OF MONMOUTH - STATE OF NEW JERSEY

REGULAR MEETING FOR:

AAVRHW PROPERTY, LLC
BLOCK 41, LOT 17
VICTORY ROAD

PRELIMINARY AND FINAL MAJOR SITE PLAN APPROVAL
WITH DESIGN WAIVER RELIEF

APPLICATION NO. SP-1105

HOWELL TOWNSHIP MIDDLE SCHOOL SOUTH
AUDITORIUM
220 RAMTOWN-GREENVILLE ROAD
HOWELL, NJ 07731

THURSDAY, JUNE 15, 2023
7:00 P.M.

TRANSCRIPT OF PROCEEDINGS
PUBLIC HEARING

- CONTINUED -

AB COURT REPORTING, LLC
CERTIFIED COURT REPORTERS
26 ALGONQUIN TERRACE
MILLSTONE TOWNSHIP, NEW JERSEY 08535
TEL: (732)882-3590
angelabuonocsr@gmail.com

1 BOARD MEMBERS PRESENT:

2 PAUL BOISVERT, Chairman
3 FRED GASIOR, Councilman (Recused)
4 BRIAN GREENFIELD
5 NICHOLAS HUSZAR, Vice-Chairman
6 JOHN LEGGIO
7 CHRISTOPHER MERCER
8 JACQUELINE PIKE
9 ROBERT SEAMAN
10 MEGAN TALENTE
11 BRIAN TANNENHAUS (Recused)
12

13 BOARD CONSULTANTS AND STAFF PRESENT:

14 ANNE MARIE RIZZUTO, ESQUIRE, Acting Board Attorney
15 - Weiner Law Group, LLP
16 JENNIFER BEAHM, P.P., AICP, Board Planner
17 - Leon S. Avakian, Inc.
18 JORDAN RIZZO, P.E., Acting Board Engineer
19 - CME Associates
20 KEVIN CHEN, P.E., Board Traffic Engineer
21 - CME Associates
22 SHARI SPERO, LTE, Board Certified Tree Expert
23 - CME Associates
24 EILEEN RUBANO, Administrative Officer, Planning/Zoning
25 - Township of Howell

24 STENOGRAPHICALLY REPORTED BY:

25 ANGELA BUONANTUONO, CCR, RPR, License No. 30XI00233100
-AB Court Reporting, LLC

1 A P P E A R A N C E S:

2

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BY: ROBERT F. SIMON, ESQUIRE

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Email: rsimon@heroldlaw.com

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--Counsel for the Applicant, AAVRHW Property, LLC

8

GASIOROWSKI & HOLOBINKO

9

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Email: gasiorowskilaw@gmail.com

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--Counsel for the Property Owner, Stavola Realty, Co.

13

LIEBERMAN BLECHER & SINKEVICH P.C.

14

BY: STUART J. LIEBERMAN, ESQUIRE

10 Jefferson Plaza

15

Suite 400

Princeton, New Jersey 08540

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F: (732) 355-1310

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Email: Sjl@liebermanblecher.com

18

--Counsel for Objectors:

19

Mirjana Scarselli, Chris Bates, Justin Gumley,

Diane Lindstrom, Frances Santore, Betty Velez,

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Edwin and Marie Woolley, Marianne and Robert Wagner

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WITNESSES

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GEOFFREY GOLL, P.E.
Princeton Hydro

DIRECT BY ATTORNEY LIEBERMAN

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CROSS BY ATTORNEY SIMON

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REDIRECT BY ATTORNEY LIEBERMAN

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KERRY PEHNKE, P.E.
Langan Engineering

REDIRECT BY ATTORNEY SIMON

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PUBLIC COMMENT:

NAME

ADDRESS

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None.

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APPLICANT'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
A-42	A-42 Traffic Statement prepared by Langan Engineering & Environmental Services, Inc. Dated 3/18/22, last revised 4/29/22	*
A-43	A-43 Truck Turning Concept Plan (Right Turn Onto CR547 From Victory Road) consisting of one (1) sheet prepared by Langan Engineering and Environmental Services, dated 2/23/23	*

BOARD'S EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
B-41	Farmers Advisory Committee site plan review dated 4/27/23	*

(*) Exhibits marked prior to commencement.

1 SECRETARY RUBANO: Now call the Howell
2 Planning Board meeting, Thursday, June 15, 2023. I
3 hereby declare this meeting of the Howell Township
4 Planning Board to be opened. Adequate notice has
5 been given pursuant to the New Jersey Open Public
6 Meetings Act in the following manner:

7 First, on March 31st, 2023, a copy of
8 said notice was mailed to the Asbury Park Press and
9 The Star Ledger;

10 Second, on March 31st, 2023, a copy of
11 said notice was hand-delivered to the clerk of the
12 Township of Howell;

13 Third, on March 31st, 2023, said
14 notice was posted in the office of the planning
15 board and on the bulletin board in the Howell
16 Township Municipal Building, 4567 Route 9, Howell
17 Township, New Jersey.

18 On May 31st, 2023 a change of venue was
19 mailed to The Asbury Park Press and The Star Ledger
20 and was hand-delivered to the clerk, and placed on
21 the bulletin board and in the planning board, and on
22 the main bulletin board at the township.

23 Please be advised we have emergency
24 exits on the right and also on the left we have a
25 ramp over there on the left should you need it.

1 Further, no smoking is permitted near the school.

2 Please take note this meeting is being
3 videotaped for future broadcast on Howell Township
4 TV-77.

5 Restrooms are on your right, our left,
6 up the ramp and down the hall.

7 And tonight board members will have the
8 mike offs, make sure you turn them on when you want
9 to comment.

10 Thank you.

11 MEMBER OF THE AUDIENCE: May I beg your
12 pardon, can you turn on the PA?

13 BOARD PLANNER: Can you hear me?

14 MEMBER OF THE AUDIENCE: Now we can.

15 SECRETARY RUBANO: Sorry.

16 CHAIRMAN BOISVERT: Can we have a
17 roll call, please?

18 SECRETARY RUBANO: Roll call. Mr.
19 Cristiano has been excused.

20 Mr. Greenfield?

21 MEMBER GREENFIELD: Here.

22 SECRETARY RUBANO: Mr. Huszar?

23 VICE-CHAIRMAN HUSZAR: Here.

24 SECRETARY RUBANO: Mr. Leggio?

25 MEMBER LEGGIO: Here.

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SECRETARY RUBANO: Mr. Seaman?

MEMBER SEAMAN: Here.

SECRETARY RUBANO: Ms. Talente?

MEMBER TALENTE: Here.

SECRETARY RUBANO: Mr. Tannenhaus?

MEMBER TANNENHAUS: Here.

SECRETARY RUBANO: Councilman Gasior?

COUNCILMAN GASIOR: Here.

SECRETARY RUBANO: Mr. Mercer?

MEMBER MERCER: Here.

BOARD PLANNER: Ms. Pike?

MEMBER PIKE: Here.

SECRETARY RUBANO: And Chairman

Boisvert?

CHAIRMAN BOISVERT: Here.

SECRETARY RUBANO: You have a quorum.

CHAIRMAN BOISVERT: Thank you.

All right. So if we could rise for
the Pledge of Allegiance and a moment of silence for
the troops serving here and abroad.

(Pledge of Allegiance.)

(Whereupon, the board continues with
posted agenda.)

- - -

1 (Application commences at 8:32 p.m.)

2 ATTORNEY SIMON: So members of the
3 board, good evening, Rob Simon from Herold Law. I'm
4 here on behalf of the applicant. It's good to be
5 here in person before all of you.

6 With regard to tonight's hearing,
7 adequate notice was provided. We did provide
8 separate notice and provided an Affidavit of Service
9 to Eileen, so I believe the board has jurisdiction
10 to proceed tonight with regard to the application.

11 Just to remind you all sort of where
12 we are at this point, we have provided testimony
13 from our variance witness, including Jeromie Lange;
14 Tung-To Lam, our engineer; Sean Naeger, our
15 architect; Kerry Pehnke, traffic; Michael Morris,
16 who is our environment consultant; and Christine
17 Cofone, our professional planner.

18 Mr. Lieberman on behalf of various
19 clients that he is representing before this board
20 with regard to this application, presented the
21 testimony of Jeff Gall, one of his experts. And my
22 recollection is that we are in the middle of
23 Mr. Gall's direct testimony, when we adjourned at
24 the last meeting.

25 CHAIRMAN BOISVERT: I believe that's

1 correct.

2 ATTORNEY LIEBERMAN: Mr. Chair, you're
3 ready?

4 CHAIRMAN BOISVERT: Go for it.

5 ATTORNEY LIEBERMAN: Okay, thank you.
6 Stuart Lieberman on behalf of the clients that I
7 identified before, from the firm Lieberman, Blecher
8 & Sinkevich.

9 Mr. Goll is next to me.

10

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

12

13 ATTORNEY LIEBERMAN: And, Mr. Goll,
14 you're still under oath; you understand that, yes?

15 THE WITNESS: I do, I understand.

16 ATTORNEY LIEBERMAN: All right, very
17 good.

18 Mr. Goll, you did some reviews of the
19 stormwater system and some other environmental
20 reviews, correct?

21 THE WITNESS: Yes.

22 ATTORNEY LIEBERMAN: Okay.

23 UNIDENTIFIED SPEAKER: Can't hear you.

24 ATTORNEY LIEBERMAN: What I want you
25 to do for me is as follows. Would you be so kind as

1 to very briefly -- and I mean in four minutes --
2 summarize what you talked about at the last time you
3 were here just to refresh everybody's recollection.
4 And then to the extent that you have additional
5 comments kindly provide them to the board, okay.

6 Don't spend a lot of time with that,
7 there's a transcript, but a lot of time passed. So
8 why don't you take it from there.

9 Okay?

10 THE WITNESS: Yes.

11 ATTORNEY LIEBERMAN: Thank you.

12 THE WITNESS: Okay, very quickly.

13 From my prior testimony I talked about the amount of
14 fill that actually has to be imported to the site.
15 The applicant's engineer testified prior that they
16 needed to elevate the site in order to make the
17 stormwater work, because groundwater elevations are
18 relatively high, seasonal high groundwater. And so
19 I completed a rough calculation that about 87,000
20 cubic yards of material will actually need to be
21 imported to the site, which equates to on the order
22 of 5,500 trucks, just under 5,500 dump trucks that
23 would have to come in.

24 They will also have to remove about
25 15,000 -- just under 15,000 cubic yards of topsoil.

1 And as I had pointed out at that last meeting that
2 anything over 600 cubic yards will need to have
3 approval; it's not allowed to leave the township
4 regardless of its state or whether you break it up
5 and sell it or do anything. It's not supposed to
6 leave the township. And that was also --

7 ATTORNEY LIEBERMAN: And that's
8 pursuant to a local ordinance?

9 THE WITNESS: Yes.

10 ATTORNEY LIEBERMAN: That's pursuant
11 to a Howell ordinance; isn't that correct?

12 THE WITNESS: Yes. It's 188-26. The
13 township engineer or the planning board engineer
14 pointed that out as well in his comment letter.

15 And what I really ended up getting to
16 last time we were kind of getting a little bit into
17 the weeds because there was a stormwater pipe that
18 runs from Manhole 10 down to Manhole Number 9, which
19 is actually placed below the seasonal high
20 groundwater, which means it's going to -- when you
21 line gravel or sand, it's going to end up draining
22 the seasonal high groundwater. And that's sort of
23 counterintuitive to the purpose for the stormwater
24 management regulations.

25 It's not implicitly implied or it's

1 stated, but it is a concern because it's going to
2 basically counteract all the infiltration that
3 they're trying to achieve on this site.

4 ATTORNEY LIEBERMAN: Would you explain
5 why that counteracts the infiltration so everybody
6 understands what that means.

7 THE WITNESS: What it does is it adds
8 another hydraulic load. Actually this, the one I'm
9 talking about actually leaves the site without, so
10 it will drain.

11 In the winter, when the groundwater
12 elevates it comes up because it's, you know, there's
13 no trees -- actually, the trees don't have leaves on
14 them, the groundwater will rise, and it will be
15 intercepted by this pipe at its liner, and then it
16 will be taken off. This pipe actually would
17 intercept groundwater and then it would run out and
18 off the site to the stormwater system on Victory
19 Road.

20 ATTORNEY SIMON: Excuse me,
21 Mr. Chairman, can I just interrupt for one second?

22 I see -- and for you too, Mr. Lieberman
23 -- it seems that Mr. Goll is referencing some plans.
24 I don't know if it's better if you want to put them
25 up on the screen?

1 I just thought he's starting to point
2 at something, just so I can follow and the board and
3 the public can follow where he's talking.

4 ATTORNEY LIEBERMAN: That's a good
5 idea. Who puts them up on the screen?

6 SECRETARY RUBANO: I'm putting them
7 up. But I have to know which exhibit you're using.

8 ATTORNEY LIEBERMAN: Okay, thank you.
9 Can you describe what exhibit that you're using so
10 that this could be placed on the screen?

11 Mr. Simon, do you know which exhibit
12 this is identified as?

13 ATTORNEY SIMON: Stu, I apologize, but
14 I have no idea what exhibit your witness...

15 THE WITNESS: This is not -- this is
16 the list from the -- this is 1082.

17 ATTORNEY LIEBERMAN: This is the one
18 we just did. That's okay.

19 SECRETARY RUBANO: Sorry, too many
20 papers on my desk.

21 ATTORNEY LIEBERMAN: That's why we
22 couldn't find the exhibit number. Thank you.

23 Would you please look through there and
24 identify the exhibits so everybody can follow along.

25 THE WITNESS: Yes. It's Exhibit A-3.

1 ATTORNEY LIEBERMAN: Thank you.

2 THE WITNESS: Sheet C402.

3 ATTORNEY LIEBERMAN: Why don't you
4 wait one second for that to come up and then finish
5 up, okay.

6 And show everybody where that pipe is
7 when it does come up so that they can follow you
8 through a visual depiction. Okay?

9 THE WITNESS: Do you want me to walk
10 up there or reach?

11 ATTORNEY LIEBERMAN: That was --
12 sorry.

13 What sheet is it?

14 THE WITNESS: It's sheet 402, C402.

15 ATTORNEY LIEBERMAN: C402. There you
16 go.

17 MEMBER LEGGIO: Sir, before you start?

18 ATTORNEY LIEBERMAN: Yes.

19 MEMBER LEGGIO: I'm over here.

20 Is it absolutely necessary that you
21 have to walk him through everything like this?

22 ATTORNEY LIEBERMAN: Well, what would
23 you rather I have him do?

24 MEMBER LEGGIO: Well, I'm just saying
25 he's one of your professionals, he knows what he's

1 doing, right?

2 ATTORNEY LIEBERMAN: Yes.

3 MEMBER LEGGIO: I feel like I'm in,
4 like, a kindergarten class right now. You're
5 coaching him. You know, I don't understand what's
6 going on here. Actually, it's very annoying to, you
7 know -- I don't understand why you have to coach
8 him.

9 Is he prepared; is he prepared with
10 whatever we need here tonight?

11 ATTORNEY LIEBERMAN: He is.

12 MEMBER LEGGIO: So let him talk.

13 ATTORNEY LIEBERMAN: I shall.

14 You know some boards like to ask
15 questions back and forth, and some like witnesses to
16 talk. It's just a preference thing.

17 MEMBER LEGGIO: All right.

18 ATTORNEY LIEBERMAN: Sometimes you get
19 -- they say don't do that, but if that's the
20 preference --

21 MEMBER LEGGIO: That's my preference.
22 I'm not speaking for the rest of the board but
23 that's my preference.

24 ATTORNEY LIEBERMAN: Understood.

25 MEMBER LEGGIO: Okay?

1 ATTORNEY LIEBERMAN: Yes.

2 CHAIRMAN BOISVERT: I get what you're
3 saying.

4 Proceed how you want to proceed.

5 ATTORNEY LIEBERMAN: That's fine. But
6 Mr. Goll is capable of going on his own and that's
7 actually what he did.

8 Why don't you take it from there and
9 we'll proceed and if I need to ask you anything I
10 will.

11 Okay, thank you, we'll do that.

12 THE WITNESS: Okay. So, again, I can't
13 really identify it and point it out, but in the
14 lower center there's a pipe that runs from the
15 bottom center, up and off the site.

16 Actually to the right a little bit.
17 And then if you can go down, down -- if you can take
18 the mouse and -- this isn't going to work. So I'll
19 just state -- you know, I can identify it by
20 structure number and I think the town -- the
21 planning board engineer will also understand, but I
22 really just wanted to kind of get the points across
23 so that I'm not taking up too much time.

24 But one of the issues is there's a pipe
25 length here that is actually below seasonal high

1 groundwater, which means it will intercept
2 groundwater and along the outside of the pipe can
3 drain that seasonal high groundwater.

4 One of the other things I pointed out
5 was there's a proposed yard inlet, 104 to yard inlet
6 110, all the way at the bottom. It's actually just
7 off the screen on the bottom there; there's a black
8 line on the bottom of the property line. The
9 applicant's engineer had identified that as a trench
10 drain or a toe drain. It essentially meets the
11 definition of an infiltration basin; it's
12 perforated.

13 One of the things to note on the plan I
14 just wanted to point out, is just above it where you
15 see that hatching right there -- thank you -- that
16 is a subsurface detention basin that is identified
17 by the applicant. It's higher in elevation than
18 that trench drain. So what is going to happen is
19 when you're going to get groundwater infiltration,
20 it's going to go into the ground and then go right
21 over to the trench drain, and then be discharged
22 over to the basin all the way on the right, which is
23 identified as basin number -- I think that's Basin
24 Number 2 -- no, excuse me, Basin Number 3. Wait,
25 four, Basin Number 4, which is on the right.

1 And so what that's going to do is it's
2 supposed to just infiltrate into the ground. So now
3 it's going to end up overloading Basin Number 4.

4 The other thing is that drain, that
5 toe drain is actually also below seasonal high
6 groundwater based on the test pits that are the
7 closest to it. And so that's going to also
8 intercept seasonal high groundwater; it's going to
9 artificially lower the groundwater and then also
10 discharge that additional hydraulic load to the
11 basins.

12 So they're not really going to --
13 they're going to be receiving much more water during
14 the winter months than anticipated in the design.
15 And what that does is it will overwhelm the basins
16 in terms of its hydraulic load and potentially fail,
17 so it won't drain in the 72 hours.

18 VICE-CHAIRMAN HUSZAR: I do have a
19 question for you, okay?

20 THE WITNESS: Yes.

21 VICE-CHAIRMAN HUSZAR: All right. So
22 in your opinion, okay, does this property, you know,
23 with the new inland regulations that are coming in
24 with the DEP, with the floodplain issue, does this
25 property fall into that?

1 THE WITNESS: I don't believe there's
2 a floodplain near the property, no.

3 VICE-CHAIRMAN HUSZAR: But with the
4 new inland flood protection rules is this property
5 considered in that area?

6 THE WITNESS: I don't -- I don't think
7 so. I don't think so, unless it's -- unless
8 Squankum Brook is actually in the floodplain. I
9 didn't do any kind of analysis.

10 What will affect it is in the
11 stormwater rainfall, that does affect the stormwater
12 rules where they're going to be required to use
13 additional rainfall.

14 VICE-CHAIRMAN HUSZAR: And this new
15 inland flood protection rule goes into effect
16 July 1st, correct?

17 THE WITNESS: Correct. I just don't
18 know if this was already deemed administratively
19 complete; I'm not sure it falls under that new rule.

20 ATTORNEY LIEBERMAN: Well it's a DEP
21 rule.

22 THE WITNESS: But they have to comply
23 with the stormwater management rules.

24 VICE-CHAIRMAN HUSZAR: Correct. Thank
25 you.

1 THE WITNESS: Thank you for that
2 question.

3 So, in any event, I wanted to -- so
4 that was really where we got to last time. There
5 was a concern for me about like intercepting
6 groundwater and the natural flow regime before. So
7 I'll continue on.

8 We talked about the soil removal. The
9 other item I wanted to -- and I'm going to come
10 back to stormwater management in a second
11 but -- actually, I'm going to stay on stormwater so
12 that we can -- and then I'll move on to woodland
13 management.

14 One of the things is I went through the
15 permeability mounding recharge calculations that
16 were prepared for the site. And one of the things
17 that you have to understand, and this is important,
18 is that the reason they're elevating, they're
19 importing all that fill, is because -- the simple
20 fact is that there must be a separation between
21 seasonal high groundwater and the infiltrative
22 surface elevation of 24 inches minimum.

23 And right now groundwater on this site,
24 seasonal high, is sometimes a little bit lower than
25 that, sometimes it's higher. In the areas of the

1 basins it's about at where the infiltration surfaces
2 or just below it; so they are either raising it a
3 little bit or just putting it right at the surface.

4 But in order to get the gravity to get
5 the stormwater there, that's why they're filling up
6 seven, eight feet, to bring that -- the building up
7 to grade so that they can then put the stormwater
8 pipes in, keep them underground in the parking lot
9 and get them to the basins. So that's why the
10 applicant needs to bring in all that fill to the
11 site.

12 But there is a number of issues that we
13 did point out, or that I did identify. For example,
14 Basin 1, they used a permeability rate of a half an
15 inch an hour. But this was calculated below the
16 seasonal high groundwater table. That's not allowed
17 by Chapter 12 of the BMP manual; they're not allowed
18 to do that. So they have to actually use the
19 infiltration rate above it.

20 Basin Number 2 they did use a recharge
21 rate of .8 inches per hour as the actual rate. Of
22 course, in the design they divide it in half. And
23 they did that for the mounding and recharge design.
24 However, there is a rate of less than .06 inches per
25 hour and .56 inches per hour that should have been

1 used. They are also talking about that they're
2 going to excavate to get through those layers, but
3 if that area, if that impermeable, relatively
4 restrictive horizon were to extend outside of the
5 basin, the manual says you have to find a different
6 location to reconfigure the basin, so they really
7 should be finding the extent of where that
8 restrictive horizon is and then determine whether or
9 not they can move their basin or remove the entire
10 area of low permeability -- lower permeability
11 material.

12 Basin Number 3, they assume 20 inches
13 per hour, except all three pits revealed
14 infiltration rates were one inch an hour or less.
15 Same thing as in Basin 2 the soil infiltration rate
16 extends beyond the area of the proposed basin. So
17 as per Chapter 12, you know, a new location of that
18 basin really should be investigated.

19 Basin Number 4, the engineer based the
20 recharge rate on a permeability of one inch per hour
21 for the recharge design and mounting calculations.
22 However, one of their test pits, TP-206, has a
23 permeability rate of .7 at 2 feet in depth, and
24 that's the one that probably should have been used.

25 The engineer based the recharge rate on

1 permeability on Basin Number 5 of 1.1 inches per
2 hour for their -- actually the field-calculated
3 recharge rate, and they could use them both for the
4 recharge design and the mounding calculations. And
5 this rate was from Test Pit 28, except that rate was
6 from 9 feet below grade, so it was really pretty far
7 below. That's not allowed per the DEP BMP Manual
8 Chapter 12.

9 So none of the basins really exactly
10 comply with the New Jersey BMP manual. Why this is
11 important because if the basins don't function water
12 is going to simply sit in there. It's going to sit
13 in there for more than 72 hours and become a
14 potential mosquito issue and also not be able to
15 comply with the stormwater regulations.

16 So the other thing that you will
17 notice in the plans on the right you will see how
18 there's three detention basins on the eastern side.
19 And the reason they made three in one location is
20 because there's in the green infrastructure
21 standards it's the maximum area that is allowed to
22 discharge to a single infiltration basin is
23 2.5 acres. So, obviously, they're more than
24 2.5 acres that are draining to these basins. And so
25 what they did is they simply put berms between each

1 basin -- or in the basin, separated them, gave them
2 separate discharges.

3 However, the training back in, there's
4 actually an example of it, but there was a training
5 back from DEP on -- what was the date of that -- I
6 think it was in November of 2022, they did their
7 training Module Number 4, and they basically showed
8 an illustration of three basins right next to each
9 other and said that doesn't meet the requirements of
10 green infrastructure because green infrastructure in
11 the intent is to also provide dispersed stormwater.
12 So, in other words, those basins should be really
13 more spread apart and further apart to comply with
14 the rules.

15 MEMBER LEGGIO: I have a question for
16 him.

17 CHAIRMAN BOISVERT: Yes.

18 MEMBER LEGGIO: Now in the chance that
19 these basins over fill, okay, which you said -- I
20 know you have your calculations and we have the DEP
21 numbers and test pits and all that stuff, but in the
22 chance that these over fill, okay, and where is the
23 water going to run off then, it's going to head off
24 to Victory Road?

25 THE WITNESS: If they over top they

1 have emergency spillways around the perimeter;
2 they're all on different sides. They will
3 definitely discharge somewhere to the south, the
4 east and potentially to the north based on where the
5 emergency spillways are. But they're not all just
6 going to go right to Victory Road immediately. I
7 didn't find that.

8 But the issue is -- and they also have
9 their, you know, inlet -- they have outlet
10 structures that have spillways so as they rise up.
11 I think my concern is not necessarily the capacity
12 of the basins for larger storms, it's the ability to
13 meet the BMP manual in terms of the recharge and
14 standing water which could be above --

15 ATTORNEY LIEBERMAN: What is the BMP
16 manual?

17 THE WITNESS: Oh, I'm sorry, the
18 stormwater Best Management Practices is what they
19 call it, and that's the BMP manual which is a
20 reference for the stormwater regulations.

21 VICE-CHAIRMAN HUSZAR: So what is the
22 seasonal high groundwater table at this site?

23 THE WITNESS: In accordance to the GZA
24 investigation, it's all over the place. I mean it's
25 -- it varies from, you know --

1 VICE-CHAIRMAN HUSZAR: It can't vary,
2 it's seasonal high. It has to be something.

3 THE WITNESS: Well, I'm just telling
4 you what I saw on the test pit, the results.

5 So there was an instance where on, if
6 you go to the west side, right there, that basin,
7 there is a test pit on the east side and a test pit
8 on the west side. That underground basin it seems
9 to have a seasonal high and it is higher than the
10 seasonal high that was found inside, where they did
11 the test pit inside the basin. And so it did seem a
12 little odd that there is sort of a trough of
13 groundwater there, so that was sort of -- it was
14 pretty variable around the site.

15 MEMBER LEGGIO: So you understand our
16 concern, right?

17 THE WITNESS: Yes.

18 MEMBER LEGGIO: With overflow out to
19 Victory Road?

20 THE WITNESS: Correct.

21 MEMBER LEGGIO: And it causing a safety
22 issue.

23 THE WITNESS: Correct.

24 MEMBER LEGGIO: On top of other
25 issues.

1 THE WITNESS: And that was actually
2 one of the points I was going to bring up. And I
3 think one of our clients' people, or somebody who
4 was going to speak, maybe not our client but
5 somebody who was going to speak on -- specific to
6 the Victory Road, the flooding around that inlet.
7 One of my concerns was that there is no evidence at
8 least, maybe the applicant can provide testimony on
9 whether the pipe that actually goes up to the north
10 away from Victory Road, actually functions as it's
11 supposed to, has it been videotaped, has it been
12 video-inspected; have they figured that out or do
13 they need to fix that?

14 According to one of the neighbors who
15 filmed it during April 29th and 30th there was a big
16 rain event that flooded that section, that low area
17 of the street. I did check some local rainfall
18 records and it was about three inches over a little
19 over 24 hours. So maybe a two-year, maybe just
20 under a five-year storm event so not really a lot
21 of -- not really a high, big event that actually
22 could flood that street. So that's why it led me to
23 the question, does that pipe even have the ability
24 to carry the flow that is there now.

25 Did I answer that question?

1 Okay, so another one of the things I'm
2 going to -- and I did talk about the seasonal high
3 concerns on the basin to the west. But one of the
4 other concerns that we have on the stormwater basin
5 is in the landscaping plan on sheet -- I don't know
6 the sheet number of that landscaping plan, but they
7 show they have 25 trees proposed on the embankment,
8 on the inside of the embankment on the exterior of
9 the basins. I am assuming this for both tree
10 replacement requirements but also maybe buffering
11 from the adjacent properties. I'm not sure if
12 that's -- you know, I'm not a landscape architect
13 expert so I'm not exactly sure what the purpose is.
14 But what I can tell you is putting trees and shrubs
15 with deep roots on embankments is not a great idea.
16 Those embankments and the reason they're raising the
17 site, those embankments are not excavated into the
18 ground on one side, they're actually building up
19 embankments so they have to hold the stormwater
20 back. But now you're going to have trees on them
21 and when you're -- and now these are technically not
22 regulated dams but they act as dams because they
23 hold the water back because they're not over five
24 feet in height.

25 But in my work with the Army Corps of

1 Engineers doing levy inspections, dam inspections,
2 stormwater basin inspections, you never put trees
3 and shrubs on an embankment because the roots,
4 number one, can penetrate, they can actually
5 threaten the structural integrity of the embankment.
6 And also if they were to fall they would rip out the
7 embankment and then the water can spill out from
8 that side. And it also makes it very difficult to
9 inspect the integrity of the basin when they have to
10 go and do their stormwater inspections.

11 So that was -- that's an issue that,
12 you know, I would strongly recommend regardless of,
13 you know, how the application moves forward, that
14 those trees are removed from anywhere within the
15 embankment.

16 As a matter of fact the Army Corp of
17 Engineers recommends a 50-foot vegetative clearance
18 on either side of embankments so that the roots
19 can't reach the embankment.

20 So that's pretty much most of my
21 testimony on the stormwater. There's, like I said,
22 there were really there's a few topics that I
23 covered but they're pretty significant because
24 they'll have a major impact on the functioning of
25 this system.

1 ATTORNEY LIEBERMAN: Geoff, before you
2 go to the next issues, do you have an opinion,
3 within a reasonable degree of engineering certainty,
4 as to whether the stormwater system as proposed and
5 reviewed by you meets the DEP volumes?

6 THE WITNESS: It's my professional
7 opinion that within a degree of engineering
8 certainty that the basin right now does not comply
9 with the New Jersey Best Management Practices
10 manual, especially Chapter 12, which is a reference
11 that is used to guide the New Jersey stormwater
12 management regulations.

13 So I know I have had this argument, is
14 the BMP manual a regulation? Well, it's reference.
15 It's part and parcel to the rule. You can't apply
16 the regulation without having the BMP manual which
17 is referenced.

18 Oh, one other thing that I wanted to
19 bring up that I didn't is the time of concentrations
20 and this is, again, I'm going way into the weeds on
21 this, but the calculations. This site is very up
22 and down. You've heard talk about vernal pools and,
23 you know, one of the permits they're getting is to
24 fill a couple of vernal pools there and there are
25 isolated wetlands with a GP6.

1 Because the topography here is very
2 undulating, and so what happened is though I
3 don't -- the time of concentration is how an
4 engineer calculates water running across a property.
5 And how it runs across a property, that slope and
6 distance dictates and impacts the peak flows that
7 you're going to be calculating. And it's supposed
8 to follow essentially reality; in other words, water
9 flows from uphill to downhill. Except while the
10 applicant's engineer had used one of the depressions
11 and modeled it as a pond, there are still a number
12 of ponds that the time of concentration runs through
13 that really defy gravity in terms that they went
14 down and up, they just went through it, and they
15 really should have modeled those as ponds as well
16 and that would have lowered the predevelopment peak
17 flow runoff and required larger basins, in my
18 professional opinion.

19 So the other items that I was going to
20 talk about is on the woodlands management plan. I
21 think this was talked about before. I think the
22 applicant was asked a question. There were two
23 locations of .19 acres where they did the sampling
24 for the trees, to calculate their tree replacement
25 requirements. Except when you look at it they're

1 disturbing about 12.9 acres of land, which would
2 leave -- require .645 acres of survey and they
3 provide I believe it's .4 acres of 2.4 -- 2.2 -- 2.
4 2-acre plots. And so they are very much below what
5 they're supposed to be doing for this, the
6 appropriate sampling of trees to determine the tree
7 replacement plan.

8 I have driven by the site. I have
9 stopped in front of the site before. It's a pretty
10 dense forest, I mean from the street, anyway. It
11 looks like a pretty healthy, dense forest. And so
12 you want to make sure that calculation is correct
13 and you have a good sampling of the property to make
14 sure that you're getting the tree replacement that
15 you need.

16 BOARD TREE EXPERT: Mr. Chair, can I
17 just jump in on that? The tree replacement, because
18 they've reached a maximum, it doesn't exactly matter
19 if they have the exact acreage that you're talking
20 about because since they've already met the maximum
21 amount that they'll have to pay. So it just becomes
22 a \$35,000 per acre is what they'll be paying.

23 THE WITNESS: Okay, I was just
24 looking, I mean that certainly doesn't comply with
25 the ordinance but that's --

1 BOARD PLANNER: It does.

2 BOARD TREE EXPERT: It is in our
3 ordinance, you have to keep reading below that. And
4 there is a waiver they could ask to pay to the tree
5 fund. And in that section it does mention that not
6 more than \$35,000 per acre.

7 THE WITNESS: But it does state that
8 they have to survey 5 percent of the property,
9 correct?

10 BOARD TREE EXPERT: It does. But
11 there's no need to survey 5 percent if it's just
12 going to go to the maximum number. They are
13 agreeing to pay the maximum, they could do that
14 survey, but I can assure you that they will get more
15 than that \$35,000 per acre.

16 Every forest is --

17 THE WITNESS: I understand the logic.
18 I'm just looking at compliance with what they were
19 supposed to measure.

20 BOARD TREE EXPERT: But the
21 measurements don't apply after they've reached the
22 \$35,000 per acre.

23 THE WITNESS: Well don't they have to
24 do the calculation first?

25 BOARD TREE EXPERT: The calculation

1 always goes over \$35,000 per acre, always. If it's
2 a forested plot of land it always meets the maximum.

3 THE WITNESS: Okay. Like I didn't get
4 that far into the actual financial value. I am just
5 telling you what I read in the ordinance and the
6 ordinance states you're supposed to survey 5 percent
7 of the property and they didn't.

8 CERTIFIED TREE EXPERT: It doesn't
9 apply. It doesn't apply since they're meeting the
10 maximum amount of contribution.

11 THE WITNESS: Okay, I understand.

12 The other thing is the environmental
13 impact report, this is my final point. The
14 environmental impact report mentions nothing about
15 the import of fill at the site and how much that
16 fill may impact, you know, the health, safety and
17 welfare, basically of what the environmental impact
18 report is supposed to be looking at.

19 They also require under the ordinance
20 that -- under the environmental impact report that a
21 description of the project shall specify what is to
22 be done and how it is to be done during
23 construction, operations, as well as alternative
24 plans deemed practicable and achievable for the
25 objective. They mention that, yeah, they evaluated

1 alternatives, but this is what they picked. But
2 they're not letting you know what those alternatives
3 were and why they decided to get to this
4 configuration and whether or not there was a
5 configuration that might have less of an
6 environmental impact for the township.

7 So, you know, it could be just resolved
8 by them completing and making the report more robust
9 and letting you know where -- how they came to the
10 specific alternative, but we don't know.

11 They're reporting a lot of fill.
12 They're exporting a lot of topsoil and is
13 200,000 square feet the minimum they need for a
14 warehouse? I'm not an expert in that. But the
15 environmental impact report didn't cover that.
16 Could they get away with 100,000 square feet? I
17 don't know. Is there another property that they
18 could have looked at to utilize that might have been
19 better and it's not mentioned in the report? Again,
20 I'm not an expert on the location or the viability
21 or the economics of the use, proposed use, it's just
22 not described in the environmental impact report.
23 So that's what I have.

24 Thank you.

25 VICE-CHAIRMAN HUSZAR: I do have a

1 question for you, okay, and I don't mean to beat a
2 dead horse, all right.

3 The July 1st rules that go into effect
4 at DEP, all right, this is exactly how it reads from
5 the DEP's website:

6 "The new rules require all new major
7 developments to address stormwater runoff
8 which can contribute to flooding and water
9 pollution using up-to-date rainfall data
10 forecasts.

11 "Developers must design stormwater
12 management systems, such as retention basins,
13 green infrastructure and other measures, not
14 to only account for the rainfall we currently
15 experience but also the future rainfall
16 projections.

17 "Currently the state uses out-of-date
18 precipitation data from 20-plus years ago.
19 The new rules seek to prevent developers from
20 flooding communities and businesses downstream.
21 from their new buildings."

22 Opinion?

23 THE WITNESS: I mean it's refreshing
24 that they're updating the rules because, you're
25 correct, we are using rainfall data that is very --

1 you know, it's old. I mean some of it goes back to
2 the early '90s, the latest one.

3 Now, like I said, I believe if they
4 have a complete application with DEP and with the
5 township and it's administratively complete, I am
6 not sure that they have to, you know, comply.

7 It doesn't mean -- the reality of the
8 situation is there's just more rain. I mean that's
9 just the reality of the situation. There's more
10 rain now than what the models will show simply
11 because, like you said approximately, they're
12 outdated. And so that is what the state is trying
13 to do, is update that and predict the future to
14 reduce flooding impacts.

15 So, you know, I have to, you know,
16 speak to the -- I think it's up to the Planning
17 Board to...

18 VICE-CHAIRMAN HUSZAR: I mean, Jen,
19 how does this work?

20 BOARD PLANNER: I mean this is more of
21 a -- I mean, I would be happy to answer it, but it's
22 more your area.

23 BOARD ENGINEER: The regs would apply
24 to future projects. So because this one was deemed
25 complete and it's a current application before the

1 board, they would use the current regs pre-July 1st
2 hearing. So if this were to be a new application
3 submitted after that they would follow the new regs.

4 ATTORNEY RIZZUTO: May I be heard?

5 CHAIRMAN BOISVERT: Sure.

6 ATTORNEY RIZZUTO: So there is a line
7 of --

8 (Stenographer requests clarification.)

9 ATTORNEY RIZZUTO: I'm sorry. When
10 regulations are made for health, safety and welfare
11 purposes, the rule about they have been declared
12 complete and we cannot require compliance with new
13 regulations may be overruled. There are certain
14 aspects where that happens so it would behoove the
15 applicant to look at this. And if there is a legal
16 argument, like I'm suggesting, we would need to look
17 into it and do a little bit of research about it and
18 certainly their expert would want to opine on the
19 ability to meet these regulations.

20 I understand they have been declared
21 complete but these regulations are for, I would
22 assume they're for health, safety and welfare
23 because they're talking about flooding of
24 communities and looking to prevent that.

25 Anyway Mr. Simon, I'm sure, understands

1 what I'm saying. And there should be an opportunity
2 for the applicant to address it when necessary.

3 VICE-CHAIRMAN HUSZAR: Thank you.

4 THE WITNESS: So, yeah, that's a
5 little bit above my pay grade in determining whether
6 or not that applies at this point in time. But, in
7 any event, you know, that's essentially my
8 testimony.

9 ATTORNEY LIEBERMAN: Thank you.

10 So, board, I don't have any other
11 expert witnesses to present to you.

12 I do have two witnesses who are clients
13 who I know are going to want to give a comment
14 during the comment period. Mr. Simon said he didn't
15 have a problem if they just went up when everybody
16 else goes up, but if it's the board's determination
17 that because they're my client I have to call them
18 I'll do that.

19 I would request that you just let them
20 go up and just adhere to the same time limits as
21 everybody else, but we'll do it the way you want to
22 do it.

23 ATTORNEY RIZZUTO: Okay. May I?

24 Okay, good.

25 I'm sorry, I don't remember your last

1 name, Lieberman?

2 ATTORNEY LIEBERMAN: Yes.

3 ATTORNEY RIZZUTO: Mr. Lieberman, let
4 me just address the first comment you said was that
5 you don't have any more witnesses; expert witnesses,
6 you're done with your expert witness case?

7 ATTORNEY LIEBERMAN: That's exactly
8 correct.

9 ATTORNEY RIZZUTO: Okay. So then
10 Mr. Simon is going to be given an opportunity to
11 cross-examine your expert.

12 With respect to the two witnesses that
13 are members of your client group, they should be
14 presented by you for testimony. But I don't really
15 think that there's a rule preventing it either way.

16 The question I have is whether or not
17 that video is going to be used in some way or
18 introduced because it will need to have a foundation
19 and a proffer made, especially if they're going to
20 show that. And Mr. Simon needs to --

21 ATTORNEY SIMON: May I? I think, I
22 know you just referenced a video and maybe a couple
23 of people may be aware of what you're referring to,
24 but I think, so the record is clear, if you could
25 just describe what you're referring to when you talk

1 about the video?

2 ATTORNEY RIZZUTO: Okay. So today
3 Mr. Lieberman's office sent a video with an email
4 indicating that a -- one of their clients took a
5 video on April 30th. The expert witness spoke about
6 that, as well, which has not been introduced, but he
7 testified about rainfall, checking rainfall records.
8 I don't quite remember what he said, but he said the
9 records were 2 to 5-year rainfall at that time.

10 So there is a video, a very short video
11 that shows rainfall on a road, which I presume is
12 near to the property.

13 So our clerk also indicated but did not
14 get a response, that she could not open the video.
15 I was able to open and view it on my office
16 computer, but the clerk could not. We don't
17 have -- we are not sure we have the mechanism to
18 show that.

19 So these are things that you as
20 the -- as the proffer of this evidence, if you plan
21 on having them testify about that, you need to clear
22 up how you plan on doing that.

23 ATTORNEY LIEBERMAN: Great. I
24 understand. I know that there was an issue today.
25 I do believe they have it maybe on a thumb drive.

1 Oh, we did turn it over on a thumb
2 drive and that might correct it. So it seems like
3 it could be -- it could be used.

4 ATTORNEY RIZZUTO: Okay. So,
5 Mr. Simon, what's your position as to the testimony
6 of the lay witnesses?

7 ATTORNEY SIMON: So, look,
8 Mr. Lieberman certainly has the right to present any
9 or all of his fact witnesses at the appropriate time
10 to provide testimony with regard to this
11 application.

12 ATTORNEY RIZZUTO: Okay.

13 ATTORNEY SIMON: And certainly, and
14 I'm speaking, putting on my board attorney hat for
15 just a moment, that I usually find that it's better
16 for the process if an interested party presents as a
17 fact witness during the public comment session. I
18 think it's a little bit more seamless, it's more
19 efficient for the board.

20 And I think further, in fairness to
21 Mr. Lieberman's clients, who may have had an issue
22 in terms of downloading and in terms of the
23 technology and the videoing, that this gives them a
24 sufficient time to get what information they need,
25 to your point, Ms. Rizzuto, which is the right one,

1 so to provide a proper foundation for their benefit
2 at the proper time.

3 ATTORNEY RIZZUTO: Okay.

4 So, Mr. Chair, with respect to the
5 presentation of the testimony of two -- I think at
6 least one or maybe two of his client group,
7 Mr. Simon has no objection. I do not have an
8 objection. So he can do it during public session.

9 But we do need a proffer on that,
10 whether from you or from the witness I think it
11 doesn't really matter, but we need a proffer.

12 ATTORNEY LIEBERMAN: So I'll make sure
13 that there's a proffer.

14 ATTORNEY RIZZUTO: Okay. So then the
15 next order of business, I believe, would be
16 cross-examination of the witness before we go to
17 anything else.

18 ATTORNEY SIMON: I think right now
19 where we are is that I would have the opportunity to
20 ask Mr. Goll some questions, yes, which I intend to.

21 ATTORNEY RIZZUTO: Okay.

22 ATTORNEY SIMON: Thanks, Ms. Rizzuto.

23

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

25

1 ATTORNEY SIMON: Actually, before I
2 even forget, I want to clear one thing up, Geoff.
3 You had mentioned this training in November of 2022
4 with regard to I think it was berms and a basin.

5 Is that what you were referring to?

6 THE WITNESS: Correct.

7 ATTORNEY SIMON: Okay. Can you
8 just -- I didn't get all of that, so if you could
9 just repeat what your objection is with regard to
10 the subject matter to which you were referring and
11 then specifically the bases for your objection
12 referencing some training.

13 THE WITNESS: Okay. So, well, it was
14 simply what the presenters at the DEP stormwater
15 engineers had presented at this training.

16 So what happens is there's these
17 periodic trainings that the DEP offers. It's
18 actually for certification for municipal reviewers.

19 ATTORNEY SIMON: So is it, like, what;
20 a continuing education program?

21 THE WITNESS: Yeah, similar. It's
22 provided by the state so that for municipal
23 engineers to basically review plans to make sure
24 that the plans conform with the stormwater
25 management regulations.

1 ATTORNEY SIMON: Is it for
2 professional engineer accreditation?

3 THE WITNESS: Do you know what, I
4 don't recall. I think it might be.

5 BOARD PLANNER: I don't think so. I
6 think that it's a continuation of the stormwater
7 regs that were approved a couple of years ago.

8 THE WITNESS: Correct.

9 BOARD PLANNER: And the municipal
10 engineers are responsible for overall township
11 compliance with the stormwater management
12 regulations with respect to -- I mean, Nick, you
13 know about this, right?

14 VICE-CHAIRMAN HUSZAR: Correct.

15 BOARD PLANNER: So they're responsible
16 to make sure that any and all development within the
17 community, even if the basins or the stormwater
18 management system is maintained by private entity,
19 is designed and maintained in accordance with the
20 regulations so there's continuing requirements the
21 state requires, I don't think it's a CEU issue --

22 VICE-CHAIRMAN HUSZAR: It's not.

23 BOARD PLANNER: I think it's if you
24 are going to be a municipal engineer, you have to
25 have this training in order to certify that the

1 stormwater management systems that are being
2 designed and maintained are in accordance with the
3 state regulations; is that correct?

4 THE WITNESS: That is correct.

5 BOARD ENGINEER: The training is
6 offered once or twice a year and the requirement is
7 that you take it once every five years. So every
8 five years you will expire, take the training again.

9 ATTORNEY SIMON: So it is a form of
10 continuing education?

11 BOARD PLANNER: Yeah, but it doesn't
12 count towards CEU units --

13 BOARD ENGINEER: You could get
14 credits. You have to submit it.

15 VICE-CHAIRMAN HUSZAR: I could.
16 Engineers may, geologists don't.

17 ATTORNEY SIMON: Got it.

18 So with regard to this, so this is
19 training, Geoff, that you attended?

20 THE WITNESS: No, I didn't attend this
21 one. This was provided to me by one of my
22 colleagues in my office and the slides and videos, I
23 understand, are offered online as well.

24 ATTORNEY SIMON: So, in other words,
25 your opinion with regard to this topic is based on

1 these slides and not the BMP's or any type of other
2 authoritative manual, correct?

3 I just want to know what it is.

4 THE WITNESS: It was basically the DEP
5 providing an example slide of three basins
6 immediately adjacent to each other and collecting
7 the area from the larger site and putting it into
8 these three basins and saying that that is
9 not -- they would not consider that -- they would
10 not consider that green infrastructure.

11 Now, I will clarify or I will -- to be
12 completely transparent, it is not a black-and-white
13 issue in terms of whether or not that is acceptable,
14 but DEP's reviewers said that they would look to
15 reject an application if they were reviewing the
16 stormwater systems.

17 But again, you know, several -- as I
18 understand from the meeting, several of the
19 engineers were contesting that determination because
20 there is -- as engineers we like things to be black
21 and white and, you know, this is exactly what you do
22 and this is what you don't. And we talk about
23 dispersed stormwater systems. That is, I'll call
24 it, a little bit more of a gray area, and so --

25 ATTORNEY SIMON: I guess the point

1 being is that you weren't present for this
2 presentation, and you didn't review any written
3 materials with regard to this presentation?

4 THE WITNESS: Oh, I did. I have the
5 slides.

6 ATTORNEY SIMON: Oh, you have the
7 slides?

8 THE WITNESS: Yeah. They're available
9 online.

10 ATTORNEY SIMON: Okay.

11 THE WITNESS: Yes.

12 ATTORNEY SIMON: You haven't submitted
13 them to the board, correct?

14 THE WITNESS: I did not, no.

15 ATTORNEY SIMON: And with regard to
16 submitting to the board do you submit a report to
17 the board in connection with your testimony?

18 THE WITNESS: I have not.

19 ATTORNEY SIMON: And I have noticed
20 that you were reading from some notes.

21 Have those notes ever been put into the
22 form of a report?

23 THE WITNESS: They're just written
24 notes for myself.

25 ATTORNEY SIMON: And when you were

1 retained by Mr. Lieberman's office -- or let me ask
2 it this way.

3 Who retained you for this job, was it
4 Mr. Lieberman or was it one or more of his clients.

5 THE WITNESS: No, one of his clients.

6 ATTORNEY SIMON: And how long ago was
7 that?

8 THE WITNESS: I believe it was March,
9 maybe February. End of February, beginning of
10 March.

11 ATTORNEY SIMON: So your retention was
12 directly with one of the clients?

13 THE WITNESS: Correct.

14 ATTORNEY SIMON: Okay. And which
15 client was that?

16 THE WITNESS: Ms. Santori.

17 ATTORNEY SIMON: And what was the
18 purpose of your engagement?

19 THE WITNESS: To review the stormwater
20 management plan for the site, engineering
21 calculations and any applicable environmental
22 ordinances.

23 ATTORNEY SIMON: Did you look at -- so
24 when you say you looked at environmental ordinances,
25 what ordinances did you review?

1 THE WITNESS: As I testified to, the
2 woodlands management ordinance and the environmental
3 impact report.

4 ATTORNEY SIMON: Well the
5 environmental impact, when you say Environmental
6 Impact Report, are you talking about the ordinance
7 that governs the submission of an environmental
8 impact report? Or are you talking about the
9 environmental impact report itself?

10 THE WITNESS: Both.

11 ATTORNEY SIMON: So other than the
12 ordinance that deals with the submission of an
13 environmental impact report and the ordinance which,
14 I believe, you referred to at the last hearing
15 dealing with exporting of soils --

16 THE WITNESS: I'm sorry, three not
17 two.

18 ATTORNEY SIMON: -- right; any other
19 ordinances that you reviewed?

20 THE WITNESS: That was it.

21 ATTORNEY SIMON: That was it. So other
22 than the --

23 THE WITNESS: And the stormwater
24 management, you know, ordinance as well.

25 ATTORNEY SIMON: The municipality

1 stormwater management ordinance?

2 THE WITNESS: Correct.

3 ATTORNEY SIMON: So other than those
4 ordinances have you reviewed any other ordinance
5 pertaining to this application?

6 THE WITNESS: No.

7 ATTORNEY SIMON: And with regard to
8 the client who engaged you, are you aware of where
9 she lives relative to this property?

10 THE WITNESS: I don't know the
11 address, no.

12 ATTORNEY SIMON: Do you know how far
13 away your client lives from this property?

14 THE WITNESS: No.

15 ATTORNEY SIMON: And have you actually
16 walked the site?

17 THE WITNESS: No. That would be
18 trespassing.

19 I have been on the edge; I have walked
20 along the street, Victory Road.

21 ATTORNEY SIMON: And so you didn't
22 submit a report or -- did you conduct any type of
23 study with regard to this, other than taking notes
24 as you've just described.

25 THE WITNESS: I just I did some

1 calculations on the fill, which was basically
2 because the -- it's in PDF. If the plans were not,
3 quote, "flattened," they still retain their AutoCAD
4 features, I could potentially convert them back and
5 do it backwards to figure out what the fill is; so
6 when it's flat it's just like having a digital piece
7 of paper.

8 So I went through and I sketched what I
9 believe were the various fills in the area. That's
10 why the last time we testified I said my fill -- the
11 fill calculations I said were very plus or minus
12 because of the fact that I didn't have the actual
13 AutoCAD drawings to do that, but if you would like
14 to share them with me I would be more than happy to
15 do that analysis.

16 ATTORNEY SIMON: You understand that
17 this proposed use is a permitted use, correct?

18 THE WITNESS: As I understand, yes.

19 ATTORNEY SIMON: And you understand
20 that there's no variance relief that is required in
21 connection with this application, correct?

22 THE WITNESS: I don't know. I'm not
23 aware of variances that are required.

24 ATTORNEY SIMON: And other than any
25 relief that may be required to make a tree

1 contribution that was discussed earlier, you're not
2 aware of any waivers or exceptions that are required
3 of the applicant in connection with this
4 application, correct?

5 THE WITNESS: Yeah, I didn't focus on
6 that portion of the application.

7 ATTORNEY SIMON: And you talked at the
8 last meeting about the trucks bringing fill onto the
9 site, potentially impacting the conditions of
10 Victory Road; do you recall that?

11 THE WITNESS: Yes, I do.

12 ATTORNEY SIMON: And when you -- are
13 you talking about just truck traffic on the roadway
14 itself?

15 THE WITNESS: Yes.

16 ATTORNEY SIMON: And have you been
17 involved in construction projects for -- on behalf
18 of clients in the past?

19 THE WITNESS: Yes, I actually got my
20 start sitting with a new gauge and -- you know, a
21 Troxler gauge and sitting on construction sites for
22 six or seven years.

23 ATTORNEY SIMON: Right, and sitting on
24 construction sites for six or seven years I'm sure
25 you had occasion to attend your fair share of

1 pre-construction meetings once projects are
2 approved, correct?

3 THE WITNESS: Yes.

4 ATTORNEY SIMON: And isn't it true that
5 as part of any pre-construction meeting, there would
6 be a discussion about how construction materials
7 were getting to the site and obligations of the
8 developer to certainly repair any damages caused to
9 the local roadway as a result, if any, as a result
10 of any of that activity?

11 THE WITNESS: Actually, no, my role on
12 those projects was simply for geotechnical
13 monitoring and fill. So if there was an issue of a
14 geotechnical information or paving and things like
15 that, that's what they would call me in for.

16 ATTORNEY SIMON: So you weren't even
17 part of those discussions in terms of
18 pre-construction and ensuring that the surrounding
19 properties are protected by virtue of any of
20 those --

21 THE WITNESS: Well I was part of the
22 pre-construction meetings on the geotechnical
23 aspects, but not invited to any of the other items
24 of discussion, no.

25 ATTORNEY SIMON: Now you talked about

1 one of the ordinances you looked at, I believe you
2 referenced Ordinance Section 188-26 stating, in
3 essence, that no topsoil is to be removed from the
4 township, correct?

5 THE WITNESS: Correct.

6 ATTORNEY SIMON: Are you aware based
7 on your review of the plans and materials for this
8 application that topsoil is being removed from the
9 township as part of this case?

10 THE WITNESS: From the township?

11 ATTORNEY SIMON: Yes.

12 THE WITNESS: No.

13 ATTORNEY SIMON: Are you aware of
14 topsoil being removed from the site?

15 THE WITNESS: Based on the calculation
16 of the -- so you have an area that is, let's say, I
17 said 12, 13 acres of disturbance, the geotechnical
18 report said, you know, I think it was an average of,
19 I forget, nine inches of topsoil, like I would have
20 to look at the specific calculation based on the
21 average. And then they're only required to put so
22 much topsoil back in so much landscaped area, so you
23 do the math and can back-calculate the volume.

24 ATTORNEY SIMON: So you
25 back-calculated the volume based on your notes,

1 correct?

2 THE WITNESS: Correct.

3 ATTORNEY SIMON: And do you believe,
4 based on your review of Section 188- 26, that the
5 applicant will violate that ordinances provision?

6 THE WITNESS: No, only if they need
7 approval to take it off-site and it needs to stay
8 within the township.

9 I was just pointing it out simply for
10 the Planning Board's understanding of what needs to
11 be done.

12 ATTORNEY SIMON: So you're not aware
13 of any municipal ordinance that the applicant is
14 violating currently, based on your review of the
15 application, correct?

16 THE WITNESS: No, of course not, no.

17 ATTORNEY SIMON: And then, you know,
18 with regard to some of your comments, and I do
19 appreciate, for one, you providing the brief summary
20 as to what you testified to the last time, that was
21 helpful. You occasionally the last time used the
22 phrase during your testimony, well, they'll be able
23 to engineer around that or engineer around it for
24 purposes of a couple of comments that you made in
25 connection with the application.

1 Do you recall that?

2 THE WITNESS: I don't. No, not
3 specifically.

4 ATTORNEY SIMON: So if you had said
5 for my edification let's assume that the transcript
6 does reflect, in fact, that you said on a couple of
7 occasions at least, oh, "Well they would be or
8 should be able to engineer around that;" what does
9 that mean to you, that phrase?

10 THE WITNESS: Well, if it's -- if
11 it's, for example, if there's a pipe slope that is
12 out of, you know -- that doesn't seem to match or if
13 there's an issue with, you know -- you know,
14 surcharging of a stormwater, like a manhole or an
15 inlet or something like that, and they need to fix
16 it, that's something I'm not exactly sure what I
17 specifically testified to; there's an engineering
18 aspect around it. So I'm not exactly sure what
19 you're, I guess, trying to ask.

20 ATTORNEY SIMON: Well, no, you used
21 the phrase, I didn't, that's why I'm asking.

22 THE WITNESS: Yeah, I mean, it had
23 nothing do with where seasonal high groundwater is
24 and things like that. I mean they can elevate the
25 site even more, they can bring in more fill, I

1 guess.

2 ATTORNEY SIMON: So I guess the
3 question is for some of the criticisms that you've
4 made in connection with the application, are those
5 susceptible to engineering revisions to correct, if
6 applicable, what you allege to be issues?

7 ATTORNEY LIEBERMAN: I just want to
8 note an objection. I think, to be fair, Rob, and as
9 you know I'm not doing too much objecting here, but
10 if you give him some specifics, it would just make
11 this a much better process.

12 ATTORNEY SIMON: No, no, no. Stuart,
13 I'm not trying to hide anything.

14 During the last meeting -- just a
15 little bit of colloquy here for foundation. During
16 the last meeting, during Geoff's testimony, he was
17 just talking just generally about the site and
18 talking about, just generally, certain issues
19 regarding stormwater and I couldn't follow it,
20 that's why I'm, frankly, asking it. And he said a
21 couple of times, well, yeah, they'll probably be
22 able to engineer around that. And the reason why I
23 asked the question because I just want to know what
24 he meant by that phrase, "engineering around it,"
25 that's all.

1 That's it, nothing more than that. I'm
2 not trying to...

3 ATTORNEY LIEBERMAN: Well, that's
4 fine. My only point is, is that when you ask what
5 you mean, I think you need context. Because he
6 didn't just say, you know, out of nowhere, he was
7 responding to particulars.

8 So my only criticism of the question,
9 that's up to the Chair or counsel to determine
10 whether the objection is valid. I think if you say
11 what did you mean about it, you should indicate what
12 the issue was in which he responded that way, and
13 then he can tell you what he meant; in the abstract
14 I don't know. But that's my...

15 ATTORNEY SIMON: Look, I got my
16 answer, I can move on. You made your point.

17 THE WITNESS: I mean I can clarify
18 that you can't change groundwater elevations and you
19 can't change --

20 ATTORNEY LIEBERMAN: There's no
21 question pending.

22 MEMBER LEGGIO: Bob -- what is your
23 last name, sir?

24 ATTORNEY SIMON: Mr. Simon.

25 MEMBER LEGGIO: Mr. Simon. I'm sorry,

1 but you guys were referring to each other by name.

2 ATTORNEY SIMON: That's fine.

3 MEMBER LEGGIO: If you are referring
4 to their attorney -- you know, the witness. As far
5 as, you know, we can make this simple right, we're
6 clearing all this land, it's being raised; where is
7 the water going? Okay.

8 We don't need to have a college degree
9 or an engineering degree to know that if it's lower
10 than what the building is going to be, then it's
11 going to waddle out in the road eventually.

12 And since we don't have accurate
13 rainfall numbers since from 1990 or whenever the
14 numbers are from, okay, that's the concern. That's
15 my concern too. Okay?

16 CHAIRMAN BOISVERT: Mr. Leggio.

17 MEMBER LEGGIO: I don't want to add
18 more to the roadway.

19 CHAIRMAN BOISVERT: Mr. Leggio, he has
20 a right to --

21 MEMBER LEGGIO: Sure.

22 CHAIRMAN BOISVERT: So just let him,
23 like we let them complete, let him complete his
24 cross-examination. We'll have plenty of time to...

25 MEMBER LEGGIO: Yeah, well.

1 CHAIRMAN BOISVERT: Okay.

2 ATTORNEY SIMON: You talked, during
3 your last time you were before us, about wetlands,
4 correct?

5 THE WITNESS: Yes.

6 ATTORNEY SIMON: And wetlands are
7 under the exclusive jurisdiction of the DEP,
8 Department of Environmental Protection, correct?

9 THE WITNESS: Correct.

10 ATTORNEY SIMON: And the DEP also has
11 exclusive jurisdiction as to determinations of state
12 threatened and endangered species, correct?

13 THE WITNESS: Correct.

14 ATTORNEY SIMON: And you also talked a
15 little bit about vernal pools on the property,
16 correct?

17 THE WITNESS: Correct.

18 ATTORNEY SIMON: Right. And the
19 jurisdiction with regard to the vernal pools you
20 referenced in your testimony, similarly lie with the
21 DEP, correct?

22 THE WITNESS: Correct.

23 ATTORNEY SIMON: And are you aware
24 that a vernal pool plan was developed for this site
25 with a DEP vernal pool specialist?

1 THE WITNESS: What, if -- I don't
2 know if it was -- a DEP vernal pool specialist
3 helped design it.

4 ATTORNEY SIMON: You just don't know
5 either way?

6 THE WITNESS: An employee of the DEP
7 helped them design the mitigation? I have never
8 seen that happen.

9 ATTORNEY SIMON: I'm just asking you,
10 are you aware of any interactions with the DEP with
11 regard to the vernal pool plan?

12 THE WITNESS: Well, not interactions,
13 but that's different than them designing it or
14 having a hand in designing it.

15 ATTORNEY SIMON: And the new vernal
16 pool as proposed on the plans is closer to the
17 wetlands than currently, correct?

18 THE WITNESS: Well, which wetlands?

19 ATTORNEY SIMON: The wetlands to the
20 -- I guess that's to the east.

21 THE WITNESS: You're saying the vernal
22 pools are closer to the wetlands?

23 ATTORNEY SIMON: So there's a vernal
24 pool plan, correct, in connection with this
25 application?

1 THE WITNESS: Yes.

2 ATTORNEY SIMON: Right? And the
3 vernal pool plan shows a new vernal pool three times
4 larger than what's existing, correct?

5 THE WITNESS: Yeah, where that
6 mouse -- where the hand mouse is there on the
7 pointer on the screen, it's about the location,
8 maybe a little east of it.

9 But yes, they're proposing a vernal
10 pool in that area, whether the size of it or not in
11 relation to the wetland, I'm not aware of it.

12 ATTORNEY SIMON: You didn't take a
13 look at that, correct?

14 THE WITNESS: Not for the Planning
15 Board application, no.

16 ATTORNEY SIMON: Just give me a
17 minute.

18 Other than you referencing the EIR
19 that you were looking for some information regarding
20 fill that you could import to the site, correct?

21 THE WITNESS: I did look at that,
22 that's correct.

23 ATTORNEY SIMON: Right. Other than
24 that issue was there any other aspect of the EIR
25 that you took issue with?

1 THE WITNESS: No, well not that I
2 didn't take issue with, but that's where I was
3 looking for whether or not once I realized that the
4 import of fill was much more extreme than simply
5 importing some fill to comply with the ordinance, I
6 felt it was -- it's pretty excessive volume that
7 even the GZA report mentions that it's an excessive
8 volume of fill.

9 And so I went to the EIS report and it,
10 you know, importing that much fill, it's an
11 excessive volume of fill. And so I went to the EIS
12 report and, you know, importing that much fill is a
13 pretty big element of a project. It's probably as
14 important as placing the concrete for a slab and,
15 you know, clearing the site, as well as fill that's
16 got to be imported.

17 For example, an environmental impact
18 report, does it impact emissions from vehicles and
19 noise and things of that nature. So none of that
20 was -- none of that was described nor discussed
21 regarding fill being imported.

22 ATTORNEY SIMON: Is there any
23 ordinance regulation that addresses the import of
24 fill to the project?

25 THE WITNESS: Not that I'm aware of.

1 But, you know, when you're trying to get an approval
2 for a regulatory body and they're required to
3 provide -- the purpose of an Environmental Impact
4 Statement or an Environmental Impact Report is to
5 provide a broad picture of what is being done on the
6 site and how that development and -- not only the
7 post-development, you know, the use, but also the
8 construction of it is going to impact the community
9 and the environment. And, you know, I think that's
10 a pretty big omission.

11 ATTORNEY SIMON: But other than that
12 you didn't notice any other omission or any other
13 aspect of the EIR that you take issue with, right?

14 THE WITNESS: I didn't focus on some
15 of the lack of description of what is being imported
16 to the site, that's what I focused on.

17 ATTORNEY SIMON: I have nothing
18 further for this witness. Thank you.

19 ATTORNEY LIEBERMAN: Can I have a
20 redirect of this witness and ask two questions?

21 CHAIRMAN BOISVERT: Yes.

22 ATTORNEY LIEBERMAN: Thank you.

23

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

25

1 ATTORNEY LIEBERMAN: Regarding the
2 vernal pool, I have some questions for you.

3 Do you know whether the vernal pool
4 that is there can actually be recreated; is that
5 something that can be done?

6 THE WITNESS: I don't -- you know, I
7 guess it could be if it was designed correctly.

8 ATTORNEY LIEBERMAN: And do you know
9 whether or not the southern vernal pool is going to
10 be drained; and if so, what the impacts are of that
11 are?

12 THE WITNESS: You mean are you talking
13 about the southern pools that are partially on the
14 site and off the site?

15 ATTORNEY LIEBERMAN: Yes.

16 THE WITNESS: Well my opinion, I
17 stated it last time, is there was a concern about
18 the interception of seasonal high groundwater from
19 the piping systems and toe drains that would
20 redirect groundwater, and if it were -- if the
21 groundwater regime were moving in that direction it
22 would deplete it.

23 ATTORNEY LIEBERMAN: I don't have any
24 other questions on redirect.

25 Thank you for the opportunity.

1 CHAIRMAN BOISVERT: Sure, sure.

2 The board can ask questions now?

3 ATTORNEY RIZZUTO: Yeah, sure.

4 Absolutely.

5 CHAIRMAN BOISVERT: All right,
6 Mr. Leggio. If anybody from the board has any
7 questions.

8 VICE-CHAIRMAN HUSZAR: I have one.
9 Working with the DEP for 25-plus years -- sorry.

10 Working with DEP for 25-plus years, I
11 don't work for the DEP but work with the individuals
12 in Trenton, vernal pools are they -- like when you
13 install a vernal pool or develop a vernal pool on a
14 property, are they -- they approve it?

15 Are they involved with it?

16 I thought you just got a vernal pool,
17 you installed a vernal pool and that was it. I
18 didn't know that the DEP actually has to approve it
19 or regulate it or anything like that.

20 THE WITNESS: Yes, you have to prove
21 that it works. So there's -- the way wetlands and,
22 you know, wetland mitigation, you have to recreate
23 essentially the hydrology and the conditions that
24 would allow for a wetland to be essentially
25 recreated in a location.

1 Vernal pools are probably one of the
2 most difficult habitats to create as a matter of
3 fact. The DEP doesn't necessarily -- I'm not
4 stating what the individuals at the DEP are
5 reviewing this specific application, but they're
6 also generally discouraged from putting wetland
7 mitigation in existing forest plants because you're
8 taking one resource, you know, that the forest is
9 essentially regulated, but they don't normally like
10 to do that.

11 Doesn't mean it doesn't happen but
12 there's -- it's vernal pools are really very
13 extremely sensitive to --

14 ATTORNEY LIEBERMAN: Can you tell them
15 what they are?

16 THE WITNESS: Oh. Does everybody know
17 what a vernal pool is?

18 ATTORNEY LIEBERMAN: Just explain.
19 Just explain what it is.

20 This gentleman knows.

21 VICE-CHAIRMAN HUSZAR: I do.

22 THE WITNESS: So a vernal pool is
23 basically it's a fancy term for a temporary wetland
24 that only is inundated for a portion of the year.
25 So, for example, in Southern New Jersey, the coastal

1 plain, vernal pools normally happen in the winter
2 when seasonal high groundwater tends to rise. You
3 can also get some surface runoff, as well. And what
4 DEP finds important about vernal pools -- and so
5 basically it's a temporary ponding and in the
6 summer, mid-summer, these pools will be dry.

7 And what the importance of that is, is
8 there's certain specific species of animals that
9 use -- that use those vernal pools. And the only
10 reason they can exist is because of those pools
11 ironically dry up.

12 In other words, because they dry up in
13 the summer, fish can never get established. So
14 these amphibians, which are, you know, frogs and
15 salamanders, they'll go in in the spring, mate, lay
16 eggs, and then those eggs will hatch. And
17 hopefully, before the vernal pool dries out, they
18 mature and then they could into the woodland to
19 their upland habitat, and then the pool dries up.

20 So that happens every year. And so
21 what will happen is that there are species that are
22 endemic to those types of habitats that require
23 them. Some are endangered, some are not. So it
24 depends on the species.

25 And obviously we talked -- we had a

1 conversation about this last time, about whether the
2 DEP knows -- feels that they exist or not, and -- or
3 there's optimal habitat if, in fact, they return.

4 VICE-CHAIRMAN HUSZAR: So does the DEP
5 -- does the DEP require, like, a monitoring program
6 for these things, like into the future?

7 THE WITNESS: Yes. It's usually about
8 five years.

9 VICE-CHAIRMAN HUSZAR: Five years.
10 Like a wetland restoration?

11 THE WITNESS: Exactly.

12 VICE-CHAIRMAN HUSZAR: Got it.

13 CHAIRMAN BOISVERT: Anybody from the
14 board have any questions?

15 MEMBER LEGGIO: Oh, you want me to
16 reiterate what I said before?

17 CHAIRMAN BOISVERT: Yeah, I was going
18 to say now if...

19 MEMBER LEGGIO: All of this talk back
20 and forth with testimony and cross-examination, it's
21 just -- as far as are the pools going to be able to
22 hold the water, the pipes, filling up, emptying out;
23 is it going to affect Victory Road at the end of the
24 day?

25 This vernal pool, if it's there or not,

1 is it going to be monitored? That's fine, too.

2 But that's, you know, as far as I'm
3 concerned even their professionals, when they spoke,
4 couldn't give us a straight answer about are the
5 pools going to be able to hold the water or not hold
6 the water. And that's what the residents are
7 concerned about. I'm concerned about being a
8 resident. Is it going to get out to Victory Road
9 and cause a hazardous condition.

10 Is that okay?

11 CHAIRMAN BOISVERT: Yeah. No, no, no.

12 MEMBER LEGGIO: Because I don't want to
13 get yelled at or, you know...

14 CHAIRMAN BOISVERT: Well, again, they
15 were testifying. There's a time and place.

16 MEMBER LEGGIO: Well...

17 CHAIRMAN BOISVERT: So you're finished
18 with your testimony?

19 THE WITNESS: Yes, sir.

20 CHAIRMAN BOISVERT: You're finished
21 with your testimony?

22 ATTORNEY LIEBERMAN: Yes. Thank you.

23 THE WITNESS: Thank you.

24 CHAIRMAN BOISVERT: Do you have anybody
25 to bring up?

1 ATTORNEY SIMON: So if Mr. Goll is
2 done and other than the couple of fact witnesses,
3 Mr. Lieberman doesn't have any more witnesses, at
4 this point I think that what I would like to do is
5 to recall our traffic consultant, Kerry Pehnke, just
6 to introduce a couple of exhibits and talk about
7 those that we have previously submitted to the
8 board. I think that would be the right time for
9 that.

10 CHAIRMAN BOISVERT: Okay.

11 ATTORNEY SIMON: And then we can talk
12 about next steps after that.

13 CHAIRMAN BOISVERT: Yes, because we've
14 got, you know, about 15 minutes.

15 ATTORNEY SIMON: Well, that's what I'm
16 saying, I think I can do it in -- that's why it's
17 going to work out.

18 ATTORNEY LIEBERMAN: Excuse me,
19 Mr. Chair, would you mind if we just took a
20 two-minute break?

21 CHAIRMAN BOISVERT: Two-minute break?

22 ATTORNEY LIEBERMAN: That's all I need.

23 CHAIRMAN BOISVERT: Absolutely. Take a
24 two-minute recess.

25 (A recess is taken at 9:42 p.m.)

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(The record resumes at 9:48 p.m.)

SECRETARY RUBANO: The planning board will now reconvene.

ATTORNEY SIMON: Mr. Chair, so I have here next to me Kerry Pehnke.

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

ATTORNEY SIMON: Ms. Pehnke, you were previously sworn, right?

KERRY PEHNKE: Yes.

ATTORNEY SIMON: And your license remains in good standing?

THE WITNESS: Yes.

ATTORNEY SIMON: And so we have up on the screen an exhibit.

Eileen, what are we up to here?

SECRETARY RUBANO: This is A-45, the Intersection Improvement Concept Plan. Should be on the sheet already.

ATTORNEY SIMON: So, Kerry, first of all let's lay a foundation. What is this on the screen that has been identified as A-45; when was it created and by whom?

1 THE WITNESS: Yes, of course. So A-45
2 is a new intersection concept for the Lakewood
3 Farmingdale Road and Victory Road intersection.
4 It's dated June 13th, 2023.

5 ATTORNEY SIMON: And so why
6 don't -- why don't you, in essence, take over and
7 walk the board through what we are seeing on A-45.

8 THE WITNESS: So since the last
9 hearing we heard the concerns by the board
10 professionals about this intersection, specifically
11 the right turn movement from Victory Road onto
12 Lakewood Farmingdale Road. So a lot of work was
13 done behind the scenes to actually bring this
14 concept to you tonight.

15 The applicant approached the property
16 owner on the southwest corner. He actually was able
17 to obtain an easement. It's an easement that is
18 official; it exists now, it's not in the works.

19 So that easement also has the rights to
20 be able to transferred to either county or township,
21 depending on how the design process works out in the
22 review.

23 So what we were able to do with the
24 easement and the easement area, if you look at the
25 top right corner, that hatched area is the area

1 we've established that has an easement area with
2 that southwest property owner.

3 ATTORNEY SIMON: So that triangle that
4 is cross-hatched represents the easement area that
5 was obtained from the property owner, correct?

6 THE WITNESS: That is correct.

7 So we established that area. By going
8 to that south portion of the report, we're on the
9 bottom on the page. What we did is we took the
10 largest design vehicle in New Jersey, the WB-67, the
11 Title 39, and we determined what it would take for
12 that truck to be able to make that movement without
13 encroaching over either the departing or the
14 receiving centerline.

15 We then added a buffer area to that, so
16 for design purposes to be able to contain it fully
17 within the easement area.

18 ATTORNEY SIMON: So although this is
19 well off-site, that this is something that the
20 applicant wasn't required by law to do this, this is
21 something that the applicant on their own decided to
22 do in response to some of the comments from some of
23 the board members?

24 THE WITNESS: That's correct.

25 ATTORNEY SIMON: And what is the -- so

1 the shaded area, I guess with regard to A-45 within
2 the easement, represents what?

3 THE WITNESS: So that shaded area is
4 what we're proposing the concept as the extent of
5 the pavement to accommodate the largest design
6 vehicle.

7 ATTORNEY SIMON: And what will, if, in
8 fact, the easement is I'll use the word effectuated
9 and ultimately, you know, dedicated to county --

10 BOARD PLANNER: They can't hear you in
11 the back.

12 MEMBER OF THE AUDIENCE: Speak into
13 the mike, please.

14 ATTORNEY SIMON: Thank you. I'm
15 sorry.

16 If the easement is ultimately dedicated
17 with an appropriate right-of-way to the county
18 and/or the township, what is the upshot of that in
19 terms of the day-to-day for vehicles?

20 What is going to happen as a result?

21 THE WITNESS: So all vehicles,
22 including existing buses that make that movement and
23 encroach over both centerlines, will be able to make
24 those movements more efficiently, both the right
25 turn onto Victory Road and the right turn off

1 Victory Road, which will generally improve the
2 safety of the intersection.

3 VICE-CHAIRMAN HUSZAR: Can I ask one
4 question?

5 THE WITNESS: Of course.

6 VICE-CHAIRMAN HUSZAR: Was the Howell
7 Police Department ever contacted about the
8 acquisition of this, as far as, like, you know sight
9 distance and all that stuff?

10 ATTORNEY SIMON: If you know?

11 VICE-CHAIRMAN HUSZAR: Was there any
12 type of police...

13 THE WITNESS: I am not aware. I
14 wasn't part of the acquisition process.

15 VICE-CHAIRMAN HUSZAR: Thank you.

16 ATTORNEY SIMON: So you talked about
17 the easement in the area that was cross-hatched in
18 the triangle.

19 There's also a shaded area on the other
20 side of the intersection. Just explain what that
21 is, please.

22 THE WITNESS: Of course. So previous
23 exhibits for this intersection actually had already
24 shown this improvement. That's what we're showing
25 for the right turn onto Victory Road to also

1 accommodate the largest design vehicle.

2 ATTORNEY SIMON: So these right-hand
3 turn movements will allow all vehicles, including
4 school buses, cars, trucks, to make those right-hand
5 turns without having to encroach over the
6 centerlines, correct?

7 THE WITNESS: Yes, correct.

8 ATTORNEY SIMON: And you wanted to
9 show the other -- just explain what the
10 other -- maybe the top left-hand corner, what that
11 represents.

12 THE WITNESS: The top left-hand corner
13 includes more than labeling, as well as dimensioning
14 of the pavement area, the easement line itself, as
15 well as the utilities that we're aware of on that
16 corner.

17 ATTORNEY SIMON: And it's your
18 understanding that the applicant received site plan
19 approval from this board and receives approval from
20 the county that it would make those improvements at
21 its cost, and then ultimately dedicate the
22 improvements to the appropriate governmental agency,
23 correct?

24 THE WITNESS: That's my understanding,
25 correct.

1 ATTORNEY SIMON: And with these
2 improvements as proposed, as set forth on this
3 exhibit, A-45, those intersections will continue to
4 operate or will operate at acceptable levels of
5 service, correct?

6 THE WITNESS: That's correct.

7 ATTORNEY SIMON: And those proposed
8 intersection improvements will also enhance the
9 intersection's safety, correct?

10 THE WITNESS: Correct.

11 ATTORNEY SIMON: And those road
12 improvements will improve conditions for all types
13 of drivers and make those conditions safer as well,
14 correct?

15 THE WITNESS: Yes, correct.

16 ATTORNEY SIMON: I have nothing
17 further, Mr. Chairman, regarding this exhibit and
18 this witness.

19 ATTORNEY RIZZUTO: Mr. Chair, can I
20 just ask something?

21 CHAIRMAN BOISVERT: Sure.

22 ATTORNEY RIZZUTO: Just, I'm sorry,
23 did you say the easement exists or the applicant
24 went out and met with the property owner and
25 discussed it?

1 ATTORNEY SIMON: No, the easement
2 actually exists.

3 ATTORNEY RIZZUTO: It exists right
4 now?

5 ATTORNEY SIMON: It exists right now.

6 ATTORNEY RIZZUTO: And who is it in
7 favor of?

8 ATTORNEY SIMON: It's in favor of the
9 applicant.

10 ATTORNEY RIZZUTO: Okay.

11 ATTORNEY SIMON: But with the ability
12 for it to be assigned to the county and/or the
13 municipality as appropriate.

14 ATTORNEY RIZZUTO: Okay. I
15 understand.

16 ATTORNEY LIEBERMAN: Can I ask, is
17 this recorded?

18 ATTORNEY SIMON: I believe it is in
19 the process of being recorded.

20 I don't know who asked me.

21 ATTORNEY RIZZUTO: Mr. Lieberman.

22 ATTORNEY SIMON: Oh, okay.

23 ATTORNEY LIEBERMAN: Lieberman asked.

24 ATTORNEY SIMON: I was like someone
25 over there.

1 ATTORNEY LIEBERMAN: I'm a good
2 lawyer, but not that good.

3 ATTORNEY SIMON: You deserve that
4 credit.

5 ATTORNEY LIEBERMAN: That's very nice.
6 Can I ask one or two questions? Sorry to interrupt.

7 Do you want me to go and does anybody
8 else? Sir, you want to go?

9 BOARD TRAFFIC EXPERT: I have several
10 questions with regard to this exhibit, if you don't
11 mind.

12 First of all before --

13 (Stenographer clarification.)

14 BOARD TRAFFIC EXPERT: Can you hear me
15 now? I'm sorry.

16 Before I ask a question, is it possible
17 to zoom in on this view in the top left corner, to
18 adjust -- okay, thank you.

19 Ms. Pehnke, in the top left corner I
20 noticed, I received this exhibit this afternoon, I
21 noticed that there is a label on the top section
22 with the little raised lever that says utility pole
23 to be relocated.

24 Do you see that, do you see that part
25 for the southbound right turn?

1 THE WITNESS: On the northwest corner?

2 ATTORNEY SIMON: No, no, no. He's
3 referring to --

4 THE WITNESS: Oh, on the northwest
5 corner. Yes.

6 BOARD TRAFFIC EXPERT: Yes, the
7 northwest corner. Yes, that's right.

8 Okay. I notice that there is a utility
9 pole on the southwest corner and it's labeled as an
10 existing utility pole to remain.

11 THE WITNESS: That's correct. You
12 know, obviously this has to go through review and we
13 have to design plans but we are going to look to try
14 to maintain that. We think we might have the area
15 to be able to do it, but, of course, we'll have to
16 go through that whole process. And if it needs to
17 be relocated, you know, we'll, of course, relocate
18 it if that's what the design shows that has to be
19 done, but currently --

20

21 (Stenographer requests clarification.)

22

23 CHAIRMAN BOISVERT: You have to speak
24 up. We can't hear you.

25 BOARD PLANNER: You have to speak up,

1 she can't hear you.

2 THE WITNESS: My apologies.

3 ATTORNEY SIMON: As they say, eat the
4 mike.

5 THE WITNESS: So in its concept stage
6 because of the area that is to remain there and
7 because it's a right turn out and not a right turn
8 in at that location, we feel that we could
9 potentially maintain that existing utility pole
10 location pending review by both the county and the
11 township, of course.

12 BOARD TRAFFIC EXPERT: All right. It
13 seems, Ms. Pehnke, that -- now granted this is going
14 to be under, definitely under township and county
15 review because this is a county intersection. It
16 seems, however, that leaving the -- leaving the
17 existing utility pole to remain could leave a
18 potential intersection sight distance issue where a
19 vehicle -- car, truck, bus, et cetera -- when they
20 could presumably they have a stop gap within that
21 proposed pavement area before they complete the turn
22 onto Lakewood-Farmingdale Road. It seems -- it
23 seems that leaving the existing utility pole to
24 remain could interfere with the ability of the
25 drivers of the multiple vehicles to see traffic

1 coming from the north corner, coming from the north
2 along Lakewood-Farmingdale Road.

3 It seems that it would be far
4 better -- it would be far better to remove -- not
5 remove, I mean relocate the utility pole in
6 question.

7 And I was wondering if you've reviewed
8 the intersection sight distance triangle at this
9 intersection to see if that utility pole -- where
10 that utility pole is in relation to your proposed --
11 how, do I want to say this -- the proposed pavement
12 area for the right, for the new right turn area.

13 THE WITNESS: So this was a concept
14 level, so we actually haven't looked at that. But
15 we'll, of course, look at it with the design and do
16 what is appropriate with regards to that utility
17 pole to make sure we're meeting the standards and
18 safety of that intersection.

19 ATTORNEY SIMON: And those standards
20 will be including, to Mr. Chen's --

21 MEMBER OF THE AUDIENCE: Microphone,
22 please.

23 ATTORNEY SIMON: -- and those standards
24 include, to Mr. Chen's point, that there be adequate
25 sight distance for purposes of those turns?

1 THE WITNESS: That's correct, yes.

2 BOARD TRAFFIC EXPERT: And as this is
3 concept level I notice that -- I notice that there
4 weren't any other -- that there weren't any other
5 signs or markings proposed at this time because this
6 is concept level.

7 But, Ms. Pehnke, I guess for the
8 future, as the intersection -- as you develop this,
9 are you going to design so that -- design,
10 recommend, et cetera, the necessary signs, striping,
11 markings that would be necessary for the proposed
12 modifications to this intersection?

13 THE WITNESS: Of course. We'll make
14 sure to follow the design standards.

15 BOARD TRAFFIC EXPERT: Mr. Chair, I
16 have no further questions at this time.

17 CHAIRMAN BOISVERT: Okay, thank you.

18 BOARD ENGINEER: Mr. Chair, I have a
19 couple of questions, if you don't mind.

20 Ms. Pehnke, did you review a truck on
21 Lakewood Farmingdale Road heading in the southbound
22 direction, making a right onto Victory Road?

23 There's only one truck shown --

24 ATTORNEY SIMON: I'm sorry, Mr. Rizzo,
25 I missed a little bit of that and I'm sure the

1 public did as well.

2 Can you just repeat that?

3 BOARD ENGINEER: Sure. In the bottom
4 exhibit, this one, there's a truck shown making the
5 right turn onto Lakewood Farmingdale Road; did you
6 review a truck making a right from Lakewood
7 Farmingdale Road onto Victory Road?

8 THE WITNESS: We did. There was
9 actually a prior exhibit, A-43.

10 BOARD ENGINEER: So is that how you
11 determined the pavement area --

12 THE WITNESS: Not A-43. It was in the
13 first hearing actually, we had a prior exhibit.

14 ATTORNEY SIMON: Mr. Rizzo, we can
15 find that exhibit and provide that to you for sure.

16 BOARD ENGINEER: Okay. So the pavement
17 area shown here is based on the pavement area that
18 you have?

19 THE WITNESS: Yes, the W-67. But we
20 can find that exhibit number.

21 BOARD ENGINEER: All right. And how
22 do you foresee this right-turn movement from Victory
23 Road onto Lakewood Farmingdale Road as far as stop
24 controlled, or is it going to be yielded?

25 And where would you foresee that being

1 located?

2 THE WITNESS: It will be located where
3 the standards require, most likely it's going to be
4 a stop controlled approach though.

5 BOARD ENGINEER: Stop controlled after
6 you pull all the way up and basically make most of
7 the turn is where you would turn, or stop further
8 back?

9 THE WITNESS: The stop bar would be
10 located somewhere within that slip ramp. We'll do
11 the proper setbacks; we will do the roadway
12 following design standards.

13 BOARD ENGINEER: Thank you.

14 THE WITNESS: Of course. Thank you
15 for the questions.

16 SECRETARY RUBANO: Is the exhibit
17 you're looking for A-35?

18 THE WITNESS: Yes, A-35 is most likely
19 it because A-43 was updated, one of the turns off
20 Victory Road.

21 Yes, that should be it. Is there a
22 second page to that?

23 There it is.

24 BOARD PLANNER: Mr. Chair, I just have
25 one question.

1 So understanding this is totally
2 conceptual, is this something that you have not yet
3 broached with the county; it hasn't gotten to the
4 county yet and it's something you, obviously, will
5 do but it has not happened at this time?

6 THE WITNESS: To my understanding,
7 correct.

8 BOARD PLANNER: Okay. So the county
9 may have an opinion on the position of the location
10 of the utility pole as well, correct?

11 THE WITNESS: Correct.

12 BOARD PLANNER: Okay, thank you.

13 ATTORNEY RIZZUTO: Can I follow up on
14 that; the testimony was that the county would make
15 the improvements, not the applicant?

16 THE WITNESS: No, the applicant.

17 BOARD PLANNER: They would do it then
18 dedicate it to the county afterwards.

19 ATTORNEY RIZZUTO: Okay.

20 BOARD PLANNER: Right?

21 ATTORNEY SIMON: Yes.

22 ATTORNEY RIZZUTO: So this is a few
23 steps for the future.

24 THE WITNESS: Yes, the county,
25 reviewed by the county.

1 CHAIRMAN BOISVERT: You guys are all
2 set?

3 BOARD PLANNER: Yes.

4 ATTORNEY RIZZUTO: Thanks.

5 ATTORNEY LIEBERMAN: Now the planner
6 asked a question I was going to ask, that was --

7 BOARD PLANNER: Sorry.

8 ATTORNEY LIEBERMAN: No, no, no. As
9 long as it's asked it's a good question. And that
10 is what is the extent of the county involvement
11 because it's a county extension, and that's what I
12 wanted to know; and I think we have an answer to
13 that.

14 Thank you for your good testimony.

15 One second please. I mean, we do
16 reserve the right to have a planner, a traffic
17 planner take a look at this proposal and come back
18 the next time and give some testimony, if that's
19 deemed appropriate.

20 CHAIRMAN BOISVERT: Of course.

21 ATTORNEY LIEBERMAN: Thank you very
22 much.

23 ATTORNEY SIMON: As long as it's
24 understood that that traffic testimony, since
25 Mr. Lieberman rested, would be limited to tonight's

1 testimony with regard to Ms. Pehnke.

2 ATTORNEY RIZZUTO: Yes.

3 CHAIRMAN BOISVERT: Are you finished
4 with your...

5 ATTORNEY SIMON: With Ms. Pehnke, yes.

6 CHAIRMAN BOISVERT: Okay. So I guess
7 we've got to get you a new date?

8 ATTORNEY SIMON: Yes.

9 Mr. Chairman, I had spoken to Eileen
10 and I think we talked about August 17th was the date
11 when I think all of my witnesses would be available.

12 CHAIRMAN BOISVERT: Okay.

13 ATTORNEY SIMON: Is that acceptable?

14 SECRETARY RUBANO: Extension.

15 ATTORNEY SIMON: So we would certainly
16 provide an Extension of Time through the end of
17 August of 2023.

18 We would also ask, has it been
19 confirmed yet as to the location of that August 17th
20 meeting?

21 CHAIRMAN BOISVERT: Probably just keep
22 it in town hall.

23 ATTORNEY SIMON: Town hall?

24 CHAIRMAN BOISVERT: That's my
25 assumption, yeah.

1 ATTORNEY SIMON: Okay. So if that's
2 the case I would just ask, Ms. Rizzuto, if an
3 announcement can be made that the matter is carried
4 without further notice and to provide tonight the
5 members of the public the actual location of the
6 town hall address and the time of the hearing.

7 ATTORNEY RIZZUTO: Yes. So for
8 members of the public we are definitely --

9 MEMBER OF THE AUDIENCE: We can't hear
10 you.

11 MEMBER OF THE AUDIENCE: No mike.

12 ATTORNEY RIZZUTO: Thank you. Hello?
13 Okay.

14 Members of the public, with Mr. Chair's
15 permission and at the request of the applicant, we
16 have a continue date for August 17th at the
17 7:00 o'clock meeting, which will be at the municipal
18 building, 4567 Route 9 North, second floor, in
19 Howell; the Howell Township Municipal Building.
20 There will be no further notice so that is when the
21 continuation will happen.

22 And I believe we're expecting to open
23 to the public during that meeting.

24 CHAIRMAN BOISVERT: Yes.

25 ATTORNEY RIZZUTO: Okay.

1 ATTORNEY LIEBERMAN: Can I just
2 understand what else Mr. Simon is planning on
3 doing -- sorry, I keep forgetting.

4 Mr. Simon, what else do you plan on
5 doing that day so we can be prepared?

6 ATTORNEY SIMON: Sure. I mean, I have
7 to, first of all, I have to speak to my client to
8 find out based on what happened this evening,
9 including the continued testimony of your witness.

10 My expectation is that all of my
11 witnesses will certainly be available for questions
12 by members of the public because I don't believe
13 that that has happened yet.

14 Additionally, we certainly reserve the
15 right to provide some additional testimony by way of
16 rebuttal or otherwise by some of those witnesses.

17 ATTORNEY LIEBERMAN: Is there any way
18 you can tell us in advance so we know; you know,
19 would you let us know in advance through the board?

20 ATTORNEY SIMON: I certainly can let
21 the board know as we get closer, you know --

22 ATTORNEY LIEBERMAN: That's not what I
23 asked.

24 ATTORNEY SIMON: -- ten days prior as
25 to the expectation as to who is going to be

1 presenting at that hearing.

2 ATTORNEY LIEBERMAN: And please just
3 copy me on that.

4 ATTORNEY SIMON: I will, of course.

5 ATTORNEY LIEBERMAN: Thank you.

6 ATTORNEY RIZZUTO: Have you been
7 providing the transcript to the board secretary?

8 ATTORNEY SIMON: To be honest, I don't
9 know. I certainly can. I have no problem doing so.

10 BOARD PLANNER: I would appreciate it.

11 ATTORNEY SIMON: Of course.

12 BOARD PLANNER: At least for us anyway
13 to prepare for the hearing especially given there's
14 going to be a couple of months between now and then,
15 just to kind of make sure we're all up to speed.

16 I know you have done it, I know it was
17 attached to prior minutes, right, Eileen; in the
18 past transcripts have been attached to prior
19 minutes?

20 So I would appreciate it.

21 ATTORNEY SIMON: Of course.

22 CHAIRMAN BOISVERT: Okay, that being
23 said we have no further business, so I will
24 entertain a motion to adjourn.

25 MEMBER TALENTE: So moved.

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CHAIRMAN BOISVERT: All in favor?

BOARD MEMBERS IN UNISON: Aye.

CHAIRMAN BOISVERT: Good night.

(Whereupon, the application was
adjourned and the hearing was concluded.)

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(Time noted, 10:10 p.m.)

C E R T I F I C A T E

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

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

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



Angela C. Buonantuono, CCR, RPR, CLR
NJ State Board of Court Reporting
License No. 30XI00233100

Dated: July 19, 2023

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