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BOROUGH OF FAIR LAWN  
ZONING BOARD  
MONDAY, DECEMBER 21, 2015  
COMMENCING AT 8:04 P.M.

.....  
IN THE MATTER OF: : TRANSCRIPT  
: OF  
APPLICATION #2015-27, VR II, 20-19 : PROCEEDING  
Fair Lawn Ave, LLC :  
20-19 Fair Lawn Avenue :  
Block 4701.01, Lot 1, Zone B-1 :  
:  
.....  
B E F O R E:

THE BOROUGH OF FAIR LAWN ZONING BOARD  
THERE BEING PRESENT:

- RICHARD SEIBEL, CHAIRMAN
- YELENA PERCHUK, MEMBER
- BRIAN BLECHER, MEMBER
- JEANNE BARATTA, MEMBER
- KEVIN PUZIO, VICE CHAIRMAN

LAURA A. CARUCCI, C.S.R., R.P.R., L.L.C.  
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ANN PECK, Assistant Zoning Officer  
CATHY BOZZA  
PAUL AZZOLINA, Board Engineer  
PETER VAN DEN KOOY, Board Planner  
FRANK MISKOVICH, Board Traffic Engineer



1                   CHAIRMAN SEIBEL: We're here commercial  
2 business carried, Application #2015-27, VR II, 20-19  
3 Fair Lawn Ave, LLC

4                   Once again we meet on the Monday night,  
5 fill us in where are we at?

6                   MR. ALAMPI: Thank you, Chairman.

7                   Again, for the record Carmine Alampi  
8 for the applicant's where we last left off we had  
9 concluded the testimony of our planner, but he was on  
10 recall. He is here in the audience in case the board  
11 or members of the public have specific questions.

12                   Since we last met, two or three things  
13 have occurred. We have submitted revisions to the  
14 appearance of the building. The elevations of the  
15 building. So you should have received the two sheets  
16 that deal with the architectural renderings, the last  
17 revision is dated December 11, 2015.

18                   And we also have the contact with the  
19 Fair Lawn Historic Preservation Commission, I believe  
20 the chair and other members of the commission might  
21 be in the audience this evening.

22                   As a result of the plans being  
23 sensitive to the historic district in the immediately  
24 surrounding environment we received a letter dated  
25 today from Amy Hummerstone, the chair of the

1 commission. I don't know if the board had a chance  
2 to review it, but we have a one paragraph letter  
3 indicating that we seem to have addressed  
4 satisfactorily the concerns of the commission.

5 I also did receive last week an e-mail  
6 from the superintendent of the public works that they  
7 have no questions or comments on these revised plans.

8 CHAIRMAN SEIBEL: Superintendent of  
9 what?

10 MR. ALAMPI: Public works  
11 superintendent, Alan Neggia and that's dated last  
12 week, December 16th, as an e-mail that was sent to us  
13 by Ms. Peck.

14 And, lastly, we received a letter today  
15 as well from the cochair of the STAC that is the  
16 Shade Tree Advisory Committee. They have made some  
17 recommendations to us. And have indicated it some  
18 suggestions which we embrace. We have no problem  
19 with that.

20 So on the shade tree, superintendent of  
21 public works, and as I said the Historic Preservation  
22 Commission.

23 We have Mr. Spatz on recall if you need  
24 him. And I do want to also advise the board that we  
25 did make a revision to the driveway on Fair Lawn

1 Avenue consistent with recommendation of the county.  
2 As you may recall, we have an application at the  
3 county because Fair Lawn Avenue is a county road.  
4 There was some correspondence from the county asking  
5 us to construct the concrete island to make it a  
6 little bit more formidable so that it would be more  
7 of a deterrent from people making an improper turn.

8 So I am happy to tell you that we were  
9 able to draw the plan, but of course not in time to  
10 be on file for tonight. But the plan being submitted  
11 to the county, and we will submit it to the board.  
12 It's really not a big change. It just enhances the  
13 height of the concrete, what we call the, pork chop,  
14 the triangular configuration.

15 So it's seems like all good things  
16 Chairman, comment letters, reports and little  
17 enhancements on that concrete bumper.

18 And I'll defer to you if you want me  
19 the call Mr. Spatz for recall. He was our planner,  
20 if there are any questions of him.

21 If not, I would just have -- our  
22 witnesses are here, if any board member wants to  
23 question them in particular with any revisions on the  
24 plan.

25 CHAIRMAN SEIBEL: Okay. Anybody have

1 any questions for the planner? Want to speak to the  
2 planner.

3 MS. BARATTA: No. Mr. Chairman, I have  
4 another question ON what you mentioned about the pork  
5 chop making that higher.

6 MR. ALAMPI: Yes.

7 MS. BARATTA: Is that going to be a  
8 problem with the trucks coming in because then the  
9 trucks are going to have to traverse on that --

10 MR. ALAMPI: No, they will be able to  
11 mount it.

12 MS. BARATTA: So they will be able to  
13 --

14 MR. ALAMPI: Yes, I have Mr. Bertin  
15 here and his associate, if you wish maybe he can just  
16 put two minutes of testimony on it.

17 MS. BARATTA: I'll take your word for  
18 it.

19 MR. ALAMPI: Okay. But I think it's an  
20 enhancement, but it does not impede the trucks.

21 MS. BARATTA: That's my only question.  
22 Thank you.

23 CHAIRMAN SEIBEL: Anybody? Planner?  
24 Yes.

25 Well, let's bring him up. He's already

1 sworn in, right?

2 MR. RANDALL: Yes, from last meeting.

3 MR. ALAMPI: This is Mr. David Spatz,  
4 remind him that he was placed under oath at the last  
5 meeting.

6 CHAIRMAN SEIBEL: Yes.

7 MR. RANDALL: Yes. Mr. Spatz, you're  
8 still under oath from the last meeting.

9 MR. SPATZ: Yes.

10 DAVID SPATZ,

11 60 Friend Terrace, Harrington Park, New  
12 Jersey, having been previously sworn,  
13 continues to testify as follows:

14 MR. RANDALL: Thank you.

15 CHAIRMAN SEIBEL: You're sworn in?

16 MR. VAN DEN KOOY: I believe so.

17 PETER VAN DEN KOOY,

18 Having been previously sworn,  
19 continues to testify as follows:

20 CHAIRMAN SEIBEL: Fire away.

21 MR. VAN DEN KOOY: Thank you. Just  
22 one quick clarification or quick question. My notes  
23 here from last hearing that the variance -- I just  
24 wanted to correct the record the side yard variance,  
25 the 4-foot variance that faces Pollitt Drive is

1 actually technically a front yard in accordance with  
2 the ordinance. So wanted to get that on the record.  
3 It was referred to at the last hearing as a side  
4 yard. Technically, it's a front yard.

5 And my question was, I think everything  
6 was very well addressed, the sign variances, though,  
7 I don't know if there was much testimony on those.  
8 So just wanted to make sure we had them all accounted  
9 for.

10 CHAIRMAN SEIBEL: Maybe, would you  
11 speak -- who is going to speak to the sign variances?

12 MR. ALAMPI: I think that I would bring  
13 back Mr. Bertin's staff. Our other witness could  
14 address specifically those variances.

15 CHAIRMAN SEIBEL: Okay.

16 We have the planner up here, any  
17 questions now is the time.

18 (No response.)

19 CHAIRMAN SEIBEL: I have an a question  
20 for you. There is a bus stop in front of the Deals  
21 property. Do you know what I'm talking about?

22 MR. SPATZ: No, which one is the -- let  
23 me look at the survey.

24 CHAIRMAN SEIBEL: The property on the  
25 east -- to the east of the subject property there's a

1 shopping center.

2 MR. SPATZ: Right, on the other side of  
3 the railroad tracks.

4 CHAIRMAN SEIBEL: Correct. And there's  
5 a bus stop in front of that property.

6 MR. SPATZ: Okay.

7 CHAIRMAN SEIBEL: I believe they want  
8 to move the bus stop forward, towards your property.  
9 Have you heard anything?

10 MR. SPATZ: I have not. I have not.

11 CHAIRMAN SEIBEL: Because what the  
12 problem is, is the buses making a left turn from  
13 Plaza Road onto Fair Lawn Avenue and there's not  
14 enough clearance for him and he's leaving his big  
15 rear-end out there and cars can't get through the  
16 intersection. So they want to move the bus stop  
17 forward.

18 MR. SPATZ: Closer to the tracks then.

19 CHAIRMAN SEIBEL: Closer the tracks,  
20 but I don't know how that's going to effect the queue  
21 going into your property.

22 MR. ALAMPI: That's really a traffic  
23 consultant's response.

24 CHAIRMAN SEIBEL: Right. I was just  
25 curious.

1 MR. ALAMPI: We're not aware of it,  
2 though.

3 CHAIRMAN SEIBEL: You also mentioned  
4 that there was no available land to expand the site  
5 to make the site bigger to make the building conform  
6 better.

7 MR. SPATZ: That's correct. We have a  
8 width variance which is the condition that we don't  
9 meet and because of the fact that we have streets on  
10 two sides and then the railroad property. The  
11 railroad building, itself, there is no available  
12 land, certainly not to acquire the 9-feet that we  
13 need to become conforming.

14 CHAIRMAN SEIBEL: And you wouldn't --  
15 you can't make the site bigger, maybe you can make  
16 the building smaller, you're not...

17 MR. SPATZ: Well, that wouldn't change  
18 that variance because it's related to the --

19 CHAIRMAN SEIBEL: No, it wouldn't  
20 change the variance --

21 MR. SPATZ: -- because the width itself  
22 --

23 CHAIRMAN SEIBEL: But it would change  
24 the performance of the site.

25 MR. SPATZ: The building is smaller

1 than -- the proposed building in the current  
2 submission is smaller than the existing building on  
3 the property. It's also smaller than the original  
4 submission that was made to the property.

5 The variance that we're seeking is for  
6 the front yard is as it relates to Pollitt and we  
7 couldn't reduce the building enough to eliminate that  
8 variance or even significantly reduce it, and still  
9 have a usable building. We do have sufficient area  
10 around the back of the building coming in off of Fair  
11 Lawn Avenue and -- and on Pollitt to have parking  
12 behind the building, as well as the circulation  
13 aisle, the dumpster in the corner and even sufficient  
14 area for loading.

15 So reducing the building in size  
16 wouldn't make anything better. We couldn't provide  
17 additional parking. The circulation aisle is already  
18 at a conforming size so reducing the size of the  
19 building didn't provide any improvement to the  
20 property.

21 CHAIRMAN SEIBEL: Then the 30-foot box  
22 truck is scheduled to make two deliveries per day?

23 MR. ALAMPI: That was the testimony,  
24 right.

25 CHAIRMAN SEIBEL: Are those the trucks

1 that are going to be delivering the newspapers and  
2 the milk and the perishables and stuff, the 30-foot  
3 box truck?

4 MR. ALAMPI: Yes, we have Mr. Stuart  
5 Kimmel and recall him, who would state that. Yes.

6 CHAIRMAN SEIBEL: And any idea how the  
7 growth of The Promenade is going to affect Pollitt  
8 Drive coming into Fair Lawn Avenue?

9 MR. SPATZ: I'm not aware of what, you  
10 know, improvements are proposed. I think the traffic  
11 consultant indicated that the -- the traffic would  
12 be, you know, would be limited and wouldn't have a  
13 significant impact on the level of service at the  
14 intersection. The improvements that were made to the  
15 site plan, as far as having the driveway on Pollitt,  
16 to the north property closer to where it is now would  
17 provide the maximum amount of queuing area on  
18 Pollitt.

19 CHAIRMAN SEIBEL: Anybody have any  
20 questions?

21 (No response.)

22 CHAIRMAN SEIBEL: Any of our experts,  
23 for the planner?

24 (No response.)

25 CHAIRMAN SEIBEL: Nothing? Ann?

1 ASSISTANT ZONING OFFICER PECK: No.

2 CHAIRMAN SEIBEL: Nothing? Nothing?

3 MR. PUZIO: No.

4 CHAIRMAN SEIBEL: Nothing?

5 All right. Let me open it up to  
6 property owners within 200 feet of the applicant, any  
7 questions for the applicant's expert?

8 (No response.)

9 CHAIRMAN SEIBEL: Seeing none.

10 I'll open it up to the general public,  
11 anyone from the general public want to speak to the  
12 expert?

13 (No response.)

14 CHAIRMAN SEIBEL: Seeing none.

15 Thank you for your testimony.

16 MR. ALAMPI: Thank you, David.

17 Chairman, as indicated we have  
18 submitted the December 11th, 2015, elevations to the  
19 building. Could we mark those as A-14 into the case  
20 record?

21 CHAIRMAN SEIBEL: A-14.

22 MR. ALAMPI: Yes.

23 CHAIRMAN SEIBEL: And what?

24 MR. ALAMPI: That is the two page  
25 architectural elevations.

1                   (Whereupon, Architectural Elevations  
2                   are received and marked as Exhibit A-14 for  
3                   identification.)

4                   MR. ALAMPI: This is the plan that the  
5                   historic preservation commented on. And my witness  
6                   can authenticate plan and give the very brief  
7                   testimony about the concrete barrier in the driveway,  
8                   if we could recall him, Jasvinder?

9                   CHAIRMAN SEIBEL: He's sworn in.

10                  MR. RANDALL: You were previously  
11                  sworn.

12                  MR. ARJANI: Yes.

13                  JASVINDER ARJANI,

14                  66 Glen Avenue, Glen Rock, New Jersey, having  
15                  been previously sworn, continues to  
16                  testify as follows:

17                  MR. ARJANI: Jasvinder Arjani, Bertin  
18                  Engineering, 66 Glen Avenue, Glen Rock, New Jersey.

19                  DIRECT EXAMINATION

20                  BY MR. ALAMPI:

21                  Q.           Jas, at an earlier time you gave  
22                  testimony regarding the architectural plans and the  
23                  floor plans and various pieces of the engineering  
24                  site plan; is that correct?

25                  A.           On the building plans, yes.

1                   Site plan, Mr. Bertin did.

2                   Q.       And we have submitted a two page  
3 updated or revision, dated December 11, 2015, is that  
4 what you put on the board?

5                   A.       That's correct.

6                   Q.       We Just marked that as A-14 just now.  
7 All I need you to do when you're ready is explain  
8 what materials have you employed in the exterior of  
9 the building.

10                  A.       The building plans that I had presented  
11 in my previous testimony, essentially the building is  
12 -- is the same with the modifications.

13                           First of all because the building moved  
14 away from the corner and now it's closer to the  
15 intersection, although it has two fronts on the  
16 street, but because of the parking lot and  
17 circulation all four sides are almost accessible  
18 from, so they are technically fronts.

19                           However the building layout inside does  
20 not allow us to treat all four as fronts because they  
21 are using it as storage areas in the back. So we  
22 have added false windows towards Pollitt Drive and  
23 towards Fair Lawn Avenue. And one on the -- towards  
24 the railroad, towards the station. There are utility  
25 doors which were earlier facing Pollitt Drive which

1 are now facing the station. The signs that were  
2 presented at the first -- my first testimony remain  
3 the same. And I will mention the sign separately  
4 because I think you had questions on the sign  
5 variances.

6 Q. Yes.

7 A. And on -- in our decision with the  
8 historic commission we have made a few changes to the  
9 elevations, one was in my previous elevation there  
10 was a ladder -- a cut out with a ladder -- exterior  
11 ladder for the rooftop equipment which has been  
12 removed so it's now a clean wall. And we will  
13 provide a hatch from inside so you won't see the  
14 ladder.

15 There was some exterior equipment that  
16 was placed like carbon dioxide that has also been  
17 removed and is now being inside the building.

18 And a mansard awning, metal awning has  
19 been added in the front, and part of the wall facing  
20 Fair Lawn Avenue, as well as part facing the train  
21 station and towards Pollitt Drive the windows will  
22 have awnings, metal awnings. And these -- both of  
23 these roofs will be dark brown colors, which would  
24 match the metal in the window frames and the coping  
25 on top.

1 I think that essentially is the  
2 difference from what I had presented the last time.  
3 The square footage of the building reduced a little  
4 bit because of the footprint as it worked with the  
5 site plan. The original square foot was 2800 now  
6 it's 2736.

7 Q. Thank you, Jas. And so these features  
8 have been reviewed by the Historic Preservation  
9 Commission as well?

10 A. That's correct.

11 Q. And besides adding the awning and these  
12 other features you removed certain objectionable  
13 items from the exterior, is that essentially it?

14 A. That's correct.

15 Q. And lastly, the signage, the question  
16 the professionals asked or to re-articulate what  
17 signage variances we have sought?

18 A. The -- the first one is the maximum  
19 number of signs, the ordinance allows two signs,  
20 while we were four. The original building had six  
21 signs.

22 Q. Jas, when you indicate that would you  
23 go back in your A-14 --

24 A. Yes.

25 Q. -- just show us with your hand where

1 the signs now would be existing. You've eliminated  
2 two of the six signs?

3 A. No. No, the existing building, is not  
4 what we had originally...

5 Q. The doctor's office?

6 A. Correct.

7 Q. Has six signs now?

8 A. Yes, they have.

9 Q. Okay.

10 A. And we are proposing four, one of them  
11 is a freestanding sign and three are on the building.

12 One faces the railroad tracks which is  
13 the front of the building, which is towards the  
14 parking lot. And that is an 85-square foot sign.  
15 This is a standard sign 7/Eleven uses. It's a back  
16 that is internally illuminated sign, it's 3-foot  
17 3-inches high by about 30 feet -- 30-foot 9-inches  
18 wide. It is basically this module, they are standard  
19 modules so it's their standard sign.

20 On the wall facing Pollitt Drive there  
21 is another sign which you slightly smaller. It has  
22 three modules. And the height is the same as the  
23 front sign, which is 3-foot 3-inches and the width is  
24 about 19-feet. It's 18 11-and-a-half. And towards  
25 the railroad station there's a small 3-foot by 3-foot

1 sign.

2 And besides these three signs, there is  
3 a freestanding sign that's close to the intersection  
4 and is in the drawing set that you have on the --  
5 yes, it's on drawing 3.1. And if you don't have it  
6 in front of you this is the -- it's a two fold sign  
7 and it's -- it's 4-feet the -- the -- the sign itself  
8 is 4-foot square but with the frame it's 4. -- 4-foot  
9 1/2 inches square. So the total area is -- is 17.2  
10 by 12, where 12-foot is permitted. So that's the  
11 second variance. The height of the freestanding sign  
12 is as proposed is 15 while 10 is allowed.

13 Q. Let me clarify, you said four square  
14 feet. It's four by four, 16.

15 A. It's 16 -- - no, I said 17.2, yes.

16 Q. What is permitted?

17 A. Twelve.

18 Q. Square feet?

19 A. That's correct.

20 Q. What is the height of the --

21 A. It's 15, 10 is permitted.

22 CHAIRMAN SEIBEL: Fifteen?

23 MR. ALAMPI: It's 15 feet height where  
24 10 is permitted.

25 THE WITNESS: To the top, 15 to the top

1 of the sign, yes.

2 CHAIRMAN SEIBEL: So you're going  
3 15 feet and it's going to be on the corner of  
4 Pollitt?

5 THE WITNESS: And Fair Lawn Avenue.

6 CHAIRMAN SEIBEL: And Fair Lawn Avenue.

7 THE WITNESS: Correct. It meets the  
8 setback requirement of 5-feet.

9 CHAIRMAN SEIBEL: But you've over the  
10 height by 5-feet?

11 THE WITNESS: That's correct.

12 And there's one more variance which is  
13 the building sign, itself, that is two -- 2-feet is  
14 permitted and the sign is 3-feet, with -- with the --  
15 there's a rain cap on that with that it's 3-foot  
16 3-inches.

17 CHAIRMAN SEIBEL: It's 3-foot wide you  
18 mean?

19 THE WITNESS: The height. Yes.

20 CHAIRMAN SEIBEL: And length-wise.

21 THE WITNESS: Length-wise there is no  
22 ordinance requirement for. And in terms of area,  
23 it's permitted 75 percent of the wall width and that  
24 allows...

25 CHAIRMAN SEIBEL: So it allows 75

1 percent of the wall width?

2 THE WITNESS: Of the wall width, yes.

3 CHAIRMAN SEIBEL: So how --

4 THE WITNESS: We meet those --

5 CHAIRMAN SEIBEL: You meet them?

6 THE WITNESS: Yeah. Because they come  
7 out to 54-feet and we are 30.7.

8 CHAIRMAN SEIBEL: So you're within?

9 THE WITNESS: We have within, this way  
10 we will meet.

11 CHAIRMAN SEIBEL: Well, it's going to  
12 be how high? 35 what?

13 THE WITNESS: This one is -- no 31 --  
14 30-foot 9 1/2.

15 CHAIRMAN SEIBEL: By?

16 THE WITNESS: By 3-foot-3.

17 CHAIRMAN SEIBEL: 3-foot-3.

18 THE WITNESS: Yes. And this one is 18,  
19 let's say 19, 18 11-and-a-half. And this is three by  
20 three. That's...

21 MR. ALAMPI: That's it.

22 CHAIRMAN SEIBEL: Anybody have any  
23 questions for the expert?

24 MS. BARATTA: No.

25 MR. PUZIO: Yes, one quick question,

1 has any thought been given to reducing the street  
2 sign to 10-feet versus the 15? Is there any  
3 particular reason it has to be 15?

4 THE WITNESS: We did look at the  
5 requirements and that was something we thought would  
6 be better, would provide better visibility when  
7 you're driving down Fair Lawn Avenue from both sides.

8 See underneath it for ten or it could  
9 be 6-foot clear. So, yes, underneath it's 4.1 so  
10 with 15-feet you have a clearance of one point -- of  
11 10 -- a little over 10-feet. If you reduce it, the  
12 clearance underneath will reduce too.

13 CHAIRMAN SEIBEL: What you mean --

14 THE WITNESS: So for the reason we  
15 would like to keep it.

16 CHAIRMAN SEIBEL: So you're saying  
17 there's 10-feet of air --

18 THE WITNESS: Correct.

19 CHAIRMAN SEIBEL: -- between be --

20 THE WITNESS: Ground.

21 CHAIRMAN SEIBEL: -- the ground and the  
22 bottom of the sign?

23 THE WITNESS: Correct.

24 CHAIRMAN SEIBEL: So the sign is  
25 5-feet.

1 THE WITNESS: It's 4 --

2 MR. ALAMPI: It's 4-feet.

3 THE WITNESS: It's over 10-feet it --  
4 the sign is 4-foot, the face is four, the overall is  
5 4.1.

6 CHAIRMAN SEIBEL: Okay?

7 MR. PUZIO: Okay.

8 CHAIRMAN SEIBEL: Anybody?

9 (No response.)

10 CHAIRMAN SEIBEL: Experts?

11 Let me swear you in.

12 State your number and your address.

13 MR. AZZOLINA: Paul Azzolina, Azzolina  
14 & Feury Engineering, 30 Madison Avenue, Paramus, New  
15 Jersey, zoning board engineer.

16 CHAIRMAN SEIBEL: Let me swear you in.

17 Do you swear or affirm the testimony  
18 you're about to give is true and accurate?

19 MR. AZZOLINA: I do.

20 PAUL AZZOLINA,

21 Having been duly sworn, testifies as

22 follows:

23 CHAIRMAN SEIBEL: Okay. Fire away.

24 MR. AZZOLINA: A quick question, it was  
25 stated at earlier hearing that the proposal is to use

1 the existing building and reconstruct it to construct  
2 a new building, is that still the proposal?

3 THE WITNESS: No. It's a new building.  
4 The proposal is to build a new building.

5 MR. AZZOLINA: So you're demolishing  
6 the existing building entirely and building a new  
7 building?

8 MR. ALAMPI: Let him get his act  
9 straight, Paul. He will clarify that.

10 THE WITNESS: We'll keep part of the  
11 pad there.

12 MR. ALAMPI: The pad will stay.

13 MR. AZZOLINA: That's the question. So  
14 that, that area is not defined on this plan, are you  
15 able to ballpark how much of the existing building  
16 you will be maintaining?

17 THE WITNESS: I have -- I have not done  
18 that, this an exercise for the building plans, but as  
19 the site.

20 CHAIRMAN SEIBEL: For who?

21 THE WITNESS: All the data, we have to  
22 coordinate that.

23 MR. AZZOLINA: I just note that the  
24 offsets to the building are different on the existing  
25 conditions versus what's shown on -- on the proposed

1 site plan so there'll have to be some additions and  
2 subtractions from the existing footprint. Is that  
3 worthwhile or will it then be determined that it's  
4 just easier to knock it down and start over?

5 THE WITNESS: I guess when we're  
6 preparing the construction documents we will look at  
7 how much we can save, it's basically a cost benefit  
8 analysis. If we can save something we will save it.

9 MR. AZZOLINA: Okay. I just want to  
10 make is board aware that that may be the case so that  
11 if you do see that happening, that's the reason why.

12 CHAIRMAN SEIBEL: Anybody else?

13 (No response.)

14 CHAIRMAN SEIBEL: That's it?

15 MR. AZZOLINA: Yes. That's it for me.

16 CHAIRMAN SEIBEL: Anybody else have  
17 anything?

18 MR. BLECHER: I have one question.

19 CHAIRMAN SEIBEL: Yes.

20 MR. BLECHER: This is just a reminder  
21 for me. How far is the building from the sidewalk on  
22 Pollitt Drive.

23 MR. ALAMPI: The proposed building?

24 MR. BLECHER: The proposed building.

25 THE WITNESS: The sidewalk is on the

1 property line, so the building setback is 4-feet,  
2 because it's 4-feet from the sidewalk.

3 MR. BLECHER: Thank you.

4 CHAIRMAN SEIBEL: Anybody else?

5 (No response.)

6 CHAIRMAN SEIBEL: No one, then I'll --  
7 I don't have any other questions.

8 I will open it up to property owners  
9 within 200 feet of the applicant, do you have any  
10 questions for the expert?

11 (No response.)

12 CHAIRMAN SEIBEL: Seeing none. I'll  
13 open it up to the general public. Anybody?

14 (No response.)

15 CHAIRMAN SEIBEL: No questions for the  
16 expert, then I'll close that.

17 And do you have more experts?

18 MR. ALAMPI: No, we don't, Chairman.  
19 We concluded. We just have our witnesses available  
20 in case the board had more questions.

21 CHAIRMAN SEIBEL: Okay.

22 MR. ALAMPI: We concluded our  
23 presentation.

24 CHAIRMAN SEIBEL: Anybody have  
25 questions for -- let's see who you have. You have

1 the business manager.

2 MR. ALAMPI: We have the operations  
3 manager. And we have the architect, the engineer,  
4 the planner. The engineer, don't forget, also  
5 handled the traffic analysis as well.

6 And my client's here.

7 CHAIRMAN SEIBEL: And who?

8 MR. ALAMPI: And my client's here.

9 CHAIRMAN SEIBEL: Anybody have  
10 questions? Yes, who would you like to speak to.

11 MS. BARATTA: I'm not sure who this  
12 would go to, but I know we spoke last time after you  
13 mentioned we had discussed the 24 hour aspect of  
14 this. Is there a variance involved with that?

15 MR. ALAMPI: The variance, as I  
16 understood the report of your planner, was because  
17 the property does not achieve that 100-foot width,  
18 it's considered nonconforming to the standards, and  
19 so in this zone you are permitted a 24-hour  
20 operation, but it's determined to be the a variance  
21 if you don't meet all the standards. So the standard  
22 we don't meet is the 91-foot width as opposed to  
23 100-foot width, but in reality the operation of the  
24 use is not dependent on whether the property is  
25 95-feet wide or 105. So I don't see that connection.

1 But we did accept the analysis of your planner that  
2 that's why we requested the variance.

3 And so I think the testimony we  
4 presented was that it's suitable for the site and we  
5 meet the burdens that required, but we accept the  
6 fact that the Borough of Fair Lawn and the way its  
7 ordinance is written, creates that as a variance.

8 So we don't challenge that.

9 MS. BARATTA: And you're not -- I'm not  
10 sure who would be able to speak to this, when you're  
11 -- the residential neighborhood, I know you've got  
12 some apartments. They don't fall within -- I don't  
13 know how feet it is to that of.

14 MR. ALAMPI: There is a garden  
15 apartment complex --

16 MS. BARATTA: Correct.

17 MR. ALAMPI: I think it's just outside  
18 that distance.

19 MS. BARATTA: It is? Okay.

20 MR. ALAMPI: But it's not far away.

21 CHAIRMAN SEIBEL: Perhaps you could  
22 speak to the 24 hour issue.

23 MR. VAN DEN KOOY: Yes. In my report  
24 to me it's the heart of the issue is that -- and I  
25 will read from the report:

1           "The (d)(1) use variance is required as  
2           code section 125-24(A)13 permitted uses states  
3           that retail sales and services, other than  
4           conditional uses, are permit in the B-1 zone  
5           and code section 125-45.3 24-hour retail  
6           establishments states that retail uses in the  
7           B-1 zone seeking to operate 24 hours a day are  
8           a conditional use."

9           So in other words, uses other than  
10          conditional uses, are permitted. A 24-hour  
11          establishment is a conditional use since conditional  
12          uses are not permitted uses and then, therefore, it  
13          requires a variance. It's a little circular  
14          argument.

15                 MR. ALAMPI: Yes, it took me a little  
16          while -- it took me a little while to understand that  
17          because my first reading of the ordinances, it would  
18          be permitted. Once I conferred with your consultants  
19          and asked him to explain his report to me with a cop  
20          to the ordinance. It's just the way your ordinance  
21          is written. It seems to be circular in a sense but,  
22          again, we respect the ordinance, it is what the  
23          ordinance is.

24                 CHAIRMAN SEIBEL: I think maybe they  
25          had something in mind when they wrote that, quite

1 frankly.

2 MR. VAN DEN KOOY: Yes, I mean the  
3 24-hour timeframe is the key distinction to me.

4 MS. BARATTA: Is that something you  
5 would be willing to discuss, your client would be  
6 willing to discuss, keeping that establishment open  
7 24-hour a day?

8 MR. ALAMPI: Well, we do need to --

9 MS. BARATTA: I mean it is called  
10 7/Eleven.

11 MR. ALAMPI: Right. Touche. I didn't  
12 think of that.

13 We're requesting a 24-hour operation.  
14 And we thought, initially, that we conformed in this  
15 -- in this district you can have a 24-hour, but not  
16 for conditional uses. So that's one of the  
17 requirements for the 7/Eleven. We prefer that over  
18 some lesser known type of supplier or retailer.

19 MS. BARATTA: But the 7/Eleven that we  
20 have that's in Fair Lawn right now on River Road,  
21 that's not open 24 hours a day --

22 MR. ALAMPI: No?

23 MS. BARATTA: -- because of its  
24 proximity to a residential neighborhood.

25 MR. ALAMPI: Well, that would make

1 sense. You know there is litigation in River Edge  
2 over this issue, after it was approved and built,  
3 before it opened, they changed the ordinance. They  
4 -- there was no study to support the ordinance. I  
5 speak because I am litigating the issue. And we're  
6 confident that that ordinance will be knocked out.  
7 There was no study to support that.

8 In other words, in a residential zone  
9 you might say it could invade the tranquility and the  
10 peace and quiet of the residential zone. But in a  
11 commercial zone you have to have some empirical  
12 evidence to support that type of restriction.

13 So in any event, we're not saying that  
14 we're litigious people. We're just saying that when  
15 an ordinance exists such as this, I think that we  
16 are, what we call suitably sited. We're in the right  
17 location for 24-hour for our request.

18 CHAIRMAN SEIBEL: Getting back to it,  
19 by virtue of being a 24-hour operation they become a  
20 --

21 MR. VAN DEN KOOY: Conditional use.

22 CHAIRMAN SEIBEL: -- a conditional use  
23 which required a variance.

24 MR. ALAMPI: Correct. It's a (d)(3)  
25 that was part of our discussion because then a (d)(3)

1 or a (d)(1), and your planner has opined that that's  
2 a (d)(1). We have accepted that analysis without  
3 challenge.

4 MR. RANDALL: You don't meet all the  
5 conditions then you become a (d)(1).

6 MR. ALAMPI: Somehow.

7 MR. RANDALL: There's no written  
8 report.

9 MR. AZZOLINA: And I think that ties  
10 back to the standard. So its all kinds of tie-ins  
11 but at the end of the day.

12 CHAIRMAN SEIBEL: Okay. Who has  
13 questions? Any questions for anyone?

14 (No response.)

15 CHAIRMAN SEIBEL: I had a question  
16 right -- oh, speaking to the operation, I had a  
17 question.

18 MR. ALAMPI: Do you want Mr. Kimmel to  
19 come up.

20 CHAIRMAN SEIBEL: Yes, please. He  
21 doesn't have to come all the way up.

22 MR. ALAMPI: So you can stay here.

23 CHAIRMAN SEIBEL: We -- should I re --

24 MR. RANDALL: He was sworn.

25 MR. ALAMPI: He did testify at the

1 first hearing but --

2 MR. RANDALL: You're still under oath.

3 MR. KIMMEL: Yes. Good evening.

4 CHAIRMAN SEIBEL: I had a question with  
5 regard to the 30-foot box trucks, you're saying  
6 there'll be two deliveries per day?

7 MR. KIMMEL: On average, yes.

8 CHAIRMAN SEIBEL: On average, okay.  
9 And my question was does that include -- does those  
10 30-foot box truck are they the newspaper delivery,  
11 the milk, the bread, the cigarettes.

12 MR. KIMMEL: Cigarette Come on the  
13 tractor trailer, but...

14 CHAIRMAN SEIBEL: The tractor trailer.

15 MR. KIMMEL: But it's usually the  
16 perishables, the newspapers. The more daily type  
17 items and some of the outside vendors with the Frito  
18 Lay. The dry goods come on the tractor trailer which  
19 is also the cigarettes.

20 CHAIRMAN SEIBEL: So -- but they're all  
21 separate, right? They're all coming on different  
22 trucks?

23 MR. KIMMEL: All the perishables come  
24 on one truck.

25 CHAIRMAN SEIBEL: They do come on one

1 truck?

2 MR. KIMMEL: All the perishables come  
3 on one truck. Dairy and all of them they all come  
4 with one truck a day.

5 CHAIRMAN SEIBEL: And that comes from  
6 the 7/Eleven where it is --

7 MR. KIMMEL: All the perishables, it's  
8 the distribution center. Yes.

9 CHAIRMAN SEIBEL: Okay.

10 MR. KIMMEL: Yes.

11 CHAIRMAN SEIBEL: That's it. That's  
12 all I have. Thank you.

13 THE WITNESS: Thanks a lot.

14 MR. ALAMPI: Thank you.

15 CHAIRMAN SEIBEL: Anybody? Traffic  
16 guy?

17 (No response.)

18 CHAIRMAN SEIBEL: Nothing?

19 MS. BARATTA: What about anything else  
20 from our experts?

21 CHAIRMAN SEIBEL: Experts?

22 MR. MISKOVICH: Yes.

23 CHAIRMAN SEIBEL: We'll swear you in.  
24 Tell us who you are.

25 MR. MISKOVICH: It's Frank Miskovich,

1 French & Parrello Associates, 1800 Route 34, Wall  
2 Township.

3 CHAIRMAN SEIBEL: Raise your right hand  
4 please, I'll swear you in.

5 Do you swear or affirm the testimony  
6 you're about to give is true and accurate?

7 MR. MISKOVICH: I do.

8 CHAIRMAN SEIBEL: Okay.

9 MR. MISKOVICH: I just want to follow  
10 up on a comment made earlier, you said that you met  
11 with the county and they wanted some changes to that  
12 driveway on Fair Lawn Avenue. Have you had any  
13 discussions with them regarding the signal timing and  
14 some of other issues that the board raised about the  
15 traffic and --

16 MR. ALAMPI: We're having a meeting  
17 with them on that issue.

18 MR. MISKOVICH: So that is ongoing --

19 MR. ALAMPI: Yes.

20 MR. MISKOVICH: -- that discussion.

21 MR. ALAMPI: I think it'll be well  
22 received.

23 MR. MISKOVICH: Would you -- any idea  
24 when you might get a response back on that?

25 MR. ALAMPI: One of the --

1 MR. MISKOVICH: I'm asking --

2 MR. ALAMPI: No, I'm saying, do you  
3 want to be invited to the conference? I arrange  
4 that.

5 MR. MISKOVICH: That's for the board.  
6 The only reason because if we don't finish tonight  
7 whether we might have a response before the next  
8 meeting.

9 MR. ALAMPI: We have been in touch with  
10 Mike Vollmer at the county. It's ongoing but --

11 MR. MISKOVICH: Okay.

12 MR. ALAMPI: -- hopefully we can do  
13 that, sure. And I have no problem when we schedule  
14 the meeting, if you want your experts to participate  
15 by phone or personally, we don't have a problem with  
16 that.

17 CHAIRMAN SEIBEL: How would we go about  
18 -- would we just approve for him to...

19 MR. RANDALL: Attend.

20 CHAIRMAN SEIBEL: Yes.

21 MR. RANDALL: Yes, just authorize him.

22 CHAIRMAN SEIBEL: Would you like to?

23 MR. MISKOVICH: If that's the board's  
24 wish, I do not have a problem with that.

25 CHAIRMAN SEIBEL: I would like to have

1 eyes and eats there.

2 MS. BARATTA: You be there.

3 MR. ALAMPI: Rather than us telling you  
4 what happened, if Mr. Miskovich is at the meeting I  
5 have no problem with that.

6 MR. RANDALL: It doesn't hurt. Let's  
7 make a motion.

8 CHAIRMAN SEIBEL: Yes.

9 ASSISTANT ZONING OFFICER PECK: I just  
10 have a question for the attorney.

11 MR. RANDALL: Yes.

12 ASSISTANT ZONING OFFICER PECK: The  
13 professionals are appointed yearly so at the end of  
14 this year, they officially will not be doing --  
15 bill-wise for paying, can it be done before the first  
16 of the year?

17 MR. ALAMPI: Before the first of the  
18 year?

19 ASSISTANT ZONING OFFICER PECK: Only  
20 because they're on year-to-year --

21 MR. ALAMPI: You mean because of  
22 reappointments.

23 ASSISTANT ZONING OFFICER PECK: Yes, I  
24 don't want to get into...

25 MR. ALAMPI: Well, I would think that

1 your authorization would be whoever is --

2 CHAIRMAN SEIBEL: Board staff.

3 MR. ALAMPI: -- on staff to the board.

4 CHAIRMAN SEIBEL: We're good.

5 MR. ALAMPI: That would be Mr.

6 Miskovich's firm or --

7 ASSISTANT ZONING OFFICER PECK: Okay.

8 MR. RANDALL: You have an issue or  
9 potential carryovers until the board is able to --

10 ASSISTANT ZONING OFFICER PECK: So the  
11 board is authorizing --

12 CHAIRMAN SEIBEL: Let me make a motion,  
13 who wants to --

14 MR. PUZIO: I make the motion.

15 CHAIRMAN SEIBEL: -- have Frank --  
16 Second?

17 MS. BARATTA: Second.

18 CHAIRMAN SEIBEL: All those in favor?  
19 (Whereupon, all Board Members respond  
20 in the affirmative.)

21 CHAIRMAN SEIBEL: Frank, you're it.

22 ASSISTANT ZONING OFFICER PECK: Thank  
23 you, that covers me.

24 CHAIRMAN SEIBEL: All right.

25 MR. ALAMPI: I don't care how I spend

1 my client's money.

2 CHAIRMAN SEIBEL: Raise the taxes.

3 MR. ALAMPI: There you go.

4 Mr. Chairman, I was going to -- I'm  
5 sorry. Go ahead.

6 ASSISTANT ZONING OFFICER PECK: No.

7 MR. ALAMPI: I was going to say if  
8 you're coming to your deliberation, I know that we  
9 don't have all the board members here.

10 CHAIRMAN SEIBEL: Right.

11 MR. ALAMPI: I would normally request a  
12 vote because it is December. I am not sure if you're  
13 going to have any change in membership, but I don't  
14 want to keep bringing these experts back. So we've  
15 concluded and if this hearing continues into January,  
16 I suspect it will, we'll just appear to take a vote  
17 from the board on this. But I don't think we need to  
18 call our witnesses back, do you?

19 CHAIRMAN SEIBEL: I understand.

20 Anybody feel that we have to bring back  
21 the witnesses? Have you had sufficient --

22 MS. BARATTA: My question was if we  
23 were going to be voting this evening if we have  
24 enough voting members.

25 ASSISTANT ZONING OFFICER PECK: No.

1 MS. BARATTA: We don't.

2 CHAIRMAN SEIBEL: No.

3 MS. BARATTA: So it doesn't matter. We  
4 cannot vote this evening.

5 ASSISTANT ZONING OFFICER PECK: Cannot.

6 MR. RANDALL: I don't think the  
7 applicant would want a vote --

8 ASSISTANT ZONING OFFICER PECK: The  
9 applicant would --

10 MR. RANDALL: He could always waive his  
11 right. But I don't think he will.

12 MR. ALAMPI: Well, I know you have five  
13 members this evening.

14 ASSISTANT ZONING OFFICER PECK: You  
15 would only have four members eligible.

16 MR. ALAMPI: Four?

17 ASSISTANT ZONING OFFICER PECK: Four  
18 would be eligible.

19 MR. ALAMPI: I was just throwing it on  
20 the record. I understand one of the board members  
21 has not read, had the benefit of reading all the  
22 transcripts.

23 CHAIRMAN SEIBEL: Correct.

24 MR. ALAMPI: So we couldn't take a  
25 vote.

1                   CHAIRMAN SEIBEL: Right.

2                   MS. PERCHUK: Perhaps when we have the  
3 discussion --

4                   CHAIRMAN SEIBEL: Speak up.

5                   MS. PERCHUK: If we have a discussion  
6 and -- in January when they vote and then we have a  
7 question for an expert could they be available by  
8 phone? Just in case?

9                   MR. RANDALL: Well, when the record's  
10 closed -- I mean I think -- I think, you know, again  
11 we're getting at -- the hearing has to come to an end  
12 at a certain point. I think the opportunity -- the  
13 only thing I can imagine could possibly come up is a  
14 question at this juncture, that didn't come up  
15 previously, is whatever comes out what Mr. Miskovich  
16 discovers at that meeting. So it might spark another  
17 issue. But other than that the record is going to be  
18 closed on what the testimony is. And at that point  
19 you want to have a full deliberation. If the  
20 questions haven't been asked, you know, people are  
21 going to -- the record is going to be record at that  
22 point. They will be eligible to vote on it because  
23 they -- because they've read the transcripts. But  
24 that doesn't -- not offering a reopen it again for  
25 additional questions.

1           MR. ALAMPI: I agree with your counsel,  
2 the record is closed now. If we go to the county and  
3 there's a change, I will be bringing my witnesses  
4 with me. I am obviously, if there's a change we use  
5 some common sense, we would -- we would bring our  
6 witnesses. But if there is no change I would not  
7 anticipate bringing them back.

8           MR. PUZIO: This is also time for  
9 public comment.

10          CHAIRMAN SEIBEL: So --

11          MR. RANDALL: We can conclude tonight.

12          CHAIRMAN SEIBEL: Okay. And you just  
13 said about public comment?

14          MR. RANDALL: No, I'm just saying my  
15 suggestion, since we're going to get this point --  
16 he's done with his testimony, obviously now is the  
17 time for any testimony, any further testimony from  
18 anybody in the audience to comment --

19          CHAIRMAN SEIBEL: Oh.

20          MR. RANDALL: -- to the board, if there  
21 is any.

22                   And then I would suggest if that -- if  
23 at that point it winds up I would suggest that we  
24 obviously defer, excuse me, all the deliberations  
25 until we have a full complement here having read the

1 transcript to deliberate and vote at that time.

2 MR. ALAMPI: And I think what would  
3 happen, there would be no further comment from the  
4 public or myself.

5 CHAIRMAN SEIBEL: Right.

6 MR. ALAMPI: You're just going to --

7 CHAIRMAN SEIBEL: Right, right.

8 MR. ALAMPI: -- take the evidence and  
9 make a decision.

10 CHAIRMAN SEIBEL: Okay. So this is --  
11 this is it. Anybody have any questions?

12 (No response.)

13 CHAIRMAN SEIBEL: No questions? All  
14 right then I'm going to open it up -- Ann, do you  
15 have any.

16 ASSISTANT ZONING OFFICER PECK: No.

17 CHAIRMAN SEIBEL: No? I'm going to  
18 open it up for general questions or comments from  
19 property owners within 200 feet of the applicant.

20 (No response.)

21 CHAIRMAN SEIBEL: Seeing none. I am  
22 going to close that part. And I'm going to open it  
23 up to the general public. Questions or comments, now  
24 is the time or forever hold your tongue.

25 (No response.)

1 CHAIRMAN SEIBEL: Anybody?

2 (No response.)

3 CHAIRMAN SEIBEL: Nothing? Seeing  
4 none, I'll close it for that sector.

5 And I guess now we just have to get  
6 everybody together for the next meeting and chew on  
7 it. And bounce it off each other. And hear what  
8 Frank brings back for us. And then we'll ask for a  
9 motion and see where it goes.

10 MR. ALAMPI: And, Mr. Chairman, the  
11 applicant agrees to extent the statutory time for  
12 your review of this application beyond -- what is  
13 your next meeting date?

14 ASSISTANT ZONING OFFICER PECK: It  
15 would be Thursday, January 21st.

16 MR. ALAMPI: So we'll extent to  
17 January 30th, 2016.

18 CHAIRMAN SEIBEL: He doesn't have to  
19 resubmit?

20 MR. RANDALL: No further notice, this  
21 will be heard at the -- it's going to be scheduled  
22 for January 21st, the regular meeting. And no  
23 further notice will be required by the applicant.

24 CHAIRMAN SEIBEL: All right. Well, I  
25 guess at this point we will just...

1 MR. ALAMPI: Say good night and happy  
2 holidays.

3 CHAIRMAN SEIBEL: Say good night. I  
4 will ask -- we don't have anything, Ann? That's it.  
5 All our bills are paid everything?

6 ASSISTANT ZONING OFFICER PECK: Just to  
7 clarify something, if there is no changes in the  
8 county and Frank doesn't have to come, can he just  
9 send a memo or do you want him to come either way?

10 MS. BARATTA: Just send a memo.

11 MR. PUZIO: I think if there's no  
12 change the memo would be fine.

13 ASSISTANT ZONING OFFICER PECK: He can  
14 just sent a memo that everything stays the same.

15 MR. MISKOVICH: Yes, or a synopsis of  
16 what occurred at the meeting so the board can --  
17 because we don't know when the discussion will take  
18 place.

19 CHAIRMAN SEIBEL: Good.

20 ASSISTANT ZONING OFFICER PECK: That's  
21 it.

22 CHAIRMAN SEIBEL: All right. So --

23 MS. BARATTA: I make a motion to  
24 adjourn.

25 MR. BELCHER: Second.

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CHAIRMAN SEIBEL: All those in favor?  
(Whereupon, all Board Members respond  
in the affirmative.)

CHAIRMAN SEIBEL: Meeting's adjourned.  
(Whereupon, this matter will be  
continuing at a future date. Time note 8:50  
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.

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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: \_\_\_\_\_  
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