

TOWN OF GREENBURGH
PLANNING BOARD

-----x

- 1. ROLL CALL
- 2. ITEMS FOR PUBLIC HEARING/PUBLIC DISCUSSION

- a) Case No. PB 19-01
Deitch
6 Mohican Lane
P.O. Irvington, N.Y.

- b) Case No. PB 17-36
Zappico
Old Colony Road
P.O. Hartsdale, N.Y.



- 3. ADJOURNMENT

-----x

Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York 10607
June 5, 2019

B E F O R E:

WALTER SIMON, CHAIRMAN

MICHAEL GOLDEN, Board Member
HUGH SCHWARTZ, Board Member
THOMAS HAY, Board Member
KIRIT DESAI, Board Member
MONA FRAITAG, Alternate Board Member
VIOLA TALIAFERROW, Board Member

ALSO PRESENT: AARON SCHMIDT,
Deputy Commissioner of The Department of
Community Development and Conservation

DAVID R. FRIED, ESQ.
First Deputy Town Attorney

BARBARA MARCIANTE,
Official Senior Court Reporter

1 CHAIRMAN SIMON: Good evening and welcome to the
2 June 5th Planning Board meeting. We are going into the
3 Public Hearing session of tonight's meeting. Can the
4 Deputy Commissioner call the attendance, please?

5 DEPUTY COMMISSIONER SCHMIDT: Mona Fraitag?

6 ALTERNATE BOARD MEMBER FRAITAG: Here.

7 DEPUTY COMMISSIONER SCHMIDT: Michael Golden?

8 BOARD MEMBER GOLDEN: Here.

9 DEPUTY COMMISSIONER SCHMIDT: Walter Simon?

10 CHAIRMAN SIMON: Here.

11 DEPUTY COMMISSIONER SCHMIDT: Hugh Schwartz?

12 BOARD MEMBER SCHWARTZ: Here.

13 DEPUTY COMMISSIONER SCHMIDT: Thomas Hay?

14 BOARD MEMBER HAY: Here.

15 DEPUTY COMMISSIONER SCHMIDT: Viola Talia Ferrow?

16 BOARD MEMBER TALIAFERROW: Here.

17 DEPUTY COMMISSIONER SCHMIDT: Kirit Desai?

18 BOARD MEMBER DESAI: Here.

19 DEPUTY COMMISSIONER SCHMIDT: Thank you.

20 CHAIRMAN SIMON: All right. I would just like to
21 repeat that we are short one member of the Planning Board.
22 So Mona Fraitag, who is an alternate, will have full voting
23 rights this evening.

24 DEPUTY COMMISSIONER SCHMIDT: I just want to note
25 before the applicant starts, that there were some pieces of

1 correspondence provided. They were all provided to the
2 Planning Board Members and they have been added to the
3 public record on file with this application.

4 So we do have everything that was submitted and
5 it was provided to the Board Members and it is in our file.
6 Thank you.

7 If you can just write your name and address.

8 Again, just a reminder that each speaker before
9 they come up to please sign the sign-in sheet for the
10 benefit of the stenographer. Thank you very much.

11 CHAIRMAN SIMON: And if you plan to speak, to be
12 the next speaker, it will facilitate things that you come
13 and sign the paper while the current speaker is speaking
14 and that will facilitate giving everyone an opportunity to
15 speak.

16 MR. JOSH DEITCH: Well, thank you, Mr. Chairman
17 and the Members of the Board. My name is Josh Deitch. I
18 live at 6 Mohican Lane. The steep slope permit that we are
19 applying for, I'm the applicant for. My wife is sitting
20 here, too.

21 And basically, I appreciate you taking all the
22 time, all the energy it's taken over the last few weeks and
23 months to kind of go through this process and I appreciate
24 all of your consideration. And we're hoping to find a
25 really positive outcome here tonight.

1 And basically, what I would say is, as I said
2 before, we are here seeking a steep slope permit. We're
3 doing so because we want to ensure the safety of our
4 children. We want to provide a benefit to the families in
5 the neighborhood.

6 And I would remind everybody, and I don't need
7 to, but I'll remind you all that we're not here seeking any
8 special treatment. We're not looking for a variance.
9 We're not looking for an easement. We're not looking to
10 turn our house into a small business for which we're going
11 to sell a lot of stuff out of our garage.

12 We are here because we are trying to make our
13 backyard safer for our kids. So over the course of this
14 next presentation, basically what you are going to hear is
15 how we have addressed the codes related to this project.

16 And Mr. Petretti's proposal that you're going to
17 hear in a little bit already addresses all of that. So
18 basically what we are going to be talking about is the
19 benefits of the project, the neighborhood support and how
20 we've considered the impact on the neighboring properties
21 with all of your input along the way.

22 So if we're going to look at the benefits of the
23 project first, what I would say is what we're trying to do
24 is create a flat and safe place for our children and the
25 neighborhood children to play.

1 Right now, it's not safe. Right now, there are a
2 number of kids in the neighborhood and it's an open space.
3 And you all have been there with the pretty steep slope and
4 a pretty high drop from the edge of the property onto the
5 neighbor's backyard.

6 And what we're trying to do is flatten that out
7 so that we can have a useable backyard for not just for our
8 kids, but all the kids in the neighborhood with whom our
9 kids play with and whom we share property with. Not share
10 property but meet the property up against. And basically,
11 so that's one.

12 We're also, one of the benefits also then means
13 that if we have this backyard, it keeps our children and
14 those children in the backyard as opposed to playing on the
15 street, where we've had to do it over the last few years,
16 which is move up into the cul-de-sac area on 6 Mohican
17 Lane.

18 It also will help with the drainage because no
19 matter what has happened in the past, we can all agree that
20 a steep slope, when the rain hits it, it's going to push it
21 all down into other neighboring yards.

22 And lastly, I would say that we're here to talk a
23 little bit about property value. Because one of the things
24 we can say is that simply by moving into the area and
25 moving into the neighborhood and erecting the house that we

1 have, the property value simply has gone up. That would be
2 common sense because of the comps in the area.

3 I'm not a realtor. I'm not an expert in this
4 regard, but we have -- you'll hear more about experts who
5 have weighed in over the last few weeks.

6 So to talk a little bit about the neighborhood
7 support, you can see that our property, neighbors not just
8 one properties, but it actually hits about five. You can
9 also look at the picture and recognize that Google hasn't
10 updated their maps yet, because it's got an old burned down
11 house as opposed to ours.

12 But you can see that basically we have gotten the
13 support, either through written or oral support of four of
14 those five neighbors. Three and nine, 3 Algonquin told us
15 they support the project. 9 Mohican has sent a letter to
16 the Board in support. 4 Mohican has told us that they
17 support our project. And 7 Algonquin also supports the
18 project. That's Usman Farman, who is here tonight also as
19 well. He's also sent a letter to the Board.

20 The only objecting neighbor to this is the
21 neighbors at 5 Algonquin. And so I'm going to talk a
22 little bit about how we've addressed the impact on these
23 neighbors.

24 The first thing I would say is in designing the
25 wall, working with Mr. Petretti, we tried to create a wall

1 that was esthetically pleasing, that would work pretty
2 nicely in terms of the upgraded stone material. It would
3 be set in from the property line. It's not directly on
4 anybody's property line.

5 We're going to be erecting an aluminum fence, a
6 small aluminum fence, on top of it that is open, so that
7 there is still visible light, visible sky. Everything that
8 can be seen at the top we're trying to do that as best as
9 we possibly can.

10 We, over the course of this process, balanced
11 structural soundness. And again, you'll hear from
12 Mr. Petretti about that. Aesthetics and cost. This is
13 what we arrive -- we feel is the safest and esthetic, most
14 esthetically pleasing design.

15 Throughout this process, we've also engaged with
16 an open dialogue with our neighbors. As soon as we knew
17 that this process was in process, we sent the neighbors
18 emails. We reached out to them in multiple formats. We
19 continue dialogue with any neighbors who had questions
20 about this project and tried to address any concerns that
21 came up as they went along.

22 And so I'll start with our neighbors at 7
23 Algonquin. So those are the ones with whom our, kind of
24 corner of our property, abuts. And basically, at the last
25 meeting, you heard from Mr. Farman. He lives at 7

1 Algonquin. And we were surprised to hear some of his
2 concerns, but we had opened that dialogue beforehand.

3 But in any event, we've kind of had a really
4 collaborative process working with him and his family to
5 ensure that we are responsive to their needs. So hearing
6 what they said, once we put up those stakes that you all
7 asked us to put up, we saw how far it went out into their
8 property and adjust the radius on that. And so the wall
9 will no longer jut out as far into the property that they
10 were concerned. They also came to us concerned about --

11 BOARD MEMBER GOLDEN: Just one question.

12 MR. JOSH DEITCH: Sure.

13 BOARD MEMBER GOLDEN: I assume the new radius is
14 that yellow line?

15 MR. JOSH DEITCH: Yes, thank you. I apologize.
16 Yes, the new radius is that yellow line.

17 BOARD MEMBER GOLDEN: Do we have those plans?

18 DEPUTY COMMISSIONER SCHMIDT: Yes.

19 BOARD MEMBER HAY: Yes.

20 DEPUTY COMMISSIONER SCHMIDT: They were in your
21 packets.

22 MR. JOSH DEITCH: Yeah. The new radius is the
23 yellow line. And once that -- even after that happened, we
24 continued that dialogue because one of their concerns was
25 that there was a stark -- excuse me, contrast between the

1 flat of the ground and the highest point of the wall, which
2 is about 10 feet.

3 And so we heard that, and what we've worked with
4 them to come up with is a step-out planter that is going to
5 work right between, varies between two to three feet. It's
6 going to step out onto our property.

7 It's going to give us the opportunity to one, by
8 adjusting the radius, it gives us the opportunity to do
9 that little bit for them. And it's going to allow that,
10 kind of effect that will allow the plants to be raised a
11 little bit.

12 And one of the reasons that we were able to do
13 that is because of where this falls on our property and
14 also they are seeing the highest part of the wall. So
15 after working with them, we've all agreed and they sent a
16 letter to you on our behalf in support of this project.

17 So moving forward, I'll talk about the one
18 outlier neighbor, which is Jim and Susan, Jim Fowler and
19 Susan Weinstein, who live at 5 Algonquin Drive. So the
20 last time we were here, Jim and Susan shared their
21 concerns.

22 And the major concern that was brought up at that
23 time was aesthetics. This was something that was asked of
24 Ms. Weinstein by the Board was what is the major concern.
25 And the major concern was the height of the wall, and how

1 that would look, basically, from their back property.

2 I would mention at this point that the code that
3 we're looking at here, the steep slope permit, does not
4 actually have anything to do with aesthetics. We have to
5 think about the aesthetics from the perception of the
6 impact that it's going to have on them, but the code itself
7 does not address aesthetics.

8 So what I will talk about over the next few
9 slides is how we've worked with them or we believed we've
10 worked with them to address their perceptions of
11 aesthetics.

12 What you see right here in a very small picture
13 is a picture that Ms. Weinstein submitted to the Board last
14 time we were here. The first one at the bottom, the small
15 one, is the before picture. And the bigger one is a after
16 picture, a picture that my brother-in-law has done as a
17 rendering of what the wall would look like without
18 plantings.

19 I'll talk about some of the other renderings we
20 provided to the Board a little bit later. But if we move
21 forward, we will talk about the three things we've done in
22 relation to their perceptions of the aesthetics.

23 Basically, what we've heard from Ms. Weinstein
24 and Mr. Fowler is a concern about a green view. And they
25 mentioned this idea of a green view multiple times. And

1 what I would say to the green view is that the green comes
2 from our lawn. It comes from our backyard.

3 And so the only reason they have this green view
4 is because, at this moment, the slope is steep and sloped
5 and it's not covered up. And I would say at this moment,
6 when you're looking at the aesthetics of a property, they
7 have no right to decide what -- if they can look out onto
8 our property.

9 Just like we don't have a right to determine what
10 their aesthetics are. We can look out our back window and
11 see dead and dying trees on their property and we have not
12 said anything because it's their property. They look out
13 onto our yard, at this moment, and that's their green view.

14 In regards to that, hearing their concerns about
15 the green view, we feel we've offered a number of different
16 options that are really generous and we would, at the end
17 of the day, not benefit from. I know they are going to say
18 that we would benefit from because we're enhancing our
19 property value, and we will talk to that in a little bit.

20 But basically, what you're going to see is that
21 we've got an upgraded landscaping and planting proposal
22 that we've already outlined by Mr. Petretti in a number of
23 different settings here to the Board. We also offered to
24 plant English Ivy along the wall. So that they can have a
25 pure green view once it sets in.

1 And at the end, in our last meeting, we also
2 suggested that if neither of those things were satisfactory
3 to them, we can provide them a check for the proposed
4 amount based on the work that are our landscaper would
5 suggest. So we are open to working with them in any way
6 they can in terms of mitigating this impact on the wall.

7 I believe they are not going to have a view of
8 our green grass at that point, but at the end of the day,
9 just like anybody else, if they would like a view, a green
10 view, just like anybody else in any neighborhood, they can
11 plant trees and they can plant vegetation that will provide
12 that green.

13 What I would say is, moving forward in the slide
14 show, their response has been uncompromising. They are
15 going to talk a lot about compromise. They are going to
16 talk a lot about the idea that we have not compromised with
17 them.

18 But at the end of the day, the only thing that
19 they have been willing to entertain is that we do what they
20 are considering a terrace or they have now changed to a set
21 back. Well, basically, asked that we cede almost 350
22 square feet of our yard to them because it will take away
23 our useable land and turn it into their view.

24 Honestly, we're not going to re-litigate all the
25 ways that we've worked with them. And we've tried to work

1 with them. But what you are going to hear is them, over
2 the course of this time, they are going to suggest that
3 we've acted on bad faith, that we have been uncompromising,
4 that we have not moved with them.

5 And the fact of the matter is we have offered
6 multiple opportunities. We have offered multiple chances
7 for us to work together. And the one thing they asked is
8 this thing.

9 And I would also add in Ms. Weinstein's last
10 letter and her last conversation with us, they mentioned,
11 before they ever engaged in dialogue with us, they sought
12 out a lawyer to stop the process. So before this process
13 ever began, they were seeking how to stop it, not how to
14 work with us but how to stop it.

15 And so at the end of the day, my question is
16 going to be, if you're thinking about bad faith, who does
17 the bad faith rest on.

18 CHAIRMAN SIMON: Could you focus on the project
19 and what you're doing --

20 MR. JOSH DEITCH: My pleasure.

21 CHAIRMAN SIMON: -- as opposed to your motives or
22 the neighbor's motive. Just stick to the issue.

23 MR. JOSH DEITCH: My pleasure. Understood. So
24 that brings us to the next three slides. So the first
25 slide is a before picture. This is a picture that has been

1 submitted to the Board already. This is what the current
2 view of the backyard from Ms. Weinstein and Mr. Fowler's
3 property looks like.

4 The next slide is what it would look like with a
5 wall there. That does not include the plantings that we've
6 proposed.

7 The last slide coming up is the proposal of the
8 plantings we've made. Again, I would remind everybody this
9 is done by the generosity of my brother-in-law who has some
10 proficiency with Photoshop. He's not an expert in this
11 field in any way. This is what he's created on their
12 behalf as much as we possibly could.

13 And I would also remind everybody that we all
14 know that we're not required to provide instant
15 gratification. So these plantings are the height, give or
16 take, at what they are going to be planted at, not the
17 height at which they'll grow within the next three seasons,
18 four seasons, five seasons, however long we are all still
19 staying at this property.

20 So with that in mind, I would also talk a little
21 bit about the property value. But hearing your concerns,
22 Mr. Simon, I'm going to move through it pretty quickly.

23 Basically, I would say that they have submitted
24 letters from two realtors suggesting that this wall would
25 cause their property value to decrease while ours

1 increased. Again, I would say that my moving in and
2 building this house, our property value has -- our property
3 value and that of those around us and the neighbors has
4 increased based on the comps.

5 I would also suggest that we have two realtors
6 who have also written on our behalf. Those realtors are
7 based in the area. They are experts in this area. They
8 both basically say the exact same thing, which is retaining
9 walls, such as these, do not have a detrimental impact on
10 property value.

11 Instead, they also suggest that a lot of people
12 would enjoy that privacy and would take advantage of it,
13 just as much as anything else. And I think we would all
14 agree that we come down to the idea of aesthetics is a
15 subjective conversation.

16 So moving forward, one of the things I did hear
17 from them, and I just want to put this out there, is a
18 number of times Mr. Fowler asked us in our last
19 conversation, would you choose that view, would you choose
20 that view of the wall. And I would say that we did.

21 When we moved to Tarrytown, which is in
22 Greenburgh, a few years ago before we moved into Irvington,
23 we were that family that would move in. And what we did
24 was, we were a young family, we had small kids. We were
25 looking for two places. And we were looking at two places

1 in a Townhouse development.

2 Those two places were identical. Those two units
3 were identical. In fact, the unit that we liked more in
4 terms of the internal furnishings, was looking out on
5 basically a similar view, green, trees and a structure in
6 the background. And the other unit that we ended up
7 choosing was a unit that looked out on an eight to 10-foot
8 wall.

9 And we chose it specifically because of the
10 reasons we already mentioned; the ideas of privacy; the
11 ideas that we had a closed-in yard that would be safe for
12 our kids. It was perfect for us.

13 So I agree that we're not going to talk too much
14 more about that, but I would say, property value, unless
15 they have a professional who's assessed the property
16 because of this, I can't say one way or the other it's
17 going to effect it. Basically, I'm going to move forward
18 to the project integrity and then I'm going to --

19 CHAIRMAN SIMON: Could you wrap it up?

20 MR. JOSH DEITCH: I'm going to wrap up, exactly.
21 Mr. Petretti is going to talk more about this because --

22 CHAIRMAN SIMON: Well --

23 MR. JOSH DEITCH: -- that's not my expertise.
24 But I would just like to add one more thing?

25 CHAIRMAN SIMON: Okay. Just wait, if

1 Mr. Petretti is going to talk about it, then you need not
2 talk about it.

3 MR. JOSH DEITCH: Right, absolutely. Let me just
4 add one more thing because you're asking how we worked with
5 the neighbors to address their concerns.

6 The last time we met, the neighbors made it clear
7 that their only concern was the height of the wall. In the
8 three weeks -- three weeks after that meeting, all of a
9 sudden, their concern of the property was now all about the
10 integrity of the project and the integrity of the wall
11 itself.

12 Mr. Petretti will speak more about that. But at
13 this point, it feels like they are throwing things against
14 a pretty well-made wall, in our opinion, and just trying to
15 hope that things will stick in terms of stalling this
16 process even further.

17 So I'll wrap up by saying that we hope that you
18 vote in support of our application for a steep slope
19 permit. We're not asking for anything more. We're hoping
20 that you will help us ensure the safety of the children in
21 our neighborhood and provide a benefit to the other
22 families in the neighborhood. And again, give us this
23 steep slope permit that is not asking for any special
24 treatment or anything like that.

25 I truly, truly appreciate your time and your

1 consideration and your visits to our properties and
2 everything you've done and listened to. I really do.
3 Thank you so much.

4 CHAIRMAN SIMON: You're welcome. Mr. Petretti,
5 you're the next one. Is there any one else who will be
6 speaking after Mr. Petretti? Please sign the sheet.

7 DEPUTY COMMISSIONER SCHMIDT: Please sit in the
8 front row and sign in, please. Thank you.

9 MR. PAUL PETRETTI: Good evening, Paul Petretti,
10 civil engineer and land surveyor representing the Deitch
11 family.

12 So I don't have a lot to say, okay, because a lot
13 has been said. We've all gone out there. I'm sure that
14 all of you are aware of the conditions. I'm just going to
15 just repeat the wall conditions, okay. As you know,
16 immediately behind the house for about 70 feet long --

17 CHAIRMAN SIMON: Can I interrupt you for just a
18 minute. We've got a lot of information from both parties
19 regarding the wall. We got a letter recently questioning
20 the integrity of the wall.

21 MR. PAUL PETRETTI: Correct.

22 CHAIRMAN SIMON: And if you can focus on that,
23 that would greatly help us. Because I think that is the
24 one component that this Board is not completely up-to-date
25 and aware of, is the integrity of the current wall upon

1 which you plan to build another wall.

2 MR. PAUL PETRETTI: Okay. So let me go right to
3 that, okay. You have the wall, it's about 40-inches high,
4 okay. It's 12-inch masonry block wall. The cores are
5 filled, okay. I inspected the wall when I started the job
6 to see if I would put a wall on top of the wall. And I
7 found that it was fine. It was sound, okay.

8 There is no cracks in the wall. It has a little
9 coping on the top, like a dressing to cover the cores and
10 the block, okay. And there is some cracks in that, okay.
11 But that's on a thin layer, okay.

12 As an engineer, I have no reservation whatsoever
13 about putting the other wall on it. It adds a vertical
14 load to the wall, about 300 to 400 pounds per square foot.
15 That wall can take that. It actually enhances the lateral
16 stability of the wall, which is earth pressure pushing on
17 the wall.

18 The wall that goes on top, okay, is a segmental
19 wall, which has geo grids, okay, and that relies -- it's
20 essentially a gravity wall. It's well designed, okay.
21 Well within all the standards, National Concrete Masonry
22 Institute Standards; okay, ASCE, everybody, okay. It's
23 very, very straight forward. There is no guesswork with
24 this, okay. And that wall will sit on top of the other
25 wall.

1 At present, there is another stone wall that's
2 actually sitting on top of this wall for about the length
3 that's going about 10, 15 feet. It's already imposing a
4 load to this wall.

5 So right there, there is an example of the wall.
6 The wall has integrity. It's strong enough to carry the
7 second load of the five feet above that that I'm raising
8 it, okay. And in fact, there is another wall, okay, which
9 we haven't spoke of, okay, which is that wall right there,
10 which is not a good wall.

11 (Whereupon, there was a technical difficulty with
12 the sound.)

13 MR. PAUL PETRETTI: So this wall is not a good
14 wall. It goes from here to there, okay. And it varies in
15 height between six to five to four to three feet where it
16 zeros out over here, okay. And that wall was -- I wrote
17 about it. It's not a good wall. It shouldn't have been
18 built like that, okay, and without a doubt, it should have
19 a fence on it.

20 So this wall, okay, is going to replace that
21 wall. And we're going to build in front of that wall so we
22 can bury this wall and that's basically all I have to say.

23 BOARD MEMBER SCHWARTZ: I have one question,
24 Mr. Petretti. In your response to Mr. Senor, you mentioned
25 something about the possibility of a fence in front of the

1 wall?

2 MR. PAUL PETRETTI: Yes.

3 BOARD MEMBER SCHWARTZ: Would you explain that,
4 please?

5 MR. PAUL PETRETTI: Well, I was going to stay
6 away from the aesthetics, okay, but my solution, okay,
7 maybe it's a simple solution. You build a wall, okay. If
8 they don't like the sight of the wall below, you hide it,
9 okay, with a pretty 2-inch stockade fence, stain it to some
10 color that's very, very dark, woody color. You won't even
11 see that wall. It's a simple solution. And it's a great
12 solution, in fact.

13 BOARD MEMBER SCHWARTZ: Thank you.

14 CHAIRMAN SIMON: Okay, thank you.

15 MR. PAUL PETRETTI: Okay.

16 CHAIRMAN SIMON: Now, could that wall be built on
17 the applicant's property?

18 BOARD MEMBER SCHWARTZ: You mean the fence?

19 CHAIRMAN SIMON: The fence, the fence, that you
20 just referred to.

21 MR. PAUL PETRETTI: The fence, yes, yes.

22 CHAIRMAN SIMON: Because if I can recall where
23 you have a certain distance, foot or two feet or whatever,
24 from the property line --

25 MR. PAUL PETRETTI: That's right.

1 CHAIRMAN SIMON: -- to the wall, so you're
2 proposing, on that area, that's where you're proposing to
3 put the fence?

4 MR. PAUL PETRETTI: Yes.

5 DEPUTY COMMISSIONER SCHMIDT: Within the two to
6 three feet?

7 MR. PAUL PETRETTI: Listen, you know, normally
8 speaking, people put fences and walls on the property line.
9 In this particular case, whoever built this in 1969, the
10 way they built it, held it back two feet.

11 So they are really kind of giving up two feet,
12 but there is enough room, two feet, to go in there, okay,
13 and put the fence in. They can put it in, put some posts
14 in the ground, put a stockade fence, put the good side out
15 to the neighbor that doesn't like the view of the lower
16 wall. So that's my solution, simple.

17 BOARD MEMBER SCHWARTZ: Okay. Kirit has
18 something.

19 CHAIRMAN SIMON: Yes.

20 BOARD MEMBER DESAI: I have a question regarding
21 the letter you sent in, the existing wall, the integrity of
22 it, have you done any testing or it's just your
23 professional judgment that says that there is no cracks or
24 it's good?

25 MR. PAUL PETRETTI: This wall, okay, is 40-inches

1 high, okay. It was built well. There is no cracks in it.
2 Sometimes, just listen, sometimes these block walls they
3 move, you know. They get a little lean. It doesn't even
4 have any lean. It doesn't have any cracks.

5 Why would I tell somebody to take the wall down,
6 okay. Judgment counts in this business.

7 BOARD MEMBER DESAI: Yes, no, I know, of course.

8 MR. PAUL PETRETTI: Geo technical engineering
9 judgment counts.

10 BOARD MEMBER DESAI: Now, you had stated it's
11 going to cost like \$25,000 to take it down and put a new
12 wall in place of it?

13 MR. PAUL PETRETTI: You know, let's paint the
14 scenario. What happens if you do that. Now, you take it
15 all the way down. Now you got to take all that soil out.
16 You got to take a prism of soil out, that's about eight,
17 nine feet deep. Then you got to support the excavation.

18 Then you got to cart the stuff away, okay,
19 because you have no room to store it, okay. Then you got
20 to put the new wall up. If you choose to put a new
21 segmental wall up, complete the segmental wall right from
22 the top to bottom.

23 Now, you got to prepare for the lower level. You
24 got to bring all this fill back in, okay. And by the time
25 you do that, you're going to burn up 30,000 bucks, okay.

1 So --

2 BOARD MEMBER DESAI: I'm just trying to
3 understand what you sort of, you're comparing it, comparing
4 it with putting a fence versus taking down, building it,
5 definitely sure structural sound wall --

6 MR. PAUL PETRETTI: Yeah.

7 BOARD MEMBER DESAI: -- and I'm not very clear
8 the numbers that how you come up with it.

9 MR. PAUL PETRETTI: It's real simple. I talked
10 to a contractor and I said listen, if I have to take this
11 wall down, you have to dispose of the wall. You have
12 tipping fees for disposing that. Then you have the soil
13 that you have to take off the site. Right, you got to take
14 it off the site.

15 You can't leave it there, there's not enough
16 room. You're taking a prism of soil out, that's nine feet
17 deep, okay. It's, on the average, six and a half feet
18 high. You got to store it somewhere. Then you have to
19 drive it back.

20 So the efficiency of building this wall, okay, is
21 to build a wall on the one I want to build, on top of the
22 wall, okay. You already got to cutback a little bit of the
23 slope. That soil you can leave on the site and over there,
24 you're building a wall in front of the wall. So you don't
25 have any excavation to deal with.

1 BOARD MEMBER DESAI: Did you consider --

2 MR. PAUL PETRETTI: Did I make that clear?

3 BOARD MEMBER DESAI: -- did you consider, you
4 have a two feet space between the property line and the
5 existing wall, that's what you mentioned. Did you consider
6 what would be to just leave the existing wall behind, build
7 a new wall closer to the property line? I'm just asking
8 you, have you considered or estimated that like if --

9 MR. PAUL PETRETTI: First of all, it's
10 impractical.

11 BOARD MEMBER DESAI: What is it?

12 MR. PAUL PETRETTI: It's impractical.

13 BOARD MEMBER DESAI: Why?

14 MR. PAUL PETRETTI: What would I build it out of.
15 I would have to build it out of segmental wall blocks.
16 They rely on geo grids, okay, and I don't have enough room
17 between property line where I put another wall, okay, and
18 this masonry wall to accomplish that.

19 BOARD MEMBER DESAI: I thought the existing wall
20 was have the soil behind it. So why you have to have a geo
21 grid for until the height of this --

22 MR. PAUL PETRETTI: You still coming up, I'm
23 coming up 40 inches, 42-inches the highest. The standards
24 say that you're supposed to have geo grids in this wall,
25 okay. Let me answer it like this: I would not put my name

1 on it.

2 BOARD MEMBER DESAI: That's all.

3 CHAIRMAN SIMON: Okay. Any other questions for
4 Mr. Petretti?

5 (Whereupon, there was no response.)

6 CHAIRMAN SIMON: Okay, thank you very much for
7 that clarification.

8 MR. PAUL PETRETTI: Thank you.

9 MS. SUSAN WEINSTEIN: Hi, I'm Susan Weinstein and
10 I live at 5 Algonquin Drive. Thank you for coming to the
11 site survey. Thank you for all the time.

12 I just, I have a couple of things to say. Most
13 of them are related to the letter that Paul Petretti sent
14 to the Board. Because I just, I didn't understand some
15 things and I had some questions that either he or you could
16 answer. But I just want to briefly --

17 CHAIRMAN SIMON: Excuse me, if it pertains to the
18 structure of the wall --

19 MS. SUSAN WEINSTEIN: Yeah.

20 CHAIRMAN SIMON: -- then I think you can ask the
21 Board, but we're going to refer that back to
22 Mr. Petretti --

23 MS. SUSAN WEINSTEIN: Yeah, that's what --

24 CHAIRMAN SIMON: -- because we're not in a
25 position to answer that.

1 MS. SUSAN WEINSTEIN: I get it. I got that.
2 Thank you. Thank you for clarifying. But I just would
3 like to say a couple of things in response to -- I just
4 need to clarify a few things.

5 The reason I asked a lawyer initially for advice
6 was because when I found out about this wall, there was
7 some misinformation. Josh just told me they were tearing
8 out the existing wall. There was some misinformation.

9 And so I spoke to a local realtor I know. One of
10 the people who you have that under separate cover, sent a
11 letter, talking about the property values. She's worked in
12 Irvington with a realtor on Main Street for 25 years and
13 she was the one that said this could dramatically affect
14 your property values.

15 I have a lawyer I work with all the time.
16 Because I didn't understand this process. She said call
17 him up and he can explain the process to you. And I called
18 him up. I got a lot of information. There was no longer
19 an issue in trying to stop it. I didn't know that you can
20 come here and speak. So that's --

21 CHAIRMAN SIMON: Okay, can I interrupt you one
22 minute?

23 MS. SUSAN WEINSTEIN: Yes.

24 CHAIRMAN SIMON: Knowing what you know now, what
25 are the outstanding issues for you?

1 MS. SUSAN WEINSTEIN: So the outstanding issues
2 for me and my husband, Jim, remain the same. So I think
3 that the rendering is a little bit misleading because it's
4 actually taken from this side of our yard. I think I
5 handed out pictures when I was here last. It's actually
6 much closer than that from our deck and from our actual
7 backyard.

8 And so our concern has, you know, it is that what
9 we will see and it's hard to see in that, is wall, another
10 wall on top of it that doesn't match, a fence and then
11 their foundation.

12 And the plantings, that rendering, so we've been
13 told that between that wall of mature pine trees, you can't
14 actually plant things like arborvitaes and other things
15 because there is no -- the roots of the pine trees are all
16 over the place and so you can't do it. And there would be
17 no shade. So that's not actually what is going to happen.

18 They did offer to give us, you know, if we don't
19 like their suggestion of planting. They offered to give us
20 what they claim they budgeted for this project, a check for
21 \$1,500 to cover planting, but confusing because they talked
22 about planting arborvitaes. And Rosedale told me one
23 arborvitaes is \$295 without planting.

24 But I would just say I had to ask them a lot to
25 meet with us. And we tried. There were a bunch of

1 different things we talked to them about. Like early on,
2 we asked if they would consider just planting a row of
3 small bushes on the inside of that fence.

4 Because we're not going to get light through that
5 fence. It's going to be wall, wall, fence, foundation.
6 And so there just won't be. So that was one of the things
7 that we asked for. But they didn't want to consider it.

8 And I would just say about the value of the
9 property. 19 years ago when we were looking for a house,
10 we wanted a flat backyard, which we have, because we had
11 small children. And you know, I'm not sure that we would
12 have bought that house. Certainly not paid the asking
13 price like we did, if there'd been a 12 or 13-foot
14 structure of three different materials in the backyard.

15 So I would also say that I know that two
16 neighbors have written letters of support. One is their
17 next door neighbor who has told neighbors that they plan to
18 do the exact same thing, build a retaining in their sloped
19 backyard. So clearly they support it.

20 And the other one, look, Josh and Karen were
21 great with Usman and Sanad(ph) and I think that's
22 wonderful. They agreed to move the wall back a few feet.
23 They agreed to extensive planting around it. So, you know,
24 they worked with them in ways that they did not work with
25 us.

1 And just to be clear, we are not asking for a
2 tiered structure. What we're asking for is them to just
3 leave the existing wall and just build a new wall exactly
4 as they have it, two feet back, which would put a little
5 recess in there and we would pay to plant and maintain
6 those plants. That's what we're asking. Not a big tiered
7 wall. So the things that Mr. Petretti --

8 BOARD MEMBER GOLDEN: I didn't understand the
9 last thing that you said. What are you asking for?

10 MS. SUSAN WEINSTEIN: So this is what we have
11 been asking. So a tiered, a terrace wall, with like the
12 wall that Mr. Petretti had submitted to show you the
13 material with tiering, we did not ask for that. That's not
14 what we asked for.

15 We merely asked for them to start their wall --
16 not put the wall on top of the existing wall, but to start
17 it two feet back so there would be a little bit of a
18 recess.

19 BOARD MEMBER GOLDEN: I got it. I got it.

20 MS. SUSAN WEINSTEIN: Okay, okay. So I am --
21 we're a little confused by some of the things that
22 Mr. Petretti -- oh, the other thing, too, is I didn't just
23 last minute get concerned about the integrity of the wall.

24 When I reached out to Mr. Senor to come and look
25 at the plans and look at the wall and just get another

1 opinion, he was the one that spoke to the integrity and he
2 had concerns about it, which is why I brought it up with
3 Josh and Karen. So, and he will speak to that next because
4 I'm not an engineer and I can't speak to that.

5 One of the things that Mr. Petretti keeps talking
6 about is the dangers of this stone wall. It is dangerous.
7 But Karen and Josh built that. When I came home from work
8 one day and it was built. It goes just like portly into
9 our yard. You can't see it in those pictures.

10 And I was surprised they didn't put a fence.
11 Because they have little kids. I thought they would've put
12 a fence there.

13 But then I discovered that, you know, they didn't
14 realize when it was being built that that, you know, it was
15 going to be a problem and not safe. So, you know, that was
16 something that they need to take down and that's why that's
17 an issue for them.

18 His letter also brought up the brand new low
19 fence. That's the first I've heard of that. Because ever
20 since it was rejected, there was a suggestion about
21 refacing the lower one to try and make it look a little
22 better with another wall on top of it.

23 At the last meeting we discussed that and I
24 understand that it can't really be done because it sort of
25 cracks apart after a few years. But I didn't know about

1 this. That was the first I heard of it. So he did speak a
2 little bit more about it, but I still don't really have a
3 good understanding of it.

4 The other thing I don't understand also is that
5 Mr. Petretti wrote in his letter that a tiered wall would
6 require multiple fences. I have a picture of a tiered wall
7 that he did that he submitted. There is only one fence at
8 the top. It's not -- so I don't really understand that.
9 You know, so maybe he can explain that.

10 The other thing, everybody keeps bringing up
11 drainage issues. I've been there 18 years. It's not a
12 drainage issue. Water has never run off the wall. Dirt
13 has never run off the wall. It's just a non-issue.

14 And I get that property values are subjective.
15 The realtor that I know in Ryebrook and I know she's
16 spelled Greenburgh wrong. She pulled up two properties in,
17 granted they were in Ryebrook, but they were very similar
18 properties. Almost same age, type of house, neighborhood.
19 And they were dramatically different in price. And the
20 only difference was one had a retaining wall in the
21 backyard.

22 You know, I just, I guess the bottom line is, you
23 know, we just can't understand why they get to increase
24 their property value at the cost of ours. We never tried
25 to stop them from leveling their -- and we said that to

1 them the first time we met with them. We understand that
2 you want a yard for your kids to play in. It's going to be
3 a big, nice yard. And that's great for them.

4 But we also shouldn't have to compromise on every
5 single thing. And I get they offered to plant, but the
6 plantings have to be grouped in the corner because they
7 won't grow between the pine trees. So it doesn't help us.
8 So I guess, you know, thank you for your time. I
9 appreciate it and I guess Elliot --

10 DEPUTY COMMISSIONER SCHMIDT: Thank you.

11 MS. SUSAN WEINSTEIN: I'm sorry, does anybody
12 have any questions? Okay, thank you.

13 CHAIRMAN SIMON: The questions are really for
14 Mr. Senor.

15 MS. SUSAN WEINSTEIN: Okay, thank you.

16 DEPUTY TOWN ATTORNEY FRIED: Who is up next?

17 CHAIRMAN SIMON: Well, yes.

18 DEPUTY TOWN ATTORNEY FRIED: Yes.

19 CHAIRMAN SIMON: There are two issues that, first
20 of all, the integrity of the wall, there seems to be a
21 difference of opinion between two PEs and I would like to
22 get your assessment of that wall and --

23 MR. ELLIOT SENOR: I mean I guess it goes to
24 experience. We have different experiences, Paul and
25 myself, although we are both surveyors and both engineers.

1 We're currently working on a project in
2 Larchmont, on Vanderburgh Avenue in Larchmont, where we
3 proposed to put four feet on top of an existing wall that
4 was built in 1921. Wall will look perfect, there is no
5 leaning. There is no cracking. There is no nothing.

6 The neighbor in the back said, you know, their
7 engineer didn't believe that, you know, adding four feet is
8 going to, you know, be a good thing. And they wanted me to
9 certify the wall and raising it four feet. I didn't know
10 anything about the construction of the wall so I wouldn't
11 do it.

12 So we proposed to rebuild the entire wall. So
13 during the construction, they removed the existing wall.
14 Well, the existing wall didn't have a foundation. It was
15 only, you know, two feet wide. And it was designed for the
16 height that it was there.

17 So if we had put actually on top of it, it's
18 not -- when you design a wall, right, you design it for the
19 height and the conditions that you have at the time that
20 you're building it. You don't over design it to add
21 another four feet to it. And, you know, well, a hundred
22 years from now somebody is going to add four feet to it,
23 you don't design it. So I don't believe, like Mr. Petretti
24 does, that it will stand. If you were to go to sheet
25 three --

1 DEPUTY COMMISSIONER SCHMIDT: The plan set.

2 MR. ELLIOT SENOR: The plan set, yeah. I think
3 it's on sheet two or three. There is a picture of a wall
4 three, the lower right corner. If you can zoom up on that.

5 DEPUTY COMMISSIONER SCHMIDT: On top or the
6 bottom?

7 MR. ELLIOT SENOR: The bottom one, yeah. So I
8 don't know if you can look at, but that picture itself
9 shows the cracking and certainly in the surface, but it
10 also shows the outline of every block. Well, you know,
11 that means that there is water getting in there, that
12 things are cracking and moving.

13 So I personally wouldn't propose a four feet wall
14 on top of a three and a half foot wall or a five-foot wall
15 on top of a three and a half foot wall. It's just not
16 designed to take it no matter what the shape of it is now.

17 Also, as far as the integrity, I'm working on a
18 project in Cortlandt. And we're building the same exact
19 wall. We're building a Unilock or segmental wall about the
20 same height, eight and a half feet high. And there is a
21 lot of specifications that go into that wall.

22 Specifically, the manufacturer says that the wall
23 has to be -- the fill should be compacted as specified in
24 the project to a minimum of 95 percent maximum dry density
25 within plus or minus two percent. Basically -- and you can

1 only put it in 6-inch lifts.

2 Basically, what they are saying is that you have
3 to test every layer. Every time you put a piece of, you
4 know, 6-inches of soil down, you have to compact it and
5 test it.

6 We actually hired a testing company, Fairway
7 Testing, and they were there everyday, as well as us,
8 watching the fill go in and testing every section. Every
9 layer that went in, they tested to make sure that it had
10 specified density.

11 If it doesn't have the specified density, if it's
12 not compacted as well, the geo grids that he says stabilize
13 the wall will pull out because it doesn't have the proper
14 weight. There are many other specifications that he didn't
15 include in his plans.

16 Also, the calculations, there's the calculations
17 that we did, that were done for this wall in Cortlandt, is
18 32 pages long. It tests, it shows calculations for size
19 mixability and sliding and overturning and global
20 stability. The global stability or the failure circle, is
21 a very large circle, and if that bottom isn't built
22 correctly, the whole thing can just sort of turn in and
23 slide out.

24 So I don't necessarily agree with professional
25 opinion, and that my experience is different, as far as the

1 stability of the wall. But we can refer to it.

2 I did research the Town Code. Now, the Town Code
3 on Section 285-4, Word Usage, in one of the last sentences,
4 it says, it talks about terms and interchangeable terms.
5 It says the term building includes the term structure, all
6 right. So a structure is the same as a building.

7 Now, in Section 250 -- in the same section, under
8 structure --

9 DEPUTY COMMISSIONER SCHMIDT: 285 dash --

10 MR. ELLIOT SENOR: Five.

11 DEPUTY COMMISSIONER SCHMIDT: Keep in mind this
12 is the Zoning Ordinance.

13 MR. ELLIOT SENOR: Zoning Ordinance.

14 DEPUTY TOWN ATTORNEY FRIED: Yes.

15 DEPUTY COMMISSIONER SCHMIDT: Thank you.

16 MR. ELLIOT SENOR: All right, the word structure,
17 number three, says walls other than those less than
18 four feet high. So anything over four feet high is
19 considered a structure or a building.

20 Now, in your Code, you have a requirement that a
21 building, structure, has a set back associated with it.
22 Now, I don't know if it's the building, if it's a primary
23 building, but it's certainly an accessory building. An
24 accessory building in a zone is a 12-foot setback.

25 Just think of the reason for that is that if you

1 were to build a garage as an accessory structure to your
2 house, you don't want to build that 8-foot or 10-foot high
3 garage right up against the property line for the
4 neighbors, you want it set back.

5 So I think that there should be a greater set
6 back, according to the code. You guys will interpret that
7 yourself.

8 CHAIRMAN SIMON: Okay, okay.

9 BOARD MEMBER GOLDEN: I have a question.

10 CHAIRMAN SIMON: Okay, I can understand, there is
11 one thing debating the code whether or not this should
12 follow a certain building code that is more in the line of
13 a Zoning determination.

14 What we're trying to determine is regardless of
15 what the Zoning is, whether or not the structure itself is
16 sound. The other point is that you talked about the
17 different layers and each layer you have to make sure that
18 it's compounded properly --

19 MR. ELLIOT SENOR: Compacted.

20 CHAIRMAN SIMON: -- or it could pull apart. Now,
21 I would think, regardless of how that structure, the base,
22 is formed, those requirements still exist. You still have
23 to compact each -- so I think the issue still goes back to
24 the structure of the foundation.

25 MR. ELLIOT SENOR: All right. Well, yeah, they

1 are not putting any of those geo fabrics under or behind
2 the existing wall. They are only putting it on top on the
3 new part of the wall.

4 CHAIRMAN SIMON: Right.

5 MR. ELLIOT SENOR: So we don't know if, you know,
6 how that lower wall is built, and its stability of it
7 because they are not digging it up. They are not doing
8 anything.

9 As far as what Paul was saying about the expense
10 of moving the material off the site and then moving it
11 back. They can build a piece of wall that is to the left
12 there, that curve piece, and then take this material and
13 back fill, you know, that area easy enough and they don't
14 have to move it off site and then bring it back and bring
15 more back. Because they are going to need more fill.

16 The whole project requires additional fill
17 because they are leveling off a yard. There is a prismatic
18 piece of additional fill. So you don't have to remove the
19 fill from the site and then bring it back. You can build a
20 section of wall, use the fill that's here and move it over
21 there and compact it and you're done. It's natural soil on
22 site.

23 The other thing was that --

24 BOARD MEMBER GOLDEN: Elliot, let me ask you a
25 question. I mean is it fair to summarize your opinion that

1 it's -- well, how would you summarize it, that it's
2 structurally unwise to build this wall on top of the
3 existing retaining wall?

4 MR. ELLIOT SENOR: Yes.

5 CHAIRMAN SIMON: Okay.

6 BOARD MEMBER GOLDEN: Have you --

7 CHAIRMAN SIMON: Wait, wait.

8 BOARD MEMBER GOLDEN: I haven't finished.

9 BOARD MEMBER SCHWARTZ: Go ahead, Michael.

10 BOARD MEMBER GOLDEN: Have you expressed that in
11 a written opinion that we have?

12 MR. ELLIOT SENOR: Yes.

13 BOARD MEMBER GOLDEN: We've gotten a lot of stuff
14 tonight.

15 CHAIRMAN SIMON: Yes, we did.

16 BOARD MEMBER SCHWARTZ: It was in our packet,
17 Michael.

18 MR. ELLIOT SENOR: Yes. So then he talked about
19 the residential building code requiring a fence on top --

20 CHAIRMAN SIMON: Wait a minute, we have a
21 question.

22 BOARD MEMBER TALIAFERROW: Well, my question is,
23 what would take to have it all tested to make sure it is
24 structurally sound or not?

25 MR. ELLIOT SENOR: You would have to dig it up,

1 you have to do some --

2 BOARD MEMBER TALIAFERROW: Dig it up?

3 MR. ELLIOT SENOR: You have to dig it up. You
4 got to dig behind the wall, you got to dig below the wall
5 to see if there's a footing, what it's made out of, you got
6 to dig behind the wall to see how wide the wall is.

7 BOARD MEMBER TALIAFERROW: How much would that
8 cost?

9 MR. ELLIOT SENOR: Well --

10 BOARD MEMBER TALIAFERROW: Estimate it.

11 MR. ELLIOT SENOR: Couple thousand dollars.

12 BOARD MEMBER TALIAFERROW: That's it?

13 CHAIRMAN SIMON: You're talking about a section,
14 not the entire wall?

15 MR. ELLIOT SENOR: Well, maybe two or three,
16 depending on the couple different places to make sure it's
17 consistent.

18 CHAIRMAN SIMON: You would have to make, sample
19 the foundation, whatever a professional engineer would --

20 MR. ELLIOT SENOR: Right. And then once you have
21 that information, you can actually run a computer program
22 to see how stable it is and see how stable it is if
23 you were to raise it.

24 CHAIRMAN SIMON: Okay.

25 BOARD MEMBER TALIAFERROW: So you wouldn't have

1 to take down the entire wall?

2 BOARD MEMBER DESAI: I have a question. I mean
3 it's, to me, it's really crazy to spend professional time,
4 over time, to just the cost of taking building a new wall.
5 So my question is, what is really, in your opinion, the
6 replacement or leaving that wall or building something
7 different or what would be the better or safe solution to
8 do that?

9 MR. ELLIOT SENOR: Well, I think, I don't have a
10 problem removing the wall and building it where it is. I
11 think that the wall should be terraced. The terrace gives
12 some additional setbacks. So you are only losing, between
13 the straight wall and the terraced wall, you are losing two
14 or three feet.

15 I think Paul had said in his letter at some point
16 that the terrace would be three and a half feet. That's
17 from the front of the wall, to the front of the lower wall
18 to the front of the upper wall, which really is only, you
19 know, when you're figuring what the width of the block is,
20 there's not that much.

21 BOARD MEMBER SCHWARTZ: Yeah, but, Elliot, that's
22 what they would be losing --

23 BOARD MEMBER DESAI: Let me finish.

24 BOARD MEMBER SCHWARTZ: I'm sorry, I just wanted
25 to clarify his point.

1 BOARD MEMBER DESAI: My second question with
2 building the segmental wall, is that inner space between
3 the property line and the existing wall, to leave the wall
4 as it is and build segmental wall in front of it and so
5 that would give us a terrace by itself.

6 MR. ELLIOT SENOR: Yeah, you can't. Like you
7 said, you can't build, you can't put the geo grids in
8 because the existing wall is in the way. So you can't
9 really do that.

10 BOARD MEMBER SCHWARTZ: I want to just clarify on
11 the terrace. The three and a half feet is real because
12 they would loose that entire width, including the width of
13 the lot from their yard. Let's be clear about that.

14 So it really is to me, in all fairness to both
15 sides, they are loosing, they would be loosing three and a
16 half feet. And I don't know what the length of that wall
17 is, they are probably loosing over 300 square feet, 300 to
18 400 square feet of yard by building that terrace.

19 MR. ELLIOT SENOR: Theoretically you could put --

20 CHAIRMAN SIMON: Again, I would like to refocus
21 on the issue of the strength of the wall. If the applicant
22 was to take a spot testing of the wall and demonstrate that
23 the current wall could bear the weight, do you have any
24 objection?

25 MR. ELLIOT SENOR: No.

1 CHAIRMAN SIMON: Okay. So that is the issue. So
2 the issue, as I see it, goes back to my first question, can
3 the current wall bear the weight? Aesthetics and
4 everything else, that's, you know --

5 BOARD MEMBER TALIAFERROW: Out.

6 CHAIRMAN SIMON: Yeah. But that could play a
7 role. But the basic issue, can it bear the weight and
8 you're suggesting that you can prove that by take test
9 samplings of the wall to see what is behind it or below it?

10 MR. ELLIOT SENOR: Right.

11 CHAIRMAN SIMON: And if it proves that it could
12 bear the weight, you see no professional reason, aesthetics
13 aside, you see no professional reason why it should not be
14 done?

15 MR. ELLIOT SENOR: Right, correct.

16 CHAIRMAN SIMON: Thank you.

17 MR. ELLIOT SENOR: And to answer Hugh's,
18 Mr. Schwartz's question. You could build, once you take
19 down that existing wall, you could build a new wall closer
20 to the property line and not lose as much property, you
21 know, not loose the whole property.

22 BOARD MEMBER SCHWARTZ: That's true.

23 ALTERNATE BOARD MEMBER FRAITAG: That was going
24 to be my suggestion.

25 BOARD MEMBER SCHWARTZ: Yes, that's true, yes.

1 MR. ELLIOT SENOR: Now, I don't know if my client
2 will --

3 CHAIRMAN SIMON: I would still -- just a minute.

4 BOARD MEMBER DESAI: You finish?

5 CHAIRMAN SIMON: I would still like to refocus on
6 that issue because this is -- the whole issue has surfaced
7 because of a question of the integrity of the wall and
8 whether or not it could bear the weight.

9 I will ask Mr. Petretti to come back up and to
10 indicate whether or not he thinks that is a reasonable
11 suggestion and whether or not it can be done.

12 BOARD MEMBER DESAI: I think, Walter, other than
13 that, I think let's have other issues. My question to you,
14 again, is that what is physically looks like is the cost --

15 CHAIRMAN SIMON: Wait a minute, no, no.

16 BOARD MEMBER DESAI: I just want to finish.

17 CHAIRMAN SIMON: I'm sorry to interrupt you.

18 BOARD MEMBER DESAI: Okay, but if we can have
19 him --

20 CHAIRMAN SIMON: I'm sorry to interrupt you, but
21 this whole thing came about because we got two letters from
22 professional engineers challenging, one challenging the
23 integrity of the wall, and one is saying that the wall can
24 perfectly bear the weight.

25 BOARD MEMBER DESAI: That's --

1 CHAIRMAN SIMON: Cost of the design, aesthetics
2 and everything, those are ancillary issues. The basic
3 issue is the integrity of the current wall.

4 BOARD MEMBER GOLDEN: Let's hear from
5 Mr. Petretti.

6 MR. PAUL PETRETTI: Okay, let me speak to it and
7 I'll try to do this as briefly as possible. I am not going
8 to talk about the integrity of the wall at the moment. But
9 I'll tell you that tiered walls, it's a standard. If this
10 one is four, this one over here has got to be four feet
11 back. I wouldn't do anything else but that.

12 Okay, in some circumstances I've done that by
13 extending the geo grids from here to China, okay, under the
14 other wall, okay, under the other wall. Then you can make
15 them closer. But now we're talking about very expensive
16 construction, okay.

17 So you also asked me about the situation with
18 fences. Well, I've designed a lot of walls, okay. And
19 I've decided in my practice I'm putting a fence on top of
20 every wall, whether it's the low wall, the tier wall, if
21 there's 30 tiers, I'm going to put it on there, okay, and I
22 investigated the building code.

23 The building code does not speak to the issue of
24 retaining walls, the residential code. The commercial code
25 does where you have to have it.

1 But in terms of liability, when you have
2 children, okay, and they wonder around the property, I'm
3 going to put a fence on top of a wall. And I know they did
4 not do it at 130 Euclid Avenue.

5 BOARD MEMBER DESAI: What?

6 MR. PAUL PETRETTI: They didn't do it. They
7 choose not to do it.

8 BOARD MEMBER DESAI: Because I don't remember
9 seeing it on your plan.

10 MR. PAUL PETRETTI: I'm telling you right now
11 that, because I design 20 or 30 of them a year, okay, I've
12 decided, okay, that we're going to put that, we will put a
13 fence in accordance with the New York State Building Code,
14 okay. And let the owner decide not to put the fence up.

15 I don't think the fence is the issue right now.
16 So let's talk about the wall. So we have this masonry wall
17 and we see the joints, okay. And we don't like it. And
18 the joints are showing. But that doesn't mean the wall is
19 deteriorating. It's a good solid wall.

20 So let's talk about the bearing capacity
21 underneath the wall. So we have about two tons per square
22 foot, okay, solid bearing capacity. We have a wall that's
23 sitting on there now. We're going to add another
24 300 pounds per square foot. All you're doing is
25 transferring the block wall ion to the masonry. The

1 masonry has a lot more bearing capacity than it needs to
2 carry the wall, okay.

3 But if somebody deems it necessary that we
4 excavate that wall, and take a peak, I'm still going to
5 have the same conclusion that I just had. I've been trying
6 to not take this wall down. I've been trying to do that
7 right from the onset, okay. So we don't disturb the trees
8 over there, okay. We're all interested in trees. So I
9 have an interest.

10 If we start messing around with the wall, and
11 let's say this application fails, and we decide, okay,
12 we're going to take that masonry wall down. Now we're
13 going to go move another property line, are we not?

14 CHAIRMAN SIMON: Excuse me, Paul, that was not my
15 question are we moving the wall. My question is, can the
16 foundation of the wall be spot tested --

17 MR. PAUL PETRETTI: Yes.

18 CHAIRMAN SIMON: -- to indicate that it can bear
19 the weight?

20 MR. PAUL PETRETTI: Yes, we can do that. You dig
21 it up. You hand dig it up.

22 CHAIRMAN SIMON: Is that something that the
23 applicant is willing to do?

24 MR. PAUL PETRETTI: At this juncture, I would say
25 if that's what you would like us to do, I'm pretty sure the

1 applicant will do it. The applicant is right here.

2 MR. JOSH DEITCH: I would like to speak to that.

3 BOARD MEMBER SCHWARTZ: At the mic, please.

4 MR. JOSH DEITCH: Of course. At the end of the
5 day, yeah, we want this project to go through. However, I
6 really have to say at this point, what you just heard from
7 a professional engineer, whom we have hired and whose name
8 is to be on this and whose liability is here, is that he is
9 going to end up coming to the same conclusion whether he
10 does this test or not.

11 And I would say that the person who's standing
12 behind me right now, he has no liability here. He's not
13 the engineer on record. If something happens, Mr. Petretti
14 is the person who has his entire license and reputation at
15 stake.

16 He's made it clear to us that he would not be
17 doing this if it wasn't -- if he did not believe
18 professionally that this was sound. So he's fully on board
19 with this. And I have to say in terms of time line, this
20 is another stalling technique.

21 Susan and Jim have, they had concerns about
22 engineering for awhile, but somehow only reached out to our
23 local Facebook post on 21st, May 21st.

24 CHAIRMAN SIMON: Okay, let's talk --

25 BOARD MEMBER GOLDEN: Can I say something?

1 MR. JOSH DEITCH: So I have to say, would I be --
2 would we do it if it's deemed necessary, yes. But at this
3 point it feels like it's being deemed necessary to run out
4 the clock.

5 BOARD MEMBER GOLDEN: Okay. Let me just say, let
6 me just say one thing. Look, we're Board Members. We're
7 lawyers, bankers, doctors, bakers. We're not engineers.
8 And we just had an engineer, Mr. Senor, who we all know,
9 he's been up here many times, saying that, you know, if he
10 were on the project, he would not put up this.

11 However, says Mr. Senor, you know, if you dig a
12 couple of holes, it's not that big a deal. You know, we
13 can have confidence that it's safe. It won't delay
14 anything.

15 What is probably going to happen in a few minutes
16 is that this Public Hearing will be closed. The record
17 will remain open for a week or two, okay. And I think that
18 it might make sense to dig a few of those holes and have
19 Mr. Petretti, you know, write us a note telling us what he
20 found during that two weeks, which would add some comfort
21 to all of us in terms of this wall.

22 BOARD MEMBER SCHWARTZ: Kirit.

23 BOARD MEMBER DESAI: I just have a global
24 concern, which is your concern with the time line and
25 everything. And maybe considering what Senor stated about

1 the cost of really taking down and doing it much better and
2 don't have to really do this back and forth between the
3 issues.

4 And I understand it's very frustrating. If I
5 were you, I probably would just throw all the experts out
6 and just do the things which expedite you're doing it. So
7 think about considering it to really doing the way that
8 expedites your time line.

9 MR. JOSH DEITCH: Sure, yeah. Look, we will, if
10 it's deemed necessary and we can close this hearing, I'm
11 happy to do the testing, as long as we can kind of continue
12 the time line as it is. And so you were asking about
13 taking down the wall and building a new one?

14 BOARD MEMBER DESAI: Well, it looks like the way
15 you're concerned and our concern is, I mean this is the
16 first time we've kind of raising things so --

17 CHAIRMAN SIMON: Wait a minute. Wait a minute.

18 BOARD MEMBER DESAI: If this thing is closing
19 down to do the things I would recommend, as a Board Member,
20 who really feel very confidence because you do the testing
21 and again, you're challenging one testing versus another
22 testing, who is going to make the call.

23 CHAIRMAN SIMON: Okay, okay, I think we really
24 need to come to a decision and move forward. As I said at
25 the beginning, the issue, the main issue, is the integrity

1 of the wall.

2 We have two engineers who are questioning the
3 integrity of the wall. One feels confident that it's okay.
4 The other is saying if you do a test and it proves that
5 it's okay, I'm okay with it also. So to me, the simple
6 thing is just to do the test.

7 BOARD MEMBER DESAI: So Roger --

8 BOARD MEMBER TALIAFERROW: I also --

9 BOARD MEMBER DESAI: Let me just answer because
10 you're talking about that direction. What I saw, I don't
11 know the true cost of it, the wall, but it is the
12 challenging the experts versus experts and how do you know
13 that this will, the testing and --

14 CHAIRMAN SIMON: We don't know.

15 DEPUTY COMMISSIONER SCHMIDT: Isn't that what the
16 testing is for?

17 BOARD MEMBER DESAI: -- so it could be another
18 challenge to the whole process.

19 CHAIRMAN SIMON: Yes.

20 BOARD MEMBER DESAI: And then you're saying now
21 two experts. Then we will have another expert coming in
22 and challenging the whole testing.

23 DEPUTY COMMISSIONER SCHMIDT: If I may?

24 CHAIRMAN SIMON: Well, we don't know that. I
25 think we should come to a conclusion what we're going to do

1 now in terms of --

2 BOARD MEMBER GOLDEN: I think Aaron has a
3 suggestion.

4 CHAIRMAN SIMON: Wait a minute -- in terms of
5 closing the hearing and keep it open for extended period of
6 time, which we can define. That will give the opportunity
7 to have those tests done and submit it to this Board before
8 we make a final decision.

9 DEPUTY COMMISSIONER SCHMIDT: Right. And what
10 staff can do is upon receipt of the testing, we can have
11 the Town's Bureau of Engineering take a look at the results
12 and opine.

13 BOARD MEMBER SCHWARTZ: I think, I would like to
14 hear our Commissioner comment on that because he's kind of
15 like -- I would like to know from the Commissioner if
16 that's something that the Town would be willing to do in a
17 case like this.

18 DEPUTY TOWN ATTORNEY FRIED: Well, the suggestion
19 is, I mean, what Aaron and I were thinking is we close the
20 Public Hearing, keep the record open for three weeks.

21 Have the testing done, it will be as submissions,
22 so you're going to have, you know, as soon as reasonably
23 possibly to get that done, and we will provide the results.
24 And any comments to the engineering bureau and seek their
25 Counsel with respect to that --

1 BOARD MEMBER SCHWARTZ: I'm guessing --

2 CHAIRMAN SIMON: Hold on.

3 DEPUTY TOWN ATTORNEY FRIED: -- as opposed to
4 they are not going to, you know, it's not their job to give
5 opinions as to tests, but they'll be able to advise us as
6 to whether they feel whether there are concerns, whether
7 they feel that the tests that were done were reasonable.

8 ALTERNATE BOARD MEMBER FRAITAG: Sufficient.

9 DEPUTY TOWN ATTORNEY FRIED: Sufficient.

10 BOARD MEMBER SCHWARTZ: First of all, we're not
11 going to have the engineering department in this Town as
12 referees in a professional disagreement between two very
13 skilled engineers, who have been before this Board on a
14 regular basis.

15 DEPUTY TOWN ATTORNEY FRIED: Correct.

16 BOARD MEMBER SCHWARTZ: However, it's also, one
17 point that's true, in this case, it is Mr. Petretti's
18 license that's on the line for the integrity of the wall.
19 I think your willingness to give Ms. Weinstein and her
20 husband more comfort by doing this testing is a very good
21 step towards resolving this.

22 And if Mr. Petretti does that and then finds that
23 yeah, it is what he said, that is a comforting step. So I
24 think that would be the right way to go and bring that in.
25 You might find that Mr. Senor was absolutely correct and

1 the wall underneath is, you know, there is a swamp under
2 there, I don't know, who the heck knows.

3 So that's what I would do in terms of that. I
4 agree with Mr. Simon. Paul, how long would it take you to
5 do that testing?

6 MR. PAUL PETRETTI: Well, I'll call the
7 contractor tomorrow and ask. He'll do it right away. He
8 is going to excavate in front of the wall, hand dig it
9 so --

10 BOARD MEMBER SCHWARTZ: So if we gave you three
11 weeks --

12 DEPUTY COMMISSIONER SCHMIDT: Let me jump in.

13 CHAIRMAN SIMON: August.

14 DEPUTY COMMISSIONER SCHMIDT: Can we give maybe
15 two weeks just so that we have a week to digest the
16 information.

17 CHAIRMAN SIMON: Okay, but if we were to put this
18 on for decision --

19 DEPUTY COMMISSIONER SCHMIDT: Well, it's
20 June 5th. There is a July 2nd meeting.

21 CHAIRMAN SIMON: Oh, I'm sorry, July 2nd, yeah.

22 BOARD MEMBER SCHWARTZ: Yeah.

23 MR. PAUL PETRETTI: I'm confident that the
24 contractor that's building this wall has built many walls.
25 He's a good wall builder. And so he will come in and he

1 will give the test bits. But can I, what are we going to
2 do about the plantings that was offered?

3 BOARD MEMBER SCHWARTZ: I was going to bring that
4 up, too. I would like, please, I would like --

5 MR. PAUL PETRETTI: You want them? You don't
6 want them?

7 BOARD MEMBER SCHWARTZ: You are two wonderful
8 neighbors. I met with both of you, guys. You both care.
9 You both actually like each other. And it's bad when this
10 kind of thing happens, okay.

11 I would like you to look at the alternatives. I
12 mean, I can understand not wanting to see some big, ugly
13 structure. By the way, I think you're actually going to
14 see less of a foundation from what they are doing than
15 before. And that foundation, pardon me, is butt ugly, I
16 mean it is.

17 MR. JOSH DEITCH: You can talk to Zappy, they put
18 the house up. They are outside. Talk to Zappy about that.

19 BOARD MEMBER SCHWARTZ: It's really ugly because
20 it's peeling and stuff like that because it is ugly. Let
21 me finish. So what I would like you guys to do is look at
22 the alternatives, potentially, of maybe that fence they are
23 offering along on the property line, which would break up
24 the view, it could be like a barn door fence. It could
25 have Ivy on the fence. So you may be able to get the green

1 on the bottom, cover up, which is not an attractive wall
2 that's there now, as an option.

3 I just like to see if you guys one last time try
4 to come to an agreement that softens, softens, the impact.
5 I think there are ways you can do it with potentially the
6 fence. I thought it's a good idea what Mr. Petretti
7 brought up in his --

8 MR. PAUL PETRETTI: Can I speak to that issue?

9 BOARD MEMBER SCHWARTZ: Yeah. We have a big,
10 another hearing.

11 MR. PAUL PETRETTI: I think this is important.
12 Elliot is here. We're both land surveyors. We do this all
13 the time. If you have a fence or a wall and it's not on
14 line, the title company is saying what's the problem.
15 Right?

16 So the fence will hide the wall. And there
17 should be a fence on there two feet off that wall. So we
18 don't have an adverse possession situation. Yes or no,
19 right?

20 MR. ELLIOT SENOR: Or a letter saying we want to
21 claim --

22 CHAIRMAN SIMON: Okay.

23 BOARD MEMBER SCHWARTZ: Just work it out.

24 MR. PAUL PETRETTI: We play the same game
25 everyday.

1 MR. JOSH DEITCH: I would just like to add one
2 thing to that.

3 CHAIRMAN SIMON: We have another hearing --

4 MR. JOSH DEITCH: I know you do and I appreciate
5 all your time. Karen and I are both educators. We have
6 budgeted money for this project. At a certain point,
7 everything that gets asked for is another expense.

8 CHAIRMAN SIMON: Right, right.

9 MR. JOSH DEITCH: And we've tried to do
10 everything we can within our budget to make this work so
11 that we are not poor; not poor but broke at the end of
12 this. And I think that is the thing that I think is hard
13 for us to keep being asked to do more and more stuff.

14 BOARD MEMBER SCHWARTZ: Sir, I don't want to say
15 anymore. By the way, you were talking about \$300 per
16 arborvitaes. I know what arborvitaes cost --

17 MR. JOSH DEITCH: I have a --

18 BOARD MEMBER SCHWARTZ: I understand. Let me
19 finish. Let me finish.

20 CHAIRMAN SIMON: No. No. No.

21 MR. JOSH DEITCH: Would you like to see the
22 proposal from the landscaper.

23 DEPUTY TOWN ATTORNEY FRIED: You can't speak at
24 the same time.

25 BOARD MEMBER SCHWARTZ: Let me finish. Let me

1 finish, please, okay. The fence may be an alternative to
2 that is what I'm saying. Then you can just put Ivy, which
3 is cheap, on that fence. Give them the green that they
4 want. Give them the break that they want.

5 I don't know if it's going to work. You have to
6 talk to them. But at least look at that, it's a way of
7 trading out something else you were going to do for
8 something else that may actually be more aesthetically
9 pleasing.

10 Please try to do this. I don't think we, this
11 Board, ever spent this much time on a wall in the 17 years
12 that I've been on this Board, okay, truthfully.

13 CHAIRMAN SIMON: Okay. Could I get a motion to
14 close the issue?

15 BOARD MEMBER SCHWARTZ: So moved.

16 ALTERNATE BOARD MEMBER FRAITAG: So moved.

17 CHAIRMAN SIMON: Wait a minute -- and keep it
18 open until --

19 MR. PAUL PETRETTI: I do want to address the
20 fence on the property line. It has to go in, okay, because
21 there is a potential adverse possession situation here.
22 Yes or no?

23 CHAIRMAN SIMON: Well, that's something --

24 BOARD MEMBER SCHWARTZ: That's up to you.

25 CHAIRMAN SIMON: That's something you can

1 speak --

2 DEPUTY TOWN ATTORNEY FRIED: Did you see the
3 first item on our agenda tonight?

4 CHAIRMAN SIMON: There's a motion on the floor to
5 close the hearing and keep the record open until?

6 BOARD MEMBER TALIAFERROW: Sec --

7 DEPUTY COMMISSIONER SCHMIDT: June 25th.

8 CHAIRMAN SIMON: June 25th.

9 BOARD MEMBER SCHWARTZ: Second.

10 CHAIRMAN SIMON: All in favor? Aye.

11 BOARD MEMBER GOLDEN: Aye.

12 ALTERNATE BOARD MEMBER FRAITAG: Aye.

13 BOARD MEMBER SCHWARTZ: Aye.

14 BOARD MEMBER TALIAFERROW: Aye.

15 BOARD MEMBER DESAI: Aye.

16 BOARD MEMBER HAY: Aye.

17 BOARD MEMBER SCHWARTZ: Thank you, guys.

18 MR. ELLIOT SENOR: Thank you.

19

20

21

22

23

24

25

DEPUTY COMMISSIONER SCHMIDT: We would like to

1 move into the next Public Hearing on the agenda.

2 CHAIRMAN SIMON: The next item on the agenda is
3 PB 17-36.

4 I just want to announce to the Public how we plan
5 to proceed on this application. Unless things change
6 during the evening, I see this being a Public Hearing in
7 two sections. As we all know, this was the project that
8 went from, I believe, ten houses to four. But there are
9 still some major issues with the project that we need to
10 address.

11 One is in the area of drainage. We have to make
12 sure that the issue of drainage is appropriately addressed
13 if this application is approved.

14 The other one is traffic. There is still some
15 questions that have been raised as to the traffic. So that
16 needs to be addressed.

17 And there is a third question in regards to
18 whether or not additional houses will be built on the
19 property in the future. So what I would like this meeting
20 to do is to flush out all of these issues.

21 We have John Canning who wrote an extensive
22 traffic report that he could go through that and to answer
23 those questions, and if there are additional questions that
24 can be raised by the public.

25 There is questions about the drainage. We have

1 the Commissioner of Publics Works here so he can understand
2 what the issues are. So he could make the proper
3 presentation when we have the second hearing.

4 So I would like this hearing to be focused on
5 fact finding, focus on those three points. So at the
6 second Public Hearing, we could then be in a position to,
7 once we have all the facts in, then the Board will feel
8 comfortable then to close the hearing and to make a
9 decision. So I would like this to be a gathering of facts
10 of the case.

11 MR. BRIAN ZAPPI: Okay.

12 CHAIRMAN SIMON: Go ahead and identify yourself.

13 MR. BRIAN ZAPPI: Good evening, Mr. Chairman,
14 members of the Board, Brian Zappi from Zappico Real Estate
15 Development and A Professional Engineer. I am here to
16 discuss this --

17 BOARD MEMBER SCHWARTZ: Speak up a little bit.

18 DEPUTY TOWN ATTORNEY FRIED: Just put the mic,
19 pick it up a little bit.

20 CHAIRMAN SIMON: Make sure it's on.

21 MR. BRIAN ZAPPI: I always have a hard time with
22 these things.

23 BOARD MEMBER SCHWARTZ: It's on, just speak into
24 it.

25 MR. BRIAN ZAPPI: So I'll just wait for the plans

1 and everything. Basically, I'll just do a little recap --

2 DEPUTY TOWN ATTORNEY FRIED: Just project a
3 little bit more.

4 MR. BRIAN ZAPPI: -- a recap on the property --

5 CHAIRMAN SIMON: I would just like to add that
6 Sergeant Reckson from the Police Department is also in the
7 audience. So he'll be listening also.

8 MR. BRIAN ZAPPI: I would like to thank any and
9 all the consultants and members of the public, everyone who
10 came out, Sergeant Reckson as well.

11 So basically I'll, with that said, I'll dive into
12 this. We have two existing tax lots, lot 11 and lot 12
13 located between Old Colony and Midvale. The property is
14 sloping from Old Colony down towards Midvale Road.

15 I know you had mentioned that there are -- you
16 want to get some findings of facts on what's going on as
17 far as, you know, drainage and traffic and safety.

18 So since our previous meeting, we have had
19 several staff visits and site visits to further address
20 what's going on with this property and potential runoff
21 down to Pipeline, down below. With engineering comments
22 that we've had, they've asked us to analyze the water shed,
23 which is basically a large area that contributes to the
24 drainage runoff on Old Colony Road.

25 This water shed, as shown here, so the water shed

1 shown up here on the projector is approximately 18.5 acres,
2 which would be including the subject property. This area
3 consists of lawn area, partially forested area, impervious
4 surface.

5 All of this water is kind of getting collected
6 and conveyed through the storm sewer and ends up
7 discharging down onto the property. You can see the little
8 triangular note showed there. That is where the head wall
9 is on that property.

10 So right here is the subject property, tax lots
11 11 and 12. What you see here, this bold dashed line, is
12 the border of the water shed, which contributes all the
13 water within this dark bold line, ends up discharging right
14 there on the property. It's a large area of water and of
15 concentrated flow that comes out at that little point right
16 here. Sorry, it's kind of far.

17 Further site investigation shows that so much
18 water is coming out of that pipe and out of that head wall,
19 it's causing severe erosion through the property. That's
20 shown in this line right here.

21 So this entire water shed, all the water in this
22 whole area, comes down to this one little point and then
23 comes through the property. It's coming through with
24 pretty good speed to cause all of the sediment to end up
25 washing out through the drainage channel and completely

1 clogging a pipe downstream.

2 BOARD MEMBER GOLDEN: I have a question on that.
3 So you're saying all the water on that water shed area,
4 even if it may go into certain storm sewers, it all ends up
5 on your property?

6 MR. BRIAN ZAPPI: Yes.

7 BOARD MEMBER GOLDEN: None of it goes like
8 further downhill through other sewers like to the Bronx
9 River or anything like that?

10 MR. BRIAN ZAPPI: Eventually all the water will
11 make its way down towards the Bronx River.

12 BOARD MEMBER GOLDEN: No, but through your
13 property?

14 MR. BRIAN ZAPPI: Through our property.

15 BOARD MEMBER GOLDEN: None of it is diverted
16 through pipes?

17 MR. BRIAN ZAPPI: There is no easement or
18 anything that would allow the conveyance of that water
19 through the property --

20 BOARD MEMBER GOLDEN: I don't mean through your
21 property. I mean how about Old Colony where it comes down
22 by the train station, none of the water is diverted --

23 BOARD MEMBER SCHWARTZ: Are there any storm
24 drains on Old Colony?

25 MR. BRIAN ZAPPI: On Old Colony, there are storm

1 drains. The storm drains are located in this area here at
2 the low point. These are just a few of the catch basins.
3 There is a manhole here as well. There is some along the
4 shoulders. There are some over here at the intersection of
5 Midvale. And there is even some a little bit lower over
6 here.

7 BOARD MEMBER HAY: So what you're saying is they
8 all funnel down --

9 MR. BRIAN ZAPPI: And they all funnel down to the
10 lowest point, which is at our property, and that's where
11 all the flow is going right now.

12 BOARD MEMBER SCHWARTZ: Those storm drains, they
13 actually go onto your property, not into some kind of
14 municipal system?

15 MR. BRIAN ZAPPI: I wish they did. And I
16 actually think -- and yeah, and that's pretty much the main
17 reason or the biggest reason that's causing flooding down
18 on Pipeline down below. Because with all of the sediment
19 that's been captured from these larger increasing rain
20 events, there is more water getting there.

21 BOARD MEMBER SCHWARTZ: But the flooding I've
22 seen, and I drive that road everyday, okay, isn't behind
23 the property you're developing. The flooding starts at the
24 first house, which is the one you built last year, and goes
25 down to all the, the houses that have been there for years,

1 next to the one you built on Old Colony, that's where the
2 flooding is. It's not behind the property where you are.
3 So doesn't really makes sense to me what you're saying.

4 CHAIRMAN SIMON: Just a second. If all the water
5 is being funneled through that spot, the question is where
6 does it go after that? So it could well be that it's going
7 to those areas that you see puddling.

8 So the question is to identify where that water
9 is going and then where does that water wind up on the
10 Pipeline. And then based upon that, come up with an
11 appropriate drainage system to capture that water.

12 Because once the water goes onto your property,
13 it could spread anywhere and could come out anywhere at the
14 bottom. Have you done any studies to trace where that, how
15 that water flows through your property?

16 MR. BRIAN ZAPPI: Yes. So --

17 CHAIRMAN SIMON: Okay.

18 MR. BRIAN ZAPPI: -- as that water comes down
19 through the property and the sediment has been captured and
20 filling up completely to the point where the pipes can no
21 longer convey water. So the pipes downstream have become,
22 right here, you'll see an 18-inch round concrete drainage
23 pipe that juts up into the property.

24 This, along with other Town drainage maps and
25 older plans, show conveyance of the storm drains coming

1 down, crossing through the property and getting captured in
2 this pipe here. With that pipe full of sediment and with
3 more flow coming through the property, that pipe, even
4 though it was just cleaned by the Town, will continue to
5 accumulate more sediment as time goes on.

6 When that pipe has been fully accumulated with
7 sediment, it's washing out, as you see here in the blue,
8 and it floods down to Pipeline. Further site investigation
9 shows that it doesn't just flood through here, but it
10 actually rises in the channel spilling out other areas
11 throughout the property.

12 So as you see it comes down from Old Colony kind
13 of across and through, it's almost acting like a large weir
14 where it kind of spills over.

15 CHAIRMAN SIMON: Now, would the design of your
16 four houses have any effect on that pipe or you plan to
17 make an improvement to that flow through the pipe or go
18 around that pipe or what, what will happen?

19 MR. JIM ZAPPI: Yes. I'm Jim Zappi, also a PE
20 and I'm Brian's dad. I just -- and Aaron, if you can hold
21 that there for a minute. Brian kind of went a little bit
22 fast.

23 The water shed that's on the west side of the
24 property, of Midvale, all that water drains down into the
25 catch basins, comes down Old Colony and it gets dumped into

1 these catch basins here.

2 So all that, that whole water shed up on the top,
3 which is roughly 18 acres, ends up coming down, gets dumped
4 on our property through all the storm drains in the street,
5 and there is a head wall.

6 So in other words, you have a piece of pipe, the
7 pipe stops. And then this is all open channel, meaning
8 it's just a rut in the ground. And all the stormwater
9 comes down. And years ago, there is a pipe over here --
10 you got another drawing there, Aaron?

11 DEPUTY COMMISSIONER SCHMIDT: Yes.

12 MR. JIM ZAPPI: So right here is an existing
13 pipe. So what used to happen, it would come down off of
14 Old Colony, go open channel, so it wasn't piped, and it
15 would go in this pipe here. What has happened now, because
16 of all the heavy rain events, all the sediment went inside
17 this pipe and clogged this pipe. So this whole thing was
18 about 95 percent clogged.

19 So what happens is now the water is jumping over.
20 It's not going in this channel here anymore, this pipe.
21 It's coming out on Old Colony Road. And the main reason is
22 because --

23 DEPUTY COMMISSIONER SCHMIDT: Pipeline.

24 MR. JIM ZAPPI: Pipeline, I'm sorry. Because the
25 pipes, these pipes that are there now, are clogged. And

1 the water could be, the flooding could be down this way by
2 the existing house. That's just the way the grade of the
3 road can go and go down that way.

4 So to answer your question, what's going to
5 happen. Right now, there is a problem there. We propose
6 to -- we propose to retain the stormwater on the site. The
7 code says in a 25-year storm, that's what we're required to
8 do, we're going to do a 100-year storm.

9 So not only are we going to retain all the water
10 from the impervious surfaces that we're creating, but we're
11 also going to retain all the drainage that comes off on the
12 woods.

13 What these things are, you got one here, one
14 here, here and here. Those will be in the ground, like a
15 dry wall, so to speak. They are sized to take up to
16 100-year storm and it would be the dry well, the walkways,
17 the entire lawn and the house.

18 BOARD MEMBER GOLDEN: And what are you going to
19 do about the 18-acre water shed, which is currently in that
20 open ditch, missing that pipe, are you going to repipe it?

21 MR. JIM ZAPPI: Okay, yes. We are proposing to
22 pipe it. I just want to clarify this because this is
23 Brian's project and I'm not -- he can speak to that. I
24 just wanted the Board to understand what the existing
25 conditions are.

1 BOARD MEMBER SCHWARTZ: Could you answer
2 Michael's question, please?

3 MR. BRIAN ZAPPI: So yes, we do plan on piping
4 the connection from the head wall down to where the manhole
5 is, further down site as shown in the blue.

6 DEPUTY COMMISSIONER SCHMIDT: Shown in the blue.

7 BOARD MEMBER GOLDEN: What size pipe?

8 MR. BRIAN ZAPPI: Right now we currently have an
9 18-inch pipe. 18-inch pipe proposed connection because
10 that's what the Town drainage down below. Depending on,
11 you know, different storm events and confirmation from the
12 engineering department, we want to make sure that this pipe
13 has been adequately sized. If the pipe does need to get
14 made larger, that is something that will end up getting
15 vetted through the engineering department.

16 BOARD MEMBER HAY: I'm sorry, what is the
17 diameter of the pipe that's emptying out of that head wall?

18 MR. BRIAN ZAPPI: That's an 18-inch.

19 ALTERNATE BOARD MEMBER FRAITAG: 18-inch.

20 MR. BRIAN ZAPPI: And it's also getting picked up
21 at an 18-inch down below. Now, this was built many, many
22 years ago as it's shown on many, many -- yeah. So this was
23 built a long time ago. So maybe when that pipe was first
24 put in, it didn't, you know, consider the entire water
25 shed. So that could be part of the problem.

1 DEPUTY COMMISSIONER SCHMIDT: We do have some old
2 maps if you want me to put them up.

3 BOARD MEMBER HAY: So are you saying that
4 18-inch, you don't feel confident or don't think that the
5 18-inch pipe is enough to channel that whole water shed?
6 It doesn't seem like it to me, but I'm not an engineer.

7 MR. BRIAN ZAPPI: There are different ways to go
8 about it. You can do two pipes or a larger pipe. But we
9 just want to make sure that we've considered everything
10 that the engineering department wants as far as their
11 design calculations and making sure everything is --

12 BOARD MEMBER SCHWARTZ: What I hear, though, is
13 the pipe you're proposing is 18-inches, but it's connected
14 to a municipal that's 18-inches anyway. So if you put a
15 larger pipe in and connect it to an 18-inch pipe, it's not
16 going to make a difference.

17 DEPUTY COMMISSIONER SCHMIDT: I can report to the
18 Board that there are ongoing discussions between the
19 applicant and the Town's Bureau of Engineering related
20 specifically to this issue.

21 BOARD MEMBER SCHWARTZ: Okay.

22 DEPUTY COMMISSIONER SCHMIDT: So you know, I
23 think it's something that if you have a future, a
24 continuation of the Public Hearing, that will be wrapped up
25 so that this Board can fully understand that issue.

1 CHAIRMAN SIMON: I think one of the questions
2 that have to be raised and answered that if, assuming that
3 all the drainage is properly designed and goes into an
4 18-inch pipe and it captures all the water flow coming off
5 the property, the question is, can the 18-inch pipe that is
6 there now handle it.

7 BOARD MEMBER SCHWARTZ: Handle it.

8 DEPUTY COMMISSIONER SCHMIDT: Right.

9 ALTERNATE BOARD MEMBER FRAITAG: And adequately.

10 DEPUTY COMMISSIONER SCHMIDT: And that's the
11 question that's being discussed between the Town's Bureau
12 of Engineering and the applicants.

13 So just to clarify, though, the stormwater run
14 off coming off of the four proposed lots, the areas of
15 disturbance in connection with the four lots, are going to
16 be handled in a separate system on the individual lots. I
17 think that's what Mr. Zappi was explaining.

18 The water that's currently coming through the
19 channel and trying to make its way into the 18-inch pipe,
20 that's the water that they are looking to size and
21 appropriately size and structurally sound pipe to
22 accommodate that water from the upper water shed.

23 CHAIRMAN SIMON: Okay, going into --

24 DEPUTY COMMISSIONER SCHMIDT: I just wanted to
25 clarify. There is a distinction between the two.

1 CHAIRMAN SIMON: Okay, and going into that same
2 clogged pipe?

3 ALTERNATE BOARD MEMBER FRAITAG: No, there is
4 going to be a new connection is what I understand.

5 DEPUTY COMMISSIONER SCHMIDT: So let me be clear.
6 Let me go back to the existing condition plan. Existing
7 conditions, there are really two -- well, down below there
8 are two pipes. There is an 18-inch pipe here and then an
9 18-inch pipe that goes south for several hundred feet.

10 Let's talk first about this diagonal pipe. Well,
11 that's proposed to be eliminated as part of the applicant's
12 proposal.

13 ALTERNATE BOARD MEMBER FRAITAG: Yeah.

14 CHAIRMAN SIMON: Okay.

15 DEPUTY COMMISSIONER SCHMIDT: So if we take a
16 look at this versus what the applicant currently proposes
17 is they propose their pipe going all the way --

18 CHAIRMAN SIMON: Okay.

19 DEPUTY COMMISSIONER SCHMIDT: -- to this manhole.
20 This pipe would be eliminated.

21 ALTERNATE BOARD MEMBER FRAITAG: So Aaron, that
22 gets capped and that's the end of it?

23 DEPUTY COMMISSIONER SCHMIDT: It's already pretty
24 much exposed so it will probably just be removed.

25 BOARD MEMBER GOLDEN: I'm sorry? Say that again.

1 DEPUTY COMMISSIONER SCHMIDT: It's very visible
2 in the field.

3 BOARD MEMBER GOLDEN: That proposed new pipe.

4 DEPUTY COMMISSIONER SCHMIDT: Yes.

5 BOARD MEMBER GOLDEN: Is 18-inches and it's going
6 into an existing 18-inch storm sewer in the Pipeline?

7 DEPUTY COMMISSIONER SCHMIDT: A storm -- a
8 drainpipe.

9 BOARD MEMBER GOLDEN: What does that drainpipe go
10 into?

11 DEPUTY COMMISSIONER SCHMIDT: It goes south
12 several hundred feet and it dumps out, enters into a
13 culvert that goes underneath Aqueduct Drive and ultimately
14 ends up in the Bronx River.

15 BOARD MEMBER SCHWARTZ: Right by where the old
16 tennis courts was.

17 BOARD MEMBER GOLDEN: It all ends up in the Bronx
18 River?

19 DEPUTY COMMISSIONER SCHMIDT: It does, correct.

20 BOARD MEMBER TALIAFERROW: Do we know the amount
21 of sediment that maybe in that pipe?

22 DEPUTY COMMISSIONER SCHMIDT: Well, the pipe was
23 recently jetted and cleaned by our Department of Public
24 Works over the last few weeks. I would say within the last
25 two to three weeks.

1 I can tell you that some of this information is
2 going to be discussed at the future Public Hearing. We're
3 kind of compiling comments and questions of the Board and
4 eventually maybe some member of the public.

5 BOARD MEMBER SCHWARTZ: It's also true that there
6 are no storm drains going north towards the station on the
7 Pipeline. Correct?

8 DEPUTY COMMISSIONER SCHMIDT: Correct. There are
9 no catch basins north of this subject property --

10 BOARD MEMBER SCHWARTZ: Right.

11 DEPUTY COMMISSIONER SCHMIDT: -- as it fronts on
12 to Aqueduct Drive.

13 BOARD MEMBER SCHWARTZ: Where I'm seeing the
14 water after it rains, there are no catch basins at all.

15 DEPUTY COMMISSIONER SCHMIDT: Not until you get
16 really into the area of the train station itself.

17 BOARD MEMBER SCHWARTZ: Right.

18 DEPUTY COMMISSIONER SCHMIDT: Further south there
19 is a lot --

20 BOARD MEMBER SCHWARTZ: It's where the old tennis
21 court was.

22 DEPUTY COMMISSIONER SCHMIDT: -- it's an access
23 drive to the tennis court. Actually, so, and I reported
24 this to the CAC the other evening and this Board does have
25 a recommendation from the CAC in hand. I believe I emailed

1 it out --

2 CHAIRMAN SIMON: Yes.

3 DEPUTY COMMISSIONER SCHMIDT: -- and you also
4 have hard copies. But what I explained to the CAC, which
5 was reported to me by the Highway Department under the
6 Department of Public Works was that the major issues that
7 they observed along Aqueduct Drive, Pipeline Road were in
8 the area of the tennis court area.

9 They recently installed a 6-inch perforated pipe
10 for several hundred feet because it was their opinion that
11 water was shedding down the hill and, in that location
12 anyway, making its way onto the Pipeline Road. And they
13 wanted to try to intercept some of that.

14 BOARD MEMBER SCHWARTZ: Like was said, I'm a
15 regular commuter on that road, okay. I can tell you yes,
16 that was the worst spot. But there is standing water on
17 north of this property in front of all developed houses all
18 the way to Hartsdale station in heavy rain.

19 DEPUTY COMMISSIONER SCHMIDT: We discussed that,
20 yes.

21 DEPUTY TOWN ATTORNEY FRIED: I just want to say,
22 we do have a couple of traffic people here today and we
23 have half hour to 11:00.

24 CHAIRMAN SIMON: Okay. We want to get that in,
25 okay. We will go back to drainage again. But we do want

1 to get in our -- Sergeant Reckson, is there information
2 that, you know, John Canning is going to go through his
3 entire, will go through those 13 questions.

4 Are there any information you would like to add
5 that might not -- oh, the issue was of traffic accidents at
6 that corner. Could you comment on that or?

7 DEPUTY COMMISSIONER SCHMIDT: While Sergeant
8 Reckson is coming up, I just, for the benefit of those
9 watching at home, I do want to explain the various permits
10 required in connection with the project. I know you asked
11 the applicant to get right into drainage and stormwater
12 management.

13 But the applicant has submitted for a preliminary
14 subdivision, steep slope permit, wetland/watercourse
15 permit, and tree removal permit application for a proposal
16 consisting of the subdivision of two existing tax lots into
17 four zoning compliant lots.

18 These properties are located in R-10 Zoning
19 District. And there is steep slope impacts, impacts to
20 watercourse on the property, watercourse buffer area, tree
21 removal, plans have been shown to that effect. There has
22 also been a landscaping plan proposed as well. I just
23 wanted that to be clear.

24 CHAIRMAN SIMON: Thank you for reading that into
25 the record.

1 DEPUTY COMMISSIONER SCHMIDT: You're welcome.

2 CHAIRMAN SIMON: There have been some comments
3 about accidents on Old Colony Road during wet and dry
4 weather. Do you have any information in terms of reported
5 accidents along --

6 SERGEANT RECKSON: From June of 2009 until
7 recently, three crashes were reported to the Police
8 Department where reports were made and submitted. And I
9 believe they were furnished to Mr. Canning.

10 CHAIRMAN SIMON: Do you know whether or not there
11 were weather conditions at the time?

12 SERGEANT RECKSON: They don't appear to be. I
13 think one was related to ice and one was a commercial
14 vehicle, maybe turning or backing into a parked car. And
15 the other one I don't recall.

16 BOARD MEMBER GOLDEN: Where were these accidents?

17 SERGEANT RECKSON: The section of Old Colony Road
18 in the vicinity of Midvale Road.

19 BOARD MEMBER GOLDEN: Okay.

20 CHAIRMAN SIMON: Are there any other questions?

21 BOARD MEMBER SCHWARTZ: Sergeant Reckson, one
22 thing that I know I've heard is concern about that
23 intersection, that section of road, during icy conditions.
24 Can you talk to that at all? Is there anything else we
25 should know about, because I've heard that there's been a

1 lot of unreported.

2 SERGEANT RECKSON: I can only speak to what has
3 been reported to the Police Department. That's all I can
4 tell you. As far as the conditions, that would be Public
5 Works would maintain the conditions, you know, if it's icy
6 or wet or slippery. I can't speak to that.

7 BOARD MEMBER SCHWARTZ: Okay.

8 ALTERNATE BOARD MEMBER FRAITAG: Sergeant Reckson
9 there was a comment made about a possible stop sign there.
10 Can you tell me why we could not put a stop sign there?

11 SERGEANT RECKSON: Where, specifically?

12 ALTERNATE BOARD MEMBER FRAITAG: At Midvale Road
13 in one or both directions.

14 SERGEANT RECKSON: I think that would be a
15 question better for the engineer to speak to.

16 ALTERNATE BOARD MEMBER FRAITAG: Okay.

17 BOARD MEMBER GOLDEN: Thank you, Sergeant
18 Reckson.

19 DEPUTY COMMISSIONER SCHMIDT: So as --

20 CHAIRMAN SIMON: Before you start, I note, first
21 of all, it was a very extensive report. And, in addition,
22 to the 13 questions, you give a lot of mathematical
23 calculation, how you arrived at that. I don't think you
24 have to provide the mathematical calculation --

25 MR. JOHN CANNING: Understood.

1 CHAIRMAN SIMON: -- but the site -- so that's
2 back up information, so we know how you did it.

3 MR. JOHN CANNING: That's right, exactly.

4 CHAIRMAN SIMON: But if you can go through those,
5 I believe it was 13 questions that were posed, and give an
6 explanation of your answer.

7 MR. JOHN CANNING: Yes. Certainly. Just to
8 quickly summarize from April 12th we submitted a report and
9 the most important information in that was summarized in
10 the table --

11 DEPUTY TOWN ATTORNEY FRIED: I want to interrupt,
12 just for the record, but if you can state your name and
13 address for the record.

14 MR. JOHN CANNING: For the record, my name is
15 John Canning. I work for Kimley-Horn. I'm a professional
16 engineer and I've been practicing traffic engineering for
17 over 30 years.

18 BOARD MEMBER TALIAFERROW: I ask if you can just
19 shift the mic a little. Thank you.

20 DEPUTY COMMISSIONER SCHMIDT: Thank you.

21 MR. JOHN CANNING: The most important information
22 from our April 12th report was in the table on page two,
23 which basically summarized the required sight distances and
24 the available sight distances based on our measurements.
25 And for this application to be considered safe, it would

1 have to have driveway sight distances that met or exceeded
2 the minimum standards and it did, as was presented in our
3 April 12th report.

4 So you had asked for facts. Those were, in my
5 opinion, the most pertinent facts and there were a number
6 of questions that arose from that. One of which was why
7 would you or could you put a stop sign at the intersection
8 of Midvale Road and Old Colony Road.

9 You could put a stop sign pretty much anywhere
10 you want. But there is a Federal manual that says these
11 are the standards that you typically have. And to put a
12 stop sign in, it typically requires five or more accidents
13 at a location that are susceptible to correction by the
14 installation of a traffic signal and approximately equal
15 traffic volumes on the crossing streets.

16 Neither of which are really available or
17 occurring at Midvale Road. So it doesn't meet the
18 standard. If there were five or more accidents that were
19 corrected by a stop sign, I would say it would be a good
20 candidate for that.

21 ALTERNATE BOARD MEMBER FRAITAG: Okay, but if the
22 people, if everybody in the neighborhood feels that it's a
23 hazard --

24 MR. JOHN CANNING: Yup.

25 ALTERNATE BOARD MEMBER FRAITAG: -- that could be

1 overruled you're saying?

2 MR. JOHN CANNING: So let me put it is this way.

3 ALTERNATE BOARD MEMBER FRAITAG: The neighborhood
4 is concerned.

5 MR. JOHN CANNING: Here's the way it works. I
6 see lots of roads in this County where stop signs have been
7 put in to slow people down because they are residential
8 neighborhoods. And generally speaking, they are kind of
9 affective.

10 The Federal Government in its wisdom, has put out
11 this Bible that says this is how you're supposed to do it,
12 and these are the standards. So the Town, when it makes a
13 decision like this, has to weigh the benefits to the
14 community against the risks to not complying with the
15 standards.

16 And if you put a stop sign in that doesn't meet
17 the standards, and then for some reason somebody stopped
18 and the person behind them is not paying attention and goes
19 into the end of them, the person behind can sue the Town
20 for putting the stop sign in that didn't meet the
21 standards. So it's not an easy decision.

22 There are certainly circumstances where the Town
23 can say we understand these risks, we have done a study and
24 we have listened to the residents and we made observations
25 and it's clear to us that the risks outweigh the benefits.

1 And then they can make that decision. But I don't think
2 we're at that point based on the evidence that we have.

3 BOARD MEMBER SCHWARTZ: Mr. Canning, I think the
4 objective to that, and it goes back to I think some
5 comments I've seen from the community on this. There is a
6 concern about the speed for which people come down the hill
7 on Old Colony Road. I mean it's a thoroughfare to the high
8 school.

9 MR. JOHN CANNING: Yes.

10 BOARD MEMBER SCHWARTZ: There are teenagers on
11 that road all the time. They are not supposed to be, but
12 they are there anyway. Are there any other traffic calming
13 methods we could use to slow that traffic down there
14 potentially without disrupting the neighborhood?

15 MR. JOHN CANNING: Sure. So I just would like to
16 note that the observed 85th percentile as you just come
17 over the hill is 33 miles per hour, which is three miles
18 per above the posted speed limit. So clearly it is higher
19 than the speed limit. I would hazard a guess that if you
20 were to measure many of the roads in Town, you'd get
21 something that's quite similar.

22 It has been my experience that if you put a radar
23 speed feedback sign, similar to what you put on Taxter
24 Road, that's a Town road that the Town, I presume, put
25 those signs in, that they reduce the 85th percentile by

1 approximately two miles per hour.

2 So some people, actually a number of people
3 adjust their speed, but they don't slow down a lot. They
4 just say, oh, I'm going a little fast, I'll slow down. So
5 that's one measure that you can put in. That it would be
6 my experience that that would reduce the speed from maybe
7 33 to 31 miles per hour.

8 Other measures that could be put in, speed humps
9 as opposed to bumps, are sometimes put in on roads. I know
10 it's not a Town of Greenburgh road, but over on Northfield
11 Avenue in Dobbs Ferry, which used to be a cut-through from
12 Ashford Avenue up into Irvington, they put a number of
13 speed humps on that road.

14 The issue with speed humps, there is a couple of
15 things. One, it reduces emergency response times.
16 Because, particularly, well, both ambulances and fire
17 departments have suspensions that are different than cars.
18 And so they have to slow down more.

19 And particularly, if you get somebody that's in
20 an ambulance that's on a gurney, or you got 500 gallons of
21 water in a fire truck, you don't want to over these things
22 more than five miles per hour. So that could be another
23 issue where you have to do a balancing test against the
24 benefits versus the impacts.

25 The other issue with speed humps, there's a

1 couple of issues with them. One, they can cause a little
2 bit of noise. So if you put them outside somebody's window
3 and the garbage truck comes through at 7:00 o'clock every
4 morning, because they are the first pick up on the route,
5 7:00 o'clock every morning, you're probably going to hear
6 that garage truck going over the humps.

7 These are things that you have to weigh. If I
8 were to put a speed hump on Old Colony Road, I would not
9 put it on a slope. I would put it on a flat area, which
10 means it would be south of the crest that's up from
11 Midvale. So that's another measure that you could
12 implement. So those are the two measures. I think the
13 easiest one, in my opinion --

14 BOARD MEMBER SCHWARTZ: A sign.

15 MR. JOHN CANNING: -- is the sign.

16 BOARD MEMBER SCHWARTZ: I like the idea of a
17 sign.

18 BOARD MEMBER TALIAFERROW: How about a rumble
19 strips?

20 MR. JOHN CANNING: You can put rumble strips in
21 there. As a matter of fact, there are a couple of
22 different ways of treating rumble strips.

23 I'm not sure if you're familiar with Sunny Side
24 Lane. It's at the end of Taxter Road. It's a winding road
25 that's on the border between Tarrytown and Irvington.

1 Recently they put in a rumble strip down the double-yellow
2 line. It's so narrow and so winding, that they just have a
3 double-yellow line. People just flew down and the line was
4 kind of arbitrary.

5 So now when you go over it, you hear your tires.
6 And I think the residents for the most part are reasonably
7 happy with it. That's one type of rumble strip.

8 DEPUTY COMMISSIONER SCHMIDT: I'm a resident and
9 I'm happy with it.

10 MR. JOHN CANNING: The other type is where you
11 have transverse rumble strips. Usually you find those when
12 you are approaching a toll booth. You're doing 55 miles an
13 hour or when you're coming down the Bear Mountain Parkway
14 into the round-about at Bear Mountain round-about, at the
15 Bear Mountain Bridge. So they are placed in sequence so
16 it's like ba-dump, ba-dump, ba-dump. It gives you the
17 sense that you have to slow down.

18 BOARD MEMBER SCHWARTZ: Doesn't that create a
19 noise also a problem for snow plowers, too?

20 MR. JOHN CANNING: They do. I would say the
21 problem for snow plows is not so significant that you would
22 not do it if you felt you needed to do it.

23 I mean they have them on the Thruways at the toll
24 ramps. They seem to plow the Thruways fine. So I don't
25 think that's a major issue. But they do create a noise.

1 BOARD MEMBER HAY: It seems to be easier, the
2 humps, for the plow.

3 ALTERNATE BOARD MEMBER FRAITAG: Seems to be
4 easier.

5 MR. JOHN CANNING: So that's the issue of the
6 stop sign and the traffic comment.

7 ALTERNATE BOARD MEMBER FRAITAG: Thank you.

8 MR. JOHN CANNING: So if we can quickly go
9 through the other questions.

10 CHAIRMAN SIMON: Yes, please do.

11 MR. JOHN CANNING: So first comment, there was a
12 question as to whether the math that I used and the
13 standards that I used were similar to the ones that were
14 submitted by a resident. And the answer really is no.

15 The standard that the residents submitted stopped
16 being used in 2001. The current standard is approximately
17 15 percent stricter than the old standard.

18 And so motorists can actually stop shorter than
19 what the current standard requires, if they need to. The
20 current standard is to allow you to stop at a comfortable
21 pace and stay within your lane in the wet.

22 The second question pointed out a discrepancy
23 between the field sight distance measurements that we
24 conducted and the sight distance measurements that were
25 shown on the Zappico plans. We measured 315 feet. And the

1 Zappico plans indicated 309 feet.

2 It's not a very significant difference and both
3 values are above the minimum required, which is 300. I
4 stand by the field measurements, which I conducted in the
5 field.

6 The third question commented that the calculation
7 of grade that we had conducted in our calculations was
8 incorrect. And when I looked at the information that I was
9 referred to by the commenter, the only way that I can get
10 the value that they had suggested of 17 percent was if I
11 went to the left, follow the road, went to the left of the
12 map and took the value there, which was 285 feet instead of
13 the value under the vehicle, which is what should have been
14 done, which is 283 feet.

15 And I came up with 17 percent, which is what they
16 calculated. If you use 283 feet, it's 14 percent. So I'm
17 confident that the number that we used is correct.

18 The next comment was basically that going faster
19 than 33 miles per hour exceeds the safety calculations. So
20 the standard is you design to the 85th percentile. And the
21 commenter is correct. If you're driving faster than the
22 85th percentile, it is possible that you would not be able
23 to stop in time.

24 But I would point out a couple of things. First
25 of all, the standard does have a 15 percent cushion based

1 on the original. The standard is also for in the wet.

2 And finally, when engineers design roadways, we
3 have to draw the line somewhere. Because if we were to
4 design the roadway for the fastest car all of the roadways
5 in Town would be designed for maybe 40, 50, 60 miles per
6 hour. So there is a standard and that is the 85th
7 percentile.

8 There was a question asked regarding the weather,
9 wet weather and icy weather. So the standard does account
10 for wet weather. The standard does not account for icy
11 weather. Basically, you cannot drive the speed limit on
12 any road in Town when it's icy. That's why they plow.
13 That's why they salt, and that's why you're supposed to
14 drive slower than the speed limit when it's icy.

15 There were a couple of accidents on this road
16 when it was icy. There's a couple of accidents on lots of
17 roads in Town when it's icy. In my opinion, the benefit,
18 for the most part, is that people do drive slower, even if
19 they do loose control.

20 So instead of doing 33 miles per hour, they go
21 down that hill at 10 miles per hour. When they try to make
22 the turn at Midvale, they couldn't because they are trying
23 to change the momentum of the car, but you're going at a
24 lower speed. From a light safety perspective, it's a
25 better condition than if somebody was traveling at the

1 speed limit.

2 The fifth question or comment was that indicating
3 safety based on police reports is unreliable. Well, we
4 didn't just do one method of reporting on the safety. We
5 did look to the accident records and if we had found a
6 problem there, that would have given us more pause to look
7 at more issues.

8 But we based it on the sight distance
9 measurements, which indicate that, at this location, at
10 these driveways, you will have sufficient sight distance to
11 see somebody, slow down and stop, if something should
12 happen to them when they are pulling out of their driveway
13 and their car stalls.

14 The next comment was how the initial margins, the
15 85th and 95th -- the 85th and the 90th percentile
16 translated into the 98th percentile, 98 percent,
17 two percent probability. Basically, the law of the product
18 rule of probabilities is if you needed a sequence of events
19 to happen for something to happen, then the probability is
20 the multiple of them and so you end up diminishing the
21 probability of it.

22 I would point out that regardless, the standard
23 is met.

24 DEPUTY COMMISSIONER SCHMIDT: I may have missed
25 this, Mr. Canning, but when you refer to the standard --

1 MR. JOHN CANNING: It's the American Association
2 of State Highway and Transportation Officials, Policy under
3 the Geometric Design of Highways and Streets. And it's
4 intersection sight distance, which is two components: Your
5 perception, reaction time, how far you travel before you
6 put your foot on the break, and then your breaking time of
7 how far you travel while you're stopping.

8 DEPUTY COMMISSIONER SCHMIDT: Thank you.

9 MR. JOHN CANNING: So that is the standard that
10 we applied.

11 The rate of speed was determined based on data
12 provided by the Police Department. They have a machine
13 that accounts, documents the speed of vehicles as they pass
14 a certain point. There were between 2,000 and 3,000
15 individual observations made. One was at one location and
16 the other was at the other. We did it at the end of the
17 corridor that we were studying.

18 BOARD MEMBER SCHWARTZ: I just want to know how
19 fast my daughter was going down Old Colony.

20 MR. JOHN CANNING: That information will not be
21 revealed.

22 There was a comment that shared driveways would
23 provide a higher level of scrutiny to ensure safety. It
24 certainly is possible that shared driveways could provide
25 better sight lines, but it's noted that the minimum has

1 been provided at the current driveways.

2 A comment was made that a third lane on Old
3 Colony Road would also improve sight lines. And I agree, a
4 third lane could improve sight lines that would allow you
5 to make a left turn into these driveways.

6 But again, the Federal manual has standards that
7 says that these are the volumes of traffic that you should
8 have before you consider, before you need to consider
9 putting a left turn lane in. And the volume of traffic
10 that made left turns into this driveway does not come close
11 to meeting that standard.

12 A comment was made that darkness inhibits the
13 drivers' ability to see as they are coming down the road.
14 But I would point out that we're looking for vehicles
15 coming in and out of this driveway at night, which will
16 have their lights on. So they should be able to see them
17 probably even better than during the day when you can't see
18 the lights and there might be trees and stuff like that.

19 The next comment was the comment regarding the
20 stop sign on Midvale Road. So we talked about that.

21 CHAIRMAN SIMON: Yes.

22 MR. JOHN CANNING: The next comment was that the
23 four new homes would add a lot of traffic to Old Colony
24 Road. And we looked into the Institute of Transportation
25 Engineers Trip Generation Manuals, basically a compounding

1 of surveys of various uses, including single family homes.

2 And based on that, the information indicates that
3 at a maximum, the four homes will add five trips to Old
4 Colony Road in any one hour. Over the course of multiple
5 hours, it will be multiples of five, but in the busiest
6 hour, it will only be five trips. And in our opinion, this
7 is not going to change the nature of traffic upgrading
8 conditions on Old Colony Road.

9 The next question was that there are repeat
10 offender speeding on northbound Old Colony Road. And we
11 noted the speed limit and the observed the 85th percentile.
12 So there are people traveling faster than the speed limit.
13 And we did suggest that the Town might consider the
14 applicant be required to install speed radar, radar speed
15 feedback sign.

16 There was a question as to how the effects of
17 slope are accounted for in the sight distance calculations.
18 It's calculated either by subtracting if you're going
19 downhill or adding if you're going uphill from the
20 deceleration rate. So that's basically how it's done. And
21 I know I missed one.

22 DEPUTY TOWN ATTORNEY FRIED: You skipped 13 went
23 back to 12.

24 MR. JOHN CANNING: I skipped 13 went back to 12.

25 DEPUTY COMMISSIONER SCHMIDT: Yes.

1 MR. JOHN CANNING: There was a question on the
2 lighting. When we were out there, we noted that there are
3 a couple of lights on Old Colony Road, but none right at
4 Midvale, just on the north side. There is a pole there.
5 There is no light.

6 And we would suggest that the Board may wish to
7 consider asking the applicant to install a luminare on that
8 post. So it would improve the lighting conditions. And I
9 think that's most of the questions.

10 CHAIRMAN SIMON: That's the pole at the
11 intersection?

12 MR. JOHN CANNING: It's opposite Midvale Road on
13 the north side.

14 CHAIRMAN SIMON: Okay.

15 DEPUTY TOWN ATTORNEY FRIED: Aaron, is this --

16 MR. JOHN CANNING: That one right there.

17 CHAIRMAN SIMON: Okay.

18 DEPUTY COMMISSIONER SCHMIDT: I'm circling it,
19 between these two driveways.

20 BOARD MEMBER TALIAFERROW: Is that the
21 applicant's.

22 DEPUTY TOWN ATTORNEY FRIED: It would be on the
23 right of way between the applicant's properties.

24 DEPUTY COMMISSIONER SCHMIDT: Right, right behind
25 the proposed sidewalk.

1 MR. JOHN CANNING: So my assumption is that it's
2 on public property. There are other light poles. If you
3 get the applicant to install it and he does it or they do
4 it, my guess is, you guys, the Town would be responsible
5 for it after that.

6 CHAIRMAN SIMON: Okay. Are there any other
7 questions for Mr. Canning?

8 (Whereupon, there was no response.)

9 CHAIRMAN SIMON: Thank you very much. It was
10 very thorough report.

11 MR. JOHN CANNING: Thank you very much. Good
12 night.

13 CHAIRMAN SIMON: It was a very good report. If
14 there are not anymore questions from the Board, I would
15 like to open up the meeting for public comment. Did anyone
16 sign up for public comment?

17 DEPUTY COMMISSIONER SCHMIDT: Sign up.

18 DEPUTY TOWN ATTORNEY FRIED: At the beginning we
19 asked for anyone to sign up.

20 CHAIRMAN SIMON: So we can get move --

21 DEPUTY TOWN ATTORNEY FRIED: So that the reporter
22 would have the name and address of everyone.

23 CHAIRMAN SIMON: How many people plan to speak
24 this evening?

25 DEPUTY COMMISSIONER SCHMIDT: Show of hands,

1 please.

2 CHAIRMAN SIMON: Three, okay. So in order to
3 give everyone an opportunity to speak, I will put a time
4 limit so we can finish up. So I will ask you to be brief
5 and not spend more than four minutes.

6 MR. NEIL MITCHELL: Okay, sorry. Thank you,
7 everyone. First time I ever attended one of these, so
8 thank you very much. And if I'm not doing something in the
9 correct manner, please correct me. But I'm a resident at
10 88 Old Colony Road and I know this is a fact finding
11 session.

12 DEPUTY TOWN ATTORNEY FRIED: And your name, sir,
13 is?

14 MR. NEIL MITCHELL: Neil Mitchell. I have some,
15 I guess, questions or points of comment that may have been
16 addressed at a previous meeting. But a couple of things,
17 we always have that gentleman up presenting a lot of facts
18 and findings on vehicular traffic.

19 I was wondering what, if anything, you've done on
20 pedestrian traffic. It's quite a busy road to walk up and
21 down to the train, for example. So that would be an area
22 of concern of mine, particularly with potentially four new
23 dwellings and the occupants there.

24 Also, general question, when they built the house
25 at 100 Old Colony Road, there was awful lot of construction

1 traffic. I think at one point there was three pretty large
2 diggers on the site, a lot of movement with the
3 construction itself, the building materials, the removal of
4 vegetation. Are all the properties planned to be built at
5 the same time or is it staged? That's something I would be
6 interested to learn more about.

7 The other two points I had was at the beginning
8 we had a lot of questions on the water shed and the
9 drainage. All the studies, obviously, are done on how the
10 land is at present.

11 Also, there is a lot of concrete and tar matter
12 going in with these four potential properties. I wonder
13 how that is going to effect the water flow and has been
14 raised by some of the Members of the Board, a lot of
15 flooding on the Pipeline, which maybe exacerbated, you
16 know, by this change.

17 And the other thing was just really about the
18 steep slopes. There was a question raised, I think, by the
19 Police Officer, about the number of reported accidents. I
20 walk up and down that road multiple times a week or on the
21 train.

22 I've certainly seen a number of cars have come
23 off the road into the verge. It's a very, very steep slope
24 from the beginning of Old Colony Road and a steep slope
25 back down onto Midvale Road as well. So I don't know if

1 there is any way to get some statistics around that.

2 DEPUTY TOWN ATTORNEY FRIED: Can you identify
3 which direction, are they going in one direction when
4 that's happening?

5 MR. NEIL MITCHELL: A couple times I've seen it,
6 it's been, I guess it would be eastbound so they are going
7 down the slope, you know, towards --

8 BOARD MEMBER SCHWARTZ: Down on --

9 CHAIRMAN SIMON: Down Midvale?

10 MR. NEIL MITCHELL: No, down the beginning of Old
11 Colony, if that makes sense, so that road there. And in
12 fairness, living at 88 Old Colony Road, I don't really go
13 down the other side so I can't comment there, but certainly
14 that slope, I've seen a number of cars come off.

15 So okay, but I just thought that would help with
16 the fact finding and certainly some of the things that
17 myself and my family are having some concerns with.

18 DEPUTY COMMISSIONER SCHMIDT: Thank you.

19 CHAIRMAN SIMON: Thank you.

20 BOARD MEMBER HAY: Thank you.

21 DEPUTY TOWN ATTORNEY FRIED: Next gentleman.

22 CHAIRMAN SIMON: Next gentleman.

23 MR. ROSS VINOGRAD: So good evening. My name is
24 Ross Vinograd. And I live at 2 Brook Lane West, so up
25 towards closer to the high school, off of Old Colony, a

1 little cul-de-sac.

2 And I also share the same issue. I walk to the
3 train quite a bit and the pedestrian traffic there is quite
4 cumbersome. I guess the issues a lot of the traffic
5 studies seem to meet the minimum. But if 33 miles per hour
6 is what you start at the top of the hill at, it's a very
7 steep slope, so what are you actually going at the mid
8 point of the hill.

9 And I drive it every day and you do pick up speed
10 as you go down a hill. And I've seen 35 miles an hour is
11 not unforeseen and especially when it does get icy, the
12 coefficient that was done and the study that was put
13 forward, I recognize that the AASHTO does only wet roads.
14 But I've literally fallen down that hill myself.

15 And I grew up in the Adirondacks and I know how
16 to walk on ice. It's slippery. There's a lot of black ice
17 that happens on that hill and I can't imagine a driveway
18 coming out right at literally the bottom of that hill when
19 I'm going 33 miles an hour on a bit of black ice and
20 somebody is backing up.

21 BOARD MEMBER SCHWARTZ: You're talking about the
22 bottom of Midvale.

23 MR. ROSS VINOGRAD: Midvale, yeah. So if I'm
24 coming down that hill and somebody is backing out --

25 BOARD MEMBER SCHWARTZ: I understand.

1 MR. ROSS VINOGRAD: -- that's dangerous. I mean
2 people are already backing out on Old Colony as it is, and
3 it gets a bit tight.

4 The other thing that happens is, you know, you
5 have Fed Ex cars. I know you are not supposed to park, and
6 even at the top of Old Colony, as a request even from the
7 Town, but people do park there.

8 I'm in sort of life or death situations all the
9 time, where I'm literally going around a Fed Ex truck and I
10 have no idea what's coming up the hill or what's coming at
11 me. So you sort of creep around. I get those are normal
12 neighborhood situations, but if we're just meeting the
13 minimum, we're just going to create more of those
14 situations.

15 I rather try to avoid those situations, if we
16 have the choice. And I think where we stand today, we have
17 a lot of choices. And if I had my druthers, I would like
18 an extra lane there where people would park. Because I
19 can't imagine what is going to happen when two of these
20 houses out of four have a holiday party.

21 Where are these people walking. It is in ice
22 conditions. How are they getting to and from their cars.
23 Midvale Road can't handle probably more than five cars
24 backed up on that hill. And there is not a good overflow
25 situation.

1 I think there was a good comment put forth by the
2 Greenridge Association, just take Midvale and carve it
3 straight down to Old Colony. That would actually add value
4 to our neighborhood because it would create two points of
5 egress.

6 BOARD MEMBER SCHWARTZ: You're talking about the
7 Pipeline --

8 MR. ROSS VINOGRAD: Yeah, the Pipeline, sorry.
9 So take Midvale, just run it straight down the Pipeline.
10 Because then you give our neighborhood two points of
11 egress. Right now there is only one.

12 In fact, when Sandy hit, there was no way out of
13 our little community. Literally the roads blocked us up
14 for more than two days.

15 Anyhow, I think the safety conditions meet the
16 minimum. And the 15 percent is everything that goes above
17 33 miles an hour. Throw a little bit of ice in there and
18 we got ourselves an issue. So that's it.

19 DEPUTY COMMISSIONER SCHMIDT: Thank you.

20 BOARD MEMBER HAY: Thank.

21 BOARD MEMBER SCHWARTZ: Thank you.

22 DEPUTY COMMISSIONER SCHMIDT: Thank you very
23 much.

24 MR. BOB BERNSTEIN: Good evening, Bob Bernstein.
25 I live at 48 Old Colony Road. I'm also the head of the

1 ECC. So I am speaking on behalf of myself as a resident,
2 who knows the area and the neighborhood quite well. I've
3 lived there for 28 years in a month. And I'm also speaking
4 on behalf of the ECC because in particular --

5 CHAIRMAN SIMON: Excuse me, for the public who
6 does not know what the initials, could you --

7 MR. BOB BERNSTEIN: The Edgemont Community
8 Council. Because we have met a number of times to discuss
9 this application and in particular the concerns with
10 respect to the water run off and the risk that should the
11 mitigation that's proposed be wrong or inadequate, the
12 consequences would be huge.

13 The consequences would be visited upon, not just
14 the people in Greenridge, but more the people who live in
15 Old Edgemont or Cotswold or even over on the other side, on
16 the Greenville side, who use Pipeline to commute to park at
17 the train station.

18 The flooding that we've seen is unlike anything
19 we've seen or I've seen in the 28 years I've lived there,
20 only in the last two years. I have been, because of my
21 position at the ECC, the recipient of lots of homemade
22 videos because everybody's got an iphone.

23 And every time there's a heavy rain, everyone
24 takes their iphone out and takes a video or stills of the
25 water coming down on Pipeline, the water rising on

1 Pipeline. The waterfalls, Edgemont Falls we call it, as
2 the water comes cascading down in volumes we've never seen
3 before, but we have in the last two years.

4 Now, I think that the developer, the Zappi
5 family, they are good people. I think they are working
6 diligently to address a very challenging situation. One so
7 challenging, I don't think this Board has faced this one,
8 as challenging as this, to build homes on a site like that
9 with such steep slopes with the water from the water shed
10 coming down with their property being the focal point.

11 Now, we know why it's never been an issue before.
12 It's because that property was basically left to lie
13 undisturbed by the prior owner for decades. The Rothschild
14 family owned that property. They never wanted to see it
15 disturbed.

16 And so the Town designed, I guess designed is a
17 generous word, a stormwater management system that
18 collected water at the lowest point at Old Colony there.
19 And that water then would go into an open ditch and then
20 travel and be picked up, as Mr. Zappi pointed out, picked
21 up by a pipe that has long since been clogged.

22 And that even though that was a problem, no one
23 knew about it. No one knew that these issues were there.
24 Because with the trees and the vegetation and whatnot, no
25 one was able to see how much water was coming down.

1 And then the house at 100 Old Colony was built
2 and everything changed. Well, vegetation was cleared.
3 Water became much more visible. The debris from the
4 construction, from the dirt being moved, caused the pipe,
5 to the extent it was doing any mitigation at all, the pipe
6 was clogged and remains clogged.

7 They may have cleaned it, but we don't know how
8 quickly it will fill up with sediment. We know that just
9 the other day, for example, the problem is not just the
10 water coming down from that one location, there may be
11 other locations on the property where water is coming from.

12 There was an issue as to whether is it strictly
13 water run off from the water shed or is it also water
14 coming from other sources? Is there a natural source of
15 the water? Are there underground streams?

16 Mr. Vinograd spoke about he lives at 2 Brook
17 Lane. Brook Lane is just up the road from this site, but
18 it's on a somewhat higher elevation. Brook Lane is called
19 a Brook Lane because it was once a brook.

20 And in fact, this Board, unfortunately not you
21 folks, but a prior Board, Planning Board, approved homes
22 and subdivision on Brook Lane on top of streams. They just
23 pipe the water else where. So we've seen that and there is
24 a whole wetland at the corner of Brook Lane and Old Colony
25 from one of those streams.

1 So here's what I saw. I watched 100 Old Colony
2 being built. And one day in a really heavy rain, I went up
3 to see, actually residents called me and told me, you
4 should see this. I walked up and I saw water pouring out
5 of the side of the hill that they have carved into to build
6 a retaining wall for that house.

7 And the water was coming out with such velocity,
8 not from the drain, not from the head wall, but from the
9 side of the hill that had been carved out. And it was
10 pouring out with such velocity and such volume, that it cut
11 a swath through the proposed driveway. It was, basically,
12 the dirt covered it at that point. They had not paved it.

13 But it was so intense that it would look to me to
14 be about 18 to 24-inches of separation. I understand,
15 you're looking at your clock. I'm sorry, it's late in the
16 evening and --

17 DEPUTY TOWN ATTORNEY FRIED: We want you to --

18 CHAIRMAN SIMON: You will have -- we're not
19 closing the hearing tonight.

20 DEPUTY TOWN ATTORNEY FRIED: We want you to
21 address the application as opposed to the whole history.
22 If you have something about this application, we really
23 want to hear from you.

24 MR. BOB BERNSTEIN: What I want to say is this,
25 cut to the chase. In order for this application to be

1 approved, we need to know that the proposed mitigation is
2 going to be sufficient. And by that, we need to know from
3 an engineer, from engineers, and possibly from an outside
4 engineering consultant.

5 This project is so different in magnitude and
6 scope in terms of the challenge that's presented here, I
7 don't know that you have the in-house capability of being
8 able to vet what's being proposed. The engineering that's
9 required is one that has to take into account the water.
10 We don't know whether 18-inches is sufficient. The
11 18-inches, I think that comp --

12 CHAIRMAN SIMON: We heard that, Mr. Bernstein.
13 So what you're proposing, if I can summarize, is that you
14 feel that an outside consultant should be part of this
15 evaluation, is that --

16 MR. BOB BERNSTEIN: That's step one. Step two is
17 what happens if you're wrong? What happens, what are the
18 mitigations in place --

19 CHAIRMAN SIMON: Well, see, I can't speak to
20 that. According to the responsibility of this Board, the
21 State recognizes that we are not experts in these fields.
22 So we get the input of professionals and we make a decision
23 based upon the factual evidence presented to us.

24 Does that mean that we could look in the future
25 and say absolutely? No, we can't. The same way that's why

1 we have licensed professional engineers to give their
2 opinion. And that's all we can base it upon.

3 I can't tell you that if we have all the experts
4 giving us an opinion and we make a decision based upon the
5 experts, I cannot write you a guarantee that says 15 years
6 from today, that that would be correct. If that is what
7 you're asking this Board to do, I cannot give you that
8 assurance.

9 MR. BOB BERNSTEIN: No, that's not what I'm
10 asking the Board to do.

11 CHAIRMAN SIMON: Thank you.

12 MR. BOB BERNSTEIN: I'm asking the Board, and I'm
13 echoing now the recommendations from the CAC that I
14 received this morning, which said there have to be some
15 kind of back stop in the event that the decisions that are
16 made are wrong. That can be put in as a condition of your
17 approvals.

18 You can require, among other things, that the
19 applicant post a bond. You can require, among other
20 things, that various other steps can be taken. You can
21 require --

22 CHAIRMAN SIMON: Okay.

23 MR. BOB BERNSTEIN: -- amongst other things.

24 CHAIRMAN SIMON: I have to interrupt you again.
25 You know, I asked everyone that, you know, to try to keep

1 their comments within a reasonable period of time. I said
2 we had about four minutes, but I wasn't good at keeping you
3 to the clock. You had considerably more than that.

4 We're not closing the hearing. We will continue
5 again. So for those points that you have not been able to
6 fully flush out this evening, you are welcome to do that.

7 MR. BOB BERNSTEIN: I respectfully request that
8 prior to the next Public Hearing, that you post online or
9 have Aaron deliver copies of the reports that you're
10 getting so that the public can see for themselves whether
11 the demonstrations with respect to the studies you're
12 talking about have been made and all of the issues have
13 been properly vetted.

14 Because otherwise, if we have to wait until the
15 end of the night, and a very long night this is, to be able
16 to raise them, the public will not be heard.

17 CHAIRMAN SIMON: We have absolutely no -- these
18 are all public records. We have absolutely no objections
19 that as soon as we get them, we make them available. I
20 mean that's our standard procedure. So we will do that.
21 As soon as these records come in, they'll come in.

22 I think I heard what you said and we will make
23 these records available to you as soon as we get them and
24 you will have the opportunity to come back and discuss it
25 further at the next meeting so.

1 BOARD MEMBER GOLDEN: When are we adjourning this
2 to, what day?

3 DEPUTY COMMISSIONER SCHMIDT: I believe there was
4 a discussion regarding July 2nd.

5 BOARD MEMBER GOLDEN: I move that we continue the
6 Public Hearing on July 2nd.

7 ALTERNATE BOARD MEMBER FRAITAG: Second.

8 CHAIRMAN SIMON: All those in favor? Aye.

9 BOARD MEMBER GOLDEN: Aye.

10 ALTERNATE BOARD MEMBER FRAITAG: Aye.

11 BOARD MEMBER SCHWARTZ: Aye.

12 BOARD MEMBER HAY: Aye.

13 BOARD MEMBER TALIAFERROW: Aye.

14 BOARD MEMBER DESAI: Aye.

15 CHAIRMAN SIMON: Any discussion to --

16 BOARD MEMBER GOLDEN: I entertain a motion to
17 close the Public Hearing.

18 ALTERNATE BOARD MEMBER FRAITAG: Second.

19 CHAIRMAN SIMON: So the Public Hearing will
20 continue.

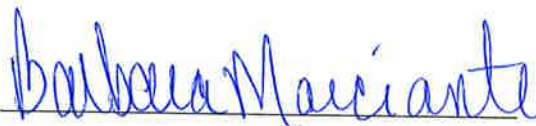
21 (Whereupon, the Public Hearing was adjourned.)
22
23
24
25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

* * * * *

C E R T I F I C A T I O N

Certified to be a true and accurate transcript
of the stenographic minutes of proceedings taken by the
undersigned, to the best of her ability.



Barbara Marciante,
Official Court Reporter