

ROCKAWAY TOWNSHIP
BOARD OF ADJUSTMENT
TUESDAY, FEBRUARY 15, 2022
COMMENCING AT 7:31 P.M.

IN THE MATTERS OF:) TRANSCRIPT OF
RESOLUTIONS) PROCEEDING
BOA #21-35)
CASSIDY, 34 WILLIAM STREET)
BLOCK 22004 LOT 33)
"C" VARIANCE)
PUBLIC HEARING)
BOA #21-31)
91 JACOBS ROAD)
BLOCK 40801 LOT 95)
"B" VARIANCE/"C" VARIANCE/"D")
VARIANCE/MINOR SITE PLAN)

B E F O R E: ROCKAWAY TOWNSHIP BOARD OF ADJUSTMENT
THERE BEING PRESENT:

JASON SMOLINSKI, CHAIRMAN
RAY TAHAN, VICE CHAIRMAN
JAMES LOFTUS, SECRETARY
TIMOTHY SCHERWA, MEMBER
DOMINICK NICASTRO, MEMBER
SUSAN ROYEK, MEMBER
KATEY PLATTS, MEMBER
ADAM LUSARDI, ALT. 1
MANUEL E. DEUS, ALT. 2
ROBIN GARCIA, ALT. 3
CAROL LUCAS, ALT. 4
LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.
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DAVID NOVAK, P.P., AICP, Board Planner
PETER TEN KATE, P.E., Board Engineer
ALLISON FERRANTE, Technical Engineer

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I N D E X (cont'd)

P A G E

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	91 Jacobs Road	
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E X H I B I T S

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
	(None marked)		
12.	New Business	106	
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14.	Adjourn	106	

1 1. Call to Order
2 CHAIRMAN SMOLINSKI: This meeting of
3 the Rockaway Township Board of Adjustment is called
4 to order.

5 2. Notice to the newspapers was via email
6 CHAIRMAN SMOLINSKI: This meeting is
7 held pursuant to the New Jersey Open Public Meetings
8 Act.

9 Notice has been properly posted and
10 filed with the Municipal Clerk of the Township of
11 Rockaway, mailed to all those persons requesting --
12 AUDIENCE VOICE: We can't hear you.
13 AUDIENCE VOICE: Speak up.
14 CHAIRMAN SMOLINSKI: It's on. I'll
15 bring it up a little more.

16 And provided to The Citizen of Morris
17 County and The Daily Record.
18 February 2, 2022, for The Citizen of
19 Morris County, and The Daily Record on January 31st,
20 2022.

21 Notice to the paper was via email.
22 Formal action may be taken this
23 evening.

24 Roll call.
25 MS. KAHN: Mr. Smolinski?

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1 MS. KAHN: Mr. Novak?
2 MR. NOVAK: Here.

3 3. Flag Salute
4 CHAIRMAN SMOLINSKI: All rise.
5 (At this point in the proceeding all
6 rise for a recitation of the Pledge of Allegiance.)

7 4. Approval of Minutes - February 1, 2022
8 CHAIRMAN SMOLINSKI: First matter of
9 the evening is the approval of the minutes of
10 February 1st, 2022.

11 MR. NICASTRO: Motion.
12 MR. TAHAN: I'll second.
13 CHAIRMAN SMOLINSKI: Can we get a roll
14 call of those who are present.

15 MS. KAHN: Mr. Smolinski?
16 CHAIRMAN SMOLINSKI: Yes.

17 MS. KAHN: Mr. Loftus?
18 MR. LOFTUS: Yes.

19 MS. KAHN: Mr. Nicastro?
20 MR. NICASTRO: Yes.

21 MS. KAHN: Mr. Tahan?
22 MR. TAHAN: Yes.

23 MS. KAHN: Ms. Royek?
24 MS. ROYEK: Yes.

25 MS. KAHN: Ms. Platts?

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1 CHAIRMAN SMOLINSKI: Present.

2 MS. KAHN: Mr. Loftus?

3 MR. LOFTUS: Present.

4 MS. KAHN: Mr. Scherwa?

5 MR. SCHERWA: Here.

6 MS. KAHN: Mr. Nicastro?

7 MR. NICASTRO: Here.

8 MS. KAHN: Mr. Tahan?

9 MR. TAHAN: Here.

10 MS. KAHN: Ms. Royek?

11 MS. ROYEK: Here.

12 MS. KAHN: Ms. Platts?

13 MS. PLATTS: Here.

14 MS. KAHN: Mr. Lusardi?

15 MR. LUSARDI: Here.

16 MS. KAHN: Mr. Deus?

17 MR. DEUS: Here.

18 MS. KAHN: Ms. Garcia?

19 MS. GARCIA: Here.

20 MS. KAHN: Ms. Lucas?

21 MS. LUCAS: Here.

22 MS. KAHN: Mr. Bell?

23 MR. BELL: Here.

24 MS. KAHN: Mr. Ten Kate?

25 MR. TEN KATE: Here.

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1 MS. PLATTS: Yes.

2 MS. KAHN: Mr. Deus?

3 MR. DUES: Yes.

4 MS. KAHN: Ms. Garcia?

5 MS. GARCIA: Yes.

6 MS. KAHN: Ms. Lucas?

7 MS. LUCAS: Yes.

8 MS. KAHN: Approved.

9 5. Correspondence

10 CHAIRMAN SMOLINSKI: Correspondence.

11 MS. KAHN: Nothing.

12 6. Open to the Public

13 CHAIRMAN SMOLINSKI: Okay. At this
14 time I'm going to open it to the public for any
15 matter not on the agenda this evening.

16 Seeing none, I'm going to close it.

17 7. Regular Order of Business

18 CHAIRMAN SMOLINSKI: All right.
19 Regular order of business.

20 8. Resolutions

21 CHAIRMAN SMOLINSKI: We will do the
22 resolutions.

23 Mr. Bell.

24 a. BOA #21-35

25 MR. BELL: These are resolutions of the

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1 Zoning Board of Adjustment on the Township of
2 Rockaway approving the application of Patrick Cassidy
3 for a "C" variance approval.

4 AUDIENCE VOICE: Speak up, please.
5 AUDIENCE VOICE: No one can hear you.
6 MR. BELL: It's tough with the mask.
7 I'm sorry.

8 Whereas, Patrick Cassidy (hereinafter
9 referred to as "Applicant") made application under
10 N.J.S.A. 40:55D-70(c) for "C" variance approval for
11 impervious coverage in connection with the proposed
12 addition to a single family dwelling; and

13 Whereas, the subject property is also
14 known as 34 William Street, also known as Block
15 22004, Lot 33, in Rockaway Township; and

16 Whereas, the applicant represented
17 himself; and

18 Whereas, the Board is in receipt of the
19 following reports:

20 Water/Sewer Department approved with no
21 comments.

22 Fire Department approved with no
23 comments.

24 Health Department approved with no
25 comments.

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1 Applicant agreed to install a new dry well as part of
2 the project.

3 4. The hearing was opened to the
4 public and there were no public comments.

5 Now, therefore, be it resolved, by the
6 Zoning Board of Adjustment of the Township of
7 Rockaway that it does hereby make the following
8 findings of fact and conclusions of law:

9 1. The subject property is
10 considerably undersized for the zone, as noted by Mr.
11 Novak, so that the existing impervious coverage is
12 less than it otherwise would be for a lot that met or
13 exceeded the minimum lot size. As such, the size and
14 configuration of the lot (the depth exceeds the
15 frontage) are such that the property can be deemed to
16 satisfy the hardship criteria.

17 2. The location and nature of the
18 proposed addition should have a minimal effect, if
19 any, upon any other property owners in the area. Its
20 limited scope ensures no substantial impact upon the
21 zone plan or zoning ordinance.

22 Now, therefore, be it resolved by the
23 Zoning Board of Adjustment of the Township of
24 Rockaway, that it does hereby **GRANT** "C" variance
25 approval as follows:

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1 Building Department approved with no
2 comments.

3 David Novak, P.P., A.I.C.P. report
4 dated January 25, 2022 with comments.

5 Peter Ten Kate, P.E., report dated
6 January 24, 2022 with comments, and

7 Whereas, a hearing on February 1st,
8 2022, and the Applicant having previously submitted
9 an updated survey so the Application could be deemed
10 complete, and the Board having heard the Applicant's
11 case, including the following:

12 1. Patrick Cassidy testified as the
13 Applicant and owner of the subject property. There
14 is a single family dwelling on the property and he
15 described the proposed improvements.

16 2. The property is zoned R-13
17 residential district. As noted in Mr. Novak's
18 report, there is a 25 percent maximum impervious
19 coverage limit in the zone, and the existing coverage
20 is 36.58 percent, which is 2,743 square feet. The
21 Applicant proposes an increase to 41.6 percent, which
22 is 1,875 square feet.

23 3. There was a discussion regarding
24 drainage and the need to direct any runoff to avoid
25 adjoining properties or the public roadway. The

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1 Section 54-30.29(E)(9), impervious
2 coverage; 25 percent maximum permitted, 36.58 percent
3 existing, 41.6 percent (1,875 square feet) proposed.

4 This approval is based upon a survey
5 prepared by Lakeland Surveying dated January 17,
6 2022, with no subsequent revision date.

7 Be it further resolved, by the Zoning
8 Board of Adjustment of the Township of Rockaway that
9 the aforesaid approvals are granted based upon the
10 following conditions:

11 1. The Applicant shall comply with any
12 and all representations made to the Board orally or
13 in writing during the course of the hearing on this
14 matter.

15 2. This application is subject to
16 approval by any other governmental agency that may
17 have jurisdiction, if any, including any municipal,
18 county, state or federal agency.

19 3. Building permits shall not issue,
20 if required, unless there is confirmation that a)
21 property taxes are current and b) the escrow account
22 for professional review fees is current with
23 sufficient fees to pay all current and anticipated
24 professional fees.

25 4. The Applicant shall install a dry
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1 well, subject to the approval of the Engineering
 2 Department.
 3 MR. LOFTUS: I make a motion for
 4 approval.
 5 MR. NICASTRO: Second.
 6 MS. KAHN: Mr. Smolinski?
 7 CHAIRMAN SMOLINSKI: Yes.
 8 MS. KAHN: Mr. Tahan?
 9 MR. TAHAN: Yes.
 10 MS. KAHN: Mr. Loftus?
 11 MR. LOFTUS: Yes.
 12 MS. KAHN: Mr. Nicastro?
 13 MR. NICASTRO: Yes.
 14 MS. KAHN: Ms. Royek?
 15 MS. ROYEK: Yes.
 16 MS. KAHN: Ms. Platts?
 17 MS. PLATTS: Yes.
 18 MS. KAHN: Mr. Deus?
 19 MR. DEUS: Yes.
 20 MS. KAHN Ms. Garcia?
 21 MS. GARCIA: Yes.
 22 MS. KAHN: Ms. Lucas?
 23 MS. LUCAS: Yes.
 24 b. Escrow
 25 MR. BELL: The next resolution is for
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1 payment of professionals services from escrow
 2 accounts. We have before us two for Dewberry
 3 Associates, three for Boswell, and two for Burgis
 4 Associates, which are related to 16 Upper Hibernia,
 5 Marks, 42 Shawnee Ave., Sarkissian, 40 Shawnee Avenue
 6 Shop, and Nazarelli.
 7 MR. NICASTRO: I make a motion to
 8 approve it.
 9 MR. TAHAN: Second.
 10 MS. KAHN: Mr. Smolinski?
 11 CHAIRMAN SMOLINSKI: Yes.
 12 MS. KAHN: Mr. Loftus?
 13 MR. LOFTUS: Yes.
 14 MS. KAHN: Mr. Scherwa?
 15 MR. SCHERWA: Yes.
 16 MS. KAHN: Mr. Nicastro?
 17 MR. NICASTRO: Yes.
 18 MS. KAHN: Mr. Tahan?
 19 MR. TAHAN: Yes.
 20 MS. KAHN: Ms. Royek?
 21 MS. ROYEK: Yes.
 22 MS. KAHN: Ms. Platts?
 23 MS. PLATTS: Yes.
 24 MS. KAHN: Mr. Lusardi?
 25 MR. LUSARDI: Yes.
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1 MS. KAHN: Mr. Deus?
 2 MR. DEUS: Yes.
 3 MS. KAHN: Ms. Garcia?
 4 MS. GARCIA: Yes.
 5 MS. KAHN: Ms. Lucas?
 6 MS. LUCAS: Yes.
 7 9. Committee Reports
 8 CHAIRMAN SMOLINSKI: Okay. At this
 9 time I believe we don't have any committee reports.
 10 Is that correct?
 11 MS. KAHN: None.
 12 10. Other Matters
 13 CHAIRMAN SMOLINSKI: Okay. I don't
 14 think we have any other matters to discuss this
 15 evening.
 16 MS. KAHN: No.
 17 11. Public Hearing
 18 CHAIRMAN SMOLINSKI: Okay. So let's
 19 move on to our order of business for this evening,
 20 BOA #21-31, Beautiful Farms, Block 40801, Lot 95,
 21 application for a "D" variance, minor site plan, and
 22 turn it over to you, sir.
 23 MR. RITTIE: Good evening, ladies and
 24 gentlemen, my name is Jason Rittie. I'm a partner
 25 with the law firm of Einhorn, Barbarito, Frost &
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1 Botwinick in Denville. I am the attorney for the
 2 applicant tonight. Let me just give a brief summary.
 3 The applicant, Beautiful Farms, LLC,
 4 has applied to the Zoning Board of Adjustment for an
 5 interpretation of the land use and development
 6 regulations and/or, in the alternative, for a use
 7 variance approval with associated minor site plan
 8 approval, bulk variance relief and such other
 9 approvals, deviations, waivers, and exceptions as may
 10 be required.
 11 The applicant is seeking approvals to
 12 use and occupy the subject property as a farm and
 13 commercial farm with minor site plan approval for a
 14 proposed parking area and other related site
 15 improvements. We're also requesting bulk variance
 16 relief for a proposed freestanding sign.
 17 The applicant's proposed uses include
 18 breeding and raising poultry; forestry, including
 19 harvesting lumbar; breeding and raising horses;
 20 boarding horses; conducting agricultural related and
 21 farm-based recreational activities; raising and
 22 harvesting honey bees; private riding lessons; horse
 23 husbandry and horse care; and nature and forest
 24 education; group programs for children to focus on
 25 riding lessons, horse husbandry and horse care, and
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1 nature and forest education. We're also requesting
2 approval for birthday parties on the farm with
3 animals and other agricultural related activities,
4 such as yoga lessons incorporating and utilizing
5 livestock to assist with nature and agricultural
6 lessons, and such other permitted agricultural
7 activities and accessory activities for farm and
8 commercial farms all in accordance with the Right to
9 Farm ordinance.

10 The subject property is located at 91
11 Jacobs Road in the Township of Rockaway, being
12 further known and designated as Block 40801, Lot 95
13 in the official tax map of the Township of Rockaway.

14 The subject property is situated in the
15 R-88, Single Family Detached Residential district.

16 The owners of the subject property are
17 Brian Caine and Christy Lee Sami, and Beautiful
18 Farms, LLC is also owned by Brian and Christy.

19 The applicant requests a series of
20 variances. Just briefly, the first one is from the
21 land use and development regulations, Section
22 54-30.22(A)(3) and (D), wherein it states in relevant
23 part that the following principal uses are permitted
24 in the R-88 district. Those activities and uses set
25 forth in and in accordance with Section 54-31, Right

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1 to Farm, on properties of five acres or more and any
2 use other than those uses specifically permitted are
3 prohibited.

4 If interpreted by the board to be
5 necessary, either in whole or in part, the
6 applicant's proposed uses will require use variance
7 relief.

8 No. 2. From the land use and
9 development regulations, Section 54-30.11(C) and (D),
10 wherein it states: In addition to the signs
11 permitted in all districts in the R-88 district,
12 properties are only permitted one residential
13 nameplate sign not more than two square feet in area.

14 The applicant is proposing a
15 freestanding sign that does not conform with those
16 requirements.

17 No. 3. From the land use and
18 development regulations, Section 54-29.15(E)(2),
19 wherein it states that all parking areas and
20 driveways for residential uses and residential
21 districts shall be paved.

22 The applicant is not proposing to pave
23 the parking areas or driveways.

24 No. 4. From the land use and
25 development regulations, Section 54-29.15(E)(3),
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1 wherein it states that provisions shall be made for
2 adequate drainage facilities for all parking and
3 loading areas and other paved areas.
4 No. 5. From the land use and
5 development regulations Section 54-29.15(F)(1),
6 wherein it states that all spaces within any parking
7 or loading area shall be clearly marked and
8 maintained to show the arrangement of spaces within
9 the parking and loading areas.

10 No. 6. From the land use and
11 development regulations Section 54-29.15(F)(3),
12 wherein it states that parking spaces designed for
13 disabled persons shall have the international symbol
14 of accessibility painted on the pavement of the
15 spaces and shall be identified with a sign displaying
16 the symbol and appropriate wordage to include
17 disabled persons with valid ID only and a penalty
18 notice for violations as required by law.

19 No. 7. From the land use and
20 development regulations Section 54-29.15(G), wherein
21 it states that in any parking lot design to
22 accommodate the public, designated parking spaces for
23 handicap persons shall be required.

24 Just let the record show that legal
25 notice was sent to property owners within 200 feet on
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1 January 31st, 2022. Notice was published in both The
2 Citizen and The Daily Record. The Citizen newspaper
3 was published on February 2, 2022, and The Daily
4 Record was published on January 31st, 2022.

5 The affidavit of service and proof of
6 publication have been provided to the board secretary
7 on or about February 7th, and finally the Morris
8 County Planning Board issued an exemption letter
9 dated September 30, 2021.

10 So that's the introduction. I don't
11 think we've ever had an opportunity to go through the
12 completeness.

13 There was a completeness review letter
14 dated November 1, 2021, by Burgis Associates
15 consisting of three pages, which is what I'm
16 referring to. We have requested waivers from several
17 items.

18 The first one is a statement of any and
19 all other approvals. The comment is the applicant
20 should provide testimony as to what additional
21 governmental approvals, if any, are necessary.

22 Obviously that will be addressed during
23 the public hearing.

24 The next comment is from Morris County
25 approval. We did get an exception letter, as I
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1 noted, dated September 30, 2021.
2 The next comment is copy of any
3 protective covenants or deed restrictions or an
4 affidavit of no such covenants or restrictions exist.

5 The comment states the applicant should
6 confirm through testimony that no deed restrictions
7 or protective covenants exist.

8 Just for the record, we did file with
9 the application on October 22nd, 2022, copies of all
10 easements and anything of record related to the
11 subject property, and there are no protective
12 covenants that impact this application.

13 4. Minor site plan plot details or
14 requirements checklist. The first waiver is the
15 general description of the proposed development. The
16 applicant requests a waiver from this item and
17 indicates that this information will be provided at
18 the time of the hearing.

19 And that is correct, we will provide
20 that.

21 The next item is floor plans for
22 existing and proposed buildings. The comment states
23 the applicant requests a waiver from this item.
24 Testimony should be provided as to the utilization of
25 the buildings on site as well as what buildings

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1 and/or structures have been constructed or altered
2 since the applicant became owner of the site.

3 That will be covered during testimony.

4 Elevations: The applicant requests a
5 waiver from this item. The existing single family
6 home is exactly that, is occupied by Brian and
7 Christy. And other than the deck, it's not used as
8 part of what's being proposed, and there's no changes
9 to it being proposed as a result of this application.

10 We will have testimony from Mr. Caine
11 as to what improvements were done when they acquired
12 the property, so the waiver for elevations is being
13 requested as being nonapplicable.

14 Landscaping: The applicant requests a
15 waiver from this item. The board may request
16 landscaping in conjunction with the site plan
17 application.

18 At this time, given the minor
19 improvements that we are proposing, being the parking
20 area, the existing landscaping is as it exists out
21 there. We're not proposing any additional, but if it
22 comes up during conversation during the course of the
23 hearing, we will certainly listen to it and address
24 it.

25 Form 9: First is notice of the
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1 hearing. The board should confirm the hearing is
2 properly noticed.

3 I stated for the record that it has
4 been.

5 We did provide the affidavit and proof
6 of service. As I stated, that was sent to the board
7 secretary on or about February 7, 2022.

8 Next page, Form 10, location of
9 buildings and their setbacks. The comment states,
10 while the locations of buildings have been
11 identified, only the setbacks of those buildings
12 closest to the property lines have been identified.
13 This will require a partial waiver.

14 Given the nature of the application,
15 most of that will be testified to during the course
16 of the hearing.

17 Preliminary floor plans and building
18 facade elevations for existing and proposed
19 dwellings: The comment states the applicant requests
20 a waiver from this item. Testimony should be
21 provided as to the utilization of the buildings on
22 site as well as what buildings and/or structures have
23 been constructed or altered since the applicant
24 became owner of the property.

25 That will be covered during testimony.
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1 There's a duplicate comment for
2 landscaping. We talked about that.
3 A copy of the certified list of
4 property owners, the comment states: The applicant
5 notes that this will be provided prior to the public
6 hearing. This should be confirmed at that time.

7 Just let it be known that with the
8 affidavit of service and proof of publication, we did
9 send a current list of property owners.

10 Form 11, duplicate comment, a copy of
11 the certified list.

12 The next one is existing and proposed
13 topographic contours. The applicant requests a
14 waiver from this item. We note that existing
15 contours have been provided. The site plan does have
16 them.

17 The floor plans for existing and
18 proposed buildings: Again, a redundant comment. We
19 will have testimony by the applicant as to what
20 buildings exist and what they're used for.

21 Location and design of fences, walls,
22 sidewalks and similar improvements. The comment
23 states: The applicant requests a waiver from this
24 item. Testimony should be provided as to whether any
25 such improvements are proposed and how visitors to

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1 this site are expected to circulate it. Heights of
2 any walls or fences should be identified as well.

3 We will have an engineer that will talk
4 about the site plan and cover most of that.

5 That's the completeness review report,
6 unless there's any comments.

7 MR. HANTMAN: Chairman, I have a
8 comment.

9 CHAIRMAN SMOLINSKI: Please identify
10 yourself.

11 MR. HANTMAN: My name is Allen Hantman.
12 I'm an attorney with offices in Denville; Morris &
13 Hantman. I represent a group of people who are
14 neighbors of this particular piece of property. And
15 just for information for the board, let me give you
16 and counsel a copy of a list of the represented
17 people, and I'll provide whatever group we have, so
18 we know that. If you need additional copies, I have
19 them.

20 My comment is based on whether or not
21 this board in fact has jurisdiction to listen to the
22 waivers.

23 The waiver request, as set forth in
24 your ordinance, says that the applicant should list
25 the waivers they're requesting and the reason for

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1 the opening statement. We're going to get into each
2 and every issue that he has raised.

3 MR. HANTMAN: I am suggesting to you
4 that the application requires, the application
5 requires that the reasons for the waivers be set
6 forth in the application and the notice. Waiting
7 until you get here and then listen to the testimony
8 means that all of the people who were noticed or read
9 it in the paper do not know the basis for the
10 waivers, therefore, notice has not been effectively
11 given because notice means we know why we're here.
12 That's our objection to this notice.

13 CHAIRMAN SMOLINSKI: Mr. Novak.

14 MR. NOVAK: Good evening, everybody.
15 My name is Dave Novack with Burgis Associates. I am
16 the Zoning Board of Adjustment planning consultant.

17 As Mr. Rittie had indicated, I have a
18 memo that is dated November 1, 2021, which handles
19 and discusses the items for completeness.

20 I suppose my first question for
21 completeness regards the minor site plan form.

22 In looking through the application
23 materials, particularly sheet three of the site plan,
24 the plan identifies an existing parking area and a
25 proposed parking area, and I think the board needs a

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1 them. If you look at the requests as submitted by
2 the applicant, forgetting about what your planner
3 said, each of them says we'll tell you when we get
4 there.

5 That's not a proper notice. Notice
6 means that my clients and I should be in a position
7 to look at what is being requested and what the
8 rationale and reasons are before we walk in the room
9 and they tell us what they want to tell us. There's
10 no way of evaluating the nature and quality of the
11 proofs that are being submitted, and we shouldn't be
12 doing it on the run. And that's what this
13 application calls for, that's what the notices that
14 were sent to the people indicate, and that's what the
15 application indicates. That makes that failure to
16 notify us, you and the public, as to what the basis
17 for the waivers are, in my opinion, is a fatal defect
18 and you cannot go forward until that's corrected. It
19 can't be done by testimony.

20 MR. BELL: We have to address the
21 completeness issues initially.

22 MR. HANTMAN: And this is the part of
23 the waivers -- the issue on waivers is part of
24 completeness.

25 MR. BELL: I believe he only gave us
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1 little bit more detail on what's actually being
2 proposed in terms of that physical improvement. The
3 reason for that deals with our definition of "minor
4 site plan."

5 So a minor site plan is defined by
6 Section 54-4.1 as the development plan of one or more
7 lots which does not involve planned development, any
8 new street, alteration of existing traffic patterns
9 or extension of any off-tract improvement which is to
10 be prorated pursuant to N.J.S.A. 40:55D-42, and which
11 is limited to the following classes' development, and
12 those include interior renovations of existing
13 buildings or building additions and the construction
14 of any accessory structure provided that such uses
15 are specifically permitted in the zone district and
16 that such alteration or construction does not exceed
17 2,000 square feet in ground coverage or the
18 alteration or improvement of the exterior facade of
19 an existing building such as new windows, doorways or
20 siding material or the improvement of existing site
21 facilities, i.e., parking, drainage, generators or
22 similar equipment.

23 So if there is an existing parking area
24 there and they're making improvements to that
25 existing parking area, then the minor site plan

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1 definition could be applied to this application, but
2 if it's a new parking area, then I think we need to
3 raise the question of whether or not it should be
4 classified as a preliminary and final site plan
5 application. The applicant may require additional
6 waivers with that, but it's something that I think we
7 should approach at this completeness phase now.

8 CHAIRMAN SMOLINSKI: Okay.

9 MR. NOVAK: So I don't know if you want
10 to handle that first and then talk about some of the
11 other individual waivers, but I feel like we should
12 probably address that site plan aspect first.

13 CHAIRMAN SMOLINSKI: Yes, I think we
14 should address them one at a time as we go through.

15 MR. NOVAK: So regarding the
16 application checklist, we'll backtrack to that one
17 first. I believe that the applicant can address
18 through testimony the statement of any and all other
19 approvals. They did provide the exception from
20 Morris County, satisfying item 10.

21 And then regarding item 12, a copy of
22 any protected covenants or deed restrictions or an
23 affidavit that no such covenants or restrictions
24 exist, they did provide all easements and records,
25 and Mr. Rittie has indicated there are no protective

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1 covenants.

2 Regarding the application checklist, I
3 feel that the board can grant those waivers subject
4 to additional testimony being granted regarding a
5 statement of any and all other approvals required for
6 this application.

7 We addressed Form 4, minor site plan
8 plat details and requirements, whether or not this
9 application should be a minor site plan or a site
10 plan, but looking at this specifically regarding
11 floor plans for existing and proposed buildings, item
12 No. 12, it's difficult to say whether the board
13 should grant this waiver or not, because right now we
14 don't necessarily have that testimony about how those
15 buildings are being used. Depending on what
16 buildings are being used for what purposes, the board
17 may be interested to see the interior design of those
18 buildings as well.

19 Regarding a general description of the
20 proposed development, I believe that can be granted
21 obviously through testimony.

22 Landscaping is something that the board
23 has often dealt with as a condition of approval,
24 should an application be approved.

25 And elevations regarding facade
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1 elevations, I don't think that particularly has too
2 much relevancy in this application. I would say that
3 the floor plans would be a larger question mark.

4 Regarding Form 9, item five, the notice
5 of hearing, and item 6, affidavit and proof of
6 service, I'll obviously defer to Mr. Bell regarding
7 the notice of the hearing, but we did hear that the
8 applicant did provide the affidavit and proof of
9 service, otherwise we would not be here tonight.

10 Form 10, item 12, it's a partial
11 waiver. That could be addressed through testimony, I
12 believe, by the engineer.

13 We have the same issue with item 13,
14 regarding preliminary floor plans and building facade
15 elevations.

16 Item 15, the proposed landscaping,
17 again that's something that the board can often
18 address through a condition of approval, should an
19 approval be granted or requested during the site plan
20 application process.

21 And item 16, a copy of the certified
22 list I believe has been provided.

23 Moving on to Form 11, which is the "C"
24 variance application plat detail requirements, we
25 have received the copy of the certified list. The

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1 existing proposed topographic contours --

2 MR. BELL: Was that provided?

3 MR. NOVAK: The applicant had provided
4 the proposed contours -- I'm sorry --

5 CHAIRMAN SMOLINSKI: The existing.

6 MR. NOVAK: The existing contours.

7 Forgive me.

8 So I would say that often also depends
9 on what is being proposed with that parking area,
10 quite frankly. Again, it would be helpful to get
11 some additional testimony or clarification about
12 whether it's existing or proposed and what
13 improvements are being done to it.

14 And then finally the location of the
15 design of fences, walls, sidewalks or similar
16 improvements, I believe that can be addressed as well
17 through engineering testimony.

18 So the outstanding issues I think that
19 this board needs to hear some more information on is
20 regarding whether or not the existing or proposed
21 parking area is in fact existing and proposed, as
22 well as if we can get an overview of what those
23 buildings are being utilized to determine whether or
24 not floor plans are required.

25 CHAIRMAN SMOLINSKI: I would like to
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1 get Mr. Ten Kate's opinion on items 11 and 16 under
 2 Form 11.
 3 MR. TEN KATE: My name is Peter Ten
 4 Kate, board engineer.
 5 The existing contours are shown and we
 6 need testimony whether there's any site improvements,
 7 if the existing and proposed are the same. So if
 8 they're not changing any grades whatsoever, the
 9 existing is the proposed. So that has to be verified
 10 as the intent and what they intend to do with that
 11 proposed parking area. So that requires additional
 12 testimony for them to say we're not making any
 13 changes to the grades, so the existing and the
 14 proposed are going to be the same, or, in the
 15 alternative, what they do propose.
 16 As far as the elevations are concerned,
 17 16, you're talking about design of fences and walls?
 18 CHAIRMAN SMOLINSKI: Or other on site
 19 improvements.
 20 MR. TEN KATE: Yes.
 21 I think the same thing is going on with
 22 other parts of the property that are shown on the
 23 site plan that, from my first reading of it, there
 24 are no changes proposed, but it's hard to tell
 25 whether existing and proposed are one and the same,
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1 and we should hear testimony on that.
 2 Does that answer your question?
 3 CHAIRMAN SMOLINSKI: I believe it does
 4 at this time.
 5 MR. TEN KATE: Okay. Thank you.
 6 CHAIRMAN SMOLINSKI: Thank you, Peter.
 7 Yes, I think we should probably take
 8 them one by one. We'll have a little discussion on
 9 each one first and vote them one by one and then just
 10 look through them.
 11 AUDIENCE VOICE: We can't hear you.
 12 AUDIENCE VOICE: Can't hear you.
 13 CHAIRMAN SMOLINSKI: I said what we're
 14 going to look to do here is going through
 15 completeness here based upon some of the testimony
 16 given here, vote on one by one, have some discussion
 17 amongst the members based on the testimony given by
 18 our professionals and counsel, and then see where we
 19 are in terms of completeness.
 20 So in terms of we'll start with the
 21 application checklist. So item No. 9, statement of
 22 any and all other approvals.
 23 MR. HANTMAN: Chairman, are we expected
 24 to comment on those or are you reserving this
 25 specifically for the board?
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1 MR. BELL: It's very difficult to hear,
 2 I'm sorry.
 3 MR. HANTMAN: The question I asked is
 4 whether or not we as members of the public, or, in my
 5 case, as a counsel are entitled to comment on these
 6 particular waiver requests or is the question being
 7 restricted entirely to the board?
 8 MR. BELL: No, I think you can comment
 9 when the time is appropriate. After we go through
 10 the testimony from the board members, you certainly
 11 can. I believe that the debate should be wide open,
 12 robust and open-ended.
 13 MR. HANTMAN: Are we doing them one at
 14 a time?
 15 MR. BELL: One at a time.
 16 MR. HANTMAN: If I want to make a
 17 comment on this particular one, I wait for the board
 18 to finish and then you'll open it?
 19 MR. BELL: Yes.
 20 MR. HANTMAN: That's fine.
 21 CHAIRMAN SMOLINSKI: Yes, we're going
 22 to have a discussion amongst the members.
 23 MR. HANTMAN: That's fine.
 24 AUDIENCE VOICE: I have a question.
 25 MR. BELL: And those people that are
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1 not represented by Mr. Hantman will also have the
 2 opportunity to comment as well.
 3 AUDIENCE VOICE: I'd like to comment.
 4 MR. BELL: Just so you know, this is
 5 not an adversarial process and we should remember
 6 that the proceeding before the board is essentially,
 7 as I indicated, non-adversarial, but the board is
 8 charged with obtaining all the facts, and that's why
 9 we encourage the participation, all facts required
 10 by, and then in the exercise of our discretion, make
 11 a decision which is in the best interest and accords
 12 with the rights of applicant and the interest of the
 13 people, and that's what we're pledged to do. So
 14 we're not going to prohibit anybody from commenting
 15 at all, especially those people that are not
 16 represented by Mr. Hantman, of which tonight he gave
 17 us a list of those individuals.
 18 And we're going to take it one by one,
 19 and that's the way we'll approach it, and we'll vote
 20 on it one by one.
 21 MR. WILL: I have a question on the
 22 completeness.
 23 MR. BELL: I'm sorry, I can't hear.
 24 MR. WILL: I have a question on the
 25 completeness.
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1 My name is Jeffrey Will. I live at 67
 2 Jacobs Road.
 3 This project is in the Highlands or in
 4 the Highlands area up there, and my question as a
 5 part of completeness, do they have Highlands
 6 Coalition approval?
 7 MR. HANTMAN: That's a question for the
 8 approvals.
 9 MR. BELL: That's why we're asking
 10 whether other governmental approvals are required for
 11 them this evening as well, is it subject to any other
 12 regulation by any other governmental entity of which
 13 the Highlands would be a member.
 14 MR. WILL: Okay. Thank you.
 15 MR. BELL: And I'll leave that up to
 16 Mr. Novak and Mr. Ten Kate.
 17 MR. WILL: Thank you.
 18 MR. NOVAK: The answer to that question
 19 is, it's going to depend on what's being proposed.
 20 So if this is an existing parking area and there's no
 21 additional improvement coverage or impervious
 22 coverage being proposed, and the amount of
 23 disturbance is not greater than an acre, then it
 24 would not qualify as a major development, which means
 25 that this board can hear this application prior to

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1 the Highlands doing a consistency determination with
 2 their regional master plan.
 3 MR. BELL: So in effect, when if in
 4 fact we do our resolution, they would also be subject
 5 to any other governmental entity as we always
 6 require, and the Highlands would have to be
 7 consulted.
 8 Have you consulted the Highlands, Mr.
 9 Rittie?
 10 MR. RITTIE: Well, we're not making any
 11 impervious improvements that trigger it and you'll
 12 hear that testimony. If you want, there's some big
 13 picture items that were outlined. I mean, we can
 14 call up for completeness the engineer, Tom Graham, to
 15 address the parking area, which was a question, and
 16 some of the other items about the buildings. That's
 17 going to be covered all during and through testimony,
 18 but for completeness we can get a couple of
 19 statements on the record.

20 CHAIRMAN SMOLINSKI: Yes, I think what
 21 I was trying to do is segregate the ones that I think
 22 we can all agree on. It probably is going to be more
 23 moot items. And then I want to ask questions first
 24 of counsel of the witnesses that testified, before I
 25 open everything up to the public, so that we can try

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1 to do this in an orderly fashion. There are a lot of
 2 people here. I want to keep the questions to minimal
 3 repeated comments or questions, hold comments to the
 4 end, and try to narrow it down to questions to the
 5 witnesses from our members here first, and then from
 6 counsel and then the public.

7 MR. BELL: Yes.
 8 CHAIRMAN SMOLINSKI: So in terms of
 9 heading back to where we were beginning there.

10 MS. KAHN: Jason, just talk into the
 11 mic. They can't hear you.

12 CHAIRMAN SMOLINSKI: Sorry. The thing
 13 is all the way to my left there.

14 All right. So in terms of the
 15 statement of any other approvals, some of the
 16 questions that I may have, the Highlands was raised
 17 but that's one of the other agencies, NJDEP in terms
 18 of if there's wetlands approvals, riparian approvals,
 19 board of health, etc.

20 MR. RITTIE: Well, the short answer is
 21 no. Based on the minimal improvements we're
 22 proposing here, it really comes down to uses. We did
 23 state in the application and as we did, we filed for
 24 Morris County Planning Board. They would issue an
 25 exemption. We don't believe we're going to need a

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1 health license or anything from the health
 2 department, but certainly if we do, we will get it.
 3 That's a standard condition to approval, whatever
 4 ancillary approvals we may need, and that was stated
 5 in the application.

6 CHAIRMAN SMOLINSKI: Yes, so I think
 7 that goes to my main question, which is, you know, in
 8 terms of I guess how are you looking to proceed with
 9 this this evening? Are we looking to proceed with
 10 the interpretation first and then into site plan or
 11 are we looking to package everything together and
 12 proceed in that direction? Because that makes a
 13 difference in how we look at this.

14 MR. RITTIE: I think for efficiency
 15 purposes, even with the interpretation side, I think
 16 it would be beneficial to do the entire application.
 17 And then when you get to the end, when you have your
 18 deliberation, you will be looking at the
 19 interpretation versus use variance.

20 Because I think, based on the plethora,
 21 if you will, of the proposed uses, my humble opinion,
 22 arguably, there are some that are explicitly
 23 permitted and identified. The question will come
 24 about accessory uses to the principal uses and the
 25 like. So I think to answer you, this is a

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1 long-winded answer to your question, I would rather
2 we proceed, put in all the testimony and deal with
3 the interpretation and the use variance and bulk
4 variances as part of the entire application.

5 MR. BELL: Our habit or practice has
6 been to do the completeness first, though, Mr.
7 Rittie, that's the way --

8 MR. RITTIE: Maybe I misinterpreted his
9 question. I meant if we get through completeness for
10 the type of hearing.

11 CHAIRMAN SMOLINSKI: Yes, so again, I
12 think a lot of it ties together, so we have to look
13 at the application, go forward with completeness with
14 any and all uses as prescribed and eventual
15 tenancies.

16 So with that, if we look at the
17 checklist for the general requirements there, do we
18 feel that in terms of everybody here, members of the
19 board here, what are your thoughts on 9, 10, and 12?

20 AUDIENCE VOICE: We can't hear you.

21 MR. NOVAK: You got to talk in the
22 microphone.

23 CHAIRMAN SMOLINSKI: What are your
24 thoughts with respect to 9, 10, and 12?

25 Obviously Morris County approval is

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1 MS. LUCAS: That's the next group?

2 CHAIRMAN SMOLINSKI: Yes.

3 MS. LUCAS: Okay. Sorry.

4 CHAIRMAN SMOLINSKI: That's okay.

5 We're going to go through them all,
6 we're going to go group by group.

7 Form 4, site plan and plat detail
8 requirements.

9 MR. NOVAK: Form 4, Mr. Chairman, I
10 would recommend we hear some comments from the
11 applicant regarding this parking area, whether it's
12 existing, whether it's proposed.

13 The first question is regarding that
14 parking area to determine whether or not it's a site
15 plan application or a minor site plan application.

16 The second item would be regarding
17 those floor plans, how those buildings are being
18 utilized, where the public is going to, in order to
19 get that information to determine whether or not the
20 board wants those floor plans, so on and so forth.

21 CHAIRMAN SMOLINSKI: Thank you, Dave.

22 MR. NOVAK: You're welcome.

23 Again, that would also be helpful to
24 hear the information regarding the parking lot just
25 so that this board knows typically anything that

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1 granted.

2 MR. TAHAN: Morris County approval, I
3 understand, was not required.

4 CHAIRMAN SMOLINSKI: That's exactly.
5 Yeah, so that is off the table.

6 MR. TAHAN: And there's no protective
7 covenants.

8 CHAIRMAN SMOLINSKI: That's correct.

9 MR. TAHAN: All right. So that's done.
10 And we just discussed No. 9, which would require if
11 there's any other approvals.

12 CHAIRMAN SMOLINSKI: That would be
13 required.

14 MR. TAHAN: Right.

15 CHAIRMAN SMOLINSKI: As always.
16 Anybody else have any thoughts?

17 MS. LUCAS: My thoughts are taking into
18 account Mr. Hantman's objections about the
19 completeness. It seems like normally we would say
20 the government approvals, if we get to that point and
21 they need to be after the fact, then they would be
22 handled, but the requests for the waivers for the
23 floor plans and the proposed buildings --

24 CHAIRMAN SMOLINSKI: Yes, that would be
25 the next group.

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1 counts as a major development with the Highlands, so
2 a quarter acre of impervious coverage, an acre of
3 disturbance, or three or more new residential units.

4 If it counts as a major development,
5 before we even schedule a hearing date with this
6 board, we ship it off to the Highlands first for a
7 consistency determination with the regional master
8 plan.

9 So depending on what type of
10 development is being proposed here, i.e., if there's
11 an acre of disturbance or a quarter acre of
12 impervious coverage, if they're beneath that
13 threshold, we would not have sent them to the
14 Highlands Council before this.

15 CHAIRMAN SMOLINSKI: Please swear your
16 witness, if you could.

17 MR. BELL: Would you please raise your
18 right hand. Please state your name.

19 MR. GRAHAM: Thomas Graham.

20 MR. BELL: Do you solemnly swear that
21 the testimony that you're going to present to this
22 board tonight is the truth, the whole, and nothing
23 but the truth?

24 MR. GRAHAM: I do.

25 MR. BELL: Could you please tell us --

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1 MR. GRAHAM: My name is Thomas Graham.
 2 I'm a partner in the firm Dykstra Walker Design
 3 Group. We prepared the survey and the site plan that
 4 was presented to the board. I'm a licensed
 5 professional engineer in the State of New Jersey, I
 6 have been since approximately 1992. I've testified
 7 in front of this board and other boards in Morris,
 8 Sussex, Warren, Passaic, Hudson counties on numerous
 9 occasions.

10 MR. BELL: And your licenses are still
 11 active. Is that correct?

12 MR. GRAHAM: Still active. Thank you.
 13 **THOMAS F. GRAHAM, P.E.**, c/o Dykstra
 14 Walker Design Group, 21 Bowling Green Parkway, Suite
 15 204, Lake Hopatcong, New Jersey 07849, having been
 16 duly sworn, testifies as follows:

17 THE WITNESS: There's some question
 18 really about what we're doing.

19 I have pulled up here sheet 3 of 3 of
 20 the site plan set that was submitted to you. It
 21 shows Jacobs Road running up and down on the
 22 right-hand side of the plan. This is the area of
 23 detail. So the driveway comes off --

24 MR. BELL: Excuse me. Is there a way
 25 that that could be shown to those people that are
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1 sitting on this side?

2 THE WITNESS: I believe that there is
 3 an electronic version of it. It's sheet 3 of 3 of
 4 the site plan set.

5 MR. BELL: This way we're all on the
 6 same page.

7 THE WITNESS: Yes.
 8 That's it.

9 MR. BELL: Can everybody see this?

10 AUDIENCE VOICE: No.

11 MR. HANTMAN: No, it's too small for
 12 them to see back there.

13 MR. BELL: Come closer. That's as big
 14 as we can get it.

15 THE WITNESS: So Jacobs Road runs up
 16 and down the plan on the right-hand side of the plan.
 17 The driveway comes off the road and comes in front of
 18 the existing dwelling. And that area is gravel
 19 paved. It's delineated by the dashed line.

20 Over on the left-hand side of the plan
 21 is a blowup of that area. And, again, you can see
 22 the dashed lines represent the limit of existing
 23 pavement or gravel where people drive through the
 24 site and can park.

25 We have delineated a rectangular area
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1 on the plan where the guests will park. That will be
 2 an existing field.

3 There are no improvements proposed to
 4 the parking area to create pavement or it's just like
 5 we travel to some other farm and you park in their
 6 fields, that's what's going to happen here.

7 MR. BELL: So it's not lined, then?

8 THE WITNESS: We're not proposing to
 9 line it. Just when people come in, they tell them to
 10 line up and park. This area can accommodate about 20
 11 cars. We are proposing no improvements here. There
 12 are no proposed contours, because we're not proposing
 13 any grading. The only real site improvement is the
 14 installation of a sign out by the road. But, again,
 15 putting that sign in place is not going to require
 16 any regrading of the site or any other proposed
 17 contours.

18 So this project is proposing no new
 19 impervious coverage, no land disturbance. We do not
 20 meet any of the thresholds for Soil Conservation
 21 District approval, Highlands approval or any other
 22 approvals.

23 We're not constructing anything, so we
 24 won't be needing any DEP, wetland transition areas or
 25 riparian zone approvals. We're not doing anything
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1 that triggers any of those approvals.

2 MR. BELL: How many parking spaces are
 3 in this?

4 THE WITNESS: This area accommodates
 5 approximately 20 parking spaces, and that's based on
 6 the proposed activities on the site that the
 7 applicant wants to do. Based on their experience of
 8 hosting birthday parties in the past, they can handle
 9 about 20 cars of people.

10 MR. BELL: Does that include the
 11 employees --

12 THE WITNESS: Yes, sir.

13 MR. BELL: -- and the residents?
 14 And is it in proximity to a well?

15 THE WITNESS: That is an old well.
 16 Right now it's more of a decorative. It's an
 17 above-ground structure. It's not an active well used
 18 for drinking or anything else. It's just a remnant
 19 of prior use on the property.

20 MR. HANTMAN: I have a question.

21 MR. BELL: We will get to you.

22 MR. HANTMAN: I'll wait until we get
 23 there.

24 CHAIRMAN SMOLINSKI: The well is not
 25 functional at all?

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1 THE WITNESS: No.
 2 CHAIRMAN SMOLINSKI: You've been to the
 3 site?
 4 THE WITNESS: Yes, sir.
 5 CHAIRMAN SMOLINSKI: Okay. Have you
 6 driven around there?
 7 THE WITNESS: I drove into the site. I
 8 parked in the area opposite the house and then I
 9 walked the site.
 10 CHAIRMAN SMOLINSKI: Have you driven up
 11 and down that slope? The ten-footer?
 12 THE WITNESS: No, I walked there. I
 13 didn't drive it, but I did walk it. And I visited
 14 other similar farm properties --
 15 CHAIRMAN SMOLINSKI: I'm just asking.
 16 THE WITNESS: -- and this is where you
 17 park.
 18 CHAIRMAN SMOLINSKI: I understand for
 19 parking, I'm asking the question.
 20 You don't think there is not going to
 21 be any improvements that are going to be needed in
 22 that area at all?
 23 THE WITNESS: Again, it's a farm that
 24 only has a limited window of activity, it's not a
 25 shopping center where you have that many cars coming
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1 in back and forth. It's a very light use. And in
 2 other commercial farms in the county, people park in
 3 their fields all the time, and they don't have to
 4 pave those or improve them.
 5 MR. HANTMAN: This is not a commercial
 6 --
 7 MR. BELL: The issue is the commercial
 8 nature, not the right to farm but the commercial
 9 aspect and the number of parking stalls and people
 10 coming in.
 11 THE WITNESS: Again, the number of
 12 parking stalls is based on the historic for this
 13 tenant. They have had birthday events in the past
 14 and this is the number of people -- and I'll let them
 15 really talk about what they can do, but this was the
 16 number of parking spaces we were told they require.
 17 MR. LOFTUS: I think you should be able
 18 to tell us based on the dimensions how many spots
 19 there are, not approximately.
 20 THE WITNESS: I'm sorry. Sure.
 21 The area that we outlined is 60x90,
 22 that's a big enough space for 20 cars, assuming cars
 23 are at 10x20 or 9x20 parking spaces.
 24 CHAIRMAN SMOLINSKI: In addition,
 25 depending upon what the uses are that are going to be
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1 proposed or testified to be proposed, would a
 2 circulation plan be appropriate?
 3 THE WITNESS: Certainly we can show you
 4 the arrangement of the cars. It would just be like,
 5 if you think of a parking lot in any small shopping
 6 center, it's the same kind of circulation, but we can
 7 provide that information. I don't have it here
 8 today, but we can certainly provide a plan.
 9 I suspect we might be here on another
 10 night as well, and if the board would like to see
 11 some more detail, we'd be happy to provide that.
 12 MR. TAHAN: Since you're not planning
 13 on paving this lot and since you're required to have
 14 one handicap spot, and the requirement of the
 15 handicap spot is that you paint the handicap symbol
 16 and the lines on the pavement, how do you propose to
 17 meet that requirement?
 18 THE WITNESS: Based on the letter we
 19 got from Mr. Ten Kate, we did try to look at that,
 20 and we did not provide this plan -- it was only
 21 prepared yesterday, but this is a plan, the same plan
 22 sheet, 3 of 3 but we revised it. We showed the
 23 arrangement of cars on the plan, and in the area that
 24 is existing gravel --
 25 AUDIENCE VOICE: Can the public see it?
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1 THE WITNESS: We can put it up there.
 2 It is one of the exhibits. You don't have it, but we
 3 will provide this to the board, but we can show a
 4 handicap space at the access aisle and we can
 5 delineate that. I don't know that we'll be able to
 6 paint the asphalt, but if it is a requirement that
 7 this particular area be paved, it's only going to be
 8 20x20, and that is certainly below the threshold of
 9 impervious coverage or any land disturbance that
 10 would trigger approvals from Soil Conservation
 11 District or the Highlands. So paving that area and
 12 striping it would not require any of those other
 13 approvals that we talked about earlier.
 14 MS. PLATTS: What did you say would be
 15 the dimension of the single space?
 16 THE WITNESS: The parking spaces are
 17 9x20. The handicap spaces are 8x20 for the space and
 18 for the access aisle, because the access aisle has to
 19 be van access aisle so they're eight feet wide.
 20 So this area for the handicap space is
 21 16 feet wide by 20 feet.
 22 MR. NICASTRO: You said there would be
 23 20 spots combined with everybody, residents and the
 24 workers?
 25 THE WITNESS: The residents park around
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1 their house and they have a driveway here where they
2 can park, but this is for guests, and again with
3 respect to employees, there are only 1 or 2 on
4 occasion, and I'll let the owner talk about their
5 operations and how many people they have.

6 We were instructed that 20 parking
7 spaces was what they required for the operations that
8 they want to have here.

9 MR. NICASTRO: But before you had said
10 it was total combined with the --

11 THE WITNESS: It's guests and the
12 people that will be working there. Residents, if I
13 included them, I did not mean to, because they
14 already have a place where they are going to park.

15 MR. NICASTRO: I'm trying to get a
16 number, how many for just customers?

17 THE WITNESS: I would say for just
18 customers, if they have two employees or three
19 employees, then it would be 17 guests, guest
20 vehicles. It could be more than 17 people, more than
21 one person in a car.

22 MR. TAHAN: You said your parking
23 spaces are nine feet by 20?

24 THE WITNESS: Typical parking spaces,
25 that's the arrangement.

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1 CHAIRMAN SMOLINSKI: No, this is
2 relative to completeness in a big sense and the
3 circulation plan -- sorry, I am not speaking loud
4 enough for everybody.

5 THE WITNESS: Sure.

6 But in general circulation, people come
7 in off the road, come down the driveway, and then
8 would pull up the access aisle, park the car, bring
9 the kid to the party, leave, or if it's one where
10 they stay, they stay.

11 Then to leave, they would back up their
12 space, back out into the space, pull out, and then up
13 to Jacobs Road and leave. And the arrangement that
14 we have here, we use the township standards, an
15 access aisle where you have 90-degree parking is 24
16 feet wide, and that's what we have shown here.

17 CHAIRMAN SMOLINSKI: I'm going to move
18 into item No. 12 too, because it kind of plays with
19 this, and, again, these two items show up farther on
20 and I think they're two big items relative to
21 completeness here.

22 MR. DEUS: May I?

23 CHAIRMAN SMOLINSKI: Before I leave
24 this item -- yes, you may.

25 MR. DUES: As the engineer for this
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1 MR. TAHAN: You said the handicap one
2 was eight-foot by 20?

3 THE WITNESS: That's correct.

4 MR. TAHAN: Why is that less?

5 THE WITNESS: Handicap parking spaces
6 are eight feet wide and typically have an access
7 aisle. The access aisle can be five feet or one out
8 of every six spaces has to be a van accessible space.
9 That access adjoining space has to be eight feet
10 wide.

11 So, in effect, a handicap parking space
12 is anywhere from 13 to 16 feet wide, when you count
13 the access space. So it's really a wider area for
14 the use of a handicap space but the typical, the line
15 and dimensions are eight feet.

16 MR. TAHAN: So having that handicap
17 spot 13 feet wide still gives you enough of 9x20s for
18 --

19 THE WITNESS: Yes. You can see the
20 arrangement here, we have the handicap space kind of
21 perpendicular to the other spaces that we laid out in
22 that area.

23 MR. TAHAN: Thank you.

24 THE WITNESS: Mr. Chair, I don't want
25 to go too far, so if I do, please cut me off.

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1 project, do you think that's adequate parking to hold
2 weddings? Because according to their website, they
3 plan to have weddings there.

4 THE WITNESS: I did not look at their
5 website. The activities that were listed by Mr.
6 Rittie and the ones that we have been told are for
7 birthday parties for kids, farm experiences. I'm not
8 aware of the idea to host weddings.

9 MR. DUES: If you want to take a look
10 at it, I have a picture of their website.

11 THE WITNESS: That's not what I was
12 told they were doing here.

13 MR. DEUS: Would you say there's
14 adequate parking for a wedding?

15 THE WITNESS: It would depend on the
16 size of the wedding.

17 MR. DEUS: That doesn't answer my
18 question.

19 THE WITNESS: How many people are going
20 to be at the wedding?

21 MR. RITTIE: Mr. Chairman, we're
22 getting into testimony.

23 CHAIRMAN SMOLINSKI: We're delving into
24 testimony. We should not delve into testimony.
25 We're not into testimony yet. We're only doing

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1 completeness.

2 Please.

3 Thank you.

4 I think I'm going to step into 12,

5 floor plans.

6 THE WITNESS: Floor plans?

7 CHAIRMAN SMOLINSKI: Yes.

8 THE WITNESS: So there are a couple of

9 buildings on the site, one is the house, the dwelling

10 where they live. No changes are proposed to that.

11 There is a stable where they board

12 horses, and the stable has stalls for the horses.

13 There is a stable No. 2, which I believe is used for

14 storage.

15 MR. CAINE: Three stalls.

16 THE WITNESS: I'm sorry, three stalls.

17 And then there is the barn where they

18 have some chickens. They have a storage barn.

19 There are no proposed internal

20 improvements to create more space or external

21 improvements, other than maintenance of the

22 buildings.

23 CHAIRMAN SMOLINSKI: But outside of

24 improvements, are there any activities -- there's a

25 various list of activities that are potentially

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1 proposed --

2 THE WITNESS: Understood.

3 CHAIRMAN SMOLINSKI: -- with unknown

4 activities attached to them, other than residential

5 use, which is part of the home, etc.

6 For those additional uses, are any of

7 these spaces going to be occupied during any of those

8 uses? If they are, there should be a site plan.

9 THE WITNESS: I will have to defer that

10 to the applicant. I was not made aware of any uses

11 inside those buildings.

12 CHAIRMAN SMOLINSKI: Now, we would like

13 to --

14 AUDIENCE VOICE: We have incomplete

15 information.

16 MR. RITTIE: I can answer that.

17 The residential building that they

18 reside in, there's no activities on our list that

19 occur within that dwelling. So there's absolutely no

20 need for floor plans or the --

21 MR. BELL: The reason I asked that

22 question is for hygiene issues concerning perhaps the

23 use of bathrooms and whether or not they're handicap

24 accessible or whether or not they will be used for

25 any of the people who participate in the activities,

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1 and that's why I thought the floor plans were

2 important to provide for the board.

3 MR. RITTIE: None of the clientele or

4 customers go inside the dwelling to use the

5 bathrooms, no.

6 AUDIENCE VOICE: Where do they go to

7 the bathroom?

8 AUDIENCE VOICE: Where do they go to

9 the bathroom?

10 MR. RITTIE: We'll get into the

11 testimony, which we're not even there yet. We're

12 answering the question on completeness. The question

13 was whether or not you require elevations and floor

14 plans.

15 CHAIRMAN SMOLINSKI: Floor plans.

16 MR. RITTIE: Floor plans for the

17 residential dwelling?

18 CHAIRMAN SMOLINSKI: Well, for any of

19 the structures, are there any activities in any of

20 the structures?

21 MR. RITTIE: Well, I mean it's boarding

22 horses, so...

23 CHAIRMAN SMOLINSKI: There are?

24 MR. RITTIE: Yeah.

25 CHAIRMAN SMOLINSKI: Okay. And I guess

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1 if there are activities occurring inside of there,

2 what's occurring?

3 MR. RITTIE: It's a barn and a stable.

4 AUDIENCE VOICE: Where do the clients

5 go to the bathroom?

6 MS. PLATTS: What do the campers use?

7 Do the campers go inside of these structures?

8 Because one of the requests is for children's camps,

9 so do the children go into any of these structures

10 whatsoever during the camps?

11 MR. BELL: Somebody is talking out,

12 it's not appropriate. We're asking this of the

13 engineer or counsel.

14 MR. RITTIE: Well, I'm not sure I

15 understand the question. Certainly the children go

16 inside the barns and the stables. As I stated,

17 they're not going in the residential building. So

18 what floor plans would you need for inside of a

19 stable? If you're asking for architectural drawings

20 for the inside of a barn and a stable, it seems to be

21 a bit of an overkill. We can provide pictures of it

22 and do the exact same thing.

23 MS. PLATTS: Well, you didn't. So

24 there is a requirement to provide floor plans for

25 existing and proposed building, and that's why we are

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1 asking.

2 MR. RITTIE: And we requested a waiver,

3 respectfully.

4 MS. PLATTS: I understand that we're

5 addressing a waiver, sir. So I was asking if there

6 would be any use of those structures as to whether or

7 not those floor plans are relevant or not. So the

8 question was simply there's a request to use this

9 location for children's camps. Isn't that one of

10 your applications?

11 MR. RITTIE: That's right, one of the

12 uses.

13 MS. PLATTS: And as a result we're

14 simply asking whether any of the existing structures

15 are used for the camps. Specifically do children go

16 into these structures and interact potentially with

17 animals that are in the stables? Do they go into the

18 stables? You just referred to chickens. That's all

19 we're asking.

20 MR. RITTIE: Yes.

21 MR. CAINE: Yes.

22 MS. PLATTS: And you did not provide

23 any floor plans, correct?

24 MR. RITTIE: That's right. Correct, we

25 did not provide floor plans for stables or barns.

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1 MS. PLATTS: And they'll be used for

2 the camps?

3 MR. RITTIE: Yes.

4 MR. DEUS: Again, I'm addressing the

5 engineer.

6 According to your site plan, you show

7 an outhouse, which I believe was condemned by the

8 health department?

9 THE WITNESS: The health department did

10 ask that they stop using it and it has been

11 decommissioned.

12 MR. DUES: Where do the employees --

13 THE WITNESS: I'm sorry, I didn't hear

14 you.

15 MR. DEUS: Where do the employees and

16 guests go to the bathroom?

17 THE WITNESS: There will be portable

18 port-a-johns on site. They will be located at the

19 rear of the parking ramp.

20 MR. DEUS: All handicap accessible?

21 THE WITNESS: Yes.

22 MR. DEUS: On that terrain at the same

23 location?

24 THE WITNESS: This is where they're put

25 in the past so they --

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1 MR. BELL: They're not on the plan now?

2 THE WITNESS: They're not on the plan

3 now. We will add the detail and the location.

4 MS. PLATTS: Where will they wash their

5 hands?

6 THE WITNESS: The port-a-johns that

7 I've been in have a hand wash station. It might be a

8 jell. Some have a watertank that you can pump and

9 then use water, but that's part of the facility.

10 MS. PLATTS: They're going to have

11 water that you can pump it?

12 MR. RITTIE: It might just be a jell

13 station. That seems to be more prevalent as of late.

14 MS. PLATTS: So the proposal is to have

15 camps and not have a place to wash hands working with

16 animals?

17 THE WITNESS: There are spots on the

18 farm where they get water for the animals, and that's

19 where they can wash their hands.

20 MS. PLATTS: From buckets?

21 THE WITNESS: No, it comes out of a

22 faucet or spigot.

23 MR. CAINE: Hot water, cold water, we

24 have a sink at the front of the barn.

25 CHAIRMAN SMOLINSKI: I think some of

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1 these items are items for completeness and for site

2 plan.

3 Moving on to Form 10, variance

4 application, plot details and requirements, locations

5 of buildings and their setbacks.

6 I believe Dave addressed that fairly

7 well.

8 Again, preliminary floor plans and

9 building facade elevations for existing and proposed

10 dwellings, I think we just beat that to death.

11 Landscaping: I know in the past,

12 again, that's a item that we've waived and we've

13 addressed with the applicants as we've moved through

14 the application.

15 A copy of a certified list has been

16 provided and notices have been adequate.

17 Anybody have anything relative to No.

18 10?

19 (No response.)

20 CHAIRMAN SMOLINSKI: Okay. So moving

21 to Form 11, "C" variance application, plot details

22 and requirements, copy of certified list. Again,

23 that item's been addressed.

24 Existing and proposed topographic

25 contours, I think we sort of touched upon that during

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1 the site plan.
 2 THE WITNESS: So the plans that are
 3 submitted are full topographic survey of the entire
 4 property. At the time the application was submitted,
 5 there were no proposed improvements that required
 6 regrading of the property. So we don't have any
 7 proposed contours, because there were no proposed
 8 changes to the contours.
 9 CHAIRMAN SMOLINSKI: And currently
 10 moving forward with no proposed changes?
 11 THE WITNESS: Unless the board requires
 12 or directs us to do something.
 13 CHAIRMAN SMOLINSKI: We're not to that
 14 stage yet.
 15 Floor plans for existing and proposed
 16 buildings, again, we beat that up.
 17 And then location, design of fencing,
 18 walls, sidewalks, and other improvements.
 19 THE WITNESS: Again, there were no
 20 improvements, so we don't show any of those details.
 21 CHAIRMAN SMOLINSKI: That comes with
 22 uses in time, I'm sure.
 23 Does anybody have anything in addition
 24 to go through on this or I would open it up to
 25 counsel and then the public.

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1 120 feet is a seven and a half percent.
 2 MR. HANTMAN: Does that exceed the
 3 slope allowed in parking lots and the ordinances of
 4 the Township of Rockaway?
 5 THE WITNESS: I would have to double
 6 check your ordinance.
 7 MR. HANTMAN: You don't know?
 8 THE WITNESS: Off the top of my head,
 9 no.
 10 MR. HANTMAN: If I told you it was five
 11 percent, does it exceed the five percent?
 12 THE WITNESS: It does exceed five
 13 percent, but five percent does sounds about what
 14 would normally be expected, between 5 and 6 percent.
 15 MR. HANTMAN: And would it be fair to
 16 say that this parking area in no way complies to any
 17 of the parking requirements of the ordinances of the
 18 Township of Rockaway?
 19 THE WITNESS: No.
 20 MR. HANTMAN: It wouldn't be fair?
 21 THE WITNESS: The arrangement of the
 22 spaces, the size of the area for the spaces, the
 23 access aisle, all conform with the township
 24 standards.
 25 MR. HANTMAN: Except those have to be

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1 MR. HANTMAN: Question for the
 2 engineer.
 3 CHAIRMAN SMOLINSKI: On issues of
 4 completeness only.
 5 MR. HANTMAN: Right.
 6 I'm going to address your comments
 7 regarding the parking area. Do you know what the
 8 grade is for the parking area slope?
 9 THE WITNESS: Give me one second, I
 10 will tell you exactly.
 11 MR. TAHAN: Allen, could you put on
 12 your microphone.
 13 CHAIRMAN SMOLINSKI: We have to make a
 14 good record.
 15 MR. HANTMAN: I'll do the best I can.
 16 CHAIRMAN SMOLINSKI: So it's clear.
 17 THE WITNESS: Okay.
 18 MR. BELL: And can that be coordinated
 19 with the exhibit? Is that coordinated with the
 20 exhibit?
 21 MR. RITTIE: That's the one he's
 22 referring to.
 23 MR. HANTMAN: I think that's the one
 24 that's not up there.
 25 THE WITNESS: So it's nine feet over

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1 delineated, according to township standards, correct?
 2 THE WITNESS: You could delineate those
 3 using curb stops.
 4 MR. HANTMAN: Or painted lines?
 5 THE WITNESS: You can't paint the
 6 grass, but no.
 7 MR. HANTMAN: But in the ordinance they
 8 have to be delineated?
 9 THE WITNESS: And we could delineate
 10 them without paving them.
 11 MR. HANTMAN: But they're not?
 12 THE WITNESS: They are currently not
 13 shown to be delineated.
 14 MR. HANTMAN: So what comment do you
 15 have that tells me this somehow complies to the
 16 parking ordinances of the Township of Rockaway?
 17 THE WITNESS: The area and the
 18 arrangement of the spaces can conform. If we need to
 19 modify this plan, we can certainly regrade this small
 20 area to get it to five percent.
 21 MR. HANTMAN: But you're not proposing
 22 that?
 23 THE WITNESS: We have not yet. If the
 24 board requires us to do so, we would be happy to do
 25 so.

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1 MR. HANTMAN: Thank you.
 2 CHAIRMAN SMOLINSKI: So at this time, I
 3 will take the public for those not represented by Mr.
 4 Hantman on completeness issues only.
 5 Name and address. Come forward.
 6 MS. HAILA: Renata Haila.
 7 My question --
 8 COURT REPORTER: I'm sorry. Spell your
 9 first and last name, please.
 10 CHAIRMAN SMOLINSKI: First and last
 11 name and address, please, for the record.
 12 MS. HAILA: R-E-N-A-T-A.
 13 CHAIRMAN SMOLINSKI: Last name?
 14 MS. HAILA: A-B-I H-A-I-L-A.
 15 CHAIRMAN SMOLINSKI: Address?
 16 MS. HAILA: 80 Timberbrook.
 17 My question is regarding the well. I
 18 know he stated that it's decorative. In years past,
 19 they've had wells and they rearranged the well to put
 20 in another part of the house and they left as
 21 decorative.
 22 My question is, the decorative well
 23 that they have here, was it ever checked for -- was
 24 it closed up, does it still have access to the
 25 aquifer, and how close is it to the parking lot?

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1 CHAIRMAN SMOLINSKI: Would that fall
 2 under any and other approvals?
 3 MR. RITTIE: I'm not sure that's a
 4 completeness question.
 5 MR. BELL: It's not. It's more or less
 6 the testimony that we'll get into.
 7 CHAIRMAN SMOLINSKI: But that would
 8 fall under site plan parking.
 9 MS. HAILA: It was close to parking,
 10 was another question, whether it was active or not.
 11 I think we should open it and clarify it, if we want
 12 it to be complete complete.
 13 CHAIRMAN SMOLINSKI: That will be a
 14 fair question for under site plan testimony.
 15 MS. HAILA: Oh, okay. Thank you.
 16 CHAIRMAN SMOLINSKI: Yes, ma'am.
 17 MS. SCEUSI: My name is Ingrid Sceusi,
 18 S-C-E-U-S-I. I reside at Eight Upper Hibernia Road
 19 and I share the property with my mother at Jacobs
 20 Road, 51 Jacobs Road.
 21 CHAIRMAN SMOLINSKI: 51 that was?
 22 MS. SCEUSI: Yes.
 23 Okay. And I was wondering, since
 24 they're going to have an intensity of uses of horses,
 25 you're going to use quite a few horses if you're

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1 going to have lessons, okay, and breeding. Where do
 2 they plan to store their manure? I'm a horsewoman,
 3 and every barn that I've been at, they have concrete
 4 open air structures that the manure is deposited.
 5 And I want to know what plans they have for manure
 6 management according to New Jersey state standards,
 7 especially since they're in the Highlands area and
 8 they're near wetlands and there's a pond. And that
 9 manure, if it's not removed, all the manure and the
 10 urine runoff with the rain can eventually leach into
 11 wetlands. And I want to know what plans they have as
 12 far as the structure to contain it, where they plan
 13 to deposit it when it comes out of the barn, and I
 14 want to know what plans they have to remove it off
 15 the property.
 16 CHAIRMAN SMOLINSKI: Thank you.
 17 MR. KELLEY: Hello, members of the
 18 board, Mr. Bell, counsel, everybody that's here and
 19 members of the audience. My name is Tucker Kelley,
 20 K-E-L-L-E-Y. That's 16 Meggins Road, and that's
 21 Rockaway Township.
 22 First things first. Maybe Mr. Bell can
 23 assist with this, as well as the Chairman.
 24 Mr. Bell, you had mentioned in the
 25 beginning here that this is a non-adversarial

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1 meeting, we want all the facts that are here, and we
 2 need to have all those facts, because we don't want
 3 to have any issues of any potential contamination to
 4 this application, whether it be for the objectors as
 5 well as the applicant.
 6 MR. BELL: Let me just share something
 7 initially with you. Any correspondence that has been
 8 received, I think both Mr. Rittie and Mr. Hantman
 9 would indicate that I've shared with all parties so
 10 that there's a full and complete hearing for all
 11 concerned.
 12 MR. KELLEY: And, Mr. Bell, I believe
 13 that without a doubt and that wasn't something I was
 14 questioning or had any concerns with; however, in our
 15 own Administrative Code that we have in Rockaway
 16 Township, under the Municipal Land Use that we have
 17 here, 154-6.2B, which is the membership of the zoning
 18 board, and under that section of the membership,
 19 under B, it states: All members must be citizens of
 20 the Township of Rockaway.
 21 Now, I brought a concern to you at our
 22 council meeting when I was a prior councilman and I
 23 see on this board we have an alternate, Mrs. Garcia,
 24 and Mrs. Garcia is not a citizen of Rockaway
 25 Township. And if in fact there is the participation

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1 of Mrs. Garcia as an alternate and votes or
 2 participates in what could be a swing vote or
 3 deciding vote, whether it be a waiver or approval or
 4 denial of this board, there could be contamination of
 5 this application because of that.
 6 Now, when I had spoke to you once
 7 before and there was a documentation from you and on
 8 your behalf, you reviewed an electronic change of
 9 address through Motor Vehicle for Mrs. Garcia for her
 10 address to be 104 Decker Road in Rockaway Township as
 11 well as her voting registration, again done
 12 electronically through the Motor Vehicle, and there
 13 was nothing else that you reviewed other than a
 14 credit card receipt.

15 MS. PLATTS: Chairman, is this a matter
 16 of completeness?

17 MR. KELLEY: It is. It's necessary.

18 MR. BELL: It's not about completeness,
 19 but I did an examination as to the residence of Ms.
 20 Garcia, and I'm convinced she's a duly bona fide
 21 resident of Rockaway Township. Although I think it's
 22 irrelevant to the issue at hand, I want to just
 23 clarify that.

24 MR. KELLEY: And I thank you for that,
 25 unfortunate, though, because I asked the owner of the

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1 property, and confirmed that you did not ask him
 2 directly, Mr. Rittner (phonetic) that she does not
 3 live there. I didn't ask him once, I didn't ask him
 4 twice, but I asked him three different times over the
 5 course of a year and a half of the residency of that
 6 address, and only he and his brother live at that
 7 address.

8 MS. GARCIA: Excuse me, Mr. Kelley, do
 9 you know who I am?

10 MS. ROYK: She's over here.

11 MR. KELLEY: I'm being interrupted.
 12 Chairman, are you going to --

13 CHAIRMAN SMOLINSKI: I would like to
 14 keep this to the matter of completeness for the
 15 moment.

16 MS. GARCIA: You do not know my family,
 17 Mr. Kelley.

18 MR. KELLEY: I do know your family very
 19 well.

20 MS. GARCIA: You do not know my family
 21 and how dare you!

22 MR. KELLEY: I am not being
 23 adversarial.

24 MS. GARCIA: My family has been here
 25 for 200 years.

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1 MR. KELLEY: And your 200 year family
 2 confirmed you do not live at the address.

3 MS. GARCIA: You know what, this isn't
 4 the place for this. This isn't the place for this.
 5 You can't pronounce my family's last name correctly,
 6 sir. Okay. So let's not go there.

7 MR. KELLEY: Is your uncle George?

8 MS. GARCIA: Do you know my family's
 9 last name?

10 MR. KELLEY: The Deckers?

11 MS. GARCIA: No, so you're wrong again.

12 MR. KELLEY: The Deckers live across
 13 the street.

14 MS. GARCIA: This is part of my family.
 15 That is part of my family.

16 MR. KELLEY: Do you live at 104 Decker
 17 Road?

18 MS. GARCIA: Yes, I do. Yes, I do, for
 19 almost 57 years, July 6, 1965.

20 MR. KELLEY: You're at 15 Valley Road
 21 prior.

22 MS. GARCIA: Yes, but that is my
 23 family's home. My great grandfather built that
 24 compound, and that's not their last name.

25 MR. KELLEY: Again, Mr. Bell, and I am
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1 only confirming what I had talked to the owner of the
 2 property, at the address that Ms. Garcia has for her
 3 position to be on this Board of Adjustment is not
 4 accurate.

5 MR. BELL: Okay. Thank you.

6 CHAIRMAN SMOLINSKI: Your point is
 7 taken.

8 MR. KELLEY: For the record.

9 The question I have here as far as
 10 completeness, and they touched it, Mr. Deus had
 11 mentioned something with regards to septics. We do
 12 have an engineer from Dykstra Walker, who was a
 13 professional, is an engineer, designed septics that
 14 are there. There was an issue on that property that
 15 related to an illegal outhouse that had been
 16 constructed on there, and there was a cease and
 17 desist from our health department.

18 But on the plan of 2 of 3 and 3 of 3,
 19 there is an outhouse that is there. Is that the
 20 outhouse that was constructed illegally or was that
 21 an existing outhouse?

22 CHAIRMAN SMOLINSKI: As was previously
 23 testified to, that outhouse has been --

24 MR. RITTIE: Decommissioned.

25 CHAIRMAN SMOLINSKI: -- decommissioned.

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1 MR. KELLEY: So with that being said,
 2 with the amount of port-a-johns that are there with a
 3 wash facility --
 4 CHAIRMAN SMOLINSKI: As of right now,
 5 there's nothing.
 6 MR. KELLEY: What is the potential
 7 proposal of the amount of those facilities?
 8 CHAIRMAN SMOLINSKI: We don't know yet.
 9 MR. KELLEY: Okay. And the other thing
 10 just to confirm is that we don't know the actual
 11 amount of patrons, guests, customers, however you
 12 want to word it, that would be attending any of these
 13 events, whether it be a potential wedding, riding or
 14 petting the animals, yoga, drinking and yelling, any
 15 type of activities that are on that property.
 16 MR. BELL: That's not part of what
 17 we're considering at this particular time.
 18 CHAIRMAN SMOLINSKI: At this point --
 19 MR. KELLEY: Those would be related to
 20 the amount of customers or patrons, that's been a
 21 common statement of the use of property.
 22 CHAIRMAN SMOLINSKI: We're dealing with
 23 completeness issues right now, so...
 24 MR. KELLEY: Okay. And then the last
 25 thing is that the home itself will not be used for
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1 the facilities of any of the patrons that are there.
 2 Do we even know the size of the current
 3 septic system? I don't see it even on the pages 2 of
 4 3 or 3 of 3.
 5 CHAIRMAN SMOLINSKI: That we don't
 6 know.
 7 MR. KELLEY: We don't know where the
 8 location of that is currently?
 9 MR. BELL: We can make inquiry. It's
 10 not part of the completeness process.
 11 MR. KELLEY: The other thing is about
 12 the parking area. Being at the adjacent property,
 13 which is 93 Jacobs Road over the last ten years,
 14 there's a huge difference of where the parking area
 15 is now, how it's laid out versus what it was before.
 16 I'm not sure if I heard correctly, was
 17 there an expansion of the parking area since the
 18 purchase of the property?
 19 CHAIRMAN SMOLINSKI: As of right now,
 20 in terms of what we have before us today, we have a
 21 plan showing what's there now, surveyed with
 22 topography and a proposed area shown on a map with no
 23 proposed improvements.
 24 MR. KELLEY: So what we have on there
 25 we don't know --
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1 CHAIRMAN SMOLINSKI: It would be an
 2 expanded area.
 3 MR. KELLEY: Okay.
 4 CHAIRMAN SMOLINSKI: Unimproved
 5 expanded area.
 6 MR. KELLEY: Okay. Based on what was
 7 stated before, that's all I have.
 8 CHAIRMAN SMOLINSKI: All right.
 9 MR. KELLEY: Please think about the
 10 potential contamination to this application, Mr.
 11 Bell.
 12 MS. TIDEMAN: I'm Janet Tideman. I'm
 13 at 125 Jacobs.
 14 COURT REPORTER: Spell your last name,
 15 please.
 16 MS. TIDEMAN: T-I-D-E-M-A-N.
 17 MR. BELL: Now, this is going to be on
 18 completeness?
 19 MS. TIDEMAN: Yes, this has to do with
 20 the major versus minor site plan, so I guess it's
 21 you.
 22 Thank you. I know it's somebody over
 23 there.
 24 Wouldn't the driveway need to be
 25 widened to have an inbound and an outbound and that
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1 would change the traffic flow on the property?
 2 And as far as the size of the parking
 3 lot, it looks on the map as though only about a
 4 quarter of the parking lot area is existing, maybe a
 5 third. It seems to me like it would fall into the
 6 category of a traffic flow change.
 7 MR. NOVAK: Regarding the first
 8 question, which I believe was the driveway width, so
 9 right now they are not proposing to expand the width
 10 of that driveway. We have not heard any testimony
 11 about what that width is. For a typical commercial
 12 development, we would typically see a driveway width
 13 of around 24 feet, I would say.
 14 Once we hear testimony on that, there
 15 is a possibility that there may be either a waiver or
 16 variance required for the width of that driveway.
 17 Regarding the expansion of the driveway
 18 as it relates to minor site plan -- and just bear
 19 with me one second, I'll bring that definition up --
 20 so, again, the classification of minor site plan
 21 includes four different items: Interior renovation
 22 of an existing building, the alteration or
 23 improvement of the exterior facade of an existing
 24 building such as new windows, doorways or siding
 25 material, we'll just put those aside for now because
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1 that has nothing to do with the parking lot. The
2 other would be the improvement of the existing site
3 facilities, i.e., drainage, parking generators or
4 similar equipment. There is nothing in that section
5 that would technically limit the amount of square
6 footage of that improvement. The only thing that we
7 would have for that would be item B, which is the
8 building addition or the construction of any
9 accessory structure provided that such uses are
10 specifically permitted in the zone district and that
11 such alteration or construction does not exceed 2,000
12 square feet in ground coverage.

13 MS. TIDEMAN: No, the area I was
14 thinking about was in the definition of the major
15 site plan.

16 MR. NOVAK: Well, major site plan --

17 MS. TIDEMAN: I don't know if it
18 changed the --

19 MR. NOVAK: Oh, absolutely.

20 So the definition of a major site plan
21 is -- not to keep you in suspense -- not defined in
22 the ordinance, but typically in the Municipal Land
23 Use Law, which is this guiding document that helps
24 provide the framework for planning and zoning in New
25 Jersey, typically a major site plan would be defined

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1 as anything that's not a minor site plan.

2 MS. TIDEMAN: Okay. Right.

3 MR. NOVAK: So there's no square
4 footage association for that.

5 MS. TIDEMAN: So maybe it was something
6 about the flow of -- something with the flow of
7 traffic that I had read. I was surprised that it
8 wasn't a major.

9 MR. NOVAK: That would be -- I'm sorry,
10 I think I know what you're talking about.

11 MS. TIDEMAN: Okay.

12 MR. NOVAK: That would be within the
13 definition of minor site plan.

14 MS. TIDEMAN: Okay.

15 MR. NOVAK: And, again, not to keep you
16 in suspense but I'm just getting that definition up,
17 the development plan of one or more lots which does
18 not involve planned development, any new street,
19 alteration of existing traffic patterns or extension
20 of an off-tract improvement.

21 Typically the way the municipality has
22 interpreted that would be something that's requiring
23 or providing a new street or a new traffic
24 improvement. So typically any type of use that goes
25 on a piece of property will have some sort of

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1 alteration to a traffic pattern, even if it's a
2 single family dwelling on a vacant lot.

3 MS. TIDEMAN: Okay.

4 MR. NOVAK: This is something that
5 really deals more with if it's going to be a
6 cul-de-sac or a new preliminary or final site plan
7 with a new street proposed, so on and so forth, maybe
8 looking for something that's a little bit more
9 substantial in nature.

10 MS. TIDEMAN: Okay. Thank you.

11 MS. KRCH: Hi. I'm Denise Krch,
12 K-R-C-H. I'm at 100 Jacobs Road.

13 My question is regarding the number of
14 places that are proposed for the parking lot is based
15 on the applicant's evidence of historical use;
16 however, their website indicates that they're
17 planning to expand their activities broadly, and they
18 have indicated on podcasts and social media that they
19 are campaigning to bring more people in from the
20 outside, from the New York City area.

21 So it seems like whatever the
22 historical use was previously is going to be an
23 underestimate for what they hope to do in the future.

24 So my question is whether those 20
25 spots are really actually appropriate, based on

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1 historically what they've done between the time they
2 moved in, started commercial activities and to this
3 date.

4 CHAIRMAN SMOLINSKI: Again, I think
5 that will be relative to testimony --

6 AUDIENCE VOICE: You're speculating on
7 the future, how is that ever relevant?

8 CHAIRMAN SMOLINSKI: Stop.

9 That's relative to testimony. That
10 will be relative to testimony, it's not a matter of
11 completeness at this time. That's a question that
12 will be relative to the time and place for testimony.

13 MS. KRCH: Okay. Thank you.

14 CHAIRMAN SMOLINSKI: When the engineer
15 testifies, as well as any other professional that
16 they bring up.

17 MS. KRCH: Okay. Thank you.

18 MR. HARTUNIAN: Rich Hartunian,
19 H-A-R-T-U-N-I-A-N, 175A Chestnut Street in Boonton,
20 and I lived at 87 Jacobs Road, the property next
21 door, for over 25 years, so that's how I'm relative
22 to this.

23 My question, I guess it's to
24 completeness, is, was there a traffic study
25 completed?

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1 That's a completeness question, right?
 2 CHAIRMAN SMOLINSKI: That may be
 3 required at some point. I'm not sure that that is an
 4 item in our checklist as relative to completeness.
 5 MR. HARTUNIAN: Okay. The reason I ask
 6 is sometimes it is. I sat on the planning board for
 7 years and the environmental commission also, and
 8 knowing Jacobs Road and the way it's built and the
 9 way it has no shoulders, it has the dips, the whole
 10 deal, I think a traffic study would be appropriate.
 11 Just think about that. Thank you.
 12 CHAIRMAN SMOLINSKI: Thank you.
 13 MR. WILL: Jeff Will, 67 Jacobs Road.
 14 There's a question on the parking, that
 15 there was a parking lot there or there is a parking
 16 lot there or there wasn't one and it was expanded.
 17 CHAIRMAN SMOLINSKI: Mr. Will, there's
 18 a proposed parking area.
 19 MR. WILL: For 20 cars, correct?
 20 CHAIRMAN SMOLINSKI: Correct. That is
 21 what's shown on the plan.
 22 MR. WILL: I was confused with doing
 23 the completeness if there was a difference between if
 24 there was a parking lot there, because if there was
 25 an improvement in the parking lot or they are
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1 planning on putting a parking lot.
 2 CHAIRMAN SMOLINSKI: They are planning
 3 on putting parking in.
 4 MR. WILL: Because there was no parking
 5 lot there.
 6 CHAIRMAN SMOLINSKI: Correct.
 7 MR. WILL: Okay. I guess my question
 8 is incomplete.
 9 Thank you.
 10 MR. TURBACK: Hi. Sorry to it look so
 11 long to get up here, but I'm limping like crazy.
 12 My name is Charles Turback,
 13 T-U-R-B-A-C-K. I live at 129 Jacobs Road.
 14 I am listening to what's been going on
 15 here, and I have a major problem that all of these
 16 labors basically are to increase the rebuild capacity
 17 of 91 Jacobs Road.
 18 91 Jacobs Road is not commercial
 19 farming.
 20 A commercial farm is defined as
 21 producing agricultural or horticultural product sold
 22 to the general population.
 23 CHAIRMAN SMOLINSKI: Mr. Turback, I
 24 know where you're going with this.
 25 MR. TURBACK: Okay.
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1 CHAIRMAN SMOLINSKI: But we're going to
 2 have to hold back on that for a little bit.
 3 This is in terms of completeness and
 4 the items that were identified as being in question
 5 for being incomplete.
 6 MR. TURBACK: Okay. So my question now
 7 changes to: All of these waivers, like I said, all
 8 of these waivers appear to be increasing the retail
 9 potential of 91 Jacobs Road.
 10 Okay. I still don't understand why
 11 we're really here today. If somebody could explain
 12 to me why we're discussing all stuff that appears to
 13 increase the retail potential of a noncommercial
 14 farm.
 15 MR. BELL: I think they are also
 16 seeking a "D" variance.
 17 MR. NOVAK: You want me to?
 18 CHAIRMAN SMOLINSKI: Yes, please, Dave.
 19 MR. NOVAK: Okay. So I do not want to
 20 speak for the applicant, but the application that's
 21 going to be in front of this board is twofold -- and
 22 Mr. Rittie, feel free to interrupt me, throw
 23 something at me, so on and so forth.
 24 The first aspect of this application,
 25 why the board is hearing this tonight and presumably
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1 nights to follow, this is an interpretation of the
 2 ordinance, i.e., the applicant will be presenting
 3 information to the board, to the board's experts, and
 4 to the public to determine whether or not the
 5 activities that they're proposing on site are
 6 identified or considered to be permitted uses in the
 7 R-88 district.
 8 The R-88 district is a residential
 9 district, you are correct, that permits, amongst
 10 other uses, single family dwellings and also farms
 11 and commercial farming activities.
 12 So the board will have to consider
 13 what's being proposed versus the information we
 14 receive from the county agricultural board, as well
 15 as the information in our own zoning ordinance that
 16 identifies what constitutes as a farming activity.
 17 The board may find, after hearing that
 18 information, that all of the activities they're
 19 proposing are permitted or that none of the
 20 activities they're proposing are permitted or that
 21 maybe some are and some are not.
 22 If the board finds that some or all of
 23 the activities they are proposing on this site are
 24 not permitted, then what they need to do is apply for
 25 a "D-1" use variance, which is exactly what it sounds
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1 like, it's a use that is not permitted in the zoning
 2 district in which it is proposed.
 3 The Municipal Land Use Law, which is a
 4 guiding document throughout New Jersey, it's a
 5 blueprint for how municipalities plan and zone, allow
 6 for applicants to submit an application for a use
 7 that's otherwise not permitted in that zoning
 8 district. That's a right that's afforded to the
 9 applicant as well as to any property owner in
 10 Rockaway Township.

11 In order to grant a use variance,
 12 however, the board will need to hear certain proofs
 13 regarding the positive criteria of the application,
 14 whether or not it's particularly suited, whether or
 15 not there's certain special reasons for the granting
 16 of the variance, as well as the negative criteria,
 17 whether or not the application, if approved, would
 18 have any substantial detriment to the public good or
 19 any substantial impairment to the intent of the zone
 20 plan.

21 That's a base summary of what we're
 22 looking to do at the board.

23 First, to determine whether or not what
 24 they're proposing on site is permitted, and if it's
 25 not permitted, then the applicant will have to

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1 request a variance for a use that's not permitted in
 2 a residential zone.

3 Mr. Rittie, I see a thumbs up, let the
 4 record reflect.

5 MR. RITTIE: You're all good.

6 MR. HARTMAN: That's not the
 7 definition. Mr. Rittie's position was, if I
 8 understand it correctly, he wants it heard as an
 9 amalgamation, so that there is not two distinct
 10 applications, which I think is proper, one for the
 11 interpretation, and then if the interpretation is
 12 contrary to what his client desires, then he goes to
 13 a "D".

14 My understanding what his position was,
 15 he wants it all at the same time, and then at the end
 16 you try and straighten it out as to what the
 17 interpretation was and what the "D" is or is not.
 18 That's what I understood this position to be.

19 MR. BELL: I want to thank you for your
 20 explanation, Mr. Novak. I want to limit this
 21 discussion just to the completeness aspect of
 22 Beautiful Farms and whether or not the board deems it
 23 to be complete, incomplete, whether to grant waivers,
 24 whether not to grant or a partial waiver. If they
 25 grant a waiver, the reasons why they're granting a

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1 waiver.

2 You raised many issues during Mr. Novak
 3 and questions from the board as well, and that will
 4 be the question that we're going to have to address
 5 when we come back.

6 CHAIRMAN SMOLINSKI: Yes. I think I
 7 would like to take a ten-minute recess here.

8 MR. TURBACK: I just have one further
 9 comment.

10 So what you're telling me, I could come
 11 before this board --

12 CHAIRMAN SMOLINSKI: We're not taking
 13 comments. It's not comments. This is questions for
 14 completeness of the application to the professionals.

15 MR. TURBACK: Okay. I'll make it as a
 16 question.

17 Can I come before this board with all
 18 kinds of waivers for my particular property, even
 19 though I know that --

20 CHAIRMAN SMOLINSKI: That's not this
 21 application, sir.

22 MR. BELL: That's not the same. That's
 23 speculation. We can't speculate.

24 MR. TURBACK: You got me on that.

25 CHAIRMAN SMOLINSKI: Like I said, I
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1 know where you're going with this.

2 MR. TURBACK: I tried, but you know
 3 where I'm going.

4 Thank you.

5 CHAIRMAN SMOLINSKI: Okay. I'm going
 6 to make a motion to take a ten-minute recess.

7 Do I have a second?

8 MR. TAHAN: Second.

9 CHAIRMAN SMOLINSKI: All in favor by
 10 voice.

11 (Chorus of ayes.)

12 CHAIRMAN SMOLINSKI: Okay.

13 (A short recess is held.)

14 CHAIRMAN SMOLINSKI: All right. Can we
 15 go back on the record.

16 Okay. Where did we leave off?

17 MR. RITTIE: Comments.

18 CHAIRMAN SMOLINSKI: Are there any
 19 other comments relative to completeness only?

20 (No response.)

21 CHAIRMAN SMOLINSKI: At this point I'm
 22 closing to the public.

23 MR. BELL: Again, completeness is an
 24 administrative process, it's not a review of the
 25 merits of the application. So we're going to go by

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1 the checklist and see one by one.
 2 Mr. Novak.
 3 MR. NOVAK: Okay. Hello, everybody.
 4 David Novack, for the record, in case
 5 you forgot who I was.
 6 CHAIRMAN SMOLINSKI: And, Dave, if you
 7 could group the repetitive items that appear in
 8 multiple checklists.
 9 MR. NOVAK: Absolutely.
 10 CHAIRMAN SMOLINSKI: Just for the sake
 11 of time.
 12 MR. NOVAK: Will do.
 13 And, again, I'll be referring to my
 14 completeness memorandum, which is dated November 1st,
 15 2021.
 16 Mr. Chair, we can begin with the
 17 application checklist, specifically items 9, 10, and
 18 12.
 19 I believe that the applicant has
 20 provided some testimony on these items tonight.
 21 Obviously during the course of the hearing process,
 22 there may be changes to plans, there may be new
 23 information that comes out, but based on the
 24 information that we've heard thus far, I think the
 25 board could feel comfortable granting these waivers
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1 for the time being. Again, if something pops up
 2 during the application process, where we hear
 3 testimony indicating that maybe approval is required
 4 elsewhere, we can deal with it at that time. But I
 5 feel in order to give this application to begin, the
 6 board can grant these waivers.
 7 MR. BELL: Just so that the public is
 8 clear, Dave, could you just outline what waivers we
 9 are going to be taking a vote on.
 10 MR. NOVAK: Absolutely.
 11 That's item 9, which is a statement of
 12 any and all other approvals.
 13 Item 10, which is Morris County
 14 approval.
 15 And item 12, which is a copy of any
 16 protective covenants or deed restrictions or an
 17 affidavit that no such covenants or restrictions
 18 exist.
 19 CHAIRMAN SMOLINSKI: Okay. I'd like to
 20 make a motion to grant the application checklist,
 21 grant the waivers, deem this portion complete.
 22 Did I phrase that properly?
 23 MR. BELL: 9, 10, and 12 of Mr. Novak's
 24 report, dated November 1st, 2021.
 25 MR. LOFTUS: I second that.
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1 CHAIRMAN SMOLINSKI: Roll call.
 2 MS. KAHN: Mr. Smolinski?
 3 CHAIRMAN SMOLINSKI: Yes.
 4 MR. KAHN: Mr. Loftus?
 5 MR. LOFTUS: Yes.
 6 MS. KAHN: Mr. Scherwa?
 7 MR. SCHERWA: Yes.
 8 MS. KAHN: Mr. Nicastro?
 9 MR. NICASTRO: Yes.
 10 MS. KAHN: Mr. Tahan?
 11 MR. TAHAN: Yes.
 12 MS. KAHN: Ms. Royek?
 13 MS. ROYEK: Yes.
 14 MS. KAHN: Ms. Platts?
 15 MS. PLATTS: Yes.
 16 MS. KAHN: Approved.
 17 CHAIRMAN SMOLINSKI: Okay. As to Form
 18 4, minor site plan, plat details and requirements.
 19 David.
 20 MR. NOVAK: Absolutely.
 21 And regarding item 1, which is a
 22 general description of the proposed development, as
 23 well as item 15, landscaping, I believe that the
 24 board can grant waivers from those items to proceed.
 25 And, again, if something pops up during
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1 the course of this application where the board
 2 requires additional information, the board can retain
 3 the right to ask for that information.
 4 Regarding item 14, elevations, I don't
 5 think elevations are necessary for this application.
 6 The improvements that are being proposed really are
 7 not facade related, so it's not something that the
 8 board I feel really requires in order to make a
 9 determination of the merits of this application.
 10 Regarding the floor plans for existing
 11 and proposed buildings, the applicant has provided
 12 testimony tonight that the existing dwelling will not
 13 be utilized in this operation.
 14 Based on that information, I don't
 15 believe floor plans for the existing dwelling are
 16 required or necessary.
 17 Regarding stable No. 1, stable No. 2,
 18 and the barn, I think it would be helpful for the
 19 board to have some information regarding the interior
 20 layout of those buildings. Again, I don't believe it
 21 needs to be necessarily prepared by a professional
 22 architect, I think a draftsman could prepare it,
 23 but just identifying the relevant features of those
 24 buildings, i.e., interior walls, where bathrooms are
 25 located, if there's any sewer connections or well
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1 connections, so on and so forth. Just so that the
2 board has an understanding of when the applicant
3 provides testimony on the proposed activities on the
4 site, they have something to visualize what's going
5 on. And, again, I think those plans can be very
6 preliminary and basic, but just to give the board an
7 idea of what's going on in those buildings and
8 something that they can link to the testimony to be
9 provided. I don't think it needs to be prepared by
10 professional architect, necessarily. I don't think
11 we need to see the level of architectural detail that
12 we would see with a building plan, obviously, but
13 something that would supplement testimony, and I
14 would also recommend the applicant consider taking
15 some interior photographs as well to supplement that
16 as well.

17 CHAIRMAN SMOLINSKI: Okay.

18 MR. NOVAK: That comment, Mr. Chairman,
19 to save time, would carry forth on Form 10, item 13,
20 and Form 11, item 13, both of which deal with floor
21 plans for existing and proposed buildings.

22 CHAIRMAN SMOLINSKI: Okay. I want to
23 make a motion to deem that item 1 -- from Form 4,
24 minor site plan, plat details and requirements, item
25 Nos. 1, 4 [sic], and 15 are considered complete

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1 MR. TAHAN: Yes.
2 MS. KAHN: Ms. Royek?
3 MS. ROYEK: Yes.
4 MS. KAHN: Ms. Platts?
5 MS. PLATTS: Yes.
6 MS. KAHN: Approved.
7 CHAIRMAN SMOLINSKI: Form 9.
8 MR. NOVAK: Form 9, which is appeals
9 and/or interpretation of the ordinance, details and
10 requirements.

11 I certainly hope that item 5, which is
12 the notice of hearing, and item 6, the affidavit or
13 proof of service, have been provided, otherwise we
14 would be in major trouble. Thus, I don't believe any
15 waivers are required from that item unless I hear
16 otherwise from Mr. Bell.

17 Mr. Bell has shook his head no.

18 Regarding Form 10, which is the "D"
19 variance application, plat details and requirements,
20 I believe we already addressed item 13, which is the
21 preliminary floor plans, as well as item 15, which is
22 the landscaping. Again, landscaping is something
23 that the board can grant a waiver from for the time
24 being, and during the course of this application
25 should they hear additional information that would

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1 and/or waived for the purposes of this application;
2 item No. 12 be considered incomplete, and we will
3 address in each section as it carries forward in Form
4 10 and Form 11 as it comes up again.

5 MR. NICASTRO: I'll second that.

6 MR. HANTMAN: It would be item 14, not
7 item 4.

8 CHAIRMAN SMOLINSKI: No -- Form 4, item
9 12.

10 MR. HANTMAN: 1, 14, and 15. I think
11 you said 1, 4, and 15.

12 CHAIRMAN SMOLINSKI: 1, 14, and 15 are
13 waiver.

14 I may have spoken quickly. Thank you.

15 Do we have a second?

16 MS. KAHN: Donald.

17 Mr. Smolinski?

18 CHAIRMAN SMOLINSKI: Yes.

19 MS. KAHN: Mr. Loftus?

20 MR. LOFTUS: Yes.

21 MS. KAHN: Mr. Scherwa?

22 MR. SCHERWA: Yes.

23 MS. KAHN: Mr. Nicastro?

24 MR. NICASTRO: Yes.

25 MS. KAHN: Mr. Tahan?

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1 warrant additional landscaping, the board can request
2 it at that time.

3 Also, regarding item 16, which is a
4 copy of the certified list, I believe that
5 information has been provided.

6 Mr. Bell shakes his head yes.

7 Regarding item 12, which is the
8 location of buildings and their setbacks, the
9 applicant has provided the setbacks of the buildings
10 which are closest to the property lines. Typically
11 those are the most important buildings in terms of
12 setbacks, because that's the closest. Thus, I feel
13 that the applicant -- pardon me, I feel as if the
14 board could grant the waiver from this item. If
15 there is information over the course of the hearing
16 as regarding what the setback is from a building to a
17 property line, that could be addressed during the
18 course of the hearing.

19 And that would cover Form 10, "D"
20 variance application, plat details and requirements.

21 CHAIRMAN SMOLINSKI: Okay. So I'm
22 going to make a motion relative to Form No. 9,
23 appeals and/or interpretation of ordinance details
24 and requirements, items 5 and 6 are both complete.

25 And Form No. 10, "D" variance application, plat

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1 details and requirements, item No. 16 is complete.
 2 Item No. 15 a waiver can be granted. Item No. 12, a
 3 waiver can be granted. And item No. 13, preliminary
 4 floor plans being incomplete, again for the barn
 5 structure and the two stables.
 6 MR. TAHAN: Wasn't item 12 a partial
 7 waiver?
 8 MR. NOVAK: Form 10, item 12 would be a
 9 partial waiver since the applicant did provide the
 10 locations for the setbacks of the buildings closest
 11 to the property lines.
 12 CHAIRMAN SMOLINSKI: It would be a
 13 partial.
 14 MR. TAHAN: All right. I'll second it.
 15 CHAIRMAN SMOLINSKI: Thank you.
 16 MS. KAHN: Mr. Smolinski?
 17 CHAIRMAN SMOLINSKI: Yes.
 18 MS. KAHN: Mr. Loftus?
 19 MR. LOFTUS: Yes.
 20 MS. KAHN: Mr. Scherwa?
 21 MR. SCHERWA: Yes.
 22 MS. KAHN: Mr. Nicastro?
 23 MR. NICASTRO: Yes.
 24 MS. KAHN: Mr. Tahan?
 25 MR. TAHAN: Yes.

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1 MS. KAHN: Ms. Royek?
 2 MS. ROYEK: Yes.
 3 MS. KAHN: Ms. Platts?
 4 MS. PLATTS: Yes.
 5 MS. KAHN: Approved.
 6 CHAIRMAN SMOLINSKI: Finally, Form 11,
 7 criteria variance application, plat details and
 8 requirements.
 9 MR. NOVAK: Yes.
 10 We addressed item 6, which was a copy
 11 of the certified list.
 12 Regarding item 11, existing and
 13 proposed topographic contours. As of right now, the
 14 applicant has not proposed any proposed contours,
 15 thus there's nothing to show on the plan. For the
 16 time being, I feel like the board could grant the
 17 waiver from this item unless, Mr. Ten Kate disagrees
 18 with me, with the understanding that should changes
 19 to the site plan be made during the course of this
 20 hearing, those proposed grades would obviously need
 21 to be shown.
 22 Mr. Ten Kate, are you okay with that?
 23 MR. TEN KATE: I agree.
 24 MR. NOVAK: We've addressed item 13,
 25 which is floor plans.

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1 And item 16, the location and design of
 2 fences, walls, sidewalks and similar improvements,
 3 we've heard testimony tonight that the applicant is
 4 not proposing any of those types of improvements,
 5 however, during the course of this hearing, once
 6 again, should the applicant change the site plan to
 7 provide such features, they would have to be shown on
 8 the plan. So for the time being, Mr. Chairman, I
 9 believe that a waiver could be granted from that item
 10 with the understanding that during the course of
 11 these hearings, should the plans be changed, those
 12 improvements would have to be shown.
 13 CHAIRMAN SMOLINSKI: Okay. At this
 14 time, I'd like to make a motion for a Form 11 "C"
 15 variance application, plat details and requirements,
 16 item No. 6 is complete. Granting a waiver to
 17 existing and proposed topographic contours.
 18 Deem item 13 incomplete for the item
 19 specified prior, that's relative to floor plans.
 20 And item 16, granting a waiver at this
 21 time for location and design of fences, walls,
 22 sidewalks and other similar improvements.
 23 MR. LOFTUS: Second.
 24 MR. TAHAN: Second.
 25 CHAIRMAN SMOLINSKI: Can we have a

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1 second by Jim?
 2 MR. TAHAN: Yes.
 3 MS. KAHN: Mr. Smolinski?
 4 CHAIRMAN SMOLINSKI: Yes.
 5 MS. KAHN: Mr. Loftus?
 6 MR. LOFTUS: Yes.
 7 MS. KAHN: Mr. Scherwa?
 8 MR. SCHERWA: Yes.
 9 MS. KAHN: Mr. Nicastro?
 10 MR. NICASTRO: Yes.
 11 MS. KAHN: Mr. Tahan?
 12 MR. TAHAN: Yes.
 13 MS. KAHN: Ms. Royek?
 14 MS. ROYEK: Yes.
 15 MS. KAHN: Ms. Platts?
 16 MS. PLATTS: Yes.
 17 MS. KAHN: Approved.
 18 CHAIRMAN SMOLINSKI: Mr. Rittie.
 19 MR. RITTIE: Yes, sir.
 20 CHAIRMAN SMOLINSKI: You've heard some
 21 of the questions that were asked relative to the
 22 parking as well as, let's say, the restroom
 23 facilities. If those could also be addressed prior
 24 to the next meeting, which we'll go over in a minute,
 25 and there might be a few others such as -- it may

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1 have been raised relative to the manure and septic
 2 system, and I wasn't sure if the existing well that
 3 services the house and the rest of the property, if
 4 that's actually shown on the survey, and I didn't
 5 quite catch it, but I'll look deeper. I see the
 6 nodding of yes, so if those items could possibly be
 7 picked up to make it a little bit easier to get
 8 through the meat of the application, once we get
 9 started.

10 MR. RITTIE: Yes, sir.

11 CHAIRMAN SMOLINSKI: At this point, you
 12 know, obviously the application has been deemed
 13 incomplete. Hopefully these items can be addressed
 14 by your client prior to the next meeting, which the
 15 next meeting I believe we are going to provide notice
 16 for, is that correct, Shelley?

17 MS. KAHN: Yes.

18 CHAIRMAN SMOLINSKI: Given the
 19 attendance numbers, we're looking at March 15, 7:30
 20 p.m. It would be held at Chris Church this time at
 21 140 Green Pond Road in Rockaway.

22 MR. RITTIE: Okay. That's it.

23 CHAIRMAN SMOLINSKI: Hopefully the
 24 acoustics are a little bit better.

25 MR. BELL: I want to thank everybody
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1 for their demeanor and their courtesy and their
 2 respect for each other this evening. Well done.

3 12. New Business

4 CHAIRMAN SMOLINSKI: Do we have any new
 5 business?

6 MS. KAHN: No.

7 13. Old Business

8 CHAIRMAN SMOLINSKI: Any old business?

9 MS. KAHN: No.

10 14. Adjourn

11 CHAIRMAN SMOLINSKI: I will entertain a
 12 motion to adjourn.

13 MR. TAHAN: I make a motion to adjourn.

14 MR. LOFTUS: Second.

15 CHAIRMAN SMOLINSKI: All in favor by
 16 voice?

17 (Chorus of ayes.)

18 CHAIRMAN SMOLINSKI: Adjourned.
 19 (Whereupon, the Board of Adjustment
 20 Meeting is adjourned at 9:53 p.m.)

21
 22
 23
 24
 25

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1 C E R T I F I C A T I O N
 2
 3
 4 I, KIM O. FURBACHER, License No.
 5 XIO1042, a Certified Court Reporter, Registered
 6 Diplomate Reporter, Certified Realtime Court
 7 Reporter, and Notary Public of the State of New
 8 Jersey, hereby certify that the foregoing is a
 9 verbatim record of the testimony provided under oath
 10 before any court, referee, board, commission or other
 11 body created by statute of the State of New Jersey.

12 I am not related to the parties
 13 involved in this action; I have no financial
 14 interest, nor am I related to an agent of or employed
 15 by anyone with a financial interest in the outcome of
 16 this action.

17 This transcript complies with
 18 Regulation 13:43-5.9 of the New Jersey Administrative
 19 Code.

20
 21
 22 _____
 23 KIM O. FURBACHER, CRCR, CCR, RDR
 24 License #XIO1042, and Notary Public
 of New Jersey

25 My Commission Expires:
 7/11/2024

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