



CITY OF NEW BRUNSWICK
PLANNING BOARD
SEPTEMBER 14, 2020
MINUTES

Meeting Location
Remote Teleconferencing
City Hall, Third Floor
78 Bayard Street
7:00 PM

I. ROLL CALL

X	Jeff Crum (Chairperson)
X	Manuel Castaneda (Vice Chairperson)
X	George Chedid
X	John Petrolino
X	Robert Cartica
X	Diana Lopez
X	Ryan Berger (Class I)
X	Chris Stelatella (Class II)
	Suzanne Sicora-Ludwig (Class III)
	Dale Vickers (Alternate #1)
X	Yelitssa Checo (Alternate #2)

II. PUBLIC ANNOUNCEMENT

Dan Dominguez (Director, Department of Planning, Community and Economic Development): Please be advised that the notice requirements of the Open Public Meetings Act has been complied with and satisfied, and that the annual notice which gave sufficient notice of the time, place and conduct of all public meetings of the Planning Board of the city of New Brunswick has been filed with the City Clerk and it has been placed on the appropriate bulletin board and posted in the back vestibule of City Hall, visible to the public and through the windows of the lobby to City Hall in New Brunswick, New Jersey and has been transmitted to the official newspaper for the city of New Brunswick, namely the Home News Tribune and Star Ledger. Additionally, a change of location notice of the time, place and manner of conducting this meeting has been made by the Board Secretary as required by law. New Jersey Governor Phil Murphy has issued executive orders limiting the size of public gatherings of individuals until further notice. Furthermore, the CDC has issued guidelines to limit gatherings of groups. The city's Planning Board intends to meet on a regular schedule, will meet using the guidelines of the Open Public Meetings Act by utilizing teleconferencing and video systems. Public participation at public meetings has been revised, and the public may participate through a conference call-in and video system. The public is encouraged to call in to the conference system through the phone numbers and access code transmitted in the change of location notice to the Home News Tribune and Star Ledger and posted in the back vestibule of City Hall visible to the public through the windows. Board professionals will also be available via conference call during the meeting. All parties on the conference call will have the opportunity to hear the Planning Board meeting. During the portions of the meeting that are not open for public comment, all calls from the public will be muted and the Board will not be able to

hear any public comments through the conference call system. During the public comment periods, those on the conference call-in lines who have an interest in addressing the Board will be organized by last name and then called upon to speak. After all organized members of the public speak, the process will happen again until all the public has had an opportunity to speak once and for no more than five minutes in any given public meeting portion. The timer will time at the completion of each five-minute period and I'll notify you that your time has expired. public needing assistance accessing the call number should call City Hall at 732-745-5007.

III. SALUTE TO THE FLAG

IV. MINUTES OF THE BOARD'S AUGUST 10, 2020 MEETING

Jeff Crum (Board Chairperson): The minutes of the Board's August 10, 2020 meeting, it's my understanding that these may not be ready?

Mr. Dominguez: Yes, that's accurate, they'll be ready for the October meeting.

Mr. Crum: Very good. So, we will postpone action for those minutes.

V. RESOLUTIONS OF MEMORIALIZATION

None

VI. DISCUSSION ITEMS

A. CHANGES TO BOARD RULES REGARDING PUBLIC COMMENT AND INTERACTION

Mr. Dominguez: Yes, so this is going to be a discussion that's carried on by the Board Attorney Aravind Aithal, if he's available.

Aravind Aithal (Board Attorney): Mr. Chairman, if I may, since there may be public comments as well, we have four substantial applications this evening, might I suggest we have that put on the end of the agenda, prior to other matters of interest to the public.

Mr. Crum: Sure, that's fine with me. So, we will go through the first hearing and allow public comment as normal?

Mr. Aithal: Yes, that's correct.

VII. PUBLIC HEARINGS

A. FRANCES E. PARKER MEMORIAL HOME, INC. / 501 EASTON AVENUE / BLOCK 437, LOT 8.01 (PB-2020-08)

Preliminary and final site plan application with bulk variance to install a back-up emergency generator in the front yard of an existing skilled nursing facility. Zoning district R-3 Single-Family Residential. (*James F. Clarkin III, Esq.*)

Mr. Aithal: Mr. Chairman, I do have a conflict with this application. I have and I do represent Francis Parker, not in New Brunswick, obviously, but elsewhere, but because it is the same entity, I would ask Mr. Kemm, who is present, to act on this matter and advise the Board appropriately.

Mr. Crum: Thank you for identifying your conflict.

Manuel Castaneda (Vice Chairperson): Mr. Chair, this is Manuel Castaneda, I also have to recuse myself due to a conflict with Parker for one of the projects I work with.

Mr. Crum: Thank you. Anyone else have a conflict? Hearing none.

James F. Clarkin III, Esq. (Applicant's Attorney): Very straightforward application, limited scope. We propose an emergency back-up generator for the skilled nursing facility. You will appreciate that the health and safety of the residents is first and foremost and we need to consider that, and that is what is driving this application. The generator will be installed on a concrete pad measuring 4 feet by 21 feet, it will be surrounded by a masonry retaining wall, as well as being screened by evergreen plantings. One variance is required. The generator represents an accessory structure, and the ordinance prohibits accessory structures in the front yard. We have three front yards, Easton Avenue, Landing Lane and Parkside Drive. We will make the argument that having three front yards represents a hardship. We're also requesting the continuation of one existing, nonconforming condition relating to coverage. The ordinance limits the coverage to 45% and we asked you three or four years ago for the parking lot addition, you granted a variance for 63.5%. We are actually reducing the coverage to 61%, which is still nonconforming, albeit reduced. In lieu of planning testimony, I'm going to make a proffer to you that we have satisfied the positive and negative criteria for the granting of the variance.

Joshua C. Hanrahan is sworn in and accepted as an expert witness in the field of engineering

Joshua Hanrahan (Applicant's Engineer): Currently, the site around the Parker facility has parking located along Easton Avenue and a new parking lot that's located off of Landing Lane at the back of the building. There was a prior approval several years ago for the additional parking, 25 spaces that were off of Landing Lane. The last approval included banked parking spaces [inaudible].

Mr. Clarkin: Just for the record, the exhibit that you have was exactly what was submitted as part of the application?

Mr. Hanrahan: Yes, these are all part of the site plan set.

Mr. Clarkin: That being the case, I would like to request that they not need to be marked.

Mr. Crum: Mr. Kemm, is that acceptable to you? I have no objection, but it's hard for me to see, too.

Mr. Dominguez: Mr. Kemm, can you hear us?

Karl Kemm, Esq. (Acting Board Attorney): Yes, can you hear me now?

Mr. Crum: Just to be safe, why don't we mark the exhibits?

Mr. Clarkin: Why don't we mark what you're looking at as A-1? Flip it over and mark the other side A-2, please.

Mr. Hanrahan: These are two banked parking spaces that we are no longer proposing, there is adequate parking on the site. We are proposing this generator that will be on its own concrete

pad, surrounded by stone and a masonry retaining wall with evergreen screening. We also show the electrical conduit runs that are underground to the CT cabinet and other electrical equipment that will then connect to the building's existing [inaudible]. The generator height is 10 foot-3 inches. We also have a separate equipment pad in the back here for the switches, that is a 4 by 12 concrete pad. The generator will be fueled by diesel. There will be a spill prevention and containment plan, so it is a dual tank system and there's protection on the first tank, so if there was ever a failure, it would go into a whole second tank that is sized to handle that entire amount of fuel. We will also provide that information to the engineer. There is a fire department connection that's located right here on the front façade of the building that faces Landing Lane, and the proposed improvements are in no way impacting that.

Mr. Clarkin: The [D&R] report requests that we provide various items. Can we comply with that?

Mr. Hanrahan: Yes, there is no issue with that.

Mr. Clarkin: And certain waivers we are requesting, they have been favorably endorsed by this report?

Mr. Hanrahan: Yes.

Mr. Crum: Do any Board members have any questions for this witness?

Mr. Dominguez: Seeing none.

Beth Sparling is sworn in

Mr. Clarkin: Are you employed by the Parker health group?

Beth Sparling (Chief Operating Officer, Frances E. Parker Memorial Home, Inc.): Yes, for two years.

Mr. Clarkin: Your duties include oversight of the Landing Lane facility?

Ms. Sparling: Yes.

Mr. Clarkin: You are familiar with this application? Seeking to install an emergency back-up generator.

Ms. Sparling: Yes.

Mr. Clarkin: Are you familiar with the last approval that Parker received? And that included two banked parking spaces?

Ms. Sparling: Yes. Correct.

Mr. Clarkin: The location of the proposed generator will be where those banked parking spaces were supposed to be located. The question is, are these banked parking spaces really needed for the operation of Parker at this site?

Ms. Sparling: They are not. Since the last approval and seeing how many spaces they use, we now see that this parking is not needed and parking is adequate.

Mr. Clarkin: Will we have a regular routine to test the generator?

Ms. Sparling: Yes, the testing will be done routinely, on a weekly basis during afternoon hours as our current generator is. It requires a 20 minute testing.

Mr. Clarkin: If this application is approved, would Parker agree as a voluntary condition of approval as to the time and hour of the day, and day of the week of the testing?

Ms. Sparling: Yes.

Mr. Clarkin: I'd like to review the Bignell Planning report. Item A, obtain all necessary approvals, which we will. Item B notes that there is a bulk variance. Item C, we provided testimony relating to the banked parking spaces. Item D, the planting height for the plantings will be exactly what the height of the generator is. Item E, we've given testimony about the testing. And we are happy to see there are no objections to the application.

Mr. Crum: Thank you, Mr. Clarkin. I don't have any questions, do any other Board members? Hearing none.

Mr. Clarkin: In lieu of a planning witness, I'd like to make what I call a proffer with regard to the variance. It's an accessory structure in the front yard. With that said, we have three front yards, we think that's an exceptional condition, it justifies the granting of the variance relief. In addition, we think we can justify this under the flexible "c(2)" analysis, we think the benefit to the city is the promotion of the health of our senior population, which is housed at this facility and promoting health under Section A of the goals and objectives of the Municipal Land Use Law. Based on the testimony of the screening provided, we don't see any detriment to the variance and we are hopeful that the Board will come to the ultimate conclusion that the benefit substantially outweighs any detriment. With regard to the existing, nonconforming condition, we are reducing it. I would offer to you that the variance can be granted and that the nonconforming condition can continue without any detriment to the public. The only potential detriment would be the noise that would occur when this generator is being tested. I have spoken with T.K. Shamy the city's attorney, with respect to the reach of the ordinance. It is not an ordinance that is applicable in times of emergency, but we do have to keep in mind to adhere to the decibel level maximum during the testing period. We believe this can be granted without any detriment to the zone plan or zoning ordinance. This is a unique property and we see no possibility of any type of a domino effect.

Mr. Crum: Before we turn it over to the public, I want to ask if any Board members have any questions?

Mr. Dominguez: At this time, we are preparing to open the meeting to public comment on this hearing for 5 minutes per person. In order to ensure the Planning Board can hear from the interested public and the public can hear public comments, I will organize speakers in order by last name. In moment, I am unmuting the public call-in. I'll ask that last names starting with A provide me your last, first name and home address. We will confirm the information is correct, then I will move on to the next person in the alphabet from A to Z. Upon completion of asking all last names from A to Z, I'll ask one more time for anyone who wants to be placed on the initial list of speakers. We will move through initial list of speakers by calling the person by name and

allowing them to speak for 5 minutes. Once we are complete, we will once again check to see if anyone else would like to comment. After asking three times, I will close the public comments portion. Please be mindful that your voice is being telephonically transmitted and to slowly speak, slowly and clear for the benefit of all. I'll ask you please remain silent when I initially unmute the phone, so we can hear each other, then begin the speaker registration process. The phone is now unmuted. I'll ask any member of public on the phone, who would like the comment on this specific hearing with the last name starting with letter A, please state your full name and home address.

Mr. Dominguez reads through the alphabet once. Charlie Kratovil and Danielle Moore are placed on the initial list of speakers.

Charlie Kratovil is sworn in

Charlie Kratovil: I think that the Parker home and the limited interaction I've had with it is a good community institution and I wish them all the best. I want to ask how big of a generator this will be?

Mr. Clarkin: 200 kilowatts.

Mr. Kratovil: That's all I need to know about the project. I know it's been a very difficult time with the COVID-19 and pleased to have this institution in our city.

Danielle Moore is sworn in

Danielle Moore: I heard you say you would be testing 20 minutes to see how loud this generator is, how long would it be, I couldn't hear due to a lot of static, what the generator was really for.

Mr. Clarkin: The generator is a back-up power source.

Ms. Moore: How long would the use of it be?

Mr. Clarkin: If there's an emergency, as long as it takes for power to be restored in the traditional sense.

Ms. Moore: Thank you.

Mr. Dominguez: I'm going to unmute again just in case anyone else would like to comment on this particular application. All right, the public portion is now closed.

Katie Thielman-Puniello, Principal Planner, Department of Planning Community and Economic Development, reads the conditions of approval into the record

Motion to Approve

I. Chris Stellatella

II. John Petrolino

	Yes	No
Jeff Crum (Chairperson)	X	
Manuel Castaneda (Vice Chairperson)		
George Chedid	X	
John Petrolino	X	

Robert Cartica	X	
Diana Lopez	X	
Ryan Berger (Class I)	X	
Chris Stellatella (Class II)	X	
Suzanne Sicora-Ludwig (Class III)		
Dale Vickers (Alternate #1)		
Yelitssa Checo (Alternate #2)	X	

- B. GLORIA & SONS, LLC / 143 REMSEN AVENUE / BLOCK 198, LOTS 7 & 8 (PB-2020-02)**
 Variance application for a change of use of an existing ground floor unit in a mixed use building to a barber shop, as well as legalization of the conversion of one unit on the second floor of the building from office to residential. No changes are proposed to the site or to the exterior of the buildings on the lot. Variance relief is requested for insufficient parking. The applicant is requesting waivers for site plan, architectural plan, traffic impact statement, drainage statement, and environmental impact statement. Zoning district C-1 Neighborhood Commercial. (Mark S. Shane, Esq.)

Mr. Aithal: This is Aravind Aithal, the Board Attorney. I was previously not participating and advising the Board on the last application and Mr. Kemm filled in, I believe Mr. Kemm, with your permission, can be released for the evening. I'll handle the remaining applications because there are no conflicts with me.

Mr. Crum: Thank you Mr. Aithal, and thank you Mr. Kemm for stepping in on the last application.

Mr. Castaneda: Mr. Chair, likewise, I do not have any more conflict of interest, and ask to be reinstated.

Mr. Crum: Your reinstatement is granted, thank you Mr. Castaneda.

Mark S. Shane, Esq. (Applicant's Attorney): I represent Gloria & Sons LLC, they own property at 143 Remsen. It's located in the C-1 Neighborhood district and its proposed use is to change the first floor that is commercial from an office, which it had been, to a barber shop, which is a permitted use. My client needs a bulk variance for parking, which they do not have and cannot obtain, since there's no parking on the site at all. I'm ready to proceed with my fist witness if the Board has accepted the application.

Mr. Crum: Yes, please proceed with your witness.

Mr. Shane: I would call Ernesto Azcona.

Mr. Crum: Is this an expert witness?

Mr. Shane: No, he's the owner of the property.

Ernesto Azcona is sworn in

Mr. Shane: Mr. Azcona, you and your brother are the owners of Gloria and Sons LLC? And you own the property at 143 Remsen Avenue in New Brunswick? And the other owner is your brother, Ramon, who is there in the same room with you?

Mr. Azcona: That is correct.

Mr. Shane: Can you indicate the character of the neighborhood, the kinds of buildings that are around you? What kinds of businesses?

Mr. Azcona: It's a fully commercial street. All types of businesses along Remsen Avenue, convenience stores, bars, barber shops...

Mr. Shane: There are residential properties as well?

Mr. Azcona: Yes.

Mr. Shane: What's the current use of the property?

Mr. Azcona: Current use is for an office. That's what it was when we bought it. We know the neighborhood very well, 10 to 12 years ago it used to be a grocery store.

Mr. Shane: What is upstairs?

Mr. Azcona: Upstairs is an office that we're trying to convert to an apartment and there's two apartments on the other side of the same building.

Mr. Shane: Is there any off-street parking on the site? There's no room to put it in? Has there ever been parking on the site?

Mr. Azcona: No.

Mr. Shane: The reason you're in front of this Board is to change the use of the first floor? Office to barber shop.

Mr. Azcona: Correct, yes.

Mr. Shane: Are you making any changes to the site itself?

Mr. Azcona: No, none at all.

Mr. Shane: You reviewed the experts' reports from the city with me. You're willing to contribute to the city's tree preservation fund?

Mr. Azcona: Yes.

Mr. Shane: The signs are not part of this application, correct? But the barber, if it's approved, will have to apply for the signage?

Mr. Azcona: Yes, and he knows that.

Mr. Shane: And the fencing which was noted in the review, has that been taken care of?

Mr. Azcona: Yes, that was removed.

Mr. Shane: What about the moving of the HVAC?

Mr. Azcona: We did that as well.

Mr. Shane: And the second floor conversion, to an apartment, was that done already?

Mr. Azcona: Yes.

Mr. Shane: Have you obtained a CO from the town for that?

Mr. Azcona: Yes.

Mr. Shane: And the roll-down gates, what happened to those?

Mr. Azcona: We removed those already and put new windows in.

Mr. Shane: And the trash and recycling containers, where are they?

Mr. Azcona: Right now, we're using the back. The engineering report recommended something for that too.

Mr. Shane: And that will be in conformity with the engineering report from the city?

Mr. Azcona: Yes.

Mr. Shane: Is there anything else you want to indicate to the Board?

Mr. Azcona: No, just that we try to do everything correct and follow all the rules.

Mr. Shane: You own other businesses and properties in the city, is that correct?

Mr. Azcona: We do, yes.

Mr. Shane: I have no further questions for Mr. Azcona.

Mr. Crum: I don't have any questions. Do any other Board members have any questions? Hearing none. Mr. Shane, do you want to call your next witness?

Noel Young is sworn in and accepted as an expert engineer

Mr. Shane: You drew the site plan for this application, correct?

Noel Young (Applicant's Engineer): No, there is no site plan.

Mr. Shane: Did you work on this plan at all?

Mr. Young: Yes, I checked the site and provided a drainage and environmental and traffic impact statement.

Mr. Shane: You heard the testimony of Mr. Azcona indicating what they propose to use the property for as well as what or any changes. To your knowledge, is the property going to stay exactly as it is, except for a change of use on the first floor.

Mr. Young: Yes, that's correct.

Mr. Shane: You've asked for various waivers from the Board. And those were site plan waivers, environmental waivers, etc.?

Mr. Young: Yes, that's correct.

Mr. Shane: I have no further questions for Mr. Young.

Mr. Crum: Thank you. Are there any questions from the Board for Mr. Young? Hearing none. Do you have any other witnesses?

Mr. Shane: No. As you've heard from Mr. Azcona, as well as Mr. Young, this property has been in existence for many years, it's been used for various commercial entities on the first floor, the second floor has been used predominantly for residential uses, however for a short time it was used as an office, which has been changed back into residential. There is no parking, lighting, runoff, landscaping that you would usually see in a site plan because nothing is going to be changed. There's no parking on the site because there's no place to put the parking. The use conforms to the city's master plan regarding uses in this particular area. The change we are asking the Board to approve is de minimis. The benefits outweigh the detriment, which is the basis for the bulk variance to be granted. We request the Board to act favorably upon the change of use on the first floor, since this is in the C-1 Neighborhood district and conforms with the requirements except for parking.

Mr. Crum: Any final question or comments from the Board?

John Petrolino (Board Member): I'm curious if you have an understanding of what the patrons [inaudible] coming to the shop or are these neighborhood folks? I see you have seven chair facility and if you've got everybody that's driving up there, I'm curious if there's enough on-street parking to accommodate patrons and residents. That's the only potential impact. We are staunch supporters of small businesses and we want to improve it, but by the same token we have a mandate to determine if approving applications to the detriment of the other interested parties, such as residents of the area.

Mr. Shane: I'm going to defer to Mr. Azcona, who can indicate what parking is like on the nearby streets. How many streets adjoin there that would allow parking?

Mr. Azcona: The only parking is really on-street parking. Two, Elm Street and Remsen Avenue.

Mr. Shane: To your knowledge, are there any parking issues?

Mr. Azcona: No, none at all.

Mr. Shane: Were there any issues when the office was there?

Mr. Azcona: There's always on-street parking.

Mr. Shane: Have any of your tenants complained about parking?

Mr. Azcona: No, only one of them really drives.

Mr. Petrolino: Thank you.

Bob Cartica (Board Member): Because I was involved in communications with you and Aravind during this period when I was muted, I was not able to hear any of the statements that were made so I won't be voting on this item.

Mr. Crum: Does the applicant have any concerns with the one Board member recusing himself.

Mr. Shane: I do not.

Mr. Crum: How many voting members do we have:

Mr. Dominguez: I believe eight.

Mr. Dominguez: At this time, we are preparing to open the meeting to public comment on this hearing for 5 minutes per person. In order to ensure the Planning Board can hear from the interested public and the public can hear public comments, I will organize speakers in order by last name. In moment, I am unmuting the public call-in. I'll ask that last names starting with A provide me your last, first name and home address. We will confirm the information is correct, then I will move on to the next person in the alphabet from A to Z. Upon completion of asking all last names from A to Z, I'll ask one more time for anyone who wants to be placed on the initial list of speakers. We will move through initial list of speakers by calling the person by name and allowing them to speak for 5 minutes. Once we are complete, we will once again check to see if anyone else would like to comment. After asking three times, I will close the public comments portion. Please be mindful that your voice is being telephonically transmitted and to slowly speak, slowly and clear for the benefit of all. I'll ask you please remain silent when I initially unmute the phone, so we can hear each other, then begin the speaker registration process. The phone is now unmuted. I'll ask any member of public on the phone, who would like the comment on this specific hearing with the last name starting with letter A, please state your full name and home address.

Mr. Dominguez reads through the alphabet once. Kendra Brown, [inaudible] Foat, Charlie Kratovil, and Danielle Moore are placed on the initial list of speakers.

Kendra Brown is sworn in

Kendra Brown: This will be a disruption of my quality of life. That block, two children have already died there. This block has already gotten [inaudible]. We live near a bar, the other block has a barber shop, we don't want this. They're going to take up parking, it's going to bring a lot of traffic. I understand you want them to contribute to your preservation fund, I do hope that that is not going to be part of your consideration and I hope the Board votes to decide against this because

we have worked so hard to get this block back to normalcy, it's bad enough we have a bar at the corner, we do not want our property value to drop. These people investing here are not investing in our community, they're bringing more drama and I do not wish to continue to see my granddaughter in other places because they don't care and I'm tired of it. I hope you guys vote against it, have some sympathy for us that we finally got our block quiet and safe.

Mr. Crum: Thank you. Is there anything specific you would like to request?

Ms. Brown: I don't want a barber shop. I don't understand barber shops. It brings drama, people stand outside, the parking is terrible, they play loud music, it brings in others, they bring their friends from another area, and then you have a bar across the street. Enough is enough, we don't need another barber shop. Take it somewhere else. Leave it as an office. Keep the quality of life where the cops aren't running up and down the street. They don't care, they just want to make the money. People were loitering there this weekend, 3 o'clock in the morning in their cars, really nice cars outside, why? The place is closed.

Mr. Crum: Thank you for your comments.

Mr. Foat is sworn in

Mr. Foat: I've been here since 1992, my mother purchased it and she passed away in 2002 and I purchased it in 2004. Being between a bar on the corner, a lounge, a store already, is way too much traffic. Someone stated earlier, someone was killed on the corner already. I worry about the safety and traffic where I live. There's always a problem with parking. I can't have family and friends coming over. And myself, I come home at night and find people parked in my driveway. We're just at the bar, no we don't live around here. A barber shop is going to bring too much negative attention of people just hanging out at all types of hours. I'd vote against it. I don't want it. When COVID is over, you'll have at least 20 people waiting to get a haircut. That's 20 extra cars. Most of the people that live over there are renters, not owners. I'm an owner. I've been here, I see the change, I see what's going on. The block has calmed down. The barber shop is going to make it go back up again. I want to be able to sit on my porch with peace and quiet.

Mr. Kratovil: I just wanted to ask what kind of office this used to be? And was this at one time the Middlesex County Resource Center?

Mr. Crum: Can the property owner or attorney for the applicant answer that?

Mr. Foat: It was a resource center at one point and that had all types of drama as well because we had the wrong type of people coming in.

Mr. Aithal: Mr. Foat, I'm sorry, I think the question the Chairman was asking was to the applicant.

Mr. Azcona: Yes, as far as we know, it used to be some type of department of corrections, we don't really know.

Mr. Kratovil: Has it been used as any other type of office since then?

Mr. Azcona: No.

Mr. Kratovil: It's been unused, vacant. I did want to confirm, are there any members of the Board that have a conflict of interest with the application?

Mr. Crum: Thank you for that question, Mr. Aithal did ask us in an email earlier today if we had and conflicts with any of the applicants, so all Board members were asked to identify conflicts. That may not have been done in the public session, it was asked of us. I do welcome, if there's an opportunity where somebody wants to recuse themselves to do so or alert us of a conflict.

Mr. Kratovil: I do think it's important to do that on the record and I think the same should be done for professionals, attorney, engineer, etc. for due diligence.

Mr. Crum: Thank you, Mr. Kratovil, noted.

Ms. Moore: My first question, part of this are over there is residential parking, is that true?

Mr. Crum: From what I understand regarding this specific property, what the applicant is testifying to is that there is no on-site parking.

Ms. Moore: Yes, I am asking in regards to this property, there's a lot of parking going on, when the teachers go back to school that's going to make parking harder for the people to find parking spots. I'm not going against the owner, but it will be a parking issue with the school, and part of those areas, yes, it's residential parking due to where we went to the traffic authority for stickers, who is allowed to park on what side of the street, there are a lot of residential parking signs over there and my concern that that's going to create a big problem with parking especially when school opens back up. So, [inaudible] customers have to get passes, how are they going to be able to park over there since that's residential parking? That's all I have to say.

Mr. Crum: Before we conclude, I'll give the applicant or his attorney the opportunity to respond to the additional parking questions.

Mr. Aithal: I would respectfully ask Mr. Shane to address the question on the limitation of hours, the number of barber chairs, the outdoor activity issues, and seating for waiting customers, to address the intensity of the use.

Mr. Shane: I'm going to ask Mr. Azcona to address some of these items. Have you given any thought to hours to restrict the barber?

Mr. Azcona: Well, the barber that wants to rent the place has another barber shop, and I think he works 10:00 or 11:00 to 7:00, so about the same hours.

Mr. Shane: Would you be willing to restrict the same time that he has in the other place, 10:00 or 11:00 to 7:00?

Mr. Azcona: Yes, that would be fine with us.

Mr. Shane: In terms of the parking issue, you did not observe any issues when you were there during the day?

Mr. Azcona: No, not at all.

Mr. Shane: And you and your brother work in New Brunswick:

Mr. Azcona: Yes, I do. And if I may comment, we know the neighborhood really well, we've been in the neighborhood almost 30 years now, when we came from our country, we lived just a block away and Remsen and Comstock.

Mr. Shane: You're not an outsider.

Mr. Azcona: No, not at all. Those people that got killed there, we know about it, that was when the place was an office. We think we're going to make the place better and we completely care.

Mr. Shane: The office was used for parolees?

Mr. Azcona: Yes.

Mr. Shane: Do you know how many people were there at a time?

Mr. Azcona: Many, even working, when we went to look at the place, there were at least four people working there and people coming in and out all day.

Mr. Shane: From what I've heard, the issues of quality of life seem to be at night. After the barber shop is closed? You're not going to allow the barber shop to be open at night?

Mr. Azcona: No, no later than 8:00.

Mr. Shane: There are a lot of assumptions about loitering, will you allow loitering?

Mr. Azcona: No, not at all.

Mr. Shane: How many seats are there proposed for the barber shop? Stations? And that would be based on the town approval for him to operate there? He couldn't have more than would be allowed by the town?

Mr. Azcona: Of course.

Mr. Shane: And to reiterate, you're in that community every day.

Mr. Azcona: Yes, every day. 16 hours a day.

Mr. Crum: If you're successful in attaining approval, I understand that you are going to limit certain hours that the barber shop would be open? Can you clearly confirm what those hours would be?

Mr. Azcona: 10:00 to 8:00 would be fine for us.

Mr. Crum: If you're successful, we will pass a resolution that will document when the barber shop will be open. If you want to change those hours, you'll need to come in from of the Board to change it. With respect to the number of barber chairs, it's my understanding you'll let the building

department determine how many chairs will be installed. Are there any other Board comments or questions? We have a couple new voices and I'd like to thank you for coming out to voice your concerns. I wanted to give a little background on what a planning board can and cannot do. The planning board ensures whatever development occurs, whatever businesses want to open up, that it conforms with the master plan of the city and that it doesn't negatively impact the quality of life, so we have the right to determine if the parking is okay, or if the type of business meets the city master plan. We don't have the ability weigh in on crime and safety in a neighborhood or change uses from buildings surrounding this property. Mr. Aithal, is there anything else that might clarify what the role of the planning board is?

Mr. Aithal: This application is seeking a series of bulk variances for existing conditions. The use, which is the barber shop, is a permitted use in the zone, so that's not an issue the Board is wrestling with. What we can do is take into consideration how that business and the intensity of the use of the property may negatively impact the surrounding area. The applicant indicated, and I want to make sure I'm clear on this, the hours of operation would be 11:00 to 7:00 and then 10:00 to 7:00 and then 10:00 to 8:00 and I don't have the days of the week and number of chairs, I don't know that the city issues that?

Mr. Dominguez: I do not know; I know it does not come from my department.

Mr. Aithal: Mr. Shane, I don't know how we can determine what the maximum number of chairs would be permitted if your applicant doesn't know how many chairs would be put in...

Ms. Thielman-Puniello: Mr. Aithal, I just wanted to note that we received floor plans that show seven stations, that was part of the application package.

Mr. Shane: That is correct. And to clarify the number of hours and days of the week, the hours would be 10:00 to 8:00, and what about the days of the week.

Mr. Azcona: I think they work seven days a week. I know he works less hours on Sunday. But I'm guessing seven days a week.

Mr. Shane: Does that answer your question?

Mr. Aithal: I don't get a vote in this...I'm trying to get some clarification for the Board.

Mr. Crum: Given that the floor plans show seven barber stations, is the applicant willing to making a commitment not to exceed that number at this time?

Mr. Azcona: Yes.

Mr. Crum: If you want to change that, it's possible but you need to come back to the Board. Any other questions or comments from the Board members.

Mr. Petrolino: I just wanted to take a moment and ask the question of parking, which gets to the question at least partly of quality of life that the members of the public had concerns about. Clearly, it is within the purview of the Board to consider those matters. We do have to balance what is appropriate under the Municipal Land Use Law, I appreciate the applicant's willingness to accept and the record limitations to those hours. My personal thinking is I would prefer to see the hours

reduced by one hour on the top end to 7:00. close Dinner and settling in for the evening, for small children, would be more conducive. But I do appreciate the applicant's willingness to entertain these reasonable restrictions to accommodate the quality of life issues.

Mr. Aithal: Mr. Chairman, the applicant would have to volunteer to those hours, because there's no restriction to my knowledge on the hours of operation.

Mr. Crum: Can we make a recommendation as a Board for the resolution, or does that need to be affirmed by the applicant.

Mr. Aithal: It would have to be a voluntary condition that the applicant agrees to.

Mr. Shane: If I may, let me ask Mr. Azcona. Would you be willing to restrict from 8:00 to 7:00?

Mr. Azcona: What worries me is I just want the guy to be able to make a living. So, I think 8:00 is a fair time.

Mr. Crum: Do any other Board members have any questions or comments? Hearing none.

Ms. Thielman-Puniello reads the conditions of approval into the record

Mr. Petrolino: Did I hear Ms. Puniello reference the hours of operation that were agreed to by the applicant?

Ms. Thielman-Puniello: Yes, I had 10:00 am to 8:00 pm, Monday through Sunday.

Mr. Petrolino: Thank you.

Motion to Approve

I. John Petrolino

II. Ryan Berger

	Yes	No
Jeff Crum (Chairperson)	X	
Manuel Castaneda (Vice Chairperson)	X	
George Chedid	X	
John Petrolino	X	
Robert Cartica		
Diana Lopez	X	
Ryan Berger (Class I)	X	
Chris Stellatella (Class II)	X	
Suzanne Sicora-Ludwig (Class III)		
Dale Vickers (Alternate #1)		
Yelitssa Checo (Alternate #2)		

C. 30 VAN DYKE URBAN RENEWAL, LLC / 30 & 40 VAN DYKE AVENUE / BLOCK 596.01, LOT 16.03 (PB-2020-04)

Preliminary and final site plan, minor subdivision and variance application to subdivide existing Lot 16.03 into two new lots; and to remove an existing open detention basin to the rear of 40 Van Dyke Avenue, replace with an underground detention basin and construct an at-grade parking lot over the new detention system. (*Thomas Kelso, Esq.*)

Mr. Crum: While we wait, does any Board members or professionals have a conflict that they wish to raise at this time and recuse themselves from the application?

Ryan Berger (Board Member): Ryan Berger, I am recusing myself from this one and I believe the next one as well.

Mr. Aithal: Mr. Berger.

Mr. Crum: Yes.

Mr. Aithal: Mr. Berger, I didn't hear the reason for why you believe you may have to recuse yourself?

Mr. Berger: I apologize. I will try to speak up, because both -

Bob Paulus (Applicant): Hold on. Excuse me, Mr. Chairman. I have been advised that he is muted out. He's calling. He's on the call. Let me speak to him right now.

Mr. Dominguez: We will resolve that in one second, as soon as we clear up Mr. Berger's comment.

Mr. Paulus: I just wanted to let you know that.

Mr. Dominguez: Thank you, Bob.

Mr. Berger: I was stating this issue deals with Wick Companies, as the mayor's representative, I have a conflict of interest.

Mr. Aithal: You said they were with the Wic Companies - W-I-C?

Mr. Dominguez: W-I-C-K.

Mr. Aithal: Wick Companies, and that would be - just so I can make the record clear. What is the connection between your employment with the city and the Wick Companies?

Mr. Berger: I am the mayor's representative on this Board.

Mr. Dominguez: Did you hear that, Aravind?

Mr. Aithal: Not at all.

Mr. Dominguez: So, Ryan is a Wick - who owns property at the, I believe, law office, is the mayor's designee to the Board. So, he is recusing himself from these hearings.

Mr. Aithal: Since I have not had an opportunity to fully explore what the nature of the conflict, out of an abundance of caution, what we will do is - I would advise the Chair and Mr. Berger to - at this point, recuse yourself, not necessarily because of a conflict. As we have indicated, it would be nice to know what the nature of the conflict is prior to the meeting, so we work through that. Since I have hadn't an opportunity to so that, why don't you just recuse in this case, rather than make a determination that there is, in fact, a conflict.

Mr. Berger: I will do that. Thank you.

Mr. Dominguez: All right. Let's see if we can find ourselves a Tom Kelso.

Mr. Paulus: This is Bob Paulus again. He's on the cell phone. He can't unmute himself. I don't know where the trouble is.

Mr. Dominguez: Tom, are you on there? I have unmuted the phones that are in the call.

Mr. Kelso: I'm on.

Mr. Dominguez: Can you speak up, so I can eyeball which one of your items it is? Can you hear me?

Mr. Kelso: Can you hear me?

Mr. Dominguez: Tom?

Mr. Kelso: Yes, I'm here. Can you hear me?

Mr. Dominguez: Yes, I can. Let me mark you down. So, George Chedid, are you here? I have you marked down as George Chedid. I saw your message that you were muted. I unmuted you.

Mr. Chedid: Yes, here.

Mr. Dominguez: But I hope that you're able to hear; correct, Bob Cartica.

Mr. Cartica: I can hear. Can you hear me?

Mr. Dominguez: Yes, I can.

Mr. Cartica: I want to address about the conflict of interest.

Mr. Dominguez: Okay.

Mr. Cartica: So, I understand that one of these buildings is a tenant in the state agency, Children and Families - Department of Children and Families. And like I wanted to indicate that I am employed by a state agency, although it is the Department of Environmental Protection. I am questioning whether there is any conflict of interest or an appearance of conflict of interest associated with that relationship?

Mr. Aithal: So, is your agency specifically a tenant in the building?

Mr. Cartica: No, not at all.

Mr. Aithal: You don't have a financial interest in either of the applications, do you?

Mr. Cartica: I do not.

Mr. Aithal: I don't see that working for a state agency, while another state agency may or may not have a leasehold in one of the properties, would be - would raise a conflict of interest. Mr. Kelso, do you have any objections to Mr. Castaneda on this application?

Mr. Cartica: Cartica.

Mr. Aithal: Bob Cartica. Sorry.

Mr. Kelso: I don't have an issue with it because I do not believe it's conflict. There are many people who work for the state, but if he's not in the department or is not familiar with it, I don't believe there a conflict.

Mr. Cartica: That's fine for me.

Mr. Dominguez: I guess, we can begin.

Mr. Kelso: Members of the Board, Thomas Kelso on behalf of the applicant Van Dyke Urban Renewal, LLC. And just for the record, to indicate that the applicant itself is a related company to Wick Properties, which is the parent company that was referred to previously. The application seeks preliminary and final site plans and bulk variances, and minor subdivision approval. The applicant is proposing to subdivide the existing lot, to separate the two buildings that are currently on the lot and parking lot together into two parcels. The first parcel is approximately 6.764 acres and it's on the west side of the site and it contains the one building, which is 30 Van Dyke; that's what's occupied by the New Jersey Department of Children and Families, the west and central parking lots and the existing drainage stations. The second lot consist of 5.187 acres and is located on the eastern portion of the lot and contains 40 Van Dyke Avenue and that building is occupied by the New Jersey Board of Education; the southwest bus parking lot, the central playground and the east parking lot along Jersey Avenue. The applicant is further proposing to convert the existing drainage basin on Van Dyke Avenue on each of the sites into an underground detention basin, so as to install on grade new paved parking lot, containing 80 new parking spaces. The parking lot would be associated with the building, the Department of Children and Family, and by doing that we actually will be eliminating a parking variance, which had previously been granted to this site in 2012. Once again, I have indicated the properties located at 30 and 40 Van Dyke Avenue, is designated as Block 596.01 and Lot 16.03. The properties in the I-2 Zone, which these are permitted uses. There are several variances that are being used, as a result of the drawing of the subdivision lot. And to just to visualize and to understand the buildings are there. The building not changing. We're simply drawing a subdivision line to be able to separate the uses onto two separate lots. So as a result of that line, we do create several bulk variances. First, the side yard setback 20.67 on one the one side of the proposed Lot A, whereas a minimum of 25 is required. The second variance is a side yard setback five feet on one side of the proposed Lot B, whereas a minimum of 25 feet is required. Thirdly: A total side yard setback of 20 feet, whereas

a minimum of 25 is required; and finally, a lot coverage of 36 percent for Lot A and 44 percent for Lot B whereas the maximum of 35 is permitted. Once again, the purpose of this is to be able to separate the use of the two separate lots and also to create the additional parking, which is necessary for the Building, used by the state. With that as an overview, I would indicate to you, that I will be presenting three witnesses for you. First of all, Mr. Bob Paulus, who is the principal of Wick Properties and the owner. Mr. Les Walker our civil engineer and finally Ms. Kate Keller, who is our principal planner in support of the variances. So that overview, I would first call Mr. Bob Paulus for testimony.

Bob Paulus is sworn in

Mr. Kelso: I would just ask you, Mr. Paulus, just for the record, if you can just give an overview of the application. I will leave it to you to play out the principle concepts here embellishing what I already laid out of as the overview.

Mr. Paulus: Well, Tom, you did such a good job so far that - yes, tonight we're going to be providing testimony and an overview of the application for the proposed minor subdivision and amended site plan on the 11.9 acre parcel, which is known as Lot 16.03 and Block 596.01. And it's commonly known as 30 and 40 Van Dyke Avenue. I would like to bring the attention of the Board the Exhibits A-1 through A-4, which were previously submitted, which is a color rendering. Exhibit A-1 is a color rendering. It shows the site in proposed subdivision, along with the Exhibits A-2, A-3 and A-4, which show the existing above ground detention basin that we are proposing to change into an underground detention basin, and construct new parking that's proposed. The building is presently as - are used by Department of Children and Family at 30 Van Dyke. The department of Children and Family is primarily for a teaching and continued education of the employees of the State of New Jersey, along with the central business office and Metro Licensing. No family services are provided at this location. 40 Van Dyke is presently occupied and being utilized by the New Brunswick Board of Education. The building located at 30 Van Dyke, which is the heart of this application, is leased to the State of New Jersey, department of Children and Families, Welfare Training Academy. This is a 107,000 square foot facility, and sit is the largest in the State of New Jersey. The state provides training in variety of disciplines to increase the knowledge and skills related to the case workers interaction with the children and families of the State of New Jersey. On a weekly and a monthly basis, groups of case workers attend training sessions at the property, which is mandatory for their continued education. These gatherings sometimes result in challenging of parking, since there such a great influx of workers from all over the State of New Jersey. The State of New Jersey, Department of Children and Families is committed to staying at this location, continue its training mandate. The Department of Children and Family has been at 30 Van Dyke property since 2012. They're currently under lease, which expires in 2025. However, the facility is essential to their mission that they want to enter into a ten year lease extension that would continue the lease term out through 2035. The extension would allow the state to make interior improvements to the premises and guarantee the continuation of the operation for years to come. The terms and conditions of the lease extension are required to be presented to the State Leasing and Space Utilization Committee. As a material consideration, the state to enter into the less extension, the landlord has agreed to certain improvements for on-site parking and to adjust the stormwater facilities to permit the improved parking. Thus, critical to getting the state committee's consent, will be the construction of additional parking at the property. Furthermore, the state has indicated that they may want to purchase this property at some late date in the further, and has insisted that part of the lease extension agreement require the possibility of that sale; so, to separate the overall parcel into two

lots would facilitate the possible future purchase of the building. As part of the application and any 18 approval that we receive tonight, we will be providing cross easements for the stormwater system's detention basin. The applicant has discussed with the fire department all the issue with respect to the operation of the parking, in particular with applicant will be providing a knock box with keys and combination locks, at the emergency access at 30, 40 and also upgrading all the emergency access points at both buildings. As stated, the subdivision and the addition of 80 parking spaces is part of the lease requirement for New Jersey Department of Children and Family, to extend the lease for another ten years out to 2035. Also, the benefit of this long term lease relationship and the additional parking to facilitate the extension is that we will now have compatible uses within the I-2 Zone, being a school and the Department of Children and Family. So, the long term lease relationships are greatly benefits the use of the overall property. The subdivision will follow the lease lines, basically, and mimic those lease lines; so, the adjustment of adding the additional parking in lieu of an above ground detention will improve the overall parking. The cost of the improvements were the parking and underground detention will be, approximately, one point five million dollars, which will be underwritten as part of this lease extension. So, I think the genesis of the application is that we will be able to keep the Department of Children and Family, which provides a great service and location in New Brunswick; the New Brunswick Board of Education will maintain their existing parking, their existing playground and, quite frankly the property will be greatly improved.

Mr. Kelso: Thank you, Mr. Paulus. If Board has any questions for Bob. If not, I will call my second witness; that is Les Walker. Mr. Walker, are you there?

Mr. Walker: I'm here.

Les Walker is sworn in and accepted as an expert in engineering

Mr. Kelso: Mr. Walker, rather than me asking specific questions, if you can give a broad overview of the engineering components of the application, and you can make reference to the exhibits that are on file with the city and touch upon, not only the site plan, but also the subdivision that's being requested?

Les Walker (Applicant's Engineer): Of course. The Exhibits are A-2 through to A-4, were photographs of the existing detention basin. Just to give the board and any interested parties a kind of - just a view of what's out there today. A-1 is a colorized version of the site plan that shows dimensionally and, you know, the layout and then the landscaping, lighting, those kinds of general site layouts, just to give a view of what the entire site is like. Our plans were last revised June 26th of this year. The site is located at the intersection of Jersey Avenue and Van Dyke Avenue. It was constructed in 2004, 2005 initially. In 2012, a small, I believe, 55 space parking lot was added between the two buildings to try to bridge the gap ending the need for parking by the tenants on the site. And as Mr. Paulus has already put in the record, the state needs additional parking especially when they have these training days at their site. The surrounding uses are predominately commercial; light manufacturing, warehouse in nature. There are no residential, to my knowledge, in the surrounding properties. The site currently has 360 parking stalls; and a variance was issued in 2012 for deficiencies of 21 parking stalls, although what the municipal ordinance required. The site has an existing combined - it's partially underground and partially open detention basin. The underground portion was constructed in conjunction with those 55 parking stalls back in 2012. The remainder of the detention basin is a traditional old school, big open area that the water drains into and is slowly released. The condition looks predominately the same as what you see today with one change - one obvious change would be that that open detention basin is closest to the

intersection of Jersey Avenue and Van Dyke Avenue, will be converted to an underground detention basin; that the technology with underground basins has come a long way in the past 15 or 20 years, and really given an opportunity, given that the value of land, especially in Central New Jersey to kind of reclaim or get a better or maximize your use of the site. I will circle back to the technical parts of the stormwater, but the site will have full mounted - will have full mounted lights to provide the required lighting and additional street trees and site trees as required. The stormwater management will provide the necessary reductions to the new area for the site. The rest of site will continue to flow as it does now, continue to function and that the basin will provide the required stormwater reductions to meet the New Jersey Stormwater Rule. Also associated with the stormwater improvements is a - for water quality purposes - is a bioswale that runs along the Van Dyke side of the proposed parking lot on the proposed site that uses both infiltration and vegetation uptake to absorb nutrients and to remove any sediment or grit or anything that like, that would be the first flush of the stormwater. So, it also meets the requirement for 80 percent of DSS removal. We took a look at - in our design early on, we took a look at the Dolan & Dean Traffic Study was prepared in 2012 for the site. They did not find any problems with access to the site and did note that, you know, the site was in need of additional parking. I believe, that the improvements that we're going to - that we are proposing here tonight, will not only bring us into the conformance with the Zoning Ordinance, but we will actually end up with 59 spaces more than what is required by the ordinance. The new parking area will be accessed from the side of the site that has a driveway onto Van Dyke Avenue. You will come in to the existing parking lot - which when you come in from the site driveway - is straight ahead and the right and there will be another finger that goes to the left. Further, the subdivision line creates some side and rear yard variances, basically, because it's designed to follow the existing lease line, so that the land that each one of the tenants is currently utilizing will not change. So, it creates sort of an awkward line, but there's a purpose to that line. The attorney covered the variances, but there's the variances for side and rear setback. Then for building coverage, which the ordinance allows 35 percent, the existing site with both buildings in one large site combined is at 39.87 percent; so just under 40 percent; so nonconforming as is. When you divide the properties and you change the amount of lot area with the same building on each one, you actually end up changing those numbers. So, Lot A, which is the 30 Van Dyke because of the larger site, ends up still over the allowed 35 percent, but 36.42 percent and 40 Van Dyke, there's the building on the corner, ends up 44.36 percent. So, one goes down, one goes up from what they are now, but not by any new building area, just by the division of the property into two separate parcels. As far as outside agencies go, we have Freehold Soil Conservation District Plan Certification. We have conditional approval from the Middlesex County Planning Board and no other outside agency required for this site; that's all I have, Tom, unless there are any questions.

Mr. Kelso: Let me just ask, Mr. Walker, while I have you. We did have engineering memorandums from D&R Engineering and also the city engineer. I know that we have responded to that in writing, but for the record: Is there any matters that were in any of those reports that either have not been complied with or can't or won't be complied with?

Mr. Walker: I believe we will be fully able to fully comply with those letters.

Mr. Kelso: I have no further questions of Mr. Walker.

Mr. Crum: Thank you, so much. Any questions from any board members?

Mr. Petrolino: Yes, Mr. Crum, John Petrolino here. Mr. Walker, I believe you testified, but I just want to confirm that the design and implementation of the revised stormwater retention basin

will conform with the newly revised Green Infrastructure Initiative Codified under 7:8; is that correct?

Mr. Walker: I believe it will comply with all requirements.

Mr. Petrolino: You believe or you will?

Mr. Walker: Sorry. We will.

Mr. Petrolino: Okay. Thank you. No further questions.

Mr. Crum: Thank you, Mr. Petrolino. Any other board questions for Mr. Walker? All right. Do you want to continue, Mr. Kelso, with your witnesses?

Mr. Kelso: Yes. At this time, I would call Kate Keller for testimony.

Kate Keller is sworn in and accepted as an expert in planning

Mr. Kelso: Ms. Keller, if you can give us an overview of once again the - and orient us with the variances that are being requested. And rather than me ask you specific questions, run through an analysis of those variances and be, hopefully, able to provide support for the board?

Ms. Keller: Sure. Absolutely. So, as you've heard from our current witnesses, this is an application for a minor subdivision with several Bulk C variances which are related to that subdivision. No new buildings are proposed and the principal new construction that's proposed is the underground stormwater system. Both of the uses on the property, which is the school and the state office building are permitted in the I-2 General Industrial Zone. In the proposed Lot A - the variances that are requested tonight - we are requesting a side yard setback of 20.67 feet, where 25 is required; and the maximum building coverage is 36 percent, where 35 percent is required; so that's rather de minimis. The proposed Lot B, we are requesting a side yard setback where 25 feet is required and a minimum rear yard setback of 23 feet, where 25 feet is required; and the building coverage of 44 percent, where 35 percent is the maximum permitted. So, with the variances said, I believe, that all of those can be granted under the "c(2)" criteria which is - with the benefits of the granting of variances without any detriment associated with them. Just for starters, no new proposals are supposed to change on this site and the subdivision design is to enhance the safety and the utility of the site for both of the uses. And in that case, the subdivision - as you heard from Mr. Paulus, the subdivision will follow the lease lines and it will really function more like a lease line than a formal subdivision in terms of its impact. The variance will be mitigated by the fact that the site has and will operate as one cohesive unit in that sense. Further, I do believe that these are two uses that both will serve the public good and retaining these uses will provide a benefit to the city, because they promote the general welfare and they're compatible with other requests in the vicinity. So just with regard - I will address the variances in kind of in groups because they are rather similar. So, there's three setback variances that are required: One for - two for side yard and one for rear yard, with regards to the two different lots. All are from the newly created internal lot line, since no new building construction is proposed. So, in that sense, the usual detriments that are related to the setbacks or planning perspective which includes visual impact or incompatible uses are not relevant here. Again, these are two existing buildings on a site that's been designed holistically as one property. The site was - there was a clear separation between the buildings and the users, even in the areas where there are similar setbacks, so there won't be any issues with regards to circulation or differentiating between the users.

With regards to the building coverage, again, there are no changes proposed here, but rather the building coverages will be more like reallocated between the two properties; and Lot A will actually be coming into greater conformance from where it is now and where 36.4 is the new proposed number; and Lot B which has already has an existing nonconformity. So, there won't really be an impact just because outside of the site there won't be any actual changes or visual changes, and there won't be an impact on the runoff or anything of that nature. Of course, there's no new construction and further there will be a new underground detention basin. So, with regards to the purpose of the zoning, I believe, this promotes Purpose A, which is to encourage municipal action which is to guide the appropriate use and development in a matter that promotes public health, safety, morals and welfare. In this case, it will continue to function as it has and it continues to use that promotes the public interest as compatible. And then H, to encourage location and design of transportation routes, which will promote the free flow of traffic. While I did not mention it in my testimony, it's been mentioned elsewhere tonight, which is that the new parking areas will reduce the need for the state office building to have utilize offsite parking and the shuttle services on the rare occasions where they previously did and the site will have proper circulation between the two uses. Just briefly, with regard to negative criteria. There's - because there's no new construction, and then no negative impact of these variances is mostly due to the fact that the property has been developed in compatible ways and under joint management. With regards to the zoning plan and the zoning ordinance, just briefly, I wanted to note that the planner's report does mention that there may be future bulk variances, if we get a plan for that, and at this time if any new construction were or new buildings is proposed, we are aware that we would have to return to the planning board and that further planning board approval would be required with the same proofs. And with regard to the zoning plan, I believe, these variances are unique to the layout and the use of the property and the two uses that are on there, and it will not have an impact on the I-2 goals. So, just to sum it up: I believe for those reasons, the application will satisfy as a positive, not a negative criteria under the MLUL.

Mr. Kelso: Thank you, Ms. Keller. You will note if the board has any questions for her, but that does complete our presentation.

Mr. Crum: Before we move to general questions for the applicant, does anyone have questions for Ms. Keller about her testimony? Any overall questions for the applicant, at this time from the board? Hearing none, Mr. Dominguez, would you like to begin the public.

Mr. Dominguez: Certainly. At this time, we are preparing open the meeting to general - I'm sorry - to public comments on this specific application for five minutes per person. In order to assure that the planning board can hear from the interested public and the public can hear public comments, I will organize the speakers in order by last names. And in a moment, I will unmute the public call in. At that time, I will ask those with the last name starting with "A" provide me your last name, your first name and I will confirm the information is correct and then move on to the next person alphabetically from "A" to "Z." Upon the completion of my asking for the last names from "A to Z," I will ask one more time for anyone who may want to be placed on the initial list of speakers. We will then move to the list of speakers by calling the person by name and permitting them five minutes to speak. Once we complete the list, we will once again check to see if anybody would like to comment. After asking three times, I will then close the public meeting, public comments portions. Please remember that your voice is being telephonically transmitted and speak slowly and clearly for the benefit of all. Lastly, please remain silent while I initially unmute the phones, so that we can all hear each other and then we will begin the speaker registration process.

Mr. Dominguez reads through the alphabet once. Charlie Kratovil, Danielle Moore and Linda Stork are placed on the initial list of speakers

Mr. Kratovil: Yes. Good evening members of the Board, Charles Kratovil, New Brunswick, New Brunswick Today. I would like to formally object to this project as a pro se, not an attorney. I believe that in order for me to properly exercise my right to cross examine witnesses, it may take more than five minutes. So, I hope you will show, you know, some leniency there because, honestly, this board never had a time limit until 2020, not until March. So, I think it would be wise to allow all of the questions to be answered. My first point I want to make it: It was said this is compatible uses with an I-2 Zone. How is a school compatible with an I-2 Zone?

Mr. Crum: Mr. Kratovil, would it be possible for you to ask your questions one by one and then we will allow the respondent to reply to you?

Mr. Kratovil: I am okay with that. I may have follow-ups.

Mr. Crum: Sure.

Mr. Aithal: Aravind Aithal, the Board Attorney. I think it might be better if Mr. Kratovil, since there were two witnesses, three witnesses - I am sorry - if Mr. Kratovil wants to indicate who he wants to cross examine.

Mr. Kratovil: Sure. I guess, I'll start with Mr. Paulus, but I don't recall who it was who made the statement about compatible uses, maybe if just the planning director can comment on that real quickly. Is a school a compatible use with I-2; is a fair comment to make?

Mr. Aithal: Well, we're not going to have a cross examination from someone who is already declared that he's officially objecting as a pro se, ask the board staff questions about this application to render an opinion. You can certainly cross examine the witness. You indicated you wanted to cross examine Mr. Paulus?

Mr. Kratovil: Yeah. First, I would like an answer on that. If either or whoever said it, I forget which witness it was, said it was a compatible use.

Mr. Dominguez: I can answer this. This one plainly, if it is okay?

Mr. Aithal: Yes, was it the planner? The applicant's planner?

Mr. Dominguez: No, no, it is me, Mr. Dominguez.

Mr. Aithal: No, was it the applicant's planner who made that testimony?

Mr. Dominguez: I believe it was.

Mr. Aithal: Okay. Then if it was the applicant's planner who made that testimony, I think Mr. Kratovil has his answer, right?

Mr. Kratovil: Well, my question was how is a school compatible with industrial I-2?

Mr. Aithal: Did you wish to cross examine the planner, first?

Mr. Kratovil: Well, I was actually - wanted - well, if he is willing to give it, so I will accept it from him. If I can't question him, then I must question these other folks - I will question these other folks as well as the planner.

Mr. Aithal: Mr. Kratovil, you have indicated that you're officially objecting as a pro se.

Mr. Kratovil: Yes.

Mr. Aithal: There were three witnesses that were presented. Those are the witnesses that you would cross examine. If you have a case that you would like to put on, you can certainly put on your own witnesses, but did you want to call the planner, first - recall the planner for cross examination?

Mr. Kratovil: Sure. If you'll allow that, let's do that.

Mr. Aithal: Mr. Chairman, as Mr. Kratovil has indicated that he's an official objector or it is appropriate for him to cross examine the witnesses, if he wants to cross examine them.

Mr. Crum: Mr. Aithal, I will take your direction on that.

Mr. Kratovil: So, is the planner still available for my questions?

Ms. Keller: Yes, I am available. I would just note that a school, public and private, are permitted uses in I-2 Zone; so, based on that, the city has determined that it is appropriate use.

Mr. Kratovil: And were you the one that said there were no family services provided at the 30 Van Dyke location or was that another witness?

Ms. Keller: I did not make that statement.

Mr. Kratovil: Okay. I think that's the only question I had for the planner. I guess, the architect can go next, if he's available. Is the architect available?

Mr. Aithal: Sorry, I was on mute, Mr. Kratovil. I don't believe there was an architect. There was an engineer and a representative for the applicant.

Mr. Kratovil: I see the papers listed an architect.

Mr. Aithal: We had three witnesses: We had Les Walker. We had Mr. Paulus and we had Ms. Keller.

Mr. Kratovil: The architect is not going to testify?

Mr. Aithal: Mr. Kratovil, it's your cross examination. Did you want to cross examine a witness?

Mr. Kratovil: I did, and I was looking through the papers and I saw an architect. There was an architect and I wanted to ask him what style of architecture this building is. Maybe one of the other witnesses could answer?

Mr. Aithal: Who did you want to cross examine?

Mr. Kratovil: Well, there are two other witnesses -

Mr. Aithal: Right. Mr. Kratovil, I am not going to interrupt you. I am not trying to be cute here, but it's your cross examination. You got to call the witnesses or recall the witness.

Mr. Kratovil: Okay.

Mr. Aithal: Who is it that you want to recall?

MR. Kratovil: Let's go with the engineer next.

Mr. Aithal: Okay.

Mr. Kratovil: Save the best for last, I guess. Is the engineer available?

Mr. Walker: I am available.

Mr. Kratovil: So, can you tell me, this area, how frequently it floods?

Mr. Walker: There is no flooding.

Mr. Kratovil: I would like to draw your attention to patch.com Article, July 10, 2020, based on statements from the city that Jersey Avenue is closed due to flooding.

Mr. Aithal: I'm sorry. Mr. Kratovil, you're referring to a document?

Mr. Kratovil: Yes.

Mr. Aithal: Have you submitted that at least ten days prior or at least five days prior for the public to inspect?

Mr. Kratovil: No, I have not, sir.

Mr. Aithal: Mr. Chairman, with all due respect, I would say that would not be admissible - Mr. Kelso wishes to consent.

Mr. Kelso: No, I would not.

Mr. Kratovil: Maybe the engineer could let us know if they were aware of the July 10th flooding incident.

Mr. Walker: There's been no flooding at this subject site.

Mr. Kratovil: Are you saying the City of New Brunswick is sending false information?

Mr. Crum: He answered your question, Mr. Kratovil. He said there was no flooding on the site.

Mr. Kratovil: Okay. Could you tell me what the next closest street heading north on Jersey Avenue is? What is - the next street would be?

Mr. Walker: I really cannot tell you without looking at a map, no.

Mr. Kratovil: Okay. But it doesn't sound - okay. No further questions for you, sir. Just to be clear: There was no traffic engineer either?

Mr. Aithal: There were three witnesses: Mr. Paulus, Mr. Walker, Ms. Keller.

Mr. Kratovil: I just wanted to make sure I didn't miss a traffic engineer because I do think that's a concern too. I will cross examine Mr. Paulus and then I'll wrap it up with a closing statement. Mr. Paulus is available?

Mr. Paulus: Yes, I am.

Mr. Kratovil: Good evening, sir. The planning board testified tonight that Mayor Cahill is a tenant of yours at one of your companies. Can you tell us how long that relationship has existed? Are you still -

Mr. Paulus: No, I worked for the mayor. You said - you said the planning board testified to that tonight?

Mr. Kratovil: The mayor's representative on the planning board, mentioned that he had a conflict of interest and that it was because you rent to the mayor - Wick Companies rents to the mayor. Is that still the case or how long has that been the case?

Mr. Paulus: I will refer that to Mr. Kelso. I don't think it's part of this application.

Mr. Kelso: I don't think it's relevant to this application. It may have been relevant to the planning board member recusing himself, but I am not going to allow my client to get into business detail that a member has recused himself on. I am not going to do that.

Mr. Aithal: Mr. Chairman, I would advise the board that the question of the recusal of a witness, who did not participate in this application, is not relevant to cross-examination questions of this witness.

Mr. Crum: Thank you, Mr. Aithal; that seems fair.

Mr. Kratovil: Mr. Paulus, you secured a tax exemption for this property - a long term tax exemption for both 30 and 40?

Mr. Paulus: The New Jersey School Development Authority, basically, made application in 2004, for the pilot for this property in order to make it part of their ability to build out the property for - at that time, two schools.

Mr. Kratovil: Right. Whose idea was it to, you know, use these buildings as schools?

Mr. Paulus: The state -

Mr. Kelso: I am going to object to this. I don't know what the relevancy with the application that's before the planning board.

Mr. Kratovil: So, if I may - maybe, counsel can weigh in. I have been asked to kind of focus only on the cross-examination part, because I have declared my objections to the project. I am still entitled to make comments and maybe if you hear my comments, maybe you'd understand better where I am coming from on some of these things, but since I'm almost done if you - if Mr. Kelso would withdraw his objection that would be ideal, but I would like to hear from either of the two lawyers.

Mr. Kelso: I am not withdrawing my objection. It's still not relevant to the application.

Mr. Aithal: Mr. Kratovil, can you make a statement of why you believe this a relevant line of questioning?

Mr. Kratovil: Yes. So, I do believe that it is currently a topic of immense community concern, the fact that this building is being used as a school.

Mr. Aithal: Specifically, the question was: Who made the decision?

Mr. Kratovil: Whose idea was it?

Mr. Aithal: Whose idea was it? Can you tell me why that would be relevant? I really don't see the relevance here and I am trying to give you as much latitude as possible. I think Mr. Kelso's point is well taken here. It doesn't seem relevant, unless you can tell us why it's relevant. You can certainly, you know, pose any hypothesis that you have in your closing statement, but it doesn't seem relevant.

Mr. Kratovil: Okay. Well, if I could just continue where I was going there. I do feel this is an issue of immense community concern. And it was stated on the record in Court proceedings as to the educational impact that bussing the children there has. And one of the main points of contention there, is the amount of green space, the amount of area, you know, that's not paved over, concrete jungle-type situation. And the application before this board tonight is to pave a portion of the site. You may retain the drainage component and you may continue to address flooding in the same manner that you do today, but at the end of day there will be less green space on the property, a property where that is already a serious concern for parents and community members and other observers who noted that, you know, that there is a perfectly a good school on Somerset Street that the kids are being kicked out of to go to this place instead. So, I do think it's relevant, whose idea it was, but maybe Mr. Paulus can just comment on the issue what he's applying for: Why should the application be allowed to go forward if it, you know, puts these - if it makes the quality of the education the children receive, less.

Mr. Kelso: Once again, I am going to object to it. It's not relevant. It's intended to be argumentative. He can state his opinion. He certainly is entitled to his opinion, but my client is not going to

answer a hypothetical question that has nothing to do with a site plan application and goes to the heart of the other dispute that, obviously, Mr. Kratovil and others have, but Mr. Paulus is not going to answer an argumentative question like that. I am objecting to that.

Mr. Aithal: Mr. Chairman, I do find it would be an irrelevant question. Certainly, Mr. Kratovil could make the argument, but I don't see the relevance to the site plan application.

Mr. Crum: I'm not an arbiter and I'm not a judge. I am going to defer to my attorney's opinion. It's really not our place here; so, I will defer to Mr. Aithal on this.

Mr. Kratovil: Okay; that's fine. For the record, I am not trying to be argumentative. I sincerely want to get answers to the questions. I think they are important questions. Some may say, not, but I do consider them important not for sake of argument, but for sake of information. And I guess - can you tell us the amount of green space or the size of the space that will be paved over? How many acres or how many square feet is it?

Mr. Aithal: Mr. Paulus, did you testify to that or was that the engineer?

Mr. Paulus: No, that would be the engineer that would testify to exact amount of paved area and pervious area; so, I would have to defer to him.

Mr. Kratovil: Okay. Just for the record, this was a request from the Department of Children and Families, to do this?

Mr. Paulus: The genesis was, yes. They wanted to extend their lease for another ten years, beyond 2025. They see that this is a very important facility to them. They want to ensure that they have the proper parking, the proper interior improvements and a long time standing in this property going forward out, which is a great length of time. It's very unusual for tenants, who used to be able to be kept in one place from 2012 until now - ended out to 2035.

Mr. Kratovil: And the remaining question -

Mr. Dominguez: Mr. Kratovil, not to cut you off. Your time is up, so if you can wrap it up, I would appreciate it.

Mr. Kratovil: Okay. Well, may I just ask the engineer the question of the amount of green space that will be left and the amount of green space that will be taken?

Mr. Aithal: Mr. Chairman, the engineer was already recalled, unless Mr. Kelso has an objection to him being re-recalled.

Mr. Kelso: I don't object to that.

Mr. Aithal: Thank you, Mr. Kelso.

Mr. Walker: The area of the parking lot is approximately half an acre and it's all an existing open detention basin, not a useful area for children to play in.

Mr. Kratovil: That may be so. And then the remaining green area that is, you know, the only suitable outdoor recreation area, the size, do you know?

Mr. Walker: The site remains green on that proposed lot.

Mr. Kratovil: And what would that be in absolute terms, square feet or acreage?

Mr. Walker: I don't have those numbers, not off the top of my head.

Mr. Kratovil: Okay. Would you say it's the size of a football field or smaller?

Mr. Walker: The main play area is over 150 feet wide and over 200 feet long; that's the main play area; that's not the only green area on the site.

Mr. Kratovil: Thank you, sir. And that's the conclusion of the questioning. I will just say very briefly: That the applicant said that they were eliminating a variance that was previously granted, like that's doing some favor. You know, the reality is the applicant has benefited immensely from the years of that variance and all the variances and all the tax exemptions and all the other approvals they have been granted. For example, 30 and 40 Van Dyke. These buildings would have paid \$305,908 in regular taxes and because of the exemption that the city gave them, they paid just 71 percent of that. Gotten even a better deal at Van Dyke Avenue, where they got a tax exemption where they only had to pay 26.2 percent of what they would be normally be paying on the property if it was not exempted. And I think they continue to profit off of the, you know, the incompetence of the New Brunswick School leadership and, you know, quite frankly, what's been a total sell out situation with Lincoln Annex. I don't think it's a coincidence that the developer does business with the mayor - made him very rich by buying his building and continues to rent to him to this day. And that also that mayor started to bring in this idea of using his warehouses as temporary schools, something that was supposed to last for only a short time, but has continued for decades and, I think, that it is not a coincidence. These conflicts are real and it's a real problem that the county government's attorney is moonlighting as this developer's attorney. There was no testimony from a traffic engineer. This is a very dangerous intersection. You can go on Google Maps and see for yourself. Go to Street View, you see a bad wreck, right there at this corner. I have seen a lot of bad wrecks at this corner, as a reporter. This is an area where adding more cars is only going to create more crashes. Until improvements are made to that intersection, it is not a - is not that something that would be wise or safe for the board to approve. And the question of flooding, leads me to believe that the applicant's experts did not do their homework, because there is indeed a flooding problem in this area, as recently as two months ago. You could check the city's own Nixle Alert or the city's own promotional materials that say, July 10th, there was a flooding incident between Taylor Square and Van Dyke Avenue; that's the area we're talking about here - that exact corner. So, I do think that this would be unwise to approve. For all those aforementioned reasons and, of course, the Lincoln Annex issue, I ask you to reject this and, you know, end the - stop giving away the farm to folks like Wick Companies. Thanks.

Mr. Crum: Thank you, Mr. Kratovil. Mr. Dominguez, do we have one more public comment?

Mr. Dominguez: The next witness is Danielle Moore. Ms. Moore, are you still there?

Ms. Moore: Yes, I am still here.

Mr. Dominguez: Your five minutes begin now, Ms. Moore.

Ms. Moore: First, I would like to first start off with what Mr. Kratovil was just talking about: That's with the flooding. I don't see how these engineers don't know anything about that. These roads flood due to where Mr. Kratovil has told you. And I also mentioned to you as the last meeting we had in person, I showed all of you pictures of the flood zone, starting from 131 Jersey Avenue all the way up towards Van Dyke. And I'm pretty sure one of you had to see it on Breaking News, on Channel 7, Eyewitness News, Breaking News, one of the worse floods in the past five years right on Jersey Avenue. So, I don't see how any of you can say this is not a flood zone. Eventually, someone is not giving evidence to the engineer to say that it is not flooding, where it was on TV, Eyewitness News, Breaking News, the show, The Worse Flood, back in July. As I told you with regards to 131 Jersey Avenue, when you tried to put the school the first time, with all the sewer lines going underneath Jersey Avenue. It's still going to create sewerage and flooding. I don't see the purpose of you doing this, but the way I'm hearing this, you're doing this - paving this road, doing trees and everything else, wow! Sounds like you're trying to put these kids permanently in this warehouse school. For you to do all this work and it's temporary, I really think this is going to be - and what all of you should be ashamed of yourself due to where fires with Jersey Avenue where - for 50 Jersey Avenue, I am saying you're going to put these kids there on contaminated land, not safe there. You still should be ashamed of yourself, due to that you don't live over here. I don't think you should really judge, oh, yes, everything is okay. While 50 Jersey Avenue is surrounded by what? Drug users. Robert Wood Johnson, the police department are picking up three times a day for K-2 - K-2, smoking, rolling in the ground; that is not an area for a school to go in. Like I said, all of you should be ashamed of yourself, if you don't take the time to do the evidence. All you do is say yes, yes, yes. I vote yes. I vote yes, before you investigate. Has anyone been? Have any of you been in 40 Van Dyke Avenue? No comments.

Mr. Aithal: Mr. Chairman, it would be inappropriate to question the board members. If there are questions of the witnesses, certainly, I think that would be appropriate. If she has comments, she can certainly make comments, but questioning the board members would be inappropriate.

Mr. Crum: I agree.

Ms. Moore: Van Dyke Avenue is not safe for no school the way Mr. Kratovil told you a couple of months ago. Someone got killed on the corner of Van Dyke Avenue, where a man got crushed, ran over. So once again, Mr. Kratovil has said also to be a traffic mess also in the area. Who is paying for all of this to be done? Who is paying for all of this? Hello. Not to kill my time with just one little question?

Mr. Dominguez: Ms. Moore, do you have a question for a particular witness that you want to identify? Who you are directing your question to? I am sure they would be happy to answer.

Ms. Moore: Is this for the public or is this just the witnesses?

Mr. Dominguez: Please direct your questions to one of the witnesses who gave testimony on behalf on the applicant.

Ms. Moore: So, none of them can tell me how - can the engineer give me an estimate of how this is going to parcel the road?

Mr. Dominguez: I think, Mr. Kelso, the question is for your civil engineer to provide an estimate.

Mr. Kelso: My concern is, I am not sure what she is asking an estimate of. She keeps talking about the road, but there's no work being done on the public road. The working is done on the property.

Ms. Moore: Yes; that's what I'm saying. How much is it gonna cost?

Mr. Kelso: I'm just trying to clarify what you are asking. Are you asking the work being done on the property or are you referring to the work on the road?

Ms. Moore: Yes, the work that's being on the property, sir. What would I be asking for the road for?

Mr. Crum: Ms. Moore, are you asking if it's public money going into this project, into the improvements on the site or are you asking the price?

Ms. Moore: Yes. Yes, the price for it. Yes. Do people pay for it?

Mr. Crum: Okay. Does that help clarify, Mr. Kelso? Is there - I think the question is: Is there public money, public resources, being used to make these site improvements, and if so, how much?

Mr. Paulus: I can answer that. Yes. There is no public monies being used to fund the improvements. I testified this evening that the improvements in total with the underground detention and the pavement for the additional parking would be, approximately, one point five million dollars, which would be funded by the landlord as part of the lease terms on the extension period with the Department of Children and Community. It has nothing to do with the New Brunswick Board of Education. They're not involved in any of it, whatsoever.

Ms. Moore: Thank you. I don't think it took you that long to kill my time where I you asked you one simple question, and you have to answer the whole time. Thank you. Like I say, hopefully, the owners won't be wasting their money for so many years. As long as I have lived over in New Brunswick, you cannot stop the flooding over there, but, believe me, I said you're wasting your money. This is not underground. The sewerage lines go all the way to North Brunswick where they could not see - it will be a waste of money. You can't stop the flooding over there. Like I said, before you do something you should see Eyewitness News, Channel 7. You will see how the road is flooded over there. There is the sewerage and all the garbage is all over there. It would be a waste of your money. You all have been doing this for over years in schools. Due to the death toll, Robert Wood Johnson is not going to keep their promise.

Mr. Dominguez: Ms. Moore, your time is up, so if you can wrap up, please. Thank you.

Ms. Moore: I suggest that you start looking into something before you just keep saying yes, yes. Yes; all the voting yes. Like I mentioned to you before, just like I told you Jersey Avenue is a flood zone, 131 Jersey Avenue. I hope you do get the evidence and the lawyer went all the way up - the flood zone went all the way up to Van Dyke Avenue and it was on Channel 7, Eyewitness News. Thank you.

Mr. Dominguez: Thank you, Ms. Moore. Next up is Ms. Linda Stork. Ms. Stork, are you still there?

Linda Stork: My question is for the last witness, Ms. Kelsia [phonetic] I believe her name was. I'm having a hard time hearing who it was.

Mr. Dominguez: Ms. Keller, was the planner.

Ms. Stork: Ms. Keller. She was testifying about the -

Mr. Dominguez: Ms. Stork, I have to swear you in.

Linda Stork is sworn in

Ms. Stork: So, I had a question for Ms. Keller. I could not - it was hard to hear her a little bit, but I did hear her say that as far as, you know, the affects that this variances would have on the public good, that it would actually be advantageous for the students - I forget the exact words - but I would like to hear how that is. Because it just looks like there's going to be a whole bunch of cars parked by their school. So how that is advantageous to the kids?

Ms. Keller: I don't specifically remember saying that. I am afraid you may have misheard me. My testimony was generally about this would not have a negative public impact, because there is not any buildings going up and the setback would not create any new visual impact. I did mention that with regards to the Division of - with the state agency on the property that there would be a different impact with regards to - they would not have to utilize offsite parking anymore. So, I don't recall making any statement specifically with regards to children at the school.

Ms. Stork: You didn't say the students would be favorably - that it would be actually a favorable thing for the students?

Ms. Keller: I don't necessarily disagree with that, but I don't believe that was part of my testimony.

Ms. Stork: Well, I did hear something to that effect. So, if you want, could I please hear why it would be a good thing for the kids?

Ms. Keller: Yes - no, I am reviewing my notes; I don't believe there would be a negative impact on the students whatsoever with regards to this, for the reasons that I did state. I don't think I said anything - I am not sure if I mentioned what you are specifically saying. I apologize if you had a problem hearing my testimony.

Ms. Stork: It was near the end, when you were talking about the impact on the -

Ms. Keller: I believe, they were talking about the Division of Children and Family Services; that may have been what you heard.

Ms. Stork: I thought I heard students. Okay. Well, it still seems to me that this not is now a question for you. It seems to me that at the very least, they're giving up the whole side of the school to park cars on it. Shouldn't their rent now be less?

Ms. Keller: That's not a question for me.

Ms. Stork: No, I said it's not for you. Thank you. Apparently, I misheard. I thought you said something about the students actually benefiting from this.

Ms. Keller: I may have said that it's - I am looking at my notes again - repeating the uses, because they are compatible with the surrounding uses. The uses may be beneficial for the users of the property, because they are compatible with each other, as in a school and an office building; that's where I see it's beneficial.

Ms. Stork: I am still not getting how that's beneficial to the students?

Ms. Keller: It's beneficial in the sense that both uses have kept previously operations on this property together, in that it's a school and an office building and that the proposal will not have any kind of negative impact on the way this site operates; just in terms of the compatibility use.

Ms. Stork: So, in other words, if this wasn't done to retain that client next door being a school located in an industrial zone, they could do a lot worse in the neighborhood; is that the line of reasoning?

Ms. Keller: Not necessarily, but it's not to say that it would be worse or not even necessarily that it would be an industrial use, but it's more to the fact they have existed on this site and functioned together previously.

Ms. Stork: Right, but this is - well, I guess, it is a whole different school. Okay. I would like to ask my other question. So, thank you. I understand it is not a question for you. What - shouldn't the rent be less if that - if part of what essentially looks like a school, is being used for a parking lot? Shouldn't the school be paying - what's in it for the school? Why should we still be paying over a million dollars rent and losing that space?

Mr. Kelso: If I may just try to respond to you. This is Mr. Kelso. The school's property is not being taken. This is the detention basin that services both sites. The detention basin is remaining, but it now will be underground. There is no impact on the Board of Education's site. The subdivision line is being drawn along the current lease line, and the parking is being added and accessed separately to the state building. The Board of Education is not impacted at all.

Ms. Stork: Oh, because it looks like the cars are going to be parked right next to the school. Is that not the case?

Mr. Kelso: The property - is not part of the Board of Education lease.

Mr. Paulus: May I add also, Mr. Kelso?

Mr. Kelso: Surely.

Mr. Paulus: That the Board of Education has no use of that detention basin presently. Their rent is not predicated or determined based on the detention basin. Their rent is based on the number of parking spaces that are provided, which is not being diminished and also the square footage of the building they occupy. And, in fact, by reducing the above ground detention basin which is a

maintenance issue and costly to the Board of Education, it's actually going to have a benefit they don't have to supply that maintenance. So, I would say that nothing, you know, being is taken away from the Board of Education. It's not costing them anything. They're not supplying any funding into this improvement. So, it's a net gain to them to some respect.

Ms. Stork: Now, I am really confused. I am hearing two different things. I am hearing that that land is not included in the lease and they have - that has nothing to do with it.

Mr. Paulus: You brought up the issue of the rent, and I am saying the rent is not determined based on that land mass area, which is used for a detention facility, which is not part of their lease area for determining rent.

Ms. Stork: Right. But if it's not part of their leased area, why is the Board of Ed on the hook to maintain that detention basin?

Mr. Paulus: Because the Board of Ed and the Department of Children and Family share all the costs to maintain the property, but under this scenario the parking lot would be maintained by the Department of Children and Family and the Board of Education will have no responsibility for those improvements.

Ms. Stork: Okay. Thank you. It's not all right. You guys know that I am not in favor of this plan. There shouldn't be a school there, but thank you for answering my questions.

Ms. Dominguez: I am checking if anyone else from the public wants to question. Is there anyone who didn't get a chance to speak, before I move? Anyone else? Seeing none. No more members of the public.

Mr. Crum: Thank you, Mr. Dominguez. Does the applicant wish to provide a closing statement?

Mr. Kelso: The applicant will defer to the Board's discretion.

Mr. Crum: Thank you. Do any Board members have any further questions of the applicant?

Mr. Cartica: This is Bob Cartica, can you hear me?

Mr. Crum: Yes, Bob, we can hear you.

Mr. Cartica: Just a clarification I am requesting: My understanding is that one of the tenants is a training facility for the Department of Children and Families; correct? Okay. And the other building - serves as a P-Tech school facility. I just wanted a clarification as to whether that information that that was provided with the agenda materials, is correct?

Mr. Paulus: Well, the Department of Children and Family, as you described them is for that use. It's for teaching and education on their employees. There are no family services provided at this location.

Mr. Cartica: I realize that.

Mr. Paulus: The New Brunswick Board of Education leases the building from us. The use of that building is something that we don't - we have no involvement or control or review. Recently, they have used it for the P-Tech Program, so that's as much as I can tell you about the internal use of the 40 Building.

Mr. Cartica: Again, just the relationship between this particular - I mean, there are just questions of - that have come up as to the relationship between this facility, you know, and the Lincoln Annex School. So, I'm just trying to determine whether there is a relationship between those two or not?

Mr. Paulus: Again, we have no control or understanding of how they're going to use it from year from to year. It's evolved over many years. How they're going to use it in the future, we're not very close to that issue.

Mr. Cartica: Okay. Thank you. The information that was provided with the addendum material indicated that this was a P-Tech Facility, which is a very specific educational program.

Mr. Paulus: That's correct.

Mr. Cartica: Yeah. All right. Thank you.

Mr. Paulus: You're welcome.

Mr. Crum: Any other questions from the members of the board? Right. Hearing none, Ms. Puniello, would you like to - when the board so chose, the conditions under which this might be approved.

Ms. Thielman-Puniello reads the condition of approval into the record

Motion to Approve
 I. Chris Stellatella
 II. Manuel Castaneda

	Yes	No
Jeff Crum (Chairperson)	X	
Manuel Castaneda (Vice Chairperson)	X	
George Chedid	X	
John Petrolino	X	
Robert Cartica	X	
Diana Lopez	X	
Ryan Berger (Class I)		
Chris Stellatella (Class II)	X	
Suzanne Sicora-Ludwig (Class III)		
Dale Vickers (Alternate #1)		
Yelitssa Checo (Alternate #2)	X	

D. 760 NEW BRUNSWICK URBAN RENEWAL LIMITED LIABILITY COMPANY / 780 JERSEY AVENUE / BLOCK 598, LOTS 2 & 3.06 (PB-2020-05)

Preliminary and final site plan application with bulk variances to construct a new 39,500 square foot warehouse distribution facility. Zoning district I-2. (*Thomas Kelso, Esq*)

Mr. Crum: Mr. Dominquez, you know we have one more application for tonight. I don't recall the time at which we suspend our hearings. If that was 10:00 PM or 11:00 PM. I'm just trying to gauge.

Mr. Aithal: Mr. Chairman, this is Aravind Aithal. I believe the board's practice has been no new applications after ten and no new witnesses after 10:30.

Mr. Crum: Thank you, Mr. Aithal. I appreciate that recollection. Mr. Kelso, it's - your application is next, recognizing the late hour. You have a concern about deferring this to our next meeting?

Mr. Kelso: No. I would ask my client same question, but I don't have any problem. I don't believe there is any. It's unfortunate this takes a long time, so.

Mr. Crum: Understood.

Mr. Kelso: I would imagine that this application - we have four witnesses. I don't know how much public, but I would imagine that it would take until eleven o'clock, anyway. So, Mr. Paulus, do you have any objection to us carrying this?

Mr. Paulus: I am sorry, Tom. You broke up, but I think I got the gist of it: That it's very late and the Board has spent lot of time on the other application. If we're talking about deferring to the next planning board meeting without the requirement and notice, then I think that would be appropriate for the night.

Mr. Kelso: I would agree with that.

Mr. Crum: Very good. We appreciate that, considering I think it helps me, the board and the public to better respond and better be prepared and at an earlier hour, to hear the issues. So, you would be first on our agenda at the next meeting. Thank you again.

Mr. Aithal: If I could just make a public announcement on that?

Mr. Chairman: Yes, please.

Mr. Aithal: Members of the Public that are in attendance: To hear that application that would be 760 New Brunswick Urban Renewal, Limited Liability Company, 780 Jersey Avenue, PB 2020-05. The application is being carried to the next meeting of the planning board. Dan, do we have a date?

Mr. Domínguez: Yes. Katie, do you have that?

Ms. Thielman-Puniello: Hi, this is Katie. It's October the 5th.

Mr. Aithal: So, the applicant will not be required to re-notice. However, members of the public should be advised that if they wish to join telephonically or they wish to join by Internet, your web platform would be URL and the meeting numbers will be posted on the New Brunswick Web Site, not less than ten days prior to the fifth. Check with the New Brunswick City Web Site, go to the Planning Division, go to the remote meeting agendas and they will be able to obtain the meeting number, the password and the URL for Webex, but no additional notice will be required.

Mr. Crum: Thank you, Aravind.

VIII. OTHER MATTERS OF INTEREST TO THE PUBLIC

Mr. Aithal: Before we move on, there was one other item that was carried and that was changes to the Board rules. Would that also be deferred to the next meeting?

Mr. Chair: Yes, great, Mr. Aithal, yes, unless there's anything pressing, I'd like to carry that.

Mr. Aithal: I think that would be appropriate to give the Board and public an opportunity to discuss.

Mr. Crum: Ok, that will be carried unless any Board member objects.

Mr. Dominguez: At this time, we are preparing to open the meeting to general public comment for 5 minutes per person. In order to ensure that the Planning Board can hear from the public and so that the public can hear public comment, I will organize the speakers by order of last name. In a moment, I will unmute the public call-in, at that time I will ask for those with the last name starting with the letter A provide me with your last name, first name, and home address. I will confirm that the information is correct and then move on to the next person ordered alphabetically from A to Z. Upon completion of asking for all last names from A to Z, I will ask one more time for anyone that may want to be placed on the initial list of speakers. We will then move through the list of speakers by calling the person by name and permitting them five minutes to speak. Once we complete the list, we will check once again if anyone else would like to submit public comment. After asking three times, I will then close the public comment portion. Please be mindful that your voice is being telephonically transmitted, and to speak slowly and clearly for the benefit of all. I would ask that you please remain silent when I initially unmute the phone, so that we can all hear each other and then begin the speaking registration process. The phone is now unmuted. I will now ask that members of the public that would like to speak on this specific hearing with the last name starting with A, please spell your full name and home address.

Mr. Dominguez reads through the alphabet once. Charlie Kratovil Danielle Moore and Linda Stork are placed on the initial list of speakers.

Mr. Kratovil: I want to ask Mr. Berger, he said Wick Companies rents a property to the mayor, do you know how long he's done that?

Mr. Berger: I'm not aware.

Mr. Aithal: Mr. Kratovil, this is your opportunity to make comments not to question the Board members.

Mr. Crum: I'll just affirm what Mr. Aithal said, we're not cross examining the Board members.

Mr. Kratovil: I understand the mayor rents one property from one of Bob Paulus' shell companies, but I think it's important for the sake of transparency to understand the extent of the relationship and Mr. Berger was about to answer the question when folks intervened to prevent that from happening. I want to point out the mayor was the same guy that championed the premature construction of the Lincoln Annex school and specifically the plan to relocate the kids of that school to Mr. Paulus' warehouse. While I think he's technically the mayor's landlord, I think the relationship is a little deeper because that building was owned by Mayor Cahill and his partner, they both profited greatly from Mr. Paulus purchasing that property at a price that was more than it was worth. So, I don't think this stuff is a coincidence, really something to be cautious about, I know tonight we're just talking about paving some area and making the warehouse school a little bit worse, but my jaw hit the floor when they said we're not very close to that, we don't know if Lincoln Annex is moving to the warehouse, go to the Lincoln Annex website, it says their address is the Pathways campus, which is quite clearly a warehouse. I think that they're playing us for fools here, there's millions of dollars changing hands, Mr. Paulus is getting paid, he's getting discounts on his taxes and he's getting public money to fill the warehouses with desirable uses from his perspective, these are government agencies. The entire Pathways campus was closed for many months, did he give rent forgiveness? All of us continue to pay a million bucks to have that warehouse at the behest of the school system and now they're trying to cram the Lincoln Annex kids there, they're pushing this through in a pandemic and they're not being up front about their role in this. Tom Kelso, in his role with the freeholders, is steering \$25 million of our tax dollars to this...he should not be in this dual role. He's the county government attorney and it's not right. It's not a coincidence that the Department of Children and Family Services doesn't have services in that building. It would be inappropriate. That's an inappropriate location to serve communities, it should not be a school. I was wrongly time limited and at the end of the day no one addressed the issues of contamination there and if and how it was cleaned up. They're already sending the teachers there.

Ms. Moore: You Board members are [inaudible] to day yes, yes, yes, to everything without investigating anything. It's a shame that the residents have to do all the investigation [inaudible], have to do the investigation for you. It wouldn't hurt for you to stop saying yes, yes, yes, I approve, because half of you don't even live around here to know what goes on, and like I explained to you, you wondering, wow, you don't know the Lincoln Annex school is moving to 40 Van Dyke and the reason they're fixing it up, it almost sounds like they're going to lease it for four years, not good. [Inaudible] oh, they can't repair Ferren Mall because of COVID-19, how are they going to start the school on 50 Jersey Avenue because of COVID-19. So, it sounds like they're going to put the kids from Lincoln Annex [inaudible] at 40 Van Dyke Avenue. You act like, oh you didn't know what's going on, and like I said, wow, [inaudible] what you're really doing, I told you, wow, that's a flood zone on Jersey Avenue, it floods from 131 Jersey Avenue all the way to Van Dyke. Jersey Avenue is not a safe place for a school to go, no walls or gates with the railroad tracks, how dangerous, someone got killed by an Amtrak train in the area from here to there. [Inaudible] some of you don't know me, the lord lets me see things for a reason and I'm pretty sure Mr. Dominguez and Ms. Sicora-Ludwig can say yes on that. I'm trying to help for a reason. You are all making a big mistake trying to put these kids on Van Dyke Avenue. Mayor Cahill, Robert Wood Johnson, the police department, they all have a record of picking up people three times a day, I have pictures, videos. Take the time to go look. All you say is yes, I approve to everything. You just care about money, you don't care about anyone's safety or health and you are all about money and it's very sad.

Mr. Crum: I would just like to correct the record on one point. This board is a volunteer board and the people that serve are not being paid to be here tonight.

Ms. Stork: I heard that the FCA were the ones who applied for the original tax abatement, was that correct?

Mr. Aithal: This is your opportunity to make a comment.

Ms. Stork: Does the FCA own these warehouses, or were they always owned by Mr. Paulus.

Mr. Crum: As the Planning Board, we don't have that type of information, we're here as an advisory board. I don't think the Board can answer your question.

Ms. Stork: I'm trying to get a handle on this problem that our schools have, it does come back to planning. Apparently, it's not your job to plan things out but to react to the things people bring to you, right.

Mr. Crum: Generally, that is correct. We do go through a master plan that is periodically updated, but for the most part we are revising application that come to us that are in line with the master plan or require variances to the master plan.

Ms. Stork: Yeah, like when they want to put schools in places they're not supposed to be, they just make an amendment. We really need to do some planning around here. Now there's a developer getting tax breaks and we're supposed to be happy that they're shipping our kids from our neighborhood to a warehouse when there's a perfectly nice school. They have two schools in the Fifth and Sixth Wards and one is very old and decrepit, but are they tearing that down? No, they're tearing down the one we just put \$22 million dollars into. Clearly, that was the plan all along because I can't imagine it would otherwise be a good idea to pay over a million dollars in rent for 40 kids. They were holding the space to fill it up. But nobody would acknowledge it. The lack of transparency is ridiculous. I'm really disappointed in the whole process.

IX. DISCUSSION ITEMS

None.

X. ADJOURNMENT