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BOROUGH OF FAIR LAWN
ZONING BOARD
THURSDAY, JULY 30, 2015
COMMENCING AT 7:10 P.M.

.....
IN THE MATTER OF: : TRANSCRIPT
: OF
APPLICATION #2015-024, : PROCEEDING
909 Glen Rock LLC/Bottle King :
909 Prospect Street, Glen Rock, NJ :
A portion of the subject property is :
located in Fair Lawn. The portion of :
the property in Fair Lawn known as :
Saddle River Road, Block 1808, Lot 6, :
Zone R-1-2 :
Section 125-57D(1)(d)[1] :
Use variance to continue the use of a :
parking lot on a portion of Lot 6 to :
continue the prior approved parking :
lot and create a new residential lot. :
Newly created lot will meet all the :
requirements for the zone. And any :
other variances and/or waivers that :
may be required for this application. :
.....

B E F O R E:
THE BOROUGH OF FAIR LAWN ZONING BOARD
THERE BEING PRESENT:

- RICHARD SEIBEL, CHAIRMAN
- JAMES LOWENSTEIN, BOARD SECRETARY
- SAMUEL RACENSTEIN, MEMBER
- YELENA PERCHUK, MEMBER
- MARC ZHARNEST, ALTERNATE III
- JEANNE BARATTA, ALTERNATE II
- AVI NAVEH, ALTERNATE IV

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13 King

11

A L S O P R E S E N T :

12

ANN PECK, Assistant Zoning Officer

13

CATHY BOZZA, Recording Secretary

14

PAUL AZZOLINA, Board Engineer

15

PETER VAN DEN KOOY, Board Planner

16

FRANK MISKOVICH, Board Traffic Engineer

17

18

19

20

21

22

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I N D E X

<u>W I T N E S S E S</u>	<u>SWORN</u>	<u>PAGE</u>
STEPHEN CARPENTIER	15	
Direct Examination by Mr. Semeraro		16
FRANK MISKOVICH	28	
BRUCE RIGG	43	
Direct Examination by Mr. Semeraro		44
PAUL AZZOLINA	81	
ANN PECK	91	
STEPHEN W. SCHWARTZ	114	
Direct Examination by Mr. Semeraro		115
CHARLES OLIVO	124	
Direct Examination by Mr. Semeraro		126
MICHAEL KAUKER	144	
Direct Examination by Mr. Semeraro		145
PETER VAN DEN KOOY	156	

<u>PUBLIC QUESTIONS & COMMENTS</u>	<u>PAGE</u>
JOSEPH KETTELL 42-14 Naugle Drive	31, 40, 94, 141, 164
SANG LEE 5 Herold Drive	38
SUSAN KELESH 42-01 Naugle Drive	88
ALAN LEVIN 42-39 Herold Drive	108, 166
DIANE KELESH 42-01 Naugle Drive	120, 158

1
2
3
4
5
6
7
8
9
10
11
12
13
14
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<u>E X H I B I T S</u>		
<u>No.</u>	<u>Description</u>	<u>Ident/Evid</u>
A-1	Preliminary and final site plan drawings, six sheets	21
A-2	Subdivision submission, five sheets	45
A-3	Amended schedule at 6.02 and Lot 16.06	49
A-4	Letter from Mr. Varner	63
A-5	Revised driveway location schedule of property at 909 Prospect	64
A-6	Architectural drawings, three sheets, dated May 5, 2015	115

1 CHAIRMAN SIEBEL: We're here tonight to
2 hear the Application No. 2015-024, 909 Glen Rock,
3 LLC, Bottle King, located at 909 Prospect Street,
4 Glen Rock, New Jersey. A portion of the property is
5 located in Fair Lawn, also known as Block 1808, Lot
6 6, located in the R-1-2 zone.

7 Will you be the counsel for the
8 applicant?

9 MR. SEMERARO: Yes, I will be.

10 CHAIRMAN SEIBEL: And you're presenting
11 testimony and you'll have other experts make
12 testimony?

13 MR. SEMERARO: Correct.

14 CHAIRMAN SEIBEL: Have all the bills
15 been paid?

16 MR. LOWENSTEIN: Mr. Chairman, I have
17 here on the desk a letter of this date, July 30,
18 2015, signed by the assistant tax collector, but the
19 office of Alice Lee, Tax Collector, of the Borough of
20 Fair Lawn indicating that the taxes and water have
21 been paid current and they're not in arrears. There
22 is a payment due on August 1st, a couple more days,
23 so the third quarter tax.

24 THE COURT REPORTER: I'm sorry, for the
25 third quarter --

1 MR. LOWENSTEIN: Third quarter of real
2 estate property tax.

3 And also notice of publication was
4 given in The Record on Saturday July 18th of this
5 year.

6 CHAIRMAN SEIBEL: We'll just ask
7 everyone to please speak clearly into the microphone
8 and state your name and your business address or your
9 residence address when you step up to the microphone
10 so the stenographer can keep her stride. Right?

11 THE COURT REPORTER: Yes.

12 CHAIRMAN SEIBEL: Please present your
13 case.

14 MR. SEMERARO: Thank you, Mr. Chairman.

15 Good evening, my name is Mark Semeraro.

16 I'm an attorney with Kaufman, Semeraro & Leibman.

17 I'm here today representing 909 Glen Rock, LLC, who
18 is the contract purchaser of the subject property,
19 which is 909 Prospect Street, Glen Rock, New Jersey,
20 with a portion of that property existing within the
21 Borough of Fair Lawn, specifically Block 1808, Lot 6,
22 which is currently zoned R-1-2.

23 This application is in tandem with an
24 application that's also pending in the Borough of
25 Glen Rock with respect to Glen Rock's Block 254, Lot

1 16.02.

2 I would just like to confirm that the
3 application has been deemed complete and that we have
4 submitted the Affidavit of Publication & Notice,
5 which I understand has been acceptable.

6 MR. ROSENBERG: Yes.

7 MR. SEMERARO: Thank you.

8 CHAIRMAN SEIBEL: Very good.

9 MR. SEMERARO: Thank you.

10 This particular application may be has
11 one of the longest notice provisions that I have been
12 involved in and that's because it borders -- it
13 involves two different municipalities.

14 For the sake of being comprehensive we
15 had to not only notice what was taking place here
16 this evening, but also what was contemplated taking
17 place before the Borough of Glen Rock next month.

18 Collectively, both applications seek a
19 subdivision of five lots. We seek preliminary and
20 final minor site plan approval for an approximate
21 18,000 square foot Bottle King retail location, a
22 preliminary major subdivision approval and a
23 modification to an existing use variance, which was
24 granted back in 1986 on a sliver of the property that
25 exists within Fair Lawn, that at that point in time

1 was granted for 12 commercial parking spaces to be
2 used in conjunction with Herold's Farm.

3 In addition thereto and as accommodated
4 by our notice and our application, it does seem that
5 a (c)(2) variance for impervious coverage with
6 respect to the sliver of property that is in Fair
7 Lawn would be appropriate. So we're seeking that
8 relief as well.

9 So this evening, while we are seeking
10 in total a subdivision for five lots, only two of
11 those five lots exist within Fair Lawn and we are
12 seeking a modification of the existing use variance
13 as stated momentarily -- a moment ago, only to alter
14 the configuration of those parking spaces. As you
15 will see, we're keeping the same number of parking
16 spaces, enhancing the buffer and putting screenage
17 in, which will inure to the benefit of the
18 neighborhood.

19 And in addition to that, we're seeking
20 preliminary and final minor site plan approval.

21 The subdivision, as you will see, is
22 going to be completely conforming to all of the bulk
23 requirements of both your borough, as well as the
24 Borough of Glen Rock.

25 We had submitted an initial subdivision

1 with our application on June 3. That included
2 preliminary and final site plan from Rigg Associates,
3 dated April 8th, 2015, consisting of six sheets and
4 were last revised on April 28th; a preliminary
5 subdivision plan from Rigg Associates, dated April
6 28, 2015, consisting of five sheets; a survey from
7 Rigg Associates, dated March 23, 2015, revised April
8 6, 2015; architectural drawings from SWS Architects,
9 dated May 5, 2015, consisting of three sheets; some
10 photographs of the existing conditions on the site;
11 and the Fair Lawn Zoning Board of Adjustment
12 resolution of June 30, 1986, granting the use
13 variance I had mentioned a moment ago.

14 In addition thereto, we had made a
15 supplemental submission, dated June 22nd, 2015, which
16 included Stonefield Engineering's traffic report,
17 dated June 17, 2015.

18 We acknowledge receiving comment
19 letters from the county engineers, from your planner
20 Matrix, your traffic engineers, French & Parrello,
21 your borough engineers Azzolina and Associates, as
22 well as your Shade Tree Advisory Committee, dated
23 July 8, 2015, which I can state at this point in time
24 we are stipulating to all of the recommendations
25 contained therein.

1 Even though this application only
2 relates to the subdivision of two pieces of property
3 and the site plan as it relates to the commercial
4 portion that extends into Glen Rock, we felt that we
5 needed all of our professionals here today so that we
6 could provide testimony to the Board's satisfaction
7 as to what the entire project looks like, how it's
8 going to function and operate.

9 So with that understanding, and if the
10 Board deems any of that unnecessary please let me
11 know, but we are prepared to put forth everything
12 before you for your consideration.

13 We are prepared to provide testimony
14 from our site engineer, from our traffic engineer,
15 our architect and our planner, to discuss all five
16 lots.

17 CHAIRMAN SEIBEL: Very good.

18 I just have one question, Fair Lawn
19 granted a variance in 1986?

20 MR. ROSENBERG: That's correct, Mr.
21 Chairman.

22 CHAIRMAN SEIBEL: And how does that
23 effect --

24 MR. ROSENBERG: Well, Mr. Semeraro has
25 indicated, and our planner and I both agree that it's

1 a modification. So it is a use variance for purposes
2 of what this Board is to consider, which means that
3 for purposes of the application and the applicant's
4 counsel also agrees, that the Board is being asked to
5 grant still a use variance, because it now relates to
6 a new commercial project.

7 I think all of what was provided before
8 is historically important and relevant for the Board
9 to take into consideration when they are determining
10 the use variance criteria. But, again, you'll need
11 five affirmative votes in order to get the use
12 variance relief for the parking areas and
13 modifications that they seek.

14 MR. SEMERARO: And, Mr. Chairman, if I
15 could just possibly expand upon that a little for a
16 point of clarity.

17 CHAIRMAN SEIBEL: Please.

18 MR. SEMERARO: The property, the sliver
19 of property, as you will see, that the use variance
20 pertains to, already has on it 12 paved parking
21 spaces, not in the most aesthetic position, as I'm
22 sure -- as the members of the Board would attest to
23 and also going like right up to the property line.

24 And so the use isn't really changing,
25 but because it's a modification to the site plan to

1 which the use applied to, that's why we're making
2 this application.

3 MR. LOWENSTEIN: Mr. Chairman, may I
4 ask a question?

5 Sir, I may have misheard you and I'm
6 going to paraphrase not quote you, but when you
7 referenced the various documents you're putting in as
8 part of your application, particularly the comments
9 and the -- the comments and the recommendations by
10 our experts --

11 THE COURT REPORTER: I'm sorry.

12 MS. PECK: You've got to use the mic.

13 MR. LOWENSTEIN: They're going to be
14 incorporated by reference.

15 In other words, they were to be -- they
16 are being accepted by the applicant, correct? Did I
17 hear that accurately.

18 MR. SEMERARO: No, no.

19 With respect to the Shade Tree
20 Commission, we are accepting their recommendations in
21 total. And we will be addressing the comment letters
22 of your professionals, meaning, the planner, the
23 engineer and the traffic engineer through testimony
24 this evening and through any submissions that may be
25 necessary and appropriate.

1 With that understanding, I'm not really
2 quite frankly aware of anything that we're
3 strenuously objecting to, but I can only set forth on
4 the record at this point in time the stipulation of
5 the acceptance of the Shade Tree Advisory Committee's
6 conditions in their July 8, 2015 letter.

7 MR. LOWENSTEIN: Thank you for that
8 clarification.

9 MR. SEMERARO: No problem. Thank you.

10 MR. NAVEH: Mr. Chairman, I have a
11 question, since the property that is in Fair Lawn is
12 just this one little piece, are we going to hear the
13 entire application or is it only necessary for us to
14 learn about what's affecting the property that's
15 located within --

16 MR. ROSENBERG: It's the applicant's
17 decision. It's the applicant's case.

18 MR. NAVEH: Okay.

19 MR. ROSENBERG: And so he has the right
20 to decide what he feels is necessary for purposes of
21 his presentation this evening.

22 MR. NAVEH: Okay.

23 MR. ROSENBERG: So it's really up to
24 the applicant.

25 MR. SEMERARO: My mother always accused

1 me of wanting attention, but I don't want to sit here
2 and put before you things that, you know, would
3 burden you this evening and may not be necessary.

4 So I will try the streamline it. I
5 think that it serves a purpose for you to have a
6 flavor for what the whole site will look like and
7 we'll try to streamline it as best we can. And if
8 anybody has questions, please understand you're free
9 to ask them and we're prepared to answer them.

10 CHAIRMAN SEIBEL: Very good. Anybody
11 else before we get underway here?

12 (NO RESPONSE.)

13 CHAIRMAN SEIBEL: I just want to make
14 mention a little housekeeping.

15 From time to time, depending on how
16 long it goes, we may have to take a quick adjournment
17 to the visit the facilities and come back and get
18 started again.

19 Also, 10:00 is generally the cutoff for
20 new testimony. So keep that in mind as we go along.
21 And without further ado, if you would like to get
22 underway, it's all yours.

23 MR. SEMERARO: Thank you, Mr. Chairman.

24 My first witness is the general manager
25 of all Bottle King, Mr. Stephen Schwartz [sic].

1 Please come up.

2 CHAIRMAN SEIBEL: Do you want him at
3 the desk or --

4 MR. SEMERARO: It's whatever you
5 prefer.

6 CHAIRMAN ROSENBERG: So long as he
7 speaks up, Mr. Semeraro.

8 MR. SEMERARO: Sure. Our architect is
9 Steve Schwartz. So it wasn't completely out of the
10 blue. I apologize.

11 CHAIRMAN SEIBEL: Let me just swear you
12 in before we do anything. If you'll raise your right
13 hand. Do you swear or affirm that the testimony
14 you're about to give is the truth, the whole truth
15 and nothing but the truth?

16 MR. CARPENTIER: Yes.

17 S T E P H E N C A R P E N T I E R,

18 4 South Deer Hill Run, Sparta, New Jersey 07871,
19 having been duly sworn, testifies as follows:

20 CHAIRMAN SEIBEL: And please state your
21 name, for the record, and your address.

22 MR. CARPENTER: Steve Carpentier.

23 MR. ROSENBERG: You're going to have to
24 speak up.

25 MR. CARPENTER: Stephen Carpentier,

1 residing at 4 South Deer Hill Run in Sparta, New
2 Jersey.

3 MR. ROSENBERG: Mr. Semeraro, is that
4 microphone on? It should have the blue button.

5 MR. SEMERARO: It's blue.

6 MS. PECK: You just have to just closer
7 to it.

8 MR. ROSENBERG: You have to get very
9 close to the microphones.

10 CHAIRMAN SEIBEL: These microphones --

11 MR. ROSENBERG: Yeah, you really do,
12 please.

13 MR. CARPENTER: All right. Stephen
14 Carpentier, residing at 4 South Deer Hill Run,
15 Sparta, New Jersey.

16 THE COURT REPORTER: Please spell your
17 last name.

18 MR. CARPENTER: C-A-R-P-E-N-T-I-E-R.

19 MR. ROSENBERG: Was he sworn in.

20 CHAIRMAN SEIBEL: Yes, he's sworn.

21 DIRECT EXAMINATION

22 BY MR. SEMERARO:

23 Q. Good evening, Mr. Carpentier. Could
24 you please explain to the board where you're
25 currently employed?

1 A. I am employed at Allied Management,
2 which is a management company that runs Bottle King
3 Liquors.

4 Q. How long have you worked there?

5 A. It will be 35 years in November.

6 Q. And what is your current position?

7 A. I'm the general manager at 14
8 locations.

9 Q. Could you explain to the board what
10 your duties entail?

11 A. Overall overseeing all aspects of
12 running the day-to-day business.

13 Q. And that's day-to-day business at 14
14 existing Bottle King locations, correct?

15 A. Correct.

16 Q. Now, there is a Bottle King location
17 that's in Glen Rock across the street from the
18 proposed site, correct?

19 A. Yes.

20 Q. Is it the intent to move that business
21 to the proposed site?

22 A. Correct.

23 Q. And you're familiar with those
24 operations?

25 A. Yes.

1 Q. Could you explain to the board the
2 nature of Bottle King's business?

3 A. We're a retail that sells liquor, wine,
4 beer and some gourmet food.

5 Q. Could you explain to the board why it
6 is that Bottle King is looking to move its operations
7 across the street?

8 A. We'd like a fresher, newer building
9 and, you know, we'd like to own the building the
10 building, rather than lease.

11 Q. And the existing Bottle King that's
12 across the street, what is its total square footage?

13 A. 21,000, including the basement.

14 Q. And the proposed square footage on the
15 proposed structure here?

16 A. 18,412.

17 Q. And of that square footage,
18 approximately how much of it will be for storage of
19 liquor?

20 A. 5400.

21 Q. Are you anticipating utilizing the same
22 working staff that currently work at the Glen Rock
23 location at the new location?

24 A. Yes.

25 Q. And what is the maximum employee --

1 number of employees that could work at any given
2 time?

3 A. We average about 10.

4 Q. Okay. Now, you're familiar with the
5 delivery schedule and what's necessary to stock your
6 shelves; is that correct?

7 A. Yes.

8 Q. What is the processed delivery schedule
9 for various items for this location?

10 A. We receive deliveries Tuesday,
11 Wednesday and Thursday.

12 Q. And between what hours?

13 A. Between 9 a.m. and 3 p.m.

14 Q. Are you familiar with the nature of the
15 vehicle that makes deliveries?

16 A. Yes.

17 Q. Could you explain that to us, please?

18 A. Mostly box trucks.

19 Q. And is it fair to say that those box
20 trucks would include trucks as long as 28 feet, but
21 no longer than that?

22 A. Correct.

23 Q. And what are your hours of operation on
24 your existing site?

25 A. We're open 9 a.m. to 10 p.m. Monday

1 through Saturday and 11 a.m. to 6 p.m. on Sunday.

2 Q. Do you propose the same hours here?

3 A. Yes, yes.

4 Q. I want to bring to your attention one
5 of the plans that was submitted to the board as part
6 of this application, so that we just discuss the
7 manner in which the deliveries would occur on the
8 site. Okay?

9 A. Okay.

10 Q. If it would please the board, I may
11 make reference to this drawing and then we'll
12 authenticate it and mark it for identification at a
13 later point in time this evening?

14 MR. RACENSTEIN: Mr. Chairman.

15 Q. Mr. Carpentier --

16 MR. ROSENBERG: Hold on.

17 CHAIRMAN SEIBEL: One second.

18 MR. RACENSTEIN: On that page that you
19 turned to, what number is that? So we could
20 reference to it here.

21 MR. SEMERARO: This is three of six.

22 MR. RACENSTEIN: Three of six. Thank
23 you.

24 MR. SEMERARO: Yeah. A plan entitled
25 "Preliminary and Final Site Plan for Property at 909

1 Prospect Street.

2 MR. LOWENSTEIN: What's the date on
3 that.

4 MR. SEMERARO: It's dated April 8, 2015
5 and the revision is April 28, 2015.

6 MR. ROSENBERG: Mr. Semeraro, are we
7 going to mark all of them for identification
8 purposes? Do you want to do that now since we're
9 starting with your site plan drawings? If you want
10 to do it as a set, is fine.

11 MR. SEMERARO: However, it pleases you.

12 MR. ROSENBERG: So this will be the
13 preliminary and final site plan drawings prepared by
14 Rigg & Associates, last revised 4/28/15, consisting
15 of six sheets. Is that right, Mr. Semeraro.

16 MR. SEMERARO: Yes, yes.

17 MR. ROSENBERG: So that would be, as a
18 set we can call that, if you want, A-1.

19 MR. SEMERARO: Sure.

20 (Whereupon, preliminary and final site
21 plan drawings prepared by Rigg & Associates,
22 last revised 4/28/15, six sheets, is received
23 and marked as Exhibit A-1 for identification.)

24 MR. ROSENBERG: And then when you're
25 discussing it, you could refer to each sheet

1 individually.

2 MR. SEMERARO: Each sheet individual,
3 okay. I apologize, my eyes misread, it wasn't three
4 of eight.

5 MR. ROSENBERG: Right.

6 MS. PECK: Mr. --

7 MR. ROSENBERG: Yes.

8 MR. VAN DEN KOOY: A resident looking
9 for the ability to see the drawings more clearly.

10 MR. ROSENBERG: Mr. Semeraro, can you
11 try to turn the board a little bit so that all the
12 members of the public can see.

13 MALE AUDIENCE MEMBER: And the fonts
14 are very, very small. So it's very difficult for us
15 to see this. Is there a blow up.

16 MR. ROSENBERG: No.

17 MS. PECK: I have an extra copy that
18 maybe you can share in the audience. Does that help.

19 MR. LOWENSTEIN: Here's another extra
20 copy for the public.

21 MS. PECK: I got two of them, that's
22 fine. Oh, you want to give them another one.

23 MR. BOZZA: I got it, I got it.

24 MALE AUDIENCE MEMBER: Thank you very
25 much.

1 MS. PECK: Thank you.

2 BY MR. SEMERARO:

3 Q. So Mr. Carpentier, you're familiar with
4 the proposed site and were involved in its plan,
5 correct?

6 A. Yes.

7 Q. And you're familiar with the fact that
8 the proposed site has two driveway entrances? One is
9 on the north side of the property, which is the
10 furthest portion of the property into Glen Rock and
11 one is still within Glen Rock, but it's towards the
12 southern side of the property; is that correct?

13 A. Correct.

14 Q. And of these two driveways, which one
15 of them would be utilized for deliveries?

16 A. The north side.

17 Q. So delivery trucks would only be
18 entering the site from the driveway that is on the
19 northern most portion of the property away from Fair
20 Lawn; is that correct?

21 A. Yes.

22 Q. And, in fact, that driveway entrance is
23 within feet of the end of the property on the
24 opposite side, correct?

25 A. Correct.

1 Q. And is there a loading area on that
2 side of the building?

3 A. Yes.

4 Q. And that loading area is towards the
5 rear of the building, but on the northern side of the
6 building; is that correct?

7 A. Yes.

8 Q. And that loading area is noted being 30
9 feet long; is that correct?

10 A. Yes.

11 Q. Now, that's where you anticipate the
12 loading taking place, correct?

13 A. Yup.

14 Q. And there wouldn't be any loading to
15 the rear of the building adjacent to the proposed
16 residential lot; is that correct?

17 A. No.

18 Q. Does Bottle King have any policy with
19 respect to whether or not trucks making deliveries
20 idle during unloading or loading?

21 A. They turn there engines off.

22 THE COURT REPORTER: I'm sorry, they
23 turn their engines off?

24 THE WITNESS: Yes.

25 Q. And when those trucks will end up

1 leaving the site, how would they leave the site?

2 A. Well, they have two different ways of
3 leaving.

4 They can turn and go out the north side
5 and if not, go out the back and through the south
6 side.

7 Q. So this building does have a paved area
8 that borders three sides of the building and has a
9 full driveway towards the rear of the building
10 adjacent to the proposed residential subdivided lot;
11 is that right?

12 A. Yes.

13 Q. And, again, those deliveries will take
14 place between 9 and 3, 9 a.m. to 3 p.m., Tuesdays,
15 Wednesdays and Thursdays; is that correct?

16 A. Correct.

17 MR. SEMERARO: Mr. Carpentier's
18 testimony was only, you know, geared to give the
19 flavor of the nature of the operation of Bottle King
20 and I have no other questions.

21 MR. LOWENSTEIN: Mr. Chairman.

22 CHAIRMAN SEIBEL: Yes.

23 MR. LOWENSTEIN: I'm sorry, I'm looking
24 at sheet three of six. I don't see that northern
25 entryway.

1 CHAIRMAN SEIBEL: Does anyone on the
2 board have any questions for the witness? Anything?

3 (NO RESPONSE.)

4 CHAIRMAN SEIBEL: So the only thing
5 that I see is your going to be -- the truck is either
6 going to have to U-turn in here or go all the way
7 around and out that side.

8 MR. SEMERARO: Correct, correct. And
9 we have our traffic engineer and our site engineer to
10 discuss traffic circulation on-site as well.

11 CHAIRMAN SEIBEL: Does -- it's fairly
12 good distance from the exit. This is reconfigured,
13 this exit, correct?

14 MR. SEMERARO: Yes. Are you talking
15 about with respect to the County's concerns.

16 CHAIRMAN SEIBEL: Correct.

17 MR. SEMERARO: As your site engineer
18 will discuss when he testifies, that driveway has
19 been moved a little bit more south, but it's still
20 significantly more north than the existing driveway
21 onsite and that wasn't by our choice, as you know, it
22 was the County's.

23 CHAIRMAN SEIBEL: But it also keeps the
24 trucks further away from Naugle Drive.

25 MR. SEMERARO: Yes. Everything insofar

1 as that is concerned is positioned as far from Naugle
2 Drive as possible.

3 MR. ROSENBERG: Mr. Chairman, may I
4 just ask a clarification? I just want to be sure so
5 I understand. The testimony of Mr. Carpentier was
6 that delivery trucks will only utilize the northerly
7 drive for --

8 MR. SEMERARO: For entrance.

9 MR. ROSENBERG: -- ingress, but can,
10 after they unload at the loading zone along the
11 northerly part of the building, still egress on the
12 second access, correct.

13 MR. SEMERARO: Correct.

14 MR. ROSENBERG: I just want to make
15 sure I have that correct.

16 MR. SEMERARO: Yes.

17 MR. ROSENBERG: Thank you.

18 CHAIRMAN SEIBEL: And just why wouldn't
19 they go in the south side and swing around and come
20 back out?

21 MR. SEMERARO: Well, we designed it
22 that way because we wanted to keep the residential
23 neighborhood, which expressed concern over the
24 Walgreens idea and we thought that this would be best
25 to serve the neighborhood.

1 MR. MISKOVICH: Mr. Chairman, just to
2 clarify.

3 CHAIRMAN SEIBEL: Let me swear you in.
4 Raise your right hand. State your name and your
5 company.

6 MR. MISKOVICH: Frank Miskovich, French
7 & Parrello Associates, traffic consultant.

8 CHAIRMAN SEIBEL: Do you swear or
9 affirm that the testimony you're about to give is the
10 truth.

11 MR. MISKOVICH: I do.

12 F R A N K M I S K O V I C H,
13 1800 Route 34, Suite 101, Wall, New Jersey 07719,
14 having been duly sworn, testifies as follows:

15 MR. MISKOVICH: I just want to point
16 out, and I'm sure the site engineer and traffic
17 engineer will discuss more of it, is that that
18 driveway that goes from that northerly parking lot
19 where the service area is, is one way into the main
20 parking field. So trucks would have to enter in that
21 northerly driveway and they could exit there or they
22 would have to continue around the back of the
23 building to exit out onto that new driveway to the
24 south. They could not enter into that southerly
25 driveway to get to the back of the building.

1 CHAIRMAN SEIBEL: So that back parking
2 area should be one way?

3 MR. ROSENBERG: It is.

4 MR. MISKOVICH: It is. It's actually
5 marked that way. I just wanted to clarify that.

6 MR. ROSENBERG: The arrow only goes one
7 way.

8 CHAIRMAN SEIBEL: Oh, okay.

9 MR. SEMERARO: So while the entrances
10 may be two ways, the direction of traffic flow is
11 one.

12 CHAIRMAN SEIBEL: Anybody else.

13 MS. BARATTA: The northern entrance you
14 want that to be for your deliveries mainly, but I'm
15 assuming that customers can park there as well, if
16 they want to.

17 MR. SEMERARO: They can, but the
18 entrance is clearly marked on the opposite side of
19 the building.

20 MS. BARATTA: Right.

21 MR. SEMERARO: But we don't anticipate
22 -- we would expect employees --

23 MS. BARATTA: To park there as well.

24 MR. SEMERARO: -- to park there as
25 well.

1 MS. BARATTA: Because there's no -- is
2 there a walkway from that parking lot to the front of
3 the -- just because I don't see one.

4 MR. SEMERARO: Yes, our site engineer
5 can cover that. As far as what he will, there is.

6 MS. SEMERARO: Thank you.

7 CHAIRMAN SEIBEL: Anyone else?

8 (NO RESPONSE.)

9 CHAIRMAN SEIBEL: Seeing none. I'm
10 going to open it up to property owners within 200
11 feet of the subject property, if you have questions
12 for this witness only. Nobody within 200 feet.

13 MR. KETTELL: I live on Naugle. I'm
14 not ceratin --

15 CHAIRMAN SEIBEL: Wait.

16 MR. KETTELL: My name is Joseph Kettell
17 and I live at 42-14 Naugle Drive.

18 CHAIRMAN SEIBEL: Do you know if you're
19 within 200 feet.

20 MR. KETTELL: I don't, sir. I'm about
21 four houses away from the subject property.

22 MR. ROSENBERG: Did you receive notice
23 of this hearing.

24 MR. KETTELL: I have received notice,
25 but I'm not sure that I received it through the mail.

1 MR. ROSENBERG: If you didn't receive a
2 certified mail, then you're not within 200 feet.

3 MR. KETTELL: Okay.

4 MR. ROSENBERG: There's a good reason
5 for asking the question. Just bear with the Chair.

6 CHAIRMAN SEIBEL: So seeing no one
7 within 200 feet, I'm going to close it to those
8 within 200 feet and open it up to the general public.
9 Anyone who wants to ask questions? There you are.

10 MR. ROSENBERG: State your name and
11 your address.

12 CHAIRMAN SEIBEL: Please state your
13 name and your address.

14 MR. KETTELL: I already have.
15 Should I do it again?

16 CHAIRMAN SEIBEL: Yeah, do it again.

17 MR. KETTELL: Joseph Kettell,
18 K-E-T-T-E-L-L, 42-14 Naugle Drive.

19 CHAIRMAN SEIBEL: And if you'll raise
20 your right hand, I'll swear you in. Do you swear or
21 affirm that the testimony you're about to give is the
22 truth, the whole truth and nothing but the truth?

23 MR. KETTELL: I do.

24

25

1 J O S E P H K E T T E L L,
2 42-14 Naugle Drive, Fair Lawn, New Jersey,
3 having been duly sworn, testifies as follows:

4 CHAIRMAN SEIBEL: Very good. Ask your
5 questions of the witness.

6 MR. KETTELL: The square footage
7 information, I wasn't exactly understanding. The
8 existing square footage for Bottle King is how much.

9 THE WITNESS: The current location.

10 MR. KETTELL: Yes.

11 THE WITNESS: We're 21,000 with a total
12 of 10,000 in the basement. 11,000 is --

13 THE COURT REPORTER: I'm sorry, 11,000
14 is.

15 THE WITNESS: 11,000 is selling space,
16 10,000 in the basement.

17 MR. KETTELL: So the footprint is
18 approximately 11,000 square feet.

19 THE WITNESS: Floor space, correct.

20 MR. KETTELL: And the new building, the
21 footprint is how much.

22 THE WITNESS: Floor space.

23 MR. KETTELL: Correct.

24 THE WITNESS: 13,000.

25 MR. KETTELL: So it's an increase of

1 approximately 18 percent or so of building foundation
2 footage, for lack of a better --

3 THE WITNESS: Floor space.

4 MR. KETTELL: Floor space, okay. So
5 there's an increase in floor space.

6 THE WITNESS: Right.

7 MR. KETTELL: The parking that I see
8 here that's going to be on the Fair Lawn property is
9 the 12 spots here.

10 THE WITNESS: Correct.

11 MR. KETTELL: I haven't seen any
12 discussion as to the need for those 12 additional
13 spots of the 85 in total.

14 THE WITNESS: They're probably going to
15 be used two and three times a year and that would be
16 Thanksgiving, Christmas Eve and New Year's Eve.

17 MR. KETTELL: And I assume that you're
18 aware that the homes closest to these parking spots
19 as the homes are right now built are Fair Lawn homes
20 that the variance for the Fair Lawn parking is very
21 close to existing homes in Fair Lawn, more so than
22 any home in Glen Rock.

23 THE WITNESS: There are some homes in
24 the rear.

25 MR. KETTELL: I'm sorry.

1 THE WITNESS: There's some homes in
2 back of the current Glen Rock store.

3 MR. KETTELL: Are those going -- are
4 those going to stay.

5 THE WITNESS: No, I'm saying the
6 current location we do have residences in the back.

7 MR. KETTELL: Are they going to be
8 excavated or are they going to remain as residential
9 properties there.

10 THE WITNESS: I'm talking about where
11 we are now.

12 CHAIRMAN SEIBEL: He's talking about --
13 Mr. SEMERARO: The current location in
14 Glen Rock.

15 CHAIRMAN SEIBEL: -- current location in
16 Glen Rock and he's talking about he new one.

17 MR. KETTELL: Right. And when the new
18 building gets built, will they still be there, those
19 homes.

20 MR. SEMERARO: We're talking about two
21 different things. The was trying to draw a
22 distinction in saying that there is a parking lot in
23 Glen Rock that abuts the neighborhood similar to what
24 this project proposes in Fair Lawn.

25 MR. KETTELL: And that will be the case

1 when the new building goes in? Those homes -- I
2 guess there are homes adjacent to the Herold's Farm
3 building right now that are in Glen Rock.

4 THE WITNESS: No, no, I'm talking about
5 924 Prospect.

6 CHAIRMAN SEIBEL: Right. He's talking
7 about the new building. So let's forget about the
8 old building.

9 MR. SEMERARO: There is a one-family
10 home that was not part of this acquisition that will
11 remain and will be abutting the parking lot on the
12 northern side in Glen Rock.

13 MR. KETTELL: Okay. Okay. So I guess
14 one of my major concerns here is that just because we
15 had a use variance 30 years ago, things have changed.
16 We already have one home that has been vacant on
17 Naugle Drive, which is directly across the street
18 from this variance we're talking about.

19 CHAIRMAN SEIBEL: No. You're going to
20 have to wait until the end of the whole process.

21 MR. KETTELL: Okay.

22 CHAIRMAN SEIBEL: This is just for this
23 witness right here to give questions to.

24 MR. KETTELL: So just looking at this
25 parking area again, I just want to make sure and

1 understand why trucks won't be able to go around
2 towards the area that we're considering as a Fair
3 Lawn use variance.

4 THE WITNESS: The delivery trucks?

5 MR. KETTELL: Delivery trucks.

6 THE WITNESS: No, we will not be
7 receiving trucks in that area.

8 MR. KETTELL: But are they able to
9 exit, go through the parking area and come around
10 onto the Fair Lawn variance --

11 THE WITNESS: There won't be any trucks
12 on the Fair Lawn property.

13 MR. KETTELL: They won't be able to
14 enter or exit or go through that area.

15 THE WITNESS: Correct.

16 MR. KETTELL: And why is that.

17 THE WITNESS: Well, there's no reason
18 for them to go to the Fair Lawn property. They're
19 only coming in from the north side and they exit from
20 the south side, which is through the back of the
21 store. I'm not sure why they would have to go all
22 the way around to the other side of the building.
23 There's an aisle in the middle of the parking lot for
24 them to access.

25 MR. KETTELL: Right, right. And so

1 tractor trailers, are they --

2 THE WITNESS: We don't have tractor
3 trailer deliveries. We have box truck deliveries.

4 MR. KETTELL: And the box trucks will
5 easily be able to make that cut.

6 THE WITNESS: Yes.

7 MR. KETTELL: The longest trucks they
8 would have, right.

9 THE WITNESS: Yes.

10 MR. KETTELL: Thank you.

11 CHAIRMAN SEIBEL: Anyone else, general
12 public? Please come up, state your name and your
13 address.

14 MR. LEE: My name Sang Lee, 5 Herold
15 Drive.

16 CHAIRMAN SEIBEL: Spell it.

17 MR. LEE: S-A-N-G, K, middle name,
18 L-E-E.

19 CHAIRMAN SEIBEL: You got that? Make
20 sure you tell us what town you're from, whether it's
21 Fair Lawn, Glen Rock or whatever town.

22 MR. LEE: Glen Rock.

23 CHAIRMAN SEIBEL: Glen Rock.

24 MR. LEE: Yeah, 5 Herold is, you know
25 -- his place and then Herold Drive.

1 CHAIRMAN SEIBEL: If you'll raise your
2 right hand and I'll swear you in. Do you swear or
3 affirm that the testimony you're about to give is the
4 truth, the whole truth and nothing but the truth.

5 MR. LEE: Yes.

6 S A N G L E E,

7 5 Herold Drive, Glen Rock, New Jersey 07452,
8 having been duly sworn, testifies as follows:

9 CHAIRMAN SEIBEL: Please ask your
10 question of the witness.

11 MR. LEE: Okay. I have a question.
12 First I see this -- this plan that I went here and I
13 have a place -- my house is located in front of this
14 tax lot --

15 THE COURT REPORTER: I'm sorry, "my
16 house is located in front of".

17 MR. LEE: In front of Tax Lot 16.01
18 towards that -- his place and a cross point is Herold
19 -- Herold Drive, that's 5 Herold Drive, just
20 opposite. And I notice that your loading zone is
21 just faced actually to my side, that's the question.
22 And you said there is a barrier blocking line, a
23 block line, what type of a block, a line are you
24 going to use.

25 MR. SEMERARO: I think that those

1 questions would be best answered by our site
2 engineer.

3 CHAIRMAN SEIBEL: I agree. There will
4 be other experts who are going to testify as to what
5 kind of -- if there's going to be landscaping back
6 there.

7 MR. SEMERARO: Yes, they'll testimony
8 to all the site conditions.

9 CHAIRMAN SEIBEL: And that will be for
10 a different witness. He's just the operations
11 manager for the business. He's giving us an overview
12 of what's going on.

13 MR. LEE: Then the second question, you
14 have a front space toward Prospect Avenue, between
15 Prospect Avenue and the building itself, the main
16 building, there's a space, why don't you use that as
17 an exit route? How come you cannot use that.

18 MR. SEMERARO: Again, this witness
19 isn't the witness to be answering design-related
20 questions.

21 CHAIRMAN SEIBEL: That's going to go
22 towards the site engineer and he'll explain it and
23 you'll have a chance to ask him that question.

24 MR. LEE: I think my -- I don't know
25 what kind of reason you have, but that's not a place

1 you can use as exit -- exit road, route.

2 CHAIRMAN SEIBEL: Right. The site
3 engineer will explain.

4 MR. LEE: You know, use the back side.

5 CHAIRMAN SEIBEL: The site engineer
6 will let us know. He's got a whole presentation he's
7 got to give.

8 MR. LEE: And then --

9 CHAIRMAN SEIBEL: Anything about the
10 business.

11 MR. LEE: Business-wise? Are we.

12 CHAIRMAN SEIBEL: Yeah.

13 MR. LEE: Are we going to talk about
14 the feet, height, height.

15 CHAIRMAN SEIBEL: The height of the
16 building?

17 MR. LEE: Yes.

18 CHAIRMAN SEIBEL: Yeah, that will be
19 the architect. There's a long way to go.

20 MR. LEE: Okay. Then I just want to
21 show my concern at this point and then have a chance
22 to talk later.

23 CHAIRMAN SEIBEL: Okay. Very good.
24 Anyone else in the public?

25 MR. KETTEL: One more quick question.

1 CHAIRMAN SEIBEL: Come on up, real
2 quick.

3 MR. KETTELL: And it might be for the
4 architect, but this gentleman had --

5 CHAIRMAN SEIBEL: You've been sworn in.

6 MR. KETTELL: -- mentioned square
7 footage of the existing building and I'm not sure if
8 the architect is going to know what the height of the
9 existing building is.

10 CHAIRMAN SEIBEL: Yeah, he'll know.

11 MR. KETTELL: Okay. Thank you.

12 CHAIRMAN SEIBEL: Anyone else from the
13 public?

14 (NO RESPONSE.)

15 CHAIRMAN SEIBEL: Seeing none. Who's
16 the next witness.

17 MR. SEMERARO: Our next witness will be
18 Bruce Rigg, our site engineer.

19 CHAIRMAN SEIBEL: We got to take a
20 quick recess in between.

21 MR. SEMERARO: Sure.

22 (Whereupon, a short recess is held.)

23 CHAIRMAN SEIBEL: Let's reconvene.
24 Take the roll.

25 MR. ROSENBERG: The members who are

1 here.

2 CHAIRMAN SEIBEL: The members who are
3 here.

4 MR. LOWENSTEIN: Mr. Racenstein?

5 MR. RACENSTEIN: Here.

6 MR. LOWENSTEIN: Ms. Baratta.

7 MS. BARATTA: Here.

8 MR. LOWENSTEIN: Ms. Perchuk.

9 MS. PERCHUK: Here.

10 MR. LOWENSTEIN: Mr. Lowenstein is
11 here.

12 Mr. Naveh?

13 MR. NAVEH: Here.

14 MR. LOWENSTEIN: Mr. Zharnest.

15 MR. ZHARNEST: Here.

16 MR. LOWENSTEIN: Mr. Seibel, Chairman.

17 CHAIRMAN SEIBEL: Here.

18 MR. LOWENSTEIN: Mr. Chairman, the
19 quorum has reassembled.

20 CHAIRMAN SEIBEL: All right. If you'll
21 introduce your next witness.

22 MR. SEMERARO: Thank you. My next
23 witness is Bruce Rigg of Rigg Associates,
24 professional engineer.

25 Mr. Rigg, would you please --

1 CHAIRMAN SEIBEL: Well, let me swear
2 him in.

3 MR. SEMERARO: Okay.

4 CHAIRMAN SEIBEL: Please state your
5 name and address.

6 MR. RIGG: Bruce Rigg, 1000 -- 1000
7 Maple Ave, Glen Rock, New Jersey.

8 CHAIRMAN SEIBEL: Raise your right
9 hand. Do you swear the testimony you're about to
10 give is true and accurate.

11 MR. RIGG: Yes, I do.

12 B R U C E R I G G,

13 1000 Maple Ave, Glen Rock, New Jersey 07452,
14 having been duly sworn, testifies as follows:

15 CHAIRMAN SEIBEL: And have you
16 testified in front of this board before?

17 MR. RIGG: Yes, I have.

18 CHAIRMAN SEIBEL: How many times.

19 MR. RIGG: Numerous times.

20 CHAIRMAN SEIBEL: Anybody have any
21 problems with this witness.

22 (NO RESPONSE.)

23 MR. RIGG: Thank you.

24 CHAIRMAN SEIBEL: Okay. Fire away.

25 DIRECT EXAMINATION

1 BY MR. SEMERARO:

2 Q. Mr. Rigg, you have been retained by the
3 applicant with respect to this application?

4 A. Yes, I have been.

5 Q. Did you prepare any documents that were
6 submitted as part of the application?

7 A. Yes, I have.

8 Q. And could you delineate what those
9 items were?

10 A. I believe it went through previously,
11 but we prepared a survey, a subdivision plot, which
12 was before the board, a site plan for the building
13 out on Prospect Street. I have some supplemental
14 information that I have brought with us tonight to
15 assist in some questions that have come up. I'm
16 trying to make sure that we answer any and all
17 questions that the board or the public may have.

18 I believe we want to start with the
19 subdivision?

20 Q. Yes. Well, let's just -- your
21 familiarity with respect to the property.

22 A. Sure.

23 Q. You heard us discuss previously that
24 this property was subject to a prior use variance
25 back in 1986; is that correct?

1 A. Yes.

2 Q. Were you familiar with that
3 application?

4 A. Yes, actually, I prepared the plan.

5 Q. So you're familiar with the use for
6 which not only the property of the use variance
7 applied to, but the property adjacent to it, correct?

8 A. Yes.

9 Q. And can you explain to the board what
10 that use variance pertained to?

11 A. Actually, can we go to sheet two of the
12 subdivision plot, which is the existing conditions
13 map?

14 MR. ROSENBERG: Mr. Semeraro, why don't
15 we mark the subdivision submission as A-2 and it's a
16 set of plans prepared by Rigg Associates consisting
17 of five sheets, dated April 28, 2015.

18 (Whereupon, subdivision submission
19 prepared by Rigg Associates, five sheets,
20 dated April 28, 2015 is received and marked as
21 Exhibit A-2 for identification.)

22 MR. SEMERARO: So done, counsel.

23 MR. ROSENBERG: Thank you.

24 CHAIRMAN SEIBEL: Make a note an extra
25 set for the public is going out.

1 A. For the board's information sheet two
2 is entitled "Existing Conditions and Demolition
3 Plan." What this shows is the current conditions
4 that are there today, minus one building, which has
5 already been demolished. But this is also the
6 configuration that was approved back in 1986 with one
7 exception. The original site plan that came before
8 the board showed the driveway going out to Naugle
9 Drive. The Board of Adjustment approved this with a
10 condition that there be no driveway out to either
11 Keith Place or Naugle Drive. So that driveway was in
12 turn changed and kept within the Borough of Glen
13 Rock, so the egress from the site was in the Borough
14 of Glen Rock, not the Borough of Fair Lawn.

15 You can see the configuration now, you
16 have the existing Herold's Farm building, greenhouse
17 in the center, you have the -- it used to be a
18 grocery store and it became the bakery, grocery store
19 recently. You got the garden center on the north
20 side of it for three sections of the building. The
21 rear of the site we had all the plant material and to
22 the north of the building we have a plant material.
23 Recently, they added a propane filling station in the
24 middle here, which is shown on the plan, two
25 greenhouses in the back, which were in the

1 residential zone in Glen Rock. And it was a garage
2 -- actually two garages, the building in the front,
3 which says two-story-frame dwelling is the homestead
4 house where the Aimeses lived, the second dwelling
5 directly behind it. All of these buildings are --
6 actually the driveway, there's an existing driveway
7 to the north of the residence, storage in that area
8 now of materials. They have wood, garden materials
9 that they stockpile over there. The rest of the site
10 essentially has been storage materials. Entrance to
11 the site was in the center just to the south of the
12 existing homestead lot, traversed through the parking
13 lot in front of the building and came out with an
14 exit only down near Naugle Drive.

15 Our proposal is to take and if I can
16 note on here the driveway configuration, you'll see
17 the zone line, which is shown on here, which is
18 behind the greenhouse. The zone C-1 is the
19 neighborhood commercial zone for Glen Rock. The zone
20 A-2 is the residential. That parking area stopped
21 right at the division line between the two zones.
22 The parking lot did run out and touch on the
23 right-of-way on Naugle. So there was a very small
24 distance between the sidewalk and the parking. There
25 is one existing today as you head closest to Naugle

1 and Saddle River Road.

2 Our proposal as part of the subdivision
3 -- actually, for the record, everything on the site
4 is being demolished. Some of the pavement may not be
5 demolished. It may be paved over because of the
6 difference in elevation. Essentially, all the
7 buildings are going. All the utilities are being
8 re-modified. There's an existing garage or it's
9 shown in the northeast corner a frame and block
10 garage. That was a condition of the original
11 subdivision. This is actually one of the Aimes'
12 families house currently on the market. They allowed
13 them to keep this as long as the property stayed in
14 the family name. Since it's leaving the family name,
15 that's been demolished, it's been landscaped and he's
16 put his own landscaping around this property. So
17 that one is gone between the time we did the survey
18 and today.

19 We go to sheet three, it's the layout
20 of the proposed subdivision. I apologize for the
21 size, but it didn't work any smaller. The project as
22 being proposed as we've split this up into a
23 commercial parcel, which is the parcel that abuts
24 Saddle River Road and Prospect street. Keith Place,
25 there's proposed four new building lots. They're all

1 going to be residential building lots. The Borough
2 of Glen Rock requires 11,200 square feet. Each one
3 of these meets the 11,200 square feet. We have the
4 corner lot, which actually I have an additional
5 sketch. I was requested to provide some information
6 for the board's edification regarding the corner lot.
7 I would assume we should mark it and give everyone a
8 copy.

9 MR. ROSENBERG: That would be A-3. Is
10 it dated, Mr. Rigg?

11 THE WITNESS: It's dated July 29, 2015.
12 It's amended schedule at 6.02 and Lot 16.06.

13 (Whereupon, amended schedule at 6.02
14 and Lot 16.06, dated July 29, 2015 is received
15 and marked as Exhibit A-3 for identification.)

16 THE WITNESS: While these are being
17 passed out, please understand this lot is the lot
18 that's both Fair Lawn and Glen Rock. There was a
19 dimension or two that wasn't quite clear on the
20 subdivision map, so we just added that to this to
21 make it a little easier for the Board to follow.
22 This is one lot. Fair Lawn only requires, which is
23 shown on the zoning schedule, a 7500 square foot.
24 However, Glen Rock requires for a corner lot 14,000
25 square foot. What we did was is we made -- it was

1 our intent and we believe we accomplished making this
2 lot conforming to both Fair Lawn and Glen Rock. So
3 that if you build a house, where ever the house may
4 be, it will be conforming. We meet Glen Rock's
5 setbacks for Glen Rock's portion. We have the Fair
6 Lawn setbacks for the Fair Lawn portion. It's all
7 one parcel. Seeing the T shape, if you would, for
8 the building envelope, because the Fair Lawn front
9 setback is 30 and Glen Rock is 41. The rear yard for
10 Fair Lawn is 20, the rear yard for Glen Rock is 30.
11 And either town we're in we'll make sure that
12 whatever is -- it's our intent, whatever's built here
13 we're not asking for a variance. We're making sure
14 that it's a residence that meets both town
15 requirements. That's our objective here. So
16 essentially what we've done is we've taken the
17 commercial parcel on Saddle River Road and Prospect
18 Street and buffered it with four brand new houses on
19 Keith Place. For someone -- anyone living on Herold
20 Drive will be looking through the yards of the
21 proposed houses and the existing Aimes' house on
22 Keith Place to see this property. There will be no
23 frontage of the commercial piece and it's directly on
24 the back, it's all on the new property.

25 This plan shows there's an additional

1 parcel here, which we're calling the proposed 6.02 is
2 a portion of the large lot on the corner of Keith and
3 Naugle. 6.01 it's noted as such only because it's a
4 tax lot in Fair Lawn. This is also part of the
5 neighborhood commercial parcel that we're going to be
6 asking for the use variance for when I get to the
7 site plan. We're just making this one parcel. So
8 that anything facing Saddle River Road and Prospect
9 Street will be one piece. It's not going to be a
10 separate parcel. It's going to be conveyed as one
11 and can't be conveyed separately with the other
12 piece. The intent is to keep it together.

13 We believe we met all the requirements
14 for each one of these. This parcel is not being a
15 building lot. We don't believe the lot area, the
16 side yards between the two, we don't believe any of
17 that is necessary, because it's all part of this. If
18 we put a building in that area, we would -- we'd
19 believe we'd have to comply. However, as previously
20 stated and I'll get into it in a little while, the
21 building is on the north side keeping it far away
22 from Fair Lawn as possible.

23 Q. And actually, just let me interject for
24 a moment. I did have some communication with the
25 board attorney on that particular issue and I think

1 that we have agreed that the matter of law is that
2 that -- for the purposes of applying setbacks that
3 the boundary line between the two boroughs is not the
4 measuring point. It's actually the perimeter of the
5 property itself.

6 MR. ROSENBERG: Mr. Chairman, if I may,
7 just to amplify upon that. It's the case of Ciocon
8 versus Franklin Lakes Planning Board 223 N.J. Super.
9 199, which I provided also to our planner, Mr. Van
10 Den Kooy, and we all are in agreement that for
11 purposes of measurement, it's not the municipal
12 boundary line that governs, it is the property line
13 that governs for purposes of calculating setback.

14 MR. SEMERARO: So as this was one lot
15 previously, it's a five-lot subdivision now with the
16 larger lot comprising of the commercial portion,
17 including that sliver within Fair Lawn to which the
18 use variance applies.

19 A. To jump back to the sheet that I gave
20 you, the sole purpose for this, on this plan we
21 didn't elaborate and make both dimensions for both
22 the Glen Rock and the Fair Lawn piece. We added
23 those on here so you can see that there's a 46 foot
24 section in Glen rock and a 62.28 foot section on the
25 southerly -- on the westerly line and 46.29 on Keith

1 Place and 71 in Fair Lawn.

2 I just wanted to make sure all those
3 numbers were there so the Board understands it's all
4 one parcel. There's no two parcels we're proposing
5 here, it's all one property.

6 Sheet four --

7 MR. ROSENBERG: Mr. Chairman, if I may,
8 forgive me.

9 CHAIRMAN SEIBEL: Sure.

10 MR. ROSENBERG: Just for edification,
11 Mr. Rigg and Mr. Semeraro, so for purposes of this
12 application, the approval that you need on the
13 subdivision is to create proposed Lot 6.02 in Fair
14 Lawn and proposed Lot 6.01 in Fair Lawn.

15 THE WITNESS: Well, the tax -- we're
16 creating a parcel, which a portion of it is Tax Lot
17 6.02 and 6.01. We're actually creating one parcel
18 that has two tax lots, because it's in two towns.

19 MR. ROSENBERG: But for purposes of the
20 approval of this board, so I understand and the board
21 understands and the public understands, even though
22 you're describing everything --

23 THE WITNESS: Yes.

24 MR. ROSENBERG: -- for purposes of this
25 action of this board you need minor subdivision

1 approval to create 6.02 and 6.01; is that correct.

2 THE WITNESS: That's correct, yes.

3 MR. ROSENBERG: Thank you. Thank you,
4 Mr. Chairman.

5 THE WITNESS: Sheet four, what we've
6 done on here, again, my client who's the future owner
7 of the Bottle King is not going to be building these
8 homes.

9 However, we're not proposing variances.
10 Our objective is to show you you can build four
11 houses that would meet the character of the
12 neighborhood, no variances. We have grading on here.
13 We show the utility connection for each one of these
14 buildings. We have on-site retention anticipated in
15 each house that is being built. We're showing
16 proposed shade trees along the frontage. There's one
17 tree left we can preserve on Keith. And we've added
18 six more, that we can leave in the residential area.
19 There will be more down shown on the site plan, but
20 for the residential section we're showing six
21 addition shade trees, two of them being in Fair Lawn,
22 one being on Naugle Drive, one being on Keith.

23 Utility connections are going out to
24 Keith Place for each one of them. There -- I believe
25 there may be some agreement now between -- the

1 question came up in Mr. Azzolina's letter regarding
2 utility connections for houses or buildings in Glen
3 Rock and Fair Lawn.

4 The existing building as it stands now,
5 the sewer connection is, I believe, to the Fair Lawn
6 sewer. I'm pretty sure there's an agreement. If
7 not, it's something that -- I can't tell you that
8 there's an interlocal agreement, but I would assume
9 there is. They're sharing services now on this
10 property and it's our intent to continue that.

11 Water service, actually there's three
12 lots in Glen Rock will have Ridgewood Water and Fair
13 Lawn's water for the lot on the corner of Keith and
14 Naugle.

15 We left everything off of this
16 commercial parcel, because that's going to be shown
17 on the site plan.

18 Essentially that's the subdivision. We
19 tried to keep it as straight forward. Our objective
20 was to ask for no variances. We believe we
21 accomplished that and we hope all your professionals
22 agree with us. We have applied to the Soil
23 Conservation District. I believe there may have been
24 approval. We do have County review. They've asked
25 for some minor changes on the plan for the

1 subdivision. Nothing on the subdivision that we need
2 to --

3 Q. On the site plan?

4 A. Excuse me. Well, on the subdivision
5 there's nothing that we need to -- they asked for
6 modification.

7 Q. So, Mr. Rigg, within a responsible
8 degree of engineering certainty, you believe that
9 this is a variance-free application, it's conforming
10 with respect to all applicable bulk requirements, the
11 subdivision?

12 A. Yes, yes.

13 Q. Okay. So let's next discuss the site
14 plan.

15 A. Okay. The site plan, sheet two is the
16 same sheet that was on the other plan, the demolition
17 plan. Sheet three is the proposed layout for the
18 site. Our objective, once again, is trying -- we're
19 trying to separate -- somewhat separate the employee
20 parking and the parking for all of the customers.
21 The south side of the building is being the actual
22 entrance for all of the customers, as was stated
23 previously loading is on the north side. What we're
24 showing here is a 177 by 90 foot building being
25 proposed on the north side of the property. It's 70

1 feet off the northerly property line the reason for
2 to properly fit a parking area on this side of the
3 building. The entrance/exit on this side, again, is
4 for employee parking. The trash storage is here. I
5 believe there's an additional submission the board
6 has. In the northeast most corner we're going to --
7 we propose -- not on this plan, but there's an
8 additional plan, a generator going in this corner.
9 It's the furthest most point away from Fair Lawn, but
10 we are proposing to have a generator on-site to keep
11 the site running at all costs. We need the
12 refrigerators running.

13 We propose this loading area at the
14 rear, the loading doors are on the back of the
15 building. We leave the driveway, including this "do
16 not enter" signs on the south side of the building.
17 So that the traffic should not go northerly. Our
18 objective is solely if there's a need for traffic, if
19 someone pulls back here and there's no parking, they
20 could pull through. If the trucks are back here and
21 the back is full with employees so that they can't
22 turn around back here, they could still pull through
23 and easily access out onto Saddle River Road.

24 Q. And in doing so, they don't even enter
25 upon that portion of the property that's in Fair Lawn

1 --

2 A. No.

3 Q. -- correct?

4 A. The driveways before this project -- in
5 its current condition the driveways are in Glen Rock.
6 When we're finished, the driveways are proposed only
7 in Glen Rock, the access. We have parking in Fair
8 Lawn, but we do not have any driveways exit or
9 entrance in Fair Lawn. That's part of your objective
10 to maintain pretty much what we had in the past.

11 This plan shows an entrance and an
12 exit, which we need to provide you with a
13 modification to that. Going through this, we have
14 our entrance here, barrier free spaces along the
15 front of the building. So your -- and the question
16 comes up we have a cart return running along the
17 front of the building, between an NA sidewalk, we
18 have bollards along the building, which have become
19 more important in the past week, across the street
20 from here. We have a large walkway going in, a flag
21 pole right up under by the building. We have a total
22 on this site 98 parking spaces. We've kept -- pretty
23 much trying to keep the main traffic flow away from
24 the front of the building.

25 Q. How will pedestrian traffic go from the

1 north driveway parking lot to the entrance of the
2 building?

3 A. We had different layouts. What we
4 proposed, there's a sidewalk running along the north
5 side of the building. It runs out to the street,
6 runs over and runs back up. If someone is parking
7 there, there is an access here for employees in the
8 back. So they can gain access through the rear.
9 However, if a customer wants to park in back of the
10 building, they can. They'd have to walk along the
11 right-of-way to come back in to the front entrance of
12 the building over here.

13 Further down on the plans we'll show
14 this area is being landscaped and grass.
15 Aesthetically we thought it much better to have that
16 at this location for the frontage along the street
17 versus a driveway and I'll also show that we have a
18 buffer in the back.

19 All of these are two-way driveways. We
20 believe the only variance that we're asking in Glen
21 Rock is they allow 9 by 18 foot spaces, but their
22 ordinance definition calls a parking space 200 square
23 feet and since 9 by 18 is not 200 square feet, we're
24 asking for that variance for parking and there's an
25 issue regarding the parapet in one section of the

1 building, but other than that, once again, we're
2 trying to keep this as variance free as possible.

3 The use variance that we're proposing
4 is we have the existing parking, which ran right up
5 to the property line in the front corner. And if you
6 see where the zone line is, it ran back to this zone
7 line in the rear, which I referred to before, we've
8 reduced the size of the pavement in Fair Lawn. We've
9 kept it to the 12 space, the ordinance. I believe
10 the variance said 12 spaces, plus or minus one. We
11 kept it, I believe, at 11 and a half or 12 spaces,
12 plus or minus one. We're trying to comply with what
13 was approved in the past. Being the least used
14 spaces my client still believes he'd like to have
15 them on-site for any given time if he needs them, he
16 wants to make sure he has on-site parking, so people
17 wouldn't park on the street if it's necessary. We
18 can -- I can -- when I get to the landscaping, I can
19 show you you do have a buffer along here to protect
20 the neighbors.

21 Q. Now, just looking at that proposed tax
22 lot in Fair Lawn --

23 A. Yes.

24 Q. -- we know that the paved -- the
25 pavement area was reduced by slightly over 900 square

1 feet just in that little area; is that correct?

2 A. Yeah. Originally there was 4266 square
3 foot of impervious in Fair Lawn. We now have 3366.
4 So we've cut 900 square feet of pavement out of the
5 Fair Lawn parcel.

6 Q. Now, this particular piece of property
7 has somewhat of an enigma due to the fact that it has
8 two different municipalities covering portions of it,
9 correct?

10 A. Yes.

11 Q. Now, according to the Fair Lawn code,
12 there's supposed to be 35 percent impervious
13 coverage?

14 A. That's correct.

15 Q. And we actually exceed that if you were
16 to consider the Glen Rock commercial portion --

17 A. Yes.

18 Q. -- of the property?

19 A. Yes.

20 Q. But notwithstanding that, the piece of
21 property that constitutes that small taxing lot is
22 actually now in greater conformity than that portion
23 was previously; is that correct?

24 A. We reduced the impervious by
25 approximately 15 percent of what it was. Actually,

1 it's closer to 20 percent from what was originally on
2 the site.

3 Q. With enhanced buffering, which, again,
4 didn't even exist?

5 A. Yes, correct.

6 Again, although this being on the north
7 side, we do have a listing of our zoning requirements
8 in Glen Rock. The only variance we're asking for is
9 the 30.5 feet versus 28 in height. It's only for the
10 parapet. The parapet is in front of the building.
11 Approximately 300 feet away -- yeah, approximately
12 300 feet away from Fair Lawn. 250 to 300 feet away
13 is where the front of the building will be.

14 Maybe it's best to --

15 Q. Sure. Before you do that, I have to
16 ask you one other question. I don't want to be much
17 more disjointed than it already is.

18 If you were to consider the entire
19 commercial portion of Glen Rock, Glen Rock's
20 commercial property, in conjunction with 6.01, the
21 tax lot within Fair Lawn to which the use variance
22 applies, the impervious coverage on that entire lot
23 is how much as proposed?

24 A. Actually, we've shown down here the
25 existing impervious on-site 65,370 square feet.

1 We're proposing for this 58,578. So having said
2 that, we're reducing the impervious. We're down to
3 47.5 percent for the entire site, for the entire
4 commercial site.

5 Q. So to the extent that a (c) variance
6 would be necessary, we're talking about 47.5 percent
7 where the max would of been otherwise at 35 percent;
8 is that correct?

9 A. Yes.

10 I'm not sure if the board is in receipt
11 of the letter which came out on Monday from the
12 Bergen County Planning Board regarding the site plan.
13 Unfortunately, I was promised a letter and it showed
14 up at the last minute. There is one condition Mr.
15 Varner included in the letter, which --

16 MR. ROSENBERG: We don't have that
17 letter, Mr. Rigg.

18 THE WITNESS: Actually, I believe he
19 may have sent it to the planning board. The paper
20 copy is only dated today.

21 MR. ROSENBERG: A-4, that will be fine
22 and maybe get a copy of it.

23 (Whereupon, letter from Mr. Varner is
24 received and marked as Exhibit A-4 for
25 identification.)

1 CHAIRMAN SEIBEL: Who is that from?

2 MR. ROSENBERG: Michael Varner.

3 MS. BOZZA: Do you want me to make
4 copies for them? If you want to give me a minute,
5 I'll make copies.

6 THE WITNESS: While she's doing that, I
7 can explain what I'm doing here just so the board --

8 CHAIRMAN SEIBEL: She'll be able to, if
9 we have to take a break.

10 THE WITNESS: I have an additional
11 handout, which would be A --

12 MR. ROSENBERG: 5.

13 THE WITNESS: -- 5. It's revised
14 driveway location schedule of property at 909
15 Prospect.

16 (Whereupon, revised driveway location
17 schedule of property at 909 Prospect is
18 received and marked as exhibit A-5 for
19 identification.)

20 THE WITNESS: The second page is where
21 he gets into details on that letter.

22 MR. ROSENBERG: Yeah, I'm just reading
23 the regret to inform you part.

24 THE WITNESS: They always wait.

25 MR. ROSENBERG: They just wanted

1 revised drawings, Mr. Chairman.

2 CHAIRMAN SEIBEL: Is this the only one
3 you have.

4 A. Mark, do you have a copy?

5 Q. Yes.

6 CHAIRMAN SEIBEL: I don't have enough.

7 THE WITNESS: So I could explain what
8 happened is, we -- the original driveway on this
9 property was right on the municipal boundary line.
10 Working with my client, we decided we would like to
11 make the driveway a little more appealing by
12 separating the entrance to the exit, put some
13 landscaping in between it. Put an entrance and exit
14 sign and just trying to keep it -- moving it to the
15 north. So that we're coming in the center of the
16 site. We have a wide open area in the middle. Very
17 easy moving throughout the site. And Mr. Varner's
18 letter, if you get to the end of it, he's told us to
19 move the driveway back 30 foot north of the end of
20 the point of curvature on Naugle Drive and make it
21 one driveway 24 feet wide with our ingress and
22 egress, which is what's shown on this plan. Being
23 their county road my client would still prefer having
24 at least a left-and right-hand turn. But putting it
25 -- his purpose for this is to take it away -- I

1 believe it's to take it away from Prospect Street.
2 Their concern is the two streets too close together,
3 to move us down. They're a county road. We tried to
4 comply. We didn't want this board to not see this
5 while your contemplating on reviewing this tonight.
6 So that's why we did this.

7 MR. ROSENBERG: So Mr. Rigg, just to be
8 clear, this Exhibit A-5 amends the site plan layout
9 sheet that you've previously submitted, three of six
10 --

11 THE WITNESS: Yes.

12 MR. ROSENBERG: -- correct?

13 THE WITNESS: Yes.

14 MR. ROSENBERG: Which showed two
15 distinct, an ingress and egress with a median in the
16 middle.

17 THE WITNESS: Yes.

18 MR. ROSENBERG: But all of which is
19 still north of the Fair Lawn border boundary.

20 THE WITNESS: Yes. It's still further
21 north than it is today when we're finished. Right
22 now we're right on the municipal boundary line.
23 We're another 16 feet north of that is where the
24 county told us to put this driveway. So we're
25 actually further north than we were. Not as far

1 north as we prefer putting it. The interesting part
2 of that is we have 98 parking spaces on our original
3 proposal. We left -- we put two islands in there to
4 try and leave the parking separate from the driveway.
5 We now have 100 parking spaces. We actually gained
6 parking by changing what the County wanted, but this
7 is what Bergen County is requesting to do and we
8 wanted to make sure this board knew this.

9 So the rest of the plan didn't change.
10 We kept the parking spaces on the south side the
11 same, the same angle. We actually pretty much keep
12 the island at the same location, except I made it
13 bigger. And then we have a driveway next to it. So
14 it enhanced the southerly side. We separated the
15 driveway, keeping the entrance and the exit further
16 away from the building, still further north of where
17 Naugle Drive is, where it is today.

18 MR. ROSENBERG: Just so we all
19 understand, it's further south of what your site plan
20 originally showed.

21 THE WITNESS: Absolutely.

22 MR. ROSENBERG: Closer to the Fair Lawn
23 boarder line.

24 THE WITNESS: Yes.

25 MR. ROSENBERG: I just wanted everyone

1 on the board to fully understand that this change
2 recommended by the county, moves that driveway
3 further south closer to the Fair Lawn boarder.

4 CHAIRMAN SEIBEL: Not the applicant.
5 Not the applicant's original plan.

6 MR. ROSENBERG: Correct, not the
7 applicant. This is being required, correct, Mr.
8 Rigg, but the county.

9 THE WITNESS: Absolutely. We would
10 prefer to keep it right where it is. If he wanted to
11 shrink it down to an entrance and an exit, left and
12 right, we would just be happy where it is today on
13 this plan. We're trying to oblige with the County,
14 trying not to have issue with it. If the County
15 feels that it's best for the County of Bergen, we
16 will do it.

17 CHAIRMAN SEIBEL: I believe Mr.
18 Lowenstein has a question.

19 MR. LOWENSTEIN: If you don't mind,
20 some of these I want to reserve questioning you later
21 on some other parts of your testimony.

22 So the driveway is being moved 16 feet
23 south; is that correct?

24 THE WITNESS: Well, actually, the
25 existing driveway is right on the municipal boundary

1 line. It's not shown on this proposed plan. 16 feet
2 north of that is where the new driveway is that the
3 County is proposing. It's actually going to move
4 about 50 feet south of where we propose it.

5 MR. LOWENSTEIN: 5-0?

6 THE WITNESS: Yes.

7 MR. LOWENSTEIN: Also, I saw in Mr.
8 Varner's letter a reference to parking space 63-66
9 inclusive, he wants those removed. Is that --

10 THE WITNESS: He's stating -- and I'll
11 try to keep it short, but the County of Bergen
12 requires we provide a site distance of a certain
13 specified distance for the speed of the traffic.
14 What they've asked us in the past is to provide them
15 the longest distance that we have. The one we showed
16 on the plan far exceeds the traffic speed for the
17 road. If we use what's permitted for a 35
18 mile-per-hour zone, we don't have to eliminate the
19 spaces and if he wants us to still eliminate them, we
20 can shift these four, shift the handicap spaces.
21 Most importantly, we don't want to lose the spaces
22 right next to the building. So we won't lose those.
23 If there's a modification, that's just going to shift
24 them away from Prospect Street and Saddle River Road.

25 CHAIRMAN SEIBEL: That's going to be

1 decided when you go to Glen Rock?

2 THE WITNESS: Yes.

3 CHAIRMAN SEIBEL: That's for them.

4 THE WITNESS: These spaces are a couple
5 hundred feet from Fair Lawn and we will do -- at all
6 costs we're going to try and find a way to keep them,
7 because they're right next to the building.

8 MR. LOWENSTEIN: Okay. Thank you.

9 THE WITNESS: Yeah.

10 CHAIRMAN SEIBEL: Okay.

11 THE WITNESS: The layout, again, is the
12 parking as we propose, it stays the same on both
13 plans regardless of the driveway location. The
14 parking calculations are shown on here. We have a
15 total of 18,412 feet of building. We show that the
16 minimum spaces required is 69, which we comply with
17 in Glen Rock. The building height, again, is in Glen
18 Rock, but the building itself is going to be 24 feet,
19 which Mr. Schwartz will talk of, speak of, but the 28
20 foot we will adhere to is their requirement for
21 height. The only thing that's above that height is
22 the parapet along a portion of the front of the
23 building.

24 Sheet four is the grading and utility
25 plan. We've -- there is no sanitary sewer directly

1 in front of the site. Interestingly enough there's
2 -- the sewer stops at the north end of the shopping
3 center across the street. So we're proposing an
4 easement for the building for the sewer out to Keith
5 Place to the Glen Rock sewer. The water and the gas
6 are coming out the front into Prospect street. We
7 have -- although, the site itself has a zero, has a
8 negative amount of impervious, we're reducing the
9 amount of impervious. Thereby, reducing the runoff.
10 We've installed this entire storm drain system
11 on-site is a porous wall pipe and stone. And Mr.
12 Azzolina's letter is correct, a portion of our storm
13 drain used to go into the Fair Lawn system and a
14 portion of it used to go on Herold Drive and part of
15 it went down Naugle Drive. They both end up at the
16 same place, but they -- they're separated. He asked
17 that we provide him with some calculations to show
18 that the system won't be taxed and we will provide
19 that for him.

20 So as I said, the storm drains are
21 going through. The site essentially is staying as
22 flat as possible. We've graded up in the back, so
23 that the building gets higher back here and we do
24 have enough berm running along the back of this so
25 that we have a separation between the two properties.

1 We actually have it about three foot high so that the
2 soil goes up and all goes back down for the
3 properties in the rear, which will be grading out
4 towards Keith Place. The water, sewer, gas,
5 everything is shown here.

6 Sheet five shows the landscaping and
7 the lighting. To answer the question from before,
8 the entire boundary between the commercial, the
9 residential to the east we have rows of arborvitae
10 and/or a double row of arborvitae covering the entire
11 length, including the existing house and all four
12 proposed homes. We have a row of evergreens along
13 the south side along Naugle Drive, which will be of a
14 height to prevent any headlights from ending up
15 across the street to the neighbors. I wanted to make
16 sure that was taken care of. Shade trees throughout
17 the site. Landscaping along the front of the
18 building. There's some glass on the front of the
19 building, which, again, Mr. Schwartz will talk about.
20 We kept the plantings low for no other reason just to
21 keep visibility in and out of the building. Some
22 shade trees here. And, again, there is an existing
23 row of landscaping. Hudson City -- I'm not sure if
24 it's still Hudson City, but the bank to the north.
25 And there is existing landscaping. We're

1 supplementing it, but there is a full row of
2 landscaping there now we intend to keep.

3 Lighting, we have the parking lot lit.
4 There's a question light B, which is one of the
5 lights that's in Fair Lawn. It's 20 feet high on the
6 plan. Fair Lawn requires 18. We will modify that so
7 that it's 18, instead of 20 feet. That's the type
8 light B. The light C, which is out in the center
9 aisle is actually 18 feet high, but we will -- we
10 will comply with that. We've shown that there should
11 be no light splash beyond -- we have a 0.5 and a half
12 footcandle right along the curb line on Naugle, so
13 that we don't have any light crossing the street.
14 Again, we don't want to affect the neighbors on the
15 opposite side of the road. If necessary, if the
16 board wishes to use that as a condition, if this
17 light causes issue, we can install some type of
18 shielding on that one light. If it affects any of
19 the residential properties, that's something that can
20 be done to make sure that they don't see the direct
21 light of the parking.

22 BY MR. SEMERARO:

23 Q. We're going to stimulate to the maximum
24 height of 18 feet, correct?

25 A. Yes. I believe that's what Fair Lawn

1 requires.

2 MR. AZZOLINA: Yes.

3 A. We have the one that's shown at 20 and
4 it should be 18.

5 That's essentially our plan we've tried
6 to keep it clean, tried to keep the building as far
7 away from Fair Lawn.

8 CHAIRMAN SEIBEL: If the board has any
9 questions? Sam?

10 MR. RACENSTEIN: Mr. Rigg, I have a
11 question. You said that the water and gas will come
12 off of Prospect Place.

13 THE WITNESS: For this building the
14 water and gas will come off Prospect Street.

15 MR. RACENSTEIN: The sanitary sewer
16 will go up to Keith Place?

17 THE WITNESS: That's correct.

18 MR. RACENSTEIN: And that's where it
19 is.

20 THE WITNESS: Yes.

21 MR. RACENSTEIN: Do you know about the
22 parcels, the group home, parcels, will that all
23 connect into the sanitary sewer.

24 THE WITNESS: Yes, all these will
25 connect to the sanitary in the back.

1 MR. RACENSTEIN: And the water -- and
2 water and gas will come off of Prospect.

3 THE WITNESS: The water for this
4 building will come off of Prospect. These will all
5 come off of Keith. There's a water main in Keith,
6 there's a Fair Lawn water main, there's a Ridgewood
7 water main, and there's a Ridgewood water main here
8 that stops. We'll be connecting to Ridgewood Water
9 for the building and Ridgewood Water, I believe, for
10 three of the four and Fair Lawn system for the --

11 MR. RACENSTEIN: Thank you.

12 CHAIRMAN SEIBEL: Yes.

13 MR. NAVEH: Thank you, Mr. Chairman.
14 Just so I understand, according to the amendment
15 that's shown on A-5, there is now two more spots.
16 Instead of 98, there's 100 parking spots.

17 THE WITNESS: Yes.

18 MR. NAVEH: And the requirement is
19 still 69, right.

20 THE WITNESS: Yes.

21 MR. NAVEH: And I guess the variance
22 for the parapet, that's on the physical building
23 that's in Glen Rock, right.

24 THE WITNESS: Correct, yes.

25 MR. NAVEH: Thank you.

1 CHAIRMAN SEIBEL: Anyone else? Yes.

2 MR. LOWENSTEIN: Mr. Rigg, on the -- I
3 don't have the document. It's buried here somewhere.
4 But it's not a preliminary and final site plan. It's
5 the other one that consists of the three sheets that
6 you testified to. That showed the proposed
7 residences, four residences.

8 THE WITNESS: Yes.

9 MR. LOWENSTEIN: And you did make
10 mention of the fact there would be a retention basin
11 on each property, if I heard you accurately.

12 THE WITNESS: Yes.

13 MR. LOWENSTEIN: Now, how is that shown
14 on that plan?

15 THE WITNESS: I've shown the seepage
16 pits on there. Each one of the individual homes as
17 they apply for building permits, I know in Glen Rock
18 and I believe in Fair Lawn and actually if any
19 portion of the house is in Glen Rock, they're also
20 going to review it, but they're going to require
21 on-site retention of additional runoff from the site.
22 They'll be putting in seepage pits or arches or some
23 sort of subsurface retention of storm water depending
24 on the size of the house. We didn't calculate it,
25 because we didn't know how big the house would be.

1 MR. LOWENSTEIN: But you have the
2 location designated by the circle; is that accurate?

3 THE WITNESS: Yes.

4 MR. LOWENSTEIN: Because I didn't see
5 anything in the key and I made that assumption.

6 THE WITNESS: It's on there and, then,
7 again, that's an approximate just like the house are.

8 MR. LOWENSTEIN: Thank you.

9 MR. SEMERARO: If I could address that.
10 That's part of the subdivision plan and the
11 subdivision plan isn't a site plan for the
12 residential properties. It's there to show you that
13 issues that would confront the Borough can be all
14 addressed on it. This is where the application as it
15 relates to those parcels of property is simply for
16 the subdivision.

17 MR. LOWENSTEIN: Okay. Thank you for
18 that clarification.

19 And then, Mr. Rigg, getting back to the
20 preliminary and final site plan, sheet three of six
21 in particular. I cannot comprehend the operational
22 aspect of this. When I see a loading zone, is that
23 ground level, is that a loading dock?

24 THE WITNESS: Yes. Well, actually we
25 could of just marked it as parking spaces. This all

1 same-level parking in here. It's all macadam. We're
2 just going to have to stripe it off for a loading
3 zone only so the trucks -- only trucks will park in
4 that location.

5 MR. LOWENSTEIN: How will they be
6 parked? Will they be parallel to the north side of
7 the building? Would they be perpendicular?

8 THE WITNESS: I'm not completely
9 familiar with how they take the product off, but most
10 of the time it's either from the back or the sides.
11 I've seen the sides open up on the trucks. So
12 they'll pull in here and they'll be taking up one
13 side, both sides, the rear of the truck and bringing
14 it in the building. They're going to be parking
15 parallel to the building.

16 MR. LOWENSTEIN: How will they get the
17 product into the building.

18 THE WITNESS: I'm sure on a forklift or
19 some sort of --

20 MR. LOWENSTEIN: Where is the entry
21 point.

22 THE WITNESS: There's an entrance
23 portion -- the dark point on the building there is
24 actually the entrance. There's an entrance right
25 there.

1 MR. LOWENSTEIN: So they'll be crossing
2 that proposed walk; is that correct.

3 THE WITNESS: That's correct.

4 MR. LOWENSTEIN: Okay. And in your
5 opinion, will there be adequate clearance for those
6 trucks to make some kind of K-turn or maneuver there,
7 especially given the presence of designated parking
8 stalls 13 through, let's say, 18 -- 16?

9 CHAIRMAN SEIBEL: Mr. Lowenstein, what
10 you're going over is for Glen Rock.

11 MR. LOWENSTEIN: I understand that. I
12 understand that. All right.

13 CHAIRMAN SEIBEL: Let me put it this
14 way, are there loading docks on that side?

15 THE WITNESS: There's no loading docks.
16 This is -- if the spaces are full, I would anticipate
17 the trucks would pull through and pull out. If
18 there's no one back here, it will be just as easy for
19 them to make a K-turn and pull right back out. But
20 we have the "do not enter" sign. We hope people
21 adhere to it. There should be no traffic going this
22 way only. If this parking lot is full, they continue
23 through, the trucks.

24 CHAIRMAN SEIBEL: This development is
25 sucking us in. We only have a small portion of it,

1 but it's drawing us into the other portions of it and
2 you almost can't help yourself. But I do have a
3 question with regard to the lighting and the
4 landscaping and the fact that the business is going
5 to be open much later at night than the current
6 operation. So, therefore, I'm interested to know how
7 you can mitigate the glare coming off the vehicles,
8 you know, at 9:30 at night, so it doesn't interfere
9 with the quality of life on Naugle and the
10 surrounding houses.

11 THE WITNESS: Our objective is to do
12 this with landscape, to make sure this is landscape
13 is of sufficient height, so there will be no
14 headlights onto Naugle Drive. That's the purpose for
15 these plants. If the board's professionals -- or at
16 the time you see that there's need for more, we can
17 always add some more.

18 CHAIRMAN SEIBEL: All right. And do
19 our -- did I swear you in.

20 MR. AZZOLINA: Not yet.

21 CHAIRMAN SEIBEL: Can you state your
22 name and address.

23 MR. AZZOLINA: Paul Azzolina, Azzolina
24 & Feury Engineering, 30 Madison Avenue, Paramus, New
25 Jersey, board engineer.

1 CHAIRMAN SEIBEL: And do you swear or
2 affirm that the testimony you're about to give is
3 true and accurate.

4 MR. AZZOLINA: I do.

5 P A U L A Z Z O L I N A,
6 30 Madison Avenue, Paramus, New Jersey 07652,
7 having been duly sworn, testifies as follows:

8 CHAIRMAN SEIBEL: How do you feel about
9 his mitigation of the lighting?

10 MR. AZZOLINA: I believe there are 16
11 dense yew shrubs. Planting height of 30 to 36 inches
12 are adequate to properly screen the headlights in
13 that portion of the site.

14 CHAIRMAN SEIBEL: Oh, yes, the
15 wintertime, how about that?

16 MR. AZZOLINA: Evergreens.

17 CHAIRMAN SEIBEL: Evergreens.

18 MR. AZZOLINA: And as Mr. Rigg
19 indicated if history proves to be a problem, I think
20 the applicant can stimulate that they would address
21 any future concerns that the board engineer may have.

22 MR. SEMERARO: Yes, we could stipulate
23 to that.

24 MR. AZZOLINA: If the board prefers a
25 solid fence, a low height solid fence, that could

1 easily be constructed as well. I mean, there are
2 options. Typically, the landscaped hedge is an
3 effective screen, though. I do note that it would be
4 the house on Naugle that the house fronts on Saddle
5 River Road, it's the side of the house that's on
6 Naugle and the other adjoining property is beyond the
7 parking lot. So it really is one single house that I
8 believe is most impacted by this parking lot, but I
9 do believe that the proposed shrubbery will be
10 adequate.

11 MR. SEMERARO: We did consider a
12 stockade fence or something like that, but this was
13 much more aesthetic and durable.

14 CHAIRMAN SEIBEL: Anybody else have
15 questions? Yes.

16 MS. PERCHUK: I guess from the parking
17 lot that's closer to Fair Lawn --

18 MS. PECK: Yelena.

19 CHAIRMAN SEIBEL: Speak up.

20 MS. PERCHUK: -- is it going to be a
21 right turn only or --

22 THE WITNESS: No, that's not what we're
23 proposing. It will be right or left.

24 MS. PERCHUK: So there will be about
25 100 cars, 60 cars pulling out of there making a left

1 turn, because there's also an exit from Naugle Drive
2 onto Saddle River Road.

3 MR. SEMERARO: We do have our traffic
4 engineer. And our traffic engineer will verify that.
5 According to the statistics that all engineers rely
6 upon for traffic analysis that the traffic -- the use
7 as it was currently zoned versus the proposed use
8 will be similar traffic patterns. So while we -- and
9 I understand the inclination to sit there and count
10 parking spaces and think that it's possible all these
11 people leave at the same time, but statistically that
12 doesn't happen and even your own engineer can sit
13 there and tell you how the statistics that our
14 traffic engineer relies upon is the same that he does
15 and that it's an understandable, but not any
16 realistic concern for traffic purposes statistically.

17 CHAIRMAN SEIBEL: Anybody else on the
18 board? Nope.

19 (NO RESPONSE.)

20 CHAIRMAN SEIBEL: If not, I'll open it
21 up to property owners --

22 MR. SEMERARO: Mr. Chairman, before you
23 do that, can I just -- for basic housekeeping there
24 were some issues on the planner's report, as well as
25 your engineer's report that I would like to run down

1 with my witness so that we can confirm that they've
2 been addressed.

3 CHAIRMAN SEIBEL: Sure.

4 MR. SEMERARO: We will stipulate to
5 having the application contingent upon all other
6 necessary permits or approvals required by outside
7 agencies. That was a requirement set forth by your
8 planner. Mr. Rigg did address the lighting and the
9 landscaping. Through Mr. Rigg and our first witness
10 we did discuss the delivery, our truck size, it's
11 frequency, anticipated number of employees, hours of
12 operation. We already stipulated to the Shade Tree
13 Advisory Committee's terms. I think the Borough
14 engineer had raised the issue of a variance being
15 necessary for the height of the lights and we
16 stipulate we'll comply with the maximum height
17 requirement of 18 to avoid that variance. Your
18 engineer raised the issue of a willingness to serve
19 with respect to utilities for the site and that would
20 be a stipulation of any approval conditioned upon us
21 obtaining that. Right, Bruce?

22 MR. ROSENBERG: Yes.

23 MR. SEMERARO: There was a request
24 about environmental data and we do have a phase one
25 and phase two report that we will send out to your

1 engineer tomorrow, if that's acceptable.

2 MR. AZZOLINA: Thank you. Yes.

3 MR. SEMERARO: There was an issue about
4 replacing curb and sidewalk.

5 THE WITNESS: Yes. Mr. Azzolina's
6 requested that I believe it all be replaced. I would
7 only ask that, while we're not disagreeing, I would
8 like to walk the site and make sure there's an
9 agreement that it's necessary and if it is, yes,
10 absolutely, we'll do it.

11 MR. AZZOLINA: In addition to that, I
12 had also requested that the storm drain facilities in
13 the roadway along the street frontage be updated to
14 comply with the current storm water management regs,
15 which require curb -- specialized curb pieces, Type N
16 Echo (phonetic), they're called, as well as bicycle
17 safe grates. The existing inlets do not have those
18 features. I recommend that this applicant be
19 responsible for that upgrade.

20 THE WITNESS: We'll be connecting to
21 that basin, so, yes, we need to be there. Yes,
22 absolutely.

23 MR. AZZOLINA: Just one other thing, if
24 I may interject. One of the other aspects relative
25 to the stormwater management system, noting that they

1 will be discharging increase flows to the Naugle
2 Drive store system. I had also requested a video
3 inspection of that system. Does the applicant agree
4 to undertake that work as well.

5 THE WITNESS: I guess the answer is
6 yes.

7 MR. AZZOLINA: Well, the reason would
8 be that this system, your entire system is
9 discharging to that pipe and if there is ever a
10 problem downstream it's going to be a problem for
11 you. So I think it's worth the \$1,000 or thereabouts
12 in order to make that investigation for your
13 protection, as well as the protection of the Borough.

14 MR. SEMERARO: Yes. And that's just
15 for the investigation itself.

16 MR. AZZOLINA: Yes. Any follow-up
17 obviously would be a point of discussion within the
18 municipality, yes.

19 MR. SEMERARO: Yes. Mr. Azzolina, are
20 you satisfied that we addressed the other issues
21 based on your comments.

22 MR. AZZOLINA: In that section of the
23 report, yes.

24 MR. SEMERARO: Okay. Thank you.

25 CHAIRMAN SEIBEL: Now, if there's no --

1 all right. Before we take questions from the public,
2 we'll take a quick recess.

3 (Whereupon, a short recess is held.)

4 CHAIRMAN SEIBEL: We're going to
5 reconvene. 2015-024, 909 Glen Rock, LLC. Take a
6 roll.

7 MR. LOWENSTEIN: Mr. Racenstein.

8 MR. RACENSTEIN: Here.

9 MR. LOWENSTEIN: Ms. Baratta.

10 MS. BARATTA: Here.

11 MR. LOWENSTEIN: Ms. Perchuk.

12 MS. PERCHUK: Here.

13 MR. LOWENSTEIN: Mr. Lowenstein is
14 here.

15 Mr. Naveh?

16 MR. NAVEH: Here.

17 MR. LOWENSTEIN: MR. Zharnest.

18 MR. ZHARNEST: Here.

19 MR. LOWENSTEIN: Mr. Seibel, Chairman.

20 CHAIRMAN SEIBEL: Here.

21 MR. LOWENSTEIN: A quorum has
22 reassembled.

23 CHAIRMAN SEIBEL: Now, we were going to
24 open it up to residents within 200 feet of the
25 subject property for any questions. Do you live

1 within 200 feet.

2 MS. S. KELESH: Yes.

3 CHAIRMAN SEIBEL: Come up. Now, I just
4 want to let you folks know that we really -- we have
5 no jurisdiction over anything, other than the small
6 strip of property that's located in the Borough of
7 Fair Lawn. Anything regarding the height or the
8 loading or the entry and exits, that's all Glen Rock.
9 That has nothing to do with us. So we're just little
10 old Fair Lawn over here on the, what is that, the
11 north side.

12 MR. AZZOLINA: South.

13 CHAIRMAN SEIBEL: South side. So we'll
14 do what we can, try not to get all involved.

15 But if you will please raise your right
16 hand. State your name and your address.

17 MS. S. KELESH: Susan Kelesh,
18 K-E-L-E-S-H, 4201 Naugle Drive, Fair Lawn.

19 CHAIRMAN SEIBEL: Do you swear or
20 affirm that the testimony you're about to give is
21 true and accurate.

22 MS. S. KELESH: Yes.

23 S U S A N K E L E S H,

24 42-01 Naugle Drive, Fair Lawn, New Jersey,

25 having been duly sworn, testifies as follows:

1 CHAIRMAN SEIBEL: Please ask away.

2 MS. S. KELESH: I am concerned about
3 our little piece living on Naugle Drive. I
4 understand that almost 30 years ago they were given a
5 use variance to make it commercial parking spaces
6 when they expanded the building of Herold's Farm.
7 The reality is that living across from their property
8 for several decades now, what they have done with
9 those spaces that should of been parking spaces, is
10 park their truck, which is fine, put some of those
11 clothing donation bins, which is fine. But they also
12 ended up putting their dumpsters there and for the
13 last 20, 25 years at --

14 CHAIRMAN SEIBEL: That's a different
15 property.

16 MS. S. KELESH: Yes, but they were
17 given the use variance for commercial parking spaces,
18 then the reality was that they didn't really use it
19 for parking, they used it for another purpose, which
20 --

21 CHAIRMAN SEIBEL: "They," being the
22 owner who is selling the property --

23 MS. S. KELESH: Right.

24 CHAIRMAN SEIBEL: -- to the applicant?
25 The applicant is going to be a different owner.

1 MS. S. KELESH: Right.

2 CHAIRMAN SEIBEL: So where are you
3 going to put the garbage.

4 THE WITNESS: The dumpsters right now
5 are here. We're proposing them to the far northeast
6 corner of the property. There will be no clothing
7 bins. There will be nothing here. It's the furthest
8 most parking spaces to the building, and we believe
9 this is going to be overflow, possibly during the
10 Christmas season, maybe the client would put his cars
11 here. Other than that, I think this would be empty
12 parking spaces.

13 MS. S. KELESH: How about lighting? I
14 wasn't -- I couldn't quite hear clearly.

15 THE WITNESS: We have one light fixture
16 right at this location. There's another light out on
17 the island. We have -- we're --

18 MS. S. KELESH: Yes, right there.

19 THE WITNESS: Right there. There's a
20 row of evergreens that's running along the parking
21 here that will be arborvitae. We have another row
22 over here to block the headlights. If, in fact,
23 there's an issue with the light itself, there is a
24 shield that can be put on the lights. We could be
25 directed by the municipality if it causes any

1 problems. If you see the direct light from the
2 light, there's a way to prevent that from happening.
3 We could do that. Actually with the new LED lights I
4 think you do it right inside the lights, you don't
5 need the shield anymore. There's a way to prevent
6 the issues that you have and we believe it's much
7 better for you than what you're seeing there today.

8 MS. S. KELESH: The reason I brought up
9 the current, the previous owners is that, you know,
10 what prevents things from changing down the line.
11 You give the use variance now for parking, and 10
12 years down the line, they can come to you for
13 something else, which ended up being the case with
14 the present owners.

15 CHAIRMAN SEIBEL: Then we have
16 enforcement and the -- who is --let me swear Ann in.
17 State your name and your --

18 MS. PECK: Ann Peck, assistant zoning
19 officer for the Borough of Fair Lawn.

20 CHAIRMAN SEIBEL: Do you swear or
21 affirm that the testimony you're about to give is
22 true and accurate.

23 MS. PECK: I do.

24

25

1 A N N P E C K,

2 8-01 Fair Lawn Avenue, Fair Lawn, New Jersey,
3 having been duly sworn, testifies as follows:

4 CHAIRMAN SEIBEL: Explain what -- if
5 they start moving garbage into that end of the lot.

6 MS. PECK: As residents you have two
7 recourses. One, if it's a property maintenance issue
8 with trash, we have an officer who would address
9 that. If it's regarding a condition that they agreed
10 to do and they violated it, you would go to the
11 zoning department and then we would address it with
12 the applicant to correct it.

13 MS. S. KELESH: Okay. Thank you.

14 MR. ROSENBERG: Mr. Chairman, if I man,
15 just as a follow-up. Obviously the 1986 approval, I
16 saw it. It's a whopping one paragraph handwritten.
17 I want to make sure that the applicant agrees as a
18 condition of any action by this board those kinds of
19 enumerated conditions. All of which the board may
20 seek to impose, including things, like ensuring that
21 none of the parking spaces will be used for any
22 purpose other than parking for the commercial
23 operation, will absolutely be adhered to, it will be
24 enumerated condition as well. I just want to make
25 sure that everyone is aware of that, Mr. Chairman.

1 It's something that we can certainly put into any
2 resolution that this board would approve ultimately,
3 which will be dramatically different and much
4 different than what was approved in 1986.

5 Thank you, Mr. Chairman. The
6 applicant's attorney is shaking his head, because he
7 is in agreement that I think that any of those would
8 be enumerated and be of record. And those would be
9 binding on any successor of this property. In other
10 words, if in the future those kinds of conditions
11 would also apply to any future owner as well.

12 CHAIRMAN SEIBEL: I think that that's
13 important that we make that part of the agreement
14 here. My question is: Why won't you put the shield
15 on the light to begin with.

16 THE WITNESS: Actually, the new -- as I
17 stated, the LED lights, which we'll be using, they
18 actually -- within the light fixture, itself, the
19 LEDs move so that you could possibly do it within it.
20 So you may not need the fixture. But if -- right off
21 the bat as soon as they put it up, if there's an
22 issue, we could take care of it before the CO is
23 issued. The lights are going to be in place, the
24 permanent COs.

25 CHAIRMAN SEIBEL: Any other residents

1 within 200 feet.

2 (NO RESPONSE.)

3 CHAIRMAN SEIBEL: Seeing none. I'll
4 open it up to the general public. Anybody? Come on
5 up. We swore you in prior.

6 MR. ROSENBERG: State his name again.

7 CHAIRMAN SEIBEL: Oh, yeah, state your
8 name.

9 MR. KETTELL: Joseph Kettell.

10 I have a similar concern about the
11 parking and if the use variance is given, will it be
12 just a variance for Bottle King? We have now a
13 proposed use for this site. Suppose something else
14 goes into this site that's not being proposed,
15 suppose condominiums, another business, and if that's
16 the case, will -- in those situations will they also
17 be able to use that parking area, which may not be
18 consistent with what Mr. Rigg was talking about,
19 being used very seldom.

20 CHAIRMAN SEIBEL: Will they also be
21 able to use that parking area?

22 MR. KETTELL: Correct. So is the use
23 variance specifically for Bottle King in this
24 location or is it for anything that goes in to this
25 location.

1 CHAIRMAN SEIBEL: That's a legal
2 question. I'll let --

3 MR. ROSENBERG: Sure. The answer is:
4 No, it is not unique to Bottle King. It cannot be
5 unique to Bottle King. The applicant is a permitted
6 retail use and therefore, if the board grants this
7 application in Fair Lawn, then any retail use now in
8 the future has the right to continue to utilize these
9 parking spaces.

10 If it were to change in use and the
11 parking requirement in Fair Lawn were greater, than
12 they would have to come back to the board for some
13 type of variance relief. But variances run with the
14 land for the use and there is a retail use and,
15 therefore, it could be used by another retailer in
16 the future.

17 MR. KETTELL: And how about
18 residential? If Glen Rock re-zones it for
19 residential, such as condominiums.

20 MR. ROSENBERG: They would have to come
21 back to Fair Lawn for a zone variance.

22 MR. KETTELL: So it seems to me that
23 maybe for Fair Lawn it's a little premature to allow
24 this variance, because we really don't know exactly
25 how this space is going to be used. We have a

1 proposal here, but we don't know -- there's evidently
2 still some hearings in Glen Rock and votes that have
3 to take place in Glen Rock for certain issues,
4 possibly some variance. We don't know what those
5 are. We don't know what the outcome is going to be.
6 So to me it seems like maybe the tail is wagging the
7 dog here. Maybe we need to hear and see a finished
8 plan for this site before we propose anything on this
9 particular use variance.

10 MR. ROSENBERG: Unfortunately, they
11 have the application, they have the right to proffer
12 the application and make the application. And so we
13 have a duty, the board has a duty to actually, once
14 it's deemed complete, to act on the application.

15 MR. KETTEL: Okay. But I assume that
16 doesn't mean that we have to provide that variance
17 until we know what the outcome is for this site.

18 MR. ROSENBERG: That's not necessarily
19 true. They're here before the board now with this
20 application. So the board is duly bound to act on
21 the application and, in fact, I would say that if it
22 doesn't act within 120 days, they could apply for an
23 automatic approval. We can't delay action by this
24 board contingent on action of another municipality.
25 That's the law.

1 MR. KETTELL: So it's possible that
2 Glen Rock could disallow this particular plan and
3 that this site be used for something else and we're
4 going to be stuck with these spaces being a use
5 variance in Fair Lawn and not really know how those
6 spaces are going to be used.

7 MR. ROSENBERG: I don't think so.

8 CHAIRMAN SEIBEL: They're going to be
9 used for parking.

10 MR. ROSENBERG: Yeah, for commercial
11 parking. That's what their variance application is
12 for.

13 MR. KETTELL: But we don't know by
14 whom.

15 MR. ROSENBERG: This applicant at this
16 point.

17 MR. KETTELL: Right. But this
18 applicant can build something else. It doesn't have
19 to be Bottle king.

20 MR. ROSENBERG: I think they would have
21 to come back. If it's a residential use, they'd have
22 to come back.

23 MR. KETTELL: Well, maybe a health
24 center.

25 MR. ROSENBERG: I think they would have

1 to come back, sir.

2 MR. KETTELL: Do we know for certain.

3 MR. ROSENBERG: Yes, we do. They'd
4 have to come back.

5 MR. KETTELL: Mr. Rigg, you were
6 speaking about lighting and it sounds like we might
7 have the headlight lighting under control with some
8 shrubbery, but the area lights, I understand we're
9 not going to have possibly a lamp shining in
10 someone's window that's directly across from Naugle,
11 but we're going to see area lighting in the parking
12 area.

13 THE WITNESS: Yes.

14 MR. KETTELL: And this parking area is
15 significantly different, significantly larger than
16 the existing parking area right now adjacent to
17 Naugle.

18 THE WITNESS: Yes.

19 MR. KETTELL: And so do we know what
20 the -- have you done a formal lighting study to
21 determine what the impact is going to be for those
22 people who are living on Naugle Drive and will see
23 the ambient lighting from the parking area.

24 THE WITNESS: Yes, actually our plan
25 shows the footcandle output and we meet the criteria.

1 So it does not exceed what's permitted leaving the
2 site. We believe that that's shown on the plans.

3 MR. KETTELL: And there's a formal
4 study.

5 THE WITNESS: It's shown on the plans.
6 We actually had the lighting designed so we can show
7 you the limits of the footcandles and how bright it
8 would be when it reaches the right-of-way and it
9 meets the standard that we're required to meet.

10 MR. KETTELL: And how about the noise
11 issue? Right now we have practically no noise,
12 because we only have 12 parking spots that don't get
13 used. There is a dumpster there and then the
14 building. Now we're going to have 85 parking spots
15 that are adjacent to Naugle Drive, car doors opening,
16 closing, car engines starting up. The noise, I
17 assume, is going to be significantly different for
18 those people living right across the street on Naugle
19 Drive.

20 THE WITNESS: Actually, if I remember
21 correctly, there's a refrigeration unit sitting on
22 the municipal boundary line, so it runs 24 hours a
23 day.

24 MR. KETTELL: And what you're
25 suggesting is that is going to be similar to 85 cars

1 opening and closing doors.

2 THE WITNESS: There's, I think, 75 --
3 69 parking spaces there today at Herold's Farm.

4 MR. KETTELL: No, yeah, but they're on
5 the other side.

6 THE WITNESS: No, they're right here,
7 same exact place.

8 MR. KETTELL: No, those are 12 parking
9 spots.

10 THE WITNESS: It's the exact same as
11 what we're proposing, other than we have a building
12 that you're not going to be seeing. We have 69
13 spaces that are sitting directly near Naugle Drive.
14 They're the same. It's my opinion they're the same.

15 MR. SEMERARO: Mr. Chairman, the issue
16 with noise, there are county regulations or DEP
17 regulations with respect to noise. If we violate
18 them, then we get cited by them and that issue isn't
19 before the board. So I would object to this line of
20 questioning.

21 CHAIRMAN SEIBEL: Thank you. Go ahead.

22 MR. KETTELL: I think it is
23 significantly different. Mr. Rigg, this is the
24 existing plot plan right now.

25 THE WITNESS: Yes.

1 MR. KETTELL: And where are those 65
2 parking areas.

3 THE WITNESS: Starting at the middle of
4 the site to here.

5 MR. KETTELL: When you say to "here" --

6 THE WITNESS: This is closer to Naugle
7 Drive than what we're proposing.

8 MR. KETTELL: So all -- most of the --
9 before you turn the page, Mr. Rigg, can you turn that
10 back, please? So most of the parking area is --
11 fronts the main road.

12 THE WITNESS: Right.

13 MR. KETTELL: Okay. And the variance
14 for Fair Lawn is on the side there where the 12
15 parking spots are.

16 THE WITNESS: That's correct.

17 MR. KETTELL: Which then is adjacent to
18 the building.

19 THE WITNESS: Well, it was adjacent to
20 the building.

21 MR. KETTELL: Yes, exactly, we're
22 talking about the existing. Now, if you turn the
23 page to the new one. Okay, now you don't see a
24 building in that area, all you see is 85 parking
25 spots.

1 THE WITNESS: Correct.

2 MR. KETTELL: Okay. So clearly, the
3 issue about cars, noise and lighting is going to be
4 different. Maybe it's not going to be objectionable,
5 but it is going to be different.

6 THE WITNESS: The driveway egress from
7 the site today is on a municipal boundary line. So
8 every car that parks in this parking lot today or
9 when they were busy, came through here and left at
10 this location, the exact same situation you're going
11 to have when we're finished. You had every single
12 car from the previous layout for Herold's Farm exit
13 at this location today. That's where the exit is.

14 CHAIRMAN SEIBEL: It's one way in, one
15 way out, right.

16 MR. KETTELL: Correct. I live there, I
17 know.

18 THE WITNESS: But we have the same
19 situation. We have the exit in the same location.
20 We're a little further north and we don't have the
21 building, we don't have the compressors, we don't
22 have all the noise that goes along with the building
23 and the customers right next to you. You have the
24 cars, yes, absolutely, there will be cars.

25 MR. KETTELL: And there will be engines

1 starting up. Aside from the egress from the driving
2 area, the noise -- the noise will be somewhat
3 different. I haven't heard a study --

4 CHAIRMAN SEIBEL: Do you have a
5 question.

6 MR. KETTELL: Well, has a study been
7 done for noise -- for noise.

8 THE WITNESS: For car door noise?
9 Absolutely not.

10 MR. KETTELL: Or engines starting up.

11 THE WITNESS: Absolutely not.

12 MR. KETTELL: Mr. Rigg, how many
13 parking spots are across the street for Bottle King
14 right now.

15 THE WITNESS: I do not know how many
16 are in the parking lot. It's far more than here.
17 They have a substantial lot behind the building.

18 CHAIRMAN SEIBEL: How does that relate
19 to this.

20 MR. KETTELL: Well, I'm just wondering
21 if a study had been done for 85 parking spots. We
22 see 85 parking spots, including the 12 spots for Fair
23 Lawn. I'm not sure they're necessary. I'd like to
24 know if we really need to have 85 parking spots or is
25 it just because there's residential property

1 available in Fair Lawn, why not take it and worry
2 about it later on. Also, one of my concerns is that
3 clearly the benefit of this complex goes to Glen
4 Rock.

5 CHAIRMAN SEIBEL: I need questions, not
6 statements.

7 MR. KETTELL: I thought you were asking
8 me a question.

9 Mr. Rigg have you considered
10 alternatives for these 12 parking spots in Fair Lawn?
11 Have you considered alternate designs where those 12
12 parking spots might be able to -- if you need them.
13 First of all, have you considered whether or not you
14 need those 12 parking spots?

15 CHAIRMAN SEIBEL: I think he's answered
16 enough about the 12 spots in that area. We got to
17 move on. What's the question here.

18 MR. KETTELL: Well, my major concern is
19 that there is a lot of additional property that I see
20 that's being proposed for homes in Glen Rock and
21 maybe some of that property could of been used if
22 they needed it for additional parking spots and the
23 benefit of -- again, this complex --

24 CHAIRMAN SEIBEL: What's the question.

25 MR. KETTELL: So I'm wondering if

1 there's a design where that alternative use easement
2 could be used as a buffer property for the residents
3 of Fair Lawn and that parking area would be maybe
4 somewhere else.

5 CHAIRMAN SEIBEL: Is there an
6 alternative.

7 THE WITNESS: Is there an alternative
8 to move this parking, absolutely not.

9 MR. KETTELL: No, the 12 spots.

10 THE WITNESS: No.

11 MR. KETTELL: So there's no --

12 CHAIRMAN SEIBEL: None.

13 MR. KETTELL: Maybe we could consider
14 an alternate design where all the parking spots are
15 --

16 CHAIRMAN SEIBEL: What's your next
17 question.

18 MR. KETTELL: Are there going to be
19 Glen Rock variances or there --

20 CHAIRMAN SEIBEL: That's for Glen Rock.

21 MR. KETTELL: Yeah, but, again, it
22 would --

23 CHAIRMAN SEIBEL: I'm not going to let
24 you filibuster up here. I want you to get to the
25 point and move on.

1 MR. KETTELL: So my point is, again,
2 not knowing what Glen Rock is going to propose, I'm
3 not sure we could be --

4 CHAIRMAN SEIBEL: That's the plan.

5 MR. KETTELL: Yeah, that's a proposed
6 plan.

7 Was -- I see a lot of parcels in Glen
8 Rock for homes. Was the one parcel on Naugle Drive
9 that you're trying to get a use variance, was that
10 considered for a home?

11 THE WITNESS: No.

12 MR. KETTELL: And why was that.

13 THE WITNESS: Because it's not big
14 enough.

15 MR. KETTELL: Because the -- when --

16 CHAIRMAN SEIBEL: It's too small.

17 MR. KETTELL: When there was a proposal
18 by Walgreens where --

19 CHAIRMAN SEIBEL: Question.

20 MR. KETTELL: Yeah, well, there was a
21 proposal performed. Are you aware there was a
22 proposal performed.

23 THE WITNESS: I'm --

24 CHAIRMAN SEIBEL: It's not -- your
25 questions are irrelevant. It's a commercial

1 property.

2 MR. KETTELL: No, I understand that,
3 but I guess I'm questioning, I hear that property is
4 not big enough for a home. I'm not sure that's
5 accurate.

6 CHAIRMAN SEIBEL: It's not big enough.

7 MR. KETTELL: And instead of taking
8 residential property from Fair Lawn, could you take a
9 little commercial property from Glen Rock and make it
10 into a home area, make another home there? Is that
11 possible.

12 THE WITNESS: That's not possible.

13 CHAIRMAN SEIBEL: No. All right.

14 Let's wrap it up.

15 MR. KETTELL: That's all I have. Thank
16 you.

17 CHAIRMAN SEIBEL: Any other homeowners
18 or general public?

19 Please state your name and your
20 address.

21 MR. LEVIN: Hi. I'm Alan Levin. I
22 live at 4239 Herold Drive in Fair Lawn.

23 CHAIRMAN SEIBEL: Raise your right
24 hand. Do you swear or affirm that the testimony
25 you're about to give is true and accurate.

1 MR. LEVIN: I do.

2 A L A N L E V I N,

3 42-39 Herold Drive, Fair Lawn, New Jersey,

4 having been duly sworn, testifies as follows:

5 CHAIRMAN SEIBEL: Questions only.

6 MR. LEVIN: Okay.

7 THE COURT REPORTER: Please spell your
8 last name, sir.

9 MR. LEVIN: Levin, L-E-V-I-N. First
10 name is Alan, A-L-A-N.

11 Excuse me. My concern and eventually a
12 question will be related to the exit and entrance
13 into the facility. As you know, right now the
14 entrance is further north than I think what is being
15 proposed here, while the exit is pretty much where it
16 is now. Is that a correct statement?

17 THE WITNESS: The County --

18 MR. LEVIN: More or less.

19 THE WITNESS: The County is -- we
20 proposed to move it further north. The County is
21 asking to pull it further south. It will be north of
22 what's there today only by about 15 feet.

23 MR. LEVIN: So my concern is that --

24 CHAIRMAN SEIBEL: What's your question.

25 MR. LEVIN: I will get to the question

1 in a minute, Mr. Chairman.

2 My concern is that as we know --

3 CHAIRMAN SEIBEL: No, you can tell us
4 your concern at the end of the hearing. Right now we
5 need questions for the witness.

6 MR. LEVIN: I am trying to set -- state
7 a fact that would lead to a question, Mr. Chairman.
8 I beg your indulgence while I set that up.

9 CHAIRMAN SEIBEL: Ask your question,
10 please. Are you an expert? Are you making
11 testimony? Or are you asking questions.

12 MR. LEVIN: I am setting a set of facts
13 that will lead to a question. Without that
14 perspective, it will not make sense. So I ask your
15 indulgence.

16 CHAIRMAN SEIBEL: It's not appropriate.
17 We're only taking questions for the witness. At the
18 end you'll be able to say whatever you want.

19 MR. LEVIN: Okay. Given that there is
20 dangerous intersection right now, comma --

21 CHAIRMAN SEIBEL: You're making a
22 statement.

23 MR. LEVIN: I'm -- no.

24 CHAIRMAN SEIBEL: What's your question.

25 MR. LEVIN: My question is has an

1 entranceway been considered that is further north and
2 closer to where Herold Drive -- Herold's Farm
3 entrance is now to help prevent --

4 CHAIRMAN SEIBEL: Has --

5 MR. LEVIN: -- a situation where there
6 are cars that need to make a left into the facility,
7 thereby backing up traffic on Prospect and making it
8 very difficult to make a left? That's my question.

9 CHAIRMAN SEIBEL: You mean, further
10 down the road.

11 MR. LEVIN: Yes.

12 MR. SEMERARO: Mr. Chairman, if I could
13 address that just briefly.

14 CHAIRMAN SEIBEL: Sure.

15 MR. SEMERARO: We did propose a drive
16 further north and the County, which controls this
17 over this board and Glen Rock has said no. The
18 County has said it's got to go where Mr. Rigg just
19 had indicated. So we don't have a choice and
20 unfortunately the board doesn't have a choice as to
21 where that driveway entrance is. The County
22 designates that.

23 MR. LEVIN: Did they provide a reason
24 to you for that.

25 MR. SEMERARO: Yes, they said so. That

1 sounds silly, but that's the way it is. I mean, they
2 have an expert. Their expert determines it, what the
3 County's position is going to be and that's what
4 we're obligated to follow unfortunately. It wasn't
5 our preference, but we don't have a choice.

6 So far as your questions relating to
7 traffic on the roadway, we have a traffic engineer,
8 Charles Olivo who will be providing testimony.

9 MR. LEVIN: And when is that.

10 MR. SEMERARO: As soon as Mr. Rigg is
11 done being cross examined.

12 MR. LEVIN: So this evening.

13 MR. SEMERARO: Yes.

14 MR. LEVIN: Thank you.

15 MR. SEMERARO: Thank you.

16 CHAIRMAN SEIBEL: Any other residents?
17 Any other property owners? General public?

18 (NO RESPONSE.)

19 CHAIRMAN SEIBEL: Seeing none, I'll
20 close it and --

21 MS. BARATTA: Mr. Chairman.

22 CHAIRMAN SEIBEL: Yes.

23 MS. BARATTA: One question from me.

24 CHAIRMAN SEIBEL: Sure.

25 MS. BARATTA: I'm sorry, I wanted to

1 ask you before. Back to the lighting, will the
2 lighting be on just during business hours or will it
3 be on continuously? Do we know that.

4 THE WITNESS: I don't have an answer to
5 that. Usually -- there usually will be some dusk to
6 dawn or some of them being on motion detectors. I
7 don't know that they make an entire parking lot dark.

8 MS. BARATTA: Yeah, that's the reason
9 why I'm asking. For a safety reason, if I lived in
10 the area, I would want the lights -- there to be some
11 lighting.

12 THE WITNESS: Usually there's some and
13 nowadays usually the rest would be a motion, so if
14 somebody is pulling in the lot, the lights would go
15 on. I don't know if we prefer keeping them on, but
16 yes.

17 MS. BARATTA: Thank you. Thank you,
18 Mr. Chairman.

19 CHAIRMAN SEIBEL: Next witness.

20 BY MR. SEMERARO:

21 Q. Mr. Rigg, in the opinions that you
22 expressed here today through your testimony, you
23 maintain all of them and provide them within a
24 reasonable degree of engineering certainty; is that
25 correct?

1 A. Yes.

2 MR. SEMERARO: Okay. Thank you. Yes,
3 I would like to call my next witness, Mr. Chairman.

4 Actually, our architect is going to
5 provide testimony next. That's Stephen Schwartz.
6 And then next would be our traffic engineer. So I'd
7 like to call Mr. Schwartz.

8 As he makes himself comfortable, I
9 guess I would like to reiterate the fact that all of
10 his testimony is going to be relating to property
11 that's in Glen Rock. So we will attempt to keep this
12 as brief as possible with the understanding that
13 there were questions about height, which I think is
14 probably the most likely concern.

15 CHAIRMAN SEIBEL: Please state your
16 name and your address for the record.

17 MR. SCHWARTZ: Stephen W. Schwartz.
18 The address is 316 Eisenhower Parkway, Livingston,
19 New Jersey.

20 CHAIRMAN SEIBEL: If you'll raise your
21 right hand, I'll swear you in. Do you swear or
22 affirm that the testimony you're about to give is
23 true and accurate.

24 MR. SCHWARTZ: Yes, I do.

25

1 S T E P H E N S C H W A R T Z ,

2 316 Eisenhower Parkway, Livingston, New Jersey,

3 having been duly sworn, testifies as follows:

4 CHAIRMAN SEIBEL: You're currently
5 licensed in the State of New Jersey?

6 MR. SCHWARTZ: Yes, I'm licensed in the
7 State of New Jersey. My firm is now 45 years young
8 and we're also licensed in eight other states along
9 the east coast from Massachusetts to Virginia.

10 CHAIRMAN SEIBEL: Have you ever
11 testified in front of this board.

12 MR. SCHWARTZ: I haven't in front of
13 this board, but this will be board number 27, I
14 believe. I've testified in all of New Jersey.

15 CHAIRMAN SEIBEL: Anybody have any
16 questions? Nothing.

17 (NO RESPONSE.)

18 CHAIRMAN SEIBEL: We'll accept you.

19 MR. ROSENBERG: Mr. Semeraro, I guess
20 he'll be testifying from a set of architectural
21 drawings that we should mark collectively as Exhibit
22 A-6, consisting of three sheets, prepared by SWS
23 Architects, dated May 5, 2015; is that right.

24 MR. SEMERARO: That is correct,
25 Counsel.

1 MR. ROSENBERG: Thank you.

2

3 (Whereupon, architectural drawings,
4 three sheets, dated May 5, 2015 is received
5 and marked as Exhibit A-6 for identification.)

6 DIRECT EXAMINATION

7 BY MR. SEMERARO:

8 Q. Good evening, Mr. Schwartz.

9 A. Good evening.

10 Q. So you were retained by the applicant
11 with respect to this matter to design a Bottle King
12 retail; is that correct?

13 A. That's correct.

14 Q. And in assisting in this application
15 process, you did, in fact, prepare those
16 architectural drawings which were just marked for
17 identification; is that correct?

18 A. Yes.

19 Q. Could you please explain the nature of
20 this structure?

21 A. The drawings you have in front of you
22 are P-1, P-2, and P-3. I think having just gone over
23 the site plan, you have your orientation. North is
24 to the left and the souther exposure is to the right.
25 One of the key things that we do when we're designing

1 a building and especially on a site like this, is to
2 make the entrance extremely recognizable to the
3 customers. So that they have no questions when they
4 pull into the parking lot, they know exactly where
5 they're going for entry of the building. So in this
6 particular case, it's right along Prospect. It's in
7 the one of the southern -- the southwestern corner
8 and in that southwestern corner, we have the entrance
9 and the exit into the building, the entry and the
10 exit. They are very clearly marked. It's not one of
11 these doors where people are going in and out from
12 the same doors. One door is the entry door and the
13 other door is the exit door. And just outside of
14 those doors we have a 15 by 15 foot covered area.
15 We've actually carved out some of the square footage
16 from the interior of the building to make that a
17 covered area for the convenience of customers. So
18 you have your entrance at one end of the building and
19 it has been explained the product or the delivery for
20 incoming product is at the other end of the building.
21 Total separation between customer entrance and
22 product entrance. So at the back we have that -- by
23 the way, you're looking at drawing number P-1. This
24 is not one of those buildings where we designed a big
25 box and then figured out how we're going to use the

1 interior. You actually can see here exactly how the
2 cashiers are going to work, how the product is set
3 up. All of that has been designed at this early
4 stage, so you can see it all. At the northern end of
5 the building where we have the overhead door, that is
6 where that loading zone is, that is where trucks will
7 pull up and deliveries will be made. You can see how
8 the beer cooler is at the back also of the store, so
9 that beer goes right into the cooler, if that's where
10 it's going or out on to the floor. So that drawing
11 P-1 gives you a very good idea of how the customers
12 will approach the building, how the building interior
13 will be utilized. Drawing number P-2 shows a storage
14 mezzanine at the rear of the store. There will be a
15 lift to take product up to the mezzanine. And
16 there's also a stair for the workers to go up and
17 down. That lift is not meant to be used for any
18 employees. They can only use the stair.

19 This particular design here, we know
20 very well, because we did a similar store that just
21 opened last year in Livingston, so it has a very
22 similar layout to this.

23 Q. How many Bottle Kings have you
24 designed?

25 A. They have 14 stores and I'm proud to

1 say we've done all 14. Not all from scratch, but
2 over the last 25, 30 years we've actually done about
3 60 projects for Bottle King, because they're
4 constantly upgrading their stores. You know,
5 changing -- upgrading lighting and just making them
6 look nicer. So they're very conscious about customer
7 appreciation on that.

8 Q. And through that process you became
9 aware of how to make your designs more efficient,
10 correct?

11 A. That's correct.

12 And also just better to serve the
13 customers.

14 Now, if you'll turn to page P-3, you'll
15 see the exterior elevation. The whole idea was that
16 in Glen Rock the maximum height for most things, as
17 you mentioned the parapet, but for the building
18 itself, 28 feet is the maximum height. So if we have
19 the exterior walls at 24 feet and then we're
20 maintaining that the HVAC equipment will stay within
21 that 28 feet. There are no variances sought for
22 that. We're also going to be screening the HVAC
23 equipment, so that you will not actually see the
24 units from Prospect Avenue.

25 The one thing that we may be asking

1 for, but we're waiting for a ruling, is that a piece
2 of the parapet, not on -- not on the 24-foot-high
3 walls, but a small piece of the parapet goes to 30
4 foot 4 inches and that is on this slight curved
5 parapet.

6 CHAIRMAN SEIBEL: You'll be asking Glen
7 Rock for that, correct?

8 THE WITNESS: We're asking Glen Rock
9 for that, right.

10 It's actually the same -- did I say 30
11 foot, 4? It's 30 foot, six, 30 foot, six inches. So
12 that particular parapet, like I said, represents a
13 very small portion of the exterior of the building.
14 So we shall see how they grant that ruling.

15 The rest of it, you know, is focused
16 around the main entry here and by the cashiers we
17 have a large amount of the glass, but the rest of the
18 building is mainly solid, because they sell a
19 tremendous amount of wine and wine is extremely
20 sensitive to sunlight. So we really want to minimize
21 the amount of window area in the building itself.

22 So the idea is how do you strike a
23 balance between making a building very appealing and
24 accommodating the material inside, like I say, wine,
25 which is very light sensitive. So we've been very

1 successful with other stores and I think this one
2 will also be -- you know, represent Bottle King in
3 really a nice way for the public.

4 MR. SEMERARO: Thank you. I have no
5 other questions.

6 CHAIRMAN SEIBEL: Anyone from the board
7 have any questions.

8 (NO RESPONSE.)

9 CHAIRMAN SEIBEL: Seeing none. I'll
10 open it up to residents living within 200 feet. Do
11 you have any questions for this witness? Yes.

12 MS. D. KELESH: I want to --

13 CHAIRMAN SEIBEL: You have to come up.
14 State your name.

15 MS. D. KELESH: Diane. Diane Kelesh,
16 K-E-L-E-S-H, 42-01 Naugle Drive.

17 CHAIRMAN SEIBEL: I'll swear you in.
18 Raise your right hand. Do you swear or affirm that
19 the testimony you're about to give is true and
20 accurate?

21 MS. D. KELESH: Yes.

22 D I A N E K E L E S H,

23 42-01 Naugle Drive, Fair Lawn, New Jersey,

24 having been duly sworn, testifies as follows:

25 CHAIRMAN SEIBEL: Okay. Ask your

1 question.

2 MS. D. KELESH: I don't know if it will
3 relate to this gentleman, because it's about the
4 parking.

5 CHAIRMAN SEIBEL: Fire away.

6 MS. D. KELESH: I wanted to ask is
7 overnight parking allowed in a commercial
8 establishment? In other words, the hours are until
9 10:00, you grant people time to leave a parking lot
10 --

11 CHAIRMAN SEIBEL: Is overnight parking
12 allowed in that --

13 MR. ROSENBERG: Not Fair Lawn.

14 CHAIRMAN SEIBEL: Not in Fair Lawn.

15 MR. ROSENBERG: We can't speak about
16 Glen Rock.

17 MS. D. KELESH: Right. So in those 12
18 spaces, if someone is parked after what hour can
19 someone report? I know that there is -- will there
20 be security --

21 CHAIRMAN SEIBEL: When the store
22 closes.

23 MS. D. KELESH: -- provided by Bottle
24 King.

25 CHAIRMAN SEIBEL: When the store

1 closes, the cars have to be out of there.

2 MS. D. KELESH: And if there is still
3 cars parked only those Fair Lawn spots, we may call.

4 CHAIRMAN SEIBEL: Call the cops.

5 MS. D. KELESH: We can feel free to
6 call the police department on them.

7 CHAIRMAN SEIBEL: Yes.

8 MS. D. KELESH: So after the 10:00 hour
9 of closing.

10 CHAIRMAN SEIBEL: Yes.

11 MS. D. KELESH: One other question,
12 will there be extended holiday hours or is it always
13 until 10.

14 MR. SEMERARO: This is the architect.

15 CHAIRMAN SEIBEL: That was for -- oh,
16 he's not here now.

17 MS. D. KELESH: Yes, I know. I didn't
18 realize it was the other -- like I said, I don't even
19 have a question for this gentleman on his testimony.

20 CHAIRMAN SEIBEL: We'll try to get
21 that.

22 MR. SEMERARO: And we're certainly
23 going to be compliant with the borough code with
24 respect to the hours of operation.

25 MS. D. KELESH: Okay. Thank you.

1 CHAIRMAN SEIBEL: That was residents
2 within 200 feet. Now property owners in -- general
3 public, any questions for this witness?

4 (NO RESPONSE.)

5 CHAIRMAN SEIBEL: Seeing none, I'll
6 close to the general public. And who's the next
7 witness.

8 MR. SEMERARO: Our next witness is our
9 traffic engineer, Charles Olivo.

10 CHAIRMAN SEIBEL: We're going to take
11 another recess real quick.

12 (Whereupon, a short recess is held.)

13 CHAIRMAN SEIBEL: All right. Let's
14 reconvene.

15 MR. LOWENSTEIN: Mr. Racenstein.

16 MR. RACENSTEIN: Here.

17 MR. LOWENSTEIN: Ms. Baratta.

18 MS. BARATTA: Here.

19 MR. LOWENSTEIN: Ms. Perchuk.

20 MS. PERCHUK: Here.

21 MR. LOWENSTEIN: Mr. Lowenstein is
22 here.

23 Mr. Naveh?

24 MR. NAVEH: Here.

25 MR. LOWENSTEIN: MR. Zharnest.

1 MR. ZHARNEST: Here.

2 MR. LOWENSTEIN: Mr. Seibel, Chairman.

3 CHAIRMAN SEIBEL: Here.

4 MR. LOWENSTEIN: The quorum is
5 reassembled.

6 CHAIRMAN SEIBEL: You're going to call
7 your next witness. I just want to tell you at 10:00
8 we stop hard tonight and however far we get, that's
9 how far we get and we'll pick it up at another time.

10 MR. SEMERARO: I understand.

11 CHAIRMAN SEIBEL: If you'll state your
12 name and your address.

13 MR. OLIVO: Certainly. Good evening,
14 Mr. Chairman, members of the Board. My name is
15 Charles Olivo, O-L-I-V as in Victor-O. I'm a
16 principal with Stonefield Engineering & Design,
17 located at 75 Orient Way, Rutherford, New Jersey.

18 CHAIRMAN SEIBEL: If you'll raise your
19 right hand, please, and I'll swear you in. Do you
20 swear or affirm that the testimony you're about to
21 give is true and accurate.

22 MR. OLIVO: I do.

23 C H A R L E S O L I V O,

24 75 Orient Way, Suite 303, Rutherford, New Jersey,
25 having been duly sworn, testifies as follows:

1 CHAIRMAN SEIBEL: And how long have you
2 been licensed in the State of New Jersey?

3 MR. OLIVO: Oh, just under 10 years
4 now.

5 CHAIRMAN SEIBEL: Have you ever
6 testified in front of this board before.

7 MR. OLIVO: I have not, but I've
8 testified before somewhere between 80 and 90
9 municipalities in the State of New Jersey. I have a
10 bachelor of science in the field of civil engineering
11 from the University of Notre Dame. A licensed
12 professional engineer, certified professional traffic
13 operations engineer. I've testified in Paramus,
14 Ridgewood, Waldwick, a number of towns in Bergen
15 County.

16 CHAIRMAN SEIBEL: Anybody have any
17 objection.

18 (NO RESPONSE.)

19 CHAIRMAN SEIBEL: We'll accept you as
20 an expert witness.

21 MR. OLIVO: Thank you, Mr. Chairman.

22 DIRECT EXAMINATION

23 BY MR. SEMERARO:

24 Q. Good evening, Mr. Olivo.

25 A. Good evening.

1 Q. You were retained by the applicant as
2 our traffic expert; is that correct?

3 A. That is correct, yes.

4 Q. And in preparation of providing those
5 services, did you familiarize yourself with the
6 property in question?

7 A. That is correct, yes.

8 Q. And the surrounding area?

9 A. Yes.

10 Q. And the proposed use?

11 A. That is correct.

12 Q. And did you ultimately prepare a
13 traffic report relative to your opinions as to any
14 impact with respect to traffic on the roadways
15 abutting the property?

16 A. We did, yes.

17 Q. And could you please -- and we have, in
18 fact, provided those to the municipality; is that
19 correct?

20 A. Yes. And the board's traffic
21 consultant has reviewed such.

22 Q. Would you please inform me and the
23 board as to what the content of your report is and
24 the opinions that you have reached?

25 A. Certainly. Well, every traffic study

1 starts with an inventory of the existing conditions
2 along the roadway system where the site is located.
3 Actually, in this particular development program,
4 we're removing an existing operation from one side of
5 Prospect Street to the opposite side of the roadway.
6 So this is not always the case. We have a
7 relocation, such as this. And from a traffic
8 perspective, we're actually taking the traffic and
9 the parking demand from one side of the road and
10 we're shifting it over to the other side of the road.
11 We haven't taken any credit for that. Essentially,
12 the traffic volumes that move through the network
13 today, Saddle River Road, Prospect Street and
14 throughout the ambient areas will generally remain
15 the same as a result of the relocation here. This
16 will be a stand alone Bottle King facility. The
17 access management plan of the site, the subject
18 property itself, has been reviewed.

19 Under existing conditions, I believe
20 everyone is very familiar with the site. You have a
21 one-way in pattern for entrance only, which is
22 generally located across from where the driveway that
23 provides you access directly to the Bottle King in
24 front is located. In the proposed condition, that
25 access, which is located directly across from

1 Prospect Street is going to be removed. So the
2 redevelopment plan for Herold's Farm and the adjacent
3 property to the north, essentially consolidating
4 those properties, will go from three access points to
5 two. So from an access management perspective,
6 there's a benefit there in terms of reducing the
7 amount of friction and conflicting movements along
8 the roadway system itself.

9 The driveway that's located adjacent to
10 Naugle Drive will be relocated to the north. We
11 spoke about attempting to shift it a little bit
12 farther to the north and the County which operates
13 jurisdiction over Saddle River Road and Prospect
14 Street has asked that we shift it from where we
15 proposed it slightly further to the south. But we
16 are achieving increased spacing from Naugle Drive.
17 So there is a betterment there, there's a benefit
18 there as well.

19 In terms of traffic impacts as it
20 relates to driveways and such, essentially nothing is
21 changing within the area that is in the Borough of
22 Fair Lawn. The access management plan is all
23 changing within Glen Rock. There are no new access
24 points being proposed to the side street or to Saddle
25 River Road within the Borough of Fair Lawn. So

1 everything with regard to access is happening north
2 of that municipal line.

3 Now, in terms of the northerly access
4 point, that is not the same as the northerly access
5 point to Herold's Farm today. The northerly access
6 point to Bottle King is far removed from where that
7 entrance only is located today. That will be located
8 in an area of Prospect Street. Again, this is
9 another benefit to the redevelopment where there are
10 no curb cuts across the way to the shopping center
11 across the street. So we remove the access point
12 that generally aligns with the in and the out
13 proximate to the existing Bottle King operation and
14 we pushed the in and the out driveway much farther to
15 the north. So from an access management perspective
16 you got three to two, you've also increased the
17 spacing between side street and the proposed access
18 point. We plan on continuing to work with the County
19 as we go through this process with the Borough, the
20 Borough of Glen Rock, certainly the County for
21 approval to understand completely what type of access
22 management program we will end up with.

23 In addition to that, the County has
24 opined with regard to site distance. Mr. Rigg did a
25 very comprehensive job of speaking about site

1 distance and how we will provide a site line exhibit
2 to the County that shows the site line as you look
3 back towards Saddle River Road will not be impeded by
4 any of the activity within the driveway. We've
5 confirmed that as well as part of the site distance
6 analysis. So there's an existing condition review
7 looking at the access management plan under existing
8 conditions and then we fast forward to the proposed.
9 So as I mentioned, the Bottle King will be vacating
10 from the westerly side of Prospect and moving over to
11 the opposite side of the roadway. We've shifted the
12 traffic demand and we've looked at the trip
13 generation of the proposed approximately 15,712
14 square foot building and we've routed that through
15 both the proposed driveways.

16 Now, as part of reviewing that what
17 we've also done is conduct traffic counts during the
18 evening peak hours from 4 to 7 p.m. and Saturday,
19 weekend peak hours from 11 a.m. to 2 p.m., which is
20 when the proposed use would typically see the highest
21 levels of traffic generation. This use opens at 9
22 a.m. Your morning peak hours are from 7 a.m. to 9
23 a.m., so you don't have an impact on the morning
24 operations, which is why we chose those two study
25 periods, the evening and Saturday. We counted the

1 side street, Naugle Drive. We also counted Prospect
2 Street as it comes in to try to get to 90 degrees
3 with Saddle River before it then continues north into
4 Prospect Street. So this is somewhat of an irregular
5 intersection. What you like to do with the
6 intersections is have everything at right angles.
7 But you can't do that here by virtue of having the
8 gas station located in the triangular piece just to
9 the south of that. So as a result, what we attempt
10 to do as traffic engineers is get as close to 90
11 degrees as possible, which is where you bend in to
12 Saddle River Road to then be able to look north and
13 south to make a left turn or a right turn. We
14 reviewed and collected data at that movement and we
15 also looked at the amount of traffic that would be
16 coming in and out of the driveway. So in my mind,
17 one of the most important things about designing the
18 driveway location is making sure that the left turn
19 coming from Prospect and continuing northerly and the
20 left turn coming out of the driveway can occur in
21 such a way where they don't conflict with one
22 another. When you misalign driveways in a certain
23 way where the left turns actually cross, is where you
24 have challenges and hesitation as your either leaving
25 side streets or driveways. So what we've been able

1 to do is we're essentially working with the window,
2 if you were to extend the approach from Prospect down
3 to the corner where you have the side street, Naugle
4 Drive, that's the window that we're working with. We
5 shifted the driveway north. The County wants us to
6 slide it slightly back to the south. But we're still
7 within that optimal window where we would like to
8 locate the driveway and we're happy to comply with
9 the County's comments with regard to that. As I
10 mentioned, we'll continue that process.

11 Q. So the study that you had performed,
12 even though you performed it at the point in time
13 when drawing number three of six of the site plan was
14 prepared, doesn't change, that is still useable with
15 respect to A-5, which represents what the County
16 would like?

17 A. That is correct, yes.

18 Q. You had mention before that you took
19 into consideration the projected traffic generated by
20 the site.

21 A. That is correct.

22 Q. Can you explain to the board where you
23 got that information from? How do you know what
24 traffic is generated by the site?

25 A. Yes. We looked to the Institute of

1 Transportation Engineers trip generation manual to
2 evaluate a retail use such as this. During the peak
3 60 minute period, we're looking at approximately 50
4 vehicles in and 50 vehicles leaving during that hour
5 period. We've routed that traffic through the site.
6 There's actually a very nice feature of the access
7 management plan, which Mr. Rigg spoke about, and
8 that's the separation and somewhat segregation of
9 traffic for employees and loading from your customer
10 traffic. That's ideal when you have enough land area
11 and certainly frontage on the roadway where you can
12 create that separation between those two types of
13 traffic and that's what we're proposing to do here as
14 part of the redevelopment plan of this site. So
15 we've reviewed that traffic, we've weaved it through
16 the driveways, distributed it onto the roadway
17 network and we found acceptable levels of service at
18 both driveways as a result of that. All of those
19 analysis results are provided within the traffic
20 report.

21 Q. And in your opinion does this proposed
22 development adversely effect the traffic flow onto
23 any adjacent roadway?

24 A. It does not, in my opinion. And
25 looking at it even more narrow in terms of the

1 Borough of Fair Lawn and what the board is here to
2 evaluate and the Board's traffic engineer has opined
3 to this effect as well, but the changes within the
4 site, if we're to call them that, located within the
5 Borough without having a significant adverse impact
6 on traffic.

7 Q. Do you maintain that opinion within a
8 reasonable degree of engineering certainty?

9 A. I do.

10 Q. Does the configuration that's proposed
11 by the applicant provide a more safe means of egress
12 from what currently exists?

13 A. I believe the access management plan is
14 improved as part of the redevelopment of this site
15 and the access management as I spoke about.
16 Consolidation of access, we're removing one access
17 point along the frontage and in my opinion we're
18 locating the proposed access along Saddle River Road
19 in an improved location as well as it is spaced
20 farther from the side street to the extent that we
21 can, as I mentioned, balancing within that window
22 between Prospect Street and where it comes into
23 Saddle River Road.

24 Q. The side street, being Naugle, right?

25 A. That's correct.

1 Q. And you maintain those opinions within
2 a reasonable degree of engineering certainty we well,
3 correct?

4 A. I do. And that really speaks to the
5 off-site evaluation. In terms of on-site, again, Mr.
6 Rigg has put on a very comprehensive testimony. The
7 stall sizes, the circulation aisles and the general
8 circulation on-site all in accordance with industry
9 standards for traffic engineering. It's safe and
10 effective flow within the property itself.

11 Q. And that's an opinion that you obtain
12 within a reasonable degree of engineering certainty?

13 A. Correct.

14 Q. Thank you.

15 CHAIRMAN SEIBEL: Any questions for the
16 traffic engineer from the board?

17 MS. BARATTA: Yes, Mr. Chairman.

18 CHAIRMAN SEIBEL: Yes.

19 MS. BARATTA: In looking at the flow of
20 traffic, something's going to change with the Bottle
21 King site from when you had Herold's Farm. If
22 someone is coming down Prospect, they're going to
23 have to make a right and then a left to get into
24 Bottle King versus before when it was Herold's, at
25 that stop sign, they would go left, there was an

1 entrance. So you're going to have that. I mean,
2 that could be why -- I think it was a good idea that
3 the County moved that.

4 CHAIRMAN SEIBEL: I agree.

5 MS. BARATTA: Moved that down a little,
6 because, like you said, it's an interesting little
7 section there that's unique to the area and I think
8 maybe by moving it to the south, south side, I think
9 it might be a little bit safer making that turn.

10 THE WITNESS: Right. And not to speak
11 for the County, but I think it's a great point. I
12 think what the County is attempting to do is allow a
13 car to make a right, stage so that it is
14 perpendicular to the driveway and not blocking the
15 flow of traffic, not diagonally staged within that
16 southbound lane and then make a left turn in a two
17 stage movement, rather than attempting to go across.
18 So, again, as long as we're within that window
19 between Naugle and this area where the driveway is,
20 then we have an acceptable condition.

21 MS. BARATTA: I think it's safer doing
22 it that way. Thank you.

23 CHAIRMAN SEIBEL: How does our traffic
24 engineer feel about that? Did I swear you in yet.

25 MR. MISKOVICH: Yes, you did. This is

1 Frank Miskovich. I'll just talk loud. How's that?
2 Since that was a concern we had recently -- well, let
3 me back up. The traffic report, the methodology we
4 agree with what was processed through here. We might
5 have a slight difference in opinion on the trip
6 generation, but no matter what you want to call the
7 Bottle King, a wholesale, retail, specialty retail,
8 whatever, the trip generation from that is the same
9 order of magnitude as Herold's Farm. So there's no
10 real change in traffic generation between the
11 existing use and what this use would be.

12 Our concern with the driveway where it
13 was originally is, as you mentioned, it was almost a
14 straight across shot, but not straight, it was a
15 little bit of an angle, which could create a problem.
16 So we agree that moving it further to the south
17 allows that two-stage movement. Pointing out that
18 the existing driveway near Naugle is not in Fair
19 Lawn, it's in Glen Rock, but it's an exit-only drive.
20 If I look at this revised plan, the exit only, it's
21 about another 30 feet north of where that is. So you
22 get a little bit more separation. The only concern I
23 have -- and the County has said that's where it has
24 to be and unfortunately that's where it is.

25 I'm a little concerned about the site

1 lines, because on the site plan package, I believe
2 that was A-1, they show site lines from the former
3 driveway that cleared the parking spaces. This
4 revised plan doesn't show the new site lines and it
5 looks like it's going to be closer to those two
6 parking spaces that are tucked in there between the
7 parking in Fair Lawn and the exit drive and I think
8 since we have enough parking, I would at least prefer
9 to have those two spaces removed so that from that
10 driveway to Naugle it's all open area and there's
11 really no obstructions to any site lines. Either
12 from Naugle either way or from the site driveway. I
13 don't know maybe you can point those out.

14 MR. ROSENBERG: 48 and 49?

15 MR. MISKOVICH: Yes, 48 and 49,
16 believe. I don't know who's going to park in there,
17 number one, but if somebody were, you'd create an
18 obstruction. I think by closing those off, you just
19 open up that corner to better site lines from the
20 driveway and from Naugle. That would be at least my
21 recommendation if this gets approved.

22 And as indicated before in my report, I
23 mean, there are basically 12 spaces that are in Fair
24 Lawn. That's what we're going to have after the
25 fact. So just from traffic aspects from the 12

1 spaces in Fair Lawn, there's really no impact as far
2 as additional traffic generation and I believe the
3 fact that they are kind of furthest from the store
4 would probably be the least used spaces to begin
5 with, except maybe during some peak times. At least
6 my recommendation would be to take out 48 and 49 if
7 this is approved.

8 CHAIRMAN SEIBEL: But --

9 MR. MISKOVICH: 48 is kind of like in
10 -- it's in Fair Lawn.

11 CHAIRMAN SEIBEL: Right.

12 MR. MISKOVICH: 49 is in Glen Rock. So
13 I don't -- or at least 90 percent of 48 is in Fair
14 Lawn.

15 MR. ROSENBERG: I think the applicant
16 could agree with you.

17 MR. SEMERARO: Yes, I'm sure. That
18 won't be an issue.

19 MR. MISKOVICH: That's all I have.

20 CHAIRMAN SEIBEL: Anybody else have any
21 questions.

22 (NO RESPONSE.)

23 CHAIRMAN SEIBEL: If not, I'll open it
24 up to residents within 200 feet of the property for
25 the traffic engineer. Questions only. Seeing --

1 come on up.

2 MS. D. KELESH: Diane Kelesh. I was
3 sworn in before. 4201 Naugle.

4 When you conducted your study, was it
5 considered that where Bottle King is presently will
6 have its traffic once a new store or whatever moves
7 in and now these are additional parking spaces into
8 the area, more than what was existing in Herold's and
9 so was that considered in the traffic study? How
10 much traffic will be generated by now all the
11 additional spaces? It does seem to me that it
12 involves more traffic than will be when both places
13 are occupied. Present Bottle King when the new place
14 moves in is using all of those spaces and Herold's
15 with the new Bottle King with all the additional
16 spaces.

17 THE WITNESS: Well, what we have done
18 to consider that is we did not -- we counted the
19 driveways at the existing Bottle King and within the
20 shopping center and we did not extract that volume,
21 remove it and then place it on the other side of the
22 road. We kept it in the network to allow for the
23 reoccupation of the square footage. So I think it
24 was about 11,000 square feet. Another larger box
25 retailer could come in there with very comparable

1 levels of traffic to Bottle King. We left that in
2 the network and we added on top of that, which would
3 account for repopulation as you were speaking of.

4 MS. D. KELESH: So it was.

5 THE WITNESS: It was, yes.

6 MS. D. KELESH: Thank you.

7 CHAIRMAN SEIBEL: Any other residents
8 within 200 feet?

9 (NO RESPONSE.)

10 CHAIRMAN SEIBEL: Seeing none. I'll
11 open it up to the general public. Any questions for
12 the traffic engineer? Questions only. Please get to
13 the point. Don't filibuster.

14 MR. KETTELL: The --

15 THE COURT REPORTER: Please state your
16 name again, sir.

17 MR. KETTELL: Joseph Kettell.

18 Could you explain again the driveway
19 that's closest to Naugle Drive, how it is currently
20 and where it's going to be after the -- after the new
21 construction? Is it going to be closer to Naugle
22 Drive or further away?

23 THE WITNESS: It will be farther away
24 from Naugle Drive.

25 MR. KETTELL: Okay. And approximately

1 how --

2 THE WITNESS: About 20 feet.

3 MR. KETTELL: 20 feet actually further
4 north.

5 THE WITNESS: That is correct.

6 MR. KETTELL: Very good. Thank you.

7 CHAIRMAN SEIBEL: Anyone else from the
8 general public?

9 (NO RESPONSE.)

10 CHAIRMAN SEIBEL: Seeing none. I'll
11 close it to the general public.

12 And, oh, yes, it's 10:00, folks. I
13 think this is a good place to quit for the night.

14 MR. SEMERARO: That's fine, Mr.
15 Chairman.

16 CHAIRMAN SEIBEL: Where do I go from
17 here? Pick a date? How many more witnesses do you
18 have?

19 MR. SEMERARO: I just have the planner
20 and I don't believe I'll have any sort of operational
21 rebuttal, but I might. I want to think about that.

22 CHAIRMAN SEIBEL: Does the board want
23 to stay and hear the planner?

24 MR. ROSENBERG: Poll the board, Mr.
25 Chairman. It's up to you. Poll the board.

1 MR. SEMERARO: We would love to finish,
2 but we don't want to keep anyone.

3 CHAIRMAN SEIBEL: Who wants to stay.

4 MR. RACENSTEIN: Mr. Chairman, do you
5 know approximately how long it will take.

6 CHAIRMAN SEIBEL: That's what we're
7 asking.

8 MS. PECK: That's what they're asking
9 right now.

10 MR. SEMERARO: About 20 minutes.

11 MR. RACENSTEIN: What did he say.

12 CHAIRMAN SEIBEL: 20 minutes.

13 MR. ROSENBERG: Then the public has the
14 right, obviously, to ask questions, Mr. Chairman.

15 CHAIRMAN SEIBEL: Okay. Let's get him
16 up.

17 MR. SEMERARO: Thank you very much. We
18 appreciate it.

19 CHAIRMAN SEIBEL: You need a break?
20 No.

21 MR. SEMERARO: My next witness is
22 Michael Kauker, our planner.

23 CHAIRMAN SEIBEL: If you'll state your
24 name and your business address.

25 MR. KAUKER: Michael Kauker. Business

1 address is 356 Franklin Avenue, Wyckoff, New Jersey.

2 CHAIRMAN SEIBEL: If you'll raise your
3 right hand, I'll swear you in. Do you swear or
4 affirm the testimony you're about to give is true and
5 accurate.

6 MR. KAUKER: I do.

7 M I C H A E L K A U K E R,

8 356 Franklin Avenue, Wyckoff, New Jersey,

9 having been duly sworn, testifies as follows:

10 CHAIRMAN SEIBEL: And how long have you
11 been a planner?

12 MR. KAUKER: Since -- licensed since
13 1970. In my own practice since 1978.

14 CHAIRMAN SEIBEL: And you've testified
15 in front of us before.

16 MR. KAUKER: Yes, sir, I have.

17 CHAIRMAN SEIBEL: Anybody have any
18 objection to -- no, seeing none. Fire away.

19 MR. KAUKER: Thank you.

20 DIRECT EXAMINATION

21 BY MR. SEMERARO:

22 Q. Good evening, Mr. Kauker.

23 A. Good evening.

24 Q. So you've been present through the
25 testimony of our other witnesses in support of this

1 application this evening, correct?

2 A. Yes, I have.

3 Q. And you were retained to provide some
4 professional planning testimony with respect to the
5 subdivision, site plan approval and the variances in
6 question; is that correct?

7 A. That's correct.

8 Q. And you had an opportunity to review
9 all of the exhibits that were marked for
10 identification here this evening?

11 A. Yes, I have.

12 Q. And you're familiar with the content of
13 those exhibits, correct?

14 A. I am.

15 Q. Are you aware of the fact that we are
16 pursuing the use variance with respect to a piece of
17 property in Fair Lawn and we have identified a (c)(2)
18 variance with respect to impervious coverage relative
19 to that same strip of land; is that correct?

20 A. That's correct.

21 Q. Could you please provide some testimony
22 as to the current conditions of the property? Which
23 you've inspected, correct?

24 A. I have. The property is currently
25 utilized pursuant to the 1986 use variance to

1 accommodate 12 parking spaces. Obviously, the
2 current conditions are such that it's not always used
3 for that purpose as related to a prior resident
4 testifying. The 12 parking spaces are located in
5 such a configuration as to the fact that they do
6 touch upon the property line and as compared to the
7 proposed modifications those particular setbacks will
8 be increased. The current condition is such that
9 there are one and three quarter spaces of the 12
10 spaces that are located in the area that's proposed
11 to accommodate the residential subdivision, which
12 would be Lot 6.02. I would like the board and the
13 record to reflect the fact that the prior use
14 variance essentially was for the entire Lot 6, which
15 is inclusive of the area that we propose to subdivide
16 and revert back to residential use. As the current
17 use variance stands, that particular area is set
18 aside essentially for open space, because the use
19 variance was subject to the combination of no more
20 than 12 parking spaces. That, in effect, as it
21 relates to the differences between the existing
22 conditions and our proposed conditions, I think
23 represents a significant aspect of the positive
24 changes or modifications that we're proposing in --
25 as proposing to the prior use variance as granted by

1 the board in 1986.

2 Q. And just for the record, we did have
3 some question or comment from a neighbor inferring if
4 the use variance is granted, this area can be used
5 for parking, but, in fact, the former use variance is
6 something that still applies to this particular piece
7 of property, does it not?

8 A. Yes, it does. That use variance runs
9 with the land. The nature of this application, which
10 truthfully is properly classified as a (d)(1) is a
11 reaffirmation of that particular use variance and a
12 continuation of that use variance with certain
13 positive additions and modifications pursuant to this
14 particular application. So we are proposing
15 constructive amendments to that prior application,
16 which I think improves the basic reasons why this use
17 variance was approved in the first place in 1986. We
18 need under the (d)(1) use variance to show that this
19 site is particularly suited to accommodate the
20 proposed use and I would respectfully submit that
21 there are two significant reasons that essentially
22 were in place in 1986 and remain in place to date.
23 The first is the size of the property itself in its
24 reduced state, essentially, after the subdivision is
25 taken out of the original Lot 6 is 6,060 square feet.

1 The Fair Lawn's ordinance for this R-1-2 zone
2 requires a minimum lot area of 7500 square feet. So
3 the lot is undersized. It's also unusually shaped,
4 extremely long and narrow and not essentially
5 conducive to development for zoned purpose. It's
6 more particularly suited to accommodate the use as
7 proposed, because essentially it forms the end of a
8 commercial block to the north located in the Borough
9 of Glen Rock. Thereby, making the zone line boundary
10 in this particular instance, as was done in 1986, to
11 have that zone boundary be Naugle Drive essentially.
12 There's another factor that relates to the improved
13 aspect of this application, which essentially would
14 relate to negative criteria and that is the fact that
15 as currently constituted and the prior 1986 use
16 variance essentially created the use variance for the
17 entire length of the property bordering on Naugle
18 Drive directly across the street from two residences
19 located in Fair Lawn. When you look at the reduced
20 6,060 square foot area of our proposed maintenance of
21 the 12 parking spaces, we're across the street from
22 only one home. The other home would face a
23 conforming single-family residential lot.

24 The additional special reason in
25 support of this application can be found pursuant to

1 the Burbridge case in the Municipal Land Use Law.
2 And I cite essentially under 45:55:- :55(d)(2) I cite
3 Subsection (a) for brevity, Subsection (b),
4 Subsection (c), Subsection (h) and Subsection (i) as
5 supporting special reasons for this particular
6 variance.

7 The third special reason is need. A
8 need from a point of view to protect the integrity of
9 the volume of parking that we're proposing and not
10 impose any potential spillover onto adjacent
11 residential streets. These 12 parking spaces can
12 become essential in high peak periods, which occur in
13 holiday periods during the course of the year.

14 There are -- in terms of the negative
15 criteria that a consideration or aspect of this
16 application, several significant improvements and
17 modifications that I have not mentioned. The first
18 is the reduction in the impervious area within the
19 6,060 square foot area that contains the 12 parking
20 spaces, a reduction of over 20 percent. And in the
21 form of 900 square foot less impervious area. There
22 is the addition of 16 low profile plantings, which
23 provide an edge to the parking that does not now
24 exist on the property and the proposal for, I
25 believe, four additional street trees as shown on the

1 proposed site plan. I also mentioned the reduction
2 in the variance area, a portion of the 1986 approval
3 for a use variance and being rededicated and
4 essentially the variance reduced in magnitude equal
5 to the size of that particular proposed residential
6 lot. Essentially, that residential subdivided lot
7 proposal at 6.02 represents a reversion back to a
8 compliant residential use and a concomitant reduction
9 in the area of the use variance.

10 I believe that this variance as
11 sustained and propose to improve can be accommodated
12 without any negative impact on the surrounding
13 residential area. I also believe that it can be
14 approved without negative impact upon the intent and
15 purpose of your zone plan.

16 I also would like to additionally put
17 forth the reality of the fact that over the 29 years
18 that this 12 parking spaces have been more or less in
19 place on the site that there has been no apparent or
20 documentable negative impact on the neighborhood and
21 I'd also represent to the board that based upon the
22 map that I've seen and my familiarity with the area
23 that there have been no substantial changes in the
24 area, which would have given rise to an impact on the
25 integrity of the original use variance as granted by

1 prior Zoning Board of Adjustment of the Borough of
2 Fair Lawn.

3 That's concludes my comments and
4 testimony with regard to (d)(1) use variance.

5 Q. Let me just follow up with some
6 questions.

7 A. Surely.

8 Q. So it is your testimony that granting
9 this variance is consistent with the Master Plan,
10 correct?

11 A. Yes, it is.

12 Q. And it will serve no detriment to the
13 zoning ordinances or the public welfare; is that
14 correct?

15 A. That's correct.

16 Q. We are reducing the impervious coverage
17 and you do also conclude that this is a less intense
18 use than the property is currently being utilized
19 for; is that correct?

20 A. That is correct.

21 Q. And without this variance, isn't it
22 true that this property would essentially be zoned in
23 inutility due to its unusual shape and lack of
24 usability?

25 A. Yes, it would. In addition also to its

1 immediate adjacency in ownership of lands to the
2 north, obviously in the Borough of Glen Rock.

3 Q. Fair enough. And you maintain those
4 opinions within a reasonable degree of planning
5 certainly; is that correct?

6 A. Yes, I do.

7 Q. Now, we also have a (c)(2) variance
8 with respect to impervious coverage on this strip in
9 this particular lot; is that correct?

10 A. That's correct.

11 Q. And according to the zoning
12 requirements of the applicable Zone R-1-2, the
13 maximum impervious was restricted to 35 percent; is
14 that correct?

15 A. Yes, it is.

16 Q. And even though we are over that
17 percentage, when you include the rest of that
18 proposed lot with 07, we are at an impervious
19 coverage of 47 plus percent. We are still none the
20 less reducing impervious coverage on the minimal lot
21 of 6.01; is that correct?

22 A. Yes, we are.

23 Q. From what it currently is?

24 A. That's correct.

25 Q. Even though we need a variance in that

1 regard, our proposed use and our plan bring that
2 particular lot into greater conformity?

3 A. Yes, we are accomplishing that.

4 Q. And could you please go through an
5 analysis of the criteria for a (c)(2) variance.

6 A. Firstly, the benefit outweighs any
7 detriment for two particular reasons. Firstly, we
8 are consistent with the relevant provisions of the
9 purposes of the act as stipulated in my prior
10 testimony, Subsection A, B, C, H and I. And
11 secondly, the prospect and provision of additional
12 parking provides essentially for this kind of a use,
13 which can accommodate a very intensive high level
14 usage somewhat beyond the one per 200 requirement for
15 retail at peak times during the year. Essentially,
16 we're providing a buffer that will avoid any
17 possibility that there would be overflow and/or
18 parking demand to be located on residential streets.
19 I'd also like to point out that the 35 percent
20 standard is certainly not typical of the standards
21 for this different commercial use as opposed to the
22 35 percent standard for the residential use and I'll
23 give you an example. The standard for the commercial
24 zone across the street in Glen Rock is 90 percent
25 coverage. Typically coverage for commercial purposes

1 ranges anywhere from 60 percent above and I think
2 that's also a condition and an exceptional condition
3 that enables us to proffer a (c)(2) variance.

4 That would concluded my observations
5 for the proofs in support of a (c)(2).

6 Q. Thank you. And you maintain those
7 opinions within a reasonable degree of planning
8 certainty?

9 A. Yes, I do.

10 Q. And the subdivision in and of itself,
11 the five lots being subdivided do not trigger any
12 variances; is that correct?

13 A. They do not.

14 Q. They are in full conformity with all
15 bulk requirements in both boroughs; is that correct?

16 A. That is correct.

17 Q. And you maintain that within a
18 reasonable degree of planning certainty?

19 A. Yes, I do.

20 MR. SEMERARO: Thank you. I have no
21 other questions.

22 CHAIRMAN SEIBEL: Are there any
23 questions from the board?

24 MR. LOWENSTEIN: Yes, Mr. Chairman.

25 CHAIRMAN SEIBEL: Please.

1 MR. LOWENSTEIN: I note on the
2 application that it the site's only seeking the (d)
3 variance. I don't see a recital that you're seeking
4 a (c)(2) variance on our agenda tonight.

5 MR. SEMERARO: There is essential
6 language any other variances that become identified
7 through professional review in the application
8 process.

9 MR. LOWENSTEIN: Okay.

10 MR. SEMERARO: That's exactly how we
11 came to that.

12 MR. LOWENSTEIN: I understand. Just
13 for the convenience of the maker of the motion it's
14 nice to have the text in front of us.

15 MR. SEMERARO: Sure.

16 MR. LOWENSTEIN: What is the percentage
17 of impervious coverage that is proposed that you're
18 seeing the variance for in Fair Lawn only.

19 MR. SEMERARO: For Fair Lawn only.

20 THE WITNESS: My notes suggest 55
21 percent. Is that correct.

22 MR. RIGG: Yes.

23 THE WITNESS: 55 percent as opposed to
24 35.

25 MR. ROSENBERG: Mr. Van Den Kooy, Mr.

1 Chairman, has a comment.

2 CHAIRMAN SEIBEL: Oh, please.

3 MR. VAN DEN KOOY: I just want to jump
4 in real quick. Do you want to swear me in.

5 CHAIRMAN SEIBEL: Oh, you're not sworn
6 in? Okay. Raise your hand and state your address --
7 state your name and address.

8 MR. VAN DEN KOOY: Peter Van Den Kooy,
9 Matrix New World Engineering, 442 Route 35,
10 Eatontown, Zoning Board Planner.

11 CHAIRMAN SEIBEL: Do you swear or
12 affirm that the testimony you're about to give is
13 true and accurate.

14 MR. VAN DEN KOOY: I do.

15 P E T E R V A N D E N K O O Y,
16 442 Route 35, Eatontown, New Jersey,
17 having been duly sworn, testifies as follows:

18 MR. VAN DEN KOOY: I just wanted to
19 interject real quickly. Based upon Mr. Miskovich's
20 suggestion to remove parking spaces 48 and 49, that
21 may alter and actually reduce the impervious coverage
22 slightly.

23 MR. SEMERARO: Exactly. Thank you.

24 MR. LOWENSTEIN: That's all I have.

25 Thank you.

1 CHAIRMAN SEIBEL: Anybody else?

2 (NO RESPONSE.)

3 CHAIRMAN SEIBEL: So we're agreeing
4 that 48 and 49 are going to be gone.

5 MR. SEMERARO: Yes, we will simulate to
6 that. 48 and 49 on Exhibit A-5, which was the
7 revised plan.

8 CHAIRMAN SEIBEL: I the language you
9 used, and correct me if I'm wrong, but it's a
10 reaffirmation and a continuation of the use variance
11 with constructive amendments?

12 THE WITNESS: Yes, sir.

13 CHAIRMAN SEIBEL: Is that right, Mr.
14 Rosenberg.

15 MR. ROSENBERG: That's correct.

16 MR. LOWENSTEIN: Mr. Chairman, just for
17 the record, should we get the precise calculation or
18 is 55 percent sufficient for purposes of the motion?

19 MR. AZZOLINA: Once again, I would
20 suggest we use the language approximately. We'll
21 point out that it's going to be less than that.

22 MR. ROSENBERG: Not exceed.

23 MR. AZZOLINA: Yes.

24 MR. LOWENSTEIN: Thank you.

25 CHAIRMAN SEIBEL: No one else.

1 (NO RESPONSE.)

2 CHAIRMAN SEIBEL: Then I'll take
3 questions from residents within 200 feet for this
4 witness.

5 (NO RESPONSE.)

6 CHAIRMAN SEIBEL: Seeing none, I'll
7 open it up to the general public. General public,
8 questions for the witness.

9 (NO RESPONSE.)

10 CHAIRMAN SEIBEL: Seeing none. And
11 then we'll wrap up.

12 MR. ROSENBERG: Then wrap it up.

13 CHAIRMAN SEIBEL: Seeing none. Now,
14 we'll open it up for statements from the public. You
15 can come up and make a statement about the project,
16 what your concerns are. We are going to limit to
17 five minutes. Well, just don't filibuster. Let's
18 get to the crux of the matter. So we'll open it up
19 to residents within 200 feet of the subject property
20 to make a statement. Anyone? Yes. Come on up.
21 State your name.

22 MS. D. KELESH: Diane Kelesh, 42-01
23 Naugle Drive.

24 I didn't get to ask before -- may I ask
25 a question in regards to plowing, snow plowing in the

1 winter time, is there a schedule in place for that?
2 Does Bottle King have that? Will the parking lot be
3 done? And how will that be -- will the spaces in
4 Fair Lawn, being that they're not going to be used a
5 majority of the time for customers, will that be used
6 for a buildup of snow that may impact traffic
7 turning, etcetera?

8 MR. SEMERARO: I could stipulate that
9 we will comply with all Borough requirements with
10 respect to snow removal. Other than that, I can't
11 say what they will or will not do. And I'm not
12 really sure even if my representative was still here
13 that they'd be able to testify to anything to that
14 effect with certainty. The site is large enough to
15 accommodate stock piling of snow and we have more
16 parking spaces than we ordinarily would be required
17 to. So it may be conceivable that some parking, you
18 know, stalls may have some resulting snow stock
19 piles. I can't say for sure that they won't. I
20 certainly can sit there and say that it will not
21 impact the circulation, but that's counterproductive.

22 MS. D. KELESH: Yes, I was just
23 concerned about being that those spaces, like you
24 said, are far from the entrance, they won't be used
25 often, except at busy times, that if snow is piled,

1 it's going to be on the Fair Lawn side.

2 CHAIRMAN SEIBEL: I would imagine it's
3 a possibility.

4 MS. D. KELESH: -- and then -- okay.
5 And my other concern is the hedges at 36 inches. If
6 this is approved, I would of preferred if it could of
7 been higher to have less visibility of what is going
8 to be a parking lot and view of that when it was
9 originally residential, would have been preferred if
10 it is -- if the parking is approved and the variance
11 for parking is approved, that 36 inches to me is,
12 yes, protect headlights, but not view of the overall
13 parking lot.

14 CHAIRMAN SEIBEL: Any comment.

15 MR. SEMERARO: I guess first and
16 foremost, I believe that your engineer felt that the
17 screenage was adequate. There are line-of-sight
18 issues that impact the driveways and may prohibit
19 that to some extent.

20 And from an aesthetics point of view,
21 our engineer didn't think that having a obscured high
22 wall of greenery was something that would be a safer
23 aesthetic, you know, having this lot visible from
24 multiple angles, I think is also a safety issue.

25 CHAIRMAN SEIBEL: Understood.

1 MR. AZZOLINA: Just a clarification on
2 my comments. My comments were relative to the
3 headlight, glare situation. It was not meant to
4 apply to the overall aesthetics of the site, which is
5 the concern of the resident, which is different than
6 what I was commenting on. Perhaps, some alternatives
7 could be looked at as far as other landscaping
8 alternatives. I don't know that placing higher
9 shrubs or evergreens in this area would necessarily
10 create a line-of-sight issue. Just if the applicant
11 can agree to look at that, I think that is
12 beneficial.

13 MR. SEMERARO: Yes, yes, we will
14 definitely work with the engineer on that.

15 MS. D. KELESH: Yes, I can understand
16 line-of-sight as it approaches, maybe as it goes to
17 the spaces towards the back.

18 And I did not get to ask, in the back
19 of the entire property, what is going to be the
20 border? Is it also shrubs and at what height?

21 CHAIRMAN SEIBEL: Between the
22 commercial and the residential.

23 MS. D. KELESH: Well --

24 MR. SEMERARO: Separating the new
25 residential lot.

1 MS. D. KELESH: Yes, especially the
2 Fair Lawn's part that separates the residential lot
3 from the parking spaces, the height of those shrubs,
4 is that also for the Fair Lawn piece, the back line
5 that --

6 MR. SEMERARO: I understand.

7 MS. D. KELESH: Yes.

8 MR. SEMERARO: If you take a look at
9 this plan here, you see these star-shaped symbols.

10 MS. D. KELESH: Yes.

11 MR. SEMERARO: These are representative
12 of arborvitaes that at planting will be between five
13 and six feet. And, as you know, arborvitaes do grow
14 to a significant height.

15 MS. D. KELESH: Thank you.

16 And one last -- if it is approved for a
17 variance, is there anything to deter those 12 spaces,
18 like you said, that are on the Fair Lawn or what may
19 become 11 spaces? Those are far from the Bottle
20 King, so they won't be used often. Is there anything
21 to deter it from being used as parking for public
22 transportation? Fair Lawn currently has placed
23 transportation down the road on Saddle River Road.
24 Is there anything to deter people from using those
25 spaces?

1 CHAIRMAN SEIBEL: The owner will deter
2 people.

3 MR. SEMERARO: Yeah, the owner has no
4 describe for that.

5 MS. D. KELESH: Yeah, so --

6 MR. ROSENBERG: It could be posted, Mr.
7 Semeraro.

8 MR. SEMERARO: Excuse me.

9 MR. ROSENBERG: It could be posted
10 parking for Bottle King only.

11 MR. SEMERARO: Yes. I mean -- yes.

12 MR. ROSENBERG: Apply Article 39,
13 right? You can do that.

14 MR. SEMERARO: I don't see why not. If
15 the board wants that as a condition, I'm sure that we
16 could agree to it. Those signs aren't the most
17 attractive. And maybe we could put a stipulation
18 that he'll erect those signs if it becomes an issue.
19 But if the board would want that as a condition now,
20 we'll live with it.

21 CHAIRMAN SEIBEL: Sounds good.

22 MS. D. KELESH: Thank you.

23 MR. AZZOLINA: Mr. Chairman.

24 CHAIRMAN SEIBEL: Yes.

25 MR. AZZOLINA: Just one point regarding

1 the separation between the commercial and residential
2 uses. I don't believe it was actually testified to.
3 There's also a six-foot fence along that common
4 boundary. I don't believe that was --

5 MR. ROSENBERG: In the back where the
6 residences are, right.

7 MR. AZZOLINA: Thank you, Mr. Azzolina.

8 MR. SEMERARO: Thank you.

9 CHAIRMAN SEIBEL: Anyone else within
10 200 feet.

11 (NO RESPONSE.)

12 CHAIRMAN SEIBEL: Anyone from the
13 general public to make a statement? Come on up.
14 State your name and address for the record.

15 MR. KETTELL: Joseph Kettell, 42-14
16 Naugle Drive, Fair Lawn.

17 I just have two -- three comments here
18 that clearly the best thing to do with this property
19 for Fair Lawn residents is to have it as buffer land
20 between the homes on Naugle Drive and the parking lot
21 in Glen Rock. And we all want to be good neighbors,
22 I understand that. And I lived in Fair Lawn for over
23 35 years. I live on Naugle Drive for half that
24 period of time and I like Herold's Farm, but I can
25 tell you from being around this situation for the

1 last couple of years going to the board meetings in
2 Glen Rock, the Fair Lawn residents are not being
3 considered at all. They haven't been when Walgreens
4 was considered and they aren't now. So I don't know
5 how much of a good neighbor we necessarily should be.
6 This is a really difficult spot here that we're
7 talking about, Naugle Drive and Saddle River Road and
8 clearly for me as a resident of Naugle Drive it's
9 better to leave it as a buffer -- as a buffer area,
10 as opposed to additional parking that may or may not
11 be needed seven to 10 days out of the year.

12 Lastly, I guess not being an attorney,
13 I'm not sure that this is really a variance issue as
14 opposed to being a rezoning issue.

15 And clearly to me using residential
16 property for commercial use really should go to the
17 zoning board.

18 And, again, I'm not an expert here, but
19 I can tell you that was a big, big concern in Glen
20 Rock and was cause for threatened litigation and I
21 don't know if that's an issue here at all, but to me
22 it seems like it's something that should be
23 considered by the board. Thank you.

24 MS. PECK: Rich.

25 CHAIRMAN SEIBEL: Yes.

1 MS. PECK: Just a point of information,
2 the homeowner should note this is the zoning board
3 that he's at. He's not at the planning board.

4 MR. KETTELL: So I guess the question
5 is: Should it be rezoned and is that the issue or
6 should it be a variance.

7 CHAIRMAN SEIBEL: Understood.

8 Anyone else from the general public?
9 State your name and your address.

10 MR. LEVIN: Alan Levin, 42-39 Herold
11 Drive in Fair Lawn.

12 I just want to also reiterate the
13 concerns I have about big piles of snow that possibly
14 could get bulldozed right onto those 12 parking spots
15 in Fair Lawn, because they are furthest from the
16 building and I'm just wondering, I'm sure we're not
17 the first ones and I'm asking most of the people that
18 do this for all the time, is -- in your past
19 experience has there been any way to mitigate the
20 impact of that in your past? And have you had these
21 complaints come up before and has anything been done
22 to address them that? I'm sure this is not the first
23 parking lot to be built in mostly a residential
24 neighborhood.

25 CHAIRMAN SEIBEL: With regard to the

1 snow.

2 MR. LEVIN: This -- no, because in a
3 bad winter those piles can be 20 feet high and that's
4 all winter.

5 MR. SEMERARO: Sir, I'm not sure I
6 understood your question.

7 MR. LEVIN: My question is: How can we
8 mitigate the impact of that through something that
9 can get put into the variance application? You know,
10 I don't know what the rule is. Can -- can you say
11 the snow that's caused in Glen Rock has to stay in
12 Glen Rock.

13 MR. SEMERARO: I'm a little puzzled,
14 because one hand they want to complain that those
15 spaces are used, and then on the other hand they want
16 to complain when they wouldn't be used. I mean, I
17 would think, you know, obviously if it's a mountain
18 of snow that's -- this parking lot quite frankly
19 isn't big enough to give the amount of snow they
20 would get at Willowbrook Mall or Garden State Plaza.
21 It's a small parking lot. But if there were stock
22 piles of snow that were four feet tall, it wouldn't
23 be visible over the queues, but yet they would render
24 those parking spaces unable to be utilized. If
25 there's a code regulation against doing that, then

1 obviously my client will comply. If there is no
2 restriction, I think that my clients are entitled to
3 use their property in a lawful fashion. So I would
4 ask the board not to consider putting type of
5 regulation on the application.

6 CHAIRMAN SEIBEL: Any other question.

7 MR. LEVIN: No, that was it. Thank
8 you.

9 CHAIRMAN SEIBEL: Anyone else from the
10 general public.

11 (NO RESPONSE.)

12 CHAIRMAN SEIBEL: Seeing none. If you
13 would like to wrap it up.

14 MR. SEMERARO: Sure. I appreciate it.

15 I first would like on behalf of my
16 client to personally thank the board for
17 accommodating us this evening. I know it's late
18 tonight. I think that you have heard enough
19 testimony before you this evening to grant the
20 approval for the application in total. I believe
21 that the subdivision should be granted. It's a fully
22 conforming variance-free subdivision application and
23 I believe that the preliminary and final site plan
24 approval should also, in fact, be granted. The use
25 variance, one of the issues that we're confronted

1 with this evening is that some of the residents are
2 acting like or their under the belief that this is a
3 use that we're not currently entitled to utilize and
4 we do currently have a use variance. We had come
5 before the board with what we believe to be a less
6 intensified use, a much more aesthetic use and
7 accompanying screenage to insolate the neighborhood.
8 I understand that the neighbors would have a concern
9 with cars parking head-on in these parking spaces and
10 that's why we accommodated this with vegetative
11 screening. However, I think that on total when you
12 sit there and balance the consideration that the few
13 times a year that those parking spaces would be used,
14 any inconvenience caused by that use would be far
15 outweighed by the inconvenience spared the
16 neighborhood by people parking on the road and that
17 really was the overriding concern here, not to have
18 any sort of pourover into the residential
19 neighborhood. And our plan does, in fact,
20 accommodate that.

21 And we also believe that the use -- the
22 (c)(2) variance with respect to impervious also
23 should be granted. The proofs do support it and it
24 really is note worthy to emphasize the fact that we
25 are, even though we're over our impervious limits,

1 bringing that property into greater conformity and we
2 are reducing its impervious from where it currently
3 exists.

4 For these reasons, we do respectfully
5 request the board to grant our application in full.

6 CHAIRMAN SEIBEL: That's it? Okay.
7 Good.

8 MR. SEMERARO: Thank you.

9 CHAIRMAN SEIBEL: Anybody have any
10 final words? Nothing, Mr. Rosenberg.

11 MR. ROSENBERG: No.

12 CHAIRMAN SEIBEL: I'll ask for a motion
13 from one of the members. Sure, Mr. Lowenstein.

14 MR. LOWENSTEIN: Thank you, Mr.
15 Chairman. Regarding Application 2015-024, 909 Glen
16 Rock LLC/Bottle King, 909 Prospect Street, Glen Rock,
17 New Jersey. A portion of the subject property is
18 located in the Borough of Fair Lawn. It's commonly
19 known as Saddle River Road, Block 1808, Lot 6 in the
20 R-1-2 zone. Regarding the request for a use variance
21 pursuant to Section 125-57D(1)(d)[1], that is a use
22 variance to continue the use of a parking lot on a
23 portion of Lot 6, which has a prior use variance from
24 1986. Section 126-65A, Site Plan --

25 CHAIRMAN SEIBEL: 125, I think.

1 MR. LOWENSTEIN: I'm sorry, thank you,
2 Mr. Chairman. Correct. Section 125-65A, Site Plan,
3 proposed subdivision of Lot 6 to continue the prior
4 approved parking lot and create a new residential
5 lot, a newly created lot which will meet all the
6 requirements for the zone be approved. And I have
7 some further language.

8 CHAIRMAN SEIBEL: Please.

9 MR. LOWENSTEIN: Also to be approved is
10 the application for a (c)(2) variance as to
11 impervious coverage in which the applicant seeks
12 permission for impervious coverage not to exceed 55
13 percent where coverage is limited under our ordinance
14 to 35 percent and with a final condition that signs
15 be posted at least in so far as the Fair Lawn portion
16 is concerned that the parking in question is for used
17 by Bottle King customers only and that violators may
18 be towed at the owner's expense pursuant to
19 provisions of motor vehicle laws and local
20 ordinances, along that be approved.

21 MS. BARATTA: A couple other ones. The
22 lighting.

23 MR. AZZOLINA: Parking spots 48 and 49.

24 MS. PECK: Wait, wait, wait, one at a
25 time.

1 MR. LOWENSTEIN: I'm open to amending
2 it. I know that was a comment.

3 MS. BARATTA: Do you want to add on
4 there the lighting, it was to be reduced to 18 feet,
5 was it, from what it was on the plan?

6 MR. SEMERARO: Correct.

7 MR. AZZOLINA: One fixture anyway.

8 MR. LOWENSTEIN: Yes. That at least --
9 the testimony as to the lighting that the 20 foot
10 would be reduced to 18 feet so as to be in
11 conformance with the requirements of the Borough of
12 Fair Lawn, that that be effectuated.

13 MS. BARATTA: The elimination of
14 parking spots 49 and 48, I believe.

15 MR. SEMERARO: That's fine.

16 MR. LOWENSTEIN: And the applicant has
17 agreed to further conditions of this motion to remove
18 parking spots numbered 48 and 49 as shown on Exhibit
19 A-2 -- I'm sorry, A-5 of the revised plan.

20 MR. ROSENBERG: Additional buffer
21 landscaping.

22 MR. SEMERARO: And preliminary and
23 final site plan approval.

24 MR. LOWENSTEIN: With additional buffer
25 landscaping.

1 MR. ROSENBERG: If required by the
2 Borough Engineer.

3 MR. SEMERARO: Along Naugle.

4 MR. ROSENBERG: Yes.

5 MR. SEMERARO: And I believe that you
6 said, Mr. Lowenstein, the major subdivision
7 application.

8 MR. ROSENBERG: Yes.

9 MR. SEMERARO: Okay.

10 MR. ROSENBERG: It was in the motion.

11 MR. SEMERARO: Okay.

12 MS. BARATTA: I'll second that.

13 CHAIRMAN SEIBEL: Let's take a roll,
14 take a vote.

15 MR. LOWENSTEIN: Mr. Racenstein.

16 MR. RACENSTEIN: Yes.

17 MR. LOWENSTEIN: Ms. Baratta.

18 MS. BARATTA: Yes.

19 MR. LOWENSTEIN: Ms. Perchuk.

20 MS. PERCHUK: Yes.

21 MR. LOWENSTEIN: Mr. Lowenstein? Yes.

22 Mr. Naveh?

23 MR. NAVEH: Yes.

24 MR. LOWENSTEIN: I just have to exceed
25 -- I don't exceed seven votes.

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MR. ROSENBERG: Mr. Zharnest.

MR. LOWENSTEIN: Mr. Zharnest.

MR. ZHARNEST: Yes.

MR. LOWENSTEIN: And Mr. Seibel,
Chairman.

CHAIRMAN SEIBEL: I'm going to vote yes
and I want everyone to be aware the only real concern
I have is that left-hand turn into the site going
south, so -- but I think the County addressed that
and I believe you're unanimous.

MR. SEMERARO: Thank you very much. I
appreciate everyone's time.

(Whereupon, the matter is concluded.
Time noted 10:38 p.m.)

C E R T I F I C A T E

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I, LAURA A. CARUCCI, C.C.R., R.P.R., a Notary Public of the State of New Jersey, Notary ID. #15855, Certified Court Reporter of the State of New Jersey, and a Registered Professional Reporter, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

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

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

LAURA A. CARUCCI, C.C.R., R.P.R.
License #XI02050, and Notary Public
of New Jersey #15855, Notary
Expiration Date March 1, 2019

Dated: _____