

BOROUGH OF MONTVALE
PLANNING BOARD
REGULAR MEETING
TUESDAY, FEBRUARY 17, 2026
COMMENCING AT 7:45 P.M.

.....
IN THE MATTER OF: : TRANSCRIPT
MONTVALE DONUTS LLC : OF
121 Chestnut Ridge Road : PROCEEDING
Block 1901 Lot 3 :
Applications for Variance and :
Soil Movement :
.....

B E F O R E:

BOROUGH OF MONTVALE PLANNING BOARD
THERE BEING PRESENT:

JOHN DePINTO, CHAIRMAN

WILLIAM LINTNER, VICE CHAIRMAN

DIETER KOELLING, COUNCIL LIAISON (RECUSED)

JOHN RYAN, MAYOR'S DESIGNEE (RECUSED)

JOHN CULHANE, MEMBER

CHRIS GRUBER, CODE OFFICIAL

JAVID HUSEYNOV, MEMBER (LEFT AT 8:08 p.m.)

SHERWIN TSAI, MEMBER (ABSENT)

FRANK STEFANELLI (ABSENT)

JOSEPH PUGLISI, FIRST ALTERNATE

ANITA BAGDAT, SECOND ALTERNATE

KIM O. FURBACHER, CCR, CCR, RDR
CERTIFIED COURT REPORTER
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Board Engineer

DARLENE GREEN, PP, AICP
Borough Planner

JEANNE FONDACARO
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EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID</u>	<u>EVID</u>
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A-16 Red line exhibit prepared by
 Stonefield Engineering,
 dated February 16, 2026

12

1 CHAIRMAN DEPINTO: Okay. Continued
2 public hearing, Block 1901, Lot 3, 121 Chestnut Ridge
3 Road, Montvale Donuts, LLC. Application for site
4 plan approval, variances and soil movement.

5 Okay, good evening.

6 MR. DEL VECCHIO: Good evening, Mr.
7 Chairman. For the record, Andy Del Vecchio, member
8 of the firm of Beattie Padovano on behalf of the
9 applicant.

10 Through Mr. Regan, I just remind
11 everyone this is a (d)(1) variance, so we need to --

12 MR. REGAN: Yes, Mr. Ryan and Mr.
13 Koelling, Councilman Koelling, they are aware they're
14 not participating and they will be leaving the dais
15 and they didn't participate at the last meeting.

16 MR. DEL VECCHIO: Correct.

17 MR. REGAN: They get to go home.

18 COUNCILMAN KOELLING: Thank you.

19 Sorry, I got to go, I'm hungry.

20 CHAIRMAN DEPINTO: But you were the
21 first one here.

22 COUNCILMAN KOELLING: I was. I had 45
23 minutes of sitting here.

24 (LAUGHTER.)

25 COUNCILMAN KOELLING: Goodnight,

1 everybody.

2 MR. DEL VECCHIO: Thank you.

3 MR. REGAN: Okay, John.

4 MR. RYAN: Take care.

5 (Whereupon, Mr. Ryan and Councilman
6 Koelling step off the dais.)

7 CHAIRMAN DEPINTO: Okay.

8 MR. DEL VECCHIO: So just by way of
9 recap, where we are and where we're headed this
10 evening, at the preliminary hearing last time we were
11 here we were requested to provide a transcript of the
12 hearing along with the relevant pages of the site
13 plan set to the Montvale Environmental Commission for
14 their meeting, I think it was last week. We did, in
15 fact, make that submission. We have not gotten an
16 official report or any memo back indicating their
17 findings, requests or otherwise, but we did want to
18 advise the board that we did comply with their
19 requirement as we stated we would.

20 CHAIRMAN DEPINTO: And just for the
21 record, Jeanne, you have not heard anything back from
22 them since?

23 MS. FONDACARO: No.

24 CHAIRMAN DEPINTO: Okay. Thank you.

25 MR. DEL VECCHIO: Okay. Last time we

1 completed the direct testimony of the operator and
2 owner, the engineer, as well as our architect. We
3 have a couple of cleanup items that I'm going to
4 recall our engineer and architect to discuss quickly
5 or briefly this evening and then we plan on
6 proceeding with our final two witnesses, our traffic
7 consultant and our planner.

8 So with the board's permission, I'd
9 like to recall first our engineer.

10 MR. REGAN: He was previously sworn at
11 the last hearing, Mr. Chairman, and remains under
12 oath, Aaron Chan.

13 **A A R O N C H A N, PE,** c/o Stonefield
14 Engineering & Design, 92 Park Avenue, Rutherford, New
15 Jersey 07070, having been previously sworn/affirmed,
16 testifies as follows:

17 DIRECT EXAMINATION

18 BY MR. DEL VECCHIO:

19 Q. Aaron, during the last hearing a few
20 items came up that require further clarification or
21 review by you.

22 A. Yes, correct.

23 Q. And you undertook that review between
24 today and the prior hearing?

25 A. Correct.

1 Q. And what changes are you able to report
2 to the board that the applicant is willing to make
3 based upon your additional review?

4 A. Sure. Pretty minor changes overall.
5 The previous testimony was that it was one additional
6 tree being requested within the parking area that's
7 to be added to the southern portion of the lot.

8 Additionally, I testified there's
9 additional shrubbery that's going to be added to
10 further screen the parking spaces along the southern
11 portion of the property.

12 Additionally, there was a request for
13 clarification on the monument signage detail. The
14 testimony I'm offering now is the monument sign is
15 going to be a total height of 4.5 feet. Each panel
16 for each of the tenants is going to be 20 inches tall
17 by 72 inches wide for a total of 75 -- 72 square feet
18 -- I'm sorry, total of 20 square feet and it's
19 setback 10 feet from the right of way that's matching
20 the current plans.

21 Lastly, there was a little bit of
22 discussion with the traffic engineer as far as
23 providing a sidewalk from the southern portion of the
24 parking spaces to enter into the building. So
25 there's a few angled spaces that we're going to wrap

1 the sidewalk around the back and that's going to
2 provide a safe way for pedestrians to cross into the
3 building from the angled parking spaces. That will
4 result in a slight increase in impervious coverage in
5 the way of -- to the tune of around 500 square feet,
6 so it's about a 5-foot-wide sidewalk. So my math was
7 the total impervious coverage count by percentage
8 comes up from 69.2 to 70.7 percent.

9 And beyond that, the previous testimony
10 was that the building height monolith is going to be
11 reduced to comply with the ordinance.

12 Q. And by making those adjustments as well
13 as the ones you discussed during your original direct
14 testimony, that will remove the variance for the
15 landscaping within the parking lot, correct?

16 A. Correct.

17 Q. As well as the size of the freestanding
18 sign?

19 A. Correct.

20 Q. And it will provide a pedestrian
21 connection from the parking spaces on the south side
22 of the property line to the building location for
23 both of the proposed tenants?

24 A. That's correct, yes.

25 Q. And subject to the board's comment on

1 those changes, you will make the necessary revisions
2 to the plans and resubmit to the board for resolution
3 review?

4 A. Yes, correct.

5 MR. DEL VECCHIO: Thank you. I have no
6 further questions for Mr. Chan at this time. I make
7 him available to the board for any additional
8 questions or comments.

9 CHAIRMAN DEPINTO: Thank you.

10 Chris, do you have any questions?

11 MR. GRUBER: I have no questions.

12 CHAIRMAN DEPINTO: Bill?

13 VICE CHAIRMAN LINTNER: No questions.

14 MR. HUSEYNOV: No questions.

15 MR. CULHANE: No questions.

16 CHAIRMAN DEPINTO: Joe?

17 MR. PUGLISI: I have nothing.

18 CHAIRMAN DEPINTO: And Anita?

19 MS. BAGDAT: No, Mr. Chairman. Thank
20 you.

21 CHAIRMAN DEPINTO: The Chair will
22 entertain a motion to open the meeting to the public.

23 MR. CULHANE: So moved.

24 MR. HUSEYNOV: Second.

25 CHAIRMAN DEPINTO: John. Second,

1 Javid.

2 All in favor?

3 (Whereupon, all members respond in the
4 affirmative.)

5 CHAIRMAN DEPINTO: Anyone from the
6 public have any questions relating to the testimony
7 you heard this evening from the engineer?

8 (NO RESPONSE.)

9 CHAIRMAN DEPINTO: The Chair will
10 entertain a motion to close the meeting to the
11 public.

12 MR. CULHANE: So moved.

13 MR. HUSEYNOV: Second.

14 CHAIRMAN DEPINTO: John and Javid.

15 All in favor?

16 (Whereupon, all members respond in the
17 affirmative.)

18 CHAIRMAN DEPINTO: Thank you.

19 MS. GREEN: Wait, wait, me.

20 CHAIRMAN DEPINTO: Oh, I'm sorry.

21 MR. REGAN: Darlene has a question.

22 CHAIRMAN DEPINTO: I'm sorry I missed
23 you. Go ahead. I thought you were waiting for
24 planning, but that's okay.

25 MS. GREEN: Well, this does segue into

1 planning, Mr. Chairman.

2 So Aaron, I just want to make sure that
3 I'm following what you said about the monument sign.

4 THE WITNESS: Yes.

5 MS. GREEN: 4.5 feet tall includes the
6 base?

7 THE WITNESS: Includes the base.

8 MS. GREEN: And overall, how wide?

9 THE WITNESS: Overall 72 inches wide.

10 MS. GREEN: And each tenant panel is
11 how many?

12 THE WITNESS: 10 square feet and each
13 panel size is 20 inches tall, 72 inches wide.

14 MS. GREEN: So I guess I'm a bit
15 confused on how you're complying with the 20 square
16 feet of the code.

17 And this might be where a detail would
18 be helpful, Mr. Chairman.

19 THE WITNESS: Okay.

20 MR. REGAN: Is this going to be a new
21 exhibit?

22 MR. DEL VECCHIO: Yes.

23 MR. REGAN: A-16.

24 MR. DEL VECCHIO: Correct.

25 (Whereupon, red line exhibit prepared

1 by Stonefield Engineering, dated February 16, 2026 is
2 received and marked as Exhibit A-16 for
3 identification.)

4 BY MR. DEL VECCHIO:

5 Q. Can you identify the sheet number and
6 the date, Mr. Chan?

7 A. Sure. This is A-16, entitled "Red Line
8 Exhibit," prepared by Stonefield Engineering, dated
9 February 16, 2026.

10 THE WITNESS: So the monument sign
11 detail we have contemplated is at the top of the
12 page, 54 inches tall, 20-inch panel, 72 inches in
13 width.

14 MR. REGAN: Could you give me those
15 dimensions again?

16 THE WITNESS: Sure, yes. The overall
17 height of the sign, 54 inches. The total width of
18 the sign, 72 inches. Each panel, 20 inches tall.

19 MR. REGAN: Each panel?

20 THE WITNESS: Is 20 inches.

21 MS. GREEN: So our code talks not just
22 about the individual tenant count, with everything
23 forming the background, the bases and the frame. And
24 so my concern is if I add -- essentially if I take 72
25 by 54 divide it by 154 -- 144, I get 27 square feet.

1 THE WITNESS: Yeah, if we consider the
2 entire brick base as well and we can reduce --

3 THE COURT REPORTER: I'm sorry, please
4 speak up.

5 THE WITNESS: Sure, yeah.

6 If we -- if it includes the brick base
7 as well, we can reduce the overall size of the sign
8 to conform with the 20-square-foot ordinance.

9 MS. GREEN: So, Mr. Chairman, I'm just
10 looking at our code. It talks about together with
11 the sign frame and any material or color forming a
12 part of the background of the display or used to
13 differentiate the sign from the backdrop for a
14 structure against which is placed.

15 It's been a while since we've had a
16 monument sign, so I just want to make sure that we
17 get this right. So if it does, indeed, include the
18 base, then they need a variance.

19 MR. DEL VECCHIO: For what it's worth,
20 I've done a lot of signs in town, I've never seen the
21 base included in the calculation of square footage.
22 Yes, in the overall height. Yes, in the overall
23 width. Those were the control points. But never in
24 the messaging portion of the sign. I've never seen
25 that calculated.

1 CHAIRMAN DEPINTO: Yeah, I think,
2 Darlene, the way we've always interpreted -- I agree
3 with Andy, we've interpreted the sign when we had a
4 monument sign to be the total structure.

5 With regard to the base, I think if
6 there was a message on the base, then it became part
7 of the overall sign. If the base was just for the
8 purpose of supporting that portion of the monument
9 that displayed the sign, then we did not include the
10 square footage of that base.

11 MR. GREEN: I think a good comparison
12 actually would be the Dynarex sign because they had
13 added the address to the bottom.

14 CHAIRMAN DEPINTO: Correct.

15 MR. REGAN: That's how we included it.

16 MS. GREEN: And that's how we included
17 it.

18 CHAIRMAN DEPINTO: And that's how we
19 included it. So if it meets that criteria, then
20 there would be no variance. If it fails to meet that
21 criteria, then a variance would be required.

22 MR. REGAN: If it's blank --

23 CHAIRMAN DEPINTO: If it's blank, we
24 always treated it as the support for the monument.

25 THE WITNESS: It will only to support

1 for the monument sign.

2 BY MR. DEL VECCHIO:

3 Q. There's no numbers, no message?

4 A. No messaging.

5 Q. Just brick?

6 A. No branding. Just brick, just a
7 support base.

8 MS. GREEN: Okay. And then do you know
9 the illumination for those signs? Will it comply
10 with our ordinance, which is a max of 3500 kelvin?

11 THE WITNESS: Yes.

12 MS. GREEN: Okay. Thank you. That's
13 all I have, Mr Chairman.

14 CHAIRMAN DEPINTO: Okay. Thank you.

15 And while I'm down there, Carl, do you
16 have anything?

17 MR. O'BRIEN: No, I'm fine with what he
18 testified to.

19 CHAIRMAN DEPINTO: Okay. And with
20 regards to the changes that were made to the plan,
21 you are familiar with them?

22 MR. O'BRIEN: Yes.

23 CHAIRMAN DEPINTO: And you're in
24 agreement with them?

25 MR. O'BRIEN: Correct. And I believe

1 that if this application moves forward, it would be
2 minor changes that we can handle during resolution
3 compliance if it moves to that stage.

4 CHAIRMAN DEPINTO: Okay. Very good.
5 Thank you.

6 MR. REGAN: The architect?

7 MR. DEL VECCHIO: Yes, Roxanna was --

8 MR. REGAN: She was previously sworn.

9 MR. DEL VECCHIO: -- previously sworn,
10 qualified and remains under oath.

11 MR. REGAN: Remains under oath.

12 **R O X A N N A Z I O L K O W S K I, RA**, having
13 been previously sworn/affirmed, testifies as follows:

14 DIRECT EXAMINATION

15 BY MR. DEL VECCHIO:

16 Q. You were also asked from your initial
17 appearance to today to take a look at the request
18 made, I think, by the borough planner for some
19 additional details and reducing the height of the
20 monolith that slightly tipped over the 25-foot mark
21 that limited our height in this particular zoning
22 district. Were you able to do that?

23 A. Yes.

24 Q. And are you able to lower the monolith
25 as it wraps two sides of the building and comply?

1 A. Yes.

2 Q. And you're prepared to submit a revised
3 drawing with the elevation line requested by the
4 planner?

5 A. Correct.

6 Q. You've prepared that drawing?

7 A. Yes.

8 Q. You've had a chance to look at it?

9 A. Yes.

10 Q. And it does, in fact, comply with the
11 25 foot or less requirement?

12 A. Yes.

13 Q. And we will submit that drawing after
14 this meeting for verification by the planning board
15 staff, correct?

16 A. Correct.

17 MR. DEL VECCHIO: Okay. I have no
18 further questions of Roxanna. I make her available
19 to the board for any questions that you or your
20 professionals may have.

21 MR. REGAN: Just for the record, can
22 you tell us the difference in terms of the height?

23 THE WITNESS: Yes, we're going to drop
24 it to 24 feet, 6 inches. So that will bring you --

25 MR. REGAN: From?

1 THE WITNESS: From the -- from 25.3.

2 MR. REGAN: Okay.

3 THE WITNESS: And that will bring it to
4 exactly 25 feet from the average ground elevation.

5 MR. REGAN: In compliance?

6 THE WITNESS: In compliance, correct.

7 CHAIRMAN DEPINTO: And have you
8 submitted anything to the board reflecting those
9 changes or are we relying solely upon testimony?

10 MR. DEL VECCHIO: We will submit after
11 this evening's meeting for verification, we'll submit
12 both changes from our engineer and our architect to
13 you and your staff for review and confirmation of the
14 testimony.

15 CHAIRMAN DEPINTO: Okay.

16 MR. REGAN: That would have to be a
17 condition of any approval.

18 CHAIRMAN DEPINTO: Yeah, a little
19 unusual, but...

20 Bill, questions?

21 VICE CHAIRMAN LINTNER: Just one quick
22 question and I don't remember the answer to this.
23 What color is the Dunkin' word on the front of the
24 sign on the facade, what color letters are there?

25 THE WITNESS: So they're orange and

1 pink. So it's orange is the Dunkin' and the pink is
2 the little apostrophe.

3 VICE CHAIRMAN LINTNER: Thank you.
4 Nothing further.

5 CHAIRMAN DEPINTO: Thank you.

6 MR. HUSEYNOV: No questions.

7 CHAIRMAN DEPINTO: John?

8 MR. CULHANE: No questions.

9 CHAIRMAN DEPINTO: Okay. Thank you.
10 Joe?

11 MR. PUGLISI: I have no questions, Mr.
12 Chairman.

13 CHAIRMAN DEPINTO: Anita?

14 MS. BAGDAT: No questions, Mr.
15 Chairman.

16 CHAIRMAN DEPINTO: Chris?

17 MR. GRUBER: No questions.

18 CHAIRMAN DEPINTO: And Carl, do you
19 have any questions?

20 MR. O'BRIEN: No questions, Mr.
21 Chairman.

22 CHAIRMAN DEPINTO: And how could we
23 forget Darlene again.

24 MS. GREEN: With the changes to the
25 roof line, will any of the proposed mechanical

1 equipment be visible?

2 THE WITNESS: No. The main parapet
3 does not change, it's just that monolith has dropped.

4 MS. GREEN: Okay. And has your team
5 looked at the maximum height of any potential
6 equipment on the roof?

7 THE WITNESS: Yes. So there is -- it's
8 a variety of heights that we can use, but we'll make
9 sure that it drops below the parapet.

10 MS. GREEN: And the parapet's 4 feet
11 tall?

12 THE WITNESS: Yes, it usually averages
13 about 3 and a half to 4 feet of the units.

14 MS. GREEN: Okay. And then will all of
15 the equipment be on the roof or will anything be
16 ground-mounted?

17 THE WITNESS: Everything will be on the
18 roof.

19 MS. GREEN: Okay. Thank you.

20 That's all I have, Mr. Chairman.

21 CHAIRMAN DEPINTO: Okay. Thank you.

22 The Chair will entertain a motion to
23 open the meeting to the public.

24 MR. CULHANE: So moved.

25 MR. HUSEYNOV: Second.

1 CHAIRMAN DEPINTO: John, Javid second.

2 All in favor?

3 (Whereupon, all members respond in the
4 affirmative.)

5 CHAIRMAN DEPINTO: Anyone from the
6 public wish to be heard? Any questions of the
7 architect?

8 (NO RESPONSE.)

9 CHAIRMAN DEPINTO: No? Chair will
10 entertain a motion to close the meeting to the
11 public.

12 MR. CULHANE: Motion.

13 MR. HUSEYNOV: Second.

14 CHAIRMAN DEPINTO: John, Javid.

15 All in favor?

16 (Whereupon, all members respond in the
17 affirmative.)

18 CHAIRMAN DEPINTO: We're good, Mr. Del
19 Vecchio.

20 MR. DEL VECCHIO: Thank you.

21 John needs to be sworn.

22 MR. REGAN: Yeah, we haven't heard from
23 him.

24 Sir, would you raise your right hand.

25 Do you swear or affirm that the testimony you will

1 give in this proceeding shall be the truth, so help
2 you God?

3 MR. CORAK: I do.

4 **J O H N C O R A K, PE, PTOE,**
5 92 Park Avenue, Rutherford, New Jersey 07070,
6 having been duly sworn, testifies as follows:

7 MR. REGAN: For the record, state your
8 full name, please, and spell your last name.

9 THE WITNESS: Sure. It's John Corak,
10 last name is spelled C-O-R-A-K.

11 MR. REGAN: C-O-R-A-K?

12 THE WITNESS: Yes.

13 MR. REGAN: I think he's been here
14 before.

15 THE WITNESS: I have.

16 MR. REGAN: He's been here before and
17 he's been qualified and can be accepted without any
18 further testimony.

19 CHAIRMAN DEPINTO: Okay.

20 MR. REGAN: Unless you want to put it
21 on the record.

22 MR. DEL VECCHIO: I don't need to
23 unless the board has questions.

24 MR. REGAN: He's been here before.

25 CHAIRMAN DEPINTO: I'll accept the

1 recommendation of counsel to accept. Please
2 continue.

3 DIRECT EXAMINATION

4 BY MR. DEL VECCHIO:

5 Q. John, we marked as A-9 a traffic report
6 prepared by Stonefield Engineering, last revised
7 November 6, 2025. Was that report prepared by you or
8 under your supervision?

9 A. Yes, it was.

10 Q. And you have had an opportunity
11 obviously to study the counts, the neighborhood in
12 which this property sits and the regulations both
13 county, state, local that might apply to traffic in
14 this application?

15 A. Yes.

16 Q. Can you provide the board with a
17 general overview of what you studied and the
18 conclusions you've reached as a result of that study?

19 A. Of course. So with any traffic study
20 that we prepared starts with a field investigation, a
21 visit to the site and the surrounding roadway
22 network. Here we're on the eastern side of Chestnut
23 Ridge Road just south of Summit Avenue and then the
24 next signalized intersection to the south is Grand
25 Avenue. Chestnut Ridge Road is a Bergen County

1 Roadway, two lanes in each direction. Generally
2 speaking, up and down the corridor allows left turns
3 in and out of the various sites. I think the lone
4 exception there being the Dairy Queen directly north
5 of us which also has access on Summit Avenue.

6 We've also met with Bergen County and
7 have a pending application with them and I can speak
8 a little bit more to that later in the testimony.

9 We did conduct traffic counts at the
10 intersection of Chestnut Ridge Road and Summit
11 Avenue. We also conducted counts at the signalized
12 intersection to the south at Grand Avenue. We did
13 those counts during the typical commuting peak hours
14 and then the typical Saturday midday peak. So that's
15 from 7 to 9 a.m., 4 to 7 p.m. and from 11 a.m. to 2
16 p.m. on Saturday. So those counts were conducted in
17 accordance with industry standards. Within each of
18 those blocks we identified peak hour, that's our
19 analysis period, the busiest traffic period within
20 each of those times and we determined what's called a
21 "level of service" and the board may have heard this
22 from either my prior testimony or many other traffic
23 engineers who I'm sure been before you, but
24 essentially it is a -- level of service is a
25 qualitative assessment to --

1 MR. REGAN: We still have a quorum.

2 THE WITNESS: Yeah, it's a qualitative
3 assessment to analyze the traffic from a volume and
4 capacity perspective.

5 The way that we conduct the study, it's
6 rated on a scale from A to F, but unlike A like a
7 typical school report card where you're shooting for
8 all A's and B's, as traffic engineers we design more
9 towards Level of Service C and D range, which
10 essentially prevents us from overbuilding out
11 intersections, whereas if we were trying to shoot for
12 all A's and maybe a couple of B's, we would largely
13 overbuild and cause other issues including induce
14 traffic, stormwater issues, excessive impervious
15 coverage. So just so the board is aware on level of
16 service we look in that C to D range as an acceptable
17 or design level of service.

18 (Whereupon, Mr. Huseynov stepped off
19 the dais and left.)

20 THE WITNESS: Existing today at
21 Chestnut Ridge Road and Summit Avenue, the county
22 prioritizes Chestnut Ridge a little bit, so it does
23 have better grades, if you will, then Summit Avenue
24 approaches, but all of it is operating at acceptable
25 levels of service.

1 The approaches on Chestnut Ridge are
2 generally the LOSB as in boy. On Summit Avenue it's
3 typically in the C to D range during each of the peak
4 hours. Grand Avenue is -- Grand Avenue intersection
5 operates similarly, levels of service in the C to D
6 range with prioritizing the Chestnut Ridge Road
7 north/south movements.

8 What we then do is we look to a future
9 year where we grow the traffic volumes to account for
10 background or ambient traffic growth in the area. We
11 do this two ways. The first is we apply a background
12 growth rate to the surrounding roadway volumes. This
13 is a blanket growth rate specified by the DOT based
14 on historic traffic data. Then we also apply traffic
15 from other nearby developments that have been
16 approved but weren't yet constructed, open and
17 operating at the time of the counts.

18 So incorporating all that in, we get
19 what we call a "no-build analysis," which we compare
20 to the existing and from existing to no-build with
21 that additional traffic, the levels of service remain
22 unchanged at the signalized intersections.

23 The last piece then is to move into
24 what does the traffic look like in the build
25 condition with the Dunkin', with the retail or the

1 commercial development piece behind the Dunkin', add
2 it to the roadway network and, you know, changing
3 traffic patterns, doing that analysis to determine
4 how the levels of service change.

5 So a couple of things in play here;
6 one, we do have Dunkin' immediately across the
7 street, that is relocating. Our traffic study does
8 not remove or take a credit or otherwise discount
9 those trips when we're adding them to our site. So
10 essentially all that traffic is pretty much just to
11 move across the street and utilize the site now. We
12 don't discount that. We don't take credit for it.
13 So that creates a little bit of a conservative
14 analysis.

15 Second, Dunkin' as a use and coffee
16 shops in general are highly reliant on what we call
17 "passerby traffic." So passerby traffic is traffic
18 that is already on the road, already on its
19 destination from Point A to Point B and they stop by
20 the Dunkin', they get their coffee and they continue
21 onward. This differs from what we call "new trips"
22 in that a new trip, you're at your house, you go to
23 Dunkin', you return back to your house. A portion of
24 traffic generated by these types of uses are new, but
25 the majority is what we call "passerby."

1 So we route that traffic along the
2 roadway network, conduct another level of service
3 analysis and what we found within that traffic
4 analysis is that the levels of service at the
5 intersections remain unchanged. Right? There's very
6 little degradation, very minimal change in vehicular
7 delay by adding the Dunkin' at this location and the
8 driveways themselves operate at acceptable levels of
9 service, B's and C's facilitating those turning
10 movements on and off the site.

11 Specific to that egress driveway in
12 particular, it will be -- we made sure to review the
13 queuing that occurs on Chestnut Ridge Road back
14 towards the site. What we found is that that
15 driveway is blocked very sparingly during those peak
16 periods and because the county prioritizes that
17 north/south movement and because there's very few
18 left turns going from Chestnut Ridge North onto
19 Summit Ave, because you just take that movement to
20 Grand Ave, there's very little backups that persist
21 through -- through Chestnut Ridge Road across the
22 site.

23 So as part of our traffic analysis, we
24 reviewed that queuing, reviewed gaps in the roadway
25 network, found adequate gaps to support left turn

1 movements out of the site, found adequate gaps to
2 support left turn movements into the site and
3 ultimately it is a county roadway, it does fall to
4 their jurisdiction, but as part of our application
5 process, we've intentionally designed the driveways
6 where they are to be able to facilitate, you know,
7 those left turns.

8 As we work into -- into the on-site
9 circulation itself, this is a -- this is a project
10 that's been designed to provide effective on-site
11 circulation. At the drive-through component we have
12 both the drive-up order lane, your traditional
13 drive-through order lane, as well as the mobile
14 pickup lane. The mobile pickup lane allows you to
15 place the mobile order ahead of time and then when
16 you arrive at the site, you more or less get to cut
17 the line toward the front of the site and the Dunkin'
18 mobile order process is very high-tech, everything is
19 geo-located, so your order is on your phone and
20 Dunkin' -- the employees in the store know that you
21 have arrived on the site in the line, because your
22 phone is on the property. So it's very high-tech
23 and, as Mr. Mulholland testified to at the previous
24 meeting, allows for very efficient drive-through
25 processing, whereas, you know, today at the store

1 across the street everyone is parking, walking inside
2 and the layout is certainly not optimized for, you
3 know, high turnover Dunkin' use.

4 Parking on-site, we do have 19 parking
5 spaces. We have agreed as far as the second use is
6 concerned, while a tenant is not known at this time,
7 it will certainly need to be a low-intensity and
8 certainly something that will complement Dunkin' in
9 terms of its time of peak demand. We're fortunate in
10 Dunkin' that the peak demand occurs during that
11 morning period, whereas most other tenants that would
12 fill that -- fill that rear space would usually be
13 more afternoon peak, if you will, but, again, that
14 will come back to this board for approval so that way
15 the parking can be -- can be fully vetted.

16 With that, as far as the traffic
17 testimony is concerned at least from the direct
18 testimony, I think that covers everything that I had
19 in my outline and presentation, but if there's
20 anything that I missed, I'm happy to answer
21 questions.

22 Q. John, if I can touch on a couple of
23 items I do want to highlight for the board. With
24 regard to the number of parking stalls, obviously the
25 applicant is seeking a variance from the Borough of

1 Montvale ordinance; you're aware of that?

2 A. Yes.

3 Q. And have you had a chance to evaluate
4 the parking as what might be required under the ITE
5 standards?

6 A. I have, yes.

7 Q. And how does this site compare if the
8 ITE standards were to be applied?

9 A. Yes, so if we applied the ITE standard,
10 that's the Institute of Transportation Engineers
11 Parking Generation Manual, 6th edition, that's the
12 most recent, the total peak parking demand at the
13 site equates to about 13 vehicles parked on the site.
14 So that's the combination of Dunkin' with
15 drive-through and the general retailer and so as we
16 work to refine that retailer, we could also refine
17 the parking number, but through a strict ITE lens,
18 the demand at the site is anticipated to be about 13
19 vehicles at the peak.

20 Q. You're familiar with other Dunkin'
21 stores and locations that you may have worked on in
22 the past?

23 A. Yes.

24 Q. And have you drawn any conclusions
25 about what the ITE projects, so what reality occurs

1 on the ground after a store like a Dunkin' is opened?

2 A. In terms of parking, trip generation?

3 Q. In terms of parking.

4 A. In terms of parking, especially when
5 you have the drive-through component, it greatly
6 reduces the need for parking on the site itself and
7 I've had the pleasure of being around long enough to
8 see multiple iterations of the ITE parking manual
9 with the publication being updated over the years and
10 it steadily declines with each addition as the rate
11 of going to drive-through as opposed to parking and
12 walking inside and that proportion keeps shifting
13 toward the drive-through.

14 Q. And with regard to the left turns in
15 and out of the site as designed, do you believe that
16 the left movement can be made in a safe and efficient
17 manner both in and out of the site?

18 A. Absolutely.

19 Q. And based upon your preliminary
20 meetings with the county, is it your anticipation
21 that the county will also permit those movements to
22 occur?

23 A. That's our anticipation, yes.

24 Q. And currently as designed, the project
25 would meet all of the county site plan resolution

1 design requirements for a full-movement access; is
2 that correct?

3 A. Yes.

4 MR. DEL VECCHIO: I have no further
5 questions of John. I make him available to you and
6 your professionals for any additional questions.

7 CHAIRMAN DEPINTO: Thank you.

8 Bill, do you have any questions?

9 VICE CHAIRMAN LINTNER: No questions.

10 CHAIRMAN DEPINTO: Thank you.

11 John?

12 MR. CULHANE: Yeah. You said there's
13 13 parking spots required for the Dunkin' and retail?

14 THE WITNESS: Uh-huh.

15 MR. CULHANE: Does that include
16 employees?

17 THE WITNESS: Yes. So the way that the
18 ITE, they forecast the parking demand, it's inclusive
19 of all parked vehicles for each individual use. So,
20 yes, it includes employees.

21 MR. CULHANE: I noticed on the plans
22 that you identified the two spots for the employee
23 parking; is that correct?

24 THE WITNESS: Correct.

25 MR. CULHANE: So how many employee

1 parking do you anticipate for both Dunkin' and the
2 retail?

3 THE WITNESS: Yeah. So when we
4 designate spaces for employee parking, it's more so
5 the limit turnover, like the turnover of vehicles in
6 those spaces and that's because we think that the
7 demand is only two vehicles. So that, you know, the
8 combined parking demand of employees and customers
9 across the two uses, we expect to be about 13
10 vehicles.

11 MR. CULHANE: No other questions at
12 this time, Mr. Chairman.

13 CHAIRMAN DEPINTO: Thank you.

14 Joe?

15 MR. PUGLISI: Could you just restate,
16 you have no concerns about left turns from southbound
17 Chestnut Ridge Road into the facility, even though
18 that's a high traffic area based on left turns out of
19 Summit in the morning?

20 THE WITNESS: Yeah. So with the
21 configuration of the road today, the two lanes in
22 each direction and current volumes and the gaps that
23 are available in that traffic, the time that you
24 spend waiting to make a left turn in is very minimal
25 and so because of that and the ability to bypass left

1 turning traffic, I have no safety or capacity
2 concerns with that movement.

3 MR. PUGLISI: Okay. And similarly
4 you're not concerned with left turns coming out of
5 the facility heading southbound, they have to cross
6 two lanes?

7 THE WITNESS: Correct, yeah. The gaps
8 in traffic that are available, the sight lines that
9 are provided at the driveway, they all allow for
10 adequate left turn ingress and egress circulation.

11 MR. PUGLISI: Okay. Thank you. I have
12 no further questions.

13 CHAIRMAN DEPINTO: Thank you.

14 Anita?

15 MS. BAGDAT: No, Mr. Chairman.

16 CHAIRMAN DEPINTO: Thank you.

17 Chris?

18 MR. GRUBER: I'm not a parking lot or
19 parking spot or traffic person, but I just have a
20 couple quick questions.

21 I see that you have here an EV spot.
22 I'm assuming that's going to be for somebody to
23 actually be able to plug in their car there or is
24 that just -- like it would only make sense to have it
25 labeled "EV" if there's someplace to plug your car

1 in.

2 THE WITNESS: Yeah, so typically --
3 typically with the New Jersey statewide model
4 ordinance, there's a requirement for make-ready EV
5 parking. We do show one space on the site itself for
6 that, for that purpose. I think technically because
7 our parking supply is under 25 vehicles, it's not
8 explicitly required for the project, but, you know,
9 in keeping with the spirit of that ordinance it's
10 currently shown.

11 MR. GRUBER: Well, my question about
12 the EV spot is because I've seen lots of other places
13 where there's EV spots, people come and they park
14 their car and they sit there for half an hour, 40
15 minutes, they do work on their computers and stuff
16 and this is such a tight area here that having
17 somebody just sitting there for 20 minutes, half
18 hour, 40 minutes, I do not know how long it takes to
19 charge an EV car and there's also going to be a
20 machine there that somebody is going to have to
21 maintain. Who's going to maintain the EV controls if
22 there's a malfunction? So just a little concerned
23 about that.

24 BY MR. DEL VECCHIO:

25 Q. Before we move on, that's a make-ready

1 space, it's not actually an installed space, correct?

2 A. Correct, it is.

3 Q. Can you tell us what "make-ready"
4 means?

5 A. Make-ready means that when the site is
6 constructed, you build the infrastructure to support
7 the later installation of an electric vehicle
8 charger, meaning you run the conduit, you essentially
9 have the transformer being able to supply that
10 electricity, essentially everything but install the
11 actual charging hub that goes out in the parking
12 space.

13 So, you know, the idea being that
14 having that equipment installed today allows you to
15 put in the space tomorrow or, you know, a future
16 date.

17 MR. GRUBER: Well, the reason I brought
18 it up is because there was talk about how this is --
19 people aren't really going to stay here, they're
20 going to pull in, they're going to pull out. That's
21 enabling somebody to be parked there for a long time.

22 THE WITNESS: Here's who I think's
23 going to use it, all right, and this is -- you know,
24 can't be 100 percent about this, but the rear tenant,
25 right, say that's a physical therapist office or

1 another low-generating medical-type use, right,
2 there's a doctor on-site, doctor has an electric
3 vehicle, they park there for the day, that's what I
4 expect for that space. I don't think that Dunkin' is
5 necessarily a location that people tend to seek out
6 to go charge their vehicles. I know that, you know,
7 sometimes people who need to charge, they find a
8 place, but I think day in and day out it's probably
9 going to be, you know, someone from that rear tenant
10 space that works there.

11 MR. GRUBER: Okay. Fair enough.

12 My second question is: The spots
13 along, I guess, the south side when you first pull
14 in, the angled spots there, are they large enough to
15 accommodate, say, a work vehicle, like a Dually
16 pickup truck or a van or will they be sticking out
17 into the roadway causing -- I don't know how deep the
18 spots are or what you allow for spots.

19 THE WITNESS: Yeah, so the spots are a
20 standard 18-foot deep. The way they're designed,
21 though, because they're at an angle, we provide the
22 rectangular, the 18 in that angle area. So there's
23 actually a little bit more space on either side of
24 the -- you know, of the space, if you will, to
25 accommodate those vehicles, but, you know, there are

1 vehicles out there that are 22 feet long, we
2 understand that, but the drive aisle through that
3 area is 16 feet. So there is space to navigate, you
4 know, around a larger vehicle if it does happen to
5 stick out.

6 MR. GRUBER: Yeah, I've gone to local
7 Dunkin' Donuts and every now and then a contractor
8 will pull in with a rather large vehicle and they
9 create a backup of traffic, like they -- you can't
10 get around, they take up too much space and I was
11 just concerned with the -- because that's the one-way
12 in, if you get one guy on one side and two truck --
13 you know, like it could just cause a bottleneck, so
14 that was my second question.

15 My third question, because I don't want
16 to hold up this hearing, snow removal. I remember at
17 a previous talk the owner of the property was going
18 to have the snow removed. We just recently had a
19 pretty big heavy snowstorm and, you know, I've
20 actually done plowing, so I know it's kind of
21 difficult to place snow when you need to place it and
22 if they push it to the back where all the employees
23 park, then the employees -- you know, it's a
24 trickle-down effect or a domino effect, you pile up
25 all the snow.

1 Andy, identify this guy.

2 MR. DEL VECCHIO: If you can just state
3 your name, again, for the record. I'll remind you
4 you remain under oath.

5 MR. MULHOLLAND: Bill Mulholland. Do
6 you need me to spell it?

7 MR. REGAN: We have it.

8 **W I L L I A M M U L H O L L A N D**, having been
9 previously sworn/affirmed, testifies as follows:

10 THE WITNESS: Well, basically, even
11 like in my current lot now, you know, you see FedEx
12 pull in, you see like UPS, the tool trucks, like the
13 Mac tool trucks, it's not convenient, but they come
14 in, they try to stay out of the way. It's -- they're
15 in and out, but, you know, we're looking at like the
16 anomaly to it, right, and the only thing I do is I
17 try to provide solutions to anomalies and the
18 anomalies is like this excessive snow, the amount of
19 snow we had to have removed and we're not like
20 Wegmans where we can bring in big melters and stuff.
21 Our guys just come in with their dump trucks, they
22 pull it out, take it to their yards, whatever they do
23 and that's kind of what we've been doing, because,
24 yeah, we plow it out of the way, but we want to
25 really clear out the spaces the proper way so we can

1 have turnover.

2 MR. GRUBER: Those were just my
3 questions.

4 CHAIRMAN DEPINTO: Okay. Thank you.
5 Carl, do have you any?

6 MR. O'BRIEN: A couple, but very good
7 questions by board members, a couple ones that I was
8 going to talk about, snow removal being one of them.
9 Dealing with the employee parking, so
10 testimony is you figure there's going to be two spots
11 for the employees?

12 MR. DEL VECCHIO: I don't believe that
13 was John's testimony. I think there's two designated
14 spots and they are being designated to limit their
15 turnover, but I'll let John --

16 MR. CORAK: Yeah, there's two, two
17 employee spaces toward the rear of the site to avoid
18 conflicts with the trash enclosure.

19 MR. O'BRIEN: Okay. So if there's two
20 designated spots, how many employees are -- and this
21 might be a question for you, how many employees are
22 you planning to be working there with the designated
23 spots only being two?

24 MR. MULHOLLAND: We can look at the
25 designated spots, and I know it gets confusing, but

1 we try to do that, sometimes I think like he said
2 pinch points, you know what, let's have instead of
3 our employees come in, like when I go to Wegmans or
4 Starbucks, I see them parked in the prime spots right
5 in front, you know, we would --

6 MR. O'BRIEN: You want the front for
7 the --

8 MR. MULHOLLAND: -- say drive to the
9 back end of the property. So that's kind of, you
10 know, what we would do. When you look at it now, we
11 have normally, like we call it 1.5 cars per store,
12 because some cars might have two, some might have
13 three, some might not have any, because we're on a
14 real big bus line there and right now we have the
15 same crew size we're going to have and we have --

16 MR. O'BRIEN: And what's that size --

17 MR. MULHOLLAND: They park really in
18 the lot across the street right now, that's where
19 they park, you know, because we don't want to park
20 on-site at that point, because we only have 11
21 parking spots and everybody is coming in the
22 building. So I think when we look at like the
23 amount, I think what gets overlooked very easily is
24 that we're 80 percent through that drive-through, so
25 when you look at that in the height of our business,

1 they're doing their calculations, but we really --
2 after 9:30 a.m. we're kind of very -- I mean, very
3 spotty on anyone going to be coming into that store
4 and I know John here kind of said, hey, listen,
5 afternoon uses, because we do have food uses like I
6 have stores that have Jersey Mikes or has a Buffalo
7 Wild Wings, we're not doing that, okay, and I think
8 the best thing to do here and I really want the board
9 to realize that I'm not just going to rent it right
10 out. I want to really open up and come back for the
11 parking variance and approval so you see the flow of
12 the lot and we can proof it out better for you guys.
13 I'm not in a rush for that. It's just something I
14 need long-term to keep that -- you know, the whole
15 project viable, that's all. I want to do it the
16 right way.

17 MR. O'BRIEN: Understood. Thanks.
18 Delivery, refuse, how are you doing
19 that? Talk me through it with the parking being
20 there, you have your trash trucks coming in,
21 conflicts, no conflicts, truck turning.

22 MR. CORAK: Yeah, so the refuse, the
23 trash enclosure is towards the rear of the site.
24 Expect here to be a front-loader trash hauler.
25 They're essentially able to pull right up to that

1 trash enclosure, you know, collect the garbage, back
2 out and then circulate around through that full
3 bypass area and adequate room to do that. The
4 garbage removal is off-peak period, so it might even
5 --

6 MR. O'BRIEN: So you're not planning it
7 during your morning a.m. peak?

8 MR. CORAK: It's not 7:30 a.m., that's
9 for sure.

10 MR. MULHOLLAND: And like currently now
11 we have one -- one trash disposal for cardboard and
12 for garbage, there's no room. We'll have two
13 separate for -- one for cardboard, one for trash and
14 it will be able to handle -- I know a question last
15 time was second use is probably very low garbage use,
16 but we can change the frequency of delivery and the
17 other thing is currently now we have a straight job
18 truck and I mentioned that last time that we get our
19 weekly delivery from, that's going to stay the same.
20 You're not going to see big rigs or anything like
21 that. Donuts every night is a cab-over. And we can
22 control when the garbage gets picked up, be
23 overnight, there's no residence in the immediate
24 area, so it doesn't have any conflicts with that, but
25 and then turning ratios for trucks, we've kind of

1 addressed I think.

2 MR. O'BRIEN: Got you. Thanks.

3 We reviewed your traffic report. We're
4 good with it and we understand that there's going to
5 be comments, iterations from Bergen County as well,
6 so we're curious to see what their findings are with
7 that, so when you do get that, if you'll forward it,
8 that would be helpful --

9 MR. CORAK: Absolutely.

10 MR. O'BRIEN: -- on our end.

11 The gap study, I know you were talking
12 about the gap study a little bit. So with that and a
13 big discussion has been about the left-hand turns in
14 and out.

15 MR. CORAK: Uh-huh.

16 MR. O'BRIEN: Let's look at the right
17 turns also. So what about your sight triangle
18 distances for both vertical and horizontal on both
19 approaches, so what are we looking at?

20 MR. CORAK: Yeah. So we've reviewed
21 the sight triangles in each direction. We do provide
22 adequate distance to cover, you know, the full
23 visibility of traffic. I think that as you look at
24 the left turn, depending on the signal phasing,
25 there's -- there will be a few vehicles that are

1 within that triangle that are queued at the signal
2 but you can see the signal, you can see what phasing
3 it's on and, you know, making that turn is not going
4 to be, you know, very challenging even given the
5 proximity to the signal.

6 MR. O'BRIEN: And have you also looked
7 at any traffic reports, crash tests -- I'm sorry,
8 crash studies that have been done there by the
9 police?

10 MR. CORAK: We've reviewed through the
11 DOT's safety voyager, we reviewed the corridor,
12 haven't found, you know, a prevalence of left turn
13 crashes at the other business through the corridor.
14 We wouldn't expect that to be here as well.

15 MR. O'BRIEN: Okay. That's all I have,
16 Mr. Chairman.

17 CHAIRMAN DEPINTO: Thank you.
18 Darlene?

19 MS. GREEN: Yes. Thank you, Mr.
20 Chairman.

21 Mr. Corak, I was looking at the
22 templates provided in the initial submission and
23 specifically the fire truck template, I know that
24 there's color-coded lines. Can you just confirm, is
25 the blue line the nose of the fire truck?

1 MR. CORAK: Yes, so the blue line is
2 the overhang or the nose of the truck. The red line
3 is the tires itself.

4 MS. GREEN: Okay. So if I'm reading
5 this plan correctly, the nose of the truck would
6 conflict with two spaces, one of them being the
7 proposed EV space?

8 MR. CORAK: Yeah, I see -- I see where
9 we get very tight in on that space. You know,
10 overlaps by a couple of inches. I think that that's
11 something that we can work out either through the
12 truck run or through a minor adjustment of those
13 spaces.

14 MS. GREEN: Okay. I mean, because, you
15 know, this also assumes that that person has parked
16 properly and is fully in the space.

17 MR. CORAK: Yeah.

18 MS. GREEN: I know our fire department
19 is very concerned about safety and accessing sites.
20 So if your team could look at that.

21 MR. CORAK: Absolutely.

22 MS. GREEN: Because we definitely want
23 to make sure that if a fire truck needs to come to
24 the site, they can get through the site.

25 MR. CORAK: Yeah. And I'll just also

1 add for the board's edification, the truck runs are
2 very conservative, the modeling software, you know,
3 makes them almost overly conservative, so the actual
4 turn that that specific fire truck model can do is a
5 bit tighter, but we will make sure that it works on
6 the plans so that way we're covering all of our
7 bases.

8 MS. GREEN: And then I know you gave us
9 information for ITE for the Dunkin' and a general
10 retailer. Did you happen to look at ITE for a
11 Dunkin' and a medical office use?

12 MR. CORAK: A -- yes, so a medical
13 office use would probably increase that, that parking
14 demand about three, four vehicles on top of what the
15 retailer was. So that's putting us around 16 to 17
16 out of the 19 and, again, medical office uses, they
17 vary significantly across, you know, medical
18 practices, disciplines. So, you know, once the site
19 is up and running, we have the full picture of how
20 the Dunkin' is operating, that's when Bill is looking
21 to come back in with that tenant and can present
22 really what their plan is and how that integrates
23 with the site that's absolutely, you know, already
24 operating.

25 MS. GREEN: Understood. So that was

1 actually going to be my follow-up question because of
2 the array of medical, I don't -- I feel like ITE
3 would have -- ITE would have a range as well.

4 And then when you did your traffic
5 modeling, I know you said you modeled a Dunkin'. Did
6 you add in trips for some type of user in your trip
7 generation?

8 MR. CORAK: Yes, we did.

9 MS. GREEN: And that was a general
10 retailer?

11 MR. CORAK: Yes.

12 MS. GREEN: Okay. And I guess last but
13 not least, I know you talked to the board about lefts
14 in and lefts out. Did you look at the driveways
15 across the street and how their lefts in and out
16 might conflict with your two proposed driveways?

17 MR. CORAK: Yeah. So we're looking at
18 that with the county as well. You know, this is a
19 common condition up and down the corridor, but part
20 of this is the removal of the Dunkin' across the
21 street and putting it here, it's reducing that
22 traffic a bit, but ultimately just the gaps that are
23 available on the road in either direction are enough
24 for the two sites to, you know, both function
25 adequately and support those movements.

1 MS. GREEN: So would your professional
2 opinion change if the current Dunkin' location is
3 replaced with another coffee user?

4 MR. CORAK: I don't think it would just
5 based on the volumes and the -- you know, the
6 existing driver behavior that I've personally
7 witnessed out there. You know, if you replaced it
8 with a Tim Hortons or, you know, something similar, I
9 couldn't see a Starbucks going in there, but, you
10 know, as far as chain coffee users go, you know, I
11 still think you have a good visibility, good sight
12 lines, as well as the capacity on the road to
13 accommodate the left turns for everybody.

14 MS. GREEN: That's all I have, Mr.
15 Chairman.

16 CHAIRMAN DEPINTO: Okay. Thank you.

17 Going back to the parking, if you could
18 recap for me, you're going to have one EV parking
19 space; is that correct?

20 MR. CORAK: One make-ready --

21 CHAIRMAN DEPINTO: Make-ready.

22 MR. CORAK: -- EV parking space.

23 CHAIRMAN DEPINTO: And two employee
24 parking spaces?

25 MR. CORAK: Correct.

1 CHAIRMAN DEPINTO: Okay. And how many
2 remaining parking spaces are proposed in the plan?

3 MR. CORAK: So that would be 16
4 remaining spaces.

5 CHAIRMAN DEPINTO: So in total you have
6 19 spaces?

7 MR. CORAK: Yes.

8 CHAIRMAN DEPINTO: Are you familiar
9 with Montvale's parking requirements?

10 MR. CORAK: Yes.

11 CHAIRMAN DEPINTO: And could you break
12 down for us what Montvale's code requires given your
13 proposed development and use of buildings proposed?

14 MR. CORAK: Right. So the restaurant
15 portion of this is the trickier of the two.

16 Trying to get my site plan table here,
17 I have all the numbers right. The way that it reads
18 out is that the minimum parking requirement is one
19 space per three seats plus one space per 10 square
20 feet of area made available to customers for
21 off-premise consumption services.

22 So what we consider there is the 16
23 seats inside the building divided by three, that's
24 5.33 and then we are calling within the
25 1499-square-foot Dunkin' 509 of that as square feet

1 available for customer area. So that comes out to a
2 total of 56.2 parking spaces, round up to 57 and then
3 on the retail end, going with the blanket one per 200
4 as stated in your ordinance, one space per 200 square
5 feet, for a total of eight spaces required, which
6 then brings us to 65 required spaces on the site.

7 CHAIRMAN DEPINTO: And, Darlene, do you
8 agree with that?

9 MS. GREEN: I think where we disagree
10 by one space.

11 MR. CORAK: We round up, you round
12 down?

13 MS. GREEN: Right, yes.

14 CHAIRMAN DEPINTO: So Darlene, your
15 interpretation is 66?

16 MR. CORAK: The other way, I think.

17 MS. GREEN: No, mine is --

18 CHAIRMAN DEPINTO: The other way, 64?

19 MS. GREEN: -- 64.

20 CHAIRMAN DEPINTO: So your
21 interpretation of our code is based on the proposed
22 development, 64 parking spaces would be required in
23 order to comply?

24 MS. GREEN: Yes.

25 CHAIRMAN DEPINTO: And, John, you're

1 saying based upon your knowledge, there's a total of
2 19 being provided?

3 MR. CORAK: Correct.

4 CHAIRMAN DEPINTO: On the plan.

5 How -- how do you justify that spread?

6 MR. CORAK: So I think what this comes
7 down to is the requirement for the Dunkin', it being
8 based both on seats and an extremely conservative
9 square foot ratio. It just doesn't mesh with
10 real-world Dunkin' parking demand.

11 Essentially what you're saying is
12 within that 500 square feet, the parking requirement
13 speculates that there are going to be about 50 people
14 inside that store at a time who have each driven
15 themselves, each trying to get a cup of coffee and
16 while you walk into a Dunkin' and it feels crowded
17 sometimes, it is not 50-people crowded trying to
18 order and get their coffee all at the same time. We
19 have the drive-through component to this that
20 substantially reduces the need for, you know, on-site
21 parking really beyond the employee load and a handful
22 of walk-in customers and the -- you know, the demand
23 associated with the seats to me adequately covers
24 what -- you know, what you would expect at a Dunkin'.
25 Perhaps you go seats plus employees, but, yeah,

1 that's where the disconnect is, I think.

2 The ordinance, I understand, it's
3 written a certain way, it just -- it doesn't mesh
4 with what we see at, you know, Dunkin' or any fast
5 food sites across the board these days.

6 CHAIRMAN DEPINTO: I'm having
7 difficuly with the spread between the code and
8 what's proposed.

9 MR. CORAK: Uh-huh.

10 CHAIRMAN DEPINTO: Obviously if the
11 property were larger, which you cannot do, but if it
12 were, I presume you'd have more parking spaces --

13 MR. CORAK: So --

14 CHAIRMAN DEPINTO: -- and lessen the
15 required relief needed for parking.

16 MR. CORAK: That's a design choice, but
17 I would add that if the property were bigger, to me
18 there isn't a need for more parking. Right? If the
19 property were bigger, to me it would just be
20 providing more green space.

21 CHAIRMAN DEPINTO: But there are code
22 requirements.

23 MR. CORAK: Understood. And why --

24 CHAIRMAN DEPINTO: Isn't it your
25 obligation to comply with that code or show reasons

1 why you can't comply? If the property is not large
2 enough to accommodate the code requirement for
3 parking, that's a real challenge.

4 Now, could you reduce the size of the
5 building?

6 MR. CORAK: So this is the building as
7 designed.

8 CHAIRMAN DEPINTO: I'm asking --

9 MR. CORAK: I understand.

10 CHAIRMAN DEPINTO: -- in theory if the
11 building were 1500 square feet instead of 3,000
12 square feet. You said you were looking at eight
13 parking spaces for the retail use. So in theory, if
14 you didn't build the retail space and you only built
15 the Dunkin' space, you'd have eight additional
16 parking spaces available to bring the provided
17 parking eight spaces higher.

18 MR. CORAK: And we'd still be --

19 CHAIRMAN DEPINTO: Closer -- closer to
20 code requirements.

21 MR. CORAK: We would still be short 38
22 spaces.

23 CHAIRMAN DEPINTO: And that's a very
24 good point. So is the property large enough to
25 accommodate the intended use?

1 MR. CORAK: Absolutely.

2 CHAIRMAN DEPINTO: Well, that's your
3 opinion.

4 MR. CORAK: Right. And I'll add that
5 the reason that I'm here as a traffic engineer is not
6 to say that -- you know, not to design a site to meet
7 every ordinance. I'm here to explain how these sites
8 function from the traffic perspective, from a parking
9 perspective, we do the engineering studies and
10 explain the report.

11 CHAIRMAN DEPINTO: I know what your job
12 is. I know what your job is. And I too drive a car
13 just like everybody else and I too go to drive-up
14 facilities and walk-up facilities. Does -- is the
15 site large enough to accommodate the requirements?
16 You say yes. I say our challenge is the spread
17 between what you propose and what the code requires,
18 that is a major deviance from what our code is.

19 Now, maybe our code is wrong and based
20 upon what you're saying, maybe it is wrong. I don't
21 know, I'm not a traffic expert, but I can see the
22 difference as you define in the number of parking
23 spaces, that is a major deficiency. And is there
24 anything we can do to lessen that number? How can we
25 increase the parking to get closer to code

1 requirement? I don't think you can. I don't think
2 there's enough land to do that. But, again, that's
3 my opinion. Okay. Thank you.

4 With that said, the Chair will
5 entertain a motion to open the meeting to the public.

6 VICE CHAIRMAN LINTNER: So moved.

7 CHAIRMAN DEPINTO: Bill.

8 MR. GRUBER: Second.

9 CHAIRMAN DEPINTO: Chris.

10 All in favor?

11 (Whereupon, all members respond in the
12 affirmative.)

13 CHAIRMAN DEPINTO: Anyone from the
14 public wish to be heard?

15 (NO RESPONSE.)

16 CHAIRMAN DEPINTO: Hearing none, Chair
17 will entertain a motion to close the meeting to the
18 public.

19 MR. CULHANE: So moved.

20 CHAIRMAN DEPINTO: John.

21 VICE CHAIRMAN LINTNER: Second.

22 CHAIRMAN DEPINTO: Bill.

23 All in favor?

24 (Whereupon, all members respond in the
25 affirmative.)

1 CHAIRMAN DEPINTO: Mr. Del Vecchio.

2 MR. DEL VECCHIO: I do want to call my
3 planner next, but I thought it might be a good time
4 to give the reporter a five-minute breather.

5 CHAIRMAN DEPINTO: Okay. That's good.

6 MR. DEL VECCHIO: Thank you.

7 (Whereupon, a short recess is held.)

8 CHAIRMAN DEPINTO: Okay. Back on.

9 MR. DEL VECCHIO: At this time I'd call
10 our planner, Ed Kolling.

11 MR. REGAN: Sir, would you raise your
12 right hand. Do you swear or affirm that the
13 testimony you will give in this proceeding shall be
14 the truth, so help you God?

15 MR. KOLLING: Yes, I do.

16 **E D W A R D K O L L I N G, P P,**
17 having been duly sworn, testifies as follows:

18 MR. REGAN: Would you state your full
19 name and spell your last name, please.

20 THE WITNESS: First name is Edward and
21 the last name is Kolling, K-O-L-L-I-N-G.

22 MR. REGAN: Thank you.

23 VOIR DIRE EXAMINATION

24 BY MR. DEL VECCHIO:

25 Q. Ed, I know you haven't -- I don't think

1 you've testified here before, so have you ever done a
2 hearing like this before?

3 A. Yes, I've done a few. I'm a licensed
4 professional planner in New Jersey. I'm also
5 certified by the American Institute of Certified
6 Planners. Graduated from Rutgers University in 1974.
7 Been in the field of planning ever since, so like 52
8 years. Licensed for over 40 years, 43, 44 years.

9 In distant past, in the early 1980s I
10 was the director of planning in Jersey City. I was
11 later the economic development director in the City
12 of Elizabeth. In private practice I've worked for a
13 firm in Toms River as the director of planning and
14 landscape architecture, known as Fellows, Reed &
15 Associates.

16 More recently I was the director of
17 planning for a firm called Dresdner Robin out in
18 Jersey City. I'm mostly retired now, but still doing
19 consulting on my own.

20 MR. REGAN: I think he can be deemed
21 qualified.

22 CHAIRMAN DEPINTO: Okay. Chair will
23 accept the recommendation of counsel. Please
24 continue.

25 DIRECT EXAMINATION

1 BY MR. DEL VECCHIO:

2 Q. Ed, you've had an opportunity to read
3 the transcript of the first meeting of these
4 proceedings?

5 A. Yes, I have.

6 Q. And you've had an opportunity to review
7 the plans that form the predicate for this
8 application?

9 A. Yes.

10 Q. You've had an opportunity to review the
11 relevant ordinance and planning documents of the
12 Borough of Montvale as it may apply to your testimony
13 this evening?

14 A. That's correct.

15 Q. All right. Can you provide the board
16 briefly with an overview of the existing conditions
17 and how you then approached analyzing the variances
18 for this project?

19 A. You've heard a lot of testimony
20 already, so I'll be brief on some of the background
21 information, but I do want to emphasize a few things,
22 because the property is a bit unique in terms of its
23 size and shape.

24 This is the B-1 zoning district, as we
25 all know. The lot area is 33,537 square feet.

1 That's significantly larger than the minimum
2 requirement of 7500 square feet. However, the
3 property is very irregular in shape in my opinion.
4 It is 106 feet wide, which exceeds the minimum
5 requirement of 75, but it is also very deep, very
6 long. One side line, the northern side line
7 according to the survey is about 326 feet, I believe
8 it is. The southern lot line goes back 227 feet and
9 then bends on an angle, extends another 144 feet and
10 then the rear line is only 37 feet -- 34 feet wide.
11 So this really -- those dimensions really demonstrate
12 how irregular the lot is and how deep it is compared
13 to its width. Currently it's developed with a
14 residential structure that has been converted for use
15 as an office.

16 In terms of surrounding area, it's in a
17 commercial area, pretty much what the zoning allows
18 for. You have the Dairy Queen and an office building
19 to the north going up towards Summit Avenue. To the
20 south you have the vet office, the animal hospital
21 and I think there's a home on that side as well and
22 then the TD Bank. Across the street you have a
23 service station, a gas station where the Dunkin'
24 Donuts is today. You also have a small strip center.
25 I think there's three commercial uses in there and

1 then you have the CVS on the corner, which anchors a
2 small commercial area and there's one other service
3 station northwest of the intersection with Summit
4 Avenue as well.

5 Proposed development, you know what
6 that is, it's been well-described by the engineer, by
7 the architect. Again, in terms of zoning, it's in
8 the B-1 district. That's consistent with what the
9 master plan designates this area. I think in the
10 2008 master plan they call it "business regional."
11 And there's a few of those in the Borough.

12 The uses that are proposed, well,
13 there's the restaurant use which is permitted and
14 there's the second use which the applicant has
15 already testified to will be -- or he's anticipating
16 to try to get an office use for there which is also
17 permitted. The drive-through, obviously, is not
18 permitted and that's why we're here today.

19 So in terms of the variances, we will
20 need that (d)(1) use variance for that and then there
21 are several of the (c) variances that we will have to
22 address as well.

23 Now, in terms of the (d) variance, we
24 have to meet the positive criteria to show special
25 reasons and that the site is particularly suited for

1 the use that's being proposed and I think that we can
2 -- we can do that.

3 In terms of the site suitability, the
4 site is located on a major arterial roadway. It's in
5 a commercial district. The property has that great
6 depth that I mentioned. So although it's not -- it's
7 longer than it is wide and although it's irregularly
8 shaped, I think that that additional depth helps with
9 the suitability in that it allows for the drive aisle
10 coming in, going around and going out to have a
11 significant amount of queuing for cars going through,
12 so it can accommodate the drive-through and it can
13 accommodate the drive-through very well.

14 The property backs up to the Garden
15 State Parkway, so I don't see any impacts going to
16 that regard. The properties on either side are
17 commercial. I don't see any negative impacts there
18 either, because the uses are consistent and regular
19 in terms of being a commercial area and I think that
20 in terms of how the parking is even arranged being
21 toward the back of the property, it allows that --
22 that's somewhat screened, significantly screened
23 really from the passersby in the front. You'll see
24 the building. You'll see landscaping on either side
25 and the aisle coming in and then the parking and the

1 other utility areas, the trash pickup and such are at
2 the rear where they would be less -- less impactful.
3 So I think that speaks to the particular suitability.

4 In terms of negative criteria, I think
5 that the site characteristics allow for the site to
6 accommodate this proposed use without resulting in a
7 substantial detriment to the public good or to the
8 character of the area and I also believe that the
9 proposed development will not result in a substantial
10 detriment to the intent and purpose of the zone plan.

11 As I mentioned, the uses that are being
12 proposed and are anticipated are actually permitted
13 uses, but for the drive-through and this is also
14 consistent with the master plan. And although the
15 drive-through is not permitted, we know that the
16 ordinance -- I think it was something like 34 years
17 ago that it was passed where you couldn't have a
18 drive-through. Today those technologies have changed
19 dramatically as the applicant has testified to and so
20 that in today's world the drive-through going through
21 can operate in a much more efficient manner with less
22 impacts to traffic and to circulation and things of
23 that nature as the traffic engineer has testified to.
24 So I think that in that regard, I think it's how you
25 can justify the fact that the ordinance today does

1 not permit the drive-through, but why it is justified
2 today to put it in place in this particular property
3 because of its configuration, the additional depth
4 and, in fact, in the way that the property has been
5 designed and laid out.

6 Now, we also have a number of (c)
7 variances. I believe that most of these can be
8 approved by the hardship criteria and this is really
9 relating to that irregular shape of the property and
10 how the design, therefore, had to be adjusted to
11 accommodate that unusual shape and irregularities of
12 this piece of property.

13 One of the variances is for maximum lot
14 coverage. 60 percent is permitted and as the
15 architect -- the engineer had described, we now have
16 69.9 percent with the addition of some additional
17 sidewalk and this is really directly related to the
18 shape of the property. Because of this shape, you
19 don't get the benefit of having, say, an efficient
20 parking layout in terms of double-loaded aisles, for
21 instance, use less pavement to accommodate the same
22 number of parking spaces. So you end up having to
23 have additional pavement in order to get the number
24 of parking spaces in there that we were able to put.
25 So I think that shows the hardship that causes the

1 additional maximum lot coverage.

2 The -- that is somewhat mitigated, I
3 believe, in the stormwater management plan that has
4 been put in place and the improvements in that
5 regard. So I think that helps to mitigate it, as
6 well as the landscape plan that's been proposed and
7 they have -- the engineering has done some
8 modifications to even add some additional trees and
9 shrubs and things of that nature. So I think that
10 that variance can be granted under the hardship
11 criteria and that the -- there would be no
12 substantial detriment to the intent of the zone plan
13 or to the public good because of the way the site has
14 been designed.

15 There was a question about building
16 height and I think the architect has mentioned that,
17 that variance is no longer required or should be once
18 everything is reviewed.

19 There's a setback variance for
20 accessory structure, which is the dumpster area, the
21 trash area. It's too close to the side lot line.
22 That, again, is hardship. It has to do with the site
23 being -- pinching down in the back. So that one
24 corner in particular is, I think, 3 foot, 10 inches
25 off the side line where 8 feet would be required.

1 It's greater than that in most other areas because of
2 the orientation of the structure and how the lot
3 lines flare out and I think this is really the best
4 location for the dumpster because it's out of view,
5 it's in the back, it's surrounded by natural
6 vegetation and also some buffering and it allows for
7 the efficient pickup of the trash and the trucks to
8 circulate through. So I think that there's no
9 substantial grant -- substantial detriment in
10 granting that variance either to the public good
11 because of the way that it's been arranged and
12 located or to the intent and purpose of the zone
13 plan.

14 There are several variances that relate
15 to things like parking, parking aisle, things of that
16 -- things of that nature. Again, this is mostly all
17 hardship because of the arrangement of the lot lines
18 and what -- how that had to be accommodated in the
19 site design. We have an issue with the parking aisle
20 setback and side and rear lot lines and 10 feet from
21 the building. Again, because the lot is somewhat
22 compressed, we've had to ask for a variance for
23 these, for these setbacks. Again, as in my previous
24 testimony, I don't see any detriment to the
25 surrounding property owners or -- because of the

1 characteristics of the surrounding properties. The
2 Dairy Queen, for instance, to the north, it's
3 surrounded by a very large parking area itself. The
4 office building faces Summit Avenue on the rear.
5 There's a great amount of dense vegetation on the
6 vet, veterinary site. So I think that when you take
7 that into account, the granting of the variance for
8 either the setbacks or the aisle locations, as well
9 as screening, the screening height being 6 feet, we
10 don't meet that in every location because of the
11 location of the property lines and not having the
12 room to accommodate it, but if you look at the
13 planting that has been provided and the existing
14 vegetation, I think that this particular layout meets
15 the intent of the zone plan and is rather attractive,
16 I think, in my opinion.

17 There's a question about the sidewalk
18 setback from the building as well and in that regard,
19 again, it's because of the way the lot lines are
20 angled, the sidewalk had to be compressed at certain
21 -- certain areas particularly right at the entrance
22 to the Dunkin'. The secondary use behind it, you can
23 see that the landscaping has been provided 6 feet off
24 from the building and then having the sidewalk. I
25 believe that the criteria talks about minimum depth

1 of 5 feet located along 50 percent of the length of
2 the building, which would result in having to have 56
3 feet or so of the side -- of the building width or
4 length with that landscaped area for the sidewalk and
5 here I think we have 42 feet.

6 So I think it's been a good attempt to
7 meet the intent of the plan. It's about 14 feet --
8 linear feet short, but, again, I think its the
9 hardship that has to be looked at because of the
10 shape of the property and the fact that the way --
11 the way that the plan has been developed and
12 designed, I think it meets the intent and would not
13 result in any substantial detriment to the zone plan
14 or to the general welfare.

15 There's a question of right of way
16 improvements with the sidewalk in the right of way.
17 Sidewalk improvements have -- are proposed, but they
18 are on-site and I think this is a better approach to
19 design because it's a better pedestrian safety
20 perspective. In this case, the variance can be
21 granted under the (c)(2) criteria where the benefits
22 would outweigh any detriment and there are no
23 substantial detriment, because really it does promote
24 the public safety rather than having a detriment and
25 it meets the intent of the zone plan.

1 There was a question, I think, of shade
2 trees in the parking lot. I believe that the
3 engineering has been -- has taken that into account
4 and some of the trees have been shifted so we don't
5 -- we've eliminated that, that variance.

6 Brings us to the number of parking
7 spaces where I think 64 are required, 19 are
8 proposed. As you've heard the traffic engineer
9 testify, he believes that there is a need for 13
10 spaces, I think it's five or so for the Dunkin'
11 Donuts and eight for whether it's an office or a
12 retail use, it's one per 200 square feet in either
13 case. And I agree that this should be sufficient for
14 this site especially given the drive-through that's
15 being proposed. So although we need a variance for
16 the drive-through, it also mitigates the need for
17 parking or additional parking. 85 percent or 80
18 percent of the business is drive-through. The
19 applicant has operate -- operates several of these
20 types of facilities and is very familiar with that
21 standard. The zone requirement, I think that's a
22 little bit unusual in my opinion. It is the one
23 space for every 10 square feet for the service area.
24 If you -- as the traffic engineer mentioned, if you
25 apply that to this particular location, you would

1 have 50 people in the store. I don't think that that
2 ever happens anywhere. So that applying that in this
3 particular instance where especially with the
4 drive-through that's such a high-tech drive-through
5 and where -- and which would accommodate such a
6 significant proportion of the business really makes
7 -- makes no sense. Even if the site were larger, you
8 wouldn't want to put additional parking, because it
9 would be wasteful. It would -- it would
10 detrimentally impact the environment in my opinion.
11 You would have a lot more runoff. You would have a
12 lot more hard surface. It just doesn't make any
13 sense.

14 So I think in this particular case with
15 this type of use and in this particular location, the
16 19 parking spaces will function well and actually be
17 probably more than what we would project that the
18 parking would be on the site. Therefore, I think
19 that that variance can be granted because of the
20 hardship of the configuration of the lot, the amount
21 of spaces that can be reasonably accommodated and
22 because of the particular demands for the parking
23 that this site is going to generate and the variance
24 would not result in any substantial detriment to the
25 public good because I believe the parking will meet

1 the demand and I don't believe that it would be a
2 substantial detriment to the intent and purpose of
3 the zone plan because the zone plan has a general
4 requirement for the one -- 10 -- one space per 10
5 feet of the service area, but in this particular
6 instance I don't think that that's applicable or
7 actually useful or beneficial.

8 Another variance is the loading space
9 requirement. You've heard the applicant testify as
10 to the types of trucks that would come in when the
11 loading would occur. I think having a loading space
12 here just for the sake of having a loading space
13 serves no purpose whatsoever. So I think this is --
14 that's being addressed appropriately and that
15 variance can be granted in this particular situation,
16 which -- and it would be no detrimental impact
17 because of the ability to bring these trucks in off
18 hours and a smaller size, the straight jobs as he
19 referred to would function well on the site and would
20 not result in any detriment to the intent of the zone
21 plan or the public good, which also eliminates then
22 the need to screen the loading area because there is
23 no loading area.

24 There's a question of fence height. I
25 believe we're looking at 6 feet versus 4 feet. This

1 is due to the topographic conditions on the site and,
2 therefore, you can look at that as a hardship as well
3 due to the topography. I see no detriment to that
4 because the adjacent uses are also commercial uses.
5 It's not like it's going to be an extra tall fence
6 next to a residential neighborhood or anything of
7 that nature.

8 In terms of signs, you've heard the
9 architect's testimony on that. There is two signs on
10 the Dunkin' facility. The height is 24 inches versus
11 16 inches on the lettering, but it's all done as sort
12 of a sign package. I think that it's the graphic --
13 the graphic design of it compliments the building, it
14 is proportionate to the size of the building and the
15 space that's allocated. So I think in terms of the
16 aesthetics, it helps with the aesthetics of the
17 building and I think that the variances of those --
18 in those two situations can be -- can be granted as
19 well.

20 That kind of carries over to the
21 uniformity of the -- of signs. If you're in a
22 shopping plaza, the ordinance requires that the signs
23 be more uniform. This really isn't a shopping center
24 as I would envision one. The building does not -- is
25 not fully oriented towards the street. In typical

1 strip centers like you might see across the street,
2 they're oriented parallel to the street. Each
3 building has a sign facing the street or facing a
4 parking area if you were looking at a larger shopping
5 center. That's not the case here. You have the
6 building which extends to the rear and, therefore,
7 there's -- you don't necessarily see all the signage
8 at the same time, so the idea of uniformity is less
9 -- less important.

10 The freestanding sign has been
11 re-worked to conform to the height and the size which
12 is a good thing, but we still need a variance for it
13 and the same line of reasoning for that -- for not
14 having uniformity applies to the need for the
15 freestanding sign. Obviously the Dunkin' facility is
16 visible from the street and has its own signage that
17 faces the street. However, the second facility
18 that's toward the rear, it is not very visible from
19 the street. Therefore, having that signage on the
20 street side, the freestanding sign, is necessary and
21 beneficial because it promotes -- it promotes a new
22 business in the area and this is a business district.
23 So that really promotes the intent of the zone plan
24 in terms of promoting economic development and
25 helping to make business more successful.

1 And I think that's pretty much what
2 covers the variances.

3 I would also want to point out that the
4 -- this project in general, I think, promotes several
5 of the purposes of the Municipal Land Use Law, which
6 are the special reasons that you would consider in
7 terms of granting the use variance or in terms of
8 granting even the (c) variance for under the (c)(2)
9 criteria. I believe that this project meets the
10 criteria of Subparagraph A in N.J.S.A. 40:5D-2 to
11 encourage municipal action to guide the appropriate
12 use and development of the lands of the state in a
13 manner which would promote the public health, safety,
14 morals and general welfare. And I believe that the
15 approval of this application would be of municipal
16 action that would guide the appropriate use of
17 development of the site and would promote the public
18 health, safety and general welfare.

19 The proposed uses but for the
20 drive-through portion are permitted and consistent
21 with the intent of the zoning ordinance and the zone
22 plan. The site is particularly suitable to
23 accommodate the proposed drive-through given its
24 elongated shape and configuration and the commercial
25 character of the area and the roadway and as such the

1 approval would not result in a substantial detriment
2 to the intent of the zone plan or to the public good.

3 The way the site is laid out as well, I
4 think, meets Subparagraph C, to promote adequate
5 light, air and open space. The building is located
6 towards the center. The exterior is well-landscaped.
7 I see no impact on light, air or open space either on
8 site or on adjacent properties.

9 Subparagraph G talks about providing
10 sufficient space in an appropriate location for a
11 variety of uses, including commercial uses such as
12 this and I believe that the subject property provides
13 sufficient space for the proposed use given its
14 larger site and elongated shape, it is irregular, but
15 it is significantly larger than the minimum required
16 and it's in an appropriate location within a business
17 zone and along a major roadway. So, again, it
18 provides sufficient space in appropriate locations
19 consistent with Subparagraph G.

20 Also, I believe the project promotes a
21 desirable visual environment, which is Subparagraph
22 I. The existing structure on site was a home, was
23 converted for office use but it's really not up to
24 modern standards or contemporary standards. The site
25 as proposed is well-landscaped, it's well-laid out,

1 it's an attractively -- attractively designed
2 property and I think that the architect has done a
3 really nice job with the Dunkin' building where it
4 doesn't look like your typical just plain old, you
5 know, Dunkin' Donuts, it's an attractive retail
6 structure.

7 And last, I believe that it meets
8 Paragraph M, which is to encourage the coordination
9 of various public and private procedures and
10 activities shaping land with a view lessening the
11 cost and the more efficient use of land.

12 And I think that this is a -- shows a
13 very appropriate and efficient use of the property
14 that's irregular and does present certain challenges,
15 but I believe that it's been done in a very
16 appropriate and aesthetically pleasing manner. So we
17 meet those criteria of the Municipal Land Use Law.

18 In terms of the negative criteria,
19 there's no substantial detriment to the public good.
20 Again, it's a business district. These are business
21 uses. The site is designed in a way that I think
22 will operate safe and efficiently. It will not have
23 any negative impact on its neighbors which are also
24 all commercial. So I see no substantial detriment to
25 the public good or general welfare and as well no

1 significant or substantial impairment to the intent
2 and purpose of the zone -- the zone plan.

3 Again, the ordinance to -- regarding
4 drive-throughs was past many years ago when
5 drive-throughs were a lot less efficient, they
6 operated differently. Today the way -- especially
7 the way that Dunkin' has -- utilizes these apps,
8 they're very high-tech and I think it can be done
9 without negatively impacting the intent of the zone
10 plan and, again, it's the right -- it's the right
11 location, it's a business location and it's on a busy
12 street and a commercial street and it's the right use
13 in the right location.

14 When I looked at the master plan, there
15 was a few things that I noticed in the 2008 plan, for
16 instance, about this area was called out as what they
17 call the "regional business area." That's
18 consistent, I think, with the B-1 zoning. The
19 reexamination reports didn't say anything about
20 changing that at all. There was a reference to this
21 area in the economic plan of the master plan and the
22 master plan land use section also mentioned this
23 particular area and talks about the uses in the area
24 as being automotive oriented. So this type of use as
25 well is also automotive oriented. So I think it fits

1 the character of the area and so, therefore, I think
2 this is also consistent with the master plan.

3 So in conclusion, I feel that we've met
4 the positive and negative criteria for the granting
5 of the use and the (c) variances. I think the site
6 is particularly suitable for the proposed use,
7 including the drive-through. Dunkin' facility will
8 provide a -- will serve a purpose and a need in the
9 community, which I think is even demonstrated by the
10 fact that it's already operating and serving a
11 purpose and a need for the community directly across
12 the street and this will just improve upon that.

13 The function of that, the Dunkin'
14 across the street, I think is more concerning than
15 this. This is a much -- much improved, I think,
16 facility in terms of how it operates and in terms of
17 safety and just general performance.

18 Dunkin' today is on a site that houses
19 also a gas station and a car wash and so there's, in
20 my opinion, a greater likelihood of conflict there
21 than it operates on an independent site. So I think
22 that there's a great benefit that would substantially
23 outweigh any detriment as well.

24 And the (c) variances can be granted
25 primarily due to the hardship created by the shape of

1 the lot and I've already covered several times the
2 lack of substantial detriment to the zone plan or to
3 the public good and general welfare.

4 And that concludes my testimony.

5 MR. DEL VECCHIO: Thank you, Ed.

6 If the board has any questions or the
7 board's professionals, I make Ed available to you.

8 CHAIRMAN DEPINTO: Thank you.

9 Before I open it up to board members
10 for questions, I'm going to go first to our planner,
11 Darlene. The last technical review letter you did, I
12 believe is dated January 15; is that correct?

13 MS. GREEN: That's correct.

14 CHAIRMAN DEPINTO: And in your review
15 letter, you cited a number of variances and also
16 cited variances that were not addressed or at that
17 time pointed out on any plan that variances may be
18 needed. Has that been resolved? Do we know --
19 quantitatively, do we know how many variances we
20 actually need to process this application aside from
21 the (d)(1)?

22 MS. GREEN: So the applicant has
23 agreed, although we have not yet seen revised plans
24 to eliminate the building height variance, they've
25 also agreed to eliminate the shade tree variance. So

1 for Bob's purposes, the shade tree is Variance No. 8
2 in my review letter and the building height is Number
3 2.

4 I believe Mr. Chan said he was going to
5 attempt to eliminate the parking lot screening
6 variance. Is that correct?

7 MR. DEL VECCHIO: That is correct.

8 MS. GREEN: That's what I thought. The
9 parking lot screening variance is Number 5. So that
10 means we've eliminated three. So that means they're
11 down to 11 variances not including the (d) variance.

12 MR. REGAN: Total of 11 (c)'s?

13 MS. GREEN: 11 (c)'s, yes.

14 Now, it should be noted that the one
15 citation for signage, there's multiple prongs of that
16 that they did not meet, but we only cited it once.

17 MR. REGAN: Right.

18 CHAIRMAN DEPINTO: So we're down to 11
19 (c) variances?

20 MS. GREEN: Correct, yes.

21 CHAIRMAN DEPINTO: And Mr. Kolling,
22 could anything be done in your professional opinion
23 to the plan to lessen the number of variances
24 required to build the proposed development?

25 THE WITNESS: Well, I think that the

1 applicant -- that the professionals, the site
2 designer, site engineers and the architect have
3 attempted to do that and they have successfully
4 removed a few.

5 The 11 variances as Darlene has
6 mentioned, there's like multiple facets of different
7 things, like under parking, there might be multiple
8 facets that are in there or under the signage and I
9 don't know that we could do anything more because of
10 the configuration of the site, if you're going to
11 have a setback variance, it's going to be because of
12 the angle of the side lines and things of that
13 nature.

14 Parking, I don't know that you -- we
15 could increase parking, nor do I think that you would
16 want to. Again, I think that to create additional
17 parking just for the sake to create parking if
18 there's not going to be a demand for that is wasteful
19 and really contrary to good planning. So I
20 definitely would not think that the addition of
21 parking would be beneficial. That's it.

22 CHAIRMAN DEPINTO: And let's go to the
23 (d)(1) variance. We often talk about or hear about
24 inherently beneficial use. Can you define that and
25 apply that to the proposal?

1 THE WITNESS: Well, this is not an
2 inherently beneficial use. I can -- rather than go
3 through a list of things that are, I can clearly say
4 that this is not.

5 CHAIRMAN DEPINTO: Give us --

6 THE WITNESS: A lot of people like
7 their coffee and they may think it's inherently
8 beneficial, but no, it's not.

9 CHAIRMAN DEPINTO: Give us some
10 examples of what you consider to be inherently
11 beneficial.

12 THE WITNESS: Something -- education
13 uses, because what -- obviously education, educating
14 our youth, educating ourselves is a very beneficial
15 thing. Religious institutions, because of, you know,
16 the idea of moral character and that kind of holding
17 that. Hospital uses that deal with health and things
18 of that nature. Those -- those are things that are
19 inherently beneficial to society.

20 MR. REGAN: Well, in addition to being
21 defined in case law, it's defined right in the MLUL.

22 THE WITNESS: Yes, there's --

23 CHAIRMAN DEPINTO: And coffee shops are
24 not considered or drive-through coffee --

25 THE WITNESS: Inherent -- no.

1 CHAIRMAN DEPINTO: -- inherently
2 beneficial?

3 THE WITNESS: Right.

4 CHAIRMAN DEPINTO: So we have 11 (c)
5 variances and we have a (d)(1) variance.

6 Darlene, before I open up to board
7 members, do you have any other comments with respect
8 to your technical review?

9 MS. GREEN: The applicant --

10 CHAIRMAN DEPINTO: Or questions.

11 MS. GREEN: The applicant's actually
12 answered all of the questions in my technical review
13 letter. We short of woven it into their testimony
14 throughout this hearing and the last hearing.

15 I do have a question just to clarify
16 the impervious coverage, it's increasing now to 70.7
17 percent because of the additional crosswalk and
18 sidewalk?

19 THE WITNESS: I think when I looked at
20 the revised plans it was 69.9.

21 MR. DEL VECCHIO: Our engineer is
22 nodding that Ms. Green's number of 70.7 is what he
23 testified to earlier.

24 THE WITNESS: I stand corrected.

25 MS. GREEN: So as part of your

1 testimony, what I'm trying to understand is some of
2 these items that are -- the applicant is seeking
3 relief for, appear to be self-generated issues. So
4 for example, there's a second tenant proposed and
5 that second tenant has parking associated with it.
6 And I think you're -- you're over by about 3,000
7 square feet on impervious coverage. That second
8 tenant space comprises how many square feet?

9 THE WITNESS: I think it's a little
10 under 1500.

11 MS. GREEN: Okay. And so as we add
12 that with their eight required parking spaces, if you
13 were to remove the second tenant and their eight
14 associated parking spaces, wouldn't that technically
15 bring you closer to complying with our impervious
16 coverage limitation?

17 MR. REGAN: And with parking?

18 MS. GREEN: Yes.

19 THE WITNESS: Yes. She mentioned that.
20 Yes, that's true.

21 MS. GREEN: And do you know, does
22 Dunkin' mandate the mobile order line?

23 THE WITNESS: I don't know that. I
24 couldn't answer that. Maybe another witness.

25 MS. GREEN: Because when I review the

1 site plans, what I see along the northern property
2 line is the regular drive-through lane, then the
3 mobile drive-through lane and then a bypass lane,
4 correct? So three travel lanes along the northern
5 edge. And in that same area that's where you're
6 deficient on your setback for between a drive aisle
7 and landscaping, correct?

8 THE WITNESS: Yes.

9 MS. GREEN: And so if the use is
10 dictating these three lanes of travel, then the use
11 is limiting your ability to install that landscaping?

12 THE WITNESS: Yes, but the -- it also
13 enhances the operational aspects of it and I think
14 there's a benefit to that in terms of being able to
15 move people through the site in a safe and efficient
16 manner and have them move through the site and then
17 to exit onto the roadway again. So it's kind of a
18 balancing act there as to is it -- would the benefits
19 outweigh the detriment. In that location where we
20 don't meet the setback, we're at the back end of the
21 office building that faces Summit Avenue, so there's
22 really minimal impact on the adjacent property in my
23 opinion. So I think that the benefit of having that
24 additional lane to allow for that efficient use and
25 also I think it helps having that extra pavement

1 there might add to the circulation pattern for the
2 trash pickup vehicle and for the fire vehicle to be
3 able to maneuver through that area. So I think that
4 there's a, you know, give and take on that one.

5 MS. GREEN: Understood. And then I'm
6 actually looking here on the easel at A-13 and one of
7 the variances that your team is seeking is for the
8 two wall signs for the Dunkin'.

9 THE WITNESS: Yes.

10 MS. GREEN: Is the wall sign on the
11 southern facade going to be visible because of the
12 existing tree canopy that is on your neighbor's
13 property to the south?

14 THE WITNESS: I'm not -- I'm not sure
15 of that. I really couldn't answer. Maybe the -- I
16 think that might be a question for the site engineer.

17 MS. GREEN: Okay. Because based on
18 this aerial, there appears to be shade trees along
19 the property line on the neighbor to the south. So,
20 you know, my concern is that the applicant is asking
21 for two wall signs for the Dunkin' where we're
22 allowed one. In addition, they're asking for a
23 freestanding sign where we don't allow it at all and
24 so there seems to be a lot of signage and I'm not
25 really sure what purpose, if any, that southern wall

1 sign serves if it's not going to be visible because
2 of landscaping that they can't touch because that
3 landscaping is on the neighbor's property.

4 That's all the questions I have for
5 this witness.

6 CHAIRMAN DEPINTO: Thank you.

7 Carl?

8 MR. O'BRIEN: For planning I think
9 Darlene handled everything.

10 CHAIRMAN DEPINTO: Okay. And do you
11 have any other open questions or --

12 MR. O'BRIEN: They handled it through
13 engineering. The major thing for me is going to be
14 what the county has to say with their comments. I'm
15 very curious on that. Other than that, I'm okay for
16 right now.

17 CHAIRMAN DEPINTO: Have we had any
18 communication with the county?

19 MR. O'BRIEN: Not specific to this. We
20 reached out, but nothing.

21 CHAIRMAN DEPINTO: And I believe, Mr.
22 Del Vecchio, you said that the application is on file
23 with the county?

24 MR. DEL VECCHIO: It is.

25 CHAIRMAN DEPINTO: Okay. And when are

1 you expecting to hear back from the county?

2 MR. DEL VECCHIO: I'm expecting a joint
3 report to be issued at their next meeting.

4 CHAIRMAN DEPINTO: Okay. Let me open
5 up to board members now.

6 Chris, on testimony we heard from the
7 planner or comment that you heard from Darlene as
8 well.

9 MR. GRUBER: I guess my only question
10 would be the -- adding the drive-through and the
11 mobile order thing, does that really increase the
12 profitability of having those two items and go
13 through all of the variances that are needed?

14 THE WITNESS: I can't speak to the
15 profitability and I don't think that's really a
16 planning issue, but I think that the efficiency of
17 functioning of the site, I think -- I think it does
18 enhance that because rather than having additional --
19 people who are -- who can go through more quickly
20 having to be in the same line with a person picking
21 up who's been ordering from the board, it would end
22 up creating a longer queue and reduce the efficiency
23 of how the site could function, which then might
24 affect the safety and operational aspects of it. So
25 I think that it's -- that it is an important aspect

1 of -- in this particular type of operation.

2 MR. GRUBER: All right. I -- the only
3 reason I asked that question is because if you like
4 Dunkin' Donuts, you're going to go to Dunkin' Donuts
5 as opposed to Starbucks and as opposed to Tim
6 Hortons. You know, people pick their poison that
7 they want to have and I just -- I mean, if I was
8 somewhere and there was a drive-through, it wouldn't
9 make a difference. If I want Dunkin' Donuts, I would
10 pull in and get Dunkin' Donuts.

11 It just seems like they're trying to
12 create -- there's a lot of variances that I keep
13 hearing about all these things that have to be
14 approved that aren't in the ordinance. For a store
15 that would, in my opinion, function just as well
16 without all of that stuff, because people who want
17 Dunkin' Donuts are going to want Dunkin' Donuts.

18 That's all I have to say.

19 CHAIRMAN DEPINTO: Thank you.

20 VICE CHAIRMAN LINTNER: I have no
21 questions of the planner.

22 CHAIRMAN DEPINTO: Thank you.

23 John?

24 MR. CULHANE: One thing that, well, you
25 raised the parking issue and the trouble I have is

1 that the ordinance when it's drafted in my mind would
2 address, what I'll call, a worst case scenario. So
3 in a restaurant worst case scenario dealing with
4 parking wouldn't be a Dunkin' Donuts. What kind of a
5 restaurant do you think the persons who drafted up
6 the ordinance were contemplating?

7 THE WITNESS: That's a good question.
8 I would have to try to think what I would be -- what
9 would cross my mind. The -- and it's difficult
10 because the criteria of one parking space for every
11 10 feet --

12 MR. CULHANE: Well, I'll give you my
13 own thoughts than try to put words in your mouth.
14 Would it be like a high-end restaurant, steakhouse,
15 high-end steakhouse serving alcohol?

16 THE WITNESS: That -- well, when you
17 add alcohol to the equation, that would probably be a
18 factor depending on how long a person might imbibe so
19 to speak. So, yeah, that's a possibility, but some
20 of that additional parking that's necessary might --
21 in a higher-end restaurant might be covered by the
22 number of seats that were there, so you wouldn't need
23 to worry about that takeout service area necessarily.

24 We had -- our team had a little bit of
25 a discussion about how would we define that takeout

1 service area. Maybe -- maybe we may have
2 overcompensated for that by just taking everything
3 that's inside the store. Maybe it really should only
4 be a portion of what's in the store where the persons
5 would actually be serviced and if that were the case,
6 well, then the parking requirement would be much
7 reduced. So it's hard to -- it's hard for me to
8 really give you a good answer.

9 MR. CULHANE: And the other concern I
10 have is that other proposed retail, what sort of
11 restrictions if this application was approved --
12 well, that's a hypothetical. What kind of
13 restrictions should the board be putting on that
14 future retail to mitigate the impacts with parking?

15 THE WITNESS: I think that might be
16 better answered by the -- as a legal point, but I
17 think we made the point several times during the
18 presentation that anything would have to come back to
19 this board because we haven't been clear enough on
20 what it could be. So, therefore, whatever is
21 proposed would come back to you to look at another
22 bite at the apple and decide can this additional use
23 function in this location or not.

24 MR. CULHANE: No other comments at this
25 time, Mr. Chairman.

1 CHAIRMAN DEPINTO: Thank you.

2 Joe?

3 MR. PUGLISI: Yeah. First let the
4 record show I'm an avid Dunkin' Donuts fan just in
5 case my wife reads the transcript.

6 (LAUGHTER.)

7 MR. PUGLISI: Am I clear on -- you
8 know, I'm not so troubled by the drive-through. I
9 tend to agree that's probably an outdated ordinance,
10 but it is on the books. I'm not so much troubled by
11 the parking spaces either because as has been pointed
12 out this is not a restaurant where people go in and
13 stay for long periods of time, so maybe less parking
14 is not an issue.

15 But what I am troubled with and I think
16 your testimony suggests that all the variances should
17 be alleviated because of the hardship of the shape of
18 the lot and the size of the lot and we can't squeeze
19 what we want into this lot. So in essence, you're
20 saying this plan isn't appropriate for that lot.

21 THE WITNESS: There is -- well, there's
22 two different perspectives on that. One is the shape
23 of the lot and the suitability for the variance for
24 the use and I think in terms of the variance for the
25 use, the shape of this lot is very suitable because

1 of the length of the lot, the depth of the lot, which
2 allows cars to circulate fairly far back, loop around
3 and hit the window before they go out, which allows
4 for a significant amount of queuing and allows for a
5 good function of that pass-through versus the area
6 that's dedicated to the parking.

7 The other part of the suitability is --
8 when you're addressing the (c) variances is
9 different. So you're right, there is a conflict
10 there, it's a difference that because of the layout
11 and where the building has to be located and,
12 therefore, the restrictions on where the lot line is
13 shaped, we do fall short in terms of certain
14 setbacks, amounts of landscaping, some additional lot
15 coverage, so those things are an issue in that
16 regard.

17 MR. PUGLISI: And I think you said
18 there's nothing that you can think of that would
19 mitigate any of them.

20 THE WITNESS: I think that they've done
21 a really nice job of trying to do that especially in
22 terms of the aesthetics and the eye appeal or curb
23 appeal if you look at it from that perspective,
24 because the landscaping that is wider is located
25 towards the front and then it flares out and so,

1 therefore, the parking and the additional asphalt,
2 macadam are located towards the rear where -- where
3 it kind of like abuts the Parkway property, and the
4 back end of the office building so that you get the
5 curb appeal, that sense is something that's more
6 nicely landscaped, more attractive from the street
7 and the other utilitarian parts of the site are
8 towards the rear where they're less visible.

9 MR. PUGLISI: Okay. Thank you. I have
10 no further questions.

11 CHAIRMAN DEPINTO: Thank you.
12 Anita?

13 MS. BAGDAT: No, they've been all
14 addressed. Thank you, Mr. Chairman.

15 CHAIRMAN DEPINTO: Okay. Thank you.

16 I'm going to open the meeting to the
17 public, but before we do that, Mr. Kolling, it sounds
18 to me that a number of these variances are required
19 because the applicant seeks to develop the property a
20 certain way. More particularly he wants a
21 restaurant, he wants another use on the property,
22 which has not been determined what it would be, kind
23 of putting the burden on the Borough as to
24 determining what it would or what it would not allow.
25 That shouldn't be our job. That's done through

1 zoning ordinance. So someone came in with something
2 as of right, a use that is permitted, we'd be very --
3 be extremely difficult to prohibit them from
4 occupying that space, because they did not meet the
5 parking requirement. So I can't really buy that.

6 The three lanes on the north side of
7 the property necessitating variances with respect to
8 the landscaping, placement of walkway, things of that
9 nature, you have three aisles of traffic, forget what
10 the use is, but you have three aisles of traffic and
11 you have a building of certain dimensions. It's the
12 old adage in my opinion of 10 pounds of sugar,
13 5-pound bag. Either you're going to make the bag
14 bigger to hold the 10 pounds of sugar or put less
15 sugar in the bag. I think you're trying to get --
16 not you, but it appears that that's what's being
17 sought.

18 The -- I think there are ways that this
19 project, in my opinion, could have been improved if
20 there were greater compliance with our code and I
21 think the plans were drawn without any respect of our
22 code, because to find that many variance requests on
23 that small piece of property and that number of uses,
24 I believe they are self-imposed. I think it's a real
25 problem.

1 And then finally with respect to
2 signage, to allow for three signs when only one sign
3 is permitted, and I believe our planner stated it
4 quite well that the sign on the southern side of the
5 building, I too would question the visibility and the
6 need for that sign in light of existing vegetation on
7 the property immediately to the south.

8 Then you have a fascia sign and then
9 you have a freestanding sign and then there is that
10 unknown who is going to occupy the other 1400 square
11 feet and what are they going to be looking for in the
12 way of signage. I don't know, because you're not
13 suggesting what would be the best, in your opinion,
14 as a planner, the best type of use that could go into
15 that space, it's wide open right now, but, again,
16 that's my personal opinion.

17 With that said, Chair will entertain a
18 motion to open the meeting to the public.

19 MR. CULHANE: (Raised hand).

20 CHAIRMAN DEPINTO: John.

21 Second?

22 MR. GRUBER: Second.

23 CHAIRMAN DEPINTO: Chris.

24 All in favor?

25 (Whereupon, all members respond in the

1 affirmative.)

2 CHAIRMAN DEPINTO: Anyone from the
3 public wish to be heard?

4 (NO RESPONSE.)

5 CHAIRMAN DEPINTO: No. Chair will
6 entertain a motion to close the meeting to the
7 public.

8 Bill, Chris.

9 All in favor?

10 (Whereupon, all members respond in the
11 affirmative.)

12 CHAIRMAN DEPINTO: Mr. Del Vecchio, do
13 you have any other witnesses?

14 MR. DEL VECCHIO: No, that concludes
15 our direct case, Mr. Chairman.

16 CHAIRMAN DEPINTO: Okay. And I presume
17 you'd like for the board to take an action this
18 evening?

19 MR. DEL VECCHIO: That is our intention
20 and I do wish also a few minutes to sum up when
21 appropriate.

22 CHAIRMAN DEPINTO: Well, I believe this
23 would be the time to sum up, then the board will go
24 into deliberation and then the board will instruct
25 the board attorney as to the preparation of a

1 resolution.

2 MR. DEL VECCHIO: Okay. Let me start
3 with from the back end of my list. We started
4 talking in these proceedings tonight about the sign
5 located on the southern portion of the building for
6 Dunkin' Donuts. That sign really is intended as an
7 architectural feature. It has limited visibility as
8 everyone has rightfully noted to traffic traveling
9 northbound on Chestnut Ridge Road. I won't say no
10 visibility, I'll say limited visibility. But
11 otherwise without a sign or a Dunkin' Donuts graphic
12 of some sort, you end up with a very large blank
13 monolith which we thought severely detracts from the
14 aesthetics of the building that we all spent a lot of
15 time trying to get right.

16 I think the one thing that we haven't
17 spoken about during these proceedings to this point
18 is technically the tenants on this property are
19 entitled to two signs, because the property borders
20 the Garden State Parkway as a parallel road. Like
21 the other properties on Chestnut Ridge Road, that
22 sign, that second sign would be technically required
23 to be placed on the back wall, but to what end,
24 obviously we're not going to be pulling people off
25 the Garden State Parkway to come to Dunkin' Donuts,

1 but technically the code would allow each tenant to
2 have two signs. So the second Dunkin' Donuts sign
3 really is a variance as to where its location is
4 being placed. It is -- it is, in my opinion,
5 entitled as a second sign under your code given the
6 parallel Garden State Parkway to the rear.

7 The number of variances and the uses.
8 What was interesting to me when I listened to the
9 testimony of our traffic engineer is the fact that he
10 took no credit for the existing traffic that flows
11 from the Dunkin' Donuts directly across the street.
12 He's included that traffic and then he double counted
13 it by projecting additional traffic to be generated
14 by this Dunkin'. Was that the appropriate use of --
15 was that the appropriate thing to do? In my opinion,
16 yes. It produced the most conservative result, but
17 it also leads to a similar analogy and a similar
18 conclusion. We have a Dunkin' Donuts on the other
19 side of the street currently in operation, has been
20 in operation. We all know it. We probably have all
21 visited it collectively. It operates with fewer
22 parking spaces than what is proposed on this side of
23 the street for this use. While the traffic movements
24 under the unchannelized intersections of the current
25 property are not -- are not the ideal situation, we

1 know from the current operations at the Dunkin'
2 Donuts on the opposite side of the street functions
3 just fine with fewer parking spaces that exist today
4 and more importantly without a drive-through which
5 will change dramatically the patron activities for
6 the Dunkin' Donuts from one that is a park-and-walk
7 to one that is a drive-through or drive-up. That
8 only further proves out the point that the parking
9 quantity proposed for this site probably is more than
10 what is required even though the code from a
11 mathematical standpoint would require more and I
12 think as you heard our traffic engineer and our
13 planner allude to and quite frankly state pretty
14 specifically that even if the property were bigger,
15 they would not recommend additional parking to be
16 created just for the purpose of trying to eliminate a
17 variance or comply with the code and that analogy
18 applies simile but the decision was different in this
19 application when we talk about a loading space. Why
20 provide a loading space that provides macadam, that
21 needs to be lit, that needs to be drained, that needs
22 to be paved, that needs to be plowed when you don't
23 have any loading that's going to take place in that
24 loading area? That would be a silly use of property.
25 It would be a silly expenditure of money and it would

1 be poor planning and that analogy applies steeply to
2 parking spaces that just aren't needed and this
3 applicant has done something pretty unique in my
4 opinion and has said I'm not going to fill the second
5 tenant that I propose for this until we have a better
6 understanding of how the site occupies and operates
7 with just a Dunkin', then we can all talk about real
8 facts in place and then understand what can and can't
9 be made of that second use. That is a huge risk from
10 an investment standpoint to build a project that may
11 have occupancy problems, but this applicant is
12 confident that a use that is symbiotic to the Dunkin'
13 which has a very small window of peak operations
14 where the balance of the site can be utilized in
15 those other hours in a productive manner so as to not
16 impede the Dunkin' operation or the operability of
17 the site.

18 In terms of the drive-through lane,
19 there is a number of places where there are three
20 lanes that does neck down, as you know, into a single
21 drive-through lane with a bypass adjacent to it as
22 you come by the building. I was trying to do some
23 quick math based on the variance testimony. Four of
24 the variances required technically pertain to
25 signage. The balance of the variances that were

1 identified apply to general requirements in your bulk
2 table; one, the loading which we just talked about, I
3 discount that for the reasons I expressed; parking,
4 yes, I recognize it's a variance, but the ITE tells
5 us this operator's experience owning and operating
6 Dunkin' tells us you don't need the parking, so why
7 build it? And then that leaves us with a number of
8 variances and I'm going to refer to numbers in
9 Ms. Green's report. We have Variance No. 1
10 pertaining to impervious coverage. I think a simple
11 look at the aerial map that's been presented as an
12 exhibit tells us that this stretch of the B-1
13 district, virtually none of that -- none of that zone
14 complies with the impervious coverage requirements
15 from the gas station on the corner where the Dunkin'
16 currently is at what was known as the fair-weather
17 strip mall adjacent to it to the CVS, which completes
18 the Grand Avenue corridor on that side of the street.
19 And then switching sides to the now TD Bank building
20 and then the Dairy Queen on the other corner, all
21 those properties have coverage well in excess of the
22 required bulk standard. How do I know that? I
23 prosecuted most of the variances for them. And I
24 think a simple look at the aerial map demonstrates
25 that.

1 Next, we have Variance No. 6, which
2 pertains to the sidewalk setback from the building.
3 That standard was originally adopted for office
4 buildings and carried over to the retail district.
5 Virtually none of the retail districts provide 5 feet
6 of landscaping between their storefronts and the
7 sidewalks that run adjacent to it. Most pedestrians
8 want to get into the building in the most direct
9 route possible. No difference in this situation here
10 than we see in most of the retail district that forms
11 the B-1 corridor between Summit Avenue and Grand
12 Avenue.

13 Variance No. 7, right of way
14 improvements. Yes, it's a variance. The only reason
15 it's a variance is because the county is requiring
16 the sidewalks to be pushed back farther from the
17 curbline. So, yes, we can include it in the list of
18 variances, but I don't really think it is the nature
19 of a variance that is self-created or one that the
20 applicant needs to provide particularly when there is
21 limited sidewalks in this entire side of the
22 corridor. We are providing the sidewalk. We've just
23 accounted for the county's requirement that it be
24 pushed further back from the curbline.

25 And then there's Variance No. 10 for

1 off load -- for off-street loading, which I discussed
2 in my earlier remarks.

3 So, yeah, there are a number of
4 variances and, yes, they are created by the unusual
5 size, shape and topography of this property and, yes,
6 some of them are due to the nature of the property
7 and the positioning of the building, but that's what
8 good planning is about. It's about making
9 adjustments for a particular property for a
10 particular use making sure that it meets the criteria
11 and that's where the judgement part comes in by this
12 board is to adjudicate whether or not the criteria
13 has been met.

14 If the only thing that could be built
15 were applications that met all the requirements of
16 the code, we'd both would be out of business.
17 Neither one of us nor our professionals would be
18 needed. We simply just do what the book says and
19 nothing else and God help us if the book wasn't right
20 in every situation and that's why we're all here is
21 the book is not always perfect in every situation for
22 every particular use, adjustments are needed and they
23 need to be thoughtful ones. They need to be ones
24 that are adjudicated and thought about and honestly
25 one of the ones that just kind of strikes me as a

1 little silly is when we talk about not having
2 sufficient landscaping on the northern property line
3 when we're talking about landscaping a parking lot
4 from a parking lot. I mean, I really hope that's not
5 what we've come down to is landscaping parking lots
6 from each other. We've got into it when we get into
7 the residential world where we're landscaping our
8 neighbors out from our neighbors, but now we're
9 landscaping cars that are parked on one lot from cars
10 that are parked on another lot and, yes, landscaping
11 is important, I'm a big fan, but it needs to be
12 thoughtful and there needs to be some real
13 rationalization as to what we're landscaping and why.

14 It's not an easy application to
15 prosecute. It's not an easy application to present.
16 It wasn't an easy application to design and put
17 together. A lot of adjustments were made from the
18 day the client called my office to the time we
19 visited site plan review, to the time we got our
20 first completeness letter and our subsequent review
21 letters. We've constantly tried to react and adjust
22 the property and make the adjustments that made
23 absolute sense. There's no bad suggestion. We tried
24 to accommodate as many as we could. If the board
25 believes that the sign on the southern monolith isn't

1 appropriate, we understand that. We -- you know, we
2 don't think it's the right decision for this
3 building. A lot of time and energy went in to make
4 sure the building looked balanced in all of its
5 features including the signage.

6 And as far as for the second tenant,
7 we've held a place on the monument, proposed monument
8 sign for that tenant and we propose a space on their
9 facade of a complaint size and location and lighting
10 where they would have a sign over essentially their
11 front door, again, predominately not visible to the
12 public at the street level, but visible to the
13 visitor to the site so they knew where to park, they
14 knew where to walk and the tenant had some identity.

15 Again, I'm not sure that tenant or that
16 sign serves a purpose other than directing traffic
17 and both pedestrians and vehicles to the right tenant
18 and the right location. It produces no impact to the
19 general public as it's not visible to the street
20 line.

21 At the end of the day, you're called
22 upon to make this application a yes or a no based
23 upon the Municipal Land Use Law and the requirements
24 that you have to analyze. We think we have proven
25 our case. We think we have presented the planning

1 and engineering testimony necessary to demonstrate
2 that this application is worthy of your approval. We
3 understand that it may not be perfect. We wish we
4 could make it perfect, but there are limited
5 opportunities to make those changes and we've made
6 them where -- anywhere we could.

7 We thank the board for the
8 considerations that you've given us to date, for
9 considering the application on its merits and we ask
10 you to approve the application this evening based
11 upon the testimony presented. Thank you.

12 CHAIRMAN DEPINTO: Thank you.

13 Okay. At this point we'll go into
14 deliberations. I'm going to Bill first. Bill, your
15 comments and then we'll move on.

16 VICE CHAIRMAN LINTNER: Okay. Thank
17 you, Mr. Chairman. I approach this in two ways, one
18 is ignoring the (d) variance requirement and look at
19 it if it just required all the (c) bulk variances and
20 to try to apply it to the site. What happened when I
21 started to apply it, it turned out that many of the
22 (c) variances are as a result of the site plan and
23 the site plan is a result of the drive-through. So
24 it became difficult to analyze each and every one of
25 the (c) variances.

1 I think -- I think the parking is a
2 concern particularly with the unknown second retail
3 use. I think it's going to be extremely difficult
4 for the board in the future to have this empty tenant
5 space and have an applicant come before us and say I
6 need this -- I need this tenant, I need another
7 variance for parking or whatever it is down the road.
8 I think our ordinance is not accurate in terms of
9 parking requirements for coffee-type restaurants. 59
10 spaces required for it, I think, is way over and
11 certainly would be interested in granting variances
12 for this type of parking application.

13 I think the traffic study, although
14 it's a county road, one thing that stuck out for me
15 is the peak hour was 65, is what the traffic
16 consultant used, but the applicant told us his peak
17 hour is 90 to 95. So there's a big difference in
18 what the traffic is based upon and what the applicant
19 is anticipating in the peak morning hour. That's a
20 significant change to it. I don't know if it would
21 affect the traffic, but it's a big change.

22 Aesthetically, the applicant indicated
23 that many times they went back to the drawing board
24 and tried to make this more typical to Montvale.
25 They said they changed the awning color from orange

1 to black. I don't see this building meeting
2 Montvale. To me it looks like a highway Dunkin'
3 Donuts. They put the -- we've got a facade that's
4 inches away from our height requirements. We've got
5 two giant orange Dunkin' Donut signs on it and as a
6 result of the drive-through, we have multiple signs,
7 have monument signs for ordering, we have a monument
8 sign directing you where to go for where you order on
9 a cell phone or you're ordering from the menu board.
10 To me it looks like a typical Dunkin' Donuts. I was
11 anticipating meeting Montvale to be more of a brick
12 construction, perhaps white lettering on the facade.

13 The big one is the (d) variance, the
14 use variance for the drive-through. I think Dunkin'
15 as well as Starbucks and Tim Hortons can all exist
16 and be profitable without the drive-through. I think
17 if we approved this (d) variance, it would have a
18 significant impact on our zoning and our master plan
19 and I think if we allow a drive-through with this
20 application, it would be impossible for us to
21 backtrack and address future applications. So I am
22 not in favor of granting the (d) variance for this
23 application.

24 CHAIRMAN DEPINTO: Thank you.

25 THE COURT REPORTER: Mr. Chairman, can

1 I just plug in my laptop? Thank you.

2 (Whereupon, a short recess is held.)

3 CHAIRMAN DEPINTO: First I'd like to
4 say to Mr. Del Vecchio, I do agree with you with
5 respect to an entitlement of two signs on the
6 property because the property technically does have
7 frontage both on Chestnut Ridge Road and the Garden
8 State Parkway. So I think your argument in favor or
9 in support of two signs is valid. But this
10 application seeks three signs, one of which I see no
11 need for and though I understand that the architect
12 believes that it is in character with the general
13 appearance, I, too, is not necessarily supportive of
14 the appearance of this highway-looking Dunkin'
15 Donuts. I spend quite a bit of time up in Sussex
16 County and there is a Dunkin' Donuts that was built
17 probably four or five years ago, which I for one
18 think it's interesting. It's not a flat roof
19 building. It's a building with eaves. It probably
20 bears a spot or address and it's on, I guess, Route
21 94 at that particular point, but there's some
22 creativity to the design.

23 This one reminds me more of the one
24 that they built maybe two or three years ago on Route
25 17 in Paramus, which I think is a highway store, but

1 so I do agree with that.

2 I also agree with Mr. Del Vecchio with
3 regard to no need for a loading dock. I believe that
4 the operator can control delivery times, types of
5 vehicles and to set aside an area for a loading dock,
6 I don't think that's absolutely necessary. So I do
7 agree with you in that respect.

8 With regard to landscaping one parking
9 area to another parking area, at some point in time
10 and probably closer to today than 10 years from
11 today, I would imagine that the Dairy Queen property
12 will be acquired by someone and redeveloped, it won't
13 stay. I wish it would, but I'm sure it won't stay
14 with land values being what they are. We do have to
15 plan for the future and we do have to take care of
16 landscaping requirements in connection with a use and
17 now we have a use of two retail operations, one of
18 which we have no idea what it will be. I believe the
19 applicant had opportunities to change the plan to be
20 more reflective of what we were looking to do on that
21 property with this use. Plans haven't changed that
22 much, so I'm a little disappointed with respect to
23 that.

24 I -- the -- I think I've made my
25 feelings pretty clear.

1 Finally, Mr. Del Vecchio, I take
2 exception on behalf of this board where you somewhat
3 may have implied, at least as I understood, what you
4 said that we may not be as flexible in granting of
5 variances and relief needed by applicants and because
6 you so frequently deal with this board, I don't think
7 you really mean that. I think we have a couple of
8 developments in this community, one of which where
9 your office is located and another one across the
10 street from there, there was tremendous creativity on
11 the part of municipal government and the planning
12 board into both of those projects, but both of them
13 after site plan approval have been granted, required
14 numerous variances and we worked with that developer,
15 that property owner and we're all very proud of it.
16 We didn't dig our heels in the sand and say hell no,
17 the ordinance says this and, therefore, it's got to
18 be that, we didn't do that and we're not doing it
19 here, but I don't see any movement on the part of the
20 applicant to cooperate with the Borough in a manner
21 which we would find or at least in my personal
22 opinion I would find acceptable. Thank you.

23 John?

24 MR. CULHANE: Thank you, Mr. Chairman.

25 The reason I raised the concerns about

1 the ordinance and its application for this particular
2 site because I felt that the requirement for 64
3 parking spaces was just not realistic. That was
4 reenforced by the traffic engineers using the traffic
5 engineers criteria for restaurants, but it looks
6 like, as you said earlier, we're trying to put 10
7 pounds into a 5-pound sack and I'll just leave it at
8 that.

9 CHAIRMAN DEPINTO: Thank you.

10 Joe?

11 MR. PUGLISI: Yeah, I don't know how
12 much more I can add to the justification for being
13 concerned about the way in which this property has
14 been developed. It does seem to be a little tight in
15 the design. I have the same concerns as other board
16 members.

17 CHAIRMAN DEPINTO: Thank you.

18 Anita?

19 MS. BAGDAT: Yes. Thank you, Mr.

20 Chairman.

21 I think everyone has spoken and I have
22 the same concerns as everybody else has on this board
23 and example, the unknown proposed tenant, who will
24 they be, parking, traffic, all of the above.

25 Thank you.

1 CHAIRMAN DEPINTO: Thank you.

2 Chris?

3 MR. GRUBER: I -- the only thing I can
4 say is that I agree with all the comments from the
5 board members. I think you've covered every one of
6 my concerns. So there's really nothing more I can
7 add to this.

8 CHAIRMAN DEPINTO: Thank you.

9 Mr. Del Vecchio.

10 MR. DEL VECCHIO: Yes.

11 CHAIRMAN DEPINTO: Mr. Del Vecchio,
12 you've heard comments from the board members. I
13 could call for a motion to request the board attorney
14 to prepare a resolution or to the alternative, in the
15 interest of continued corporation that this board
16 always has with applicants that come before it, to
17 allow you to return in two weeks if, in fact, your
18 client chooses to make changes to the plan, you've
19 heard all the comments or to the alternative if its
20 your preference to call for a vote tonight, I
21 certainly can do that.

22 MR. DEL VECCHIO: Two things, Mr.
23 Chairman. First and foremost, I don't think I said
24 it and if I did, I didn't intend to imply that this
25 board isn't flexible. I think I was pointing, in

1 fact, to the other variance conditions that exist
2 along the corridor of Chestnut Ridge Road for
3 impervious coverage. So if I misspoke, I apologize,
4 but that's not what I was trying to convey in my
5 closing remarks.

6 With regard to the board's position, I
7 can't promise that there will be a change, but I
8 would like an opportunity to go back and digest some
9 of the comments that were made and return in two
10 weeks and we can, you know, proceed from there.

11 MR. REGAN: Do you want the board to
12 hold off on the motion?

13 MR. DEL VECCHIO: Yes.

14 CHAIRMAN DEPINTO: And you will grant
15 the board any time extension required?

16 MR. DEL VECCHIO: We'll grant the board
17 an extension through the conclusion of the next
18 meeting, whatever that date is.

19 CHAIRMAN DEPINTO: I'm not certain if
20 we are going to have a meeting in two weeks, so it
21 may be 30 days.

22 MR. DEL VECCHIO: If you let me know
23 what the two meeting dates are, I need to check with
24 my client and my team to see when they'd be
25 available.

1 MR. REGAN: I think it's the 3rd and
2 the 17th, I think.

3 MS. FONDACARO: That's it.

4 MR. REGAN: Definitely want to meet on
5 the 17th.

6 MR. DEL VECCHIO: Is that St. Paddy's?

7 MR. O'BRIEN: That's St. Paddy's Day.

8 MR. DEL VECCHIO: We have a big thing
9 in the office. I may not be able -- no, I'm only
10 kidding.

11 (LAUGHTER.)

12 MR. REGAN: You'll provide the
13 transcript when it's available for the board?

14 MR. DEL VECCHIO: Yes.

15 CHAIRMAN DEPINTO: So he's --

16 MR. REGAN: He's agreeing that don't
17 call for a motion tonight, he's going to come back in
18 whether it's two weeks or four weeks.

19 VICE CHAIRMAN LINTNER: I would suggest
20 four weeks, because I'm definitely not going to be
21 here the 3rd.

22 MR. REGAN: Yeah, we should make an
23 announcement for that.

24 CHAIRMAN DEPINTO: So let's make --
25 Andy --

1 MR. DEL VECCHIO: If I may have one
2 moment?

3 CHAIRMAN DEPINTO: Sure.

4 (Whereupon, a short recess is held.)

5 CHAIRMAN DEPINTO: What I wanted to
6 say, we're talking about two dates in March, I'm not
7 sure if we're going to have that first meeting, so we
8 would like for you to grant the extension of time to
9 the second meeting which is when --

10 MR. REGAN: The 17th.

11 CHAIRMAN DEPINTO: The 17th, because
12 one of the reasons is that as you can see we're
13 having difficulty getting enough voting members,
14 eligible members at the meeting. So we will carry
15 it, if you want to carry it to that date.

16 MR. DEL VECCHIO: I'd like to carry it
17 to the next available meeting and I don't know if the
18 board has for certain decided that there isn't a
19 meeting on the 3rd. Obviously if that's the case,
20 then the 17th is the next available date.

21 MR. REGAN: Well, to be safe we want to
22 make the announcement, so the hearing remains open
23 and we don't have to do notices or anything.

24 CHAIRMAN DEPINTO: You don't want to
25 re-notice.

1 MR. DEL VECCHIO: No, but could we make
2 the announcement that it will be carried to the 3rd,
3 if the board does have a meeting on the 3rd and if
4 the meeting is cancelled, it would be carried to the
5 17th and that will cover us in either eventuality.

6 MR. REGAN: Okay.

7 CHAIRMAN DEPINTO: I'm not comfortable
8 with that. Either we're doing it on the 3rd or we're
9 doing it on the 17th. I've got to work out an agenda
10 with Jeanne.

11 MR. REGAN: To be on the safe side,
12 let's do the 17th.

13 CHAIRMAN DEPINTO: It's safer on the
14 17th.

15 MR. DEL VECCHIO: That just means that
16 we're cutting off the 3rd if you do have a meeting.

17 CHAIRMAN DEPINTO: Right now it's
18 looking like we're going to cancel the meeting on the
19 3rd.

20 MR. REGAN: If you're going to be
21 making changes to the plan, it seems to me two weeks
22 is not going to be enough time. If you're thinking
23 the way I'm thinking of what changes should be made
24 to get this application approved, you know it's going
25 to take more than two weeks.

1 MR. DEL VECCHIO: I'm not sure that
2 wholesale of a change can be made, but --

3 MR. REGAN: Well, that's --

4 (Whereupon, a short recess is held.)

5 CHAIRMAN DEPINTO: Go ahead, Andy.

6 MR. DEL VECCHIO: If the 17th is the
7 only meeting being made available, you know, we'll
8 obviously take it. We were hoping to, you know,
9 cover the bases and if there's a meeting on the 3rd,
10 so be it.

11 CHAIRMAN DEPINTO: And the -- and one
12 of the problems is as you know in all the towns that
13 you do work in, we're all faced with the obligation
14 of coming up with plans and meeting dates. Right now
15 we're still at March 15th or has that been extended?

16 MS. GREEN: No, we're still at March
17 15th.

18 CHAIRMAN DEPINTO: Still March 15th.
19 And even if we do have a meeting on the 3rd, I would
20 imagine we're going to be pretty busy with our
21 affordable housing obligation and doing whatever we
22 have to do. I feel more comfortable with the
23 extension.

24 MR. REGAN: I think it helps the
25 applicant too.

1 Let's make the announcement that the
2 hearing will remain open and carried to March 17th
3 without any further notice. Then you're covered in
4 terms of any notice issues.

5 MR. DEL VECCHIO: It's the board's
6 discretion.

7 CHAIRMAN DEPINTO: Okay. So let it be,
8 the 17th. Thank you.

9 MR. DEL VECCHIO: Thank you.

10 CHAIRMAN DEPINTO: And have a good
11 evening, everyone.

12 (Whereupon, the matter is carried to a
13 later date. Time noted: 10:30 p.m.)

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

I, CANDICE CARUCCI, a Professional Court Reporter, and Notary Public of the State of New Jersey, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, nor am I related to an agent of or employed by anyone with a financial interest in the outcome of this action. This transcript complies with Regulation 13:43-5.9 of the New Jersey Administrative Code.

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