

**CITY OF MIDDLETOWN
ZONING BOARD OF APPEALS
MINUTES**

November 20, 2019

A meeting of the Zoning Board of Appeals was held in the Common Council Chambers, Second Floor, City Hall, 16 James Street, Middletown, New York on November 20, 2019 at 7:05 P.M., Joel Sierra presiding.

Members Present: Joel Sierra, Nicholas Barber, Don Luis,

Members Absent: Marc Woody, Deborah Clark, Walter Welch

Other Attendees: Richard J. Croughan, Corporation Counsel

A motion was made by Mr. Barber and seconded by Mr. Luis to approve the minutes of June 19, 2019 as submitted.

Roll Call Ayes: Joel Sierra, Nicholas Barber, Don Luis.

**ADC Middletown, LLC
210-224 Phillips Street
Area variances for proposed residential homes**

Mr. Sierra: Sir, please state your name and address for the record.

Mr. Tondreau: David Tondreau, 2 Magnolia Park, Project Manager for ADC Middletown, LLC.

Mr. Sierra: Could you give us a brief overview on your proposal?

Mr. Tondreau: The site was approved way back because it went through a lawsuit back in 2001. Fell under a federal stipulation. That's where we saw the split from 150 townhomes to the eight single family homes on Phillips Street.

Back then, I don't really think they looked at Phillips Street very closely as I'm developing it now because the Town (inaudible), probably about 35 percent underlying completed. So Phillips Street when we got into looking at it, the setback on the houses when they put it there is almost like the structure and position of a bilevel home, which doesn't match Anthony Street, I mean Phillips Street, whatsoever. So we were looking to turn that house, but to do so, we would have to have the variance for the 15 feet in front. It would line up the fronts better, but it would also match the same footprint as the existing homes on Phillips Street.

Mr. Sierra: On which side of Phillips are you talking about?

Mr. Tondreau: On the left side of Phillips Street.

Mr. Sierra: The dead end.

Mr. Tondreau: Yes. Yeah. We're actually -- we're an extension of Phillips Street.

Mr. Sierra: Coming off of East Main Street.

Mr. Tondreau: Yes.

Mr. Sierra: So you're proposing to open up that direction into the woods.

Mr. Tondreau: Right. That's already in the process. The cul-de-sac has already been built, but it's the positioning of the houses on the lot.

Mr. Sierra: Got it.

Mr. Tondreau: Right now, they're averaging about 30 to 35 feet.

Mr. Sierra: So you want to turn the house to match the other footprints.

Mr. Tondreau: Yes. By just turning the same size house, it matches the existing, and it'll line up the fronts much better. So we're not looking to create a bigger house, but we're looking to match the existing structures that are there, you know, because now the way that the lots were positioned, it would almost like it would fit a bilevel home, which doesn't fit the neighborhood whatsoever. It's not something we want to put there anyway. We're not looking to create something that doesn't match, you know.

Mr. Sierra: Does it change the front entrance of the home?

Mr. Tondreau: The front entrance would still be in the front of the home.

Mr. Barber: Well, what do you consider in the front? Facing the house?

Mr. Tondreau: Facing the road.

Mr. Barber: Or facing the road.

Mr. Tondreau: Yup.

Mr. Sierra: So all of that, one, two, three, four, five, six, seven, eight homes. They would all be facing the same direction.

Mr. Tondreau: All facing the same direction.

Mr. Barber: Do you go past the hospital going down into the woods?

Mr. Tondreau: The end of the cul-de-sac lines up about midway of the hospital.

Mr. Barber: So almost in line with their tanks out back.

Mr. Tondreau: Well, I think we stop short.

Mr. Barber: Short of that.

Mr. Tondreau: Yeah. I don't know the exact footage, but we're short of that.

Mr. Barber: So all eight would sit sideways.

Mr. Tondreau: Yeah. We would turn all eight so that they were all matching and match the 15-foot offset.

Mr. Barber: You don't have a rendition of what it would look like.

Mr. Tondreau: No, we don't. We're in the process of doing that, and I was trying to figure out what's going to fit there. Right now, the only thing I could fit there would be a bilevel, and it's not going to match the area whatsoever.

Mr. Sierra: So the back yards would be sloping down.

Mr. Tondreau: They're walkout basements. Yeah. Existing -- the same grade that's there along Phillips Street now.

Mr. Barber: Well, if you're considering the road the front, the other side of the house would be facing those condos; correct? Those new condos being built.

Mr. Tondreau: That would be the back of the house.

Mr. Barber: That would be the back of the house.

Mr. Tondreau: Right.

Mr. Barber: Is that what you meant?

Mr. Sierra: Yeah.

Mr. Barber: Okay.

Mr. Tondreau: Yeah. We would still be a left and right side of the house.

Mr. Barber: Yeah.

Mr. Sierra: So what you're asking for is just the front yard variance.

Mr. Tondreau: That's the only thing we're asking for. Then this is also a City of Middletown dedicated road.

Mr. Barber: It's really a paper street.

Mr. Tondreau: Right. Well, it was, yeah, but it's a dedicated road at the end if I'm not mistaken.

Mr. Barber: What do you mean by that?

Mr. Tondreau: Well, the original site plans that went back is 158 homes. I know that Magnolia Park Road and Oak Hill Road, as far as the town is concerned, all become dedicated roads as well as because we're extending Anthony Street as well. So I'm assuming the extension on Phillips Street, which is an existing City of Middletown road, is going to be a dedicated road as well.

Mr. Sierra: Where are you putting the driveways? Alongside? I don't see the driveways here.

Mr. Tondreau: They're there. If you look at the first lot, you can see the dedicated driveway line with a curb cut. It's pretty much to the front right of the house.

Mr. Sierra: The one opposite of (inaudible).

Mr. Tondreau: No. First lot. It would be the very first lot, lot number 1 coming up the road, coming up Phillips Street. I'm not sure what page you're looking at.

Mr. Sierra: You said the first page; right?

Mr. Tondreau: Page 19 and 20 is the grading and utility plan. That's what you should have; right?

Mr. Sierra: So the driveway will be in the front of the house.

Mr. Tondreau: Yes.

Mr. Sierra: You'll have a 15-foot driveway.

Mr. Tondreau: Yup.

Mr. Sierra: Into a garage.

Mr. Tondreau: No. If we do a garage where it'll fit still with the side setbacks within that footprint, the garage would be part of that structure, and yes, it would be in front of the garage.

Mr. Sierra: Two-car garage or --

Mr. Tondreau: One door, but probably 16-foot. Yup. Two-car.

Mr. Sierra: So the lot --

Mr. Barber: How wide is your house?

Mr. Tondreau: I haven't done the actuals yet, but it fits within that footprint that we have for the side setbacks, so we're well within the footprint for the sides with 5 on either or 22 ½ total.

Mr. Barber: Well, a typical bilevel is usually 24 wide, you know.

Mr. Tondreau: Yeah.

Mr. Barber: You're going to have a 16-foot door in the front.

Mr. Tondreau: Well, if you did the bilevel --

Mr. Barber: (Inaudible) front door.

Mr. Tondreau: If you did the bilevel that's proposed there in the footprint, your house would be 55 feet long.

Mr. Barber: Long.

Mr. Tondreau: Wide. Wide.

Mr. Barber: 55-foot wide.

Mr. Tondreau: And then you would be 30-foot deep.

Mr. Barber: And you want to turn that sideways.

Mr. Tondreau: I want to turn that sideways, change the front variance. The side variances are all within the same footprint.

Mr. Barber: I understand that, but your driveway is going into the side of the house let's say.

Mr. Tondreau: Right. It would be off center of the house itself. The garage would have to be set to the side.

Mr. Barber: But my question is what's the width of the house? If you're having a two-car garage down there, which is 16-foot, then a front door there --

Mr. Tondreau: It would roughly be 45 feet. In that range.

Mr. Barber: Why?

Mr. Tondreau: Well, you're going to be 22 -- you're going to be 24 for the house, the main portion of the house.

Mr. Barber: Yeah. I'm not looking at the length of the house.

Mr. Tondreau: No, no. I'm talking about the width.

Mr. Barber: Okay.

Mr. Tondreau: 24-foot for the home if you have the additional 22-foot for the garage.

Mr. Barber: Okay. Garage is separate from the --

Mr. Tondreau: Well, attached.

Mr. Barber: It's still attached.

Mr. Tondreau: Right. But you wouldn't be driving under the house. No. I wouldn't do a drive under.

Mr. Barber: Okay. I really would like to see a rendition of how it would look before I go ahead and approve turning the houses sideways.

Mr. Sierra: Because you guys don't need Planning Board approval; correct? You already have the Planning Board approval?

Mr. Tondreau: For the 150 -- yeah. As it stands right now, for what's in front of you was approved. Yeah. Stamped and approved.

Mr. Sierra: Chief, do you have any questions?

Mr. Luis: I guess only about the garage. Is the garage under the house?

Mr. Tondreau: No. I wouldn't do a drive under or part of living space. The garage would have to be to the side of the structure.

Mr. Luis: Okay.

Mr. Tondreau: So it would look very much like the townhome project, same type, 24-foot wide with a garage, but the garage would have to be next to the house, so it would be attached but it would be adjacent.

Mr. Luis: Does each house have a garage or not have a garage?

Mr. Tondreau: Have a garage on every one of them.

Mr. Barber: So you're doing Magnolia Park too?

Mr. Tondreau: Yes.

Mr. Barber: Okay.

Mr. Sierra: I'm going to open the public hearing.

Mr. Barber: What's that?

Mr. Sierra: I'm going to open the public hearing. Anyone in the audience wishing to speak, please approach. Give your name and address for the record.

The public hearing was opened.

Mr. Powell: My name is Dale Powell. I'm the owner and live at 228 Phillips Street, which is two properties from this subdivision addition that's being added to Phillips Street. I come to the meeting not knowing what the variance was about. I had a lot of fears about it. I don't fear it so much now that I've heard what they're doing. I was trying to match the core of the existing street, and I realize he wants to bring the houses closer to the street to 15-foot or something?

Mr. Tondreau: Yes.

Mr. Powell: Somewheres around 15. I think what I read on the zoning, it's 30-foot frontage and 30 in the back. These are 100-foot lots. That'll give him a 40-foot depth. If that's what he did, he's going to bring it forward. It's not an objection myself of what he's doing. That's up to the Zoning Board to look at how the house is going to look there, but I understand what he's doing, and as a resident, it sounds fine. I'm more worried about the traffic I'm going to get with eight homes up in there. That's a dead end street. It's not a thoroughfare. It's only 23-foot wide in most places. I'm more feared that if you put more than eight houses in there, it's going to be a problem. As it is now, it's like being on a one-way street. If somebody's in the street, you have to wait till they go around the car in front of you before you go up and down. It's been that way. I've been there 60 years, so I've been on that street. I've lived across it on Forest Avenue. I bought a house on Phillips and I've been there 47, so I can't see these plans and they're evidently not complete. I think you're right. I think I'd like to see renditions of them, that would be nice, to get an idea how it would look. I know I got renditions in 2001 when they decided to the other -- what they originally tried to do with the homes up there. They told us what they were going to look like. I went to a meeting in 2001 in reference to the original development that got squashed because of the existing dump and what's up there under the ground, so I'm just glad that they're not changing those properties. Anything other than residential homes, that was my concern to come here because I didn't know what the variance was about, so that's why I'm here. Thank you.

Mr. Sierra: Thank you. Anyone else wishing to be heard? I'm going to go ahead and leave the public hearing open. Is it possible you can get us a rendering of these homes and what they're going to look like?

Mr. Tondreau: Yup.

Mr. Sierra: What about sidewalks? Are you going to continue the sidewalks, or are you going to have curbs and sidewalks?

Mr. Tondreau: My understanding it's a dedicated road at the end for the federal stipulation it fell under in

2001 and 2002.

Mr. Sierra: It's a dedicated road.

Mr. Tondreau: Right. So the sidewalk would have to --

Mr. Sierra: You have to dedicate the road after --

Mr. Tondreau: After it's all completely topped and -- right.

Mr. Sierra: And the City has to approve the road.

Mr. Tondreau: Absolutely. So they're not going to approve the road without the sidewalk. Phillips Street has a sidewalk now, so on the plan they didn't draw it out. I don't think the eight family homes were really looked at back then. I think the concentration was on the townhomes. So it is my intention to bring the sidewalk around as well.

Mr. Sierra: I need to put that on the record.

Mr. Tondreau: Okay.

Mr. Sierra: Because, again, you can't have sidewalks that just dead end on homes that are new, so if you can get us a rendering.

Mr. Tondreau: Okay.

Mr. Sierra: Please specify that. If you can get the widths of the driveway, the curb cut out, the widths of the house, the side yard widths. What else did he mention?

Mr. Barber: A color chart too.

Mr. Tondreau: A color chart? You don't like the colors at Magnolia?

Mr. Barber: What's that?

Mr. Tondreau: You don't like the colors of the townhomes?

Mr. Barber: I live right behind there, so no. I'm only kidding with you.

Mr. Sierra: Those are all the concerns that we got. In my opinion, I think turning the home would probably match the development better with the rest of the neighborhood. Not that I'm opposed to turning the homes (inaudible) width, but there's a couple of issues, like the driveways, the curbs. We want to be sure that, you know, that's all going to stay in place.

Mr. Tondreau: Yup.

Mr. Sierra: So if you can get us a rendering of what that's going to look like, come back next month.

Mr. Tondreau: Okay. That's fine.

Mr. Luis: None of this is in the ash?

Mr. Tondreau: No. Actually, the ash was all dedicated back to the City of Middletown. If we find any as we go, it was, you know, it was to be returned into the dedicated part and, you know, capped and stabilized.

Mr. Sierra: All right. So any other questions?

Mr. Barber: No.

Mr. Sierra: Anyone else from the public wishing to be heard?

Mr. Powell: You were talking about sidewalks. You talking about both sides or just one side?

Mr. Tondreau: Just the one side.

Mr. Powell: Okay. The same side the houses are on.

Mr. Tondreau: Yeah. An exact match for what's there now.

Mr. Powell: It's narrow as it is. When you start sidewalking --

Mr. Sierra: Well, we'll open that cul-de-sac, it'll make a little bit of --

Mr. Powell: That leaves a, well, there's people that back into their property down there off the other side. Sidewalks would maybe create an issue, but it's not going to happen.

Mr. Sierra: Okay. So we're going to table this until next month. I'm going to leave the public hearing open for comments -- written comments, and we'll see you next month.

Mr. Tondreau: Thank you.

RDM Group
102-128 Dolson Avenue
area variances for proposed warehouse

Mr. Sierra: Please state your name and address for the record.

Mr. Cokeley: Jesse Cokeley with Maser Consulting, the engineer of record for the project. Address is 50 Chestnut Ridge Road in Montvale, New Jersey 07645.

Mr. Sierra: Thank you. Can you give us a brief overview on your proposal?

Mr. Cokeley: Absolutely. So this is for a project located at -- the actual address is 102-128 Dolson Avenue. It's the former National Wholesale Liquidators building there. I think Pools Plus is in there now as well as there's a flea market on the far west end of the building.

We're here tonight seeking two area variances that would allow the building to be renovated into kind of a modern distribution facility for an industrial use. The site is located in the I-1 light industrial zoning district, so it is a permitted use, and really it would be better suited to today's market. The large retail space has been very difficult to fill. It's been vacant for over a year, and we've had -- the applicant has had -- the applicant/owner has had very little interest in tenants coming into that space for retail, but there has been, you know, a demand for these distribution centers.

Mr. Barber: Distribution of what?

Mr. Cokeley: So it's more of like a -- yeah, like the term that people use is like last mile, so it's kind of like a warehousing where products would get shipped to stored, and then when someone orders it online, it would get put onto a truck and then delivered.

Mr. Barber: So it's like a day delivery service pretty much?

Mr. Cokeley: Pretty much. I think you're seeing more and more -- Amazon's the most like obvious one but, you know, Walmart does do it. All of these like bigger companies are starting to do these types of strategically located distribution centers where they can quickly get their product to the customer like within a day.

Mr. Barber: Right. I know of quite a few around here, and they're clusters.

Mr. Cokeley: Okay.

Mr. Barber: And I'm just saying the delivery guys and all their vans because it's not just eight guys making deliveries, it's hundreds.

Mr. Cokeley: Mm-hmm.

Mr. Barber: And it becomes a -- from what I've seen where they have them, they're off the beaten path, but once they're loading up, they're loading up in the streets, they're loading up all over the place where you can't pass.

Mr. Cokeley: So these would be more -- the proposal to this building is fitted with the like loading docks for the larger trucks. We only have 21 docks on this, which is about one per 10,000 square feet of the building. A lot of times you're seeing that at a ratio of more of like one to 5,000 like loading docks per square foot. These would be primarily the larger trucks, and we're anticipating 15 to 20 employees at this facility with about 21 trucks like per day.

Mr. Sierra: Semi; right?

Mr. Cokeley: Correct. Correct.

Mr. Barber: You're not talking about vans? You're not talking about local deliveries?

Mr. Newman: If you don't mind. My name is Isaac Newman. I actually represent the owner of the property. I'm trying to manage the -- I'll be managing the rehabilitation of this, the rehab of this property. We came up with a concept of doing this, so the reason why we came up with a concept of doing this is because we had a couple tenants in mind for the space, but we have to really renovate the space for their needs.

The concept would be so to speak like maybe what he was describing as last mile Amazon, small little trucks, like maybe UPS trucks or you see the little gray Amazon trucks. None of that would happen over here. In fact, it's not being looked at for a type of distribution as such. It's more for I would say like semis like the Chairman said and more for distribution in-house and to be able to be strategically located for them, especially that it comes off of 84 and it's a great location for that, so that's what we're looking for. It's just to create a distribution to allow for this type of customer.

Those type of facilities that you guys are talking about with the small trucks, the UPS, they're looking, as Jesse suggested, for a facility that would house much more loading docks, and the loading docks heights of those are actually two foot off the ground. We're looking to four foot off the ground to accommodate for 53-footers, and that's more of a larger product, a distribution that stays in-house and gets distributed to other retailers in the area, and that's the kind of warehouse that we're looking to do.

Mr. Barber: So it's all semis?

Mr. Newman: Yeah. Exactly.

Mr. Cokeley: So in order to do that, we have to request a variance for the height of the building to basically essentially raise the roof for that portion of the building. On the concept plan that was submitted, you can kind of see a line that kind of bisects the building here. On the west side is the retail part that has the flea market that would essentially remain untouched, and the part to the east really is where the warehouse would be and the roof would be raised kind of in place. And then on the south facing side is where those loading docks would get put in. As part of that installation of the loading docks, it would require an adjustment to the existing parking lot that's kind of in front of the building there on like the southeast corner we'll call it, right as you kind of come into the site at the main entrance.

So there's also a variance associated with the parking for that as well.

Mr. Sierra: So do you own those parking spaces? Now there's 209 parking spaces. Is that part of your property?

Mr. Cokeley: That is correct.

Mr. Sierra: Okay.

Mr. Cokeley: So I understand there are the couple of factors that the Board is supposed to take into consideration when weighing the benefit to the applicant versus the detriment to, you know, the community. I can go through each of those, you know, from our perspective and kind of give the Board a little bit more information, or if you have questions, you know, I'm willing to do it either way.

Mr. Sierra: Okay. Our Corporation Counsel did have a few questions. He was unable to make it tonight. There was a couple questions that weren't answered on the application.

Mr. Cokeley: Okay.

Mr. Sierra: I don't know if you can put that on the record now.

Mr. Cokeley: Mm-hmm. Yeah.

Mr. Sierra: If you want to give us -- if you're going to entail that into your description.

Mr. Cokeley: Sure.

Mr. Sierra: Number 5, question number 5, question number 6, question number 7. Can you fit that into your description?

Mr. Cokeley: Sure thing.

Mr. Sierra: I was present at the meeting that we had in the Mayor's office.

Mr. Cokeley: Yes.

Mr. Sierra: I got the general gist of it, but other Board members were not present at that meeting, so if you could just --

Mr. Cokeley: Certainly.

Mr. Sierra: -- bring them up to speed and put it on the record too, please.

Mr. Cokeley: Certainly. So I'll just kind of go through and I will then address 5, 6, and 7.

So the first one is really whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by granting the area variance. So this is

really like question 4, right, in the application, part A, if you will. So with respect to the height, there is a building further to the west in the same shopping center that does appear to be above 40 feet in height, so --

Mr. Barber: That's not in the City of Middletown.

Mr. Cokeley: Right. But in the character of the neighborhood, it wouldn't necessarily be out of character in that shopping center just from the impact perspective standpoint. As you're likely aware, obviously the building height definition per the City is the vertical distance measured from average elevation of the proposed finished grade at the front of the building to the highest point for flat roofs. So if you're familiar with the site, the grade really does drop off in the southeast corner here, well below kind of the finished floor. The vehicles that are kind of parked there are almost -- their roofs are almost like below the main entrance door there. So when we did the height calculation, which we have, you know, we're requesting a variance from 35 feet maximum zoned to 44 feet, that's really one of the main driving factors, and as Mr. Newman mentioned, we obviously have to lower this area to allow for that four-foot separation so that the semis can kind of back up to the first floor and be able to use those loading docks.

So when you take in that plus the raising of the roof to 40 feet in that area, and the fact that the retail side is not being changed, that kind of gives us an average of around 44 feet, which is the reason for the requested variance because it kind of takes into account the grade change in the front here and, you know, the smaller roof.

Mr. Barber: You just want to raise the roof for the storage.

Mr. Cokeley: Correct.

Mr. Newman: Only on this side. This side is staying the same. That's the flea market. We're not touching that.

Also, there's going to be significant shading, which we can show you. That's going to be for trees to come along here plus these dots are not going to change the height, so we're going to actually excavate so that the truck, the trailers especially, the back portion of the trailers, are going to be four feet below the grade of this section of the building, so they'll actually be tucked away.

There is already some trailer delivery access in the back section of the building. We're just going to create it over here, again with that shading, and then just raising this portion. I think we do have some elevations, colored elevations, to show how that looks from that angle, so that gives you a little bit more of a perspective. I know this is a little bit one-dimensional.

Mr. Cokeley: This is just a colorized version of the architectural elevations that were included.

Mr. Newman: So imagine that that's how it looks right now. It's actually a tan color that they have there, and we're just going to add this gray section here, or charcoal gray section here, and if you put this, this will be on the side. This would be the loading there, and this kind of shows how it would be across the front of that building.

Mr. Sierra: Also, you're going to actually exceed the height of the portion that's higher now. It's not going to be the same height.

Mr. Newman: So we're leaving this. You're saying this side?

Mr. Sierra: The existing high portion.

Mr. Newman: The existing high portion, the higher portion on the flea market side?

Mr. Sierra: Will be lower than your proposed raising will be.

Mr. Newman: Correct. So right now, if you see, I think the back section is a little taller, the flea market side.

Mr. Cokeley: Yeah. There's like a -- it's not like at the face of the building, it's like set back further.

Mr. Sierra: I'm familiar with it. What is that height on that existing?

Mr. Newman: From here to here we're going 40 feet, but since this is set down 4 more feet, so that would be 44 feet on this section where the loading docks are.

Mr. Sierra: What's the existing high section?

Mr. Cokeley: 20 feet.

Mr. Sierra: That today is 20 feet?

Mr. Cokeley: This, I got 24, I think.

Mr. Newman: Yeah. I think it's 26 at like the face of the building.

Mr. Barber: You're going to need to put it higher than that.

Mr. Cokeley: Yeah, exactly, on this side. The piece that's in the back, because there's a portion of the building that's higher, that wouldn't, unfortunately for us, count towards that height definition at the front of the building. If we had an existing previously-approved, you know, floorplan or elevation for the building, we might be able to get that. Otherwise, we would probably have to survey that back portion and let you know what that height would be compared to, you know, what we're proposing to do here.

Mr. Newman: We're also looking to reface the building, get it like a nice new red color. We're going to put some lights across the end. It's an eyesore right now. There's nothing there. It's 150,000 square feet of this building is vacant out of the 211, so we're planning on doing, you know, adding some color to the building, add some color here, some windows up here. Again, we're going to do some shading with the trees across the side, so there'll be some nice greenery also, and again, it's going to, you know, be occupied by a tenant, and that's, I think, very important.

Mr. Barber: Is Pools Plus staying there?

Mr. Newman: So it's a question whether they're staying there. They're kind of tucked away in the back, and they're on the side over here. They're month-to-month. They haven't indicated with us whether they were going to stay. We're just going to keep them in there and raise that section because it just makes sense for the future, and if they want to stay, they'll stay. If not, you know, they'll decide what to do.

Mr. Luis: This raised section is going the whole length of the building?

Mr. Newman: Yes. So it's going from --

Mr. Luis: From the front to the back.

Mr. Newman: From the front to the back, and then all the way to where that new flea market is on that side, and if you see right here, this section, that'll show how that is. And again, we're, you know, the color scheme could be changed based on opinions of the Board, and we feel that this charcoal gray/red color will do very nicely, especially with the green coming across with the trees. I don't know if we have --

Mr. Cokeley: Yeah. I'll --

Mr. Newman: Then that shows some of that shading.

Mr. Barber: And there's 21 docks?

Mr. Newman: Total, so this part -- this section is set a little bit back, so you have the 18 here, and then the three more here, and then the access road will come here. We actually designed it that way so there will be none of the access here. We'll come in here, and then the back-in would go over here.

Mr. Barber: But all the 18 will come in --

Mr. Newman: From here.

Mr. Barber: So all of them are coming in from over by Pools Plus.

Mr. Newman: Correct.

Mr. Cokeley: Correct.

Mr. Barber: Okay.

Mr. Newman: They're already coming in through here, so yes.

Mr. Cokeley: We had laid it out so that the trucks could come in, back in, back in here. The only maneuver that would be difficult is for the truck that comes in and backs in here, it can't then turn and go back that way, so there's a couple spaces on the end where --

Mr. Newman: We estimate it to be about three spaces that'll have a little bit of trouble turning back out, so these sections, they have no problem going in, out, and then coming back out. This might have a bit of a problem, so they might have to have a turnaround ratio over here. If we have to do that, we'll decide whether to do that, to add that to be able to allow those trucks to go back in, but this would be their access.

Mr. Sierra: Who owns that area right there where the light is, the entrance?

Mr. Cokeley: This here? So it looks like that according to, you know, the prior survey was Dolson Ave. Associates, LLC.

Mr. Sierra: So you guys have an easement to use that entrance?

Mr. Newman: So, yeah. It's a non-defined easement, so everyone had like -- that's why it was cut like this to have like everyone has a shared version of it. We have sent out, you know, what we're doing to some of the neighbors, including we sent out letters to them. No one came back with any response that they weren't happy with this project. I think they might be happier to have a building with some occupants in it and a newer look.

Mr. Sierra: My only concern is I know the trailers really -- they take a toll on the blacktop.

Mr. Newman: I think we're planning on replacing all this and making it new and also adding this little feature in here, which kind of also shades it, so we're aware of that. We'll continue to maintain it.

Mr. Sierra: We'd like to see going forward some kind of agreement between those property owners on

the maintenance of that blacktop. I know it'll be heavily used by -- so there'll be no pickup from any other vehicles. There'll be customer pickup there, no pedestrian walkways. There'll be no --

Mr. Newman: Only who visits the flea market side, but again, there's this median section over here that kind of divides the two right here in that area, so whoever would come in --

Mr. Sierra: There'll be no passenger vehicles picking up in this loading area?

Mr. Newman: In this area, no.

Mr. Sierra: Okay.

Mr. Barber: The flea market's not in there.

Mr. Newman: No, it's not. The flea market is -- oh, you mean are they active?

Mr. Barber: Yes.

Mr. Newman: They're not. I'm not sure -- I don't know their plans, but they have a lease, so they're staying for now, but as far as being active, I mean, we're allowing for them to just continue the use here. They'll be parking in this whole section here. There's 209 spaces that are for their section.

Mr. Cokeley: So, yeah. It was kind of broken down. There's 209 in this area and --

Mr. Newman: For the flea market.

Mr. Cokeley: -- then 73 here.

Mr. Newman: I hope they fill that up.

Mr. Sierra: So you own those 73 spaces also.

Mr. Cokeley: So those are in this area. They were part of the parking that was kind of like for this spot, for the retail spot.

Mr. Sierra: But you don't own those parking spots.

Mr. Cokeley: I believe it's under some agreement as to the shared parking for the whole site because we did a calculation and --

Mr. Sierra: So you need an easement for parking?

Mr. Cokeley: I don't know that --

Mr. Sierra: A variance for parking?

Mr. Cokeley: So we do, so I'll keep going and get to that. So the undesirable change to the parking. So by reducing the parking, we would argue that it actually is, you know, an enhancement to the character of the neighborhood because instead of the sea of asphalt that's there, we're going to be putting in some, as Issac mentioned, some landscaping area, some islands that can actually be green as opposed to just the strike that's there, and I have an exhibit I'll share in a minute.

Mr. Sierra: Let me ask you a question, just because I'll forget later, but the employees, how many employees will be working there?

Mr. Newman: Twenty.

Mr. Sierra: Where is the employee parking?

Mr. Newman: More or less over here.

Mr. Sierra: It would be that parking but that you don't own.

Mr. Newman: I mean, originally when this was designed, that was where, up until here, was allotted for what tenant was here, which National Wholesale Liquidators, they were anyway parking over here. In fact, some of the other tenants would, from some of these areas, would park over here. That's the whole purpose I think of how they cut this type of line into the lot, was so that everyone got kind of like an awkward piece so they would all share into the parking arrangements that were made then.

Mr. Sierra: How long has the owner owned this property?

Mr. Newman: This owner has owned this property -- purchased it two and a half years ago. They had one and a half years with National Wholesale Liquidators, and then they left.

Mr. Cokeley: I can provide a little bit more insight on the parking. So based on the current City ordinance, if this whole building being a retail space at 1 per 150 would essentially require over 1,400 parking spaces just for this building. Just within the existing parking that is kind of like within the property and like from the existing drive aisle over, you know, and on that property, that was 431 parking spaces. So to Isaac and my best effort to try to find what the agreement is for who owns what parking hasn't been overturned yet, but they're essentially underparked by over 1,000 spaces right now.

Mr. Sierra: Yeah. But some of that building was used for warehouse storage. It wasn't all retail; correct? Is there a formula for --

Mr. Cokeley: So there is one for warehouse. So what we did for this application, which is, you know, more warehouse let's say, right, we're coming up -- that's 1 per 400 square feet per the ordinance, so if you use this breakdown, the required parking would be 741. So even if we're not fully retail 1,400, in this makeup, which is certainly more warehouse than was there before, it basically cuts it in half let's say. So even if it's somewhere in the middle, the 430 that are there are not adequate.

Now, the calculation that we used on here is the one per 400 square feet, but the ordinance says for warehousing or industrial, you can do it by 1 per 400 or 1 for every 2 employees. As you heard, if we only have 20 employees for this space, we would then, including the full flea market as retail, we would only need 322 spaces, and what's being provided in this area is 296, so that variance is less than 1% when you look at it that way based on the number of employees. We showed it based on square footage.

Mr. Sierra: I get how you're trying to work the numbers in your favor, and I'm okay with where you're trying to go. My issue is that you're counting on a parking lot that you have no control over and is not in your possession. What if Dolson Avenue -- what do they call it, Dolson --

Mr. Cokeley: Associates.

Mr. Sierra: -- Associates chooses tomorrow to change that or not give you access to that -- those parking spaces? Where are your employees going to park?

Mr. Newman: I mean, there's more than 20 spaces right along here, so we can have them park right along

that section over there, and that's well within our range. I don't have a problem with letting, you know, letting the employees know that. Again, this was always used for --

Mr. Sierra: And I'm okay with that.

Mr. Newman: -- National Wholesale Liquidators.

Mr. Sierra: I know those plazas are all owned by large corporations.

Mr. Newman: Right.

Mr. Sierra: And they probably got the notices. They might've gotten lost in the mail, which is not your problem. You just did what you had to do. I understand.

Mr. Newman: Right, right.

Mr. Sierra: But if you have an easement in place, then it would overcome this issue. If you don't, then you're proposing parking. You can't use those figures on somebody else's parking.

Mr. Cokeley: Mm-hmm. I understand.

Mr. Barber: What's wrong with parking in the back of it on the side by Carvel?

Mr. Newman: We have a couple spaces here.

Mr. Barber: You have spots --

Mr. Newman: We do. We do. Again, we could present some --

Mr. Barber: You could park in front of the flea market if you wanted to.

Mr. Newman: That's what I was proposing actually is to park right along this ridge right here in the flea market and have it in this section because this is going to be a median, but we just make a walkway, and this is anyway could be the entrance into that warehouse section.

Mr. Barber: Is this a seven-day, 24/7 operation?

Mr. Newman: Honestly, I have a tenant looking at this. They're actually going for furniture distribution, and they're only going to run two shifts, so a 16-hour operation.

Mr. Cokeley: To your point, Mr. Chairman, the parking that is like on the specific property is probably about 215 spaces give or take, so if we were -- if we had the employee breakdown and the retail space, that would be a variance of about 100 spaces from 322 to like 215, let's say, so that would be like strictly under their ownership, you know, without any parking that would be like maybe part of some agreement.

Mr. Sierra: So just for the record, if we approve this project and you need the employee parking, you'll be using a section of those 209 that's in the diagram.

Mr. Cokeley: Correct.

Mr. Sierra: I don't know if there's 25 there by the access road, right off the ramp.

Mr. Cokeley: That would be designated for that.

Mr. Barber: I mean, the flea market only works Friday, Saturday, and Sunday anyway, so --

Mr. Cokeley: That's true.

Mr. Sierra: Yeah, yeah.

Mr. Cokeley: That's true. I mean, this would be all empty here.

Mr. Sierra: We're doing our due diligence here.

Mr. Newman: I appreciate that.

Mr. Sierra: We've all -- we've been here for a while and, you know, neighbors say they work with neighbors, then all the sudden we approve something --

Mr. Newman: Right. People got pissed off.

Mr. Sierra: -- and then this guy gets angry. Three weeks from now when he goes through his mail and he's like they're using my parking spaces, next thing you know he's putting up concrete barriers and, you know, so we're just trying to avoid (inaudible) in the future.

Mr. Newman: I totally appreciate that. I think the neighbors are just, you know, and everyone that passes by, it's empty.

Mr. Sierra: It's an eyesore. We can agree on that.

Mr. Newman: Yeah. It's an eyesore.

Mr. Sierra: I don't see the trees. I don't see the trees on this.

Mr. Cokeley: Yeah. So I have a thing for you, if I can.

Mr. Barber: They're not weeds or dandelions, are they?

Mr. Cokeley: Um, no.

Mr. Newman: Unless you want them.

Mr. Cokeley: So this is just a rendering of what's there today.

Mr. Newman: I'm not sure if the tree height is -- but we can --

Mr. Cokeley: It's the best we can do at this point to kind of just show like where we think the trees would be. Obviously with perspective, they'd be a little bit higher, closer to the street.

Mr. Barber: From the throw house.

Mr. Cokeley: So we would be proposing evergreens, but if the Board had some other preference, you know, we'd gladly work with the Board, and for this Board's edification, we do still have to go to the site plan -- to Planning Board for full site plan approval, so if this Board felt the need to, you know, make a recommendation as part of their decision --

Mr. Newman: Or the type of trees are specified on height of the trees, we would accommodate that. Of course, that would be something that we would want to go in front of them.

Mr. Barber: You guys are set on trees, huh?

Mr. Newman: We're set on whatever you want to shade, but we're set on shading because I think that's the best thing going forward, and that was a suggestion.

Mr. Sierra: Then they'll need a fence variance. They can only go 6 feet on the fence variance. If they went any higher, they'd need a variance.

Mr. Luis: The trees can grow as high as they want to grow.

Mr. Sierra: The trees can grow, and these things grow like a foot a year; right?

Mr. Newman: Right. The Leyland Cypress, I mean, you can get them up to 40 feet. I mean, we could pretty much cover the whole --

Mr. Sierra: When we had the meeting in the Mayor's office --

Mr. Barber: This is the Zoning Board. I can give them a variance for a 30-foot height; right?

Mr. Sierra: The Mayor's concern is, you know, some of these semis might -- but what do you do with a building that size? So it's kind of a unique situation that we're up against here. We're trying to accommodate as best as possible but, you know, there'll be a little bit of enhanced traffic. They were talking about using the light over by the pharmacy to turn in, or right before the pharmacy to turn in, or maybe -- the entrance to that is before the pharmacy; correct?

Mr. Barber: Yes. If you're going --

Mr. Sierra: It's by Pools Plus.

Mr. Cokeley: Everyone's right.

Mr. Luis: You're not using the main entrance where say the Dunkin' Donuts is because it's privately owned or --

Mr. Newman: No. It's actually shared because this entrance, according to -- that's the only thing in the easement. There's no other definition of what it could be used for. The easement is that this is a main entrance for everyone sharing this plaza. But again, you know, we want to try to be as friendly to the neighbors as possible. We feel like just keeping it over here anyway. We're having access from trailers for the back delivery for originally how this building was designed, and that entrance was designed for that purpose. It's just to keep that purpose going and, you know, keep it tucked away in here so that, you know, everyone else -- you don't want to have a situation where people aren't interested in what's going on here but also don't want to piss off our tenants of the flea market that might want, you know, this to be cleared out just to have their vehicles over there, so we're just going to keep that entrance to here.

Mr. Luis: Is there enough driveway, if you want to call it, if you're coming in --

Mr. Sierra: On the side, the street side.

Mr. Luis: -- coming across the road and you're making your right into your driveway, making the left to go alongside the building, is there enough land for a driveway for a semi?

Mr. Newman: We checked, and at the narrowest point, you're at 19 feet.

Mr. Cokeley: 19 ½ feet.

Mr. Newman: Two side by side. Yeah.

Mr. Luis: Where does the ongoing sidewalk that the City's putting in, where is that?

Mr. Barber: That's down below.

Mr. Newman: So that's down below. We're talking about -- I don't know if you -- yeah. There's like a retaining wall there. We're not touching that. We're just going to basically keep that intact. No, no, no. That's a much larger job than we anticipated to do here. I don't think that's something we're going to tackle at all. We will grade a little bit and repave this so that's it's just more easier for them to get in and out. Again, we're going to be repaving all of this, creating this little median over here and break up in the parking area, and just overall just putting a new facelift on the building, and I think that's going to be conducive for the market. It's going to be conducive for the tenant to fill. When I suggested it to a few tenants, possible tenant options, there's a few that are even waiting for the feedback on this. For retail, no one has talked to us in the past year, so this is really a good indication that this something that I think is going to work for this building and the area, and the location is great for that.

Mr. Barber: And all the utilities, the sprinkler, electrical, all of that's got to get raised up.

Mr. Newman: That's right. Have you ever seen one of these? Have you seen a roof lift happen? It's -- yeah.

Mr. Sierra: You have seen it? I'm going to go see that.

Mr. Newman: Yeah.

Mr. Sierra: I'm dying to watch that.

Mr. Newman: That's -- yeah. It's like a 24/48-hour -- just wait there, and inch by inch they move it up. They basically cut -- they cut all the leads, they cut all of the columns, and by each column, just like think about a car and that hydraulic lift. That would be on every column, and it's all coordinated together all in one shot, one by one by one. The person that we actually had look at it, he's an engineer. He wrote the book. His name is Craig Jones. He came to this building. He wrote the book on how to do this about 40 years. He came up with the concept, and he'll be doing this, so it'll be great to have him, you know, be part of this project.

Mr. Luis: You're raising the existing roof.

Mr. Newman: That's right.

Mr. Barber: Are you really saving that much money?

Mr. Sierra: They're doubling the size -- doubling the height.

Mr. Newman: Yeah. It actually does. Believe it or not, it does, and then we're going to create that, you know, new roof around the top of the new windows, and yeah. It's not just -- it's time also, you know, to put the new roof down. This is a real quick process.

Mr. Sierra: They keep the existing roof; right?

Mr. Newman: Yes. They keep the existing room.

Mr. Luis: That thing leaks like a sieve now.

Mr. Newman: That's why we're going to put a new membrane on it afterwards.

Mr. Barber: Well, you're going to keep it.

Mr. Newman: Yeah. The structure we're going to keep. Exactly. Yeah.

Mr. Sierra: All right. So we keep interrupting you.

Mr. Cokeley: That's okay. It's good discussion, so we're happy to do it.

Mr. Barber: He's going back to parking spaces.

Mr. Cokeley: No, no. I'm done. I'm done. I think we went through pretty much like the benefits to the applicant and how it's not that much of a detriment to the neighborhood. Number 5 in the application is really for a use variance. We're not seeking that, so I'm just putting that on the record, so there isn't really anything to answer for the use variance part of this because we're not seeking that. Question 6 in the application is asking for an interpretation of the zoning ordinance. I think we're pretty clear on that. The height says 35. We're asking for 44. That's the variance we're asking for, and the parking as well is pretty clearly defined. And then lastly is the item 7 in the application, the sign ordinance. We're not seeking any variances from the signage right now. I believe the intent is to just match the size of the sign that's out there, so existing would be on the building. I think it's on the black and white versions you have, but you can kind of see it on this colored version here. Keep it the same. And that's -- I think those are the only things. We had put not applicable, but, you know, I'm happy to put that formally on the record here is why they're not answered.

Mr. Sierra: Any other questions, gentlemen? What I'm going to do is I'm going to open the public hearing. Anyone from the public? We're going to keep the public hearing -- sir. Sir.

Mr. Kleiner: Jerry Kleiner. This is the first I had heard about this proposed project. I know the Mayor was complaining about granting variances -- the Planning Board granting first floor commercial variances because even for people that have been trying for three or four years and had no interest, he thought that was too short of a time, so I'm not sure what his opinion was when you're saying you tried for a year to get, I mean, I still think of it as Playtogs. I don't think of it as National Wholesale. They were the interlopers. But one thing very, well, they used to move houses and buildings constantly in Middletown. A lot of the houses you see weren't built where they were, so, you know, raising the roof and doing that would be interesting, but in the old days, they didn't think anything of doing stuff like that. I don't know how, you know, in modern times its become so difficult.

The one thing I heard that made me, I mean, I of course would rather see retail there than see big trucks coming in, but I'm not really arguing that case. I mean, that's up to the Board, and if the neighbors are good with it and it seems like a workable proposal.

But I heard you asking about the condition of the blacktop and the driveway, and I used to go to the Planning Board to Larry Risdal and say isn't there something in the original permissions granted where you could make them fix that parking lot? It had some craters that your car could get lost in, and you couldn't get anyone to pay any attention. The one-way signs in the entrance, it became so dangerous because it's like the post office now with the arrows that aren't repainted, so people coming in know that this is one way, but people who've never been there before, very difficult to tell and they're going around, so whatever you can write in that requires that that blacktop, that asphalt in the parking lot and the signage and directions be clearly maintained, I'd be very happy to see that.

Mr. Sierra: That's my intent. I already had a conversation with Tony Capozella, the Planning Board Chairman, but it's my intent to speak to him about this, and I made it clear on the record that I'd like to see not only your organization but to get with the other organizations because, Jerry's right, that parking lot is horrendous, and you start putting that many semis there on a 16-hour day, you know, it's going to tear up the blacktop.

Mr. Newman: Yeah. We understand. Part of that whole excavation, this section here, we would have to do that anyway, and then we anticipate doing the whole, you know, relaying out --

Mr. Sierra: The maintenance of it.

Mr. Newman: Mm-hmm.

Mr. Sierra: I know you've been plowing it, salting it, and again, you have that many semis coming in on a 16-hour shift, even five days a weeks -- I don't know if you're doing six or seven days a week.

Mr. Newman: Five. Yeah.

Mr. Barber: You're going to lower that grade down.

Mr. Sierra: Yeah.

Mr. Barber: So you're going to put French drainage or something to tie it into the storm -- the existing storm onto Dolson Avenue.

Mr. Newman: Mm-hmm. Yeah. On that section.

Mr. Sierra: And I understand that your intent is to use primarily that back entrance.

Mr. Newman: This would be all graded in that spotted gray area.

Mr. Sierra: I understand it's your intent to use that as your main entrance there, but let's be honest. If they're not consistent drivers and you're getting shipments from around the country, people get lost, you don't know if they're Google maps, if they're using GPS, whatever it is --

Mr. Barber: Well, if he's putting islands and stuff around there, there's going to be no way --

Mr. Newman: Yeah. It's going to be hard for them because they would have to back -- this only makes the most sense, and from what I've seen, especially when it's the large delivery guys, and the same delivery guys come, so yes, I do agree. Sometimes there is, you know, on the first time delivery one or two guys that are going to say, oh shoot, you know, we can't get in this way, and there's going to be a little bit of a learning curve for when the trailers come. But a lot of times, and I've seen this on many other projects as well, is that they'll come back and everyone will know exactly the best way to get into these. I mean, the drivers know that. They start to learn that pretty quickly after someone occupies the space and they start delivering to it.

Mr. Barber: I mean, you're coming up Dolson Avenue from 84.

Mr. Newman: Mm-hmm.

Mr. Barber: You're going to make a nightmare turning -- him turning left into that.

Mr. Newman: Oh, you mean from this; right?

Mr. Barber: Yes.

Mr. Newman: Turning left into that.

Mr. Barber: Because that traffic is like nonstop coming down Dolson.

Mr. Newman: I know.

Mr. Sierra: The Planning Board may require a stoplight. That's something that the Planning Board has control over.

Mr. Newman: Right. I know.

Mr. Sierra: So they may, again, once you guys pass our process, the Planning Board may -- they are the organization that's also going to talk about --

Mr. Barber: I mean, you'd only need a stoplight on the one side.

Mr. Newman: Yeah. Right here.

Mr. Barber: Only on the one side --

Mr. Newman: Right.

Mr. Barber: -- to stop traffic.

Mr. Sierra: Yeah. Like an arrow. But then again, that's going to be under them.

Mr. Newman: Mm-hmm.

Mr. Sierra: The same thing with the tree height, the lighting. That's going to be them.

Mr. Newman: Mm-hmm.

Mr. Sierra: The curbs. All that stuff will be the Planning Board, so I know Capozella was at the original meeting we had.

Mr. Newman: Mm-hmm. We also met with him privately before. He raised some concerns that we understand that, you know, going forward with this project is probably -- we might anticipate that. But again, you know, we want to try to put something here and make use out of it, and if we have to do what we have to do, and safety of course is number one, so yeah. That's a concern, but that's something that we would accommodate in order to make this happen.

Mr. Sierra: Yeah. Again, I think that the concern is to iron out the formalities, you know what I mean?

Mr. Newman: Yeah. In every project it's --

Mr. Sierra: So we're not going to vote on this tonight.

Mr. Newman: No.

Mr. Sierra: We're going to table this for 30 days. We're going to leave the public hearing open for written comments.

Mr. Newman: Yes.

Mr. Barber: Can I have this?

Mr. Newman: Yes.

Mr. Sierra: Corporation Counsel should have more than enough information based off of the record. They'll read the minutes, and he'll reach out to you guys or Martina will reach out to you if there's anything else we need for the next meeting for next month, or he will draft a resolution where we can vote on it.

Mr. Newman: Yes. Understood.

Mr. Sierra: Got it?

Mr. Newman: Yup. I'm clear. Thank you. Thank you very much.

Mr. Sierra: If you need to correspond at all, she's your point of contact.

Mr. Newman: Yeah. We've been corresponding. Thank you very much. Really appreciate it.

Mr. Sierra: Thank you, gentlemen.

Mr. Cokeley: Thank you very much.

Mr. Newman: Thank you very much.

Mr. Barber made a motion to adjourn, seconded by Mr. Luis.

Roll Call Ayes: Joel Sierra, Nicholas Barber, Marc Woody, Don Luis, Deborah Clark.

Adjourned 8:05PM

Respectfully Submitted,

Diane Genender, Transcriptionist