BOROUGH OF WOODCLIFF LAKE
ZONING BOARD

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IN THE MATTER OF:	
WCL BROADWAY REALTY ASSOCIATES, LLC; 62 BROADWAY, BLOCK 2708, LOT 1	TRANSCRIPT OF PROCEEDINGS

Tuesday, July 24, 2018
Municipal Building Pascack Road
Woodcliff Lake, New Jersey
Commencing at 7:49 p.m.

BOARD MEMBERS PRESENT:

VICTOR BONGARD, Chairman
JOHN SPIRIG
JAMES VERCELLI
EMILIA OROZOVA-FENDIAN
SANJEEV DHAWAN
ROBERT HAYES
ROBIN EFFRON-MALLEY

ALSO PRESENT:

SYLVIA KOKOWSKI, Secretary
RICHARD PREISS, P.P.
EVAN JACOBS, P.E.
BRIAN A. INTINDOLA, P.E.

ALISON GULINO, CCR, RPR
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By: JOHN L. MOLINELLI, ESQ.
Counsel for the Applicant

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CHAIRWOMAN HEMBREE: I recuse myself.

CHAIRMAN BONGARD: This will be the continuation of the WCL Broadway Associates.

There's been a substantial revision to the application that you will explain to the Board and the people in the audience?

MR. MOLINELLI: Thank you, Mr. Chairman. John L. Molinelli, Price, Meese, Shulman & D'Arminio, Woodcliff Lake, New Jersey, on behalf of the applicant.

As indicated, we did file with this Board a formal amendment to the application which effectively removes the party room from the proposed development. That's a substantial modification. It cuts the parking requirements in half. Essentially, 48 seats, if you recall, was part of the original application to put into the party room. They are now removed. That leaves the 48 seats left in the pizzeria. That's still going to have the 48 seats. We will still have the 16 seats outside. The total number of seats now, it was 105; now, it's 64.

MEMBER OF THE PUBLIC: I don't know if anybody can hear you. Speak into the mic, please.

MEMBER OF THE PUBLIC: Turn them on, all of them.

MR. MOLINELLI: My voice is not

100 percent tonight. Let me go back. We removed the party room that had 48 seats. That is now --

MEMBER OF THE PUBLIC: He's not talking into the mic.

MR. MOLINELLI: I am.

48 seats in the pizzeria and 16 outside. I'll note, for the record, I took it upon myself to send a revised notice to the property owners. I was not required to do that but I thought I would be fair so they are aware that I did submit things.

MEMBER OF THE PUBLIC: We didn't get anything.

MR. MOLINELLI: The total number of seats are now at 64. With the requirement for parking, two seats per parking space, we now require 32 parking spaces for the base restaurant. We still have the six employees we don't have to worry about. There were issues on the first night of any additional employees that may be hired if the restaurant or party room took off. We still have six employees. The restaurant, as amended, now requires 38 required parking spaces. We are still seeking a variance for this parking. The residential is 27 in the back; that conforms. The restaurant is 38.

The retail, there's a slight difference

because we are adding 815 square feet of retail space where the party room was. Now, the total square feet in the retail that remains, other than the pizzeria, is 5,065 square feet. The total number of required parking spaces is now 94, and of course, I did note in the amendment, in the off season, we don't have the 16 seats outside during the colder weather. Technically, at that point in time, the number of required spaces drops to 30. We do have 38 spaces outside.

I have some documents I would like to make reference to that I have filed with the Board. The first is we have submitted a revised drawing from R.L. Engineering. It is dated through July 9, 2018. With your permission, I'll have that marked as A-9.

(Exhibit A-9, letter dated 7/9/18, was marked for Identification.)

Q. The only change on this I'll draw to your attention is the parking calculations. The numbers that I just went through are now set forth in the drawings, specifically, under Paragraph 14, "Parking Requirements."

There's also been a change with 15. There was an issue that came up at the last meeting as to where Mr. Eichenlaub utilized net square footage for purposes of parking and he went back and we looked at

the prior resolutions where, specifically, with prior approvals, we did use the net as opposed to gross. Mr. Intindola said "Where is the authority for that" so we added that as a note under Paragraph 15.

There's no other change to the plan other than to reflect the current parking requirement.

The second plan that I have submitted is a revised architectural drawing. That is A-10.

(Exhibit A-10, revised architectural drawing, was marked for Identification.)

MR. MOLINELLI: You now see that the toilet area and the coat rack area continues to be part of the restaurant. Now, there's a wall that effectively divides the 815 square feet which is now called "Retail Space Number 4. There no other changes other than to effectively isolate away what was referred to as the "party room."

I was not planning -- because this is more of a change that is pretty straightforward and we talked three meetings now on the parking requirements and the calculations, I did bring Mr. Luglio back this evening in case the Board had any questions. I would rely on the testimony from all of our witnesses including Mr. Luglio, Mr. Burgis, my client and Mr. Eichenlaub.

Based upon this amendment, I'm referring to Mr. Luglio's prior testimony. You recall he did studies of the pizzeria as it operates in Hillsdale. At one point, for a ten-minute moment on a Saturday, there were 23 vehicles parked in the lot. This is the same use we are bringing to Woodcliff Lake with the exception of the party room so there's never any danger or issue about 48 seats being utilized a particular point in time.

He also testified about the peak times. We still have two retail tenants but it's fair to say, as of 6:30 or 6:00 p.m., the parking lot is generally going to be available, all 38 spaces, to the pizzeria, and based upon this modification, those 38 spaces will actually satisfy the 38 spaces that are required as a result of this modification.

Mr. Luglio is here; he is available if you have any questions. I would rely and incorporate the prior testimony.

At this point, I know the Board wants to hear from its own professionals. We can address those after they give a statement, and of course, the residents are entitled to be heard. It's my intention to give you a very, very short summary on two points I wanted to highlight, and then, we will conclude this

evening.

CHAIRMAN BONGARD: Okay.

Before we hear that, are there any questions from the people or the Board concerning the change that has taken place?

MR. SPIRIG: Not until we hear the testimony of the professionals.

MR. PRINCIOTTO: You are not presenting any additional testimony?

MR. MOLINELLI: Right. Although, I have made Mr. Luglio available in case the Board or any residents have any questions. I have incorporated what's been said.

MR. PRINCIOTTO: A couple of questions, they have -- since the revision, I know that you reduced the size of the restaurant as well as the number of seats proposed so that the remaining square footage, I believe, is 5,065 square feet.

MR. MOLINELLI: That's the balance of the retail, right.

MR. PRINCIOTTO: And I know that it may not be absolutely determined but how many retail spaces is that expected to be?

MR. MOLINELLI: 29. Based upon the new square footage of 5,065, it requires 29 spaces.

MR. PRINCIOTTO: How many retail stores will comprise that?

MR. MOLINELLI: Four. The fourth one has now been designated, on A-10, as "Retail Space 4." It's 815 square feet.

MR. PRINCIOTTO: Okay.

CHAIRMAN BONGARD: Since our last meeting, have there been any more people asking for some of the retail space?

MR. MOLINELLI: There are people that asked but we are not in a position to make any representations other than the dentist and the well care center.

MR. PRINCIOTTO: I would like to go through and make sure we are on the same page. I know this is the third revision so I'm trying to keep track.

MR. MOLINELLI: What I did -- I hope you appreciate it -- I took the original rider, and instead of changing the numbers, I crossed off the old numbers so you get a feel for it, the changes, but we can go through them.

MR. PRINCIOTTO: Have you 5,065 retail square footage left after the restaurant. That requires 29 parking spaces?

MR. MOLINELLI: Correct.

MR. PRINCIOTTO: You have proposed 48 seats, indoor seats. That requires 24 parking spaces?

MR. MOLINELLI: Correct.

MR. PRINCIOTTO: You propose six employees, that requires six parking spaces?

MR. MOLINELLI: Correct.

MR. PRINCIOTTO: The apartments require 27 parking spaces which are in the rear?

MR. MOLINELLI: Correct.

MR. PRINCIOTTO: My total is 96 spaces are required.

MR. MOLINELLI: I have 94. I have 27 residential, 38 restaurant.

MR. PRINCIOTTO: I didn't do the 8. I didn't count the 8 outdoor.

MR. MOLINELLI: If you don't count them, that's less. It's only 30 spaces required for the restaurant without the outdoor. What I did was took 48 seats from the pizza shop and 16 outside; that is 64. I divided that by 2; that brings you to 32 seats. I added six for the employees; that's 38. That's with the 16 outside. Without the 16 outside, it brings it down to 30 but we are applying for the 16 so we have to disclose all of that. If I take 27 residential plus 38 restaurant and 29 retail, that's 94 required.

MR. PRINCIOTTO: Okay. You are right. With the outdoor dining, in the chance an additional 8 parking spaces required, your total goes to 94 and there are 65 parking spaces provided?

MR. MOLINELLI: Correct.

MR. PRINCIOTTO: Okay.

Now, at this junction, I would like to hear from the borough's planner. I have some questions.

For anyone that may see some new faces, just briefly identify yourself.

MR. PREISS: My name is Rich Preiss of the firm of Phillips, Preiss, Grygiel, Leheny, Hughes. We are a planning and real estate firm with offices in Hoboken. We are the planning consultant to the Planning and Zoning Board. I'm a principle and vice president. I'm a licensed planner and I have been at all the hearings and our office did a review letter, which is in the record, dated April 18, 2018.

MR. PRINCIOTTO: Okay. The first item that I would like you to address is the concept of shared parking and that has been presented by the applicant that that is a factor that this Board should take into consideration. Being that this is a restaurant use and there will be other non-restaurant

type retail uses, some of which may have been identified, some which may come along -- but first, have you experienced and witnessed this shared parking concept?

MR. PREISS: Yes.

MR. PRINCIOTTO: Can you give us some examples of it and if and how it works?

MR. PREISS: Let me just indicate something before I talk about the shared parking.

If you recall, we -- at first hearing, we did not have -- the borough did not have its own parking consultant. The testimony that was put on the record basically relied upon, in terms of the parking, the ITE, the Institute of Transportation Engineers, parking study which indicates, for different uses, what the number of parking spaces would be provided.

When I heard the testimony of the applicant, also having read the ITE, what the ITE says, "In the absence of any better source of the information, the ITE is the source that should be used." It also says, "If you have a comparable local situation, that may be better information that may be more reliable than ITE" because there's parking studies that are done all over the country.

In this particular situation, we had a

1 perfectly comparable situation, not only did we have a
2 comparable restaurant but we had the actual restaurant
3 that was going to be the tenant that had an existing
4 business not only close to the property but in the
5 adjacent community and also on Broadway.
6 Obviously, there are some differences
7 that have to be taken into account in terms of the
8 parking and the scale of that restaurant, how it
9 operates, but I suggested, at the first meeting that
10 the applicant, rather than rely on ITE, take a look at
11 that parking related to that shopping center where the
12 pizza restaurant is one of the tenants, like it would
13 be here, and utilize the information that was derived
14 from that to make a comparison. Mr. Luglio did that
15 study and provided the analysis.
16 In that situation, you also have a shared
17 parking situation. What a "shared parking situation"
18 means is, you have a number of uses or number of
19 tenants that share parking in common and this happens
20 at, you know, shopping centers where you may have
21 certain uses that are particularly busy in the morning,
22 some that are particularly busy in the evening, and
23 then, you have some uses like restaurant or
24 entertainment use, health clubs and so forth, where
25 their peak hour of use is different than other stores

1 within the shopping center. A restaurant is one of
2 those kind of uses where the restaurant's peak, even
3 though they have a little bit of a bump at lunchtime,
4 their peaks are in the evening and on weekends. That's
5 where you have the highest number of customers and you
6 have the highest amount of parking. Typically, when
7 the restaurant is open, the other stores are closed.
8 Essentially, as the restaurant gets busy and the other
9 stores close, the spaces that would ordinarily be
10 utilized by those retailers are available for those
11 customers.
12 Essentially, the parking study that Mr.
13 Luglio did is an example of shared parking. There are
14 other examples. For example, with mixed use, with the
15 residential and the retail, sometimes you can reduce
16 the parking demand because people who live in the
17 apartments are away during the day when the retail
18 needs that parking. In the evening, when the residents
19 come home, the retail closes. That's another example
20 of shared parking. Hotel and office is a great
21 example. During the day, there's not much parking
22 demand for the hotel use; the office has a high usage
23 and people leave at the end of the day for the people
24 who stay at the hotel. Those are examples of shared
25 parking. Within shopping centers where you have

1 restaurants and other retail, that's an example of
2 shared parking. You certainly have that in this
3 situation.
4 I do see and I do give credit --
5 obviously, I defer to -- the borough has their own
6 traffic consultant here. I do defer to him with regard
7 to the specifics but the notion of shared parking, in
8 this situation, I believe, is valid.
9 One of the things I would be concerned
10 about is, if restaurants were a permitted use, you
11 would be concerned that, while this restaurant may have
12 peaks, although they have indicated, based upon the
13 comparable studies, that the peak parking demand is
14 only 23 spaces, whereas, in the front, there are 38 so
15 have you a cushion, if another restaurant were to come,
16 maybe there would be a problem; however, in this
17 situation, the restaurant is a prohibited use so I
18 think the Board can be assured of the fact that this
19 would be the only restaurant in the shopping center.
20 If another one came in, they would have to come back to
21 the Board and you would have to revisit the situation,
22 not that I think it's going to happen. In this
23 situation, I think you can be assured of the fact that
24 the parking demand in the evening on the weekends for
25 the restaurant during those times, given the nature of

1 the other tenants in the shopping center, will,
2 essentially, have all of those spaces in the front
3 available to the customers and to the employees for the
4 parking and applicant is also --
5 Initially, they talked about having
6 deliveries and employees parking in the back taking up
7 those residential spaces. If the Board remembers,
8 they, basically, agreed that would not be the case. I
9 don't think there's any concern about taking up spaces
10 for the residents or parking in the rear at all so I
11 believe that the shared parking situation should be
12 taken into account by the Board.
13 In terms of the specific numbers, again,
14 you have your own traffic engineer who can comment on
15 the specifics and on the testimony that was provided by
16 Mr. Luglio.
17 MR. PRINCIOTTO: Of the remaining spaces,
18 I think you just heard Mr. Molinelli tell us this,
19 there is still proposed four additional spaces. I
20 don't know that it's divided equally. If it was, that
21 would be stores of 1,266 square feet so relatively
22 small spaces. Perhaps a tenant could take two spaces
23 so you might have a 2500 square foot space, but
24 assuming those parameters, what type of tenants would
25 you expect to have in those spaces?

MR. PREISS: Well, I think, given the list of permitted uses, either professional or business office or some kind of retailers who would be most likely open -- business hours would be 9:00 to 5:00 or 9:00 to 6:00. If you look at Broadway, the only stores which are -- there are restaurants on Broadway. The only stores which are open in the evening are the restaurants. There may be, for example, a convenience store that may stay open later, but you know, that's -- there is an existing store and I can't imagine a second convenience store would open.

One of the things that the Board could do if it was concerned about having a store which would be open in the evenings, you know, they could consider this and the applicant could weigh in and indicate whether they are willing to accept this as a condition, is that, if they had another tenant in one of the other spaces who intended to have hours which would coincide with the restaurant which would stay open at night and take up a lot of spaces, they would come back to the Board before they were permitted to operate that store. That may provide the Board with the assurance that, even though, cumulatively, when you count the number of spaces required for each of the individual uses, when you look at the number of spaces which are occupied

during the day, that essentially, when the restaurant is at its peak, all the other stores are closed so the 38 spaces in the front are, essentially, available to the restaurant. That maybe one -- if the Board were inclined to approve the project, that may be a condition which the Board could impose to assure themselves that there won't be a second business that would be competing for those spaces open during the peak times that the restaurant was open.

MR. PRINCIOTTO: Looking at the parking study to see what the peak hours were, it appears as though -- "peak hours," I'll define that in terms of what I'm saying for the purpose of my statement. 19 spaces or more was from 6:40 p.m. so round to down to 6:30 or up to 7:00 up to, basically, the rest of the evening, over 15 until 8:00.

MR. PREISS: Right.

MR. PRINCIOTTO: That appears -- and I believe anybody is entitled to their opinion but it looks like the peak hours are 6:30 on up to about 8:00, 8:30. After that, it's probably academic for the other.

MR. PREISS: Right. That study confirms what I think people would, from a common sense point of view, would expect with a pizza restaurant, that the

dinner hour, 6:30 to 7:30, would be the time where there would be a peak. It's not to say that the entire parking lot would be empty when the store started to get customers but that the peak time, around 6:30, it's likely that all the other stores would be closed and the customers or clientele will have already left.

MR. PRINCIOTTO: I don't mean to suggest it's 6:30. You could say it starts at 6:00 and goes on up. It seems that is when the activity -- well, he started his study at 6:00.

MR. MOLINELLI: Yes.

MR. PRINCIOTTO: That required or there were 13 parked at that time, 6:00 p.m. It did go up from 6:00 up to a peak of 23 at 7:10 then dropped to 20, 16, 17 and went down to 14 at 8:20 and down to 12 by 8:30 and then 9 by 8:40, 6 by 8:50.

MR. PREISS: Yeah. I think that's consistent with what one would expect for this type of restaurant in this location.

MR. PRINCIOTTO: Can you define what condition you are suggesting that the Board consider?

MR. PREISS: What I'm suggesting is that, during those peak times, there could be a problem if one of the other retail spaces had a use which stayed open which would compete for those parking spaces so it

may be another restaurant. It could be -- what's popular these days are these specialty health clubs whose peak hours are sometimes in the evening like SoulCycle or Orange Theory or yoga where you may get a class and usually a small class but 10 or 15 people with ten cars in the lot so the concern that the Board may have is, when the -- you want to have a little bit of a cushion. Let's say 23 is the maximum that you have in the Hillsdale situation. Assuming this is a more successful store and there may be occasions where the number goes up another 5 spaces to 28, if you have 38 spaces available and you had another restaurant or competing business that needed 10 or 15 spaces, you could run into a parking problem. I think that, to the extent that the other retailers are closed early, you know, at 6:00 and going forward, most of the parking lot would be available starting at the early dinner hour and peak around 7:10. Essentially, the 38 spaces would be available to this particular use.

MR. PRINCIOTTO: So it would be a condition to the granting of the variance that no retail tenant shall be open for business after a certain hour, whatever that be.

MR. PREISS: Or they would have to come back to this Board and do a parking analysis to assure

the Board that there wouldn't be a problem with the parking. I'm suggesting that. I don't know whether the applicant would consider that as a reasonable condition but I think that, if the Board is concerned about a situation where there are other retail tenants in addition to the restaurant, that would be a condition that I would say is reasonable under those circumstances.

CHAIRMAN BONGARD: The proposed dental office and the wellness center, they would not be a problem?

MR. PREISS: I don't think so. It's possible that you may get an emergency or some later hours but it's going to be one or two spaces. The thing that you would be concerned about is having a another 10 or 15 cars in the lot so restaurants and these kind of gyms, those kind of businesses that peak that would coincide with the restaurant, that could be a concern.

MR. PRINCIOTTO: The ITE standard, is that one space for every three seats?

MR. PREISS: I don't know. I don't think it's quite that high. I think the one space per two seats is the ordinance standard. I think ITE is less than that but Mr. Intindola can answer that question.

1 That's probably something he knows by memory.
2 MR. MOLINELLI: We are going on the
3 ordinance. Even the ITE is like 2.5. We were using 2.
4 MR. PRINCIOTTO: Okay.
5 MR. MOLINELLI: We are relying on the
6 ITE. There are adjustments to be made for a business
7 of this nature. There's adjustments if it's fast food
8 or sit-down. That's why we referenced the ITE.
9 I thank Mr. Preiss. He suggested that we
10 do have an exact comparable here and why don't we take
11 those numbers. That's why we did that here.
12 MR. PRINCIOTTO: Okay.
13 Anything else you want to say?
14 MR. PREISS: I think parking is a main
15 issue. I think you want to hear from Mr. Intindola and
16 Mr. Jacobs has some additional testimony to provide but
17 I did have some, if the Board is -- wants to hear it, I
18 did have a few comments relating to the use.
19 I have some photographs to show the Board
20 in terms of addressing the lighting issue and a little
21 bit of background in terms of the Master Plan and
22 zoning ordinance. You did hear from Mr. Burgis, the
23 previous planning consultant to Woodcliff Lake, talk
24 about Broadway. I have a few comments on that but I
25 think, while you are dealing with the parking -- I

usually like to go last -- I would defer to the two engineers that are here and I could come back and wrap it up.

MR. SPIRIG: I have a couple questions for you. I would like to hear the parking issue first before I ask my questions.

MR. PREISS: I'm addressing the parking situation. As a planner, I deal with this situation, Master Plan, zoning ordinance. I deal with these kinds of reviews, and then, I testify on behalf of the applicants so it's something that I'm knowledgeable about and we write zoning ordinances all the time where we talk about reducing parking demands for shared parking but I would defer to Mr. Intindola for his comment on the sufficiency of parking in this situation.

MR. PRINCIOTTO: So everyone knows, whoever wants to ask Mr. Preiss a question, we will open up later when he's completed his testimony, so if you have any questions, hold them and you will be given an opportunity to ask questions as well as anyone else that testifies tonight.

So we are ready to hear from Mr. Intindola.

B R I A N I N T I N D O L A, first having been duly

sworn, testified as follows:

MR. INTINDOLA: Brian Intindola, I'm a principal of Neglia Engineering. I head up the traffic division. I have been endeavoring to work in the field of municipal-scale traffic engineering, which is representation for Boards such as yourself, as well as providing expert testimony on behalf of applicants, also written ordinances with respect to traffic engineering issues for towns and designed traffic signals and I'm a licensed civil engineer in the State of New Jersey. I graduated from NJIT with a Master's in civil engineering.

MR. PRINCIOTTO: Anyone have any questions of those qualifications?

MR. MOLINELLI: No. I'm aware of Mr. Intindola's qualifications.

MR. PRINCIOTTO: Okay. I need to address it for the record. You were supplied with the transcripts of the testimony of the traffic consultant.

MR. INTINDOLA: Well, I was specifically at the hearing when the applicant's traffic engineer was here and I provided some comment on that.

MR. PRINCIOTTO: There was a transcript of a prior hearing that was supplied to you.

MR. INTINDOLA: I had the benefit of the

prior hearing, yes.

MR. PRINCIOTTO: You read that transcript.

MR. INTINDOLA: Yes. The parts --

MR. PRINCIOTTO: You looked at the traffic study documents that were prepared by Mr. Luglio?

MR. INTINDOLA: Yes.

MR. PRINCIOTTO: Do you have any comments with regard to that study?

MR. INTINDOLA: Since Mr. Luglio had testified, the dining room has been eliminated, the 48 seats, which was my main concern because the data that was presented from the comparable pizzeria use, it was -- they did not have the comparable number of seats, so right now, and as Mr. Preiss introduced and a recommendation that the applicant did an inventory of the parking demand at the similar use, which it is accepted as a better way of presenting parking data. Instead of using the *Institute of Transportation Parking Demand Volume, 4th Edition*, it says it is an informational report. It's not, plug a number in; this is what you use. It's just one of the many data points you would use.

What you have before you now is

elimination of the party room, 48 seats in the main pizzeria area and seasonal parking of -- seasonal seats of 16. In that calculation, that brings you to a demand of 38 per the ordinance specific to the pizzeria so I think we all agree upon that.

Based upon what I observed that there is a -- the back area, it's nicely divided, you have the residential area that has its own parking isolated, and the front area, I think 38 spaces in front so it's.

MR. PRINCIOTTO: 27 in the back and 38 in the front.

MR. INTINDOLA: Correct.

The front is going to be focusing on the commercial or restaurant demand, so what they -- the applicant provided, they have a parking maximum demand of 23 spaces in a comparable use and it's the same branded use so that gives you a pretty good indication of what is going to be in -- at the Broadway location but they have a maximum of 23. That leaves you 15 for the other spaces and that's not accounting for spared parking. There's variation treatises on shared parking and ordinances, how they are incorporated, so it is a real way of approaching parking.

So I think -- not to go on too long -- that, because they removed the 48 seats in the dining

area, that was my principal concern because you can't -- if you schedule, say, a repass or after-funeral meal, that's going to be in the middle of peak business hours when you would have a shared office or whatever, so with that being taken away and it's just servicing the pizzeria area with the kitchen and the convenience of outdoor seating, a lot of my concerns about the parking are gone because you can't hide a midday parking demand for a 2:00-or-whatever party room, whether it be a family event or whatever it is. That parking, now, is just purely a function of the pizzeria, which is going to be what you experienced in the Hillsdale location.

So that being said, I'm more comfortable that this site can accommodate the restaurant pizzeria use. As Mr. Preiss had said, it has to be a complimentary use so the shared parking concept is valid so they do not have two competing uses that compete at the same time. That would be the misgivings I would have about the other uses that are yet to be leased out, the 5,065 square feet. Based upon that divided by 175, which is your parking rate, yields the 29 spaces that the applicant has represented, which is aggressive. If you look at other parking rates, it's settling on 1 per 200, like the counts that I have done

in parking plazas and other things, your rate of 175 is a little aggressive; that's okay because it is an area that everyone needs to drive to and mass transit is not generally available. I have seen 185 and 200.

For the leftover spaces, I think the spaces that you would need for that would be a little less as well, depending on the use of course, so I have a little bit more comfortability that what is proposed can be accommodated on site if it's managed well with the other leaseholders down the line.

So what's supporting that is the removal of the dining area with the 48 seats, the concept of shared parking, where the pizzeria peaks around 6:30, 7:30 in the evening, the other uses that would be shared in that plaza have shouldered down or their parking demand is leveling off or going down, so all told, if you went to the 94 per ordinance, you may be over parking and you are creating parking for no particular reason and because you have empirical data that the Hillsdale location has a peak of about 23, which is a recommended and valid approach when you are struggling with parking issues.

That's what my thoughts are on the application.

CHAIRMAN SPIRIG: You brought up some

concerns at last meeting about the kitchen in the basement. You want to address that?

MR. INTINDOLA: Those were raised in the context of trip generation. There is an indirect relationship between trip generation and parking demand, but as the applicant -- and I'll take it at face value. If there's going to be six employees servicing this site, I think it was a stretch when you had the dining area but to man a pizzeria with six people is not uncommon and I think that there's more validity because with the removal of the dining area, they didn't prorate or lose employees. They kept it at the six. I believe that is a more credible number so I can say that the six plus the demand for the parking for the seats totals up to 38, which I think is a fair assessment now.

MR. SPIRIG: With regard to if this Board were to approve this application through variances, the parking study that was done was based upon an existing business that's in Hillsdale as opposed to Woodcliff Lake. How valid is that parking study if, for some reason, at some point in time, it's no longer a pizzeria but a different restaurant that may be not a take-out business predominantly or a business -- it's a restaurant that's more breakfast or lunch and maybe

1 their peak hours are morning and midday? How
2 worthwhile is that particular study if something like
3 that were to occur?
4 MR. INTINDOLA: I think it's valid for
5 most uses except for a pancake house, which has a
6 really discreet Saturday demand for the most part. I
7 think that data is valid for most restaurants aside
8 from, like, a specialty breakfast location. I think
9 it's fair.
10 MR. SPIRIG: You think that traffic study
11 still applies even though the peaks may not be in the
12 evening?
13 MR. INTINDOLA: No. So that would be the
14 exception. For most restaurant uses that have the
15 evening rush, it would apply. It's as if you -- of the
16 spectrum of restaurant uses, a pizzeria has a high
17 turnover rate for the sit-down. You are going to -- I
18 think that is a conservative presentation. If you go
19 to another type of restaurant, like, a little higher
20 end, it would have a lesser turnover rate and the
21 parking demand would be similar. If you go to another
22 level restaurant, you may have the occasion to use
23 reservations during peak demand so you can manage your
24 parking better.
25 So specific to the application at hand,

it's valid. I think you would raise concern if it was a different type of restaurant that had a morning or lunch emphasis.

CHAIRMAN SPIRIG: I had brought up, at the first meeting when you were questioning the fact that the residents had been allocated one parking spot per unit, I don't believe they are all single-bedroom units. There may be several that are multi-bedroom units. Making the assumption that, if you have only one person living in each apartment, maybe that theory is okay, but if you have married couples or people sharing an apartment, you can potentially have two or more cars per unit.

I had asked the question: "What happens if there's not enough room in the back and people park in the front?" During the day, when people are at work is when they wouldn't be there. In the evening, when this establishment is open, now, you have residents parking in this lot. How well is that going to work if there's overflow?

I had asked the question: "What happens when there's overflow?" The answer was: "They could park in the street." That's not something we are looking to do. How would we work out the shared environment in that case?

MR. INTINDOLA: I think that the pizzeria is not going to consume all the front parking based upon the empirical data of the 23 spaces max. That still leaves, in the front, 15 as the other business has shouldered out, so then, I think there's 14 units, all told. If you did have an occasion where you had more parking per apartment than anticipated, that could accommodate that as well. If you go there tonight after the hearing, that parking lot, based upon the residential demand, the 14 spaces are allocated. There's 2 more, 16, and the other side, I think, brings you to 27.

MR. MOLINELLI: It's RSIS.

MR. INTINDOLA: Which brings you to a Residential Site Improvement Standard, which meets the state standard. There's always a scenario where you might have a couple with two cars and a guest for a couple weeks. There's always that scenario but that's built in to the RSIS in those situations.

CHAIRMAN BONGARD: The apartments are fully rented, is my understanding.

MR. MOLINELLI: Just to clarify also, when that topic came up, we were planning on having the delivery persons and employees park in the back. After the first meeting, we withdrew that so we are leaving

27 conforming residential spaces in the back. That is designed to meet the 14 units so there's no overflow there. There would be nobody parking in the back that's a customer or an employee of the restaurant.

CHAIRMAN BONGARD: Any other questions from the Board?

(No response)

CHAIRMAN BONGARD: Should we open it up to the public?

MR. SPIRIG: Motion to open.

MS. MALLEY: Second.

CHAIRMAN BONGARD: These are questions just for the individual that was talking about the parking.

MR. SCHWARTZMAN: Howard Schwartzman, 2 Barker Road, Park Ridge.

The comparability of the parking study that was done at the current Ray's in Hillsdale, doesn't it matter that most of those stores are empty, and therefore, you are not getting the normal flow that would accrue to the restaurant no matter what time it was? People say "I'm not going there because I haven't gone there because there are no stores there." Wouldn't that affect the study using that particular area now as opposed to what may be a thriving, fully-

utilized area?

MR. INTINDOLA: I think I understand your question. As a traffic engineer, when I'm told to assess a specific type of use and the shopping plaza that I need to assess that specific use, I'm like, "Oh, boy." I have an isolated condition where what's driving the parking is the use I'm looking at. I understand your question. That the cross-chatter of going to get your dry cleaning and picking up a slice is gone but that same parking space is being used so I understand your concern but I believe that the -- what the Board was requiring of the applicant was to provide the best representation of the parking demand of the same use and they were able to do that.

MR. SCHWARTZMAN: That's my question; are we getting the best?

MR. INTINDOLA: I believe so. You are getting isolated data and you are knocking down the variables that could have polluted the data. That's the way I look at it.

MR. SCHWARTZMAN: It doesn't seem comparable, though.

MR. INTINDOLA: It is, specifically, in my opinion, apples to apples, the pizzeria brand name to brand name, which is exactly what the Transportation

Institute of Engineers has us look for.

MR. SCHWARTZMAN: As I would see it, if the new project only has a pizzeria and one other store, I would say, then, it's comparable. When you are going to fill up the entire five stores and have residents who will bring guests who will then use the restaurant, perhaps there's a difference with what Ray has now with no residents above the stores and only two or three of them out of seven or eight, whatever, are being utilized.

MR. INTINDOLA: I think my answer remains the same.

CHAIRMAN BONGARD: You've asked your questions.

MR. PRINCIOTTO: If you want to make a comment at the end...

CHAIRMAN BONGARD: That could be made at the end.

MR. SCHWARTZMAN: The party room --

MR. INTINDOLA: It's been removed.

MR. SCHWARTZMAN: -- that's still going to be rented by Ray?

MR. INTINDOLA: No. From my understanding that the applicant has presented -- they can correct me -- the slot that was going to be the

room or the dining area is going to be put back into play for general retail with the exception of the back area, which is going to be a coat room.

MR. SCHWARTZMAN: There wouldn't be any bathroom for the party room.

MR. INTINDOLA: There is no party room.

MR. SCHWARTZMAN: Formerly the party room.

MR. INTINDOLA: I don't think they changed the bathroom count.

MR. SCHWARTZMAN: They made the bathroom part of the party room.

MR. MOLINELLI: The bathroom was always designed to service both. Now, it's only servicing the pizzeria. It's not connected to the retail area. That is shown on A-10.

MR. SPIRIG: That's not a general bathroom for the building; it's specifically for Ray's?

MR. MOLINELLI: Correct.

CHAIRMAN SPIRIG: If someone were to take that small spot, they would have to put in their own bathroom?

MR. MOLINELLI: On A-10, the retail space is 850 square feet. The toilet and the coat room is only connected to the pizzeria.

CHAIRMAN BONGARD: Prior to the revision, there were only two empty sections. Now there are three; is that correct?

MR. MOLINELLI: I'm not following you.

CHAIRMAN BONGARD: The pizzeria was taking up two slots. Now, there's three left?

MR. MOLINELLI: Three. There's five total.

CHAIRMAN BONGARD: The dentist and the wellness...

MR. MOLINELLI: If you count, there's three taken and two left. One is 850 square feet, which is substantially below the other four.

MR. SCHWARTZMAN: Was the answer correct that Ray is not --

MR. MOLINELLI: I don't know the answer to your question. I have not addressed that tonight. It's a retail space.

MR. SCHWARTZMAN: I believe the planner was offering a condition and perhaps the Board should think about what happens if a variance is given and then --

CHAIRMAN BONGARD: Before you go on, this is what you can bring up at the end.

MR. MOLINELLI: To make it easy, I will

acknowledge and take note that, if, all the sudden [sic], Ray wanted to rent that 815 square feet and put tables in to sell pizza, that would require a use variance. That would not be permitted because it's not a retail use.

CHAIRMAN BONGARD: Okay.

MR. SCHWARTZMAN: If you get a variance currently, what's to stop --

CHAIRMAN BONGARD: Before you go on --

MR. PRINCIOTTO: They reduced the size to 2,077 square feet and they reduced the number of seats to 48 on the inside and they are asking for 16 seats outside. That is what they are asking for. If they get that, that is what they get. If they want any additional seats or square footage for the restaurant, they would have to come back to this Board.

MR. SCHWARTZMAN: Okay. I didn't understand the 23 that you said your restaurant needed. In their application, they -- the amended application, they say 38 for the restaurant, 29 for retail and, residential, 27 so that comes up to 94.

MR. INTINDOLA: Correct.

MR. SCHWARTZMAN: The proposed number of parking spaces are currently 65.

MR. INTINDOLA: Correct. For

clarification, 23 was the peak parking demand that was tabulated at a similar use, at the direction of the Zoning Board, to see what kind of demand would be coming to this particular location and that peaked out at 23 parking spaces. That is where that came from.

MR. SCHWARTZMAN: Assuming that it is comparable --

MR. INTINDOLA: I believe it is comparable.

MR. McKEOWN: Gunther McKeown, 19 Natmark Court.

What is the size of these parking spaces because everybody now drives an SUV. I pulled into the lot by the post office and the town truck pulled in next to me and I had this much space (gesturing) to get out and what consideration has been given to the fact that almost everybody drives a larger vehicle these days, and also, the safety of the parking spaces? You may squeeze 38 or 94 spaces in but people back into each other; they walk behind each other. There should be an orientation of parking spaces that that danger is minimized. I don't know if that's been done. That's my question.

MR. INTINDOLA: I did not specifically measure the parking spaces but the aisleways did not

seem crowded in negotiating the front part. I pulled into the residential area and pulled out. It did not seem like it was too tight. It was easy to negotiate. I'm guessing they were 9 by 18 -- I would have to go back and measure them -- which is the standard space for commercial and residential use.

MR. McKEOWN: That will accommodate normal size?

MR. PRINCIOTTO: If I may, they already received site plan approval for this site and the parking spaces so they are not here seeking any reduction in the size of the parking space. They are there and what was previously approved is in place so it isn't something that is before this Board to decide at this time.

MR. McMANUS: Kevin McManus, 27 Columbus Avenue, Hillsdale.

Have you driven by the site at 10 at night?

MR. INTINDOLA: Not specifically 10:00 at night but I will as I leave tonight. Hopefully, it's not 10:00 but I was there before the hearing and after the prior hearing.

MR. McMANUS: At 10:00 at night, there are, in the back, probably 23 cars. Do you know if any

of the tenants are promised any parking spots as part of their lease agreement.

MR. INTINDOLA: I don't know the specifics of the parking management of the site. I know it meets the state standard for the mix of units that is there for the number of parking spaces.

MR. McMANUS: If a Starbucks was to go in there, would that affect the number of spots taken up in the front?

MR. INTINDOLA: If it's an intensive use, it would have to come back before this Board for the same thoughtful consideration that this application is getting so yes.

MR. McMANUS: How about a yoga studio that's open to 8:30 at night?

MR. INTINDOLA: I'm not too sure that the parking demand of a yoga studio in those slots would not -- would be mutually exclusive to a pizzeria use. It may be if it's popular but that is -- that, I don't think it would be because of the later appointments. Say, if it's -- we are talking about from 6:00 to 8:00 is the peak for the pizzeria. There would be some overlap but the other stores may, you know, close by then so they can -- it's a shared parking concept.

MR. McMANUS: We do not know what the

other stores are. It could be a Starbucks, a yoga studio that stays open to 8:00.

MR. INTINDOLA: There's an infinite number of uses.

MR. McMANUS: If a Panera goes in there, you have large lunch crowds where other stores are open during the day. You know, we are trying -- it seems like we are comparing Ray's in Hillsdale with four other vacant locations.

MR. PRINCIOTTO: Sir, do you have a question?

MR. McMANUS: We are comparing Ray's in Hillsdale with three or four vacant locations, a study done there, and putting it in Woodcliff Lake where we are going to have Ray's and possibly five other tenants so how can you compare those two?

MR. INTINDOLA: This is how I understand it. The Board specifically is looking at the use variance for a restaurant. That is why they are here. They are also incurring a parking variance so my role is to look at the parking variance, and based upon what I observed and the concept of shared parking and the applicant was directed to look at the existing use that is elsewhere that's going to come into this space, these are all reasonable, from a traffic engineering

perspective, things to look at. If they have a peak of 23, I can assume that that same peak of 23 would most likely come to the Broadway location. As Mr. Preiss said, it might not be 23. It could be 28 or so. There may be some initial popularity, so taking that into account, I think that the -- what the Board is considering is the best data you can get for this specific use.

MR. McMANUS: You also stated that a pizzeria has higher turnover so that means more cars coming and going.

MR. INTINDOLA: Absolutely.

MR. McMANUS: As residents, we are not just concerned about --

MR. PRINCIOTTO: That is a comment. It comes at the end.

MR. CAROPOLO: Jerry Caropolo, 73 Lincoln Avenue.

The delivery truck is going to be parking on Lincoln? They are not allowed to park in the lot, right?

MR. INTINDOLA: Not in the back lot.

MR. CAROPOLO: Do they have designated parking spaces within? When they are not delivering, are they going to be on the street?

MR. INTINDOLA: I don't understand your question.

MR. CAROPOLO: When they are not being used, are they going to be on Lincoln Avenue, are the lots going to be taken up or any space on Lincoln Avenue?

MR. PRINCIOTTO: I think he wants to know the deliveries of supplies or the pizza to customers.

MR. CAROPOLO: Any delivery vehicles used by the store. Nino's, they park on the side street, the pizza delivery vehicles.

MR. INTINDOLA: They can use the lot. I don't think there's a lot of parking next door from what I saw.

MR. CAROPOLO: They are using the same lot or the street?

MR. INTINDOLA: I believe the lot that is provided on the site with the 38 spaces in the front.

CHAIRMAN BONGARD: If there's no more questions --

MR. LaPAGLIA: Joel LaPaglia, 17 Hillcrest Road.

From my recollection the -- our ordinance used to have -- call for, in terms of size of these parking spaces, a 10 foot and an 8 foot. Can you tell

me which size was used here?

MR. INTINDOLA: I believe, from what I observed and I have to refer back to the site plan, these are 9 by 18.

MR. MOLINELLI: Can I clarify?

MR. PRINCIOTTO: Sure.

MR. MOLINELLI: The Planning Board in Resolution 2011-04 granted site plan waivers for 9 by 18 in the residential in the back and 9.5 by 18 for the retail in the front.

MR. LaPAGLIA: So the lot in the rear, the residential lots, are...

MR. MOLINELLI: We were approved for nine by 18. That's what they are.

MR. PRINCIOTTO: And they are bigger in the front.

MR. COUTO: Alex Couto, 18 Crestfield Court.

This is a picture I took Thursday from the location on that side. It's near the pizzeria.

MR. INTINDOLA: Before I comment on the picture, there's a chain of evidence. You are showing a photograph that purports to show Nino's delivery vehicles parked on the street, three of them.

MR. COUTO: How can you make sure this

doesn't happen at the new store.

MR. INTINDOLA: I would say -- I don't want to testify for the applicant. I believe that can be accommodated because it has its own parking lots.

MR. COUTO: Let me give you some feedback. The parking lot for Nino's is empty but they still park on the street.

MR. INTINDOLA: I can't comment on that.

CHAIRMAN BONGARD: If there's no other questions, motion to close?

MS. MALLEY: Motion to close.

MR. HAYES: Second.

MR. MOLINELLI: Mr. Intindola and Mr. Luglio have to go to another meeting so I have no questions.

MR. PRINCIOTTO: Any Board members have any questions of either of the traffic consultants?

(No response)

MR. PRINCIOTTO: Before Mr. Preiss, we have our engineer, Mr. Jacobs, here tonight.

E V A N J A C O B S, first having been duly sworn, testified as follows:

MR. JACOBS: I'm a licensed professional engineer and planner in the State of New Jersey. I represent the Borough of Woodcliff Lake's Planning and

Zoning Board and the Mayor and Council as the Borough Engineer. I received a Master's and Bachelor's degree in civil engineering NJIT and I have been working at Woodcliff Lake for about three and a half years.

MR. PRINCIOTTO: I believe you reviewed this application?

MR. JACOBS: Correct. And I issued a review letter.

MR. PRINCIOTTO: You revised that review letter?

MR. JACOBS: Yes.

MR. PRINCIOTTO: Why don't you go through that quickly for us.

MR. JACOBS: Sure.

Initially, I was asked -- we were not initially involved in the application. It went to the Board. We were asked to do an engineering review of the proposed outdoor seating and some building improvements that were being done.

Generally, the applicant was proposing a 7-by-35-foot patio extension on the south side of the building. We found, from a stormwater perspective, it was a relatively small patio that would not require stormwater improvement for this. I believe there's a lot coverage issue as well. I would defer that to Mr.

Preiss.

We had some minor comments about some landscaping that was installed for the 62 Broadway building application that had to be relocated and the applicant provided, on the plans, they would locate and supplement the landscaping that would be impacted there.

I had a comment about some of the grading. They were proposing this patio in a relatively steep area so their engineer provided a revised plan with a retaining wall to accommodate the grading in that area.

There was a question about storing a grease barrel in the dumpster enclosure. From an engineering perspective, we have no exception to this. I know there's Board of Health issues that maybe need to be addressed with the local County Board of Health. That would be beyond our purview.

With the exhaust system, they are looking to retrofit an exhaust system in a utility chase. That would be under the local subcode official and the Department of Health.

My last comment was a summary of what was changed from the previous application to today. From a site engineering perspective, there has been no impact

from reducing the dining room, removing it from the application other than parking, which I believe has been addressed.

Other than that, I had no other comments.

MR. PRINCIOTTO: Did you look at the lighting at all for this site?

MR. JACOBS: Yeah. The patio, we are at five or six bollards lights that the applicant indicated they want to relocate two of them to just outside the patio area. They are low-level, pedestrian lighting bollards. As far as the lighting in relation to the building, there's minimal to no impact with that. It's only moving closer to the street. It's a pedestrian-level height, which is not a concern as far as spillover to adjacent properties from the bollard lights.

MR. PRINCIOTTO: What about the existing lighting? Are you familiar with the existing lighting?

MR. JACOBS: There are bollards and building-mounted sconce lighting but I'm not aware of anything else.

CHAIRMAN BONGARD: Anybody on the Board have any questions?

(No response)

CHAIRMAN BONGARD: Make a motion to open

to the public for questions of the --

MR. SPIRIG: Motion to open.

MS. MALLEY: Second.

CHAIRMAN BONGARD: All in favor?

MEMBERS OF THE BOARD: Aye.

MR. MOLINELLI: For the record, Mr. Jacobs' letter is dated July 23, 2018.

(Exhibits B-1 and B-2 were marked for Identification.)

MR. PRINCIOTTO: I did get an e-mail from Nick Saluzzi with regard to that chase or that shaft. I don't think I sent it to you but I'll give you a copy.

MR. MOLINELLI: The one where he says it's in accordance with basic building principles?

MR. PRINCIOTTO: Yeah. His response was: "The 62 Broadway project was designed to accommodate a restaurant on the first floor. An 8-foot-by-4-foot shaft has been installed adjacent to the stairwell leading up to the roof. This was basically constructed for a future kitchen exhaust system for whatever venting may be required. I have the plans in my office if you or the Board would like to review them."

I'll mark that B-3.

(Exhibit B-3, e-mail from Mr. Saluzzi, was

marked for Identification.)

MS. HURY: Francis Hury, 38 Amy Court.

As a resident of the area, I'm not only concerned about the structure of the parking lot --

MR. PRINCIOTTO: I'll interrupt you right now. You are absolutely entitled to make comments about the application. They come at the end of the case. Right now, if you have questions for the Borough engineer, you can ask him questions. Your comments will come at the end of the case after everybody has testified and been questioned. Okay?

MS. HURY: Okay. Fine.

MR. REZEN: Jim Rezen, 21 Columbus.

The letter that you just read, can we comment to that letter?

MR. PRINCIOTTO: Sure -- well, comments or a question?

MR. REZEN: A question. When you did the original variance, I was under the impression that the variance was that there was going to be no restaurant within this facility; is that correct?

MR. PRINCIOTTO: No.

MEMBER OF THE PUBLIC: It's a B1 zone.

MR. PRINCIOTTO: They did not make an application for a restaurant. They weren't granted.

MR. REZEN: So there was no discussion with regard to -- so a restaurant, at any point, could have been there based on their original variance; is that correct?

MR. PRINCIOTTO: No. On their original application, they did not seek approval for a restaurant. That's why they are here right now.

MR. REZEN: In the original approval, was a restaurant a possibility?

MR. PRINCIOTTO: Anything is possible.

MEMBER OF THE PUBLIC: No.

MR. REZEN: There was always a possibility?

CHAIRMAN BONGARD: But if they get a variance to approve it later on, anybody could have come forward with something they wanted to do at that location.

MR. REZEN: In the building, when the engineer stated that they have what is necessary for the restaurant, the expectation is they built in the facility the ability to have a restaurant; is that correct?

MR. PRINCIOTTO: They did.

MR. REZEN: Okay.

MR. PRINCIOTTO: Let me --

MR. REZEN: So --

MR. PRINCIOTTO: Can I explain something to you? When they come to this Board, they do not have full architectural building plans. They don't know if they were going to get approval or how they will be approved. You may see -- in this plan, you will see a site plan and floor plan, etc. If they get approval for the building and they know their site plan that they are going to have their architect prepare construction documents, which are much more detailed, but they take their chance. If they want to build something that could accommodate a restaurant and they do not get a variance for a restaurant, then they just have it there and it sits there.

MR. REZEN: The expectation, if they were building that, they were thinking of having a restaurant.

MR. PRINCIOTTO: They might have been but that didn't obviate their need to get approval from this Board.

MR. REZEN: So they can build whatever they want with the assumption that they have to get a variance but it's already built?

MR. PRINCIOTTO: Well, it's not built as a restaurant and they have to build it according to the

1 site plan that was approved.
2 MR. REZEN: But the site plan has nothing
3 to do with how they build the construction?
4 MR. PRINCIOTTO: I mean, you are going to
5 have a building envelope and driveways and parking and
6 all your site improvements that are going to be
7 approved as part of your site plan approval. It's not
8 going to include the built-outs for all the spaces.
9 MR. REZEN: When they built this
10 building, the expectation would be that they were going
11 to have a restaurant. If they did not think they were,
12 why would they build what they built? Is that a fair
13 assessment?
14 MR. PRINCIOTTO: I'm not an engineer or
15 an architect but there's an 8-foot-by-4-foot shaft
16 adjacent to the rear stairwell. What that shaft can be
17 used for, I don't know because I'm not an engineer or
18 an architect. According to our construction code
19 official, he believes it was constructed for an exhaust
20 system and venting. Can it be used for something else?
21 I don't know. Okay? But --
22 MR. REZEN: But your person assumes it
23 was built for a restaurant?
24 MR. PRINCIOTTO: I read his e-mail.
25 MR. REZEN: Is that person going to be

coming too?

MR. PRINCIOTTO: No. The question was raised -- someone raised a question as to whether or not it was designed for this type of use or it could be used for that type of use, which is the applicant's issue or problem, not this Board's, but for the sake of knowing and to be informed, I did ask the construction code official so he could answer the question if it came up again.

MR. REZEN: I don't know if he can answer or not.

MR. PREISS: I can address it when I come up.

MR. PRINCIOTTO: Okay.

CHAIRMAN BONGARD: If there's no more questions, we will have a motion to close it --

MR. SPIRIG: Motion.

MS. MALLEY: Second.

CHAIRMAN BONGARD: Mr. Preiss?

MR. PREISS: So I have a couple of comments, one of which is on the lighting. I'll talk a little bit about the use and the Master Plan and the zoning ordinance. I'll address this gentleman's question.

The applicant proceeded at their risk by

putting the shaft in the building, right? So they decided that, at some future point, they may want to have a restaurant there. They proceeded. They are entitled to do so. It's with the risk that the Board has the ability to grant the variance or to deny it and to the extent that the Board does not allow a restaurant to go forth, they built something that's expensive that they can't use. That is their risk.

Second, I would indicate, the fact it was built does not obligate this Board to take that into consideration so the applicant decided that they are going to take a chance, at that point, and put it in in case they wanted to put a restaurant. I would say to the Board, even though it's there, you are not under any obligation to approve the restaurant because it is there. You have to go by the proofs that are required under the Municipal Land Use Law, not the case law, so I hope that clarifies things.

MR. PRINCIOTTO: I agree with you. Because of that construction, the Board is not obligated, in any way, shape or form, to grant a variance. I also would note that this is the developer's option to build the building that way. The borough has been talking about changing the zoning on Broadway for how many years now?

MR. PREISS: Fifteen.

MR. PRINCIOTTO: Even in our Master Plan review, it did mention changing the zoning to permit restaurants so somebody with a future vision as to what might be permitted there some day could anticipate that and build a structure because, once it is up, it is up and it can accommodate various uses in the future should they be permitted by a zoning change or variance.

MR. PREISS: That was one of the points I was going to make. Let me just deal --

Because the Board has heard testimony from the applicant's planner, Mr. Burgis, and I think one of the points that he made was, basically, the fact that the restaurant use was appropriate in this particular setting, and let me just say that, that part of his testimony, I certainly agree with.

Essentially, retail took an enormous hit during the recession. We know that a lot of shopping centers and retailers went out of business and left, and despite the fact that we had not just a recovery but a booming economy in the United States and New Jersey, retail is still -- generally, the brick-and-mortar stores that you find in the areas of Broadway and shopping centers are having a hard time.

1 So just to put Broadway into perspective,
2 residents in Woodcliff Lake and in the surrounding
3 communities have a variety of opportunities to go
4 shopping. You have the regional malls, Garden State
5 Plaza. You can go up to Nyack, there's another
6 shopping center there. There's a number of huge
7 regional shopping centers, Route 17, a highway with
8 lots of retailers there. You have outlet stores, and
9 more recently and one of the reasons why retailers are
10 having a hard time, now, you have, which you did not
11 five or ten years ago, tremendous competition from eBay
12 and Amazon and Internet providers so this is a theme
13 that's common to all of the downtowns that we work for,
14 both when we do applications, when we help towns to
15 kind of look at their own downtowns.
16 So when you look at Woodcliff Lake, it is
17 facing this competition and to the extent you want to
18 retain -- the community wants to retain retail as a
19 thriving part of the community, as the planner
20 indicated, the things that are most likely to be
21 successful and the way that you fill stores are going
22 to be for uses that provide retail services and
23 entertainment, things that you can't buy off the
24 Internet, so restaurants, eating and drinking
25 establishments and entertainment uses. I mentioned the

small gyms. Those are the kind of uses that are going to be filling stores in the future. Your typical clothing store and shoe store, you know, repair store, appliance store, those are probably not likely to come back. I wanted to put that into perspective.

The second part is really the backdrop of the Master Plan and the zoning ordinance, and as far back as when the 2002 Master Plan was done and then there was a re-examination in 2013 and a Broadway corridor study which was done in 2011 or 2012, in each of those, the idea was, basically, looking at Broadway and looking at the rest of the community.

Residential is in great shape, community services were good but Broadway really seemed to be lacking in terms of aesthetics, its functioning. It wasn't on the par. It didn't reflect the high value and quality of life that you have in Woodcliff Lake. The suggestion was made in a study to re-examine the zoning on Broadway and one of the major initiatives was to provide mixed use where you do residential above retail. That is essentially what has been taken up by the governing body over a period of time.

Before I became the planner and when I became the planner about three or four years ago and we had meetings, we had a community meeting a couple of

1 years ago where there was great resistance to that idea
2 and to what was contemplated then, which would be
3 higher density, two or three stories of residential
4 above retail. Because of the community pushback at
5 that particular time -- it was also considered earlier
6 in the year and there was no consensus about moving
7 forward and the community is focused on meeting its
8 fair share obligation and dealing with a couple of
9 other major land use issues so the issue of rezoning
10 Broadway and, particularly, this mixed use idea has
11 been tabled until these other things are being taken
12 care of.
13 One of the things that I point out is,
14 all of these studies did identify that restaurants
15 should be a permitted use. It recognized that, in the
16 B1 zone, that's a change that should occur. Because of
17 this controversy and some of the concerns that the
18 community has with regard to the mixed use, that
19 rezoning hadn't occurred but at no stage at the
20 meetings that I have attended where the community
21 weighed in or my discussions at the Borough Council
22 level did anybody ever say, you know, in addition to
23 the mixed use aspect, that restaurants were a main
24 problem.
25 Now, it's true that the zones hadn't been

1 changed to accommodate that but I believe that insofar
2 as those Master Plan recommendations are concerned, as
3 the planner indicated, those are still valid and it's
4 possible, and right now, if you want a restaurant, you
5 need a variance. That's why you are here but it is
6 possible in the future that restaurants will be a
7 permitted use so I think that's something that also has
8 to be taken into consideration.
9 Obviously, in this situation, the Board
10 has to be persuaded that the applicant has met the
11 proofs that there are special reasons in support of
12 granting the application. The planner testified to
13 those and I think there's been a very thorough
14 presentation with regard to the potential negative
15 impacts, the chief of which seems to be the parking
16 issue but also the delivery issues and where deliveries
17 would be to the restaurant would be made and how the
18 delivery service would be accommodated and the Board
19 has to weigh that and make a determination as to
20 whether those proofs had been met.
21 One of the things that came up early on,
22 and I have an exhibit which I'll hand out to the Board,
23 was this question of lighting. I happened to be in
24 Woodcliff Lake on April 16th. That was a couple days
25 before I drafted my review letter on this particular

application and I knew that the issue of the variance would come up and I went out and took photographs of the particular site. This was at 11:00 p.m. so this is well after the retail is closed. The photographs, there's five of them in the exhibit I have labeled and provided an index on the front. I'll go through each of them.

The first is taken from Columbus Avenue. That's the border of Hillsdale. Residents live across the road and that shows you the intervening space between the building, the front corner of the building on the south side, and it shows you the walkway that goes around the building and you have the -- there's a bollard there. You see, in other photographs, the lighting on the bollard faces the building and not towards the residents. Then, you have some plantings and that is the area where the outdoor patio would be provided and a lawn area that slopes down to a sidewalk, and then, there's a little bit more lawn. Then, you have the curb and the street so that shows you, essentially, where the relationship between the building and where the patio would go to the side yard.

The next photograph is taking a look at the front corner of the building from Columbus. It shows you the front of the building and the right side

of the building under the canopy where the bushes are on the right side. That's where the outdoor dining area will be located.

In the next photograph, I'm standing about in the middle of the building and facing forwards, and essentially, the -- where the outdoor patio is proposed is just to the left of that sidewalk, so essentially, the sidewalk area, the patio area will be extended another 7 foot. Those bollards, you can see, would be relocated and you can see the bollard lighting is facing towards the building, not the residents. You can see some plantings over there. They are not -- they are insufficient, in my opinion, to buffer this outdoor patio and the applicant has agreed to plant trees which will go to a height of 6 to 8 foot which would, essentially, at the time they become mature, would screen this patio from the residents to the side.

MEMBER OF THE PUBLIC: How about the noise?

MR. PREISS: One of the things that I did want to indicate is that lighting, which is on the wall, there's no shielding of that so one of the concerns that you would have is -- and I think it's a current situation -- no additional lighting is going to

be provided. I don't think it's necessary for that patio area but those lights and the parking lot lights -- you will see that in the next two photographs -- there's also wall lighting on the front of the building which is in Photograph Number 4.

And then, in Photograph Number 5, it's the parking lot that's substantially lit up at night at 11:00 when the businesses are closed and one of the things I think that the -- that could be done to mitigate some of the impact is in some way either to shield the lighting or perhaps to dim the lighting after the -- let's say half an hour after the restaurant and the outdoor patio closes. Both the parking lot lighting and the building lighting can be dimmed a little bit, which it would be sufficient for security purposes but not for when it is at full use, and I think, you know, that might be a suggestion to the extent that the applicant is willing to do that.

Again, I'm asking for a concession for an existing impact, not one that is necessarily related to the variance itself but I think that that may mitigate some of the impacts related to the residences across the street and I think plantings in the buffer is going to visually shield that outdoor patio from Columbus Avenue. It will have some mitigating effect in terms

of the noise. That doesn't mean, some of that outdoor dining, some of the noise will not be heard from residents across the street. This is a retail area and so, you know, some noise and activity is to be anticipated but the variances for the outdoor dining area -- and this is one of the impacts that may ensue if the variance was granted.

MR. SPIRIG: Is there a variance for the outdoor eating area?

MR. PREISS: The restaurant itself is not a permitted use so there's nothing to indicate that, if a -- if a restaurant was permitted and you added the outdoor dining space, a further variance would be granted. It's integral to this application and I think the Board has to look at both. I think the applicant has addressed issues related to parking and visual impact so the Board has to look at the application and make a determination whether the variance for both the indoor and outdoor is justified under the Municipal Land Use Law.

MR. PRINCIOTTO: For the record, the packet of photographs, we will mark as B-4.

(Exhibit B-4, photograph packet, was marked for Identification.)

CHAIRMAN BONGARD: Any questions from the

1 Board?
2 MR. SPIRIG: I would like to pose to you
3 the same question I asked the traffic engineer, Mr.
4 Intindola, and your thoughts with regard to how useful
5 the traffic study was with regard to the existing Ray's
6 restaurant and applying it to this application. As
7 long as it's being used for this specific use, there's
8 nothing to say that, six months from now, Ray's is no
9 longer there. It is something else is in there which
10 may be still a restaurant but may have a very different
11 peak period or a different type of clientele, whatever
12 it may be. What are your thoughts on that?
13 MR. PREISS: I don't think that the pizza
14 restaurant is a substantial outlier, that it's
15 significantly different from the typical restaurant
16 that you get. I think Mr. Intindola basically made
17 that point, particularly, insofar as the parking demand
18 is concerned, except for -- and he mentioned it and I
19 agree with him -- where you have, like, a pancake
20 house, something that has a peak early in the day when
21 it may be competing for spaces for the retail. Chances
22 of that are, you know, that, if a pizza restaurant
23 didn't work out, that it would turn into some kind of
24 restaurant is probably minimal. That's a highly
25 specialized kind of restaurant.

One of the things that, if the Board is really concerned about that and, you know, doesn't want to take a chance, maybe you could craft a condition that said variance is granted for a restaurant including pizza but would not include a pancake house or type of restaurant which would have a heavy a.m. peak or something like that. I don't know that it's necessary. I think the chances are small that it would -- that the pizza restaurant would be succeeded by that. If that is a main concern of the Board, that may be a condition that your attorney and their attorney could work on.

MR. SPIRIG: The concern is: To what extent do you put conditions on these things? My understanding is: Once you grant this variance, it is sitting with that particular store or is it for the whole shopping center or for that particular location and is it there forever?

MR. PRINCIOTTO: Generally, the variances run with the land. What you are probably talking about are conditions and those conditions can be crafted any way that the Board wants to. If the Board -- obviously, you have some built-in considerations, the venting for the restaurant, at this particular southern end of the building, there's no problem there, but if

that's a concern that it only be that space and the Board wants that to be a condition, then you have to indicate that that is a condition. If you want a condition that it would be only the type of restaurant that would have peak-hour usage between 6:00 p.m. and later, we can try to craft those conditions.

There are many conditions. I was reading a case today where a Zoning Board had 12 conditions. They have to be related to particular issues and I understand what the issues are. The issues are related to the parking and impact on the residential area, so you know, they -- there are parameters to conditions but they can be crafted uniquely to each application.

I know a gentleman made a comment about Nino's is parking their vehicles on Columbus even when the parking lot is empty and the cars are there and they have the Nino's signs on them and they are parking on the street. You can craft conditions with regard to prohibiting parking on Lincoln and Columbus. You know, there can be many conditions that the Board can impose in the granting of variances.

MS. MALLEY: Can the condition just be a pizza restaurant?

MR. PRINCIOTTO: You know, when there's a parking variance, it becomes different and the Board

1 does have authority to grant conditions. If this was a
2 zone that permitted restaurants and met the parking, I
3 don't think you could say what type of restaurant it is
4 because of this shared parking concept. I think that
5 it does come into play and you can establish conditions
6 with regard to the type of restaurant or the peak usage
7 of the type of restaurant. You define it by peak
8 hours. We can do that. You know what a breakfast or
9 pancake house is. There are some restaurants that are
10 only open for breakfast and lunch; that's their
11 business, which might not be something that's
12 compatible with the shared parking, so you can use all
13 of that language in terms of trying to craft a
14 condition that you think addresses what potentially
15 could be.
16 MR. PREISS: I would agree with that. In
17 my practice as a planner, I don't think the Board can
18 be that specific and say "You can only use it as a
19 pizza restaurant" but you can add conditions that
20 narrow it to address the concerns that you have, so if
21 the concern is there would be a lot of parking by a
22 pancake house, that is a reasonable condition but I
23 don't think you can say "It only can be Ray's Pizza or
24 a pizza restaurant." I think that kind of condition
25 may be too restrictive.

MR. SPIRIG: The problem is: If this variance survives forever, anybody can put any restaurant in there. We are being asked to make a decision based upon very specific information with regard to this particular establishment. The traffic study is done by this establishment in their existing location, so assuming that same business is moving over into this building, that all applies but it doesn't apply with a Taco Bell moving in there.

MR. PREISS: Let's take a look at your typical circumstances in the zoning. In the zoning, it will say "a restaurant" when you zone it. It does not say "a pizza restaurant that only has its peak hour late in the day."

MR. SPIRIG: I don't know that. I saw that they were putting some restrictions in there with regard to the recording and what type of restaurants they are talking about.

MR. PREISS: Agreed, what type of restaurants, and I think that the Board is within their rights to specify conditions in the grant of the variance, but when drafting zoning and the use comes in and goes and gets a building permit, you don't know, when you say "restaurants are permitted," exactly what the situation is and whether it's going to operate.

1 The assumption is: By allowing restaurants and having
2 studied the area, you are reasonably assured that it's
3 going to work.
4 In this situation, you have evidence for
5 this particular use but I think, as Mr. Intindola
6 indicated, it's not so -- this use is not so unique or
7 specific to this use that, if it was another
8 restaurant, you throw those studies out. I think there
9 was -- it does cross over to other kinds of
10 restaurants.
11 The reason why we had suggested that the
12 comparable be done in this case is because, when you
13 are dealing with parking, the ITE says "Use our
14 standard when you have nothing better." If you have a
15 comparable, in this case, we have a good one, I think
16 that assures the Board that the parking works. I
17 think, as he indicated and I indicated, even if we are
18 wrong by 20 or 30 percent, if there's 5 or 6 or 7 or 8
19 more spaces that are demanded above the 23, it's likely
20 that this particular parking lot can accommodate, so I
21 think, if you did the study and the peak hours, 37
22 spaces, I would be much more concerned. With 23, you
23 have a question of 15 paces so if it's another
24 restaurant that's likely more intensive, I don't know
25 that it's going to be double the amount of parking in

the peak hour. I just don't think so. Again, that's the Board's decision.

MR. SPIRIG: Until they dropped out the dining room, I somewhat discounted the traffic study because it did not take into account if there was a party in that other room and it does not take into account that there's not residential people living above it, so even though it was specific to the business, it was very limited.

MR. PREISS: Agreed. I think Mr. Intindola indicated, at the last meeting, that he made his objection pretty clear. Tonight, he's basically said, now that the party room has been taken out, that was his major concern. He has less concern about that and I would agree.

MR. SPIRIG: So there is some area of restriction that can be considered for this?

MR. PREISS: Mr. Princiotto can tell you better than I. If you have reasonable conditions that directly addresses the potential impacts that are created, then, you know, I think the Board is well within its right. I don't think that the Board could say this is -- it's only a pizza restaurant that is permitted. That would be too restrictive. Some of the restrictions that I mentioned and Mr. Princiotto

mentioned would be reasonable in this situation.

CHAIRMAN BONGARD: Any other questions from the Board?

(No response)

Motion to open to the public?

MR. SPIRIG: I'll make a motion.

MR. HAYES: Second.

CHAIRMAN BONGARD: All in favor?

MEMBERS OF THE BOARD: Aye.

MR. REZEN: I think I heard that you had said that the patio is not a separate variance from the -- is that correct?

MR. PREISS: This application is for a restaurant with an outdoor patio. That's the use that is proposed and the Board is going to grant a variance for that or not.

MR. REZEN: There's not two variances? There's not a restaurant variance and the patio variance or --

MR. SPIRIG: Parking variance.

MR. PREISS: All restaurants are prohibited. These need a singular variance.

MR. REZEN: If I had a business there and I rented one of those and I decided to put a patio, do I need to get a variance?

MR. PREISS: I have not looked at that situation.

MR. PRINCIOTTO: That's a hypothetical. I don't think that's appropriate. You can ask questions about this application. This is for a restaurant with an outdoor patio.

MR. REZEN: The reason I'm asking is that, our concern is the patio, but if you are stating that there doesn't need to be a variance for a patio, then any of the businesses can state "We are going to have a patio"?

MR. PREISS: That's not what I'm saying.

MR. REZEN: So there is a variance for the patio? I understand it's tied together.

MR. PRINCIOTTO: It's included in the request for the variance for the restaurant.

MR. PREISS: Correct. It's an aspect of the variance. The application that the Board has to vote on is to approve the restaurant with the patio. The applicant made a change to the application. They withdrew the party room but the outdoor patio remains.

MR. REZEN: I understand. My question is that, if another business there decides to have a patio, does that business have to come back and get a variance or can they start to make that patio tomorrow?

MR. PREISS: I answered that question. I don't know.

MR. REZEN: That's -- I guess that's to the group also.

MR. SPIRIG: That's a legal question.

MR. PRINCIOTTO: It's a hypothetical question. I don't know what use it is and what property, you know, etc., but it doesn't involve this application. It's not a proper question and the notice for this application has been given, published for the variances with an outdoor patio so they are asking for it. Nothing is permitted in terms of a restaurant use in this zone right now. That's why they are here. Everything that they want, the restaurant or the outdoor patio, requires an approval of this Board. They either get that approval by vote, by five affirmative votes, or they don't.

MR. REZEN: So there is no possibility of stating that "We will provide you a restaurant but we won't provide the patio?" Are you stating that there's no possibility?

MR. HAYES: That's the heart of your question: Can we approve a restaurant but not the patio?

MR. VERCELLI: If you wanted to put in a

patio, you are going to have to go get a permit and it would have to go through zoning to see if you can fit that there, so if you are in the middle unit, you obviously can't put a patio in because it's in the parking lot or front walkway. Where, if you are on an end unit, you may be able to put a patio because you have the coverage and you have the setback.

MR. REZEN: If I was in that center area, that would not preclude me from not having that on the south side of the building, saying "I know the business is over here but you can walk down".

MR. HAYES: But that's not your question.

MR. REZEN: The question is: We got rid of the 48 seats so the other issue is, from Columbus, the patio. I don't understand whether that can be a separate understanding or discussion of "Can we have a permit for the restaurant but then have a separate discussion of the patio?" I'm hearing that this variance is for both. It's for a restaurant and patio or for nothing; is that fair?

MR. PREISS: It's the prerogative of the applicant to ask the Board for a variance. What they asked for is a restaurant with outdoor seating and that's what the Board has to decide. They cannot say "We are going to take a vote to permit the restaurant

and take a separate vote for the outdoor restaurant."

MEMBER OF THE PUBLIC: All or nothing.

MR. REZEN: Is it possible -- you had talked about the trees. Are they planning to provide these trees at 6 to 8 foot high at the beginning of this process or is this a point where it's a small tree that has to grow for a couple of years?

MR. MOLINELLI: Mr. Eichenlaub said the planted height would be 4 to 4 and a half feet and the type of arborvitaes can grow way, way higher. We do not think it should go that high. We will trim them to 6 or 7 feet.

MR. REZEN: Is there a reason why they cannot be 6 or 7 feet initially?

MR. PREISS: One of the things that residents do is, they immediately plant trees that are very close together at 6 foot height. What happens, there's no space for it to grow. Within a year or two, it dies off so the proper thing to do is, essentially, to plant it at that height and to leave space so that the -- it can grow into a complete evergreen screen a year or two from now, so initially, yes, there will be gaps and it won't screen it completely, but over time, it will be a full screen.

MR. REZEN: Have there been discussions

with landscapers to say that we can provide a 6- to 7-foot tree at beginning and we will deal with the determination of how this is going to grow and make sure that the screen is there?

MR. PREISS: I think the engineer provided a plan with the proposed landscaping. You know, I think, if it's the Board's desire to have a proper green screen that is going to survive over time, then the plantings are appropriate at the particular time that the plantings are made [sic] so the answer is: Initially, when they plant it, there may be some gaps. Over time, within a year or two, that should be a fully-green screen.

MR. REZEN: With regard to the lighting, was there a variance for additional lighting?

MR. PREISS: No. It's existing lighting. They are not proposing any additional lighting. They are just moving the two bollards further away but the lighting on the wall and the bollards is sufficient for the outdoor dining.

MR. REZEN: Is there part of that variance to do a shield on these?

MR. PREISS: They did not suggest it. I -- based upon my site visits and photographs that I have taken, I think that the existing situation can be

improved upon and perhaps lessen the brightness of the lights overnight when the use is not being used. Perhaps one of the things that the Board could request of the applicant is to dim the light on the parking lot and so the wall lights are not quite as bright for the neighbors.

MR. REZEN: If you would do that -- I would suggest, if you did that there in that spot, do that throughout the whole building to have a seamless view because the lights, at 4:00 in the morning, are as bright as 11:00 around the whole building.

MR. PREISS: The only exception that you would make is in the back where you have the residents because they come and go at night. The front -- on the side and on the front, I don't believe it's necessary.

MR. PRINCIOTTO: I looked at the site plan. It calls for 16 to 17 green giant arborvitaes. It's relocating the existing plants within the proposed dining patio so I think some of them are in the photographs that Mr. Preiss provided. My understanding was Mr. Eichenlaub's testimony was the green giant are very fast growing and they grow pretty tall.

MR. MOLINELLI: We have to keep them trimmed to 7 foot.

MR. REZEN: How tall are they now?

MR. MOLINELLI: They are not planted right now.

MR. REZEN: They are not using the existing ones that are there now?

MR. PRINCIOTTO: I think they are.

MR. REZEN: How fast do they grow?

MR. PRINCIOTTO: I don't want to testify but you can do the research.

MR. REZEN: Everybody understands the issue is: We are trying to figure out how to eliminate the patio, the lights and the patio from our sides. These are important questions from that perspective. Clearly, I would think, from a landscaper, they could say "We can figure out how to plant 7-foot arborvitaes." I'm not sure why they can't.

MR. PREISS: My suggestion, since we do not have a landscaping consultant, if the Board is predisposed to granting the variance, that a condition be added to the resolution that the applicant's engineer will work with the borough's engineer or landscaping consultant to make sure that the plantings are proper and will survive over time, and if that means replacing the -- not using the existing and bringing in new plantings, I think that's a proper condition.

I looked at these photographs and think using the existing plantings may not be sufficient, but again, I'm not a landscaping consultant. I think that we might need some help for that issue.

MR. JACOBS: I can speak to the question of why they don't plant full-sized arborvitae trees. Transplanting a fully-grown tree, it has a very high risk of dying. Trees from the nurseries are grown to be transplanted and they then establish their roots. If we can find a way to have full-height trees planted and not dying, we would do that but that tends to kill them.

MR. REZEN: What's the full height?

MR. JACOBS: I have seen ones that go 20 feet high.

MR. REZEN: 7 foot wouldn't be full height?

MR. JACOBS: Full height will go much higher than that.

MR. REZEN: Our point is: We prefer not to have ones at 3 feet tall and it takes two years to get to that level. That's two years of time that they are losing so my point is: If a landscaper can grow a 7- foot at their nursery and that 7-foot can be transplanted and put in the ground, that eliminates

this issue of waiting for years.

MR. JACOBS: We are happy to work with the applicant's engineer and our architect to specify the largest commercially-available arborvitaes. They have to be fully-grown and transplanted to get an arborvitae that tall on day one.

MS. FENDIAN: This is important for the residents. An effort should be made. This is the smallest thing. We are not using our existing small bushes because of this and that. If it's a little more expensive and if this is a condition for all this to happen, it will be done. This is not a question of, like, little merchandising.

MR. JACOBS: In doing design work, you see a tree you want to save but it doesn't work in that location, they have equipment to transplant the trees but there's a pretty high chance it's going to die versus planting it at the proper spacing and that will allow it to grow in this location but we are happy to work with the applicant.

MR. REZEN: Is there a known threshold, at a certain height, that the chance that the tree wouldn't survive transportation dramatically increases from 30 to 80 percent? Is that something that you are aware of?

MR. JACOBS: We have a landscape architect on staff and we will work with her and the applicant's team and find the largest one that will still survive. You want it to become a wall.

MR. HAYES: It's an incremental cost to try to maximize the size that you could transport without increasing...

MR. MOLINELLI: What time of year? Is this a fall or a spring transplant of a fully-grown tree? I have to believe it's spring. We do not want to replace them.

MR. JACOBS: A new tree, they come with warranties from the nursery.

MR. MOLINELLI: We will work with the engineer on the landscaping.

MR. PRINCIOTTO: Do you have Mr. Eichenlaub's transcript of his testimony?

MR. MOLINELLI: I do. I believe he said it would grow 25 feet but have to be kept trimmed to 7 feet.

MR. PRINCIOTTO: I was looking for the height at initial planting.

MR. MOLINELLI: I don't think he specified it.

CHAIRMAN BONGARD: That could be a

condition that they be planted at adequate size to initially screen it.

MR. MOLINELLI: In answer to your question, I'm referring to the transcript of June 26, 2018, it show it in two locations.

Page 51, Mr. Eichenlaub says, at Line 9 -- actually, the question was: "The plan shows the extensions of the relocated bollard lights and the landscaping." That's Line 7.

Mr. Eichenlaub says, "Correct. This has not changed. The landscaping, originally, we called for holly. We are looking to provide for a greater screening and use arborvitae. They are taller and denser and they are the plants that we have all along there now. There will be just be more of them.

And at Page 52, Line 3, in response to your question, Mr. Princiotto, "The arborvitae, I know there's a lot of different varieties. Do you know how tall it is?"

Line 6, the answer, "Certainly tall enough to screen a person on that patio. The ones that are planted now are about 3 to 4 feet in height. That would be the planted height. The mature height is much, much higher than that. I mean, these things can go 15 to 20 feet in height. We wouldn't want that.

They would be properly pruned and maintained. We would want something in the neighborhood of 5 to 6 feet to screen the patio completely from our neighbors to the south."

"MEMBER OF PUBLIC: Thank you."

MR. PRINCIOTTO: Thank you. So we answered the question. Right now, they are 3 to 4 feet high with the expectation they will grow.

MS. COLLINAN: Laura Collinan, 27 Columbus, Hillsdale.

You made mention about how we are gearing more up to not shopping for clothes and stuff; everything is bought on Amazon and stuff?

MR. PREISS: Yes.

MS. COLLINAN: So more businesses are entertainment and gyms and stuff?

MR. PREISS: What we are finding in downtowns and business corridors like --

MS. COLLINAN: You mentioned Orange Theory and yoga?

MR. PREISS: Yes. It's more --

MS. COLLINAN: Okay. An Orange Theory class, 30 people are allowed to go to that class and most people don't drive with someone to go to class. That would be 30 cars. Okay? Just let me -- if

there's a yoga studio and an Orange Theory, by Wegman's, there is a cycle bar and pilates right next door to each other. That can be 60 cars. They are open from 6:00 in the morning until, I think, 10:00 at night.

MR. PREISS: Yes.

MS. COLLINAN: Are you saying that the parking would be -- to have a pizza place where their peak hours are from 6:00 to 8:30, but if they have outdoor seating, that could possibly get people to linger to at least 10:00, you think there would be adequate parking?

MR. PREISS: I'm not sure you were here or heard my testimony. My concern would be, if, in addition to the restaurant, you had that kind of use --

MS. COLLINAN: Well, that's opening up.

MR. PREISS: Can I finish my sentence, please?

MS. COLLINAN: Uh-huh.

MR. PREISS: Are you done?

MS. COLLINAN: Yeah.

MR. PREISS: I would have a concern if the other retail space were utilized for establishments like that where there would be a peak hour that would coincide with the restaurant so my suggestion was that

1 perhaps the Board could enter, as a condition of this
2 particular variance, that -- you know, obviously,
3 restaurants would have to come and get a variance but a
4 gym or an Orange Theory or yoga studio would not but
5 that a condition be added that, the extent that the
6 applicant wants to put a use in which is open and has
7 parking demand in the evening, they would have to
8 return to the Board before they would be permitted to
9 open up.
10 MS. COLLINAN: But I mean, they need 96
11 spots and we have what, 64, and we are not talking
12 about a few cars.
13 MR. PREISS: I'm agreeing with you --
14 MS. COLLINAN: Right? And the fact that
15 the ins and outs, right now, Shop Rite, all the cars
16 are coming out, if it's a take-out pizza place, the
17 cars are staying five or ten minutes so it's in and
18 out. You can barely make a left turn now at the end of
19 Columbus so my question is: We can't limit what he's
20 going to have in...
21 MR. PREISS: What I'm suggesting to the
22 Board because of their concern about having sufficient
23 parking is that the Board add a condition that the
24 other retail spaces, you know --
25 MS. COLLINAN: Is what?

MR. PREISS: If there were to be a business that stays open later in the evening and has a peak to coincide with the restaurant, they would have to return to the Board. In other words, they would have to come in and demonstrate to the Board that that use plus the restaurant would have sufficient parking. So that's our suggestion.

MR. MOLINELLI: There is common conditions attached to shared parking approvals. I would be happy to give you several sources that I worked with on other applications to prevent what Mr. Preiss is talking about. I want to nip this in the bud. I think we stipulated that we will not put another restaurant in the location.

MS. COLLINAN: I'm not talking about a restaurant.

MR. MOLINELLI: It's very hard to do this in this type of a setting but there are scenarios where you can capture the shared parking arrangement. You come back to the Board when you violate the specific terms of that condition. We have no problem with that whatsoever.

MS. COLLINAN: So do we have to be the police and every time --

MR. PRINCIOTTO: Ma'am, ma'am...

MS. COLLINAN: I'm asking him. Who's going to monitor who the tenants are?

MR. PRINCIOTTO: Mr. Preiss is saying that, as a condition which would be written into the resolution of approval, if the Board approves this, would be a condition that, if there is any tenant that wanted to use that property and had peak hours after whatever hour the Board selected, 6:00 p.m., for example, they would have to come to the Board and establish, to the satisfaction of the Board, that there was sufficient parking and there would have to be some testimony or parking analysis, and if not, they would not be permitted to occupy the premises.

MS. COLLINAN: You would control the lease of every tenant that he gets?

MR. PRINCIOTTO: Well, I won't control the leases. Many towns have a provision that any change in use or even in occupancy requires an application to the Planning Board.

MS. COLLINAN: Does Woodcliff Lake have that?

MR. PRINCIOTTO: I don't think Woodcliff Lake is that strict but what Mr. Preiss is saying is that, in this resolution, if it was approved, we could have that provision that it would come back before this

Board if there was a use, a change in use or occupation, that would have a use after a certain hour, such as 6:00 p.m. 6:30 p.m., that they would have to come back to the Board. Now, if they had a use that was going to close at 6:00 p.m., they would not have to come back to this Board.

Now, who is going to police it? Anybody. The construction code official, if there's a problem, there's going to be a citation or you're going to see it, somebody will see it and report it and say "They are open after 6:00 p.m. and the resolution stated, if they were open beyond 6:00 p.m., they need an approval of the Zoning Board and they do not have it so it's not a permitted use" so just like any violation of ordinance or code that we have.

MS. COLLINAN: Is this application for this one restaurant for this one space?

MR. PREISS: Correct.

MS. COLLINAN: There can never be anything else?

MR. PREISS: Unless it came back to the Board.

MS. COLLINAN: So I live right across the street from there. You are saying this outdoor patio is going to be now over here?

MR. PREISS: It will extend another 7 feet from where the sidewalk is.

MS. COLLINAN: Do you see how much light that gives us?

MR. PREISS: Yes.

MS. COLLINAN: That's in my living room.

MEMBER OF THE PUBLIC: That's in my bedroom.

MR. PREISS: I understand.

MEMBER OF THE PUBLIC: No. You don't.

MS. COLLINAN: Do you think that this is good for the town, that this would be out here and there would be noise coming from it?

MR. PREISS: That's the Board's decision.

MS. COLLINAN: I'm asking your opinion.

MR. PREISS: What I have indicated, I visited the site at night and I think that, even though there's no change in lighting, that the lighting right now, even when they plant the arborvitaes, has an impact on the neighborhood and my suggestion is, even though it's not related to this particular application, would be for the Board to request that the applicant, when the restaurant is closed, to dim the lights to security lighting levels. I think it's too bright.

MS. COLLINAN: Is there an ordinance that

1 says what time the restaurant has to close?
2 MR. PREISS: No. I think the applicant
3 has indicated the hours. That can be included in the
4 resolution of approval.
5 MS. COLLINAN: If people are outdoors
6 dining and the restaurant is closed, that doesn't mean
7 they have to leave, either.
8 MR. PREISS: Look, I think -- I have done
9 these applications before. Typically, what happens is
10 the -- if people are sitting there, they do not provide
11 service after a certain period of time, and then, if
12 the customers linger and the restaurant is about to
13 close, typically, the customers are asked to leave.
14 MS. COLLINAN: Will they be able to bring
15 their own alcohol to this restaurant?
16 MR. PREISS: I assume so. I don't think
17 there's any law --
18 MS. COLLINAN: They are outside and the
19 restaurant is closed. Why wouldn't they stay a few
20 extra hours on the outdoor patio?
21 MR. PREISS: Because the restaurant
22 controls the outdoor patio.
23 MS. COLLINAN: What do they control?
24 They lock the door and leave at 10:00. What do they
25 care if people are hanging out?

CHAIRMAN BONGARD: I think we are going a little far afield.

MR. PRINCIOTTO: It can be a condition that the outdoor patio wouldn't be occupied after a certain hour.

CHAIRMAN BONGARD: I don't think, after the restaurant is closed, people will sit outdoors and drink.

MS. COLLINAN: Why not?

CHAIRMAN BONGARD: The police come by and see people drinking out there.

MR. VERCELLI: What's to stop people from drinking on your front lawn?

MR. PRINCIOTTO: Do you have another question? You can't argue.

MS. COLLINAN: You said you agree that the lights are too bright right now?

MR. PREISS: Yes.

MS. COLLINAN: As neighbors, we went to the building owner, nicely, and said that it's really affecting our quality of life. He said, "Okay. We will take care of that." That was over a year ago.

CHAIRMAN BONGARD: This is not something --

MS. COLLINAN: The question is: Unless

it's in writing, we have to police this?

MR. PRINCIOTTO: Ma'am, ma'am, it was addressed.

MR. PREISS: I made a suggestion. It's the Board's decision.

MR. PRINCIOTTO: There was a suggestion of dimming of the lights.

Do you have another question?

MS. COLLINAN: No.

MR. RIVERA: I would like to address that.

MR. MOLINELLI: We don't have to address the conversation.

MR. SCHWARTZMAN: You mentioned the Master Plan and you indicated the Broadway Corridor Phase II Study and the Master Plan 2002 and 2008?

MR. PREISS: Yes.

MR. SCHWARTZMAN: Are you aware that the Broadway Corridor Phase II Study concerned itself with Blocks 2703, 2704, 2601 and 2602, not the 2708 that we are speaking about now?

MR. PREISS: You may be right. I know it didn't address the entire Broadway corridor.

MR. SCHWARTZMAN: That has nothing to do with the applicant's...

MR. PREISS: The thrust of that particular study was to focus on certain properties within the Broadway corridor as possible redevelopment. It did not alter what was in the prior two Master Plans that indicated that the Broadway corridor allow restaurants. That was not altered by that study. The thrust is still the same.

MR. SCHWARTZMAN: Are you aware that the Master Plan of 2008, on Page 23, states "The current zoning regulations for the borough do not permit restaurants as permitted uses in any zone. The borough should consider evaluating commercial zones to determine whether such use is appropriate and under what conditions and zoning standards."

MR. PREISS: Yes.

MR. SCHWARTZMAN: That, to me --

MR. PRINCIOTTO: Sir, sir, we can't permit any comments, just questions; otherwise, we are going to have to --

MR. SCHWARTZMAN: Okay.

MR. PRINCIOTTO: You are not going to be able to give a comment if you start making them now. We won't have time --

MR. SCHWARTZMAN: I'm not making comments.

MR. PRINCIOTTO: You were.

MR. SCHWARTZMAN: Where, in the Master Plan in 2002, does it say that restaurants should be permitted in a B1 zone?

MR. PREISS: I mean, I don't recall specifically, but you know, that, in the subsequent discussions about implementing the zoning, that -- in all of the drafts that have come up since then, restaurants are considered to be a permitted use. Those were deemed to be consistent with the Master Plan policy. It may not be a specific line. I think everybody understands that, when that rezoning occurs, that restaurants, most likely, will be a permitted use.

MR. SCHWARTZMAN: Have the Council and the Mayor signed an ordinance?

MR. PREISS: No. The discussion has been tabled. That's why we are here. It's a use variance.

CHAIRMAN BONGARD: At the present time, there's nothing that says it. This is why we are here.

MR. COUTO: Is there hours of application on this?

MR. PREISS: I think the applicant provided the hours of operation that's intended.

MR. PRINCIOTTO: The Board will discuss that.

MR. PREISS: The answer is yes.

MR. COUTO: Your suggestion is to do something so the shared participating does not become an issue?

MR. PREISS: Yes.

MR. COUTO: Would it be a concern of yours if Ray's was not successful and the Park Ridge Diner decided to move to this location? The Board should address that, if the variance should be addressed as to a potential issue at that.

MR. PREISS: We discussed that at length and I indicated to the Board, while it can't specify that it only be this particular establishment or this particular tenant or a pizza restaurant, generally, most restaurants operate in the same manner. That shouldn't be a concern. The only concern that I would have -- and this was indicated by Mr. Intindola -- if it had its peak hour early in the day when the retail was open.

MR. COUTO: You would recommend to the Board to address that?

MR. PREISS: In the conditions of approval.

MR. PRINCIOTTO: Can we have a motion to close?

MEMBER OF THE PUBLIC: No, no, no.

MS. COLLINAN: We received this on our front door.

MR. MOLINELLI: I would object to this document that she has. I sent you an e-mail on this. This is an outside document. We do not know who wrote it. It shouldn't be referred to in this proceeding.

MR. PRINCIOTTO: I think this is a flier and I don't know if any Board members have seen it. I don't know who the author is of this flier. I don't know --

MS. COLLINAN: Could we submit this into evidence?

MR. PRINCIOTTO: No.

MS. COLLINAN: Can I ask him a question about it?

MR. MOLINELLI: I would object to it and I would ask that you poll the Board members to see if any members received it.

MR. PRINCIOTTO: Did you prepare it?

MS. COLLINAN: No.

MR. PRINCIOTTO: Do you know who prepared it?

MS. COLLINAN: Nope.

MR. PRINCIOTTO: I would --

MEMBER OF THE PUBLIC: Why are you afraid of it? Just explain it.

MR. PRINCIOTTO: Sir, sit down.

MEMBER OF THE PUBLIC: I would like an answer.

MS. COLLINAN: There's some unhappy people in the town.

MR. MOLINELLI: Let me respond to it. It's written by a very irresponsible person who lacks information and I don't have the right to cross-examine that person. If this --

MS. COLLINAN: How do you know that?

MR. MOLINELLI: If you wrote it --

MS. COLLINAN: I didn't write it.

MR. MOLINELLI: If the person who wrote it is in this room and they want to step forward, I might reconsider that but it is an outside document. There are cases; you can completely disrupt the case.

MR. PRINCIOTTO: I understand.

Sir, I'll answer your question before you ask it. This Board is not afraid of any competent evidence; however, we do have some rules of order and we do not have strict rules of evidence. One rule we have is that people can't submit something in writing and then not have themselves subjected to cross. We

1 don't know the author of this.
2 MS. COLLINAN: I think --
3 MR. PRINCIOTTO: Ma'am, don't interrupt
4 me. I don't know the source of this information. I
5 don't know if it's accurate and Mr. Molinelli cannot
6 ask the author of that any questions about it.
7 Fundamentally, that would be considered unfair and the
8 Board should not consider it.
9 MS. COLLINAN: Even if they have an
10 e-mail address down here?
11 MR. PRINCIOTTO: Even if there's an
12 e-mail, the Board should not consider it. It would be
13 improper.
14 Motion to close to the public?
15 MR. HAYES: Motion.
16 MS. MALLEY: Second.
17 MR. PRINCIOTTO: Do you wish to make a
18 statement?
19 MR. MOLINELLI: I would rather wait for
20 the public to make their comments.
21 CHAIRMAN BONGARD: Motion to open to the
22 public now for comments concerning the overall
23 application itself.
24 MR. PRINCIOTTO: I'm going to ask -- we
25 do not have a lot of time. I think we are going to

limit comments to two minutes and I'm going to ask everyone, to please, do not repeat the same comments. If you want to say you agree with the comments of so-and-so, that's fine but we do not have time for you to repeat all of the comments, so with that being said, if there's anyone that wishes to make any comments...

MR. SPIRIG: Make a motion to open to the public.

MR. DHAWAN: Motion.

MR. VERCELLI: Second.

MR. McKEOWN: Hi. This is a question for the Board. I presume the background of what the Board has to decide upon is based upon what's good for Woodcliff Lake. Is that a correct assumption? I presume that's the purpose of this.

MR. PRINCIOTTO: The decision-making is whether or not the applicant has met its burden of proof that's it's entitled to a variance.

MR. McKEOWN: I understand that. In addition, it would have to be to the benefit of Woodcliff Lake, I assume?

MR. PRINCIOTTO: There are certain legal requirements which our planner testified to as well as the other planner and they have to meet certain requirements.

MR. McKEOWN: Okay. I understand that.

But, Mr. Preiss, you made an interesting comment about the quality of life in Woodcliff Lake. I live in Woodcliff Lake. When I want to get pizza, I have about five pizza places I can go to, and not too long a distance, and Ray's is down the road in Hillsdale. I don't really see the benefit to me or to the town to have another pizza parlor in Woodcliff Lake as an edification symbol. I would just say, especially considering you are now going to exclude, because of this parking problem and other problems, possibly some other places that might be interested in coming. I don't see the great benefit of Ray's coming here. I'm not against Ray. I'm all for entrepreneurs. Maybe a pizza parlor isn't what we need at that location.

That's all I have to say.

MR. SOCHAN: Ihor Sochan, 32 Prospect.

I have been in the borough since 1955. We heard, today, a lot of different opinions but the thought probably is how to keep our borough rustic the way it was for not only a century but a little more than that, close to two. Therefore, I appeal to every one of you to consider that, consider -- I'm sure, if we take a vote -- and even whoever left now will express my opinion. Not to go into very tiny details

as far as technicality, parking or everything else, generally, the character of our town.

I moved here, in Woodcliff Lake, in 1955 after one of my co-engineers in combustion engineering in New York advised "You look there and you probably will like it" and I can't really deny it ever since the first time. My children grew here. I want to appeal to everyone of you to keep that in mind and not trying to commercialize, industrialize or whatever else because this is the character of your town. That's the reason why I came here, being very close to New York, but in the end, I decided to stay here.

So I just appeal to every one of you to keep that in mind and I'm sure that I am expressing the opinion of most of us that are still present because they left [sic] and consider your decision.

CHAIRMAN BONGARD: Thank you.

(Applause)

MS. REZEN: Ann Marie Rezen, 21 Columbus Avenue.

Thank you, Mr. Sochan. That was beautifully stated.

I would only like to add that I plead with all of you Board members on Woodcliff Lake to also take into consideration residents of your neighboring

town, Hillsdale. This proposed restaurant is going to have a dramatic and much more potent impact on the residents of Hillsdale than it will on Woodcliff Lake. The outdoor seating, in particular, is 10 or 15 feet away from some of your houses. I believe it's even possibly in violation of the setback when you consider where the trees are and the sidewalk.

You have heard everybody with all of the questions and concerns about noise. The planning person, Mr. Preiss, talked a lot about the lighting, which is really obnoxious. I would hope the owner of the property would take into consideration that advice.

My biggest concern aside from parking and aside from a restaurant -- I love restaurants. I love pizza. I have no problem with that. My big issue is: There is no possible way to police or control the parking and the cars that are going to go up and down our street. Our street in Hillsdale is being impacted by your decision to allow this to go through. If you allow for the restaurant to go through, I would just really appeal to you to take seriously into consideration some sort of parking restrictions or traffic flow restrictions on Columbus Avenue. If all traffic could go out to Lincoln, out to Broadway. Right now, you saw the picture, three or four

1 illegally-parked cars from Nino's Pizza, which is 10
2 feet away from where this is proposed. They say all of
3 the cars are going to go in and out of the front
4 parking lot. I guarantee you that will not happen.
5 There will be four more pizza delivery cars on the
6 bottom of my street blocking our driveways, in danger
7 -- they are in danger; their drivers are in danger;
8 every car that tries to pull up our street is in danger
9 because these cars are blocking the traffic that is
10 going to be exacerbated.
11 CHAIRMAN BONGARD: We understand what you
12 are saying. Give other people a chance too.
13 MR. PRINCIOTTO: By a show of hands, how
14 many other people would want to make comments?
15 MR. SCHWARTZMAN: Supreme Court Case of
16 New Jersey 107NJ1 in 1987 Medici vs. BPR Company, this
17 is the seminal case in this area of variances. It
18 states "The applicant must prove and the Board must
19 specifically find that the variance use promotes the
20 general welfare because the proposed site is
21 particularly suitable for the proposed use." It goes
22 on to state "Grant of the use variance is not
23 inconsistent with the intent and purpose of the Master
24 Plan and zoning ordinance. This will effectuate the
25 legislature's apparent objective of encouraging

1 municipalities to make zoning decisions by ordinance,
2 not by variance" -- excuse me "rather than by variance.
3 When an informed governing body does not
4 change the ordinance, a Board of Adjustment may
5 reasonably infer that its inaction was deliberate."
6 MR. PRINCIOTTO: You are at one minute.
7 MR. SCHWARTZMAN: Okay. Thank you.
8 The applicant has not satisfied the
9 negative criteria here nor the positive criteria.
10 Basically, all they have been saying is "We proved that
11 we are entitled to it." The Master Plan does not
12 permit -- I'm sorry. The Master Plan does not say that
13 restaurants should be allowed in a B1 zone.
14 Thank you.
15 MR. SHUMACKER: Ray Shumacker, 11
16 Columbus.
17 I know we have been standing here for a
18 few years now. The applicant came and submitted his
19 building and we asked "Do not build a three-story
20 building; build a two-story. If you want to have
21 stores underneath, fine." The Board approved a three-
22 story building, which we know we did not have enough
23 parking for any of the residents or the stores.
24 Here we are again trying to get a
25 restaurant, which we should not even be talking about

since the town has no restaurants, so I don't understand how we could be going through all the motions here when there is no issue. There shouldn't be no issue. It should not be approved. It should be no outside patio. People live on that block. It's not a Chestnut Ridge Road. You built a huge building, and now, you have this thing standing up and they wanted to do the whole Broadway corridor. The town was founded in 1800 somewhere. They had horse and carriages, not two- story buildings, which they found out, the town, realized afterwards, you can't add more land to what's there.

Just consider the people that live there.

MR. COUTO: It's a good thing that all the Board members own property in town. If Board members make good decisions, the value of the town goes up so your own property goes up in value so consider that whatever you are doing is going to affect your own property. Some of you live not too far from there so the town, when it's quaint, everybody -- the value goes up for everybody. When a decision is not so good, a few years down the road, we all lose money even if it's 3 percent. Okay? So if the town can do something with conditions that work to everyone's benefit, it keeps the town, improves the quality of life and the town and

the town becomes more desirable. If not, no conditions could turn bad and cost all of us money, including you because your houses are going to lose value.

Thank you.

CHAIRMAN BONGARD: This is the last one.

MR. McKEOWN: When the building was built, he knew he could not put a restaurant in there. He went ahead and built, got numerous variances in order to build the building knowing he couldn't put a restaurant in it. Now, he's coming back, two years, three years later, asking for a variance. When is it going to stop? At what point do the requests for variances stop? This has impacted our property values in Hillsdale. We got a tax reduction because of the building not knowing there was going to be a restaurant there. We went to the Town of Hillsdale and said "Look what they put right next to us? We want a reduction on our property taxes and they agreed." It's going to happen to all the other residents on Columbus and on Lincoln and decrease property values and is not good for the town.

The increase in traffic is a nightmare. It's tough to turn out of Columbus Avenue in the morning, 8:00. I don't care what all of the traffic studies have done. They are not real life. They are

1 not this location. Same thing with the parking
2 studies, it's not -- you are not comparing apples to
3 apples. It's all general terms and statistics. It's
4 not actual facts of living on that street.
5 CHAIRMAN BONGARD: Again, we appreciate
6 and understand what you are saying.
7 MR. McKEOWN: I think limiting everyone
8 to two minutes -- this is really impacting everybody's
9 life here. Limiting us to two minutes is not right.
10 (Applause)
11 MR. PRINCIOTTO: When I asked for hands,
12 there were four. Now, it's grown.
13 CUNNINGHAM: Susan Cunningham, 15 Edwin
14 Place. We have, for years, tried to preserve this side
15 of town. I have been on the Town Committee. My
16 husband was on the Planning Board. I want to express
17 my concern about the Broadway corridor. I don't know
18 where you all come from. We tried to work hard to
19 raise our standard of living and move to decent towns
20 that have a good quality of life. We see what's
21 happened in Park Ridge; Montvale is a mess; Emerson is
22 a disaster. Please preserve the quality of Woodcliff
23 Lake on the east side. The west side is terrible. It
24 looks like a parking lot.
25 I empathize with the people in the

neighboring towns. The Planning Board, the Zoning Board and the Mayor and Council has a responsibility to respect their citizens of this town that we pay our taxes and we have worked very hard to preserve the quality of this town.

I have been here 43 years. I have a serious concern about what is happening tonight because it is going to have a severe impact. You are opening up a Pandora's box. Once the horse is out of the barn, you do not put the horse back in the barn. Please look at your roots, where you came from, where you aspired to be, where you wanted to live and raise your families. It's not just about a good school system. I'm concerned about a walking path around the lake. How absurd is that? We do not need a walking path around Woodcliff Lake. This is just the beginning, tonight, of what we are in for down the road.

I'm asking you to please think about Woodcliff Lake, the surrounding towns and do the right thing. That's all.

CHAIRMAN BONGARD: At this point, this is the last one.

MR. LaPAGLIA: I have difficulty with this type of use in this type of location. I have been a resident for 45 years here and I think you know you

need to be concerned about overflow parking on the two side streets. I think that needs to be thought about and controlled and the other thing is this outdoor eating. I think that I would rather not see that be allowed, but if you do allow it, I think you should restrict it for two months a year, July and August, because I think that kind of creates a situation where you have people staying longer, like what was suggested and the like with that.

That's it.

MR. PRINCIOTTO: Thank you.

CHAIRMAN BONGARD: Can I have a motion to close to the public?

MS. MALLEY: Motion to close to the public.

MR. HAYES: Second.

CHAIRMAN BONGARD: All in favor?

MEMBERS OF THE BOARD: Aye.

MR. PRINCIOTTO: Mr. Molinelli, do you want to make any comments.

MR. MOLINELLI: I did but I'll waive it.

CHAIRMAN BONGARD: Comments from people on the Board?

MR. SPIRIG: How late are we going?

MR. PRINCIOTTO: I think we should try to

take a vote on the application tonight. We usually end at 10:30 but I would recommend a motion to extend the meeting but it's up to the Board.

CHAIRMAN BONGARD: In the past, we always end by 10:30.

MR. PRINCIOTTO: Mr. Molinelli, you want to say anything about carrying this to the next meeting?

MR. MOLINELLI: Obviously, we have been doing this a long time. I would prefer that the Board reach a decision tonight but I will respect whatever decision the Board makes.

MR. PRINCIOTTO: I anticipate there's going to be some significant discussion about the possible conditions in the event that the Board was to consider approval of this. We do not know the vote and we do not know what anyone is going to have to say with regard to conditions, but certainly, this is the type of application, where there's been suggested conditions and it's appropriate to consider conditions, so it's up to the Board. We can either do it tonight, or with Mr. Molinelli's permission, September at the next meeting. I'm not sure that we have enough members for the next meeting.

MR. SPIRIG: I think this does warrant

some discussion by the Board members. I think there needs to be a discussion on potential restrictions so...

MR. PRINCIOTTO: I don't think --

MR. SPIRIG: I don't think we can do that in 15 minutes.

MR. PRINCIOTTO: I tend to agree with you. Perhaps it will give us an opportunity to look at them more carefully after hearing all the comments and the testimony is a lot to digest and to consider. It's hard to do it on the fly in 15 minutes.

Mr. Molinelli, are you receptive to a special meeting for this application?

MR. MOLINELLI: I would be receptive. If the Board was going to postpone it, I would like to be heard very shortly to close my case because I would like to address some of the conditions that I heard that I think might make it easier. I wasn't going to do that because I wanted to get the Board to have a decision but a special meeting would be fine whenever you can. We can talk about that.

MR. PRINCIOTTO: We will try to do it as soon as we can. Our August meeting, we had a problem with vacations. There may be another time in August or the beginning of September when we could schedule it.

MR. MOLINELLI: We have to resolve that and give me sufficient notice. If it's not carried from here, I will have to renotify the public, which I'm willing to do.

MR. PRINCIOTTO: You will have to. It's a special meeting.

MR. MOLINELLI: A ten-day lead time.

MR. PRINCIOTTO: You will consent to extending the time?

MR. MOLINELLI: Early September. Next week would be great but I understand, with vacations, it can't happen. The earlier the better because we have been at this a long time.

MR. PRINCIOTTO: I know our meeting in August, we have a problem. I don't know if there's an earlier date that it could be done. If not, then it would be September. I know we have another significant application coming in. We will do it before that.

MR. MOLINELLI: We probably could do it in August if you want to poll the Board members and find out when they are available. I will have a transcript made. Mr. Newman wasn't here. You have another Board member there. I appreciate the special meeting proposal.

MR. PRINCIOTTO: We can make a motion to

extend to hear the closing comments --

MR. MOLINELLI: If we are going to have a special meeting, I'll do it then. I can go through my notes and talk about the conditions; some, I had some concern of. I would rather be more prepared for that.

CHAIRMAN BONGARD: It doesn't have to be a Tuesday.

MR. PRINCIOTTO: Then, I think we have a plan. That will be a special meeting that will be noticed for August or September.

MEMBER OF THE PUBLIC: Will the residents be notified?

MR. PRINCIOTTO: Yes.

MEMBER OF THE PUBLIC: We didn't get the notification. He said he notified us but we didn't get it, about the change in application for tonight's meeting.

MR. MOLINELLI: I can't explain it. I'll check.

MEMBER OF THE PUBLIC: We did get the first notification.

MR. MOLINELLI: I'll check. It was not a jurisdictional issue. I did it as a courtesy.

MR. PRINCIOTTO: Just for the record, at the last regular-scheduled meeting, it was announced

that --

MEMBER OF THE PUBLIC: We are talking about the special meeting.

MR. PRINCIOTTO: But it was announced. Mr. Molinelli did send out new notices even though he didn't have to. For this next meeting, he will have to send out another notice and he will submit proof of application as well as proof of service. It has to be sent by certified mail.

MEMBER OF THE PUBLIC: Thank you.

MR. PRINCIOTTO: Motion to adjourn?

MR. HAYES: Motion.

MS. MALLEY: Second.

CHAIRMAN BONGARD: All in favor?

MEMBERS OF THE BOARD: Aye.

(The hearing concluded at 10:54 p.m.)

C E R T I F I C A T E

I, ALISON GULINO, a Certified Court Reporter, Registered Professional Reporter and Notary Public of the State of New Jersey, do hereby state that the foregoing is a true and accurate verbatim transcript of my stenographic notes of the within proceedings, to the best of my ability.

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ALISON GULINO, CCR, RPR
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