

**In The Matter Of:**  
*BRIDGE DEVELOPMENT PARTNERS, LLC*

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*October 27, 2021*

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TOWNSHIP OF LOPATCONG  
PLANNING BOARD MEETING

October 27, 2021  
7 p.m.

Matter of Bridge Development Partners, LLC  
Start time 7:03 p.m.

Reported and Transcribed  
By Stephanie Lyn Hagen, RPR

## 1 MEMBERS PRESENT:

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CHAIRMAN GARY VANVLIET

JAMES BRYCE, ESQ. -  
Board AttorneyGEORGE RITTER -  
Planner

JOSEPH PRYOR

MAYOR JIM MENGUCCI

ROBERT SAMPSON

BRIAN WEEKS

ANNE COYLE

EARL CLYMER, JR.

SECRETARY DILTS

## A P P E A R A N C E S:

BOB SMITH & ASSOCIATES  
216 Stelton Road  
Suite B1  
Piscataway, New Jersey 08554  
BY: ARAVIND AITHAL, ESQ.  
Attorneys for Bridge  
Development Partners

1                   CHAIRMAN VANVLIET: We will move  
2 onto Bridge Development Partners, block 99, lot  
3 six, this is a continuation of the hearing that's  
4 been on ongoing. Is the applicant here?

5                   MR. AITHAL: Thank you, Mr.  
6 Chairman if I may. I am Aravind Aithal on behalf  
7 of the applicant Bridge Partners, LLC.

8                   There are two housekeeping  
9 matters, one being the withdrawal of a request  
10 that we made earlier but prior to that, if I may  
11 request through the Chair that counsel can  
12 confirm that we do have proper jurisdiction,  
13 continuing jurisdiction of this application, the  
14 reason I bring that up, we were last before you  
15 on August 25. We asked to carry the meeting or  
16 the application to the September 2 meeting with  
17 the public notice being made that if we were not  
18 going to reached that day which we weren't, that  
19 it be carried to today's meeting and I just want  
20 to ensure that was the fact and that the board  
21 does have proper jurisdiction to hear us this  
22 evening.

23                   CHAIRMAN VANVLIET: Thank you  
24 very much.

25                   MR. AITHAL: The second order of

1 business, there was a correspondence that I sent  
2 to, through the counsel to the board asking for  
3 the recusal of two of the members of the board.  
4 I would like to formally withdraw that request.

5 CHAIRMAN VANVLIET: Thank you  
6 very much. The only thing or comment I would  
7 have on that, is when we received this which was  
8 August 30, letter dated August 30, 2021, we as a  
9 board, I as the Chairman don't have the authority  
10 to remove those people, so we contacted the --

11 MR. BRYCE: We did contact local  
12 government services and that still remains  
13 pending as to that question.

14 CHAIRMAN VANVLIET: So they are  
15 not known for their speed of anything, so that's  
16 still out there, when we receive something back,  
17 if they had assigned the case to one of their  
18 operatives or agents or whatever they call them,  
19 so I don't know where that is going to go, but if  
20 you are withdrawing this --

21 MR. PRYOR: If it's withdrawn,  
22 should we notify DCA?

23 MR. BRYCE: I can notify DCA of  
24 that.

25 MR. AITHAL: Mr. Chairman, not

1 to disparage the DCA, but if it's anything based  
2 on my prior experience as counsel for boards or  
3 governing bodies, I think that in six or seven  
4 months you will get a letter saying that are not  
5 going to opine about something such as this and  
6 it would be up to the local counsel. So I think  
7 that certainly you can inform them, but if you  
8 need us to join in on that, that correspondence,  
9 we would be more than happy to join in.

10 CHAIRMAN VANVLIET: Okay. Thank  
11 you very much.

12 MR. BRYCE: For benefit of the  
13 record, counsel, yes, the last meeting it was  
14 carried without further notice as well as an  
15 action by the board and has jurisdiction of the  
16 matter.

17 MR. AITHAL: Mr. Chairman, I am  
18 not going to summarize what occurred back in June  
19 and in August. To save sometime, I think the  
20 board members certainly recall that there were a  
21 number of issues that were raised in the August  
22 hearing.

23 One of the things that we wanted  
24 to bring up, and the board members brought up,  
25 were a number of issues that we wanted to have

1 direct communication with the board's  
2 professionals to be able to resolve. As Mr.  
3 Bryce can attest to, he was copied on all email  
4 correspondence between the board's professionals  
5 and our professionals and we'd like to put on our  
6 witnesses this evening to address those issues.

7 I have four witnesses, all of  
8 the witnesses but the architect are here so if  
9 the board members have any questions going back,  
10 but I think what I'll do is I'll touch upon three  
11 of those witnesses this evening, and we will  
12 conclude our case hopefully this evening and  
13 submit it for your consideration.

14 With your permission, I'd like  
15 to recall Mr. Milanaik to testify about some  
16 issues that were in fact brought up and clarify  
17 those.

18 CHAIRMAN VANVLIET: Certainly.  
19 You have already been sworn, you are still under  
20 oath.

21  
22 TESTIMONY OF MR. MILANAİK:

23  
24 A Thank you. Again for the  
25 record, my name is Jeff Milanaik, partner with

1 Bridge Development.

2                   First of all, I'd like to thank  
3 the Chairman, Mr. Mayor, I know this has been  
4 several meetings. And I have tried to really  
5 diligently to address all the issues. One of the  
6 things I took away from the last meeting was the  
7 board's procedural requirement to come back with  
8 updated plans and things reflecting prior  
9 conversations and I will tell you that I  
10 diligently pushed all my professionals to make  
11 sure that they read every single piece of a  
12 transcript, any note they had, so I believe we  
13 have come before you today fully intending to  
14 address all the questions and concerns we have,  
15 and I think there will be one variance which was  
16 also discussed at the last meeting regarding  
17 counting of number of automobile parking spots  
18 and maybe a design waiver, so but I'll leave that  
19 to the professionals.

20                   One thing I would like to do  
21 from the very beginning, Brett could you pull the  
22 plan, this -- this is in the plan set so I don't  
23 know if we need to mark this particularly or not.

24                   MR. AITHAL: So the record is  
25 clear, this would be sheet nine of utility plan



1 that was provided as part, it's not changed in  
2 anyway from what was submitted to the board. So  
3 Mr. Bryce, I don't believe we need to mark this.

4 MR. BRYCE: We generally don't  
5 unless they are somewhat colorized or somewhat  
6 altered.

7 A No, exactly the same. The  
8 reason I am focused on this is to address the  
9 question surrounding solar panels. Because when  
10 I was here the last time before the board, and I  
11 testified to this, is that the existing solar  
12 panels on the property were going to be removed,  
13 we were going to build the building and then the  
14 solar panels would be reinstalled on the roof,  
15 and the land owner had indicated he wanted to  
16 continue to connect to the Bergen Plastics  
17 property which is what this serves, so that's  
18 what I testified to that in fact.

19 Since that time, I have been in  
20 touch with the land owner, because I have noticed  
21 and actually I am not sure if it was the  
22 engineer's comment or even the planner's comment,  
23 they picked up about uses, secondary uses,  
24 primary uses. So I had long discussions with the  
25 land owner and he has agreed and this plan will

1 speak to this is that the solar arrays will be  
2 disconnected and not reinstalled to serve the  
3 Barry Plastics property.

4           The purpose of the plan we  
5 showed here was to address solar because as the  
6 board I am sure is aware, under new current  
7 building codes and such, one of the requirements  
8 is to address energy renewables and how do you  
9 put those and how do you design for your  
10 buildings.

11           What this plan shows is a  
12 theoretical, and that's the hashmarks, array  
13 location on the roof of the building because we  
14 indeed build our building with an extra six pound  
15 load capacity in the roof steel to accommodate  
16 it. We do that as a standard and I just wanted  
17 to indicate to the board that that's where the  
18 arrays would go, however, if the board is  
19 familiar, we cannot put a solar array on a  
20 building, spec. building. The Board of Public  
21 Utilities of such is very strict guidelines as to  
22 how solar arrays and such go on buildings.

23           So the land owner has agreed and  
24 we will agree as part of this application that  
25 the existing arrays will come down on the

1 property, will not be reinstalled, will not be  
2 reconnected to Barry Plastics.

3                   In the event the tenancy comes  
4 that has a use for the power, we will then speak  
5 with the tenant, because you can only put up what  
6 their load capacity over 12 months indicates and  
7 then we will come back with the proper  
8 applications to the board at that time but I  
9 wanted to clear that up, because it did get a  
10 little confusing at the last meeting and as  
11 appropriately picked up by your professionals, it  
12 would be conflict with primary and secondary  
13 uses, so I wanted to get that out first to clear  
14 that up. And if there is any questions, I'd be  
15 happy to speak to that.

16                   CHAIRMAN VANVLIET: I have one  
17 question, so all of the panels that now exist  
18 ground level are going to be removed?

19                   A            Correct.

20                   CHAIRMAN VANVLIET: Okay.

21                   A            Okay?

22                   CHAIRMAN VANVLIET: Thank you  
23 very much.

24                   A            Any other questions?

25                   MR. BRYCE: Just so the board --

1           A           All these years I know him, he  
2 can't say my last name.

3                   MR. BRYCE: George can confirm  
4 this, I think the roof map, they can do that as  
5 an accessory use in the future?

6                   MR. RITTER: That's correct, the  
7 testimony that was just given, if that's their  
8 intent, that would be in conformance with the  
9 ordinance and would eliminate any need for the  
10 board to grant relief.

11           A           Thank you.

12                   MR. AITHAL: Thank you and  
13 before I actually, Brett, if you want to set up,  
14 our next witness, we are recalling our engineer,  
15 Mr. Brett Skapinetz, and Beth, we wanted to  
16 confirm with you, we did receive two updated  
17 letters, October 22 was your letter and October  
18 25 Colliard's (ph) letter, those were the two  
19 updated letters that we received from your  
20 engineer and planner that will be addressed in  
21 the comments based on those letters as they have  
22 been updated. I think that should address most  
23 of the concerns that were raised and the  
24 communication that we have had and again, being  
25 transparent, we did copy the board attorney on

1 all the correspondence.

2 CHAIRMAN VANVLIET: Thank you.

3 MR. AITHAL: Thank you. Brett,  
4 if you want to --

5 MR. AITHAL: Mr. Skapinetz was  
6 previously sworn and I believe he also testified  
7 at both of the hearings.

8 MR. SKAPINETZ: Yes, I was not  
9 present at the previous one, but there was no  
10 testimony from engineering at that point.

11 CHAIRMAN VANVLIET: Still need  
12 remain sworn before this board. Please continue.

13

14 TESTIMONY BY MR. SKAPINETZ:

15

16 Q Brett, you have had an  
17 opportunity to review the two reports or letters,  
18 updated letters that were provided to us. Is  
19 that correct?

20 A That's correct.

21 Q If you don't mind, which letter  
22 do you have on top?

23 A The engineering letter.

24 Q Why don't we start with the  
25 engineering letter, could you walk us through the

1 engineering comments that were made and how we  
2 are going to be addressing them to hopefully the  
3 satisfaction of the board?

4 A Sure, what I'd like to do then,  
5 is just to keep it simple, as I go through the  
6 letter, if I am skipping through the comments  
7 that I am not hitting, up until that point, we  
8 are essentially agreeing to, with --

9 CHAIRMAN VANVLIET: To do what  
10 they request.

11 A Correct. As I go to the letter,  
12 and get through the first few pages of summaries,  
13 including summaries of plan changes, you want to  
14 hit the --

15 Q The changes, yeah.

16 A Start there first, so if we go  
17 to page six of the review letter, I'll run  
18 through the summary of plan changes that are  
19 noted here and I might have a couple of others  
20 from my list. So starting from the top, again,  
21 this is page six, number one, as discussed, there  
22 were 390 parking spaces in the plan previously,  
23 we have increased that to the 400 number we  
24 discussed at the last meeting. Five foot  
25 sidewalk was added along the frontage of Strykers

1 Road that was -- that's noted in the plan.

2 MR. PRYOR: One question Brett,  
3 the planner had a suggestion to extend that all  
4 the way to the property line?

5 A Right, I think there is like  
6 another 280 feet.

7 MR. PRYOR: Right -- so this is  
8 shown without that.

9 A It's shown without that and  
10 maybe I should mark this at the moment. Do you  
11 know what we are up to?

12 MR. BRYCE: Let me look.

13 A Asking the attorney what number  
14 we are up to.

15 MR. BRYCE: A-5.

16 MR. AITHAL: A-5.

17 MR. BRYCE: Going to be A-5.

18 A So for the record, A-5 is a  
19 colorized version of our site plan, basically  
20 site and landscaping plan merged together,  
21 colorized for presentation this evening, entitle  
22 site plan exhibit with preparation date of  
23 October 21 of this year.

24 So to the sidewalk, yeah, we do  
25 show on the plan, sidewalk along the frontage,

1 mainly the large extent between the two proposed  
2 driveways. There is a stretch of about 280 feet  
3 and that is noted in Mr. Ritter's letter that  
4 would go from the eastern most edge of the --  
5 eastern driveway and extend to a point just  
6 before the residential property and we would  
7 agree to add the sidewalk in that location.

8                   Number three, talks to the 30  
9 foot driveways now being proposed immediately  
10 adjacent to the building on the north and south  
11 sides, this was a common raised relation to fire  
12 and was a waiver, we were previously requesting,  
13 so we are eliminating that through the redesign.

14                   Parking areas, for handicap,  
15 dedicated parking areas for handicap parking have  
16 been added adjacent to the four proposed office  
17 space entrances, that's noted in the plan.

18                   The reinforced concrete strips  
19 within the proposed trailer parking stalls have  
20 been increased from ten to 15 feet. The block  
21 retaining wall along the -- access drive to the  
22 cell tower was moved to the northern end of the  
23 proposed parking area adjacent to the cell tower  
24 access driveway and as I note, further note, with  
25 respect to the changes to the retaining walls, we



1 pulled them out of the buffer, they were  
2 previously within buffer areas in the north and  
3 western property lines and that has been taken  
4 out of the plan.

5 CHAIRMAN VANVLIET: So they  
6 don't interfere with the buffer?

7 A Yes, so now we comply. The  
8 previously proposed 20 foot wide emergency gravel  
9 access drive to the Overlook residential  
10 development has been removed from the plans. You  
11 see it at the top of the page, there is no longer  
12 that gravel drive.

13 Additional landscaping has been  
14 provided along the northern, western and eastern  
15 limits on the site and the graded berms on the  
16 Overlook residential development have been  
17 reconfigured and expanded, that was further  
18 discussed primarily in the area to the north, in  
19 that open green area, you can see the enhanced  
20 landscaping, the secondary strip of landscaping  
21 which is in the area of the larger berms that are  
22 being proposed and that's reflected also in our  
23 grading plan.

24 The proposed utilities including  
25 sanitary sewer, storm water, water, underground,

1 electric and telephone have been reconfigured  
2 throughout the site with respect to horizontal  
3 locations, building connections, depths and pipe  
4 sizing.

5 I would further note the  
6 following changes, we did add six foot sidewalk  
7 on the north and south faces of the building, so  
8 along -- running between the 30 foot drive aisles  
9 and the building we have full extent of sidewalk  
10 to get out of the doorways that are on either  
11 sides of those, of the building.

12 We also, with respect to  
13 landscaping, just to go into further detail, we  
14 did increase the parking area landscaping to be  
15 in compliance, so we have an increase of about  
16 7,000 square feet of additional landscaping  
17 within parking areas.

18 The lighting design was revised  
19 to comply with illumination levels per your code.  
20 We added a vehicle circulation plan confirming  
21 the truck circulation works throughout the site.  
22 There was a comment with regards to the sight  
23 distance plan and profiles with respect to the  
24 driveways and was concern about the driveways,  
25 where they are located, hump or changes in the

1 curve, the horizontal curve at Strykers and  
2 showing proof that we would meet visible sight  
3 distance at those driveways looking out to left  
4 or right. We provided those sight triangles and  
5 actually show in the plan modification that will  
6 be made to Strykers Road in order to meet the  
7 requirements for proper sight distance.

8 So we show that, I'll jump ahead  
9 briefly, since we are on the topic, Mr. Sterbenz  
10 has a comment in there talking about an  
11 adjustment of about six inches further to meet  
12 that code and we see no issue with doing that,  
13 six inches should not be a problem and not be an  
14 issue with utilities and covering that area.

15 CHAIRMAN VANVLIET: Just one  
16 moment, Paul, would you comment on that, they can  
17 do that?

18 MR. STERBENZ: Yes, they are  
19 going to have to reprofile the road, extend the  
20 construction on Strykers Road in order to be able  
21 to do that, but his proposal to do that would  
22 address our review comment and his agreement to  
23 do that.

24 CHAIRMAN VANVLIET: Yes, that's  
25 what I was referring to, the review comment.

1 Please continue, I'm sorry.

2           A           We did provide and it was  
3 submitted to the board in black and white was a  
4 cross section between Overlook and the property  
5 running through and showing from Overlook  
6 elevations, berms, landscaping, truck trailer  
7 spaces running all the way down from north to  
8 south through our buildings, so that was provided  
9 as requested.

10                       There was discussion about the  
11 prime recharge area. There was discussion to  
12 note where the prime ground water recharge area,  
13 this is the area designated through highlands and  
14 we did designate that on the plan. I'll talk a  
15 bit further to that in a moment but that is noted  
16 as requested and as my last comment, what  
17 Milanaik just went through with regard to solar  
18 panels, we showed the area on the roof as he  
19 talked and testified to.

20                       So with that, that's the summary  
21 that I have in addition to the comments that Mr.  
22 Sterbenz had in his letter. So then to move on  
23 through his comments, the first point to be made,  
24 we will start with item 2.3, this is talking  
25 about the future ingress egress being shown to

1 the NFI site. As I talked and testified, I don't  
2 know if it was the first or second meeting, when  
3 we talked about the access, it's not shown there  
4 correctly, that is correct, it's not in our  
5 plans, still not shown in our plan, we understand  
6 there was an agreement, not a formal easement, I  
7 think the language here is noting an easement,  
8 but there is an agreement there and it's our  
9 stance that that driveway from NFI was to be  
10 coordinated with our access, so we are in here  
11 with the plan essentially first with this design  
12 tying into that driveway and we will look to NFI  
13 and certainly coordinate with them and work with  
14 them, not saying we won't, but at this point  
15 that's why we are not showing that drive, it's  
16 yet to be coordinated with them but will in the  
17 future.

18 MR. PRYOR: I do have a  
19 question, I mean in my opinion, the easement  
20 that's provided it sits in the buffer, it's not  
21 wide enough, it doesn't work. I don't want to  
22 imply that putting that easement on there solved  
23 the problem in my view. So --

24 A Well, it's not an easement.

25 MR. PRYOR: I don't know where

1 we are. Right now, I get it, it's a dispute  
2 between all of you, I don't think that's the  
3 planning board's job to get in there, you are  
4 submitting an application without -- without  
5 access for them, we are going to review what you  
6 submitted and if we act, in my opinion, we are  
7 going to act on it.

8 MR. AITHAL: Mr. Chairman, if I  
9 could just address that quickly. I understand  
10 the board's concern and again to reiterate, it's  
11 an agreement to reach an agreement essentially,  
12 so there is no easement which is in place which  
13 would be divesting its rights, there is no  
14 dispute whether there is an easement or not an  
15 easement, there is no easement of record.

16 The second issue that the board  
17 is exhibited some concern about what happens with  
18 NFI and if this was part of the GDP, general  
19 development plan, I think the board would have an  
20 opportunity at that point to say this is what the  
21 general development plan says, this is what you  
22 must do, are you doing that. In this case, it's  
23 a purely private transaction between two property  
24 owners or developers and the board needs to, as  
25 said over and over again, look at each

1 application independently and whether NFI reaches  
2 an agreement with us or not, they have got to be  
3 able to show that they have access to their  
4 property, we have to be able to show that we have  
5 developed the property in conformity with your  
6 ordinance and the wishes of the board and I think  
7 that's what we are doing this evening.

8 CHAIRMAN VANVLIET: The only  
9 question I would have is we have looked at your  
10 traffic figures, your configuration for the site  
11 plan, driveway access, and now that calls your  
12 figures and NFI's figures in question because  
13 they are not combined, I am not getting a total  
14 picture of the traffic that's going to go through  
15 that area and come out onto Strykers Road.

16 MR. AITHAL: We can only testify  
17 as to the traffic that we generated or that we  
18 anticipate generating and we put on a witness to  
19 provide that testimony. NFI needs to provide  
20 that testimony to the board and you need to make  
21 that decision as your board attorney will advise  
22 you independent of our application, certainly you  
23 can take that into consideration, but we are here  
24 with our proposal and again, if there was a GDP,  
25 we would be looking at a completely different

1 analysis of the traffic generation, if that's a  
2 concern that you have with NFI's application,  
3 then I would respectfully ask that you raise that  
4 issue with NFI.

5 MR. PRYOR: Here is the  
6 question, I am just following up, if you do  
7 something with NFI, it's going to go through your  
8 property some place, give them an easement, give  
9 them something, you are going to have to come  
10 back with an amended site plan and you are going  
11 to be the applicant at that point.

12 MR. AITHAL: Well, we have got  
13 to come back with an amended site plan, we will  
14 come back with an amended site plan but as of now  
15 we are not proposing anything that the law  
16 requires us to propose.

17 MR. PRYOR: I get that. But  
18 when they are coming back with their amended site  
19 plan, everything you are talking about will come  
20 into play?

21 MR. BRYCE: I think that's  
22 correct. Theoretically, I think I should say  
23 it's speculation but if something were to happen  
24 with the neighboring property owner, regardless  
25 of who the applicant is, they need the consent of



1 this property owner to do so and prove to the  
2 board or establish for the board to the board's  
3 satisfaction these type of traffic issues with  
4 combined access but certainly through this  
5 application, that's not on the -- literally not  
6 on the board. It's -- this application is its  
7 application and how that ultimately plays out  
8 with neighboring property owners in the future, I  
9 think you are right, counsel, I think it would  
10 effect the site plan at some level and it would  
11 have to be some amendment to it, but that would  
12 be for a different time and a different  
13 application and a different consideration.

14 MR. AITHAL: You were at 2.4.

15 A Right, I am going to move to  
16 3.14. This is going back and I touched on it  
17 with the prime ground water recharge, the comment  
18 3.14 talks to this ground water recharge area and  
19 to provide testimony in that under your code,  
20 disturbance is to not exceed 15 percent of the  
21 prime recharge area. When we looked at the  
22 definition of highlands, highlands is  
23 recalculating it as meeting it based on their  
24 definition of disturbance rather than the town's  
25 definition. Recognizing that the alternatives

1 here are, one, in the code, we will do salt soil  
2 testing in that area, should it be determined  
3 that the area we are disturbing laden with carst  
4 (ph), we will be subject or be able to qualify  
5 for a waiver to be able to disturb that area.  
6 Should it not be, we will be required to make  
7 modification to pull that grading and work within  
8 the prime ground water recharge area that we show  
9 on the plan back to be 15 percent or less which  
10 we would agree to do so. So it's one or the  
11 other, and once we get into -- for final, we will  
12 be submitting the additional storm testing or  
13 soil testing that we testified to previously.

14 MR. BRYCE: That will be an  
15 issue for final?

16 A Correct.

17 MR. STERBENZ: Mr. Chairman, I  
18 have one clarifying question, I just want to  
19 clarify, I know you are skipping a number of  
20 comments in the report, I believe you said  
21 before, if you are skipping, I guess if you are  
22 skipping ahead, the comments in between, it means  
23 that the comments in between you are going to  
24 address.

25 A Right, through, we will address.

1                   MR. STERBENZ: Thank you very  
2 much.

3                   A           Yes, we will address.

4                   MR. PRYOR: I have a general  
5 question on what he just said, is there any  
6 prohibition against our ordinance being more  
7 stringent than the highlands definition?

8                   MR. RITTER: No, our ordinance  
9 is the definition.

10                  MR. PRYOR: The definition. So  
11 we he would require a variance --

12                  MR. RITTER: It's also the  
13 prototypical --

14                  MR. PRYOR: Variance or design  
15 waiver.

16                  MR. RITTER: Waiver, but as far  
17 as the definition goes, we can have a more strict  
18 definition but also it was at the highlands'  
19 recommendations that that definition was  
20 incorporated into our regulations.

21                  CHAIRMAN VANVLIET: I didn't  
22 follow the question. We have two submittals from  
23 the highlands council?

24                  A           Right.

25                  CHAIRMAN VANVLIET: Listing

1 these and the last one I have is dated June 9.

2 A Yeah, that would be the --

3 MR. AITHAL: 2021. Do you have  
4 anyone further than that?

5 A No, that would be the last one.

6 CHAIRMAN VANVLIET: This is the  
7 one indicating solar panels were going to remain,  
8 there was some problems with storm water  
9 management in it, are you going to reapply to the  
10 highlands in order to get their corrected values  
11 and --

12 A Yeah, we will submit, we will  
13 end up submitting new plans and getting new  
14 updated submissions.

15 CHAIRMAN VANVLIET: Thank you.  
16 That's all I really wanted to know.

17 A And to go through the rest, I  
18 don't have -- and actually the rest of the  
19 comments have either been addressed or we are  
20 going to comply. Okay.

21 Q So before we go onto the --

22 MR. WEEKS: Mr. Chairman, I have  
23 a question.

24 CHAIRMAN VANVLIET: Do any of  
25 the board members have any further questions?

1 MR. PRYOR: Yes, I do. Brett,  
2 you did the sewer letter?

3 A Yes.

4 MR. PRYOR: Are you going to  
5 talk about that?

6 A I can.

7 MR. PRYOR: How about I start?

8 A Sure.

9 MR. PRYOR: I am not supposed to  
10 testify so I am going to put some things into the  
11 form of a question, you were reviewing a letter  
12 by our sewer engineer and he goes and spells out  
13 what he based his review on and it was the most  
14 current contract with Pburg. Is there any reason  
15 you base your letter on an expired contract with  
16 Pburg?

17 A No, that was what was provided  
18 to us through Pburg through the OPRA request, so  
19 that is the document --

20 MR. PRYOR: Why didn't you send  
21 the OPRA request here. I told you you are making  
22 -- who knows more about our system than  
23 Lopatcong. Would it surprise you if the criteria  
24 in the newer contract is completely different?

25 A It would.

1 MR. PRYOR: It would?

2 A If it was completely different  
3 than the contract I have?

4 MR. PRYOR: Yes, I am asking you  
5 that, would it surprise you?

6 A I haven't seen that contract.

7 MR. PRYOR: Then you are really  
8 not prepared to submit testimony on any of this,  
9 are you?

10 A I am only submitting testimony,  
11 preparing to submit testimony on the information  
12 I was able to gather.

13 MR. PRYOR: We didn't give it to  
14 you. That's not our problem. You submitted  
15 testimony on a contract that was superceded a  
16 decade later.

17 I am going to make a suggestion,  
18 because this is not an easy thing. And this is  
19 just me, I don't know if the board agrees, I  
20 would agree to defer that to final and that's  
21 going to involve counsel and I could give you a  
22 month but you are not going to solve that in a  
23 month.

24 So -- my suggestion is in  
25 fairness and we are working under the old

1 ordinance, but that would be my proposal, we make  
2 that a condition of final, because without  
3 storage, you are not going to have a project, and  
4 I don't think you have -- well, maybe you can do  
5 design a bunch of things, but I am willing  
6 myself, one vote, to defer that to final.

7 CHAIRMAN VANVLIET: I think  
8 that's a reasonable way to go and one the  
9 planning board has no jurisdiction, I don't know  
10 who capacity is assigned to or anything like  
11 that, other than we do advise that they do have  
12 capacity, whatever it is, we don't calculate.  
13 That's going to be a negotiation between you and  
14 council basically and if you would agree, we will  
15 make it a condition of preliminary approval. I  
16 mean, you know, save it for final, but a  
17 condition of --

18 MR. PRYOR: It doesn't make it  
19 easier for you, just gives you more time to work  
20 on it.

21 MR. AITHAL: We understand.

22 A Understood.

23 MR. PRYOR: Talk to the correct  
24 people, alright?

25 A Understood.

1 MR. AITHAL: Okay. Mr.  
2 Chairman, if your board engineer has any specific  
3 questions that we didn't address from his letter,  
4 we can address that, perhaps unless other board  
5 members have specific questions?

6 MR. STERBENZ: No, Mr. Skapinetz  
7 has addressed all the comments by agreeing to all  
8 the comments. So we are good.

9 MR. WEEKS: I have one, I'd like  
10 to know the storm drains going down Strykers Road  
11 going back in, estimate the, now, the estimate is  
12 eight feet, where does the sidewalk corollate  
13 with those storm drains and are you going to  
14 change them out?

15 A There would be no, we wouldn't  
16 anticipate changing any storm drains.

17 MR. WEEKS: They are on your  
18 property line is what I am trying to tell you and  
19 there is --

20 A Right, they are in the cart way,  
21 so they are off the curb line, we are putting the  
22 sidewalk behind the curb line.

23 MR. WEEKS: So the eight feet --

24 A Yeah, there are other inlets  
25 behind there, we will certainly work to ensure we



1 are not modifying or relocating.

2 MR. WEEKS: That's what I wanted  
3 to make sure, if you are going to put your  
4 sidewalks, it's got to be close to where the  
5 sidewalks are going in. I didn't want you to  
6 find out you are coming into any issues we  
7 haven't discussed in any fashion. I know they  
8 are there, I got to cut around them.

9 A Oh, okay. Understood.

10 MR. PRYOR: Can I, just with my  
11 comment and close this out, one of the reasons I  
12 am willing to do this down the road a little bit,  
13 you are in the sewer service area?

14 A Right.

15 MR. PRYOR: And it's one of the  
16 reasons I am willing to, you know, give you more  
17 time and work on this particularly.

18 MR. STERBENZ: Mr. Chairman, I  
19 just have one clarification for Mr. Skapinetz,  
20 one of my comments had to do with the berm you  
21 put in, the berm was closer to the building, it  
22 was my observation that that berm could probably  
23 be raised about ten feet to give a more immediate  
24 impact to screen the building from the residents  
25 on Overlook, so that is part of what you are

1 going to end up doing onto the plans. Right?

2 A Right, I know there was a  
3 comment there and not only that, but enhancing  
4 the landscaping as well, so a combination of  
5 both, correct.

6 MR. STERBENZ: Correct.

7 MR. PRYOR: I'd like to hear  
8 your proposal, I mean berms are nice, but  
9 sometimes they end up all over the place. Some  
10 combination, there is a lot of fast growing  
11 evergreens, give you a nice cover right away, and  
12 come up with something that makes some sense.

13 A We will work with Mr. Ritter and  
14 we will come up with what we think obviously  
15 certainly maximize that growth.

16 MR. RITTER: The evergreens they  
17 picked, that are bordering the residential area,  
18 are about the fastest growing evergreens that I  
19 know. They picked ones that should put on  
20 several feet a year as long as they get enough  
21 sun.

22 CHAIRMAN VANVLIET: Okay.

23 MR. PRYOR: I have got to look  
24 into evergreens in another build.

25 MR. RITTER: What I am saying,

1 between Paul's comment and mine, it should be a  
2 significant change.

3 MR. PRYOR: George, you are  
4 what, some kind of arborist, you know, down the  
5 road?

6 CHAIRMAN VANVLIET: Any further  
7 questions from the board, if not, I'll open it up  
8 to the public to ask questions of this witness.

9 MR. AITHAL: Well, Mr. Chairman,  
10 we will go through Mr. Ritter's letter?

11 CHAIRMAN VANVLIET: Sorry, I  
12 thought we were completed.

13 A Just wanted to make sure we were  
14 touching on Mr. Ritter's letter, although I think  
15 a majority of the comments were handled through  
16 discussion, so talking to Mr. Ritter's October  
17 22, 2021 review letter and similar to what I did  
18 with Mr. Sterbenz', I'll just address those where  
19 I think we are required to make comment.

20 Already touched on the ground  
21 water recharge area, that was comment on page  
22 three developed within the highlands area. So I  
23 think with that, is Mr. Milanaik touched on the  
24 solar panels and I think the rest of it has been  
25 touched base and we will either -- noting whether

1 we don't have a design waiver, nothing is  
2 required or we are going to comply.

3 MR. PRYOR: Mr. Ritter had a  
4 number of things on the landscaping and ecosystem  
5 and so on, I assume that's not an issue?

6 A Yeah, we are agreeing to those  
7 comments.

8 MR. AITHAL: Mr. Chairman, if  
9 the board members have any additional questions  
10 in regards to Mr. Ritter's report or anything.

11 MR. RITTER: I have only one for  
12 clarification, when you resubmit to the  
13 highlands, you are going to resubmit as a  
14 condition of ployment area so you get their  
15 comments --

16 A Right, so we have those ahead of  
17 the final, correct.

18 MR. BRYCE: George, just to be  
19 clear, the variances still are now, because of  
20 lot of them have been eliminated, so I am clear,  
21 is the parking?

22 MR. RITTER: Yes, the only  
23 variance that is required at this stage at all  
24 will be for the required parking now. They are  
25 asking for -- to permit 400 spaces where a little

1 over 1,100 is required by our code.

2 MR. BRYCE: Thank you.

3 A I did want to touch on --

4 MR. AITHAL: Mr. Colliard's  
5 letter.

6 A Yeah, I just wanted to touch  
7 base on the EV space comment, so it's on the  
8 record, we will provide the EV spaces within the  
9 plan and based on the requirements we will need  
10 16 in this plan based on the 400 that we are  
11 showing. So it's four percent.

12 MR. RITTER: Well, no, I  
13 appreciate that, we didn't even ask for the  
14 electric.

15 A Well, it's -- I want to note it,  
16 because I think, I saw it as a discussion in your  
17 agenda, but it also statute at this point.

18 MR. RITTER: That's fine.

19 CHAIRMAN VANVLIET: That's what  
20 we are going to discuss.

21 MR. BRYCE: You are required to  
22 do it, because even now though your application  
23 was in --

24 A Still required to do it.

25 MR. AITHAL: And to touch upon

1 the requirement of the state statute now, the  
2 July 9 statute that was adopted, the 16 spaces  
3 that we have to provide five percent of those  
4 have to be handicapped but unless the township  
5 has an ordinance that will provide for more  
6 credit under the State statute, we get a two for  
7 one credit for every electrical vehicle space, so  
8 that would bump our number up from 400 to 416.

9 MR. BRYCE: Still needs a  
10 variance.

11 MR. PRYOR: Did everybody else  
12 ask Brett what they have to ask? I have a  
13 question to both Brett and the board, this new  
14 electric car think that came down the road, the  
15 way I read it, unless we make changes it was  
16 effective the date DCA issued it.

17 CHAIRMAN VANVLIET: Correct.

18 MR. PRYOR: And it's my feeling,  
19 I don't know how it applies, but my feeling is to  
20 the extent it applies, that would be a condition  
21 of this application?

22 CHAIRMAN VANVLIET: Yeah, they  
23 are agreeing to do that. I think.

24 MR. PRYOR: Did they? When you  
25 figure it out, let us know.

1           A           16 spaces, we figured it out.

2                   CHAIRMAN VANVLIET: You have to  
3 determine your voltage first.

4                   MR. PRYOR: Do you put in the  
5 whole thing or just the guts?

6           A           The mandatory is a four percent  
7 and then there is additional that you are  
8 running essentially conduit to.

9                   MR. PRYOR: It is pretty  
10 confusing.

11                   MR. PRYOR: Alright.

12                   CHAIRMAN VANVLIET: Does that  
13 complete your testimony?

14           A           That is my testimony.

15                   CHAIRMAN VANVLIET: I am going  
16 to open this up to the public. I remind the  
17 public that we are under the old rules and  
18 regulations, if you have any questions of this  
19 witness, limit your questions to what he's  
20 testified to.

21                   So is there anyone from the  
22 public that has any questions for this gentleman?

23                   MS. SCHNEIDER: I just have a  
24 question for you. Donna Schneider, 26  
25 Meadowview, because he didn't testify on sewer, I

1 need to wait until that testimony does happen to  
2 ask questions about sewer, because we had -- we  
3 halted sewer tonight, so do I need to wait for my  
4 questions for sewer?

5 CHAIRMAN VANVLIET: I think he  
6 testified to the sewer, talking about the  
7 calculations and the capacity?

8 MS. SCHNEIDER: Yeah.

9 CHAIRMAN VANVLIET: I think you  
10 would best direct it to him now.

11 MS. SCHNEIDER: Okay. Just a  
12 quick question, I think you answered it last  
13 time, but I can't remember, how much sewer  
14 capacity are you asking for for this?

15 A It's just about 11,000 gallons,  
16 just under 11,000.

17 MS. SCHNEIDER: Okay. Thank  
18 you.

19 CHAIRMAN VANVLIET: Is there  
20 anyone else? Seeing no response. We will close  
21 the public --

22 A VOICE: I do. I'm sorry.  
23 Would you please approach the podium, identify  
24 yourself.

25 MS. WEINBACH: I am Patti



1 Weinbach (ph), I live at 919 Barnau Way (ph). I  
2 would like to ask the gentleman, I appreciate the  
3 fact you are putting trees up to border Overlook,  
4 how is that going to prevent diesel fumes from  
5 entering the area and causing respiratory issues,  
6 how is that going to prevent the sound of the  
7 reverse beeping from hitting these neighbors all  
8 hours of the night when they have children  
9 sleeping and our, you know, trying to live  
10 peaceful quiet lives that we enjoy right now? I  
11 don't think trees is going to help that, and I  
12 don't think you can build a berm high enough to  
13 prevent these, you are severely impacting the  
14 quality of life in the Overlook neighborhood.

15 A Well, to -- two parts to that  
16 question. With respect to both the distance  
17 between Overlook and the building is well over  
18 six to 700 feet, large distance of separation and  
19 then it's not only the trees that are planted but  
20 a combination of the trees and berm and on top of  
21 that, there is the larger elevation change that's  
22 between the two, so the combination really of all  
23 that provides a pretty enhanced buffer between  
24 the building and operations to Overlook.

25 MR. AITHAL: Mr. Chairman, in

1 addition to that, the board is aware, there is a  
2 state statute which regulates the noise to 55  
3 decibels in the evening time after 10 p.m. and 65  
4 decibels in the daytime, I think I have got those  
5 numbers correct, but we would certainly have to  
6 comply with the State statute in terms of noise.

7 In terms of the diesel emissions  
8 there is what I understand legislation that will  
9 be soon coming down the pike that will require  
10 these vehicles to at some point convert over to  
11 electric tractor trailers, so building today,  
12 there obviously will be some diesel usage at some  
13 point in the future, that could change.

14 CHAIRMAN VANVLIET: The trucks  
15 have to conform to the emissions quality control  
16 that the State regulates. Correct?

17 MR. AITHAL: State and Federal,  
18 correct.

19 MS. WEINBACH: The trucks  
20 conform now I assume but they still stink, I mean  
21 they really are -- are difficult if you get  
22 anywhere near them and when you have a lot of  
23 them in a small area, I would imagine that there  
24 would be some impact and I would just request  
25 that the board consider that when making their

1 decision on these.

2 CHAIRMAN VANVLIET: Okay. I'll  
3 reiterate, anyone else? Seeing none, we will  
4 close the public portion. Continue.

5 MR. AITHAL: Thank you, Mr.  
6 Chairman, our traffic engineer is present here  
7 today. I think that our engineer addressed the  
8 comments with regards to the intersection, the  
9 cross sections. If there are any additional  
10 questions the board members have, as I stated  
11 earlier, our witness is present, but I would like  
12 to wrap up with a very quick revisit to our  
13 planning testimony, if I could recall our  
14 planner.

15 CHAIRMAN VANVLIET: Very good.  
16 You have already been sworn before this board?

17 MR. MC DONOUGH: Hello again,  
18 John McDonough for the record, I am the planner  
19 and landscape architect.

20  
21 TESTIMONY BY MR. MC DONOUGH:

22  
23 Q So John, I'd like you, you heard  
24 the testimony that was provided here this  
25 evening. Correct?

1           A           All of it, yes.

2           Q           We have cleaned up quite a few  
3 of the comments, we addressed quite a few of the  
4 comments, I would like you to put on your  
5 planning cap and tell us from a professional  
6 planner perspective and you have been accepted by  
7 this court as an expert in the field of planning,  
8 have any of the justifications you previously  
9 provided changed in anyway?

10          A           Not at all.

11          Q           And is it still your opinion  
12 that this board can grant the relief that we are  
13 requesting and in fact can grant the application  
14 the underlying application for preliminary  
15 approval with conditions?

16          A           Yes, it is.

17                   MR. AITHAL: Thank you. Do the  
18 board members have any questioning?

19                   MR. PRYOR: Yeah, just so I  
20 understand, how many variances are we left with  
21 here, George?

22                   MR. RITTER: Just the one for  
23 traffic. Sorry, for parking, I said traffic.

24                   MR. PRYOR: I thought we covered  
25 that substantially last time.

1 CHAIRMAN VANVLIET:

2 Substantially last time.

3 MR. PRYOR: And in exchange for  
4 reducing the parking, we get that big buffer, so  
5 I think we -- in my opinion we covered that  
6 pretty well.

7 CHAIRMAN VANVLIET: Pretty well.

8 A Agreed.

9 CHAIRMAN VANVLIET: Any  
10 questions? Paul, George?

11 MR. RITTER: No.

12 CHAIRMAN VANVLIET: Board  
13 members? I know it's very limited testimony but  
14 I am required to open it to the public for  
15 questions of this witness, I know your testimony  
16 was minimal at best here, but if anybody has any  
17 questions of him, please come forward, your state  
18 your name, address and ask your question but  
19 please limit it to just what he's testified to.

20 Seeing no audience  
21 participation, we will close the public session  
22 and thank you very much.

23 A Thank you.

24 MR. AITHAL: Mr. Chairman, at  
25 this point, I would submit the application is in,

1 that's the testimony that I have this evening.

2 I would spare the board the  
3 droning on and on of summarizing testimony which  
4 I know that the board members have heard in great  
5 detail. In fact wish to hear anymore from me,  
6 I'll be happy to speak, but I would ask that the  
7 you approve the application and grant the  
8 preliminary approval with the condition.

9 CHAIRMAN VANVLIET: Any  
10 questions? Open to the public? Alright, at this  
11 point, I'll open it to the public, you can ask  
12 any questions you want of the board or them  
13 concerning this application.

14 MR. BRYCE: Or make statements.

15 MS. WEINBACH: Patti Weinbach  
16 again, 919 Barnau Way, is the board aware?

17 MR. BRYCE: I am going to swear  
18 you in because you are going to be probably be  
19 giving statements.

20 MS. WEINBACH: Okay.

21 MR. BRYCE: It's our custom if  
22 somebody gives testimony, evidence, we swear you  
23 in.

24 (Whereupon, Ms. Weinbach is duly  
25 sworn by the Notary.)

1 MR. BRYCE: Okay. Please state  
2 your name for the record.

3  
4 TESTIMONY/STATEMENT BY MS. WEINBACH:

5  
6 A Patti Weinbach, are you aware  
7 that these warehouses that we are bringing into  
8 our communities lower property values by about 11  
9 percent based on what I have read?

10 CHAIRMAN VANVLIET: Do you have  
11 anything more factual than what you have read?

12 A No.

13 CHAIRMAN VANVLIET: Okay. Thank  
14 you for your comment question.

15 A Okay. I just want to make sure  
16 you just understand the impact this is going to  
17 have on us, on our community.

18 CHAIRMAN VANVLIET: Anyone else?

19 MS. SCHNEIDER: Donna Schneider,  
20 26 Meadowview.

21 MR. BRYCE: Just raise your  
22 right hand.

23 (Whereupon, Donna Schneider is  
24 duly sworn by the Notary.)

25

1 TESTIMONY/STATEMENT BY MS. SCHNEIDER:

2

3           A           I just a couple of things for  
4 the board, you know, when I moved here, 19 years  
5 ago, I -- much to my not wanting to move here, my  
6 husband convinced me and, you know, looking  
7 around at all of the fields and the beauty and  
8 the beautiful little swing corn field farm coming  
9 up to our property, it was really nice.

10                       And I had high hopes that there  
11 was going to be some development, after all you  
12 built all these beautiful homes in this area, and  
13 all of the upgrades we all did to our beautiful  
14 homes in this area. And unfortunately that never  
15 happened.

16                       My husband thought that  
17 Phillipsburg Mall was going to turn into a huge  
18 beautiful mall, that didn't happen either. So I  
19 guess, you know, we already have one warehouse on  
20 Strykers Road, and we have all seen the increase  
21 in traffic, we have all seen it and it's not even  
22 fully occupied.

23                       The post office is going in  
24 there as I understand, a hub, is that a postal  
25 hub? Yes, so that has not even occurred yet and



1 there is going to be more traffic than what it is  
2 now. You know, it's just a shame that the road  
3 that leads into here is now going to have three  
4 warehouses on it, and, you know, it's just --  
5 it's really sad to see that happen and see home  
6 values go down and to have things like that on  
7 that property especially after you guys changed  
8 the resolution, you know, to do no warehouses,  
9 unfortunately these two applicants got trapped in  
10 that.

11                   So I just wish that you guys  
12 really take into account that it's really a  
13 mistake if you approve this and especially if you  
14 are approving it with not knowing about sewer yet  
15 and everything else and I just you really would  
16 give it deep consideration and, you know, I think  
17 twice about approving it especially for what this  
18 woman had said as well, it would just be nice to  
19 see at least one side of the field not inundated  
20 with trucks and not have that whole entire  
21 Strykers Road area just inundated with all of the  
22 mess and the smell and everything else.

23                   And you know, there is one way  
24 in, one way out to our tiny little town and now  
25 it's being destroyed, now we have to take 22

1 which is no better and now go under the train  
2 trestle which will be more congested than it  
3 already is.

4                   So I just really wish that you  
5 would say no, just say no. Thank you very much.

6                   CHAIRMAN VANVLIET: Yes, Ma'am,  
7 please come forward, state your name and address.

8                   MS. HORNE: Barbara Horne,  
9 H-O-R-N-E, 119 Marlboro Circle, Overlook.

10                   MR. BRYCE: Raise your right.

11                   (Whereupon, Ms. Horne is duly  
12 sworn by the Notary.)

13  
14 TESTIMONY/STATEMENT BY MS. HORNE:

15  
16                   A           I do. I'd like to start with a  
17 question, are there any members of the board who  
18 are like myself residents of Overlook? It's  
19 really important for me that you understand there  
20 are other community members from Overlook who are  
21 present at the meeting this evening.

22                   I do not believe that there is  
23 any height of berm or variety of evergreens that  
24 is going to minimize the impact that another  
25 possibly two warehouses, certainly speaking about

1 one tonight, is going to minimize that impact on  
2 our Overlook community.

3 In addition, we are talking  
4 about within approximately a one square mile  
5 area, of having over six million square feet of  
6 warehouse and as you certainly understand better  
7 than I do, warehouse is 24 hours a day, you know,  
8 seven days a week, almost or potentially 365 days  
9 a year, and we are talking about traffic, noise,  
10 compromise in air quality.

11 In addition to that, I think  
12 it's really important to understand that two lane  
13 Strykers Road is in no way, shape or form  
14 comparable to Route 22 and Route 78 which has  
15 already had and is continuing to see building of  
16 warehouse space. In my opinion that is much more  
17 appropriate than a two lane in the middle of our  
18 community of Lopatcong.

19 My final comment is that just  
20 several months ago, when we were meeting  
21 virtually, I think that many many members of the  
22 public came out to express our displeasure with  
23 the fact that we feel as community members that  
24 this type of land use, the additional warehouse  
25 spaces, 900 bays of -- for tractor trailers, who

1 even knows if I'll still be around, you know,  
2 when all the tractor trailer traffic is  
3 electrified, I think that point is not even worth  
4 discussing right now, but, you know, the public  
5 has come out and to -- to your great credit, the  
6 board I think heard us loud and clear just  
7 several months ago saying that this is not what  
8 we want particularly not on the Strykers Road  
9 location. I commend you for that, and I ask you  
10 once again to understand that the public does not  
11 want this use at this location. Thank you.

12 CHAIRMAN VANVLIET: Anyone else?

13 MS. RONAN: Hi, my name is  
14 Kathleen Ronan 85, Powder Horn Drive.

15 MR. BRYCE: Please raise your  
16 right hand.

17 (Whereupon, Ms. Ronan is duly  
18 sworn by the Notary.)

19 MR. BRYCE: Could you please  
20 spell your last name?

21

22 TESTIMONY/STATEMENT BY MS. RONAN:

23

24 A R-O-N-A-N. I understand from  
25 the sounds of this, makes it sound like it's a

1 done deal, but I think there is also something to  
2 be said for learning from your mistakes and I  
3 think it is extraordinarily obvious at this point  
4 that the existing warehouse is a big freaking  
5 mistake.

6                   You can't see a sunset along  
7 there anymore, I won't even drive down there, so  
8 there is no amount of trees you can plant that's  
9 going to tell me is it's going to look better, it  
10 doesn't, it's ugly, it's a disgrace.

11                   The amount of traffic that has  
12 increased in this area, you know, I almost didn't  
13 realize it until the pandemic, when nobody went  
14 anywhere, all of a sudden I realized how quiet it  
15 is when you don't have to listen to trucks 24  
16 hours a day, and when traffic started picking  
17 back up again, it dawned on me, 78 is a  
18 nightmare, 22 is a nightmare, you can't drive up  
19 and down Roseberry Street even with Bridge 78,  
20 with how we call it Bridge 78, I will never quite  
21 understand, because it doesn't connect to 78, it  
22 connects to 22 which is two lanes in every  
23 direction. It is nothing but a hot mess.

24                   Really I think there is a time  
25 and a place to say we can learn from our mistakes

1 and this was a mistake, it does not belong in  
2 this community. People are out here in this area  
3 looking for space, looking for peace, looking for  
4 privacy.

5                   The State some years ago, and I  
6 know this doesn't probably fall in the  
7 jurisdiction passed the highlands preservation  
8 act, what did I watch, how many acres of prime  
9 New Jersey farmland, I wanted to cry, get torn  
10 up. We are talking about conservation, we are  
11 going to take out the solar panels that might  
12 justify some measure of conservation and just  
13 turn it into more concrete, this was a mistake,  
14 and I think we should learn from it and I think  
15 the public now is coming to understand that this  
16 was a mistake and asking this body to understand  
17 that and say uh-huh, this has to stop.

18                   Because you can tell me all day  
19 long that you have done traffic studies, but I am  
20 quite convinced that nobody got it right as to  
21 the amount of noise and abuse to the roads and  
22 just the total destruction of the peace and quiet  
23 of the area. And it needs to be rethought.

24                   CHAIRMAN VANVLIET: Anyone else?  
25 John Kecherson on 38 Jade Lane.

1 MR. BRYCE: Can you just raise  
2 your right hand?

3 (Whereupon, Mr. Kecherson is  
4 duly sworn by the Notary.)

5  
6 TESTIMONY/STATEMENT BY MR. KECHERSON:

7  
8 MR. BRYCE: And is it K?

9 A K-E-C-H-E-R-S-O-N.

10 MR. BRYCE: Thank you.

11 A So, you know, I thought this was  
12 a done deal months and months ago too when all  
13 the virtual meetings, everybody was showing up,  
14 unfortunately, you know, everybody is busy, you  
15 guys are busy, and you have jobs outside of what  
16 you are doing here as well.

17 I was kind of surprised when I  
18 got a notice on the next door app that this was  
19 still ongoing.

20 I echo what everybody else has  
21 said about the quality of life but I also like to  
22 add, all the traffic this is going to create, the  
23 24 operation, the 24 hour operations, we talked  
24 about noise, we talked about building the berm  
25 and stuff like that, there is also light

1 pollution, I don't live on Overlook, but the  
2 people on Overlook are going to have to -- they  
3 are going to have to put up with the light  
4 pollution as well as the noise and potential  
5 fumes and stuff like that.

6                   In addition what is happened on  
7 78 just over the past couple of days, with all  
8 the overturned trucks and stuff that like that  
9 should be a consideration when we are talking  
10 about what is going on on Strykers Road, because  
11 as a reflection, it's a tiny little two lane  
12 road, comes out onto another two lane road, and  
13 then the intersection with 22 is horrendous at  
14 best when it is. If a tractor trailer is making  
15 a turn going across Route 22 there, you get one  
16 tractor trailer there, that's it, there is no  
17 room for anybody else, this is really going to  
18 mess up the, you know, the traffic flow, you  
19 know, accessing, getting onto 519 and everything  
20 else and it's just -- it's a shame.

21                   We moved out here in 2008 and,  
22 you know, it was a beautiful area, it's still a  
23 beautiful area, but I really think it's being  
24 destroyed by these monstrosities, these concrete  
25 monstrosities and I think it's really a shame



1 it's being shoved down our throats as citizens.

2 Okay. That's it.

3 CHAIRMAN VANVLIET: Thank you.

4 MS. MEYERS: Beverly Meyers,

5 1200 Fairview Circle, Overlook.

6 When I moved out here --

7 MR. BRYCE: Raise your right

8 hand, please.

9 (Whereupon, Ms. Meyers is duly  
10 sworn by the Notary.)

11

12 TESTIMONY/STATEMENT BY MS. MEYERS:

13

14 A When I moved out here seven  
15 years ago, I had no idea I was going to be moving  
16 where there is an industrial park. We have  
17 warehouses on 22, we are going to have warehouses  
18 where the mall is and we have warehouses on  
19 Strykers Road, I think it is disgraceful  
20 especially since this is going to be in our  
21 backyard.

22 Isn't there some kind of ruling  
23 that the people of Overlook have to get letters  
24 that this going on and to be part of it? Isn't  
25 that part of a township rule or something?

1                   CHAIRMAN VANVLIET: If you are  
2 referring to the notification process, anyone  
3 within 200 feet of their property line has to be  
4 notified by certified mail and regular mail.

5                   A           And how far is this from the  
6 Overlook property line?

7                   CHAIRMAN VANVLIET: Talking  
8 about 600 feet somewhere, the property line?

9                   MR. PRYOR: Shares the property  
10 line on the one area.

11                   CHAIRMAN VANVLIET: It's right  
12 there.

13                   A           I just think it's something that  
14 should be reconsidered and I think, you know,  
15 it's going to, you know denigrate the community  
16 of Overlook and it is going to drop property  
17 values, nobody wants to move next to a warehouse,  
18 I'd rather move next to a development than a  
19 warehouse with trucks going all night. Thank  
20 you.

21                   CHAIRMAN VANVLIET: Anyone else?

22  
23 TESTIMONY/STATEMENT BY MS. WEINBACH:

24  
25                   A           Patti Weinbach, do I need to be

1 resworn in?

2 MR. BRYCE: No, you are already  
3 sworn.

4 A I think I need to rephrase the  
5 original question, did the board do, do due  
6 diligence and investigate the effects that  
7 warehouses have on property values as part of  
8 this exercise, did they? Have you done that and  
9 what did you find out?

10 CHAIRMAN VANVLIET: I'll refer  
11 to our attorney on that.

12 MR. BRYCE: No, the board in  
13 this instance does not independently do due  
14 diligence, and just so everybody is aware, this  
15 area, where this proposal is has always been  
16 zoned as ROM, with warehousing uses, so when you  
17 moved in, just so you are clear --

18 A There were no warehouses there.  
19 It doesn't matter. There were no warehouses  
20 there when we moved in.

21 MR. BRYCE: Still could have  
22 been developed, but hang on, in 2020, the  
23 governing body went to actually enact an  
24 ordinance to prevent warehousing.

25 A Yes.

1                   MR. BRYCE: Okay? The court has  
2 basically said no town, no go, you are -- and  
3 there is litigation ongoing about that ordinance  
4 but more importantly the court has come back to  
5 this board and I actually has told this board in  
6 no uncertain terms that this board is restrained  
7 from taking any action under ordinance #2012  
8 which was that ordinance to amend and revise  
9 chapter 243 entitled zoning and land use to  
10 delete sections 243-75, subA2, and 243-73 C1C to  
11 remove warehouses and distribution centers and  
12 permitted uses in the ROM and PE zones.

13                   So this board right now is  
14 legally constrained to look at this application  
15 that is before it as a permitted use within the  
16 zone. That is the court that's telling me that,  
17 not the governing body, not this board, that is  
18 the court, that is the Superior Court of New  
19 Jersey. So this board would be in contempt if it  
20 did not do that, and this board cannot be in  
21 contempt. We follow the law and we have been  
22 told what the law is by the judge.

23                   So when we look at this  
24 particular, this board assesses this particular  
25 application, I might as well say it now, this

1 board has to look at it under the ROM zone  
2 district regulations that were in effect before  
3 the town even tried to change it. We are  
4 constrained to do that. It was historically  
5 zoned for this.

6                   So we just -- this board doesn't  
7 have the legal ability just to ignore that  
8 ordinance or to ignore the court.

9           A           And are you able -- and are you  
10 required to wait until this litigation is  
11 complete before making a decision?

12                   MR. BRYCE: No, we are not. The  
13 applicant is entitled --

14           A           Are you allowed to wait until  
15 litigation is finished?

16                   MR. BRYCE: No, we are not. The  
17 municipal land use law, the applicant has put in  
18 an application, a complete application, after,  
19 well they put it in before the restraint even  
20 took effect, and before the new ordinance that  
21 the town then tried to reintroduce was effective.  
22 So there is something called the time of  
23 application rule and that's in the municipal land  
24 use law, so statutorily they are properly before  
25 this board and the board, I just have to tell you

1 legally and my admonition to the board, they have  
2 to following the ROM zone district as per the  
3 court and the constraint we are operating under.  
4 That's just it, so.

5 A Alright, thank you.

6

7 TESTIMONY/STATEMENT BY MS. HORNE:

8

9 A Barbara Horne, was previously  
10 sworn. I would just ask the board to, as I am  
11 sure you will keep in mind, that the ROM zoning,  
12 it includes warehouses but is not limited to  
13 building warehouses in that zone. Is that  
14 correct?

15 MR. BRYCE: It's a permitted use  
16 within the zone.

17 A Right, but not just exclusively  
18 for warehouses but because in the testimony  
19 tonight, and maybe that was because that's not  
20 the direction that tonight's testimony was  
21 taking, I would ask you to please consider long  
22 and hard what building the proposed warehouse on  
23 this Strykers Road site will do to enhance the  
24 livability of our community.

25 I have heard nothing either

1 stated or implied that this zoning to be used to  
2 build yet another warehouse as I said before, and  
3 we are six million square feet already proposed,  
4 900 plus bays for tractor trailers, please  
5 consider long and hard, people are coming before  
6 you asking permission to build their warehouse  
7 because it works for them. It doesn't work for  
8 us, unless I am missing something and if it  
9 doesn't work for our community, it's wrong.  
10 Thank you.

11 MR. PRYOR: Yeah, I feel I have  
12 to speak and I am wrapping up my eighth year on  
13 the planning board and I really don't support a  
14 warehouse there. I agree with much of what you  
15 said but I take my role on the planning board  
16 very seriously.

17 And I think people assume the  
18 planning board has many more powers than it does.  
19 The end use planning takes years to do, it starts  
20 with a master plan and turns into a zoning  
21 ordinance. We have two boards here, Board of  
22 Adjustment which if people want a use variance,  
23 they go there, site plans come here.

24 We have to work with the zoning  
25 ordinance we are given. Counsel, I think, made a

1 timely effort and a valiant effort to change  
2 this. It resulted in four lawsuits, so we got  
3 stuck with an ordinance we tried to change, we  
4 are also governed by the municipal land use law,  
5 it's a complicated law, it's a well litigated  
6 law, I think the attorney will tell you, you can  
7 spend the rest of your career, you know, reading  
8 case law on it, and many of the suggestions we  
9 hear from the audience have already been decided.

10 I have spent a long time on the  
11 board, I have a pretty good idea what we are  
12 allowed to do and what we can't do. An applicant  
13 came in tonight, he has one variance. We have to  
14 decide is the variance, does it have a fatal  
15 detriment to the community and do the  
16 disadvantages, are they outweighed by the  
17 advantages, we are discussing a waiver on  
18 parking. We could turn down that variance and he  
19 could run parking all the way back where these  
20 berms are supposed to be.

21 So he could, at that point, he  
22 would have a 100 percent conforming application  
23 and there is not a darn thing we can do about it.

24 So people come in, they want to  
25 save scenic vistas, I get it, but by the time



1 it's gets to the planning board, that stuff is  
2 beyond our wherewithal.

3 And Paul, George, Jim, did I say  
4 that correctly?

5 MR. BRYCE: Very astutely.

6 MR. PRYOR: So we always wind up  
7 unpopular, but if we do our jobs and we follow  
8 our charter, follow the law, sometimes it's  
9 nothing that can be done except do what the law  
10 tells us to do.

11 CHAIRMAN VANVLIET: Donna?

12

13 TESTIMONY/STATEMENT BY MS. SCHNEIDER:

14

15 A Donna Schneider. I just have a  
16 question, Joe, and I am not here to raise any  
17 arguments or anything, but when I was on the  
18 planning board and we wanted to change the master  
19 plan before any of these applications came in,  
20 why did you oppose that so much?

21 MR. PRYOR: I opposed really one  
22 thing and it was -- we focused so much on the  
23 asphalt plant, warehouses never came up.

24 A We didn't even get a chance,  
25 because it wasn't just about asphalt, it was

1 about concrete and other heavy --

2 MR. PRYOR: I was one guy, there  
3 was eight against me and the Chairman had  
4 control.

5 A No, the attorney had control.

6 MR. PRYOR: I can't get into  
7 that.

8 MR. BRYCE: It should be  
9 directed towards the said action. The testimony  
10 should be relevant to this application.

11 A So I'll wait till the end when  
12 it's open comments to say that?

13 CHAIRMAN VANVLIET: This is open  
14 comments but it's directed towards the  
15 application.

16 A Right, but at the end of the  
17 night, you just have open comments, so would you  
18 like me to come back on here and discuss it then  
19 instead of now?

20 CHAIRMAN VANVLIET: Yeah, I  
21 wouldn't take that away.

22 A Okay. I just, you know, it's  
23 really a shame but I'll come back.

24

25 TESTIMONY/STATEMENT BY MS. RONAN:

1  
2           A           Kathleen Ronan again, so I want  
3 to ask, and I do want somebody to answer me  
4 because I legit feel that somebody has to say can  
5 we learn from a mistake? Can we have looked at  
6 this in a previous point and said, oh, this would  
7 be a good idea and now having to live with the  
8 first portion of this, do we have any recourse to  
9 be able to say hold the phone folks, this was a  
10 big screw up. We had no idea that this was the  
11 impact it was going to be because theoretical  
12 discussions of land and vistas and traffic and  
13 sewage and on and on, that's all theoretical,  
14 sometimes you don't know a thing until you live  
15 under the same roof with it, so what recourse is  
16 there to address that or are we just basically  
17 going to say, well, it went to Superior Court, so  
18 thanks folks, you can talk all night, but you are  
19 basically screwed, is that where we are at?

20                   MR. BRYCE: When it comes to  
21 this particular application, the board has to  
22 look at this particular application as it's a  
23 conforming use within the zoning district and  
24 subject to the zoning regulations that were in  
25 effect prior to 2021. That is what the board is

1 now compelled to do by court.

2           A           But now in 2021 we have the end  
3 product of this which is loud, ugly, noisy,  
4 causing traffic, causing commotion, causing  
5 problems that nobody really envisioned  
6 adequately. But now we are living under the same  
7 roof with it. Are we still married to it?  
8 Because I don't think -- I don't know, Superior  
9 Court is one level but there are other levels of  
10 judicial oversight beyond that, is there -- are  
11 you going to tell me there is literally nothing  
12 that can be done now that the impact of this has  
13 come home to roost?

14                   MR. BRYCE: The only thing I can  
15 say is this board has engaged in litigation which  
16 I am not going to address with you or the public,  
17 but the board had has addressed in litigation  
18 various things, the township of Lopatcong is  
19 still involved in litigation and it's not about  
20 this particular ordinance, it's about  
21 applicability of future ordinances.

22                   The only thing I can tell you is  
23 right now, this court is judicially restrained,  
24 whether you like that opinion or not, it is a  
25 fact, this board is judicially restrained and

1 constrained to look at this application under the  
2 lens of a 2020 ordinance, prior to an attempt to  
3 amend it, so it is considered a permitted use, it  
4 is required by this board to comport itself with  
5 judicial standards and obey those rules and  
6 that's what this board I think has to do.

7 A So the answer to my question  
8 then is that although we have now demonstrated  
9 that we made a mess of this, there is no way to  
10 stop or correct it?

11 MR. BRYCE: I am not answering  
12 your question yes or no. I gave you my answer.

13 A You gave me a big pile of  
14 legalees and that's where we are going to leave  
15 it and that is not fair, that is not the way you  
16 treat citizens. Uh-huh.

17 MR. BRYCE: I don't know how to  
18 make it more clear other than to say the court is  
19 compelling us to do it this way.

20 A You have not answered that there  
21 is some other method above what the Superior  
22 Court is that can be taken upon, what can the  
23 citizenry do to address it, you are basically  
24 telling me there is nothing. Everybody is  
25 allowed to make mistakes and there is away to

1 account --

2 MR. BRYCE: Madam, I can tell  
3 you this, if you are aggrieved by any action that  
4 this board has taken, you are more than welcome  
5 to file a prerogative writ action in the Superior  
6 Court and bring it to a judge's attention. And  
7 you can say this board acted in an arbitrary and  
8 capricious manner, however, the board itself  
9 should not be acting in an arbitrary and  
10 capricious manner when it has to respect a court  
11 ruling. But if you don't like that, you can  
12 certainly bring it to the court's attention and  
13 file an appeal to this decision, whatever the  
14 decision the board makes, and you have 45 days to  
15 do it from publication of the decision.

16 A Which was when exactly?

17 MR. BRYCE: After the board  
18 votes, a decision will be memorialized in a  
19 resolution. When that resolution is adopted by  
20 this board, the notification of that will be  
21 published in the paper, it will be 45 days from  
22 the date of that publication.

23 A So that's today?

24 MR. BRYCE: No, when the board  
25 votes, which ever way it votes, the resolution

1 will be promulgated, it will most likely be  
2 looked at and reviewed at the next meeting.  
3 Don't know that for certain.

4           It will adopt that resolution,  
5 after it adopts that resolution a notice of the  
6 decision will be placed into the paper. That is  
7 not going to happen today, that is going to  
8 happen in the future. From 45 days from the date  
9 of that publication, you have a right to file a  
10 lawsuit in the Superior Court of New Jersey,  
11 Warren County, called a prerogative -- action of  
12 prerogative writ challenging this board's action.

13           A           Thank you.

14           CHAIRMAN VANVLIET: Any further  
15 comments? Hearing none. The public portion of  
16 this is closed.

17           Proceed with your -- request to  
18 bring this to a vote?

19           MR. AITHAL: That's correct.

20           CHAIRMAN VANVLIET: Any  
21 questions from the board otherwise I'll entertain  
22 a motion to grant --

23           MR. BRYCE: And this will be for  
24 a favorable vote would be for a preliminary  
25 approval with the one variance relief and

1 appropriate review?

2 CHAIRMAN VANVLIET: We have the  
3 one issue to deal with and all the comments and  
4 conditions that were agreed to by the applicant.

5 MR. PRYOR: Yeah, we haven't  
6 defined them with precision, we have -- those in  
7 concept, we are taking months to get them all in  
8 the right language and so on.

9 MR. BRYCE: Yeah, and  
10 councilmen, so you know, I have taken detailed  
11 notes and between myself, Paul and George, I  
12 think we have a pretty good handle on what the  
13 waivers and conditions are and what was agreed  
14 upon during testimony.

15 CHAIRMAN VANVLIET: The  
16 conditions of approval will be that they have to  
17 obtain sewage capacity?

18 MR. PRYOR: Correct.

19 MR. BRYCE: And highlands.

20 MR. STERBENZ: Highlands.

21 MR. PRYOR: All other permits  
22 conform with all laws. Extend the sidewalk,  
23 shape up the berm. George's comments on the  
24 ecosystem and --

25 MR. RITTER: Yes, really --



1 MR. PRYOR: -- really ever  
2 condition in the letters that weren't -- weren't  
3 resolved already?

4 MR. RITTER: Yes, I think the  
5 applicant agreed to all the conditions in the  
6 letters, so.

7 CHAIRMAN VANVLIET: I'll address  
8 the attorney one more time and ask him if the  
9 applicant actually agrees to all of these things?

10 MR. AITHAL: Yes, we do.

11 CHAIRMAN VANVLIET: Okay. Thank  
12 you very much. That was just for the record,  
13 thank you.

14 CHAIRMAN VANVLIET: Okay. I'll  
15 entertain a motion to grant preliminary approval  
16 for this application with the conditions imposed?

17 MR. COYLE: I'll second it.

18 MR. PRYOR: He needs  
19 entertaining it. Are you making the motion?

20 MR. WEEKS: I'll make the  
21 motion.

22 MR. COYLE: I'll second it.

23 MR. BRYCE: Beth, let's be sure  
24 of whose eligible to vote on this. I know not  
25 all members --

1 MS. DILTS: I don't think Mr.  
2 Clymer is.

3 MR. BRYCE: All members have  
4 been present or otherwise have certified that --  
5 I think all members here have been present  
6 throughout all these except Mr. Clymer.

7 MR. CLYMER: I haven't.

8 CHAIRMAN VANVLIET: Do you  
9 recuse yourself from voting?

10 MR. CLYMER: I'll have to  
11 abstain, yeah.

12 MS. DILTS: Ready? Members  
13 Clymer?

14 MR. CLYMER: Abstain.

15 MS. DILTS: Coyle?

16 MR. COYLE: Yes.

17 MS. DILTS: Pryor?

18 MR. PRYOR: Yes.

19 MS. DILTS: Sampson?

20 MR. SAMPSON: Yes.

21 MS. DILTS: Weeks?

22 MR. WEEKS: Yes.

23 MS. DILTS: Mayor Mengucci?

24 MAYOR MENGUCCI: Yes.

25 MS. DILTS: Chairman Vanvliet?

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CHAIRMAN VANVLIET: Yes.

MR. BRYCE: Motion passes.

(Whereupon, the matter is  
concluded at 8:23 p.m.)

## 1 CERTIFICATE OF OFFICER

2  
3 I CERTIFY that the foregoing is  
4 a true and accurate transcript of the testimony  
5 and proceedings as reported stenographically by  
6 me at the time, place and on the date as  
7 hereinbefore set forth.

8 I DO FURTHER CERTIFY that I am  
9 neither a relative nor employee nor attorney nor  
10 counsel of any of the parties to this action, and  
11 that I am neither a relative nor employee of such  
12 attorney or counsel, and that I am not  
13 financially interested in the action.  
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22 STEPHANIE LYN RAHN  
23 License No. 975352  
24 Notary Public of the  
25 State of New Jersey  
My Commission Expires  
April 18, 2022

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