

NEW HOPE BOROUGH COUNCIL
BUCKS COUNTY, PENNSYLVANIA

MARCH COUNCIL MEETING

NEW HOPE BOROUGH COMMUNITY ROOM
123 NEW STREET
NEW HOPE, PENNSYLVANIA 18938

TUESDAY, MARCH 21, 2023

COMMENCING AT 6:30 P.M.

BOARD MEMBERS PRESENT:

CONNIE GERING - PRESIDENT
LAURIE MCHUGH
TINA RETTIG(via telephone)
LOUISE FEDER
PETER MEYER
KENNETH MAISEL
DANIEL DOUGHERTY

ALSO PRESENT:

LAURENCE KELLER - MAYOR
PETER GRAY - BOROUGH MANAGER
JOHN FENNINGHAM, ESQ. - BOROUGH COUNCIL
MARK LABRUM, ESQ. - BOROUGH COUNCIL SOLICITOR
MARY STOVER - ZONING OFFICER
MICHAEL CUMMINGS - CHIEF OF POLICE
RICHARD LUPINETTI - CODE ENFORCEMENT OFFICER
MATTHEW DECKER - AUDIO/VIDEO TECHNICIAN

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PRESIDENT GERING: Call the meeting to

order. If you can stand up for the Pledge of Allegiance.

Pete, if you can take roll, please.

MR. GRAY: Certainly. Ms. McHugh?

MS. MCHUGH: I am here.

MR. GRAY: Ms. Rettig?

MS. RETTIG: Here.

MR. GRAY: Ms. Feder?

MS. FEDER: Here.

MR. GRAY: Mr. Maisel?

MR. MAISEL: Here.

MR. GRAY: Mr. Meyer?

MR. MEYER: Here.

MR. GRAY: Mr. Dougherty?

MR. DOUGHERTY: Here.

MR. GRAY: Mayor Keller?

MAYOR KELLER: Here.

MR. GRAY: Ms. Gering?

PRESIDENT GERING: Here.

First is does any one have a public comment

of what is on the agenda for tonight? We have three

minutes for public comment. All right. Thank you.

Mayor, do you have a report?

MAYOR KELLER: Yes. Just a couple of

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letters I received I thought I should share with the

residents.

This one came from Bill and Macey Stepien

who live on New Street right behind us. And it said my

name is Bill Stepien, my wife Macey and I have been living

at 104 New Street for the past two plus years along with

their little guy, their baby Theo, who is seven months

old.

And two weekends ago Macey and I went out

of town. Early Monday morning on January 3rd we received

a call from our home security office saying one of our

window alarms was tripped. By the time we spoke to our

security service, they had already called police dispatch

which had sent two officers to our home.

Just a few minutes later I received a call

from Officers Gruber and McLeod and with me and Macey on

the phone, the officers both checked our home, walked us

through what they saw. Most of all this was a very nerve

wracking time for to us. The officers spent about ten

minutes on the phone with me and Macey and were calm,

thorough and professional throughout.

These days the men and women of our police

department don't get enough credit for their commitment to

service and for the work they perform in communities like

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2 ours, which is why we wanted to send this short note
3 thanking you, Chief and the Mayor for the leadership you
4 provide.
5 And on behalf of myself and Macey, please
6 express our appreciation to Officers Gruber and McLeod and
7 Austin and one other one.
8 This was passed on initially to Corporal
9 Tremblay regarding another officer, James Giovinazzo. I
10 received a call from Andrew Felter who is from the FBI,
11 with the FBI, regarding an incident that Officer
12 Giovanazzo handled.
13 And Felter stated that he was involved in a
14 motorvehicle accident and his pregnant wife and 14-month
15 old child were transported to the hospital. Felter stated
16 that Officer Giovinazzo was very caring on the scene,
17 making sure that he, his wife and child were comfortable
18 and warm until transport.
19 Felter stated the vehicle was towed to New
20 Hope Lukoil and Officer Giovinazzo helped Felter transfer
21 his stuff into another vehicle and he was extremely
22 grateful for how Officer Giovinazzo handled the call and
23 helped during a very stressful event for them. Felter's
24 wife and child were both okay along with FBI Agent Felter.
25 So just an atta boy and atta girl for our

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2 police department. Just want to share that. That is it,
3 Connie.
4 PRESIDENT GERING: Thank you.
5 First on the agenda can I have a motion to
6 approve the settlement agreement and the parking facility
7 lease with Union Square?
8 MR. MEYER: So moved.
9 MS. McHUGH: I will second.
10 PRESIDENT GERING: Thank you.
11 John, if you can make a statement on this
12 one.
13 MR. FENNINGHAM: Thank you.
14 As a result of the litigation between the
15 Borough and Union Square --
16 PRESIDENT GERING: Microphone, please.
17 MR. FENNINGHAM: As a result of the
18 litigation filed on behalf of the Borough against Union
19 Square, the Defendants, and as a result of the May 13th
20 mediation, the parties have settled their dispute.
21 That settlement is memorialized in a
22 stipulation settlement that is before Council to authorize
23 the President and Manager to sign and then deliver to the
24 Court for the Court's approval. That Court approval is a
25 precondition to the effectiveness of the stipulation of

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2 settlement.
3 PRESIDENT GERING: Thank you. Can we have
4 a vote on Council? All in favor?
5 MS. FEDER: Aye.
6 MR. MEYER: Aye.
7 MS. McHUGH: Aye.
8 MS. RETTIG: Aye.
9 MR. DOUGHERTY: Aye.
10 MR. MAISEL: Aye.
11 PRESIDENT GERING: Aye.
12 Opposed? All right. Thank you.
13 - - -
14 (Ms. Rettig left the meeting.)
15 - - -
16 PRESIDENT GERING: Next can I have a motion
17 for approval of the Certificate of Appropriateness for the
18 Bucks County Playhouse?
19 MS. McHUGH: I will make that motion.
20 PRESIDENT GERING: Second?
21 MR. MEYER: Second.
22 PRESIDENT GERING: Thank you.
23 Any discussion from Council? All in favor?
24 MS. FEDER: Aye.
25 MR. MEYER: Aye.

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2 MS. McHUGH: Aye.
3 MR. DOUGHERTY: Aye.
4 MR. MAISEL: Aye.
5 PRESIDENT GERING: Aye.
6 Can I have a motion for the Certificate of
7 Appropriateness for 3, 5 and 7 West Bridge Street?
8 MS. McHUGH: I will make that motion.
9 PRESIDENT GERING: Can I have a second?
10 MR. MAISEL: I will second.
11 PRESIDENT GERING: Is there anyone here? I
12 think Mr. Ralph Fey was -- you're here. How could I miss
13 you, Ralph. Apologies.
14 Okay. Any questions from Council or
15 discussion in reference to this project?
16 All right. All in favor?
17 MS. FEDER: Aye.
18 MR. MEYER: Aye.
19 MS. McHUGH: Aye.
20 MR. DOUGHERTY: Aye.
21 MR. MAISEL: Aye.
22 PRESIDENT GERING: Aye. Good luck with it.
23 Can I have a motion for Certificate of
24 Appropriateness for 182 South Main Street?
25 MR. MAISEL: I will make the motion.

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1 MS. McHUGH: I will second.
 2 PRESIDENT GERING: Okay. Mr. Cohen.
 3 Hello again.
 4 MR. COHEN: Hello. All right. We are
 5 back.
 6 PRESIDENT GERING: Yes.
 7 MR. COHEN: I am hopeful that folks on
 8 Council are in receipt of a letter I prepared.
 9 Prior to getting into that, I did want to
 10 address a couple of items that I had an opportunity to
 11 review the meeting from last time, spending some time
 12 speaking with Mr. Fey, the architect on the project, as
 13 well as the contractors that I wanted to make some
 14 clarifications on the record and acknowledge misstatements
 15 with regard to the permits, the construction permits, not
 16 the Certificate of Appropriateness that was issued.
 17 With regard to the construction plans
 18 submitted to the Borough, I do want to clarify while the
 19 concrete walls around the driveway, the rooftop fireplace,
 20 the hot tub and the double window on the south wall were
 21 included on those plans. The second window was not. The
 22 additional window did come after that.
 23 Those structures were an inspiration, as
 24 well as the railings on the roof were shown on those plans
 25

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1 issued and inspections were conducted, that everything was
 2 permitted and allowed. When they became aware that was
 3 not the case, this process began.
 4 There were a lot of attacks on my clients'
 5 integrity and intentions at the last meeting and there
 6 seems to be an assumption that they have acted in bad
 7 faith here and I can assure you that is not the case.
 8 There is no evidence of that.
 9 So I would only ask Council, members of the
 10 public, understand that this is not a situation that they
 11 brought to themselves purposefully. I don't think anybody
 12 would bring this upon themselves purposefully.
 13 So with that being said, in my letter to
 14 Council you saw that there were a number of items that my
 15 clients in an effort to try to resolve some of the issues
 16 were willing to modify in connection with the plans.
 17 Among that they had proposed to increase
 18 the screening around the hot tub so that it would -- not
 19 just the hot tub itself would be not visible from the
 20 right of way but also the activity.
 21 They have agreed to either remove or
 22 resurface the bollards in the front driveway. They do
 23 believe that they serve a purpose. They understand the
 24 concerns. Ideally again they would like to redesign them
 25

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1 to be setback from the edge. That was an onsite change
 2 with the contractor.
 3 The hot tub was in fact shown on the plans.
 4 I believe it was some suggestion that I made a statement
 5 that the permit was issued for the hot tub. My
 6 understanding is there is no permit needed for the hot
 7 tub. What I was referring to is that the structural
 8 support for the hot tub was part of the construction plans
 9 and part of what was originally -- eventually approved.
 10 In addition, one other item that was to be
 11 looked at and I am sure we will have some information on
 12 with regard to the chimney cap. It was previously stated
 13 that there was a requirement required by code. That has
 14 been corrected, it is not. It is recommended by the
 15 installer who strongly recommends the inclusion of that
 16 cap. Mr. Lupinetti will confirm that there are other
 17 requirements with regards to the manufacturer. So I did
 18 want to clarify that and just make a very brief statement.
 19 I thought it important for Council to
 20 understand that the applicants here relied on their team
 21 for this construction. There was no purposeful effort on
 22 their part to manipulate or mislead the Borough at any
 23 time. They believed what they were building was compliant
 24 with the approvals. They believed that since permits were
 25

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1 and reface them but if Council insists they remove them,
 2 they will remove them.
 3 In an effort to address the privacy
 4 concerns of the neighbor, though I don't believe that that
 5 is a true consideration for historic district purposes.
 6 But to address those concerns, they have agreed that the
 7 two windows that were added on the side, basically the
 8 front window that was added and the double window would be
 9 frosted with transition cover to protect both their and
 10 the neighbors' privacy.
 11 They have agreed and would agree to install
 12 screening behind the railing on the south wall of the roof
 13 patio to provide a buffer between the neighbors and that
 14 activity on that roof. They have agreed to add timers to
 15 the rail lights so they would only be on as a safety
 16 measure while people are walking on the stairs. Timers or
 17 motion detectors.
 18 And they have already agreed and I
 19 mentioned last time, to install grids on the front windows
 20 in compliance and as depicted on the renderings with the
 21 original COA. And further to install a trellis over the
 22 garage with the plantings.
 23 With those items what they are asking for
 24 -- and I have Ralph Fey, who is the architect, who I would
 25

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1
 2 like to have speak for a bit on some of these items. What
 3 they are asking for is the COA to allow the concrete wall,
 4 the safety wall required around the driveway and a number
 5 of other features including the stairway and the rooftop
 6 fireplace, which again was included in the original
 7 application.
 8 So because I learned that we don't want to
 9 let the attorneys speak too much, if I can have Mr. Fey
 10 come up here and we would go through each of these items
 11 so that we can address them one at a time.
 12 All right. Mr. Fey, you were the architect
 13 -- and I know this isn't a hearing but it might be easier
 14 to do this as a question and answer.
 15 PRESIDENT GERING: That is fine.
 16 MR. COHEN: You were the architect on the
 17 project?
 18 MR. FEY: Yes.
 19 MR. COHEN: Okay. And you prepared the
 20 construction drawings that were submitted for permits?
 21 MR. FEY: I and my team, yes.
 22 MR. COHEN: So you're familiar with this
 23 project?
 24 MR. FEY: I am.
 25 MR. COHEN: Okay. And just to go through

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1 know, 20 or 30 inches.
 2 The options that we looked at to protect
 3 the car which is a code requirement, and I don't know how
 4 the speed that has to stop the car from going over the
 5 edge at a certain speed and the obvious solutions are ones
 6 that we are all aware of: they are guardrails that we see
 7 on the sides of a road and concrete, being in my mind, in
 8 our mind, more sympathetic to the district because we have
 9 retaining walls are of the nature of the buildings in our
 10 community and guardrails like you find on the highway are
 11 not.
 12 So we initially proposed -- our engineer
 13 proposed -- Lauren Kulfte, a 36-inch high retaining wall.
 14 It is concrete. It is not to say it couldn't be clad in
 15 stone or something else. It is made out of concrete.
 16 And that wall was then discussed with the
 17 zoning officer and the building inspector and determined
 18 that even the nature of the height, there was a
 19 preference, not a rule but a preference that we raised it
 20 to 42 inches and it was done.
 21 MR. COHEN: And by the time the
 22 construction permits were submitted for that, was that
 23 wall in its current form?
 24 MR. FEY: Can you say that again?
 25

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1 the various items that are part of this application for
 2 Certificate of Appropriateness, I am going to start with
 3 the walls, I think that is an important issue, around the
 4 driveway.
 5 Can you explain the history of this and how
 6 we got to what is there now?
 7 MR. FEY: Sure. In an effort to focus on
 8 the building through the HARB process and not having had
 9 any engineering at that point, my team left the picket
 10 fence which was currently in the front of the building on
 11 the drawings.
 12 Also realizing that there was going to be
 13 some kind of deck to drive on, we continued that existing
 14 picket fence to the sides and again, as we had no
 15 engineering, once we were -- obviously we were approved,
 16 moved through the process enough so we felt comfortable to
 17 bring the engineers on. The engineers ascertained that we
 18 could not do a foundation and a pad the way we had thought
 19 but this had to be a structured deck so as not to impede
 20 the waters and going against the FEMA requirements.
 21 At that point the terrace that the cars
 22 drive on starts to look more like a parking garage and at
 23 one point I believe the highest point where we are at nine
 24 feet above grade, which is significantly more than you
 25

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1 MR. COHEN: When the actual drawings for
 2 construction permits were submitted, was that wall in its
 3 present form? Was that submitted as part of the drawings?
 4 MR. FEY: It was as part of the engineering
 5 drawings, not the architectural drawings.
 6 MR. COHEN: And from your perspective, and
 7 I think the Board knows your experience with the Borough
 8 and the historic district, do you believe that that
 9 wall -- you already suggested but do you believe that wall
 10 negatively impacts the historic district?
 11 MR. FEY: I think the wall does not
 12 negatively impact the historic district. You can always
 13 question the materiality or the surface of it, but the
 14 wall is in keeping with other retaining walls in the
 15 community and necessary and far better than steel options.
 16 MR. COHEN: Okay. Thank you.
 17 Next with regard to the double window on
 18 the south wall. That window shows on the COA, original
 19 COA, as a single window above a double window.
 20 Can you explain how that changed to a
 21 double window?
 22 MR. FEY: That is the answer that will get
 23 me a little in trouble. A lot of different versions of
 24 that window above the double window, the one that is in
 25

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1 the COA shows a single window.
 2
 3 And further conversations with the HARB
 4 Board suggested that the one window above the two windows
 5 was odd and it was suggested that it be preferred if they
 6 were symmetrical. And I could not find anywhere where
 7 that was written or put into action other than we changed
 8 it to a two window above two window symmetrically.
 9 It was my belief that we were doing what
 10 was asked of us. It had nothing do with the exterior
 11 space from my standpoint.
 12 MR. COHEN: Okay. In just looking at these
 13 two changes, the concrete wall and the double window,
 14 those changes came after the original COA was issued.
 15 Did you at that time believe it was
 16 necessary to go back to HARB to update the application to
 17 reflect those changes?
 18 MR. FEY: If I were to answer that question
 19 now with what we are currently doing as response to
 20 comments by HARB, I would say absolutely it would be back.
 21 At that time it did not feel like that was a requirement
 22 and possibly bad judgment on my part.
 23 MR. COHEN: That was not the practice at
 24 the time?
 25 MR. FEY: I did not believe it was.

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1 MR. FEY: Or the historic district.
 2
 3 MR. COHEN: The rooftop fireplace, that was
 4 included on the COA plans that were originally submitted?
 5 MR. FEY: So the fireplace is included and
 6 is accurately drawn -- it is accurately drawn on the
 7 three-dimensional drawing I have with me in case anybody
 8 wanted to see it. And the photograph, what was not shown
 9 was any type of cap or arrestor or mechanical equipment on
 10 top of it.
 11 MR. COHEN: Okay. And to your knowledge
 12 and understanding as far as the rooftop fireplace is
 13 concerned, was there any discussions specifically about
 14 that with HARB? Or if you remember.
 15 MR. FEY: I do not remember any discussion
 16 other than we showed a stone chimney.
 17 MR. COHEN: Okay. With the fireplace
 18 cutout?
 19 MR. FEY: That is shown on the elevations.
 20 MR. COHEN: And given the location of the
 21 fireplace and in your opinion, does it have an impact on
 22 the historic district?
 23 MR. FEY: It does not have a negative
 24 impact. It is stone. It is consistent with chimneys and
 25 fireplaces.

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1 MR. COHEN: Okay. The additional window on
 2 the south wall, to confirm that, that double window, that
 3 did make it on to the construction drawings?
 4 MR. FEY: It did.
 5 MR. COHEN: The additional window on the
 6 south did not, is that correct?
 7 MR. FEY: It is not on any drawing.
 8 MR. COHEN: That was added at some point
 9 during the construction?
 10 MR. FEY: That is my understanding. I was
 11 not the field person.
 12 MR. COHEN: Again given your background, do
 13 those windows change the impact this building has on the
 14 historic district?
 15 MR. FEY: So it is all pretty fair to say
 16 that the building is not intended to be a historic
 17 building. It is intended to be a building of a
 18 construction type that is more contemporary transitional,
 19 therefore it doesn't follow the same rules of symmetry and
 20 consistency of windows.
 21 I think given it's on the side of the
 22 building and not facing the front, it does not negatively
 23 impact the building.
 24 MR. COHEN: Or the historic district?
 25

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1 MR. COHEN: Okay. With regard to the
 2 chimney cap, there is a chimney cap and there are also
 3 terminations or pipes within the -- under that cap coming
 4 out of the chimney.
 5 The original COA plans, that original
 6 chimney is shown; is that right?
 7 MR. FEY: It is shown.
 8 MR. COHEN: But it doesn't show any
 9 mechanicals coming out of the top of the chimney or any
 10 type of travel, is that right?
 11 MR. FEY: It does not. We were not aware
 12 of the mechanics of them during our concept drawings. We
 13 don't do a lot of things called equipment, condensers,
 14 things we don't know what they will be until there is an
 15 HVAC person or engineer on the job.
 16 MR. COHEN: At the time this project was
 17 presented, was it your understanding that those items
 18 typically are not included when presented to HARB?
 19 MR. FEY: I will state I didn't know they
 20 were going to be there.
 21 MR. COHEN: The railings on the rooftop, I
 22 stated earlier and just have you confirm that on the
 23 construction drawings they were shown set in from the edge
 24 of the roof; is that right?
 25

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1 MR. FEY: They are set in different places,
 2 different amounts from nine inches to eighteen inches
 3 depending on where the wall is below it.
 4 So philosophically if there is a wall and
 5 then an overhang to protect it, the railings were located
 6 directly above the walls on the drawings in which in most
 7 cases were 18 inches.
 8 MR. COHEN: And it is your understanding
 9 that conversations with the contractor that this was
 10 basically an onsite change, correct, that the railings
 11 were moved to the edge of the rooftop; is that correct?
 12 MR. FEY: That is my understanding as well.
 13 MR. COHEN: Okay. Does that impact or
 14 change the nature of the building's impact on the historic
 15 district whether the railings are on the edge or set in?
 16 MR. FEY: So I will use a similar response
 17 to that as it is not a historic building per se, it is not
 18 referencing a historic style, it is a style of building
 19 that can be constructed, flat roof today.
 20 I don't think it is negative. I don't
 21 think it is any different being set in or not from a
 22 historic or acceptable standpoint.
 23 MR. COHEN: Is that feature relevant to the
 24 historic integrity to the district at all or just a
 25

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1 feature on this modern building?
 2 MR. FEY: I think it is relevant to a
 3 consistent railing on a building of this style.
 4 MR. COHEN: Okay. All right.
 5 There is a stairway on the north side of
 6 the parking deck moving down to the lower level and that
 7 was included in the construction drawings, correct?
 8 MR. FEY: It was.
 9 MR. COHEN: But it was changed onsite.
 10 Can you explain what the reasoning was
 11 behind that?
 12 MR. FEY: So the stair is next to the front
 13 door, it leads from that deck that we talked about,
 14 parking deck structure, down to grade. It is seen as an
 15 emergency way to get down because the -- around the
 16 building is all sloping on the other side.
 17 And the stair was in two landings, two
 18 runs. The first one run came to the left-hand side and
 19 then the second run was going to continue. That
 20 continuation when it was added back to the site plan would
 21 have overlapped with an easement, sewage easement, so the
 22 second one of the landings was turned into a 180 degree so
 23 as not to hit the easement. It is the same stair as the
 24 top, same stair to the landing that then it changes.
 25

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1 MR. COHEN: Okay. And that is visible if
 2 you were standing on the sidewalk I guess looking over the
 3 landscaping, you can see down that area?
 4 MR. FEY: Correct.
 5 MR. COHEN: And in fact when it was pulled
 6 it sort of lessens the profile of that stairway, is that
 7 fair to say?
 8 MR. FEY: It lessens the profile of what
 9 was originally drawn.
 10 MR. COHEN: Did the change in that stairway
 11 in any way impact the historic character of the district?
 12 MR. FEY: No, it is utilitarian.
 13 MR. COHEN: With regard to the window
 14 grids, sashes, mullions, whatever we call them, it is my
 15 understanding that the applicant is now in the process of
 16 obtaining and installing grids on the window that would be
 17 consistent with the -- what was presented on the original
 18 COA plans; is that right?
 19 MR. FEY: Yes. We have contacted Marvin,
 20 it is the modern series. They have the ability to put the
 21 same mullions that they would have shipped on both the
 22 interior and exterior. It is called a SDL, simulated
 23 divided light, which is consistent with again the nature
 24 of this building and the historic -- the non-historic
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1 nature of the building.
 2 The SDL for all intent and purposes will be
 3 exactly like it would have been delivered from the
 4 manufacturer.
 5 MR. COHEN: Okay. And do you believe that
 6 is consistent with what was requested and discussed in the
 7 original HARB discussions?
 8 MR. FEY: I do.
 9 MR. COHEN: Then there is a trellis and I
 10 understand that that is not currently installed but after
 11 speaking with the applicant, understanding that that will
 12 be installed.
 13 Can you offer some comments about what will
 14 be installed?
 15 MR. FEY: I think the trellis -- my
 16 understanding is being installed for -- I will use
 17 practical reasons, and those reasons have been overcome.
 18 The practical reason is the engineer that
 19 designed the concrete and steel deck was not comfortable
 20 with the metal support that we had proposed to hold up the
 21 trellis so that it wasn't only cantilever off the face of
 22 the building. He was not comfortable drilling it. He was
 23 not comfortable that moisture wouldn't get in there and
 24 cause problems.
 25

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1 So I think that the team, instead of
 2 looking for solutions, just abandoned it. Now they have
 3 looked at it and the solution is to provide a bracket very
 4 similar to the one that would have gone to the ground off
 5 the face of the building and be able to put the trellis
 6 that is originally in place.
 7 MR. COHEN: And lighting, was lighting
 8 addressed in the original COA?
 9 MR. FEY: The only lights that were
 10 addressed in the original are the lights that face the
 11 street. If you look at the rendering, you will see
 12 vertical lights on either side of the garage and next to
 13 the front door. No other lighting was indicated.
 14 Lighting generally is -- if done, it is a
 15 fixture. If it is an uplight or a downlight or a
 16 non-fixture, it ends up on the engineering plans, but it's
 17 not presented.
 18 MR. COHEN: Okay. Then finally I just
 19 wanted to address the hot tub, and I made a comment before
 20 about the hot tub.
 21 Can you explain how that was accommodated
 22 in the construction drawings?
 23 MR. FEY: Sure. So the original drawings
 24 provided for zoning purposes, as we were attempting to do
 25

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1 MR. FEY: I am.
 2 MR. COHEN: In response to prior comments
 3 from HARB.
 4 So at this point in time from the right of
 5 way, that screen is the visible portion; correct?
 6 MR. FEY: It is.
 7 MR. COHEN: Okay. And it rises about to
 8 the level of the top of the hot tub?
 9 MR. FEY: It does.
 10 MR. COHEN: Okay. In your opinion that
 11 screen now being what is visible from the right of way, I
 12 believe in this case the right of way we are only talking
 13 about frankly an elevated point on the river; correct?
 14 MR. FEY: The river and the street.
 15 MR. COHEN: Can you see the hot tub from
 16 the street?
 17 MR. FEY: You cannot.
 18 MR. COHEN: So as far as being able to see
 19 that aerial where the hot tub is, not the hot tub itself,
 20 but the area where the hot tub is, you would have to be
 21 pretty far out looking at the building?
 22 MR. FEY: You would have to be on the third
 23 floor of a building in New Jersey.
 24 MR. COHEN: And as for the screening that
 25

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1 a completely compliant building from the standpoint of
 2 zoning, showed our location of the hot tub in the plan.
 3 And at that point we found out that we
 4 could not accomplish a completely variance-free plan
 5 because we were going to build a deck which is a structure
 6 in the front yard and we are not allowed to build a
 7 building again as I mentioned, because of FEMA. The deck
 8 as a structure in the front yard. We will go through the
 9 zoning process and on those drawings the hot tub is shown,
 10 location of the hot tub and plan. It is also shown in the
 11 structure drawings, the structure for location of the hot
 12 tub.
 13 It is not shown on the architectural
 14 drawings because it is again equipment, not a building.
 15 We as architect show buildings. Other people, engineers,
 16 mechanical people, show equipment.
 17 MR. COHEN: Okay. And it was not included
 18 on the COA application?
 19 MR. FEY: It was not. It was deemed to be
 20 not a part of the building and therefore not something
 21 that we would be seeking approval for.
 22 MR. COHEN: Okay. You're familiar with the
 23 changes that have been made to create a screen around the
 24 hot tub?
 25

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1 has been put in place, is that in your mind in any way
 2 offensive to or negative impact on the historic district?
 3 MR. FEY: No, it is consistent. It is
 4 horizontal banded material similar to the horizontal
 5 banding of the balance of the building.
 6 MR. COHEN: Okay. All right. So --
 7 PRESIDENT GERING: Can I ask a question,
 8 if you're done?
 9 MR. COHEN: Of course.
 10 PRESIDENT GERING: Mr. Fey, I just want to
 11 make sure I heard you correctly.
 12 You went and got -- you went in front of
 13 HARB, there was a deck on the roof with a fireplace and a
 14 hot tub in the drawings but did I understand correctly
 15 they were not on the application for HARB to approve them?
 16 MR. FEY: Correct.
 17 PRESIDENT GERING: Okay.
 18 MR. FEY: No, the fireplace was. Not the
 19 fireplace cap but the actual stone fireplace and chimney
 20 were. The equipment of the hot tub was not.
 21 PRESIDENT GERING: Okay. Then correct me,
 22 the stairs that you were building on the side of the
 23 building, when you were doing construction you found that
 24 they had to change the design.
 25

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1
2 Did I understand correctly?
3 MR. FEY: It might have been before
4 construction started. I think it was when the engineers
5 put the stair on the site plan and realized that the stair
6 that we had drawn would be over top of the sewer easement.
7 So it could have been just before construction but it was
8 after we submitted and approved all of our drawings,
9 architectural drawings.
10 PRESIDENT GERING: Was the Borough aware
11 and approved those changes?
12 MR. FEY: So I will use the word that there
13 were discussions with the Borough. Again I was not the
14 field person, Craig Nush, my associate was but I was made
15 to believe that the Borough was aware that we were doing
16 what we needed to do to not impact an easement.
17 I don't think any of us saw the turning of
18 the last tread as significant but it was necessary.
19 PRESIDENT GERING: And then the window,
20 you decided that a double window looked better but that is
21 not what HARB approved.
22 Do I have that correctly?
23 MR. FEY: Apologize for speaking over you.
24 PRESIDENT GERING: It is okay.
25 MR FEY: Actually thought the single window

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1
2 was fine. That was our original design. We received
3 feedback, and this is the part that I am having trouble
4 with who gave it to us. I wanted to say that it was in a
5 HARB meeting but it was changed on the construction
6 drawing to be symmetrical and aligned.
7 I don't have a preference for the double.
8 PRESIDENT GERING: Did I hear you correctly
9 that the original designs were -- the construction was
10 different than what was actually done?
11 MR. FEY: On which?
12 PRESIDENT GERING: Well you were talking
13 about designs that were submitted and then the designs
14 were changed during the construction. If you could clear
15 that up, maybe I heard it wrong.
16 MR. FEY: No, I believe you're correct.
17 There was a third window added in the right hand south
18 side of the building on the second floor -- third floor.
19 That is not on our construction drawings.
20 PRESIDENT GERING: Okay. Thank you.
21 Council?
22 MR. MAISEL: Just so we deal with this as
23 comprehensibly as we possibly can. This is going on for a
24 long time and its been a disaster for the participants as
25 well as this Council. I mean in terms of how difficult it

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1
2 has been to get to this point and try to get some
3 resolution to this.
4 I think your comments regarding the
5 maligning of the Lotiers is one that is worth, you know
6 extenuating. They have -- I think there is evidence --
7 and this is a problem that I am having right now, if I was
8 a judge and jury here on this thing, which I am not, and
9 that is why I am having such difficulty with this whole
10 process.
11 These 12 items I can say right now; yes,
12 no, no, yes, no and get this thing put away at a cost of
13 whatever it was but I don't think we are in that position.
14 I think we are in a really tough spot now to try to
15 pretend that we are litigators here and that is the
16 position that we are really in or not.
17 But I do want to speak to the subtleties of
18 what has happened here. The real inconvenience that the
19 size and scale of this home has brought on our
20 constituents, as well as concerns that the building has
21 been presented to the public in such a way that isn't
22 satisfying.
23 But I think that at the end of the day we
24 have to either talk to each one of these items
25 individually or punt. I don't know where else we are

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1
2 going with this and I think that our Solicitor needs to
3 give us some advice on how we will do it.
4 I can see you walking out of here tonight
5 with do this, do this, do that but don't do this and you
6 will have been compromised and I think the whole process
7 will be compromised by trying to cherry pick what is an
8 easy call on our part.
9 I don't know how we get to the point where
10 we will negotiate each one of these items on behalf of the
11 Borough and on behalf of anybody who has any concerns
12 about what has happened in this project.
13 PRESIDENT GERING: Mark, do you want to
14 address this since you were at the HARB meeting during
15 this project and you and Mr. Cohen had conversations?
16 MR. LABRUM: Yes. Thank you, Madame
17 President. I did have several conversations with Paul
18 Cohen. I did attend the HARB meeting back in I guess that
19 was January. And both counsel and myself have made
20 efforts to go through the items with no commitment being
21 made on behalf of the Borough as to how those matters
22 should be addressed, but did provide detail regarding each
23 of those items.
24 It is somewhat of a complicated place as
25 Mr. Maisel has pointed out. The HARB ordinance provides

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1
 2 very limited allowances to what Council can do with
 3 respect to a denial. This is a single application that is
 4 so equally made up of some 12 different parts as Ken
 5 noted.
 6 If the Council were to vote to deny the
 7 application, under the HARB ordinance is required to
 8 provide the applicant a statement of conditions that if
 9 they met those conditions it would allow Council to
 10 approve the application as submitted.
 11 It is somewhat difficult to break down the
 12 application and say Council could approve items 1, 3, 5, 7
 13 conditioned upon 2, 4, 6 and 8 not being agreed to or
 14 requiring the applicant to do certain things.
 15 It is clear if the applicant is consistent
 16 with the letter proposed to the Borough, that they have
 17 agreed to made make certain concessions.
 18 Mr. Cohen, I did not hear an indication of
 19 window applications on the south elevation.
 20 MR. COHEN: I believe I mentioned that.
 21 MR. LABRUM: Okay. So the application
 22 could be denied with an explanation of conditions. The
 23 applicant could always agree to accept certain conditions
 24 from Council that would allow you to approve certain
 25 portions of the application.

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1
 2 It is very difficult not to break down the
 3 application into its individual components but it is a
 4 give and take essentially with Council and the applicant
 5 as to how they choose to approach it.
 6 PRESIDENT GERING: Dan?
 7 MR. DOUGHERTY: I have a concern that the
 8 HARB Board had to work -- had stuff to work with and had
 9 stuff before it and that is how they came up with the
 10 recommendation.
 11 So my general comment is it sounds as
 12 though there is things that were done that the HARB Board
 13 -- that were done or -- I'm sorry, rationalized because
 14 there is comments about well that stuff was in the
 15 engineering plans or was in the construction plans or was
 16 in the architectural drawings. And I am not convinced
 17 that when HARB made its decisions that they had all of
 18 those things.
 19 So from this is a question to our counsel,
 20 I think. HARB's Certificate of Appropriateness, when they
 21 weigh in and say yes, we should give them -- they say yes,
 22 you can have a Certificate of Appropriateness, it is --
 23 correct me if I'm wrong, that is limited to the materials
 24 that they saw?
 25 MR. LABRUM: That is correct.

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1
 2 MR. DOUGHERTY: So as far as rationalizing
 3 that -- that some other arm of the Borough approved
 4 construction plans when they were looking for zoning
 5 setbacks or they were looking for drainage or they were
 6 looking for permeability of ground, after that staff's job
 7 is that, and somewhere else in these plans was -- was a
 8 discolothèque that wasn't really -- that is within the code
 9 but HARB didn't see it because it wasn't in the stuff they
 10 saw but the person approving the construction plans, the
 11 engineering plans, that is not their concern; right?
 12 So how does this Council for the things
 13 that have been mentioned, and I think Paul and Mr. Fey
 14 have said well this is over here, that was discussed and I
 15 can't remember who said it. Somebody said they wanted the
 16 window to be symmetrical and I guess that took to mean I
 17 could add more windows.
 18 I mean that sounds like the stuff we are
 19 doing here and to me, I can't approve -- at some point I
 20 can't approve this stuff. I mean, that is how I feel
 21 about it. There is too many versions of reality and too
 22 much dust in the air.
 23 PRESIDENT GERING: What concerns me and we
 24 had this issue before, there is designs submitted to HARB,
 25 let's say a hot tub or whatever else is there, but it is

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1
 2 not on their application for approval and HARB just
 3 figures they are only approving what is listed there but
 4 yet once the approval comes to us and if we don't catch
 5 it, you guys -- well guess what, you already approved that
 6 and I think that is the challenge we are having here.
 7 And I think everybody is having the same
 8 problem. You have 13 items that were done without HARB
 9 approval or even the Borough -- example the rooftop, I
 10 know Rick just got to see it recently. There was no
 11 inspections done and I know it was prior to COVID and
 12 there were issues but this is what is really, really
 13 challenging with this and I don't know, Mark, we need some
 14 guidelines here.
 15 MR. LABRUM: Based upon the writing of the
 16 HARB ordinance, the Council can deny the application in
 17 total and within five working days of tonight's meeting
 18 provide to the applicant the conditions that if approved,
 19 if agreed to, will allow this Council to then approve the
 20 application. But it would be incumbent upon Council to
 21 make a determination of what those conditions should be.
 22 MR. DOUGHERTY: I would be comfortable with
 23 that. I ment I think the applicant has agreed now is
 24 saying I will fix this piece or I will modify that piece
 25 but this piece -- and there are 13 things here and I am

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1
 2 the type of person who literally has to take this letter
 3 -- no offense, Paul -- and line this up with the 13 issues
 4 and make sure that they are inclusive and whole that you
 5 are saying I will fix the trellis. The trellis wasn't the
 6 only problem. It was number five and three parts to
 7 number five.
 8 I don't think we can do that in a meeting
 9 and go through that and say that and feel confident that
 10 everything is going to be caught, so I would be willing to
 11 -- how can Council mechanically do that is my question.
 12 How can we do that without -- where we can
 13 -- where some subset of this panel and our management team
 14 can come and sort of line this up and then present it back
 15 maybe in an executive session within the five days to get
 16 this applicant a letter and say this is what you will have
 17 to do.
 18 We actually -- I think we should deny the
 19 application tonight and then commit to the client -- I am
 20 sorry, the applicant to get them our final perspective on
 21 it in writing with what has to be changed and what the
 22 things that they say they are willing to change are
 23 acceptable to us and that type of thing. That is my --
 24 MS. MCHUGH: Can't we go back to -- deny it
 25 and have it go back to what we originally agreed on?

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1
 2 MR. FENNINGHAM: I have a recommendation.
 3 PRESIDENT GERING: Go ahead, John.
 4 MR. DOUGHERTY: I thought my idea was
 5 good. Go ahead.
 6 MR. FENNINGHAM: I would recommend that
 7 Council deny the application tonight and with the forecast
 8 that within a period of time that perhaps the applicant
 9 would enlarge by consent beyond five business days, that
 10 Council will meet in executive session and would determine
 11 those conditions that the HARB ordinance calls for.
 12 Some of those conditions could be partial
 13 approval subject to agreement on the other items that are
 14 not approved and then that presentation would be between
 15 Mr. Labrum and Mr. Cohen as a first step to determine
 16 where we are.
 17 But in this instance it would be -- if it
 18 is five business days, it is five business days and we
 19 will react accordingly unless the applicant would allow to
 20 give Council time to do exactly what you're talking about
 21 tonight.
 22 So the response to Ken's point, it could be
 23 partial grant and partial denial.
 24 MR. DOUGHERTY: In that letter that we
 25 give them five days from now --

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1
 2 MR. FENNINGHAM: What we heard tonight were
 3 explanations as to why the applicant feels that they are
 4 in good faith but there was variances in what was
 5 presented and what was in the application. So I believe I
 6 would recommend a denial subject to what I just said
 7 consistent with each of your comments about having concern
 8 with some issues and others that you would work with the
 9 applicant on.
 10 So question would be, Mr. Cohen, would you
 11 agree to enlarge the five business days time limit?
 12 MR. COHEN: I will need to confer, but
 13 just to clarify, we would be participating in that process
 14 through Mr. Labrum?
 15 MR. FENNINGHAM: It would be an initial
 16 session that you would not participate in, then you would
 17 be participating with Mr. Labrum.
 18 MR. COHEN: And given an opportunity for
 19 feedback?
 20 MR. MEYER: If I may, I appreciate his
 21 suggestions that have been made. I appreciate the
 22 comments that have been made. I especially appreciate the
 23 comments from our presenters this evening because I think
 24 they have definitively proven on the record that what was
 25 constructed was not consistent with the Certificate of

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1
 2 Appropriateness that was originally issued.
 3 And given that the Certificate of
 4 Appropriateness was in effect violated, it seems to me
 5 that the logical starting point for those negotiations and
 6 discussions is demonstrating that in fact those conditions
 7 that were within the Certificate of Appropriateness, minus
 8 some minor details having to do with such things as
 9 perhaps the relocation of the stairwell because of the
 10 sewer easement or something else like that, everything
 11 else is a matter of -- in fact what we have heard this
 12 evening is Mr. Fey's judgment that in fact certain things
 13 do not violate the conditions of the historic district and
 14 are the requirements of the standards that HARB was
 15 supposed to impose.
 16 Now that is his opinion, and in fact given
 17 the fact that he is expressing that opinion upon a variety
 18 of different things that were done that were not approved
 19 by the Historical Architectural Review Board, it seems to
 20 me that I am more inclined to stand by what the HARB
 21 originally requested, which is currently missing.
 22 I mean one obvious example is the trellis.
 23 I mean those are things that can be easily accommodated,
 24 others may be somewhat more difficult to accommodate. But
 25 it seems to me unless I see some evidence of effort to

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1
2 conforming to the original issued Certificate of
3 Appropriateness, it seems to me that I am not even sure
4 you have a standing here.
5 I don't know the law but it seems to me
6 this is a illegitimate application because in fact the
7 standing before us that you already admitted that you did
8 not conform in the construction of this building to the
9 Certificate of Appropriateness that was granted for it's
10 construction.
11 PRESIDENT GERING: Thank you, Peter.
12 We have the neighbors here that I know have
13 a comment to make.
14 Jay and Michelle, did you want to come and
15 say anything before we take a vote?
16 MR. FREEO: Yes, we would.
17 MS. KUSHTO: Thank you very much, Ladies
18 and gentlemen. My name is Vicki Kushto, I am the attorney
19 who represents the two neighbors here. You heard
20 previously from my colleague, Scott MacNair, at your last
21 meeting.
22 I just wanted a chance to introduce myself.
23 Both of my clients would like to make a statement. Thank
24 you very much.
25 MS. BECCI: Michelle Becci, B-E-C-C-I, 186

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1
2 So you know our privacy has just been not
3 only compromised, it is destroyed. And we have to live
4 time and time again with friends coming over and saying my
5 God, how did that get built? It can't be fixed. We are
6 stuck with this home, this enormous structure five feet
7 off our property line and we are stuck with that.
8 And every one involved was well aware of
9 the protocol of what to do when there are changes. We
10 just went through a garage construction and we forgot a
11 door and we went all the way back to the approval process.
12 All of the changes were made hoping no one
13 would notice in our opinion, but we did notice and it is
14 beyond me with a structure of this size how any one can
15 think the people, especially the neighbors, would not
16 notice.
17 I encourage anyone with doubts to simply
18 read the Council meeting minutes from June 3rd, 2019,
19 pages 19 to 85. They are online. I invite anyone to come
20 sit at our dining room table or stand in our back yard or
21 sit on our patio and tell us we are out of line for
22 pushing these issues.
23 We didn't create the situation, we simply
24 trusted those involved with this project and that was our
25 biggest mistake. At this point we are simply trying to

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1
2 South Main Street.
3 Just to address the comments about the
4 neighbors and their character. You know, candidly they
5 may be the nicest people in the world and back in 2019 we
6 were trying to be good neighbors. We attended many of the
7 meetings, we listened to with an open mind, we reviewed
8 the documents prepared on what was agreed to and we
9 thought based on what we were seeing and hearing that this
10 wasn't going to be so bad.
11 But when you view from the street, the
12 renderings that were provided showed the structure would
13 be in rhythm with our home, the scale would be appropriate
14 from all elevations. And although the home would be
15 bigger than what was previously there, it would be okay
16 but it wasn't all okay.
17 The renderings provided grossly
18 misrepresented the true scale and size of the structure
19 and we just couldn't reconcile the structure being built
20 with what we remembered seeing in 2019 after 60 pages of
21 discussion.
22 I don't understand how you can forget that
23 there was a trellis and there was an agreement for
24 fenestrations on the window and an agreement for a white
25 picket fence and an agreement for trees.

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1
2 salvage what we can of our privacy -- sorry, and our
3 quality of life in our historic home. I am sorry for
4 getting emotional. Sorry.
5 MR. FREEO: Thank you. I want to make a
6 point that was -- Jay Freeo, same address.
7 I just wanted to make a point that our
8 issues with -- are solely with what was constructed. It
9 is totally unrelated to the people that live in the
10 dwelling. It is solely with the structure that was built.
11 Bearing that in mind, the issues raised by
12 the applicant tonight display egregious design and
13 construction modifications carried out by seasoned
14 professionals. They were not novices, they all knew
15 better.
16 As we all know, while modern design is
17 recognized in the historic district, it must be compatible
18 with and sensitive to the massing, rhythm and character of
19 the historic district and adjacent homes. The current
20 as-built structure does not meet this criteria nor does it
21 bear any resemblance to our photo one, which we provided
22 to Council, which was included in the Certificate of
23 Appropriateness. And it was provided during presentations
24 made by the applicant and their team during eight
25 meetings.

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1
 2 There are no existing mature trees on the
 3 property nor existing street trees. They were all clear
 4 cut. There is no street tree that was added but instead
 5 we have shrubs. There is no arbor. There is no trellis,
 6 and it is a distinction between the two. Notice an arbor
 7 above the garage door and there is a trellis at the
 8 roofline way up. It is in the photo. And there are
 9 references in the minutes that state that -- "that apply
 10 to both".
 11 And there is vegetation on both of these
 12 structures to soften the appearance of the structure.
 13 There is no planting beds near the garage or the front
 14 door. Spare you the quote that related to that, but that
 15 was supposed to be there.
 16 There is no white picket fence as we all
 17 know, around the parking deck. Instead we have an 8 inch
 18 thick by 42 inch reinforced concrete parapet. There is no
 19 added fenestration on the windows in the front elevation.
 20 We know that.
 21 But on the streetscape we do have two
 22 unapproved bollards more consistent with a commercial
 23 parking deck. And we have two obtrusive and dramatic
 24 brightly lit balcony handrails more consistent with an
 25 entertainment venue, which serve no purpose other than

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1
 2 As an engineer having built and managed
 3 projects over 40 years, I deal with owners, architects,
 4 contractors and approving authorities all the time. And I
 5 can say with certainty that proper professional protocol
 6 was not followed.
 7 Instead classic bait and switch tactics
 8 were utilized gambling that if caught, they would simply
 9 ask for forgiveness or try to negotiate a deal as they are
 10 doing so now, all in an effort to obtain a Certificate of
 11 Occupancy. In our view, these latest attempts by the
 12 applicant to negotiate are insufficient.
 13 Here are our requests and commentary on
 14 their offer. The hot tub and fireplace will encourage
 15 rooftop utilization similar to the Jersey Shore and should
 16 both be removed.
 17 The roof deck hot tub is clearly a
 18 definable exterior feature that was never presented to
 19 HARB or Council in 2019 and it was therefore not included
 20 in the Certificate of Appropriateness.
 21 It was installed without a permit and the
 22 building inspector was unaware of its installation. If
 23 the building inspector, who is also the code enforcement
 24 official, was aware that the installation of the hot tub
 25 was in progress, he would have immediately issued a cease

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1
 2 accent lighting.
 3 We also have two large windows at the south
 4 elevation mere feet from our home. We also have a rooftop
 5 fireplace presented in an obscure manner and certainly not
 6 in an open and notorious fashion as required of the
 7 design.
 8 We also have a hot tub for which approvals
 9 were never sought and we have dramatic exterior lighting,
 10 especially in the back along the river, rather than
 11 unobtrusive simple lighting as is required by the HARB
 12 guidelines.
 13 We have handrails that were moved out to
 14 the edge of the roof, further increasing the rooftop deck
 15 square footage. I spared you the details of the meeting
 16 minutes references, which I can provide upon request,
 17 where the applicant and their team provided countless
 18 assurances to secure their Certificate of Appropriateness.
 19 Instead they reneged on the agreements and now they want
 20 to negotiate.
 21 This is a total mockery of the review,
 22 approval, design and construction process. And now the
 23 applicant is offering to provide a fraction of that which
 24 they per the COA while maintaining the unauthorized
 25 elements of this structure.

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1
 2 and desist prior to the installation of a hot tub.
 3 It first requires a Certificate of
 4 Appropriateness, a zoning ordinance review, application
 5 for a building permit and application for an electrical
 6 permit. None of these were secured. The hot tub was
 7 therefore an unauthorized installation, negating any
 8 suggestion that it be grandfathered in.
 9 If allowed to remain, it would validate the
 10 strategy to construct something without securing the
 11 proper approvals and without the building inspector's
 12 knowledge. And simply ask for forgiveness after the fact
 13 since reprisal is highly unlikely. This is not how to
 14 conduct business in New Hope.
 15 Lastly, if the applicant had applied for a
 16 revised COA to incorporate the hot tub into the design, it
 17 would have been denied as was the case for 76 North Main
 18 Street also located in the historic district. This denial
 19 was issued prior to the newly enacted hot tub ordinance
 20 based on the determination with -- paraphrasing comments
 21 taken from the August 15th, 2022 Council meeting, which
 22 stated a hot tub -- paraphrasing again, that a hot tub on
 23 a rooftop in the historic district was distasteful and
 24 synonymous with the Jersey Shore and does nothing to
 25 preserve the character of the historic district.

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1 Council should not now reward this
 2 unauthorized installation, which was clearly intended to
 3 circumvent the approval process to the sole benefit of the
 4 applicant.
 5 The roof deck fireplace and chimney cap.
 6 These design changes were never presented to HARB or
 7 Council for approval and as definable exterior features,
 8 they should have been included in the COA. A faint line
 9 on an elevation drawing presented to HARB with no call out
 10 on the rooftop fireplace, does not qualify its inclusion
 11 in the design.
 12 We request this unapproved fireplace be
 13 removed as its presence is clearly inconsistent with the
 14 HARB guidelines and only promotes increased rooftop
 15 utilization.
 16 We also wish to point out that the
 17 architect who was well versed in the HARB guidelines, knew
 18 that Section 6.2.1 of the HARB guidelines entitled Decks;
 19 it states that deck floor elevation should be no higher
 20 than the first floor elevation.
 21 It therefore is abundantly clear to anyone,
 22 including the seasoned architect, that any rooftop
 23 amenities, especially those which are definable exterior
 24 features visible from the right of way, should have been
 25

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1 presented in an open and notorious manner prior to
 2 construction.
 3 In reality, the application was silent on
 4 the presence of the rooftop hot tub and fireplace, then
 5 they should both be removed.
 6 Rooftop railings. I disagree with the
 7 architect. I reviewed the drawing as well and I saw that
 8 the rooftop railing locations were clearly called out as
 9 18 inches, 24 inches and approximately 60 inches off the
 10 edge of the roof and that the section to the left of the
 11 chimney looking at the south elevation, it wasn't
 12 mentioned. When you factor in where the chimney is and
 13 where the railing is, it is approximately 60 inches from
 14 the edge of the roof.
 15 I would like to think this was done to lend
 16 some sense of privacy to the neighbors and alleviate
 17 safety concerns by preventing objects from falling onto
 18 individuals below if the railings were right up against
 19 the edge where it is now.
 20 The railings however were moved out without
 21 approval as confirmed earlier, and installed along the
 22 edge of the roof deck and adding 100 square feet to this
 23 already proposed 900 square foot roof deck. This
 24 increases the potential rooftop occupancy to 165 people
 25

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1 based on a design guideline of six square feet per person
 2 and it is an egregious invasion of our privacy.
 3 Further exacerbated with occupants bellying
 4 up to the rail, as we all do on balconies, and leaning and
 5 looking down into a back yard and home. The railings
 6 should be moved into the specified location.
 7 And more importantly, a six foot high
 8 opaque screen to circumvent the entire roof deck. The
 9 screen should be presented for approval and should also
 10 have sound absorption characteristics in an effort to
 11 preserve our privacy and reduce any auditory disturbance
 12 which will be significant with sound amplification off the
 13 river and only five feet off our property line. This
 14 screen should also serve to shield those along the right
 15 of way.
 16 We also want guarantees that the roof deck
 17 elevation cannot ever be raised either temporarily or
 18 permanently such as applied for.
 19 The two unapproved windows on the south
 20 elevation that were discussed earlier -- I am sorry, I had
 21 this prepared in advance, if I am being repetitive, but
 22 they were not presented in any of the designs nor shown on
 23 the drawings. I may stand corrected on one of them, which
 24 was submitted to secure the COA that I think is accurate.
 25

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1 They were simply added during the construction without
 2 approval and classified as another field decision.
 3 This resulted in another 35 square feet of
 4 full height storefront glazing to the south elevation,
 5 only five feet off our property line and further invades
 6 our privacy with a clear view into our back yard and home.
 7 We feel these windows should be removed.
 8 We would be agreeable to the windows remaining only if the
 9 existing clear glazing will be replaced with permanent
 10 spandrel glass and it be entered into the deed that it can
 11 never be replaced.
 12 A submittal should be provided for the
 13 approval of the spandrel glass. Spandrel glass is opaque.
 14 It is common in commercial buildings. It comes in a
 15 variety of colors.
 16 The exterior lighting. Regarding the
 17 dramatic handrail lighting, during the October 5th, 2019
 18 HARB review meeting for this property concerning the roof
 19 deck lighting, the architect, Ralph Fey, indicated there
 20 would be low level indirect lighting on the deck and
 21 stairs about eight to ten inches high on the inside of the
 22 handrail post.
 23 To paraphrase Mr. Fey from the meeting
 24 minutes, it is not mounted at the height of the underside
 25

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2 of the railing in which case one would see it. I believe
3 it ten inches. And it is a small light that shines across
4 the ground. It is intended to not cast light away from
5 it.

6 Lastly, as seen in our photos and in
7 particular photo 17 of the rear elevation, the top and
8 bottom rails of the handrail are brightly lit casting
9 significant light away and up into the night sky which is
10 in direct conflict with Mr. Fey's statement to HARB.

11 This dramatic display of lighting which
12 goes well beyond functionality, can be seen from all
13 rights of way and it is more consistent with a commercial
14 venue, a cruise ship or riverboat casino that has simply
15 no place in the historic district. This is not River
16 House North.

17 As noted by the applicants' attorney, in
18 the rear of the house there is significant glare from the
19 interior lighting that lights up the balcony in the back
20 yard. In fact I think it was indicated that glare is also
21 what is showing in our back yard.

22 This interior lighting coupled with the
23 exterior wall-mounted lights provides sufficient lighting
24 for safe utilization of the stairs and deck at night
25 without the need to light the handrails. This handrail

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1 lighting is decorative and totally inappropriate to start
2 with and should be eliminated.

3 We also want assurance that there will be
4 no rooftop lighting either permanent or temporary as it
5 will light up the skyline from every right of way
6 including our home, further impacting our privacy and
7 quality of life.

8 Concerning the streetscape, the entire
9 streetscape should be restored to the appearance as
10 provided by the applicant in photo number one and
11 incorporated into the Certificate of Appropriateness. And
12 a white picket fence coupled with a means to safeguard
13 vehicles can be installed.

14 I would request that sash windows be
15 installed per the COA. Simulated divided light can easily
16 be removed. I understand perhaps the importance to the
17 deed that it stay, but I guess my question is you know,
18 who is going to monitor or enforce this if they are
19 temporary divided lights, and that is what they are. The
20 sash window is what was originally proposed to the COA and
21 that is what should be installed.

22 The trellis along the roof above the garage
23 and that is at the upper level, should be constructed with
24 the vegetation softening the roofline as proposed by the
25

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1 applicant and shown in photo one. That is photo one is
2 included in the Certificate of Appropriateness.

3 To quote the applicant during the final
4 June 18th, 2019 Council meeting to secure the COA, the
5 applicant referred to photo number one streetscape which
6 was included in the Certificate of Appropriateness, and
7 stated, "so just underneath we added mullions that go
8 across, referring to the windows, and the rest you can see
9 with the trellis and so forth that are going to soften the
10 roofline".

11 And in photo one that is the trellis across
12 the top with vegetation. That is the uppermost trellis.

13 The arbor above the garage which they
14 proposed throughout the review process, should include the
15 planting beds near the garage and vegetation that will
16 grow up over the arbor.

17 In the June 3rd, 2019 Council meeting, page
18 65; the architect, Mr. Fey, stated the plant materials
19 starting to grow up the arbor, wrapping over it and
20 dripping over the door.

21 My understanding is that there is an
22 inferred and legal obligation to design and construct in
23 accordance with the Certificate of Appropriateness. It
24 should not be incumbent upon the Borough to do an
25

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1 exhaustive research, as we have done, to ensure the final
2 design and construction in strict accordance with the
3 Certificate of Appropriateness and the agreement of each
4 during the HARB and Council meetings.

5 Accordingly it is a degree of trust
6 bestowed upon the applicant and their team to be in
7 compliance.

8 In closing, the decisions reached tonight
9 will carry with the property rather than simply the
10 applicant and has a lasting impact on our privacy, quality
11 of life and the historic district well beyond our
12 lifetimes.

13 Hopefully an unintended, but a positive
14 outcome of this application may be the impact this has on
15 how to conduct business throughout the Borough in the
16 future by sparing other residents what we have endured
17 over the last several years, as most will not have the
18 patience, time or skillset to perform such an exhaustive
19 research. We thank you for your time.

20 PRESIDENT GERING: Thank you.

21 MS. FEDER: May I ask a quick question?

22 I am the only Council person that was not
23 on Council when they came before us, a quick question for
24 code and zoning, just because it is coming from a place of
25

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1 not knowing on my part.

2 There were some points made about what was
3 and wasn't approved by zoning and code and I just wanted
4 to get an understanding of with this project are there any
5 items that were not approved by zoning that were installed
6 and same with code?

7 MR. LUPINETTI: So as this was going
8 through the process, I literally just started in July of
9 2019 so this was -- had already been approved by previous
10 HARB and zoning officer. So when I started this was just
11 coming to fruition and it was approved by somebody else,
12 it was the building code official at that time. I was not
13 doing HARB reviews on any projects at that time.

14 PRESIDENT GERING: Yes. Did you have
15 something to say? Identify yourself.

16 MRS. LOTIER: Natalie Lotier, 182 South
17 Main.

18 First time addressing this Board. Just a
19 couple of things that I need to mention. Number one when
20 you are calling somebody deceptive, that is really
21 personal and that happens over and over again. Over the
22 course of building over the last four years, there have
23 been new HARBS, HARB was dismissed, the president was
24 dismissed, multiple inspectors.

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1 Can we get copies of that picture?

2 MR. GRAY: Definitely.

3 MRS. LOTIER: I think if whatever walls
4 that you all want to recommend and approve, we are all for
5 it. There is nothing we want to do in terms of looking in
6 the neighbor's yard. We want to make sure that there is
7 privacy. If there is eight foot walls or ten foot walls,
8 we will put them in. We have no issue with putting any of
9 those in.

10 We think that the 60 pages that Jay was
11 referring to, 40 of them are the repetitive nature of what
12 we just heard today again. And half of those, whether it
13 is right or wrong that we are now saying it now, we want
14 to put the things back on the windows. We want to put the
15 trellis. So why do we keep talking about it? Let's just
16 say do we want it or not want it? Let's go ahead and do
17 it.

18 Recognizing that we said and you all are
19 saying that we should have done it at the time. I mean
20 certainly this has been a tremendous education for us as
21 we are going through and certainly set the stage for
22 anybody else that will come after us.

23 There was never any deception. When we
24 bought the property we just wanted to build a beautiful
25

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1 We had a lot of people coming through the
2 house and trying to go through the history of this thing
3 and indeed one thing I do agree with with Jay, it is very
4 difficult to continue to tie it together. It is not
5 anything deceptive, it is just a difficult thing to do
6 through the times that we have spent.

7 This is a picture that shows more of a
8 representation exactly of the rendering with the exact
9 same position of the house present and I don't think it
10 shows that much of a deception as the one that was
11 submitted by Jay and Michelle.

12 MR. DOUGHERTY: I appreciate -- I was going
13 to ask for exactly what you have in your hand. I think
14 that would help us rather than -- that will help us
15 tremendously, I guess generate -- do we have a copy of
16 that picture?

17 MRS. LOTIER: We did submit this.

18 PRESIDENT GERING: I think in last month's
19 packet.

20 MRS. LOTIER: No, this one we sent on
21 Monday. So this was just showing -- because of the
22 packets that we keep seeing from Jay and Michelle, this
23 one is more accurate. That is --

24 MR. DOUGHERTY: It has a better angle.
25

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1 house on the river. And as was said, we hired all of the
2 people that we thought would help us and we had no
3 preconceived notion of modern or blue or five story or
4 this five feet setback is legal. We are five feet away
5 and they are five feet from us.

6 The other half of their property is a
7 built-in pool so maybe if it was centered it wouldn't be
8 that way, but that is the way it is. So we built five
9 foot and they are five foot. So I understand they were
10 there first.

11 I mean trees, walls, you know look we will
12 put trees in. It doesn't need to be a debate here. If
13 there is a tree that we messed up front, it wasn't
14 intentional. We love trees. And we took trees out as
15 much as they took trees out, using the access to our
16 property to get on to their property so they can take some
17 of their trees down. And we did that as helpful neighbors
18 that we all thought we were going to be four years ago.

19 The lights that they show in their pictures
20 before the lighting study. You asked us to do a lighting
21 study. It cost us three to \$5,000 to do a lighting study.
22 We did that study. We took lights off for that study. We
23 changed the way that the light is shown in that study.
24 Their pictures are before that study. And the zoning
25

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2 officer was onsite and approved it.
3 There is thousands of decisions that we are
4 making in a custom build retrospectively and although we
5 still have these 12 or 13 on the list, there was a lot of
6 others that I think we did right and -- so I wish we did
7 them all right. God I wish we did them all right.
8 I would ask you to ask in the same way they
9 are asking for things, the egregious photo taking that we
10 constantly have on both the north and south side of them
11 constantly taking pictures of us. Mounting smartphones on
12 the top of the windows. Coming around and one neighbor
13 calls the other neighbor and they come out in the back and
14 taking pictures of the other side. It is constant. Talk
15 about people that want their privacy. They are the ones
16 that are constantly invading ours.
17 And maybe the last thing to say is this, I
18 think the gentleman here, maybe you were last time, about
19 building plans. These were detailed buildings plans.
20 This says PAUCC approved October 16th, 2019. I believe
21 this is you, Rick. Clearly has the hot tub on it.
22 Clearly has a hot tub on it.
23 MR. LUPINETTI: I can clearly show you it
24 doesn't show it. It only shows the structure of the roof
25 being there.

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2 MRS. LOTIER: Last page, the very last
3 page.
4 The very last page. You know this says
5 approximate extent of hot tub here. So I mean we -- Ralph
6 had said that it is an appliance and that that is why he
7 didn't put it up. That is -- maybe that is wrong but what
8 is wrong is that we intended to have a hot tub from the
9 first day we met with Ralph and it just didn't tie through
10 or pull through. So please, we are not deceptive.
11 And I want to thank you guys today also
12 because this is the most decent discussion we have had in
13 three years. You're not yelling at us, to some degree --
14 even though you will decline the whole thing, it really
15 feels like a much more civil conversation that we have
16 ever had here.
17 And all we wanted in the process was people
18 to help guide us. If anybody said we agree these points
19 but please come back and do the rendering. Maybe we
20 shouldn't have, we shouldn't have done that because we
21 should have know. If you asked us to do it, we could have
22 done it over and over again. Thank you.
23 PRESIDENT GERING: Thank you so much. All
24 right.
25 MR. DOUGHERTY: Motion on the floor.

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2 PRESIDENT GERING: We have a motion on the
3 table for a Certificate of Appropriateness. I guess we
4 have to start with a motion to deny.
5 MR. FENNINGHAM: If I may. So your HARB
6 ordinance has two provisions for what you do tonight.
7 So 10-10B(8) subparagraph B allows Council
8 to approve a Certificate of Appropriateness with
9 conditions and those conditions that would be approved
10 would be covenants that run with the land. That is they
11 will be perpetual.
12 10-10B(9) is what we referred to before and
13 that is titled disapproval/denial by Council. Let me just
14 read you the very clear expressed wording of this
15 provision.
16 If Council denies request for issuance of a
17 COA, a written decision specifying the reasons therefore
18 shall be given to the code official and the applicant.
19 The denial document shall state what changes in the plans
20 and specifications would meet the Council's conditions for
21 protecting the distinctive historical character of the
22 district and the architectural integrity of the building
23 or structure.
24 Because of that language, I make my
25 recommendation and respond to Dan and Ken, In a sense that

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2 this is a myriad application that is getting various
3 reactions, both willingness to consider and a desire to
4 deny. It is a hybrid application that is on its face
5 based on what I heard tonight, unique.
6 So you have a choice of granting the
7 application subject to no time limit to express the
8 conditions under which you would grant a COA or denying it
9 and then we have five business days to itemize why you
10 denied it and what the applicant would need to do to bring
11 it in compliance with the conditions you want to impose.
12 That is what the ordinance said.
13 MR. MAISEL: You had asked Mr. Cohen if we
14 could get additional time.
15 MR. FENNINGHAM: Extension of the five
16 business days, which I think is clearly warranted under
17 these circumstances.
18 MR. MAISEL: Did he agree to that?
19 MR. COHEN: The applicants would agree to
20 extend it to ten days. My understanding is that is ten
21 days business days.
22 MR. FENNINGHAM: That is not enough time.
23 PRESIDENT GERING: Ten days is fine. We
24 can get it together.
25 MR. FENNINGHAM: We have to meet. That is

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2 fine. If you agree ten business days, we can do that.
3 Then we have mutually agreed to extend the
4 provision 10-10B(9) and 10-10B(10) to allow the Council
5 ten days from this evening.
6 MR. DOUGHERTY: Business days.
7 MR. FENNINGHAM: Business days and the
8 premise is you're denying the application and you're
9 developing the explanations for the reasons of denial and
10 what you will take to approve any conditions you would
11 want to impose.
12 PRESIDENT GERING: Great. Thank you. All
13 right.
14 MS. McHUGH: That is the motion?
15 PRESIDENT GERING: That is the motion.
16 All in favor?
17 MS. FEDER: Aye.
18 MR. MEYER: Aye.
19 MS. McHUGH: Aye.
20 MR. DOUGHERTY: Aye.
21 MR. MAISEL: Aye.
22 PRESIDENT GERING: Aye.
23 Opposed? All right. We are back to the
24 table.
25 MR. COHEN: Thank you.

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2 PRESIDENT GERING: Next is Zoning Hearing
3 Board application for 49 West Mechanic Street.
4 Do we have someone here?
5 MR. BLACKBURN: Yes. I am Joe Blackburn
6 from Wisler, Pearlstine. I am here on behalf of the
7 applicants, Jerry and Susan Aspite, with respect to their
8 application concerning the property -- I have good
9 posture, I will slouch a little bit -- with respect to the
10 property at 49 West Mechanic Street.
11 The subject property is just a hair under
12 4,000 square feet in area. It is located in the RB
13 Borough Residential zoning district. It is legally
14 existing non-conforming with respect to both lot area and
15 lot width.
16 For purposes of further orientation, as
17 depicted on the plans that were submitted with the
18 application, the property is bounded with -- to the east
19 by what I will call the Borough driveway which leads to
20 the top of this hill we sit at now, and to the west by a
21 14 foot wide private alleyway owned by New Hope Methodist
22 Episcopal Church.
23 As I am sure every one here is well aware,
24 prior to November of 2019 the property was improved with a
25 single family detached dwelling which had a variety of

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2 non-conformities with respect to setbacks and impervious,
3 but note it did also take access and have off-street
4 parking onsite as access from the aforementioned Borough
5 driveway. I say prior to because in or about November of
6 2019, that house was demolished.
7 In an effort -- which I think has been
8 conclusively determined to have been inappropriate. That
9 issue was well settled long prior, thankfully, to our
10 office's involvement in this application.
11 In an effort to move forward from that
12 unfortunate circumstance, again prior to our involvement,
13 but just by way of further background, in or about March
14 of 2020, the applicant appeared before the Zoning Hearing
15 Board and was granted relief in the form of variances
16 necessary to accommodate a substantial reconstruction of a
17 house of a substantially similar size and location to that
18 which was previously demolished.
19 That relief was granted as I said in 2020.
20 Subsequent to the grant of that relief in 2020, it was for
21 the first time learned by the applicants that it was the
22 intention of the Borough to no longer allow them the
23 beneficial use of the access from the Borough road to have
24 two off-street parking spaces.
25 Again it is my understanding -- our

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2 understanding that at the time of the 2020 application
3 that was still contemplated, subsequent thereto that was
4 made clear that that was no longer something the Borough
5 was willing to consider.
6 As a result of this there was a second
7 application filed in or about 2020 which at the time
8 sought relief necessary to install a driveway on the
9 property exclusively to the property extended from
10 Mechanic Street and provided the property with the
11 necessary two off-street parking spaces any single
12 detached dwelling would require.
13 At that time there was some concern I will
14 say over the arrangement, the location of that proposed
15 driveway as well as some interest in some alternative
16 layouts that might be able to accommodate or be
17 accommodated on the property.
18 As a result between about March of 2021 and
19 today, we have -- our office has been brought on board and
20 we have had extensive conversations and dialogue and
21 discussions with the township staff and professionals
22 trying to vet, if you will, the various alternative
23 layouts which would provide the property with offsite --
24 two off-street onsite parking.
25 I think we came up with six or seven such

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 2 proposed layouts, however four of which necessarily take
 3 access from the Borough, which we continue to be told it
 4 is not something the Borough is interested in continuing
 5 to entertain.
 6 One or two of which would propose to take
 7 access from the aforementioned 14-foot wide private
 8 driveway owned by the Episcopal Church, which after
 9 extensive efforts they have expressed no interest in
 10 granting additional easements to permit the use of that
 11 alleyway.
 12 And hence, we are here tonight having
 13 extensively vetted what we feel to be all possible
 14 alternatives for off-off street parking. And
 15 unfortunately back where we were circa 2020 with a single
 16 lane nine-foot wide driveway extending from Mechanic
 17 Street which would provide the necessary two off-street
 18 parking spaces for the use for the single family detached
 19 dwelling.
 20 There are a number of items of relief
 21 variances that are requested as part of the application,
 22 all of which are specifically to accommodate precisely
 23 that. I am happy to go through them but they include such
 24 things as steep slope disturbance and impervious surface
 25 and setback of the driveway from the property line, all of

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 2 MR. DOUGHERTY: But I have a -- I take
 3 great issue with the third bullet in your outline of
 4 relief requested and reasons for justifying the grant. I
 5 respectfully ask that that not be part of this request.
 6 I don't know what this formal document does
 7 in a formal setting but it basically states the applicants
 8 purchased the property in December of 2018. The
 9 previously existing family residence was removed due to
 10 its functional obsolescence and advanced state of
 11 disrepair and deterioration.
 12 I think every one -- I think I have a
 13 different perspective on how that got removed and I have a
 14 real big concern if you start out with that sort of --
 15 that sort of approach. I have a real problem with that.
 16 I don't think that is a truthful statement. Okay. Let's
 17 just get that out there.
 18 MR. BLACKBURN: Understood.
 19 MR. DOUGHERTY: If that is in there, I will
 20 be at the Zoning Hearing Board.
 21 MR. BLACKBURN: You can cross it out right
 22 there now.
 23 MR. DOUGHERTY: Well I don't know how you
 24 do that, John, basically to express our displeasure with
 25 that because I think setting that as a reason for why that

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 2 which are plainly evident related to the installation of
 3 the proposed driveway.
 4 So what we are here to hopefully learn
 5 tonight is given the additional legwork that has been done
 6 since you last considered this, the township or -- excuse
 7 me, the Borough engineer's consideration of the several
 8 alternatives, what if any opinions or insights or
 9 preferences the Borough Council has with respect to the
 10 current proposed layout which again contemplates a
 11 nine-foot wide driveway on the west side of the property
 12 wholly contained on the property that being -- excuse me,
 13 the only parking arrangement that is able to be
 14 accommodated onsite.
 15 So I am happy to answer any questions any
 16 members of Council may have.
 17 PRESIDENT GERING: Go ahead, Dan.
 18 MR. DOUGHERTY: Hi. How are you?
 19 MR. BLACKBURN: I am all right. How are
 20 you?
 21 MR. DOUGHERTY: Listen, the first thing I
 22 want to -- first off thank you for -- I am directionally
 23 unopposed to this at this point, so let's try to keep it
 24 that way.
 25 MR. BLACKBURN: I will do my level best.

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 2 building disappeared is disingenuous at minimum.
 3 MR. BLACKBURN: And before Mr. Fenningham
 4 interjects, I will just say it is in no way intended to
 5 justify or explain the -- or substantiate the removal. It
 6 is not an excuse as to why it was done without any sort of
 7 permit. Again, that was long before our involvement. I
 8 simply -- we acknowledge fully and readily that it was
 9 impermissibly taken down.
 10 I will turn it over to Mr. Fenningham with
 11 the caveat that that would not be the basis for the grant
 12 of any relief. We would not be relying on --
 13 MR. DOUGHERTY: It is in there for a
 14 reason.
 15 MR. BLACKBURN: I can't demand that the
 16 applicant not present things, they can present whatever
 17 they want to the zoning but --
 18 MR. FENNINGHAM: The purpose of tonight is
 19 to give your input. You have -- the applicant has a
 20 choice of going to the application as stated in the
 21 outline or modifying the outline and removing that
 22 statement.
 23 MR. DOUGHERTY: Sounds like he's agreed to.
 24 It is -- he is just the attorney and there are --
 25 MR. FENNINGHAM: I think it would be well

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1 served to remove that.
 2
 3 MR. DOUGHERTY: Probably. My concern and
 4 it is just as I look at this, this looked like the diagram
 5 -- and you were sitting through the previous presentation,
 6 and there is microscopic font all over this. I am aging
 7 at this point. I have a hard time -- I am sure there are
 8 larger versions of this they have. Do we have larger
 9 versions of this?
 10 MR. GRAY: Yes.
 11 MR. DOUGHERTY: If we say we are going to
 12 oppose this or be neutral on it and this applicant
 13 18 months from now comes back and says, yes as any one can
 14 see the hot tub is over here in the right-hand corner. We
 15 can't see it, we don't know -- what weight does this
 16 document with all of this type and all of these statements
 17 have in our decision to oppose or -- do you know what I am
 18 trying to say?
 19 PRESIDENT GERING: Absolutely.
 20 MR. DOUGHERTY: That is my question.
 21 MR. FENNINGHAM: It is appropriate for you
 22 to rely on the package that you have before you to make
 23 that decision. The decision tonight isn't on the merits
 24 of the zoning relief application, the decision is whether
 25 before you -- does that compel you to state that you are

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1 observe what is presented and give the representative the
 2 discretion to object and oppose if what is presented is
 3 inconsistent with what you have seen here, or the third
 4 option is to simply send a representative to oppose the
 5 application for relief.
 6
 7 And it is still up to the Zoning Hearing
 8 Board, which has exclusive jurisdiction on the planning
 9 code to render a decision.
 10 MR. DOUGHERTY: So basically what we say
 11 tonight and stuff before us is not necessarily what will
 12 get presented to the Zoning Hearing Board.
 13 MR. FENNINGHAM: It may not be definitive.
 14 MR. DOUGHERTY: This is the type of thing
 15 where the applicants come back two years later and say we
 16 showed that to you and it is only because it was six
 17 versions of things.
 18 MR. FENNINGHAM: No. Any zoning relief is
 19 again within the exclusive jurisdiction of the Zoning
 20 Hearing Board.
 21 MR. DOUGHERTY: Got you.
 22 MR. FENNINGHAM: So the applicant couldn't
 23 come back to you and argue that they presented something
 24 which allows them to do something.
 25 MR. DOUGHERTY: They stand here all of the

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1 not -- that you intend to appear through Council at the
 2 Zoning Hearing Board.
 3 Remember this, at the Zoning Hearing Board
 4 it is a quasi-judicial board. The documents that the
 5 applicant presents that night are exhibits as if it was a
 6 court hearing. They are bound to those exhibits and any
 7 decision -- any which way by the Zoning Hearing Board is
 8 controlling.
 9
 10 If there is any change in what is presented
 11 to the Zoning Hearing Board, your zoning officer can issue
 12 a cease and desist even if a structure is --
 13 MR. DOUGHERTY: After the fact. But the
 14 applicant is under no obligation to present this to the
 15 Zoning Hearing Board it sounds like.
 16 MR. FENNINGHAM: The applicant can modify
 17 what they present to the Zoning Hearing Board.
 18 MR. DOUGHERTY: The next one could have
 19 four hot tubs, the one they present a week from now on the
 20 Zoning Hearing Board.
 21 MR. FENNINGHAM: It is your option to --
 22 MR. DOUGHERTY: What are we deciding on
 23 tonight, fight or not or to be neutral?
 24 MR. FENNINGHAM: There is three positions;
 25 you can stay neutral, you can send a representative to

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1 time and say they presented stuff that is -- that is
 2 beside the point.
 3 MR. FENNINGHAM: Zoning relief is different
 4 than land approval or even HARB. Zoning relief is
 5 different.
 6 MR. BLACKBURN: And that is the point I
 7 would make or add is that as distinct from the last
 8 application, in order to be entitled to any zoning relief,
 9 those specific sections need to be applied for, noticed
 10 and advertised. You probably have seen the --
 11 MR. DOUGHERTY: The official copies --
 12 MR. BLACKBURN: The notice that has been
 13 posted on the property, advertised in the mailers,
 14 regardless of what is on this plan.
 15 MR. DOUGHERTY: Okay.
 16 MR. BLACKBURN: If there is not a
 17 corresponding section in that notice that says and relief
 18 from Section 123 to permit 500 hot tubs, we get no hot
 19 tub.
 20 MR. DOUGHERTY: Believe it or not, I am
 21 still directionally in favor of this. I have two
 22 concerns. I don't know if that is zoning or something
 23 from engineering.
 24 On the slopes and right below there is the

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 2 maximum impervious. Now these are zoning ordinances,
 3 right?
 4 MR. BLACKBURN: Correct.
 5 MR. DOUGHERTY: And we have already been
 6 informed by people who live basically on that street but
 7 on the other side of the Stockton Avenue break, that they
 8 have problems with water runoff, tremendous water runoff
 9 currently.
 10 So I don't want us to -- I think whatever
 11 water issues are created by more slope and more impervious
 12 land, would that be something that they would have to
 13 address or if they get their zoning relief they don't have
 14 to address that? I need to be educated.
 15 MS. STOVER: That doesn't eliminate them
 16 from having to address any stormwater management criteria.
 17 And often the Zoning Hearing Board will impose a specific
 18 requirement if they are going over the impervious to
 19 address that impervious.
 20 MR. DOUGHERTY: So someone will be on that
 21 subject so that the people in the canal townhouses, canal
 22 walk, whatever, aren't flooded. That is where I am going
 23 with this.
 24 MS. STOVER: Yes.
 25 MR. DOUGHERTY: Someone is going to apply

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 2 some science to this.
 3 MS. STOVER: Right. Yes.
 4 MR. DOUGHERTY: Okay.
 5 PRESIDENT GERING: So --
 6 MR. DOUGHERTY: That is all I have.
 7 PRESIDENT GERING: Will zoning have to do
 8 that or does that come from the Borough?
 9 MR. BLACKBURN: I will give my two cents
 10 and I am sure they will give theirs.
 11 Since we have more than a thousand square
 12 feet of disturbance, we are required to get a level of
 13 county E&S control approvals. So I am not sure if the
 14 Borough has any corresponding stormwater design that is
 15 triggered by that thousand.
 16 But to the question raised by Mr. Dougherty
 17 and yourself, it would be a -- what I would consider a
 18 typical and appropriate condition given the fact that we
 19 are seeking impervious relief for corresponding stormwater
 20 management to be a condition of approval.
 21 So I can represent that that would be
 22 something that we would not only expect to have to do
 23 because of our exceedance of that thousand square feet of
 24 impervious and disturbance, but also something we expect
 25 to have to do out of just normal practice based on the

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 2 fact that we are asking for an increase in impervious.
 3 I would note that the only reason for the
 4 increase in the impervious is the location of the driveway
 5 on the site, but does not -- the fact that it is there and
 6 it will control stormwater which we are planning to do.
 7 PRESIDENT GERING: I have a real concern
 8 with your driveway, that is the impact on the traffic.
 9 Okay. That is a narrow street and I will assume that
 10 whoever will live in the property will have to back out of
 11 the driveway.
 12 MR. BLACKBURN: Or back in.
 13 PRESIDENT GERING: Back in the driveway.
 14 It is a steep hill. You have townhouses across the
 15 street. That street on the weekends is packed and I guess
 16 my concern is the impact it will have on the traffic flow
 17 coming in and out to allow this and you have a steep hill.
 18 MS. FEDER: I completely agree with Connie
 19 on this. I appreciate that you are not the same legal
 20 firm that we spoke to in 2020 but I think I was pretty
 21 clear in my comment at that time that because this house
 22 -- the way it was torn down on Election Day in view of
 23 everybody in town, which I know is not what we are here to
 24 discuss.
 25 You see that any grandfathered in rights --

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 2 I think there is not a version of this where we would be
 3 discussing an additional curb cut and driveway where cars
 4 would have to back in or out of that street were the house
 5 not completely demolished.
 6 So I think it's asking an exceptional
 7 burden on the neighborhood there to then add in this
 8 driveway because of the poor behavior of this particular
 9 demolition in the past. So I don't think -- see the
 10 reason to add more additional impervious just to make some
 11 particular problem, which was created by the applicant,
 12 any easier.
 13 Which again I said back in 2020 and I
 14 continue to believe that for this site. I am very
 15 familiar with this corner. The driveway in and out of
 16 Borough Hall is already a pretty blind corner.
 17 I think if you're going to add a driveway
 18 next to a driveway that is owned by a church with another
 19 corner just beyond that is already pretty difficult for
 20 drivers, let alone pedestrians, I think you're asking us
 21 to create more of a problem for the Borough both in terms
 22 of residents, tourists and passersby for this corner.
 23 We also have plenty of properties in the
 24 Borough that do not have onsite parking. I understand
 25 that it would be preferable to have it but we don't

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1 necessarily have to just grant it because it would be a
 2 nice thing to have.
 3
 4 PRESIDENT GERING: Anyone else from
 5 Council?
 6 MR. MEYER: Yeah. Yes. Leave out the
 7 question of the driveway for a moment. When I look at the
 8 variances that are requested, they tend to be variances --
 9 and I am leaving out the driveway because that is a
 10 variance that takes a ten foot requirement down to one
 11 foot which is in effect a 90 percent variance.
 12 When I look at all of the other variances,
 13 they are on the order of 50 percent of the actual
 14 standard. And it seems to me that this is a bit of a
 15 reach leaving out all of the history and the driveway
 16 itself with taking a situation in which I know it is a
 17 narrower property, et cetera, et cetera, and you know
 18 frontage is 50.1 instead of 60, et cetera.
 19 But it still seems to me that what we are
 20 looking at here is a pushing to the absolute limit on what
 21 is remotely possible in terms of a structure on this
 22 property and I am not at all in favor of that situation.
 23 As I say, even leaving out the driveway
 24 issue which will push the impermeability even higher, so I
 25 am generally opposed to this on the basis that what is

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1 statute of limitations are up for just finding -- I don't
 2 think we are deliberately doing that, I think it is --
 3 there has been good cause each time this has come in front
 4 of us as Council.
 5 I think it is time to get something that is
 6 sensible and that can be approved by the Zoning Hearing
 7 Board and consequently by HARB and this Council. I think
 8 it is just time. This property has got enormous
 9 limitations, unless we want to prevent them from ever
 10 building anything on this.
 11 Not that having a property without parking
 12 is the greatest insult, but where it is located and the
 13 availability of parking and accessibility and practicality
 14 I think present this as the time has come.
 15 MS. FEDER: There is parking here. Right
 16 here. They can park their cars -- they can rent a space
 17 and park here and there are houses on that same street
 18 that don't have parking. I think if they came to us
 19 looking for a small house that we are looking to --
 20 PRESIDENT GERING: They were approved for
 21 a house, that is not -- they have gotten approval to build
 22 a house. The only sticking point is they want onsite
 23 parking. They were offered parking spots here in this
 24 lot. So I can't be real sympathetic that they are not
 25

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1 proposed is not making, as far as I can tell, any effort
 2 at all to acknowledge the limits of the site itself in
 3 terms of what is capable of carrying.
 4 MS. FEDER: As a followup to that too, part
 5 of the impervious, this could be my fault in reading the
 6 plans, is the proposed outdoor stone barbecue and
 7 fireplace part of what was there or what is proposed to be
 8 on this site?
 9 MR. BLACKBURN: I am assuming you're
 10 looking at the Kelly & Close engineering plan.
 11 MS. FEDER: I am looking at -- I think so.
 12 The only rendering I have got of this.
 13 MR. BLACKBURN: The proposed stone patio --
 14 MS. FEDER: See next to the proposed stone
 15 patio I see a stone barbecue/fireplace.
 16 MR. BLACKBURN: If you can just show me.
 17 MS. FEDER: The lower right corner. Right
 18 there. This.
 19 MR. BLACKBURN: That is existing.
 20 MS. FEDER: Okay.
 21 PRESIDENT GERING: Yes, Ken.
 22 MR. MAISEL: I think the time has come
 23 where this thing takes on a new face. It has been an
 24 eyesore for three years, four years already. I think the
 25

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1 building a house because there is no parking.
 2 They were given variances -- I was at the
 3 Zoning Hearing Board -- to build the property and they
 4 have sat on it and haven't built anything.
 5 MR. BLACKBURN: Understood. Just to
 6 address a couple points. First, this house which you will
 7 see before you is significant to the tune of 250 plus or
 8 minus square feet footprint smaller than what was there.
 9 We are not taking the mass of the house that was
 10 previously there and trying to also jam a driveway. We
 11 are losing significant square footage of this house in
 12 order to make it smaller in order to jam the driveway
 13 onsite as well.
 14 So to the point about efforts to reduce the
 15 impact, there have been significant impact to reduce the
 16 size of what is already a pretty small single family.
 17 PRESIDENT GERING: I will correct you on
 18 that one, I was at zoning and zoning only approved a
 19 certain size. It wasn't by choice so don't --
 20 MR. BLACKBURN: This is smaller. We are
 21 obviously --
 22 PRESIDENT GERING: That is the only effort.
 23 MR. BLACKBURN: That zoning didn't have a
 24 driveway so we are obviously now making the house smaller
 25

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2 to provide the space.
3 PRESIDENT GERING: You're not making it
4 smaller, zoning gave you guidelines. Let's correct you on
5 that.
6 MS. FEDER: I am sorry, Is it taller than
7 the original house as well?
8 MR. BLACKBURN: It is. We are not seeking
9 any height --
10 MS. FEDER: I know, I am just saying in
11 terms of mass. There is a house that has been allowed and
12 I believe in terms of its visibility and in the
13 neighborhood, we were fine with that. We are not going
14 back and forth with you on the size of the house. The
15 issue is the driveway.
16 MR. DOUGHERTY: I think that -- I am
17 leaning in favor of this. I just think -- first off as
18 far as -- I agree with Peter, I think the one foot is a
19 bit severe. I don't know what you could do to slice off
20 and make it a little less trying to get a 90 percent
21 waiver in a ten-foot number I think would make some of us
22 feel better.
23 I want to point out that the prior house,
24 the house that disappeared, was closer than nine feet to
25 that. It was about four feet.

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2 MR. BLACKBURN: Four and a half feet, yeah.
3 MR. DOUGHERTY: Yeah. Roughly, if I recall
4 correctly. So this replaced the new house further away
5 from the property line than the house that disappeared
6 that day. And in that space -- so then the question is
7 that is better, right? This one foot problem, isn't that
8 -- they are building something on the one foot, they are
9 putting a driveway on the one foot.
10 So of course spatially it is not going to
11 be a nine-foot wide building sitting there, it will be an
12 empty driveway. And I don't have that much problem with
13 that because all along New Street -- I know that there are
14 some houses on Mechanic Street on the other side of the --
15 that don't have parking, some do.
16 All along New Street, every other house
17 there has parking and every one of them backs out over
18 across a sidewalk I might add on New Street to get onto
19 New Street and those are sidewalks. There is no sidewalk
20 here and I have lived in this town --
21 PRESIDENT GERING: You have a steep hill
22 there.
23 MR. DOUGHERTY: I understand. There is no
24 sidewalk in front of this house nor on that side of the
25 street.

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2 MS. FEDER: But we are talking about --
3 MR. DOUGHERTY: What I am saying is
4 pedestrian impact of people backing out of driveways and
5 their mini-garages on New Street when they are crossing
6 sidewalks to do it and also on North Main there everybody
7 has a driveway and crossing the sidewalk where all of the
8 tourists -- I know that is my feeling. I feel that I
9 agree with Ken, I think it is time that we allow this.
10 PRESIDENT GERING: All right. So let's
11 start -- we will start with who is in favor of staying
12 neutral?
13 MR. MAISEL: I am in favor.
14 MR. DOUGHERTY: Staying neutral.
15 PRESIDENT GERING: Neutral. Okay.
16 Who is in favor of opposing?
17 MS. McHUGH: Opposing.
18 MS. FEDER: Oppose.
19 MR. MEYER: I oppose.
20 PRESIDENT GERING: I oppose.
21 MR. BLACKBURN: So I guess the question
22 then is what I am hearing is that you would
23 correspondingly support relief to obviate the need for
24 parking onsite. Is that fair? Because otherwise to every
25 one's points, we can't not have parking onsite and not

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2 have relief to not have parking onsite.
3 PRESIDENT GERING: You can -- we had spots
4 for you up here, that they were offered to.
5 MR. BLACKBURN: We still need --
6 PRESIDENT GERING: They could lease parking
7 spots in the lot.
8 MR. DOUGHERTY: I think he is saying if we
9 don't let them have the parking, let them have relief so
10 they don't have to have parking.
11 MR. BLACKBURN: Exactly.
12 PRESIDENT GERING: You need to explain
13 that. There is no -- my understanding is you don't have
14 to have parking.
15 MR. FENNINGHAM: Currently they are not --
16 the applicant has to comply with all zoning ordinance
17 requirements.
18 PRESIDENT GERING: I can't hear you.
19 MR. FENNINGHAM: Currently they have to
20 comply with all applicable zoning requirements. I believe
21 that there would be a requirement for onsite parking, two
22 parking spaces, for which the applicant would have to seek
23 a waiver or release from that requirement.
24 And so the presentation is simply to try to
25 meet that ordinance requirement with the onsite parking.

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 2 The opposite of that is to ask the zoning board to approve
 3 that there is no onsite parking, in which case I would
 4 project or forecast the zoning board would ask where are
 5 the cars going to park.
 6 PRESIDENT GERING: Well first of all they
 7 can pay for spots up here that were offered to them in the
 8 past when this house design was approved by the zoning
 9 board at that time. They were in front of zoning before
 10 so this isn't the first time.
 11 All right. So Council is opposing the
 12 application.
 13 MS. McHUGH: We are okay with relief from
 14 parking.
 15 PRESIDENT GERING: They can pay for parking
 16 spaces.
 17 MR. BLACKBURN: We need a variance to do
 18 that. I don't believe that --
 19 MS. McHUGH: We are fine with that. Two
 20 different motions then.
 21 MR. FENNINGHAM: I'm sorry.
 22 MS. McHUGH: Two different motions then.
 23 MR. FENNINGHAM: There really was a motion
 24 -- I would recommend that someone present a motion to
 25 oppose the application for the Zoning Hearing Board.

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 2 suggested or supported, then the application will be
 3 amended to do that. We would not be attending that
 4 hearing.
 5 MR. FENNINGHAM: Your decision tonight
 6 won't go into the record before the Zoning Hearing Board,
 7 you would have to send a representative to voice that on
 8 the record at the Zoning Hearing Board.
 9 PRESIDENT GERING: All right. Let's get a
 10 representative to go. Thank you.
 11 Next is can I have a motion from Council to
 12 approve or stay neutral on the application for 105 North
 13 Main Street?
 14 MS. McHUGH: We get you again.
 15 MR. BLACKBURN: Hi. Still Joe Blackburn.
 16 Still from Wisler, Pearlstine. Here on behalf of Gacek
 17 and Gacek with respect to their application concerning the
 18 property at 105 North Main Street.
 19 The subject property consists of
 20 approximately 33,000 square feet in area. It is also
 21 located in the RB Borough Residential zoning district and
 22 is presently improved and -- can we get the existing
 23 conditions brought up just for reference? And we have a
 24 board, I am sure you also all have copies. If that is not
 25 clear --

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 2 PRESIDENT GERING: We did that.
 3 MR. FENNINGHAM: I didn't hear a motion.
 4 MR. DOUGHERTY: There wasn't a motion made.
 5 MR. MEYER: I move that we oppose the
 6 presentation -- the proposed application to the Zoning
 7 Hearing Board and I am asking for a second so we can get
 8 to --
 9 MS. FEDER: I will second it.
 10 PRESIDENT GERING: Okay. In favor of
 11 opposing?
 12 MS. FEDER: I am in favor of opposing.
 13 MR. MEYER: In favor of opposing.
 14 PRESIDENT GERING: In favor of opposing.
 15 MS. McHUGH: In favor of opposing.
 16 MR. FENNINGHAM: So you have a majority
 17 vote. Okay. That is what I was getting to.
 18 MR. MEYER: Now there remains the question
 19 of whether or not we want to simply go on record as
 20 opposed or whether we want representation on our behalf
 21 before the Zoning Hearing Board. Isn't that the next
 22 question?
 23 MR. BLACKBURN: I can tell you if the
 24 present layout is being opposed but a variance to not
 25 require off-street parking is being tacitly or otherwise

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 2 MS. STOVER: No, go to the next one.
 3 MR. BLACKBURN: Presently improved with an
 4 approximately 2,300 square feet single family detached
 5 dwelling. That is the proposed condition.
 6 MS. STOVER: Was there a large scale
 7 existing there?
 8 MS. McHUGH: That is --
 9 MR. BLACKBURN: That is existing, it is
 10 just a little zoomed out.
 11 MS. STOVER: Is there another one after
 12 that?
 13 MR. BLACKBURN: There you go. Perfect.
 14 Thank you.
 15 As I was saying, the property is presently
 16 improved with an approximately 2,300 square foot single
 17 family detached dwelling as well as an approximately 768
 18 plus or minus square foot footprint detached garage which
 19 you see on the northern property line.
 20 In addition as it is presently configured,
 21 the property maintains three separate depressed curb cuts.
 22 And there are also two very mature, plus or minus 28
 23 caliber inch maple trees located on the property's
 24 frontage.
 25 The applicant desires as a part of

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 2 tonight's application and a subsequent subdivision
 3 application that will be forthcoming, to subdivide the
 4 property into two mirror image properties.
 5 Can we go to that next sheet now, if we
 6 could. To subdivide the two mirror image properties and
 7 improve each with a twin dwelling unit which would be
 8 serviced by a 20-foot wide shared use driveway which would
 9 straddle the property line between the two properties.
 10 I should have also noted, I apologize, when
 11 I was running through the site conditions that the
 12 structures presently located on the site maintain flood
 13 elevations of 69.36 feet and 67.48 feet whereas the
 14 regulatory flood elevation in that area is 72 feet so the
 15 existing structures are several feet below.
 16 As a part of this proposal, again the
 17 property would be subdivided, each lot being entirely in
 18 conformance with all zoning criteria; minimal lot area,
 19 minimal frontage and all other criteria required with
 20 respect to lot size. And would subsequently be approved
 21 -- improved, excuse me, with a two family dwelling each,
 22 again with the use permitted within that zoning district.
 23 That level of development would accomplish
 24 several things; first it would eliminate all existing
 25 non-conformities on the property with respect to several

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 2 side yard setbacks, driveway setbacks from the northern
 3 property line as well as the RFE deficiency that we noted.
 4 It would also preserve the location of those two mature
 5 trees on North Main Street and eliminate two of the three
 6 existing curb cuts on that property.
 7 Nevertheless in order to accommodate this
 8 level of improvement, we are here seeking a lone item of
 9 relief in order to permit that shared use driveway to
 10 effectively straddle the property line between the two
 11 properties so as to service both properties on either
 12 side.
 13 MR. MEYER: That would automatically
 14 require you to go for variances on the driveway location?
 15 MR. BLACKBURN: That is what we are here
 16 for right now.
 17 MR. MEYER: That is the primary issue?
 18 MR. BLACKBURN: The only issue.
 19 MR. MEYER: Okay.
 20 MR. BLACKBURN: The only issue before you
 21 is the wisdom, if you will, or the opinion that Council
 22 might have on granting that item of relief in order to
 23 permit a single driveway as opposed to two separate
 24 driveways which would likely result in the need for the
 25 removal of those trees as well as we would have to

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 2 maintain the existing non-conforming driveway on the
 3 northern side of the property in order to do so.
 4 That being again within that ten-foot
 5 setback I think we are at about two to four feet setback
 6 from that existing driveway. I think it is fair to say
 7 that the requirements in the ordinance to have a ten-foot
 8 setoff from the property line for a driveway is fairly
 9 self-evident or the reasoning for that is obviously so as
 10 not to encumber or impose upon a neighboring outside
 11 property. Here it is central to the site if you will, and
 12 would be to accommodate a shared use driveway for both of
 13 the units on the site so that goal seems not appropriate
 14 or applicable in this situation.
 15 So I am joined by the project engineer,
 16 Todd Baldwin, from Van Cleef Engineering, as well as Rick
 17 Gacek from the applicant and make myself or either of
 18 those gentlemen available for any questions that Council
 19 may have.
 20 PRESIDENT GERING: I do have a question for
 21 you. With the driveway, does that mean that we are going
 22 to be losing parking spots on the street the way you will
 23 do the driveway?
 24 MR. BLACKBURN: No. You actually gain
 25 parking spaces because we would be -- if you can envision,

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 2 there are -- on the plan there is three depressed curbs
 3 denoted on the plan. They are -- kind of one is central
 4 and two on the side, we will eliminate the two on the side
 5 and use the one in the center.
 6 An alternative layout would require two
 7 driveways to service the two units but this would be the
 8 minimum curb cuts that could be accommodated so you would
 9 be recapturing if you will, those two curb cuts and the
 10 parking that goes along with it.
 11 MR. MEYER: Is that central driveway -- I
 12 am now looking on this chart, on this scheme I can't tell
 13 what the dimensions are.
 14 Is the driveway significantly wider than
 15 the existing curb cut in the middle?
 16 MR. BLACKBURN: In looking at the center
 17 depressed curb, it is 20 feet afterwards so --
 18 MR. MEYER: It is probably a little bit
 19 wider but we still gain a parking --
 20 MR. DOUGHERTY: I am looking at a picture
 21 of the property and there is two driveways. Are there two
 22 driveways on --
 23 MR. BLACKBURN: There is three curb cuts.
 24 MR. DOUGHERTY: Because the one -- but
 25 there is one active driveway, correct?

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2 MR. BLACKBURN: For this property there is
3 one active driveway but three depressed curbs which is --
4 MR. DOUGHERTY: There is lawn there. I
5 mean it is a curb -- the curb is missing but there is no
6 driveway, it is just lawn; right? You drive in and park
7 on the lawn if you use that.
8 MR. BLACKBURN: If you --
9 MR. DOUGHERTY: But I am just trying to
10 say we are talking about reducing three curb cuts, not
11 driveways.
12 MS. FEDER: Because there is no parking in
13 front of the curb cuts. So since the curb cuts -- I
14 think Mr. Gacek can describe it to you but the house
15 currently has one driveway and two curb cuts but no one on
16 the street can park in the front of the curb cuts. They
17 really lead to the driveway.
18 MR. BLACKBURN: The question about the
19 width of those respective curb cuts going south to north
20 are 15, 17 and 18. So we would be recapturing, if you
21 will, the 15 and 18 and the 17 would be expanded by three
22 feet to go to the 20 foot.
23 MR. DOUGHERTY: Say that again.
24 MR. BLACKBURN: They are 15, 17, 18
25 currently.

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2 MR. DOUGHERTY: I am sorry. So three curb
3 cuts are legitimate for one house because there is offices
4 attached to the side of the house?
5 MR. GACEK: Yes. Just to clarify again,
6 knowing -- looking -- I can't go back 50 years. Joe
7 Balderston could answer that.
8 MR. DOUGHERTY: It just seems --
9 MR. GACEK: That used to be -- on the left
10 side of that addition, that was an office for a home
11 occupation for the original owner.
12 MR. DOUGHERTY: Two curb cuts?
13 MR. GACEK: Two curb cuts so he would park
14 his trucks there.
15 MR. DOUGHERTY: It has been how many years
16 since that was actually used as a driveway?
17 MR. GACEK: I used it last week.
18 MR. DOUGHERTY: You drove up on the lawn
19 and parked there?
20 MR. GACEK: It is gravel and I let the
21 grass grow over it and -- there is gravel there. I just
22 let the grass grow over because I thought the green looked
23 better than the gravel.
24 MR. DOUGHERTY: Now you have 17, 18, 15 and
25 you want one in the center that is how long?

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2 MR. DOUGHERTY: Currently they are 15, 17,
3 18 and one of them is operational?
4 MR. BLACKBURN: Correct, the 18.
5 MR. DOUGHERTY: So again --
6 MR. BLACKBURN: South to north; 15 feet,
7 18 feet in the middle, 17 on the north.
8 MR. DOUGHERTY: And the 17 one is the only
9 one that actually has a driveway?
10 MR. BLACKBURN: Correct.
11 MR. DOUGHERTY: The other two have -- they
12 go into lawns. I mean literally it is just a --
13 MS. McHUGH: Is this the property?
14 MR. GACEK: Excuse me, Richard Gacek.
15 MR. DOUGHERTY: I am a little --
16 MR. GACEK: To answer your question, all
17 three curb cuts access the property. The two curb cuts to
18 the left were to a parking area to the left of the
19 building, which was Paul Balderston's construction office
20 years ago. That whole area is a gravel drive that I let
21 grow over with weed and grass. There is a driveway there,
22 there is the parking area there that was used to --
23 MR. DOUGHERTY: So there is three
24 driveways for --
25 MR. GACEK: There is three curb cuts.

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2 MR. GACEK: Twenty.
3 MR. DOUGHERTY: Twenty what?
4 MR. BLACKBURN: Twenty, two zero.
5 MR. DOUGHERTY: It is 20 for you to be
6 happy, correct?
7 MR. BLACKBURN: That is the minimum you
8 would expect for a two-way --
9 MS. McHUGH: What do you have? I want to
10 see your stuff.
11 MR. GACEK: The renderings?
12 MS. McHUGH: Yes.
13 MR. GACEK: I am sorry, I think we are all
14 --
15 MR. DOUGHERTY: Its all right.
16 MR. GACEK: I apologize. We submitted this
17 rendering along with other photographic renderings with
18 our package. I did have it enlarged so we can --
19 MR. DOUGHERTY: Who did you submit it to?
20 MR. BLACKBURN: To the township as part of
21 our application.
22 MR. DOUGHERTY: It is not in this book.
23 MR. BLACKBURN: We submitted twenty-two
24 copies.
25 MS. STOVER: It is part of the land

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2 development application, not the Zoning Hearing Board
3 application.
4 MR. DOUGHERTY: Here we go with all of
5 these different -- these were the engineering layouts and
6 they are not the same thing.
7 MR. GACEK: I apologize for any confusion.
8 I didn't --
9 MR. DOUGHERTY: We haven't done --
10 MR. GACEK: I did promise you back on June
11 6th when you had the workshop, I wanted to -- I did bring
12 an enlarged rendering which I will show you. If that
13 makes sense, it will show you a little bit more detail on
14 what we are proposing.
15 MR. DOUGHERTY: So two houses, not two
16 townhouses?
17 MR. GACEK: Two twins.
18 MR. DOUGHERTY: Two twins. Okay. So four
19 houses?
20 MR. GACEK: Correct. As stated, two lots,
21 two units are permitted per lot. And the thought is --
22 this is not on the record or anything.
23 And if the garages are in the back, which
24 you will see on the plan, the idea is to minimize the
25 garage impact visual from the street and to retain as much

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1
2 of the character of the residential feel of North Main
3 Street.
4 What is not shown on this rendering are the
5 two mature trees that we are looking to retain. The
6 reason for that is I wanted you to see the building. We
7 can do an overlay for that to show you what that would
8 look like.
9 MS. McHUGH: You're keeping these two
10 trees?
11 MR. GACEK: Correct. They are on the site
12 plan.
13 MR. DOUGHERTY: On either side of the
14 driveway.
15 MR. GACEK: They would be on either side of
16 the driveway.
17 MR. DOUGHERTY: Thank you.
18 MS. FEDER: And all we are considering is
19 the placement of the driveway?
20 PRESIDENT GERING: Correct.
21 MR. BLACKBURN: Correct. To the --
22 effectively straddling that common boundary line not --
23 what seems to be a common theme tonight, not set ten feet
24 off of that driveway. I just want to make sure you're
25 clear and that we answered your question that there

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2 are three --
3 MR. DOUGHERTY: You have.
4 MR. BLACKBURN: As far as the feet.
5 MR. DOUGHERTY: I got it.
6 MR. BLACKBURN: We are capturing --
7 approximately 30 feet of curb, depressed curb that we will
8 be recapturing.
9 MR. DOUGHERTY: You will have 20.
10 MR. BLACKBURN: We have 45 and it will be
11 20 -- between 25 and 30.
12 MR. DOUGHERTY: We get one more spot.
13 PRESIDENT GERING: So we can get rolling
14 here. We have the option of being neutral or opposing.
15 I am guessing that you guys would like to
16 stay neutral.
17 MR. DOUGHERTY: I just need clarification
18 though. What their application is doing is -- the one
19 that they are going to present, the next application at
20 zoning is to combine -- is to change those curb cuts into
21 a central driveway?
22 PRESIDENT GERING: Correct.
23 MR. DOUGHERTY: They are not applying and
24 we are not commenting on two new townhouses with two
25 houses in them?

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2 PRESIDENT GERING: No, we are not.
3 MR. DOUGHERTY: You understand that too,
4 you agree with what I just said?
5 MR. BLACKBURN: I do and that is the
6 subject of a pending land development plan.
7 PRESIDENT GERING: Later.
8 All right. Guys, neutral? All right.
9 Good luck.
10 Next is --
11 MR. FENNINGHAM: That was a motion that was
12 seconded and approved --
13 PRESIDENT GERING: Can I have a motion to
14 stay neutral?
15 MS. FEDER: I will make that motion.
16 MR. MEYER: Second.
17 PRESIDENT GERING: All in favor?
18 MS. FEDER: Aye.
19 MR. MEYER: Aye.
20 MS. McHUGH: Aye.
21 MR. DOUGHERTY: Aye.
22 MR. MAISEL: Aye.
23 PRESIDENT GERING: Aye. Thank you.
24 Let's get rolling here, guys.
25 Next is 96 North Main Street for

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 2 construction of a pool.
 3 We haven't seen you in a while.
 4 MR. VanLUVANEE: Sorry about that. I will
 5 see if I can do better. I guess I just need a few more
 6 clients.
 7 John VanLuvanee representing the owners of
 8 96 North Main. My clients, Dave and Gay McGraw are in the
 9 back row here and I think this is a fairly straightforward
 10 application.
 11 The only thing I would like to start with
 12 is this is technically a swimming pool, it is not really a
 13 swimming pool. It is a very small, 12x18. It is an
 14 endless pool, the purpose of which is exercise basically.
 15 This is not going to be the site of the
 16 pool parties that will create chaos in the neighborhood.
 17 It is 12x18, an endless pool, build resistance so you can
 18 exercise for your health purposes. We don't need to go
 19 into the health reasons that are prompting my clients to
 20 pursue this.
 21 I can tell you that before I got involved
 22 in working with the designers and the engineers to try to
 23 come down with the smallest possible facility that they
 24 can put in their back yard to do that, the smallest size
 25 of these endless pools is 200 square feet. Their pool is

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 2 neighbors, we don't increase the impact on the neighbors.
 3 So that is where we believe and our
 4 designers believe, the experts -- the experts are not
 5 here, it is just my clients and me. We do have expert
 6 testimony that will be presented by our engineer at --
 7 before the Zoning Hearing Board.
 8 And the last -- again I consider them
 9 minor, I know Council may disagree with my opinion. The
 10 fourth one is just put the pad on the ground rather than
 11 elevating it five feet above the floodplain elevation,
 12 which would stick it up in the air where it would project
 13 over the top of the fence, disturbing the neighbors.
 14 From the standpoint of our consultants, we
 15 are advised that there is absolutely no public health,
 16 safety or welfare issue to having it constructed at the
 17 ground level, but again it is incumbent on us to offer
 18 testimony to support that. That is -- that is the relief
 19 that is required. This is essentially an exercise pool,
 20 not a swimming pool that you will gather around.
 21 PRESIDENT GERING: I need to ask you a
 22 question. You're asking for a number of these variances,
 23 we have an ordinance that you are not allowed to have
 24 swimming pools so how are you getting around that?
 25 MR. VanLUVANEE: It is not a zoning

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 2 204 square feet. They minimized the extreme purpose, a
 3 very small area of coping around it. They are not
 4 building a big deck around it. 204 square feet -- well
 5 the total is 280 square feet, the pool and the deck and
 6 the small coping around it and then there is a 24 square
 7 foot pad for the equipment.
 8 There is a variance for impervious surface
 9 that we have requested. It is minimum in my opinion, it
 10 is measured out to 1.5 percent, which would be called
 11 diminimis. This is not of course a use variance, this is
 12 dimensional variances.
 13 Your ordinance requires four reasons that
 14 are not totally explained, it might have something to do
 15 with being the potential of pools generating noise and
 16 disturbing neighbors, requires a 20 feet setback from the
 17 property.
 18 In this case the setback proposed is 16
 19 feet from the northern property boundary line. It also
 20 requires -- your ordinance also requires a 20 foot setback
 21 for pool equipment which would -- that ordinance would put
 22 the pool equipment in the middle of the yard, which again
 23 is not explained in the ordinance.
 24 By moving it closer to the fencing on the
 25 northern property line we minimize the impact on the

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 2 ordinance that I have seen.
 3 PRESIDENT GERING: Do we not have an
 4 ordinance that says no swimming pools?
 5 MS. STOVER: The ordinance has restrictions
 6 on swimming pools. You're allowed to have swimming pools.
 7 PRESIDENT GERING: I thought you weren't
 8 allowed.
 9 MR. VanLUVANEE: We have to comply with the
 10 ordinance requirements.
 11 PRESIDENT GERING: My apologies.
 12 MS. STOVER: Setbacks and buffering and --
 13 MR. VanLUVANEE: And Mary in her memo had
 14 some other issues but they were not issues for which we
 15 are asking relief. We will have to demonstrate compliance
 16 to get the zoning permit. And we are not asking for
 17 variances from any code section, we obviously know we have
 18 to comply with that.
 19 These are simply matters within the zoning
 20 ordinance and within the discretion of the Zoning Hearing
 21 Board.
 22 PRESIDENT GERING: Questions from Council?
 23 MS. McHUGH: Do you have a picture of what
 24 this pool looks like?
 25 MR. VanLUVANEE: If you have my

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 2 application, I can move it up. Do I have a picture of the
 3 actual swimming pool? No, I do not.
 4 PRESIDENT GERING: Any questions?
 5 MR. DOUGHERTY: I -- actually I don't have
 6 any.
 7 MR. MAISEL: So this proposal is --
 8 speaking to the new ordinance that is in place at this
 9 point, this has been -- the new ordinance has been
 10 contemplated in your application; is that correct?
 11 MR. VanLUVANEE: I am not sure I know what
 12 you are speaking about. Right now it is under the
 13 existing ordinance.
 14 MS. STOVER: The ordinance that you are
 15 speaking of was adopted in December and this application
 16 is under that ordinance.
 17 MR. MAISEL: Okay.
 18 PRESIDENT GERING: Any other --
 19 MS. McHUGH: Is this going to be lit?
 20 MR. VanLUVANEE: Lit?
 21 MS. McHUGH: Lights inside this.
 22 MR. VanLUVANEE: You do have lighting
 23 requirements that we have to satisfy. We are not asking
 24 for any variances but you do have a lighting standard that
 25 the zoning officer would have a --

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 2 MR. DOUGHERTY: So this house is not in the
 3 HARB, this house is not in the historic district?
 4 MR. VanLUVANEE: That is correct.
 5 MS. STOVER: Correct.
 6 MR. LUPINETTI: So I have a question, this
 7 sounds more of like an oversized Jacuzzi.
 8 MR. VanLUVANEE: They call them spools,
 9 like a spa/pool.
 10 MR. LUPINETTI: Therapy pools, what I am
 11 trying to figure out is do I consider that as a spa or an
 12 above ground pool because it kind of goes between the two.
 13 MS. STOVER: It is not above ground.
 14 MR. VanLUVANEE: It is a combination.
 15 MR. LUPINETTI: It appears that -- I have
 16 seen some therapy pools that go into some therapists for
 17 physical therapy and that is what -- the way it sounds
 18 more of something to build resistance, this elongated --
 19 MR. VanLUVANEE: It is elongated and you
 20 swim against the resistance.
 21 MR. LUPINETTI: So I have to look into the
 22 International Swimming Pool and Spa as it relates to our
 23 code --
 24 MR. VanLUVANEE: I understand that. Again,
 25 we are not asking for relief from the code requirements,

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 2 we know we have to satisfy them.
 3 MR. LUPINETTI: There is a lot of questions
 4 of what it was and I have seen it so more for clarity, you
 5 know for Council and everybody else to kind of paint a
 6 picture of.
 7 PRESIDENT GERING: Thank you.
 8 Council any questions? Can I have a motion
 9 to stay neutral?
 10 MS. McHUGH: I will make that motion.
 11 MR. MEYER: Second.
 12 PRESIDENT GERING: All in favor?
 13 MS. FEDER: Aye.
 14 MR. MEYER: Aye.
 15 MS. McHUGH: Aye.
 16 MR. DOUGHERTY: Aye.
 17 MR. MAISEL: Aye.
 18 PRESIDENT GERING: Aye. Good luck.
 19 Can I have a motion to approve the Formula
 20 Retail Ordinance?
 21 MS. McHUGH: I will make that motion.
 22 MR. MAISEL: Second.
 23 PRESIDENT GERING: Any questions? All in
 24 favor?
 25 MS. FEDER: Aye.

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 2 MR. MEYER: Aye.
 3 MS. McHUGH: Aye.
 4 MR. DOUGHERTY: Aye.
 5 MR. MAISEL: Aye.
 6 PRESIDENT GERING: Aye.
 7 MR. DOUGHERTY: The last we spoke with
 8 this we were going to have our counsel basically review
 9 this for I guess invincibility and enforceability.
 10 And you have done that, John?
 11 MR. FENNINGHAM: I have.
 12 MR. DOUGHERTY: You have. Thank you.
 13 PRESIDENT GERING: Next can I have a motion
 14 --
 15 MR. FENNINGHAM: Call to vote.
 16 PRESIDENT GERING: We did it.
 17 Can I have a motion to approve the -- hold
 18 on, formula restaurant ordinance amendment.
 19 MR. MEYER: So moved.
 20 MR. MAISEL: Second.
 21 PRESIDENT GERING: Questions?
 22 Dan, do you have questions?
 23 MR. DOUGHERTY: This formula retail is
 24 what this says --
 25 PRESIDENT GERING: The first one we did was

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 2 formula retail, then we have restaurant.
 3 MR. DOUGHERTY: We have moved on.
 4 PRESIDENT GERING: We are asking for
 5 questions.
 6 MR. DOUGHERTY: I have no questions.
 7 PRESIDENT GERING: All in favor?
 8 MS. FEDER: Aye.
 9 MR. MEYER: Aye.
 10 MS. McHUGH: Aye.
 11 MR. DOUGHERTY: Aye.
 12 MR. MAISEL: Aye.
 13 PRESIDENT GERING: Aye.
 14 Can I have a motion to advertise amendments
 15 to Chapter 259 Vehicles and Traffic? This is where the --
 16 where traffic fees will go on our fee schedule where they
 17 haven't been before.
 18 MS. McHUGH: I will make that motion.
 19 MS. FEDER: I will second.
 20 PRESIDENT GERING: Any questions? All in
 21 favor?
 22 MS. FEDER: Aye.
 23 MR. MEYER: Aye.
 24 MS. McHUGH: Aye.
 25 MR. DOUGHERTY: Aye.

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 2 MR. MAISEL: Aye.
 3 PRESIDENT GERING: Aye.
 4 Can I have a motion to authorize
 5 advertisement of an amendment to Chapter 275-31, Central
 6 Commercial District?
 7 MR. MEYER: So moved.
 8 MS. FEDER: I will second.
 9 PRESIDENT GERING: Questions? All in
 10 favor?
 11 MS. FEDER: Aye.
 12 MR. MEYER: Aye.
 13 MS. McHUGH: Aye.
 14 MR. DOUGHERTY: Aye.
 15 MR. MAISEL: Aye.
 16 PRESIDENT GERING: Aye.
 17 MR. BALDERSTON: Can you explain what that
 18 is?
 19 PRESIDENT GERING: Can you explain that,
 20 Peter?
 21 This is the motion to advertise for the
 22 amendment to the Central Commercial District.
 23 MR. GRAY: Yes. This ordinance amendment
 24 provides for a mix of residential and non-residential uses
 25 that preserve historic buildings and non-residential uses

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 2 for the residents, visitors and tourists. And also to
 3 control bulk and height to maintain the small historic
 4 river town scale within the district.
 5 This has been reviewed by the Bucks County
 6 Planning Commission, our Planning Commission and was
 7 presented last week to Council at a workshop.
 8 MR. BALDERSTON: Thank you.
 9 PRESIDENT GERING: Any other questions?
 10 MR. DOUGHERTY: As a general concept I
 11 have -- the question I have currently is this is going to
 12 apply to the one section of the Borough, it is not going
 13 to --
 14 PRESIDENT GERING: Correct.
 15 MR. DOUGHERTY: So it is a legal question,
 16 are there -- are buildings currently in use grandfathered?
 17 Like lets suppose something runs afoul of this that is
 18 currently a certain way -- we will just have to advertise
 19 -- move to advertise it?
 20 PRESIDENT GERING: Just to advertise it.
 21 MR. DOUGHERTY: You know what, I will
 22 withdraw my question. I will get up to speed on what it
 23 is. I think -- I don't think there is any harm to
 24 advertise it.
 25 PRESIDENT GERING: Right.

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 2 MS. McHUGH: We can workshop it because I
 3 have questions too.
 4 MR. DOUGHERTY: Okay.
 5 PRESIDENT GERING: Anyone else?
 6 All in favor?
 7 MS. FEDER: Aye.
 8 MR. MEYER: Aye.
 9 MS. McHUGH: Aye.
 10 MR. DOUGHERTY: Aye.
 11 MR. MAISEL: Aye.
 12 PRESIDENT GERING: Aye.
 13 Can I have a motion to allow the New Hope
 14 Eagle Fire Police to assist Plumstead Township with the
 15 Blaze of Glory 5K Run?
 16 MS. FEDER: I will make that motion.
 17 MS. McHUGH: Second.
 18 PRESIDENT GERING: Any questions? All in
 19 favor?
 20 MS. FEDER: Aye.
 21 MR. MEYER: Aye.
 22 MS. McHUGH: Aye.
 23 MR. DOUGHERTY: Aye.
 24 MR. MAISEL: Aye.
 25 PRESIDENT GERING: Aye.

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2 Can I have a motion to approve Best Buddies

3 for the Borough's landscaping project?

4 MS. FEDER: I will make that motion.

5 MS. McHUGH: I will second.

6 PRESIDENT GERING: All in favor?

7 MS. FEDER: Aye.

8 MR. MEYER: Aye.

9 MS. McHUGH: Aye.

10 MR. DOUGHERTY: Aye.

11 MR. MAISEL: Aye.

12 PRESIDENT GERING: Aye.

13 Can I have a motion to approve Haines

14 Paving for the 2023 Road Program?

15 MS. McHUGH: I will make that motion.

16 MS. FEDER: Second.

17 MR. MEYER: Can I comment?

18 I would like some clarification as to why

19 it is that Haines has come in at such an incredibly low

20 price compared to everybody else. A little bit suspect

21 about what is going on here.

22 I mean we have 83,000 to Haines and the

23 next is 111,000 and it seems to be a huge difference and

24 they go up from there. Do we have any idea why, Pete?

25 MR. GRAY: My understanding is that this

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2 company provided the lower bid to try to get the work from

3 the Borough.

4 Mary, did you have any other --

5 MS. STOVER: Yeah. We have spoken to them

6 because their price is a little bit lower and they are

7 confident that they can get it done for the price.

8 PRESIDENT GERING: They can what?

9 MS. STOVER: They are confident they can

10 get it done for that price.

11 MR. MAISEL: Pete, I think your point is a

12 good one but you can always make the case between 150 and

13 131 and 110.

14 MR. MEYER: Yeah, right. Well except the

15 fact that we are going for the lowest cost and sometimes

16 the lowest cost is not a particularly a good bet.

17 MR. MAISEL: I hear you.

18 PRESIDENT GERING: All in favor?

19 MS. FEDER: Aye.

20 MR. MEYER: Aye.

21 MS. McHUGH: Aye.

22 MR. DOUGHERTY: Aye.

23 MR. MAISEL: Aye.

24 PRESIDENT GERING: Aye.

25 MS. STOVER: Engineering will inspect.

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2 PRESIDENT GERING: Can I have a motion to

3 approve the Council minutes for February 6th and February

4 21st?

5 MS. FEDER: I will make that motion.

6 MS. McHUGH: Second.

7 PRESIDENT GERING: All in favor?

8 MS. FEDER: Aye.

9 MR. MEYER: Aye.

10 MS. McHUGH: Aye.

11 MR. DOUGHERTY: Aye.

12 MR. MAISEL: Aye.

13 PRESIDENT GERING: Aye.

14 Can I have a motion to approve the March

15 accounts payable for \$328,988.64 and the February 24th and

16 March 10th payrolls in the amounts of \$75,150.02 and

17 \$76,068.06?

18 MS. FEDER: I will make that motion.

19 MS. McHUGH: Second.

20 PRESIDENT GERING: All in favor?

21 MS. FEDER: Aye.

22 MR. MEYER: Aye.

23 MS. McHUGH: Aye.

24 MR. DOUGHERTY: Aye.

25 MR. MAISEL: Aye.

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2 PRESIDENT GERING: Aye.

3 Parks and Rec.

4 MS. FEDER: So our last meeting we had to

5 cancel because we didn't have a quorum. Our next meeting

6 is next week but the big item agenda was the bids that

7 came in for the landscaping work for the parks. We are

8 very excited about it.

9 Our board chair is here, if you have

10 anything you would like to add.

11 PRESIDENT GERING: For you have been

12 sitting there patiently.

13 MS. HASHER: Beth Hasher, New Hope Parks

14 and Rec Chair.

15 We are just so thrilled that this is

16 finally going to come to fruition and we are thrilled to

17 have Best Buddies. We know they will do a great job. We

18 want to thank everyone for your support.

19 PRESIDENT GERING: Thank you. Good luck

20 with the project. You guys are doing a great job.

21 Shade Tree.

22 MS. McHUGH: So it is springtime, which

23 means Arbor Day is coming up and as always we are going to

24 celebrate.

25 We are joining forces again with New Hope

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 2 Historical Society, so on Arbor Day which is Friday, April
 3 28th from 1:00 to 3:00 we will have a big celebration. We
 4 will plant some trees. Dogs are welcome. We have food,
 5 we have beverages, we have prizes and it is all free.
 6 So come on out and support us. We want to
 7 see you.
 8 PRESIDENT GERING: Thank you.
 9 Parking Facilities Committee. Peter, do
 10 you have comments?
 11 MR. MEYER: Well we are obviously making
 12 progress, given the fact that we have just agreed to a
 13 settlement over a conflict we had with Union Square and we
 14 are looking to continue to move forward.
 15 PRESIDENT GERING: Thank you.
 16 Ken, Finance Committee.
 17 MR. MAISEL: We will be meeting on Friday
 18 and at the next Council meeting we will be able to give a
 19 little snapshot of the first quarter of '23. And while it
 20 doesn't tell you the whole picture, it give us a little
 21 bit of a glimpse of what the first quarter looks like.
 22 PRESIDENT GERING: Thank you.
 23 You're next on HARB too. Anything on that?
 24 MR. MAISEL: No. We had a lot of
 25 attention tonight on HARB, but they are banging away with

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 2 PRESIDENT GERING: Can I have the Manager's
 3 report?
 4 MR. GRAY: Nothing at this time.
 5 PRESIDENT GERING: Solicitor's report?
 6 MR. FENNINGHAM: Nothing at this time.
 7 PRESIDENT GERING: Do we have any
 8 announcements? Can I have a motion to adjourn?
 9 Do you have an announcement?
 10 MS. MILLER: Public comment.
 11 PRESIDENT GERING: It was in the beginning
 12 at the beginning of the meeting.
 13 Come on up.
 14 MS. MILLER: Amy Miller, Riverstone Circle.
 15 Mstance.
 16 MAYOR KELLER: The first issue I would like
 17 to discuss is the parking garage. You mentioned that you
 18 are moving onto the next step.
 19 Again I mentioned this last month, I am
 20 asking all of you on the Borough Council to seriously
 21 consider instead of building a very large concrete,
 22 unattractive building that would bring zero aesthetics to
 23 our town and probably will sit quite empty and you will
 24 lose a lot of money, to collaborate with the Booster Clubs
 25 of the New Hope High School.

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 2 a good group of people and you know, they are doing their
 3 work earnestly.
 4 PRESIDENT GERING: Great.
 5 Zoning Hearing Board was cancelled. We
 6 don't have another meeting until sometime in April and I
 7 have no report.
 8 Peter, Planning Commission?
 9 MR. MEYER: Planning Commission met last
 10 night. We are working on the initial drafting of an
 11 improved and more comprehensive sign ordinance dealing
 12 with all of the various varieties of signs that we have
 13 got these days including possible projections, also
 14 electronics and the like. And we will continue to work on
 15 that.
 16 But I also have to report that the Planning
 17 Commission asked Borough Council when will they start the
 18 process for revising the comprehensive plan and I was
 19 expressly asked to ask that Council by a fellow member of
 20 the Planning Commission, therefore I am now asking the
 21 question.
 22 PRESIDENT GERING: Tell them in the near
 23 future.
 24 MR. MEYER: Tell them in the near future.
 25 Thank you very much.

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 2 I reached out to -- there is 20 plus
 3 organizations that rely on fundraising for parking at the
 4 high school. You have all been there, you have all seen
 5 there is hundreds of parking spaces and it is very simple
 6 to walk from the high school to town.
 7 You could do some signage, as you had
 8 mentioned, that would encourage people to support our
 9 local students and the Booster Clubs and the organizations
 10 and flow track up to the high school if they feel that
 11 they can't find anything in town. You need that overflow.
 12 I am asking you all to seriously consider
 13 this. I have reached out to the 20 plus booster
 14 organizations that involve the French club, soccer,
 15 baseball. I mean you name it, all of the sort -- the
 16 theater. They rely on that fundraising.
 17 If you build this parking garage, you're
 18 going to want to get a return on your investment which you
 19 are never going to get. You will flow traffic to that
 20 garage and funnel that money away from students.
 21 So I am just asking you to seriously
 22 consider before you move forward and spend all of this
 23 money, could we solve this -- some of these problems by
 24 funneling traffic up to the high school, letting student
 25 organizations fundraise. And if you help them funnel

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2 traffic up there, they will make even more money which
3 would help the organizations. So I am just pleading to
4 you and asking you to consider it.
5 Also really quickly, when you mentioned
6 about the roads, I have asked about pedestrian safety. In
7 the last few months I have been monitoring by the school
8 when I come out in the morning from dropping off and also
9 I -- in the afternoon.
10 There are some students that walk and
11 trying to cross by Old York Road is dangerous and people
12 are going slow because they are following the speed limit
13 but I just want to ask you to paint clear signs. Could
14 you put some button with blinking lights by the school,
15 down by the library and down by Stockton just for
16 pedestrian safety? I am just asking if you would consider
17 that.
18 PRESIDENT GERING: Can I make a suggestion
19 with some of those? Reach out to Pete Gray and he can
20 help you out.
21 MS. MILLER: Thank you.
22 PRESIDENT GERING: You're welcome.
23 Any one else? Yes.
24 MR. BALDERSTON: Thank you. Joe
25 Balderston.

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2 We just announced we came to a settlement and we will move
3 forward and announce what will happen next. It just
4 happened tonight.
5 MR. BALDERSTON: Okay. I am hoping that
6 moving forward you will begin to answer the number of
7 questions --
8 PRESIDENT GERING: Absolutely.
9 MR. BALDERSTON: -- that have been provided
10 to you, especially since the comments that were made on
11 Tuesday, September the 21st, 2021.
12 PRESIDENT GERING: Thank you, Joe.
13 MR. BALDERSTON: I would also like to
14 address the ongoing construction that is going on in the
15 Borough with large projects, what impact that is going to
16 have on the public sewer system, the pumping stations and
17 the station in Lambertville which handles the sewage.
18 PRESIDENT GERING: All right. That is a
19 good question for you and you need an answer. You mail --
20 e-mail it to Pete and he will be more than happy to give
21 you that information.
22 MR. BALDERSTON: I don't do e-mail.
23 PRESIDENT GERING: Drop a note in his
24 mailbox.
25 MR. BALDERSTON: Also the public water

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2 Point of clarification, please. Under
3 public participating information, item number three;
4 public comment period will be provided at the beginning of
5 the meeting, I understand that, for input on any subject
6 and after the presentation of each agenda item for that
7 specific topic.
8 That is not being done, is it?
9 PRESIDENT GERING: This is when you have
10 the opportunity before we get into a discussion to express
11 your opinion. And it is a pretty standard practice of all
12 of the towns around so that is why we built that. It is a
13 good way to keep moving the meetings.
14 MR. BALDERSTON: I know but you say here
15 after each agenda item.
16 PRESIDENT GERING: We will need to address
17 that. Thank you for catching it.
18 MR. BALDERSTON: Excuse me.
19 PRESIDENT GERING: Thank you for catching
20 it.
21 MR. BALDERSTON: You're welcome.
22 Now Mr. Meyer, you say you will move
23 forward. Does that mean move forward with the parking
24 garage?
25 PRESIDENT GERING: This isn't a discussion.

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1
2 system, what impact all of this is having.
3 PRESIDENT GERING: Thank you.
4 MS. WHITMAN: Kelly Whitman. I live at 70
5 West Ferry.
6 I was asked by my neighbor, Don Rhoades,
7 who lives across the street at 71, had to leave early
8 before the public comment.
9 He wanted to thank Council for moving so
10 quickly to adopt the Devil's Table resolution. He really
11 appreciated it and wanted to say thank you. I promised I
12 would say thank you.
13 PRESIDENT GERING: Thank you. That was
14 nice.
15 Mr. Duffy, you're the last one.
16 MR. DUFFY: Thank you. Ed Duffy, New Hope,
17 23 Arden Way.
18 When does this settlement agreement become
19 public now that you mentioned it?
20 PRESIDENT GERING: John, you will have to
21 answer that because it is legal.
22 MR. FENNINGHAM: It is not public record
23 yet until the Court approves it under the terms agreed to
24 by the two parties. I am going to Court tomorrow morning
25 to walk it through the system to have the assigned Judge

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1
2 sign and approve the said agreement. Once it is docketed,
3 it becomes a public record.
4 MR. DUFFY: The end of the week or --
5 MR. FENNINGHAM: I actually called chambers
6 and the Judge is available tomorrow. My expectation is it
7 will be approved by the Judge tomorrow.
8 MR. DUFFY: Okay. Thank you.
9 PRESIDENT GERING: Can I have a motion to
10 adjourn?
11 MS. McHUGH: I will make that motion.
12 MS. FEDER: Second.
13 PRESIDENT GERING: All in favor?
14 MS. FEDER: Aye.
15 MR. MEYER: Aye.
16 MS. McHUGH: Aye.
17 MR. DOUGHERTY: Aye.
18 MR. MAISEL: Aye.
19 PRESIDENT GERING: Aye.
20 - - -
21 (The proceedings were concluded.)
22 - - -
23
24
25

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C E R T I F I C A T E

I hereby certify that the proceedings
and evidence are contained fully and accurately in the
notes taken by me in the above cause and that this is a
correct transcript of the same.

Karen W. Browndorf, RPR
Official Court Reporter

- - -

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