

In The Matter Of:

Brookline Zoning Board of Appeals Hearing

APPEALS HEARING - Vol. XVII

November 24, 2014

MERRILL CORPORATION

LegalLink, Inc.

101 Arch Street
3rd Floor
Boston, MA 02110
Phone: 617.542.0039
Fax: 617.542.2119

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Brookline Zoning Board of Appeals Hearing

Case Number 20130094

40B Application by Chestnut Hill Realty

The Residences of South Brookline

November 24, 2014 at 7:00 p.m.

Office of Town Counsel

333 Washington Street, 6th floor

Brookline, Massachusetts 02445

Merrill Corporation LegaLink, Inc.

179 Lincoln Street, Suite 401

Boston, Massachusetts 02111

(617) 542-0039 Fax (617) 542-2119

Reporter: Kristen C. Krakofsky

1 PROCEEDINGS

2 7:16 p.m.

3 MR. JESSE GELLER: Good evening, everyone.
4 We're reconvening the Residences of Chestnut Hill. My
5 name is Jesse Geller -- Chris Hussey, Jonathan Book,
6 and Mark Zuroff. Avi Liss is unfortunately ill this
7 evening, so he will not be here.

8 Tonight's hearing will be in the following
9 order: We will first hear the applicant's latest
10 iteration based on comments that the board had at the
11 last hearing.

12 We will then give a short opportunity for the
13 public to ask questions and also make comments about
14 the substance of the revisions that we see tonight. So
15 I would ask the public -- as you know, we are running
16 very tight on time at this point in terms of process,
17 what we need to get through. And what I will allot
18 this evening will be 15 minutes. I don't anticipate
19 there being lots of comments or questions, but we'll
20 give you an opportunity for that period of time if
21 anyone does have questions or comments specific to what
22 we see this evening.

23 The board will then pick up its deliberations
24 and continue that conversation.

1 Just as a reminder to people, our next hearing
2 is one week from tonight, December the 1st, and think
3 our expectation is, at that point, to pick up the
4 topics of waivers. Okay?

5 Who's here to speak on behalf of the
6 applicant?

7 MR. LEVIN: Good evening, Chairman Geller,
8 board members, and planning staff. I'm Marc Levin,
9 Chestnut Hill Realty.

10 Tonight I'm going to present a revision to
11 Concept Plan C. This plan represents a balance between
12 design considerations; that is making the fourth floor
13 not visible from Asheville Road while maintaining
14 project viability. We appreciate the input of the ZBA
15 and the planning staff throughout this process. We
16 have worked in good faith to modify the four-story plan
17 that was approved by the subsidizing authority. We're
18 very proud of this plan and the quality housing that
19 will result from it.

20 Just a quick review of our site plan, a couple
21 of small modifications. The west side is the same. It
22 still has the three four-unit infill buildings as well
23 as the eight-unit L-shaped building. On the east side,
24 you have the one eight-unit building and one, two,

1 three, four, five, six, seven -- no, six infill
2 buildings.

3 The changes we've made are we shifted this
4 roadway a little bit in this direction which does two
5 things. One is that it preserves more of this rock
6 outcropping creating more of a buffer, as well as
7 allowing to shift a parking space right here which,
8 again, increases a planting bed. We also have the
9 fourth story shown on this plan.

10 So here's the model of the plan. This is from
11 Asheville at Russett Road, and as you can see, it reads
12 three stories. Here it's shown in the winter; here you
13 have it in the summer. Again, this is right at the
14 property line. You have an apparent three-story
15 building. And you can see how it relates to the two
16 stories of brick -- I think I pointed out last time --
17 relays very well to the two-story townhouses that exist
18 at Hancock Village.

19 Here is your summer view and your winter view.
20 And in the past, if you recall, you -- there was, quite
21 visibly, a fourth story right along here that you guys
22 found objectionable.

23 Here's the view from the abutter to the left
24 of Asheville as you enter the property. Here is the

1 winter view and the summer view.

2 Here is the view from the abutters' property
3 line to the right of Asheville as you enter. This is
4 the winter view and the summer view. In fact, before I
5 forget -- I already did -- let me hand out some stills
6 to you.

7 Here you have the fourth-floor plan. And what
8 you see here is a further reduction of units of four.
9 So in the -- I think it was one plan ago there were
10 three units removed. Now there are seven units removed
11 from the fourth floor.

12 And here you see the lower level garage plan.
13 And what we've done is eliminated the parking on the --
14 we'll call it the third of the building that's closest
15 to the abutters, which is going to preclude the
16 necessity to remove the rock in that area that's
17 closest to the abutters.

18 Here's the upper level garage plan. And
19 here's a quick summary which now reflects the reduction
20 of an additional four units and the eight parking
21 spaces that went along with them.

22 So here this summarizes the changes from the
23 November 13th comprehensive permit application plan.
24 It was a year ago this month. We've reduced the size

1 and number of infill buildings; we've reduced the
2 number of units by 31; we've reduced the number of
3 bedrooms by nearly 70; we eliminated the garages; we
4 removed the retaining walls that are adjacent to the
5 property lines; we increased the functional useable
6 open space by nearly three acres; we eliminated almost
7 all of the impervious pavement and improved the
8 landscaping by saving many more trees and plantings,
9 many more trees still; we preserved the rock
10 outcropping next to the apartment building; we improved
11 the architecture to both the infill and the apartment
12 building; the height of the apartment building at the
13 Asheville side was reduced from four to three stories;
14 and we anticipate improved traffic flow and safety
15 including the complete street system on Independence
16 Drive.

17 And here's the site plan again. And I'd be
18 happy to answer any questions.

19 MR. JESSE GELLER: Questions?

20 MR. HUSSEY: Marc, how many parking spaces in
21 the apartment building do you have now?

22 MR. LEVIN: 99.

23 MR. HUSSEY: And in the infill spaces, E2?

24 MR. LEVIN: 52.

1 MR. HUSSEY: And in E3 do you know offhand?

2 MR. LEVIN: It was the same as it was before.

3 MS. MORELLI: I think it was 58.

4 MR. HUSSEY: 58, okay.

5 And the number of units in the apartment
6 buildings now?

7 MR. LEVIN: 109.

8 MR. HUSSEY: And in the E2 and E3 infill
9 spaces?

10 MR. LEVIN: You have on E2, there's that
11 four-unit building at the edge of Thornton. On E1 you
12 have an eight-unit building and two four-unit
13 buildings.

14 MR. HUSSEY: That's on the other side,
15 though.

16 MR. LEVIN: It's E1. I think you meant here?

17 MR. HUSSEY: No. I was just interested in --
18 this is E2, I think.

19 MR. LEVIN: Okay. On E2 you have this
20 four-unit and then you have three four-unit buildings
21 here.

22 MR. HUSSEY: Right. So -- okay. Thanks.

23 Anybody else? I'm all set.

24 MR. JESSE GELLER: Not at this moment. Thank

1 you.

2 Okay. Mr. Levin, anything else from your --
3 okay. Just wanted to give you an opportunity.

4 Okay. We're now, for 15 minutes or so, going
5 to give an opportunity -- just by a show of hands, how
6 many people are here who would like to offer some
7 testimony? Mr. Mattison, Mr. Gladstone.

8 Okay. So what we've done in prior hearings is
9 we've had people line up over to this side. If you
10 would do that, and then you would speak into the
11 microphone at the dais. Start by giving us your name
12 and your address.

13 MR. MATTISON: Thank you. I'm Hugh Mattison.
14 I live at 209 Pond Ave. I'm a Town Meeting member from
15 Precinct 5 and also a member of the Brookline Green
16 Space Board of Directors.

17 I've been watching a number of hours of this
18 process, and it seems that the parking issue has not
19 been dealt with in any great detail, and I'll just read
20 what I've written here. And I sent an email out last
21 week that you may have received.

22 The 2005 comprehensive plan encourages use of
23 transportation demand management which encourages
24 reduction in use of cars and increases the use of

1 alternative transportation. The most obvious example
2 is the 2 Brookline Place development by Children's
3 Hospital. In this case, the garage has been reduced
4 from 832 spaces to 683 spaces. This case will be
5 coming before you in a few weeks.

6 You may have received a copy of Warrant
7 Article 10 from the November 2010 Town Meeting. This
8 article pointed out that the two parking spaces
9 required in the current zoning bylaw far exceeded the
10 parking actually used, especially in North Brookline.
11 However, there were statistics for the entire town, and
12 I'll read those now.

13 The table on pages 10 and 11 shows Hancock
14 Village is using 1.1 parking spaces per unit now. The
15 proposed use is 1.3 spaces -- and I know this may have
16 changed because the number of units may have changed --
17 this would mean a maximum of 215 spaces -- that would
18 be 166 times 1.3 -- would be needed -- which would
19 reduce the parking area needed by more than four-tenths
20 of an acre. With transportation demand measures --
21 Zipcars, bike racks, carpooling, shuttle service --
22 this could possibly be even lower.

23 The benefits of reduced parking are to reduce
24 stormwater runoff, increase open green space, reduce

1 vehicle trips and traffic congestion, and lower the
2 cost of development.

3 I would urge you to push for a maximum
4 number -- as opposed to a minimum -- of parking
5 spaces. This would limit the total parking spaces
6 rather than giving Chestnut Hill Realty the option of
7 adding excessive parking. Thank you.

8 MR. JESSE GELLER: Thank you.

9 MR. HUSSEY: Mr. Mattison, could you explain a
10 little bit about what you mean by stating what the
11 maximum parking is versus the minimum parking?

12 MR. MATTISON: Well, what we found in -- I was
13 involved in some issues related to 2 Brookline Place,
14 and we were targeting the minimum parking. Of course,
15 a developer -- if you say a developer can put in 200
16 spaces, the developer may choose to put in 300 spaces.
17 Well, you know, the goal isn't the maximum number of
18 spaces. It could be 1,000 spaces. We want to limit
19 the number to a maximum of 200 after we -- we passed a
20 warrant article in 2009 and realized that the way it
21 should have been worded was a maximum number of spaces,
22 not a minimum, because if you state just a minimum,
23 then there is no maximum in theory. It could be
24 whatever the developer wants. So I would suggest you

1 make it a maximum number rather than a minimum.

2 MR. HUSSEY: Okay. Thank you.

3 MR. JESSE GELLER: It's a focus on how the
4 bylaws used to be written and sort of the underlying
5 assumptions that were made versus the assumptions we
6 make today. So it used to be the assumption was the
7 more parking, the better. Now there's reconsideration
8 of whether that's valid.

9 Thank you.

10 MR. HUSSEY: For the record, Mr. Mattison
11 emailed me the study that was done in 2010. I
12 forwarded those to the other members of the board and
13 the Planning Department.

14 MR. CO: Good evening. My name is John Co.
15 I'm a resident of South Brookline. I just have a few
16 questions. Could I pull up your PowerPoint, the slide
17 with the changes?

18 So I think the green space issue is really
19 great in terms of increasing the amount of open space.
20 I'm wondering about the surrounding community and if
21 there's any way the community would benefit from, you
22 know, any of the revisions in terms of actual usable
23 space. And part of the reason I'm asking about this is
24 that I do think -- I'm not sure what the last bullet

1 means in terms of improved traffic flow, if that's in
2 relation to the prior plan or just overall improved
3 traffic flow. It seems to me -- I'm assuming this is
4 improved traffic flow based -- compared to the prior
5 plan. Correct? Is that the case?

6 MR. JESSE GELLER: It's a reference to -- this
7 has been discussed at prior hearings. And as part of
8 the proposal, there was an analysis that was done on
9 traffic and parking. As part of that, one of the peer
10 review recommendations was that the applicant undertake
11 certain measures -- I'm trying to give you a Reader's
12 Digest version -- undertake certain measures that would
13 create better safety, smoother traffic.

14 And one of the proposals was a complete
15 streets model which, if you've ever ridden on Beacon
16 Street, that's a complete streets model where you have,
17 for instance, sidewalks that bump out so you have a
18 narrower space where pedestrians will walk, you have
19 flashing beacons that indicate, for safety purposes,
20 when people are crossing the street. By narrowing the
21 streets, the theory is that you eliminate cars speeding
22 down roads. So it is a whole process and a whole menu
23 of actions that, should this application proceed,
24 through peer review, they would recommend that we

1 require the applicant to undertake. And I think the
2 applicant, to be fair, has said that they would do it.

3 MR. CO: Okay. So that's to mitigate the
4 increased traffic. It's not to -- I mean, overall
5 traffic is going to be worse, just to be clear, right?

6 MR. JESSE GELLER: No. I think, with all due
7 respect, these are things that we've talked about. And
8 all of the minutes of all peer review, these
9 discussions are all available online.

10 MR. CO: Okay. The only other thing I'd like
11 to say is that there is a concurrent meeting going on
12 at the Baker School where there are 200 or so parents
13 talking about the overcrowding issue. And I know
14 several parents that I spoke with today were really
15 trying to decide to come and I just -- you know, I
16 think it's unfortunate. You know, I wish more of them
17 could be here to ask questions as well, so I'd like to
18 note that.

19 MR. JESSE GELLER: Thank you very much.

20 MR. FRANCO: Good evening. Ben Franco. I'm a
21 member of the Board of Selectmen but speaking for
22 myself tonight.

23 I want to start by saying I appreciate the
24 efforts to eliminate or mitigate the fourth floor of

1 the apartment building. I continue to want to see that
2 apartment building shrink as much as possible, and I
3 encourage members of the board to push Chestnut Hill
4 Realty up to the point of requiring some financial
5 information to means test what's feasible and what's
6 not feasible.

7 I primarily rose tonight to speak about two
8 issues, one to correct what I thought was some apparent
9 confusion about the public comments that were offered
10 at the last meeting, and then to reinforce the point
11 that was made at the last meeting, the November 13th
12 meeting.

13 Members of the board will remember that Chief
14 Ford, Brookline's fire chief, was a featured witness, I
15 guess, or provided testimony at your last hearing about
16 this development from a public safety standpoint. And
17 at that hearing, Chief Ford told the board that the
18 proposed development would exacerbate the situation for
19 Brookline that's out of compliance with the National
20 Fire Protection Association's recommended time and
21 personnel response to emergency situations.

22 The chief told the board that Brookline's
23 current staffing and equipment -- given Brookline's
24 current staffing and equipment -- Brookline's fire

1 department will be unable to get equipment and
2 personnel to the scene of an emergency in the maximum
3 amount of time allowed by those national standards.

4 This brings me to the point of confusion, or
5 apparent confusion, that I want to just clarify. I
6 believe the chief's testimony was misinterpreted -- or
7 perhaps misinterpreted by some members of the board as
8 his personal opinion rather than his -- what
9 constitutes an appropriate response to an emergency
10 and, by extension, what his personal view was.

11 Instead, as I understood the chief's comments,
12 he was simply trying to introduce the fact that this
13 project will fall outside of the national standards for
14 an appropriate response. The chief was introducing the
15 facts and not his personal opinion. In fact, I think
16 the chief did a remarkable job of staying to calling
17 balls and strikes rather than telling you what he
18 thought. Perhaps a small clarification, but an
19 important one nonetheless.

20 As for my second point, I want to reinforce
21 what the chief said about being able to provide an
22 appropriate response as defined by the NFPA. I think
23 the chief's comments about the possibility of relying
24 upon mutual aid from Boston to meet the NFPA standards

1 was pretty clear, so I won't belabor the point.

2 But I do want to say that -- speak to the
3 broader issue, the NFPA standards. I think that first
4 it's important to realize that the NFPA standards is
5 developed by professionals without a development
6 proposal in front of them, and I think that's important
7 to note because they're objective and they're devoid of
8 the emotion that sometimes accompanies a development
9 proposal. They're made by professionals,
10 firefighters.

11 Two, I just want to note that I find it
12 curious and puzzling that we're having a conversation
13 about exacerbating a known situation where the town is
14 unable to meet industry standards. This is a town
15 where meeting minimum standards is not seen as
16 acceptable. The residents of Brookline expect more
17 than the bare minimum from the town government and its
18 employees. We, as a community, pride ourselves on
19 having exceptional schools and world-class parks and
20 open space and exceptional town services, so I think
21 it's curious, baffling to me that we're knowingly
22 possibly making a situation worse.

23 I know this board has a tough decision to make
24 over the next few weeks. Believe me, I would not want

1 to be in your shoes. And coming from a member of the
2 Board of Selectmen who has his own set of difficult
3 decisions to make, I hope that statement means
4 something to you. I just ask you to keep the chief's
5 comments in mind over the next few weeks and the points
6 that I underscored, and thank you again for your
7 diligent work on this.

8 MR. JESSE GELLER: Thank you very much.

9 Mr. Gladstone.

10 MR. GLADSTONE: Good evening. Scott
11 Gladstone, 383 Russett Road, Town Meeting member
12 Precinct 16.

13 I haven't spoken in a couple of meetings.
14 Since this seems like it may be the last opportunity
15 for the public to speak, I just want it on the record
16 that while I do appreciate the visual improvements that
17 we've seen tonight, I still believe this project is too
18 large.

19 I liked the approach that Member Zuroff was
20 taking where he viewed this more appropriately as a
21 two-story maybe tapering up to three to be more in line
22 with the kind of buildings that are already on the
23 property. While there are townhouses and not apartment
24 buildings, the townhouses are in long rows, so it does

1 have a similar kind of feel except that this is twice
2 as tall. Actually, more than that when you add the
3 parking even on the three story area.

4 I do agree with Hugh Mattison. I believe
5 there's too many parking spaces. I would like to see
6 either the floor of parking come out, which was going
7 to create the need for a great amount of blasting and
8 removal of rock, or, as an equally valuable trade-off,
9 the parking level above that so that actually the
10 height of the building would actually come down much
11 further. I understand that means that we'd be
12 retaining the blasting level, but either of which would
13 be a tremendous benefit to the neighborhood.

14 Right now we're getting the worst of both
15 worlds on top of the added cars that are going to be
16 funneled into Russett Road exclusively because of the
17 fact that there's not a requirement that they have to
18 get that VFW access as a condition of the -- now, I
19 understand no decision's been made, but I understand
20 the inclination is not to require as a condition
21 precedent to getting a building permit that they get
22 that permission for access to the VFW.

23 I disagree with that. I wish that would be a
24 condition made in large part -- not just because of the

1 impact on Russett Road, which you saw the pictures
2 where there's two cars on either side, which is very
3 frequently the case. It is reduced to barely one
4 lane. But I understand the peer reviewers don't seem
5 to be concerned about it, because they look at the
6 entire year and the entire day. They don't concentrate
7 on just those danger time zones when the kids are
8 coming -- it's mostly when they're going to school
9 because that coincides perfectly with the commuting
10 time.

11 But I do want to say that I agree with
12 everything that Selectman Franco said, and that is
13 actually the reason that I did want to stand in line to
14 speak. It feels as though the board, as far as I've
15 heard their expressions, have not viewed the fire
16 chief's testimony as determinative of an important
17 safety issue. As my neighbors, Mr. Chiumenti and
18 Mr. Pu, went over the guidelines, safety, of course, is
19 one of those things that you still should be -- can be,
20 but absolutely should be looking at.

21 I respect the question from Chairman Geller
22 where he asked the chief, you're not saying that you're
23 against all new development in South Brookline just
24 because they are 11 minutes away from response time.

1 His answer was no. His problem is the
2 concentration. It's the density. You already have a
3 dangerous situation because of the 11-minute response
4 time, and you're putting more people densely packed
5 into a small area. That creates more danger. It's an
6 already dangerous situation that's being exacerbated
7 because of this design because there's too many people
8 in one place.

9 Now, I will add another element to the
10 dangerousness of that. I was speaking to the principal
11 of the Baker School this morning. The Baker School is
12 now up to 842. That's more than the Devotion School,
13 which has historically always been the largest school
14 in Brookline. Baker School is now the largest school
15 in Brookline. 37 percent, I was recently told by a
16 study that was just taken this year, of the kids at the
17 Baker School are from Hancock Village. So it stands to
18 reason that -- and we've been saying this all along --
19 you're going to add hundreds more kids to these densely
20 packed areas.

21 And so while you have a situation which
22 doesn't meet national standards, that's going to get
23 exacerbated by the more people in a more concentrated
24 area, and you have, by analogy, information that there

1 are going to be a large number of school children in
2 this newly developed, densely packed area -- I don't
3 know why that's not a critically important piece of
4 information to be considering when talking about the
5 appropriateness of the proposed density. That's why I
6 would urge you to require that the density of the
7 apartment building shrink again, not that it moves back
8 to the green space, because then you're just creating
9 density areas in other parts.

10 The last thing is -- and this would affect
11 even the green space units -- I just don't feel as
12 though the board has paid sufficient attention to the
13 problem of trapped fire access, again, particularly if
14 the VFW Parkway egress is not made a condition.

15 The chief has told you that if he has a large
16 fire in these large buildings, his assets will be
17 trapped for a certain amount of time. And if there is
18 a fire in another part of Brookline, or maybe even
19 another part of South Brookline, that is going to be an
20 even more critical situation. I don't see why that is
21 not a determining factor here which says this kind of
22 development in this spot is inappropriate because it's
23 just too dangerous. So I hope that you will condition
24 the project to alleviate those dangers when you have

1 the testimony from the town's expert, the fire chief.

2 Thank you.

3 MR. HUSSEY: Mr. Gladstone, I've got a
4 question, if I may.

5 MR. GLADSTONE: Yes.

6 MR. HUSSEY: Reduce the parking further in the
7 apartment building, in that area, I think I heard you
8 say that you'd rather that that reduction come out of
9 the garage in order to reduce the blasting rather than
10 on the green space to allow more green space if we did
11 reduce the parking some.

12 MR. GLADSTONE: Right. So, you know, it's a
13 tough choice and I think that 2.0 parking spaces per
14 unit is unnecessary. I think that they should be
15 required to have a lower density, a lower ratio of
16 parking, as Mr. Mattison was talking about, as is the
17 current trend in the town as far as thinking about
18 bylaws, overlay districts, and new development on the
19 part of the town as well as the way this board applies
20 the bylaws when special permits are requested to reduce
21 parking. So that's where I start.

22 So then the question is: Okay. If we're
23 going to ask for a reduction in parking, what would we
24 like to see reduced? I would say there's really a

1 benefit in any reduction. If there's an increase in
2 green space and less impermeable pavement or even this
3 magic pavement, that's a positive good. If you take
4 out the subterranean level of parking so you're
5 reducing blasting and all the disturbances that occur
6 there, that's a benefit. And if you take out the level
7 of parking above that so that you're reducing the level
8 of the building, that's a benefit. It's hard for me to
9 choose, but choose one of them, please.

10 MR. HUSSEY: Rather than split the difference?

11 MR. GLADSTONE: That might be -- I like that.
12 That's okay. I just think that having the -- they're
13 asking for many waivers. The fact that they're not
14 asking for that waiver is -- we've said it's really a
15 cynical attempt to provide more parking closer to the
16 already existing units.

17 But just as far as where the town is going, as
18 far as wanting to, you know, increase the use of
19 Zipcars and everything else, reduce the parking, yeah,
20 at least that's a good choice. At least that can only
21 help. It's not just a choice between bad decisions.
22 Thank you.

23 MR. HUSSEY: Okay. Thank you.

24 MS. DALY: Hi. I'm Nancy Daly. I'm a member

1 of the Board of Selectmen. I appreciate you letting us
2 comment once again. And I'm not going to reiterate
3 what Selectman Franco and Mr. Gladstone just said.

4 I will say that that item also -- was very
5 concerned when I heard the fire chief's comments about
6 safety and the number of people there and the longer
7 response time than we have in most parts of Brookline.

8 And I want to say that the reason our ladder
9 trucks are over in North Brookline is because when you
10 have more floors you need ladder trucks because people
11 can be trapped on an upper floor in the event of a fire
12 and have trouble getting down. And that is one of my
13 concerns about the fourth floor on the top of this
14 building in a situation in which that response time is
15 going to be considerably slower than what we see for --
16 with most areas of North Brookline.

17 I also agree with many of the comments that
18 were just made about the parking. Many 40B projects do
19 not meet zoning requirements for parking. I think that
20 this would be an optimal opportunity for transportation
21 demand management and bringing down the parking. Thank
22 you.

23 MR. JESSE GELLER: Thank you.

24 MS. KILDAY: Hi. Good evening. My name is

1 Debbie Kilday and I live on Ogden Road, 27 Ogden Road,
2 and I live with my husband and two kids that are in
3 high school.

4 And I was talking with my kids and they said,
5 why is this even happening? They can't understand.
6 And we came when they -- they are now in 11th and 12th
7 grade. And I also sub in the schools, so I spend a lot
8 of time at Baker School because I can walk there.

9 And I really would like to invite each of you
10 to come in the morning between like 6:00 and 8:00 and
11 see what it's like to drive down South Street, West
12 Roxbury Parkway, and Independence. It is a nightmare.
13 And when my kids went to school there in the winter,
14 they couldn't even walk because people didn't shovel,
15 so we would have to drive because people would go
16 flying down Independence and there were many times that
17 they were almost hit. So I would walk with them and
18 found the same danger.

19 So number one, you can't even walk there
20 safely in the winter without these extra cars.

21 Number two, the other day I was at the Baker
22 and it was raining and the principal came on and she
23 said, please take attendance later because the road is
24 backed up. So Beverly was backed all the way back. So

1 this was before this new building goes up.

2 So I really want to invite each of you to come
3 over in the morning when there's rush hour on
4 particularly a bad day but really any day and come and
5 see what it's like to live there. This is a quiet
6 neighborhood that we chose to live in. We picked
7 living in South Brookline because there's green space
8 and there's open space and we wanted our kids to be
9 able to walk to school. So not only can't we walk to
10 school safely on a normal day, with this increased
11 traffic it is going to be a nightmare.

12 Now, we had a fire drill the other day, so we
13 had to get eight hundred and however many kids
14 outside. And let me tell you, these teachers work
15 really, really, really hard. There's not even a
16 teachers' lounge in the building. So there's no way
17 that this building is not going to bring extra kids,
18 only a burden on the school. So us in the high school
19 are trying to figure out how to get our kids through.
20 I mean, so all of these kids are going to keep moving
21 up, you know.

22 But I really would urge you to each come in
23 the morning and come and visit and walk down the roads,
24 down Bonad, down Russett, and on Beverly when the cars

1 are parked both ways. I drive a Highlander. I can't
2 drive down the street. So if there is to be something
3 to happen, you know, like a fire or something else, you
4 can't even get down the street safely. So if all these
5 people in this dense building and the kids -- and I
6 think about the kids because I'm a teacher. It scares
7 me. It really scares me.

8 And I invite each of you to come into Baker
9 School when it's busy, which it is every day, and look
10 out and imagine, one, what it's going to be like to not
11 have the space; and two, imagine what it would be like
12 if your kids were in there and trying to learn and the
13 teachers are so busy with all of these kids; and three,
14 what it's going to be like when they're blasting all
15 day.

16 Then I invite you to go to the other streets
17 where the houses are going to be that are abutting the
18 blasting and imagine if that was your home, how would
19 you feel if they were going to be blasting all day. I
20 really would invite each one of you to do that. Okay.
21 Thank you very much. I appreciate you listening to me.

22 MR. JESSE GELLER: Thank you very much.

23 MR. CHIUMENTI: Steve Chiumenti, Precinct 16
24 Town Meeting member.

1 Bill Pu and I addressed the board last time,
2 and we said we would submit our comments in writing,
3 which we've done. We did add one comment that I did
4 want to bring to your attention, and that is in
5 discussing -- in considering the fire chief's comments
6 and so on, we looked and added a comment there about
7 mutual aid.

8 There's an emergency response manual the state
9 publishes, and the particular point is that the
10 developer is giving you the impression that mutual aid
11 is, well, whoever can get there first. And the mutual
12 aid -- the emergency guide is very clear that you call
13 for mutual aid when you are already on the scene and
14 need help, which means that Brookline needs to respond
15 first and the response needs to be inadequate to call
16 mutual aid. And that's specified in the emergency
17 manual that we cited and were -- in the section where
18 we were talking about fire safety and so on.

19 Of course, let me say I'd recommend that
20 because -- the whole presentation, because we go line
21 by line, exactly what the regulations say you're
22 supposed to be considering in view of the evidence that
23 you've heard over six months. And that particular
24 point we didn't cover in detail, it is mentioned in the

1 thing we posted today, so I recommend it to your
2 attention. Thank you.

3 MR. JESSE GELLER: Thank you very much.

4 Anybody else?

5 (No audible response.)

6 MR. JESSE GELLER: Okay. Before the board
7 begins its discussion, I've asked our legal counsel
8 just to assist us by going over briefly -- you're going
9 to kick me, but I'm going to call them infrastructure,
10 comments.

11 Let's break it into two categories so I don't
12 get kicked too far. Let's break it into the -- and I
13 know we've talked about this in the past, but just
14 remind us, one, the issue about school, and then
15 separate from that the other types of infrastructure
16 questions that have been raised, in particular as
17 they've played through this project and what our
18 considerations can and cannot include.

19 MS. MURPHY: Okay. Well, as you know, as
20 we've discussed in the past, schools and school
21 population and school crowding is not something that
22 can be considered by the board in evaluating a 40B
23 application.

24 The reasoning behind that is that schools are

1 a service that the town is supposed to provide for its
2 citizens, and it's a town obligation. No matter where
3 the kids come from, the town is obligated to provide
4 schools, and so it's not a specific criteria that one
5 can use when evaluating a 40B.

6 Other town services -- some other town
7 services will fall into that same type of category.
8 While certainly safety is something that the board can
9 consider and should consider, as well as drainage and
10 traffic, there are certain limits to what the board can
11 require and take into account in its deliberations.
12 And, again, those relate to town services, municipal
13 services, with few exceptions.

14 And the exceptions are set forth in a case
15 called Sunderland. The town is responsible for
16 providing services such as fire responses, fire
17 stations, fire trucks. The town is responsible for
18 providing town-related -- for example, town-related
19 sewage systems to a location and similar kinds of
20 services.

21 So while on the site itself you can require
22 the applicant to mitigate safety, drainage, traffic,
23 all of those things, and you can certainly ask for the
24 applicant to provide traffic demand management plans

1 and other kinds of safety responses, it is not within
2 the purview of the board with respect to a 40B
3 application to consider things like the inadequacy of
4 town-provided fire service. It's very similar to the
5 school situation.

6 MS. NETTER: Can I add one point?

7 MR. JESSE GELLER: Please.

8 MS. NETTER: Keeping -- separating out
9 schools, with respect to public improvements, under 40B
10 the Zoning Board cannot request that an applicant
11 mitigate existing deficiencies.

12 The only thing you can ask an applicant to
13 do -- and I'm just reframing what was just said --
14 is -- the only thing you can do is look at what is the
15 impact of this project on whatever public improvements
16 you're looking at, not if there's an existing problem.

17 Does that help at all or ...

18 MR. JESSE GELLER: I understand. I want to
19 make sure --

20 MS. NETTER: If there's a conversation about
21 community residents having problems with -- existing
22 problems with drainage, right, the applicant can't be
23 required to mitigate existing problems. The
24 applicant's responsibility under Chapter 40B is not to

1 create additional problems. Okay? So that's the short
2 story.

3 MR. BOOK: There's been so much discussion as
4 of late about fire safety. The town's response time is
5 currently inadequate. They don't have a ladder truck
6 close enough to South Brookline. This project, it
7 sounds like, is going to exacerbate that problem but
8 the problem exists. What part of that, if any, are we
9 permitted to take into consideration?

10 MS. MURPHY: You can ask the applicant to take
11 steps to mitigate the fire danger that its buildings
12 are creating, right. So there's been a discussion on
13 sprinklers and fire standpipes and access and, you
14 know, creating better access and better turn-arounds
15 and faster -- so trucks can get in and out more
16 easily. All of that is perfectly legitimate.

17 You cannot ask the applicant to build a new
18 fire station.

19 MR. JESSE GELLER: I think where you're going
20 is the response time.

21 MR. BOOK: Yes. Well, that's -- there's
22 been --

23 MR. JESSE GELLER: Right. There's been a lot
24 of testimony about that.

1 MR. BOOK: Right. And it's already inadequate
2 and it sounds -- it's not that this project is going to
3 make it more inadequate. It's just that maybe it's
4 more of an issue because we've got more people that
5 will have to deal -- who potentially are going to be
6 impacted by that inadequacy.

7 MS. NETTER: That's my view, yes.

8 Well, let me just -- the only thing I wanted
9 to add and separate the legal from part of the reality
10 is that we have not yet received -- you have not yet
11 received from the fire chief a letter with his
12 evaluation. My understanding is that the chief has met
13 with the applicant. There has been some discussion.
14 We don't yet know to what extent there are issues
15 outstanding or not, so it might be a good idea to
16 wait -- you're shaking your head no. Am I missing
17 that -- to wait until we get that evaluation and within
18 that framework we -- it probably would be best to have
19 this conversation with a set of specifics in front of
20 us.

21 MR. BOOK: OKAY.

22 MR. JESSE GELLER: Yeah. But I think that
23 line -- sorry, Mr. Hussey. I think that, you know, you
24 sort of have to look at the potential issue and sort of

1 separate existing condition issues versus things
2 created by the project and then work through it. But I
3 think we need to see, in written fashion, the chief's
4 letter.

5 MR. HUSSEY: I'd like to add an anomaly, or
6 the observation of an anomaly in this situation and I'd
7 like to get an answer.

8 Marc, could you put up this slide on the
9 board? The anomaly is that so far as the Asheville
10 Road access here, the whole slew of buildings down here
11 presumably get serviced by the City of Boston in terms
12 of fire response.

13 MR. ZUROFF: That's not the Boston line.

14 MR. HUSSEY: This is not the Boston line?

15 (Multiple parties speaking.)

16 MR. HUSSEY: Okay. So what, theoretically,
17 we're left with now is just this group of buildings
18 here that is the responsibility of the Brookline Fire
19 Department. So what we're doing by adding not only
20 these units but by adding over 100 units here is
21 increasing that responsibility by a factor of two or
22 three, whatever it is.

23 Does that change your perception as to whether
24 we can insist on this building being reduced

1 considerably to bring that into a better kind of
2 ratio -- one of my favorite words. Do you understand
3 what I'm saying?

4 MS. NETTER: I do, but I'm going to -- and
5 feel free obviously -- but we have not yet received
6 from the chief his evaluation, because there were
7 certain things that I am not suggesting that I am in a
8 position to balance and evaluate that the applicant was
9 doing, which was just mentioned, which is, you know,
10 they are providing a sprinkler system for what we're
11 calling the infill buildings that they are not
12 otherwise required to do -- query whether that balances
13 out some of the response time issues. So I think this
14 discussion would be better had as opposed to an
15 intellectual -- important but an intellectual exercise,
16 let's see what the chief says.

17 MS. MURPHY: But I think the short answer is
18 the size of the building is something you could take
19 into account in making that balancing decision, unlike
20 a new fire station. I mean -- right?

21 MR. HUSSEY: Yes.

22 MS. MURPHY: But where that comes out, I agree
23 with Edie, we don't have the benefit of the fire
24 chief's most recent conversations and his most recent

1 thinking on that.

2 MR. HUSSEY: All right. Then we may have to
3 get the fire chief back to get into this question.

4 MR. JESSE GELLER: Yeah. I think so. Well,
5 we certainly need to get his conclusion -- his letter
6 with his conclusions and the basis for whatever his
7 conclusions were.

8 MR. HUSSEY: Right. But I don't think this
9 particular issue has come up, the one I'm raising
10 tonight, and I'd be curious to hear his response to
11 that.

12 MR. JESSE GELLER: I think it's been raised
13 generally. That's, I think, what was driving the
14 discussion about standpipes and sprinkler systems.
15 But, again, we need to see -- you know, I think there
16 were two components. We need to see his conclusions,
17 and we need to see how he gets to his conclusions, and
18 then the underlying information that he's providing.

19 MR. HUSSEY: Well, we'll see. Let's wait and
20 see.

21 MR. CHIUMENTI: Mr. Chairman, I just want to
22 point out the regulations.

23 MR. JESSE GELLER: Not at the moment. Thank
24 you.

1 MR. CHIUMENTI: It's related to your point
2 about Sunderland, the Sunderland case.

3 MR. JESSE GELLER: Yeah. You can certainly
4 submit something in writing. Thank you.

5 So let's hold off on that piece because
6 obviously we need to see the chief's letter.

7 Let's, for the moment, focus on the questions
8 that are presented in the revised iteration and how
9 they respond to prior discussions, in particular
10 discussions about the visual, number of floors, visual
11 effect, the parking. I think, Mr. Hussey, you've done
12 your favorite thing?

13 MR. HUSSEY: I have.

14 MR. JESSE GELLER: And you have some input on
15 that?

16 MR. HUSSEY: I do. But I'd like to first hear
17 your responses relative to the architectural solution
18 because I think that drives my question. That is, does
19 the solution that you have before you now relative to
20 the scaled-back fourth floor satisfy you both as to
21 your concerns relative to the visual -- the view from
22 Asheville Road? That's up to you two guys.

23 MR. JESSE GELLER: Yeah. I think from the
24 perspective of the view from Asheville Road, the

1 marching order was don't see it. It doesn't exist from
2 Asheville Road. And I think that's what they've done.
3 So I don't see it, and I think that they have done
4 that.

5 MR. HUSSEY: Okay. So you -- from that
6 perspective, you see no reason to reduce further the
7 number of units in the apartment building. You're
8 happy with it?

9 MR. JESSE GELLER: Not based -- visual.

10 MR. HUSSEY: Right. Just based on the
11 visual.

12 MR. JESSE GELLER: Right.

13 Do you want to let Mr. Book --

14 MR. HUSSEY: If he'd like to.

15 MR. BOOK: No. I agree. The aspect that we
16 were concentrating on last week and the week before was
17 that this building should read as a three-story
18 building from Asheville Road at Russett, and it, in
19 fact, does now. You cannot see the fourth floor, so
20 we've accomplished that -- they've accomplished that
21 goal.

22 So absent some other -- we had no other --
23 there was no other basis to justify a reduction of the
24 building, at least nothing -- in my mind, we haven't

1 presented with another reason that justifies a
2 reduction in the height of the building. And so from
3 my perspective, the visual is what was important.

4 MR. HUSSEY: I hear what he's saying. I mean,
5 I still -- I think we should eliminate the fourth floor
6 entirely, but let's go through and get this other
7 information that's coming from the fire chief and so
8 forth.

9 Relative to the parking, if my calculation is
10 correct based on the information I received tonight,
11 there are -- the parking spaces in the garage and on
12 the E2 space, I believe there are 209 parking spaces
13 and there are 125 units. Actually, that's both E2 and
14 E3, because this is E2; right? No. This is E2.

15 MR. LEVIN: That's E1.

16 MR. HUSSEY: E1. This is E1, this is E2, and
17 this is E3?

18 MR. LEVIN: Yes.

19 MR. HUSSEY: So the parking here is about
20 50 -- 52. Okay. Right. Actually, I've got the
21 parking -- I'm counting the parking and the number of
22 units, the ratio amongst E2, E3 and the apartment
23 building. So the total number of cars is -- spaces --
24 is 209, the total number of units is 125, which gives

1 us a space ratio to dwelling units, DU, of 1.67, which
2 I believe from the study that was done back in 2007, is
3 very close to the ratio that exists now in South
4 Brookline, political district of 4012, or the census
5 tracker.

6 If we drop down, which I have stated before is
7 sort of my preference of 1.5 spaces per dwelling unit,
8 that would mean you'd eliminate a further 21 parking
9 spaces from this area in here, either in the apartment
10 building, the garage, or in the outside. That's why I
11 got into the discussion of where -- with Mr. Gladstone
12 as to where it would best suit the neighbors. So I
13 think I would still push for that 1.5 in this area
14 because --

15 MR. JESSE GELLER: Make the argument.

16 MR. HUSSEY: I'm making the argument; that the
17 number of parking spaces, I think, is what determines
18 the impact, traffic impact, in this neighborhood. It's
19 the number of parking spaces.

20 Even if you left all of these buildings in
21 place, all of these units in place but let's say you
22 reduced it down to one parking space per unit, that,
23 again, is what would impact the traffic. Not the
24 number of units, let's say, but the ratio. If we do

1 reduce some of the units in this building going
2 forward, then we would probably reduce the parking even
3 more. But I think that parking is what's generating
4 the traffic, the additional traffic here, not the
5 number of units per se. It's the number of parking
6 spaces.

7 MR. JESSE GELLER: So let me ask you this
8 question: You've been presented with peer review, and
9 I take it from your comment that you disagree, you
10 respectfully disagree with BETA's conclusions, which is
11 fine, but I want to make clear --

12 MR. HUSSEY: Yeah. I think I probably do, but
13 it's on a perceptive basis rather than a statistical
14 basis. I mean, I don't want to get into arguing with a
15 peer reviewer on their statistics and their analysis.
16 I think that's out.

17 But the perception, clearly, among the
18 neighbors, and I tend to concur, is the more cars you
19 would have in this development, the more traffic you're
20 going to generate through the neighborhood.

21 MR. JESSE GELLER: I don't question that
22 that's the perception. I guess -- well, it's not about
23 perception. It's a question of, is there a reasonable
24 reality? In other words, you know, is this going to

1 create traffic?

2 MR. HUSSEY: Of course it's going to create
3 traffic. I mean is it a reasonable evaluation?

4 MR. JESSE GELLER: A reasonable likelihood
5 that this will create traffic. We've had peer review.
6 I'm simply asking questions because the assumption
7 you're making is that the peer reviewers got it wrong.

8 MR. HUSSEY: No, no. I think the issue -- I
9 don't want to get into analyzing the peer review.
10 This, in many ways, is not a qualitative issue, it's
11 a -- rather it's not a quantitative issue, it's a
12 qualitative issue. Is there going to be more traffic
13 generated? And I can't even remember what the peer
14 review said as to how many trips there were at the peek
15 and at a half hour period or an hour period.

16 I mean, I live on Park Street and we have
17 about 40, 45 cars backed up almost every morning and
18 that period is about 20 minutes to a half an hour it
19 seems like. I don't know what it is here. But I'm
20 sure there are particular periods when you have many
21 more than you have at other times during the day. And
22 so it's those peek periods that we're all worried
23 about, the neighbors are worried about, and that we
24 should be worried about to. So we'll reduce, it seems

1 to me -- even the statistics that they gave us -- if we
2 reduce that peak period of traffic by X amount of
3 cars ...

4 MR. ZUROFF: If you've got 333 cars --

5 MR. JESSE GELLER: I know what he's saying.
6 At the end of the day, he's -- I know what he's saying.

7 Mr. Book?

8 MR. BOOK: I'm not quite sure I followed all
9 of his math, but I found that this information that you
10 circulated last -- at the end of last week?

11 MR. HUSSEY: I think so, yes.

12 MR. BOOK: Yeah. I mean, I thought it was
13 interesting, in particular noting the average vehicles
14 per household in the -- all the various parts of
15 Brookline, South Brookline being the -- and Chestnut
16 Hill being the highest by quite a large factor versus
17 the rest of Brookline.

18 But even based on this, South Brookline is
19 showing an average of 1.62 vehicles per household. And
20 so I seriously wonder if two cars are really needed per
21 unit here or anywhere in Brookline. I mean, there's no
22 section of Brookline that has that many vehicles. And
23 it's not that I'm necessarily -- I'm opposed to cars.
24 I mean, I drive one. But I am mindful of -- you know,

1 it's a -- you know, we keep coming back to this idea
2 that it's a balancing act. There's a balancing act
3 that needs to happen. And my -- if I look at this
4 information, it leads me to believe that this project
5 may be proposing too much parking.

6 If some of it were reduced, it would free up
7 some more green space, which I've heard countless
8 people speak on that issue about there being more green
9 space, both the neighbors and members -- the people of
10 the town.

11 And so I open it up for, you know, discussion
12 that maybe we should be reducing the parking to a ratio
13 that is consistent with the rest of the area. And we
14 don't even have to talk about -- I think I heard
15 Mr. Mattison make reference to a much lower ratio in
16 Hancock Village. I mean, I think we've heard that --
17 maybe we can take a broader view and look at the entire
18 South Brookline area.

19 MR. JESSE GELLER: I think the information
20 that Mr. Hussey circulated, or further circulated, I
21 thought it was pretty useless in terms of sort of the
22 intent of Town Meeting, and I don't think we proposed
23 to use it for those purposes. It was ultimately, as I
24 understand, rejected by the town.

1 But I thought that the information which sort
2 of drew on statistical bases for what actual usage is
3 within different parts of Brookline was very
4 informative and very useful. Frankly, it's the only
5 information of that kind that we got, surprisingly.

6 MR. BOOK: After --

7 MR. JESSE GELLER: After a year of doing this.
8 And to me, the notion -- you know, in some ways it
9 validates the notion that North Brookline is very
10 developed and South Brookline is far lesser so. And I
11 think we sort of read that through the numbers that you
12 see and that number of 1.67 or whatever it is, 1.6
13 parking spaces, which is the average number for South
14 Brookline was interesting. And I'm supportive of the
15 sense that that's something that should be followed in
16 this project because that's what the actual usage is.

17 Now, whether that number, 1.6 or 1.5, you
18 know, the question -- the logic of, well, the more you
19 reduce it, the less cars you put on the street is just
20 a natural -- to make that analysis, I'll tell you what,
21 why don't -- you know, you could say don't put in any
22 parking. It won't have any impact on the
23 neighborhood. I'm not sure the logic of sort of
24 throwing a dart up and saying, well, 1.5 is okay or 1.4

1 is okay but 1.6 doesn't make it. I don't -- nobody's
2 here with the imprimatur of expertise to tell me that
3 there's --

4 MR. HUSSEY: You're not going to get that kind
5 of certainty no matter how you slice it.

6 MR. JESSE GELLER: Well, I'm simply saying,
7 then, to pick one number versus the other number when
8 you're below the threshold is sort of, you know --

9 MR. HUSSEY: Arbitrary?

10 MR. JESSE GELLER: Arbitrary. That's an
11 excellent word. Because you're never going to come to
12 the part where you say no parking spaces.

13 MR. HUSSEY: Well, that's right. I'm not
14 disagreeing with you. I'm just saying that's my
15 position. Arbitrary or not, that will be my position
16 going forward. That's what I'll try to push the board
17 to vote for.

18 MR. JESSE GELLER: And what is that?

19 MR. HUSSEY: 1.5.

20 MR. BOOK: Can I just -- so that I'm clear
21 about what you're -- you're suggesting 1.5 on a
22 particular section of the project. We haven't talked
23 about --

24 MR. HUSSEY: I'm not concerned about this area

1 because it goes right onto Independence Drive, and I'm
2 not so concerned about this because, again, it goes
3 right onto -- neither of these -- this amount of
4 parking impacts the surrounding neighborhoods per se.
5 They only impact the traffic on Independence Drive, and
6 our peer reviewer has indicated that Independence Drive
7 can easily handle that additional traffic.

8 MR. JESSE GELLER: I'm not -- I know I'm
9 backing into this. I'm not unsupportive of
10 Mr. Hussey's proposal, notwithstanding -- I find that
11 there's a certain lack of logic to it.

12 MR. ZUROFF: Isn't that the same kind of
13 argument that determines how many units go into this
14 project?

15 MR. JESSE GELLER: In some ways.

16 MR. ZUROFF: Picking that number is as
17 arbitrary as the number of spaces that are required to
18 service the number of units there. So I'm obviously
19 supportive of Chris's analysis because if we pick a
20 ratio, it's arbitrary. If we pick a ratio that makes
21 sense based on the average number of parking spaces per
22 living unit in the town, that makes as much sense as
23 anything else.

24 MR. JESSE GELLER: Yeah. I agree with that.

1 What I'm trying to get to -- the logic of following
2 what we've seen as -- or what we've seen from this
3 report as being a paradigm for South Brookline, 1.6, I
4 understand that. That makes complete sense to me.

5 The question I'm asking is the arbitrariness
6 of picking what that number is below, whether it's 1.4,
7 1.5 or --

8 MR. ZUROFF: The code itself has an arbitrary
9 number. It was decided by Town Meeting based on what?
10 Internal data that was maybe 10 years ago. In our M --
11 our S7 district, what is our parking ratio, 1.5?

12 MR. HUSSEY: In the M7 right now? It's 2.3 if
13 you've got more than two bedrooms.

14 (Multiple parties speaking.)

15 MR. JESSE GELLER: He's talking about S7.
16 You're talking about M.

17 MR. ZUROFF: Because we're building here.
18 This project is in -- partly at least -- in the S7
19 district. So -- but we've already decided that in many
20 new cases that come up before us that that ratio is too
21 high. They don't need that many spaces. So we're
22 reacting to current conditions.

23 MR. JESSE GELLER: Those cases in which we've
24 had lots of testimony and, frankly, those cases in

1 which we've reduced the parking requirements have
2 largely been cases -- not largely -- they have been
3 cases where there is ready availability of public
4 transit. They're in North Brookline. Right? I can't
5 think of a case where somebody has come in in South
6 Brookline and said I'm building this project and we've
7 got access to --

8 MR. ZUROFF: Well, that's because most of the
9 projects that come before us in South Brookline are
10 single-family homes.

11 MR. JESSE GELLER: Yes, that's true.

12 MR. ZUROFF: This is -- so we have to approach
13 it differently. This is not a typical project for this
14 area.

15 AUDIENCE MEMBER: Can you speak up a little
16 bit?

17 MR. ZUROFF: So what I'm suggesting is that
18 the arbitrariness that we seem to have some problems
19 with is exactly what we need. It doesn't have to be
20 arbitrary. We have to pick what's appropriate for the
21 neighborhood, and taking into consideration that there
22 may be safety considerations that contribute to this.

23 And I'm not talking about schools, and I'm not
24 talking about drainage, and I'm not even talking about

1 traffic control, because traffic control -- we have a
2 peer reviewer that says that on the average there's
3 more than enough road capacity to handle these cars,
4 but we're not talking about what's on an average and
5 we're not talking about the average day. Most of the
6 public is concerned about the effect on the school
7 drop-off and pick-up in rush hour. And I bear witness
8 to the fact that I'm aware that rush hour is different
9 than the rest of the day, which is why one of the
10 things I suggested was maybe we help the neighborhood
11 kids get to school by having the developer provide that
12 kind of transportation.

13 So I support Chris and I'm -- and you've heard
14 it from me before -- I support reducing the size of the
15 project and certainly reducing the number of parking
16 spaces.

17 MR. HUSSEY: Let me go back to this 2010 which
18 has a table that indicates the parking requirements
19 according to zoning. And in 1987, a multifamily,
20 studio, and one bedroom, and a multifamily with two
21 bedrooms, the base requirement was 1.5 parking spaces.

22 MS. NETTER: Excuse me. For purposes of
23 everybody here, can you say what the study is, who did
24 it, give a title so everybody knows what you're talking

1 about?

2 MR. JESSE GELLER: Give the background.

3 MR. HUSSEY: The background, as I understand
4 it, and Mr. Mattison can correct me, is it was a
5 preparation put together for Town Meeting members back
6 in 2010, I believe.

7 MS. NETTER: By whom?

8 MR. HUSSEY: That, I don't know.

9 MR. MATTISON: That was largely -- it was not
10 put together by me. It was largely put together and
11 maybe completely put together by Linda Olson Pehlke who
12 was a Town Meeting member from Precinct 2 and has been
13 involved in a lot of these zoning, parking types of
14 issues. So she put that together and I saw it as being
15 pretty factual because it was based on census data and
16 I took it for what it was.

17 And it was roundly discussed at Town Meeting.
18 And this notion that -- you say -- you talk about
19 arbitrary. Well, the 2.0 is completely arbitrary. And
20 primarily it was put in place at the behest of the
21 North Brookline residents because they wanted to limit
22 development. And they said, well, if we make them put
23 in too much parking, that will raise the cost of
24 everything and everyone will want to put in three

1 bedroom units and we won't have to worry about
2 one-bedroom units, which is probably exactly what we do
3 want to put in is one-bedroom units. So it's acting
4 counter to what it should be.

5 MR. HUSSEY: Okay. Thank you. And this went
6 to all the Town Meeting members back in --

7 MR. MATTISON: Absolutely. And I'm sure the
8 data is available too.

9 MR. HUSSEY: So it's a matter of public
10 record.

11 MR. JESSE GELLER: Can I ask Mr. Mattison a
12 question?

13 MR. HUSSEY: Yes.

14 MR. JESSE GELLER: Mr. Mattison, do you have
15 any of the resources that were available that supported
16 that?

17 MR. MATTISON: She would. I mean, whatever
18 was in the warrant and the explanation is what we
19 presented. I'm sure there's all kinds of --

20 MR. JESSE GELLER: No. I've seen that, but
21 there's information in there, and I'm wondering what
22 the support data is for it or whether we can get it.

23 MR. MATTISON: Well, I'd be happy to have her
24 contact you or contact the Planning Department.

1 MR. JESSE GELLER: Contact --

2 MR. MATTISON: Allison?

3 MS. STEINFELD: Yes.

4 MR. JESSE GELLER: Thank you, Allison.

5 MS. STEINFELD: Certainly, sir.

6 MR. JESSE GELLER: Okay. So do you have
7 further thoughts on this?

8 I'm not disagreeing with Chris. I just -- I
9 don't know why he picked 1.5 rather than 1.4.
10 He's pointing -- but now he's pointing to some
11 information that he has within that same Town Meeting
12 report that cited 1.5.

13 MR. BOOK: It was the zoning bylaw used in the
14 1980s. The parking requirement was less. It was 1.5.

15 MR. JESSE GELLER: You mean when everybody was
16 driving Cadillac Fleetwoods.

17 MR. BOOK: I guess. But I guess I want to
18 just be -- from my perspective, I don't think our
19 decision should be arbitrary. At least I'm trying not
20 to make these decisions in an arbitrary manner. It's
21 why I don't -- have yet to be given -- yet to be
22 convinced or be given information that tells me that
23 any more of that fourth floor needs to come off. The
24 thing that -- the objective thing that I could look at

1 was the visual aspect of it from outside -- from the
2 neighborhood. That's been addressed.

3 When we talk about parking, the objective data
4 that we've been presented with, albeit late, is that
5 parking -- average parking in South Brookline is 1.6
6 and so I question whether or not that's the right
7 number for parking for any development, this or
8 anything else in South Brookline. That's what people
9 drive on an average, 1.6 vehicles per unit. Maybe
10 that's the appropriate number for this project.
11 Further reducing it -- I mean, unless there's some
12 objective data that says that 1.5 is the right number,
13 I think it's -- I think we're now talking about
14 arbitrary things. Why 1.5? Why not --

15 MR. JESSE GELLER: That's the question that I
16 asked. You know, why -- the notion that -- we all
17 understand the global notion that is being cited by
18 Mr. Hussey, which is, well, if you just put less
19 parking, then by necessity you'll have less of an
20 impact.

21 MR. BOOK: Which is true.

22 MR. JESSE GELLER: Which is true. In the
23 global sense that is true, but that doesn't tell you
24 what the appropriate number is below 1.6, assuming

1 there's an argument for below 1.6.

2 MR. BOOK: I think that this project should
3 have sufficient parking. It should have a sufficient
4 number of parking spaces to serve the people that are
5 living there.

6 I guess what I want to hopefully avoid is that
7 there be too much -- more parking than is needed,
8 because it's one of those things that if you provide
9 spaces, they will come. But if on average a lesser
10 number is appropriate, is supported by objective data,
11 then I think we should consider that.

12 MR. JESSE GELLER: Just out of curiosity,
13 what's the difference in actual number of spaces
14 between 1.5 and 1.6? What are we talking about?

15 MR. BOOK: Well, I want to be clear. He's
16 talking about 1.5 in one little section. I'm looking
17 at the entire 40B project. So I think we can't ignore
18 the west side.

19 MR. JESSE GELLER: What's going on over
20 there?

21 MR. BOOK: I think it's well over two.

22 MR. HUSSEY: It is, I believe. Maybe three.

23 MR. BOOK: Because we have people crossing
24 Independence. We've talked about this. The west side

1 is going to service some of the units on the east side.

2 MR. JESSE GELLER: So then clarify for me,

3 Chris. When you say 1.5 are you talking --

4 (Inaudible. Clarification requested by the
5 court reporter.)

6 MR. HUSSEY: I'm talking about just the east
7 side and, in particular, E2 and E3 and the apartment
8 building.

9 MR. JESSE GELLER: And your reasoning is
10 because those -- because you believe that if there is
11 impact on streets, it's only on the east side because
12 Independence Drive services --

13 MR. HUSSEY: Neighborhood streets.

14 MR. JESSE GELLER: So the logic driving
15 Chris's comments is really about output on those
16 narrower streets.

17 MR. BOOK: Okay. But can I ask you, does your
18 opinion, then, change if they get access onto VFW so
19 they're not using those neighborhood streets? Does
20 that change it so they can go back to a two?

21 MR. HUSSEY: I think it might. I'll have to
22 think about it a bit, but it might. Theoretically, if
23 there was access on the VFW, certainly these people
24 would use it. Whether these people over here and here

1 would, I think that depends on where they're going, I
2 suspect.

3 MR. BOOK: I mean, it's interesting. We
4 started this -- you know, raised this issue and I feel
5 like we've done a -- we've swapped positions because
6 I'm -- I've started to see the light on this, although
7 I think we're seeing it for a different reason.

8 Jesse, you're just smiling.

9 MR. JESSE GELLER: Just in case you're
10 curious, the difference -- if you just focus on the
11 east side, the difference is 16 spaces.

12 MS. MURPHY: That's for the whole thing.

13 MR. JESSE GELLER: Oh, that's for the whole
14 thing. Because -- here's why I'm smiling, because I
15 think that there is -- because I think there's
16 arbitrariness in the selection of anything that is
17 below what we view is standard.

18 What we're viewing as the standard is based on
19 information that we received this week without
20 foundation other than saying that this was a
21 conversation that took place at Town Meeting. And
22 supposedly the one party who we've seen at hearings and
23 is a strong advocate for the reduction in parking has
24 provided this data. I think if we're to take that

1 information seriously, we should get some foundational
2 basis for it. That's not to say I question it. I
3 suspect it's correct.

4 Assuming it is correct, yes, logic would tell
5 you that 1.6 parking spaces per unit makes sense.
6 Where the divide is is that if it makes sense -- if it
7 makes sense as an overarching paradigm, then you need
8 to say that it should apply as well on the west side.
9 And what you're saying is, well, I'm willing to --
10 based on both observational and peer review -- because
11 you mentioned peer review -- I don't believe there will
12 be an impact on the west side, so I think I'm willing
13 to accept two spaces.

14 MR. HUSSEY: Well, the paradigm is in error
15 here because the -- as I pointed out, the impact of the
16 parking over here is on Independence Avenue. It is not
17 upon the neighborhood. The parking here has a direct
18 impact on the neighborhood. That's what is the
19 paradigm.

20 MR. JESSE GELLER: No. I understood that
21 part, but -- so you don't necessarily buy into the 1.6
22 versus two parking spaces. For you, it's just about
23 the smaller streets.

24 MR. HUSSEY: I believe, if I understand your

1 question correctly, I think that's right.

2 MR. JESSE GELLER: Because you've got a report
3 that says the prevailing number of spaces in South
4 Brookline is 1.6 parking spaces per dwelling units;
5 right?

6 MR. HUSSEY: But what the neighborhood does
7 not have access to is the systems that Chestnut Hill
8 has now, the shuttle, the Zipcars, and what have you.
9 They don't have access to that to alleviate their
10 parking requirement. The apartment building and these
11 units will have access to those additional assets for
12 travel.

13 MR. JESSE GELLER: I have to tell you, I agree
14 with Mr. Book. I think you're entirely inconsistent,
15 but I ...

16 MR. HUSSEY: Well, I'm not sure why you think
17 that, but ...

18 MR. JESSE GELLER: Because either the number
19 works or it doesn't, notwithstanding what goes onto the
20 streets. You don't have to respond.

21 MR. HUSSEY: I think I won't.

22 MR. JESSE GELLER: My sense is that -- I'd
23 like to know the background, the supporting data on the
24 statistics.

1 No. I don't want to look at that sheet. That
2 basically provides me with the conclusions; right?

3 MR. HUSSEY: Well, it also provides you with
4 history. And it's sort of interesting that it's from
5 1962 when the zoning articles started to address
6 parking, evidently. Up to '87 there was an increase in
7 the parking requirements, and then it went up a lot in
8 2000. It's my recollection that that was not a
9 town-sponsored article. That came from somebody
10 outside, so -- and then Town Meeting voted it through.

11 And the proposed parking ratios, 2010, which
12 were going back to the downsizing of parking
13 requirements, that was not voted through. And that
14 tells me -- and there was an article in the Globe some
15 time ago which indicated in general -- I think it was
16 in the Globe -- that car registration in general in
17 Massachusetts is beginning -- and has for a few
18 years -- beginning to trend down. And just my
19 experience with my children and what have you has
20 indicated that that's the case, but that's anecdotal
21 and means nothing in this case.

22 MR. ZUROFF: Can I just make one comment?

23 MR. JESSE GELLER: Sure.

24 MR. ZUROFF: We're not passing a bylaw, and

1 we're not being asked to propose a standard on this
2 project. So if Chris feels that parking -- and I do
3 too -- that parking in that particular area should be
4 reduced for whatever reason, spill-out into the
5 neighborhood streets or any other reason related to the
6 number of parking spaces, then why can't we just say
7 that in that area we want 30 spaces removed or 20
8 spaces removed?

9 MR. JESSE GELLER: We can say anything we
10 want. The question is whether it meets within --

11 MR. ZUROFF: That's true. But in order for
12 you to get to a conclusion, rather than talk about
13 trying to impose a standard like a bylaw -- we're not.
14 We're saying we would feel more comfortable if there
15 were 20 less spaces in this area.

16 MR. JESSE GELLER: Yeah. We could do that.
17 At some point it's going to have to be justified, and
18 it's going to have to be justified based on -- other
19 than well, this is what we felt like.

20 MR. ZUROFF: Well, it's justified in the fact
21 that we want to reduce the parking in that area to
22 reduce the amount of spillage into the neighborhood
23 streets to make it a safer area.

24 MR. JESSE GELLER: Do you have an opinion

1 about the west side?

2 MR. ZUROFF: The west side, I think it's fine.
3 I mean, let me explain that the idea of green space is
4 not paramount and it's not one of our considerations.
5 This is private property. This does not -- the green
6 space does not benefit the neighborhood. It might be
7 nice to look at, contributes oxygen to the general
8 population. I understand that. But it's still their
9 property. They want to build on it. And if it
10 fulfills the requirements of 40B -- and they're liberal
11 to say the least -- then I'm fine with the number of
12 parking spaces on that site.

13 MR. JESSE GELLER: So from your perspective,
14 you really don't even care about this.

15 MR. ZUROFF: I'm not -- and I just said this.
16 We're not passing a bylaw for this particular -- this
17 is not an overlay. It's not spot zoning. This is a
18 permit that we're going to give for this project, and
19 if we feel that a certain number of parking spaces in a
20 certain area should be reduced for all the right
21 reasons, then I think we should be able to do that and
22 not have to address whether it's 1.6 or 1.5.

23 MR. JESSE GELLER: Interesting. Okay. This
24 has all been very interesting.

1 MR. ZUROFF: But I'm not voting.

2 MR. JESSE GELLER: No. But your opinion is
3 highly regarded.

4 MR. ZUROFF: Thank you.

5 MR. JESSE GELLER: Further discussion on
6 this?

7 We clearly -- we're clearly going to have to
8 revisit the discussion about what the fire chief's
9 comment is, so we're going to have -- by necessity --
10 going to have to have a continuation of the
11 discussion. The question is whether we're capable of
12 bringing closure to the question on parking or not. It
13 looks like we're not capable at this point. I think
14 people are coming at it from different perspectives
15 and --

16 MS. NETTER: Can we get -- I mean, the
17 applicant is not raising his hand, but I would think
18 that -- would it be useful to you to at least hear what
19 the applicant has to say on this particular topic?

20 MR. JESSE GELLER: sure.

21 Applicant, what do you have to say?

22 MR. LEVIN: What I won't say is that we
23 complied with zoning.

24 If you look at the east side, the ratio on the

1 east side, which is where the commingling of units and
2 the parking is most likely going to occur, it is at
3 1.78. What I hear is that the average in South
4 Brookline is 1.67. That's an average. Obviously, in
5 order to have an average you have many that are above
6 that and many that are below that. So you have an
7 average of 1.67. We're at 1.78 on the east side.

8 MR. HUSSEY: And that's in all of the east
9 side.

10 MR. LEVIN: That's correct.

11 MR. HUSSEY: Right. Because I've limited it
12 further.

13 MR. LEVIN: No. I realize that.

14 MR. HUSSEY: Okay.

15 MS. NETTER: Was it 1.67 or 1.62? I know it
16 sounds like we're splitting hairs, but I just want to
17 make sure.

18 MR. HUSSEY: 1.67 for just that part of the
19 east side that I was addressing.

20 MR. LEVIN: The study, I believe, said 1.67.

21 MR. ZUROFF: That's the average.

22 MS. NETTER: The study said 1.67 or 1.62?

23 MR. BOOK: 1.62 for the study.

24 MS. NETTER: That's what I thought.

1 MR. LEVIN: I apologize.

2 THE COURT: No, no, no. I just want to
3 clarify.

4 MR. JESSE GELLER: So, you know, I think we
5 need to synthesize the different directions from where
6 people are coming at this in order -- I don't know that
7 we're going to do it right now, is the bottom line. I
8 think people are coming at it from different
9 approaches, and I think we sort of need to think
10 through the approaches that people are coming at it
11 from.

12 You know, I think Mr. Zuroff looks at it from
13 a top down approach, and there's some merit to that.

14 I think Mr. Hussey looks at it from a specific
15 sense of -- in Mr. Hussey's sort of view of the
16 project, the smaller streets are impacted the most --
17 of necessity -- in his view. And therefore, whatever
18 you can do to reduce that impact is beneficial. And
19 his arbitrary number is 1.5.

20 And I think that, Mr. Book, your position is
21 that logic should dictate. And if you accept the 1.62
22 number, that 1.62 should carry but not just on the east
23 side, also on the west side.

24 So I think that there needs to be a synthesis

1 of all of that. I need to think -- frankly, I find it
2 all very interesting, but I don't know that I can reach
3 a final conclusion to sort of say this is what I
4 think. I find validity in each one of the approaches,
5 but I want to think about them some more.

6 MR. ZUROFF: I have one more comment and that
7 is that we have 161 units. We've got 333 spaces, which
8 is currently now more than 2.2 per unit.

9 MR. BOOK: No. 323.

10 MR. ZUROFF: 323. Still, it's more -- it's
11 just a little bit over, right, two per unit under the
12 current proposal. If you look at it in a global way
13 rather than looking at a particular part of the
14 parking, then we have two, which is a generalist two.

15 MR. HUSSEY: I'd like to back up a little bit
16 too. You know, I said that I was arbitrating 1.5 but
17 reviewing this chart, 1987 at 1.5 going forward, that
18 was when I was practicing a lot in Brookline doing
19 multifamily buildings. I bet that's where I got that
20 number from.

21 And one other question. Jonathan, where did
22 you see the 1.62?

23 MR. BOOK: So that was in the report, in
24 the -- South Brookline.

1 MR. HUSSEY: Oh, that's for South Brookline?

2 MR. BOOK: 1.62.

3 MR. HUSSEY: Okay. Right. Not this project.

4 MR. BOOK: No. The whole neighborhood.

5 MR. JESSE GELLER: Mr. Book's perspective uses
6 data using some kind of a statistical analysis; right?

7 MR. HUSSEY: Okay.

8 MS. NETTER: Do you need -- in order to come
9 to some closure on this issue -- and I'm sure I'm not
10 making friends with the Planning Department in
11 volunteering their services once again -- but do you
12 need some information from them so that you're all
13 using the same deck of cards, or do you feel what you
14 have is adequate?

15 MR. BOOK: I would like some verification.
16 These numbers are -- I'd like to know where they came
17 from and to confirm -- I'd like to know their source.

18 MR. JESSE GELLER: From Linda Pehlke.

19 MR. BOOK: Well, where did she get it from?

20 MR. JESSE GELLER: Where is the supporting --
21 the supporting data that underlies those numbers?

22 MR. BOOK: Yeah. So I'd like to see that.

23 And then, I'm sorry, just to make a full circle, we
24 will get something from the fire chief this week before

1 the hearing next Monday?

2 MR. MORELLI: You know, I think that it might
3 be helpful to actually speak with Polly. I'm not
4 sure --

5 MS. NETTER: With respect to the fire chief's
6 information?

7 MS. MORELLI: I'm sorry. I didn't understand
8 the question.

9 MR. BOOK: I'm sorry. Before our hearing next
10 Monday, we will get a report -- or some sort of a
11 report from the fire chief?

12 MS. STEINFELD: Yes.

13 MR. BOOK: We will.

14 MR. JESSE GELLER: Frankly, I think we
15 actually need to have the chief back because I think
16 we're going to have questions that need to be asked and
17 we're going to need him to respond to them.

18 MS. STEINFELD: Well, I have no idea if he's
19 available on December 1st. And I won't know --

20 MR. JESSE GELLER: I understand.

21 Mr. Geller?

22 MR. JOE GELLER: We did have a meeting with
23 the fire chief and we went through every one of the
24 issues that he brought up. I think he's -- from my

1 understanding, he was going to write a memo that
2 addressed those comments. A lot of the things that you
3 talked about tonight, particularly the things like the
4 sprinklers, all of those specific items that he
5 requested, we talked through. We talked through the
6 access from Thornton with some ideas of how to actually
7 solve that problem. I think we got to the right
8 solution on that. He had some concerns still about
9 backing out. We talked about those things, made some
10 changes to adjust some of those things. So I hope that
11 we've addressed the issues that he had, specific issues
12 that he had at the meeting. I'm sure that he'll
13 address that in that memo.

14 MR. JESSE GELLER: Yeah. Let me say that I
15 think it would be particularly constructive that if and
16 when that letter issues -- and I would hope that it
17 would be in sufficient time in advance of next
18 Monday -- that you will be able to see it, respond to
19 it, maybe have a conversation with him if there's a
20 question, so that we can really get to the -- cut to
21 the chase.

22 MR. JOE GELLER: We believe that we were
23 there. We hope at the meeting that we got to most of
24 those things, and I don't expect that the letter is

1 going to address those things the way we talked about
2 them, so hopefully that will be the case. It is, I
3 think, a holiday on Thursday.

4 MS. NETTER: One more -- Ms. Morelli referred
5 to Ms. Selkoe, and I don't know what you were --

6 MS. MORELLI: I thought you were talking about
7 some verification of the 2010 traffic study. I thought
8 you were speaking about getting more information from
9 the Planning Department regarding the 2010 study. I
10 just don't know the status of your request --

11 MR. JESSE GELLER: I don't think it's about
12 the 2010 study. I think what it is about is that
13 report that was circulated to Mr. Hussey that was then
14 circulated that Mr. Mattison spoke about. There is
15 some data that is provided. So the question is: Where
16 is the data from? You know, what's the support for
17 that data? And I think if you get ahold of Linda
18 Pehlke, she may still have the information.

19 MS. STEINFELD: We will certainly try to do
20 that. But that I can't -- I can't promise we'll have a
21 response by the 1st.

22 MR. JESSE GELLER: Okay.

23 MR. HUSSEY: And I did forward that report to
24 you, I think. Okay.

1 MS. NETTER: Pushing it a little further, it
2 seems to me that the board needs some information
3 before the 1st, so if you can't get that information,
4 perhaps you could get some other information on parking
5 in -- whatever you --

6 MS. STEINFELD: We'll try to generate some
7 information. I just can't make a commitment for
8 Ms. Pehlke.

9 MS. NETTER: No. That's what I'm saying. If
10 you can't go that direction, maybe there's another
11 direction that you can go.

12 MR. BOOK: One other piece of information --
13 Mr. Levin or Mr. Geller, could we get a breakdown by --
14 of the 161 units, how many are one-bedrooms, how many
15 two, how many three, how many four?

16 MR. JESSE GELLER: In the latest iteration.

17 MR. BOOK: In the latest iteration.

18 MR. LEVIN: 57 in 1.

19 MR. BOOK: Oh, you actually have them
20 committed to memory?

21 MR. JESSE GELLER: Marc, do you just stare at
22 these statistics at night?

23 MR. LEVIN: No. Just before I come over
24 here.

1 57 ones, 57 twos, 22 threes, and 25 fours.

2 MR. BOOK: Thank you.

3 MR. LEVIN: I'd just like to ask a question,
4 rhetorically I suppose, about the parking. You know,
5 we're talking about, you know, philosophical or
6 arbitrary or a basis for picking an appropriate amount
7 of parking. We are very concerned to not be
8 underparked. We think that that's the worst case
9 scenario, is to be underparked.

10 So if, in fact, the average might apply --
11 let's just say the average applies at 1.62 -- the only
12 down side of having the two per -- or whatever it is,
13 the 1.78 on that side -- is that you would have a
14 little less green space because you'd have parking
15 spaces that aren't occupied. That's the worst case
16 scenario if we overpark based on 1.62, some theoretical
17 number, versus putting in 1.62 and actually needing
18 1.78 or something along those lines, in which case
19 there's now pressure to park in the neighborhood or
20 whatever it is. The down side seems much greater to
21 underpark than it is to overpark.

22 MR. JESSE GELLER: Okay. Thank you.

23 Unfortunately, I think I have to raise a topic
24 we've raised before, which is this issue about timing.

1 And I know esteemed counsel -- I'm picking on you
2 without Mr. Schwartz.

3 MR. LEVIN: In Mr. Schwartz's absence --

4 MR. JESSE GELLER: I don't mean tonight
5 timing, I mean --

6 MR. LEVIN: I know. So our attitude for the
7 last year has been to -- if we're moving towards a
8 constructive conclusion, we're moving forward, we've
9 been granting -- this is usually a six-month process.
10 We've obviously extended it a number of months. And
11 that if we have a clear understanding of what those
12 meetings would be comprised of, then we will grant
13 extensions, as we have in the past.

14 So I would need to understand -- and I would
15 not want to necessarily respond right now, but I'll
16 tell you where we stand in terms of willingness to
17 extend. When there's progress, getting to where we can
18 see the finish line, then we're prepared to extend to
19 cover the points that need to be covered.

20 MR. JESSE GELLER: Well, at the very least --

21 MR. LEVIN: We're extended out to the 8th
22 right now.

23 MR. JESSE GELLER: Yeah.

24 MS. STEINFELD: The final meeting is the 8th.

1 MR. JESSE GELLER: I think it's pretty easy to
2 say now that if we still have to look at -- if we have
3 to bring Chief Ford back and we have to finish our
4 discussion about parking and we have to finish the
5 discussion, that the December 8th hearing date is -- I
6 don't want to use the word an impossibility, but it's
7 entirely unlikely that we could accomplish all that we
8 need to accomplish. We still need to talk about
9 waivers.

10 MR. LEVIN: My understanding is that we are
11 prepared to submit waivers tomorrow, that we -- with
12 the proviso that it would exclude any parking waivers
13 because we don't know where that stands. So there
14 would be no waiver for parking as we submit it
15 tomorrow.

16 If the program -- nonparking program is
17 acceptable to you, then all the other waivers will
18 apply. The waivers that have been drawn up apply to
19 the revised Concept C with the exception of this
20 discussion of parking, so I would anticipate that we
21 could go over the waivers, hear from the fire chief --
22 and what was the third item?

23 MS. NETTER: Parking.

24 MR. LEVIN: -- and have a discussion of

1 parking on Monday. I don't know if that's too
2 aggressive or not. I don't know how long -- never
3 having been through this -- how long a discussion of
4 waivers takes.

5 And if that were the case or if it weren't the
6 case, I would be interested in knowing what the
7 discussion would be on the 8th if not waivers.

8 MS. NETTER: What we do need -- the Planning
9 Department has advised me and I concur with this
10 advice -- is that when the waiver request is
11 submitted -- the final or perhaps almost final waiver
12 request -- we do need a complete set of plans. Right
13 now we have -- as you know, we've got sketches and
14 pieces of this and pieces of that.

15 MR. LEVIN: We could submit a set of
16 elevations, floor plans, sections, and site plan for
17 our revised Concept C, for lack of a better name, by
18 Monday.

19 MS. NETTER: Let's make sure we're talking
20 about the same thing. So architectural plan, that's
21 pretty clear what that --

22 MR. LEVIN: Elevations, floor plans, and
23 sections, and then the site plan.

24 MS. NETTER: With respect to site plans, what

1 we're talking about is, to the extent the various
2 sheets in the original plan set have been revised, we
3 would like a complete set.

4 MR. LEVIN: Just for clarification, Dan did
5 not need those for waivers.

6 MS. NETTER: I'm taking about the Dan in the
7 Planning Department. So I believe our understanding is
8 we need a complete plan set so that we can look
9 definitely at all the waivers.

10 MR. BENNETT: We've received numerous lists of
11 waivers, and each one was accompanied by a plan that
12 identified on those plans where the waivers were by
13 letter. So they do have a detailed list of waivers,
14 but those are obviously going to change with each set
15 of plans, so I would need the most recent revised plan
16 that shows two new buildings and the --

17 MS. NETTER: But are we just -- okay. I think
18 we may be talking about different issues.

19 One would be with respect -- and correct me if
20 I'm wrong -- respect to the waivers, we need the
21 overall site plan and we've said in the past what
22 they've done is they detailed the site plan showing
23 where the waivers would be requested.

24 Secondly, the Planning Department needs a

1 complete set of plans so that they can be taken to the
2 various departments to the extent they haven't been
3 reviewed to complete that review process. So I think
4 that's why we're getting a different -- little bit of a
5 different perspective here.

6 MR. BENNETT: In addition, elevations, as Marc
7 had just said, would be required just for the height.
8 Compare those to the -- they do have a site plan that
9 details the height. Elevations would be helpful as
10 well.

11 MS. NETTER: Thank you.

12 MR. LEVIN: So to continue the conversation --

13 MS. NETTER: And clarify.

14 MR. LEVIN: The waivers -- we can submit, with
15 the exception of the outstanding parking issue, all the
16 plans that are required to substantiate the waiver
17 discussion.

18 MS. NETTER: Evaluate, yes.

19 MR. LEVIN: We could complete a full set of
20 stormwater drawings sometime thereafter, but that's not
21 required, I don't believe, for this process since the
22 peer reviewer isn't going to review them, I don't
23 believe. And they are -- you know, we've made
24 revisions as we go to make sure that the programs that

1 we've been presenting comply with the stormwater
2 regulations. So it will take some time to clean them
3 up, or should I say finalize them, but they are
4 substantially done. And that, in fact, enabled us to
5 go from the impervious pavement -- the pervious
6 pavement to the impervious pavement by creating the
7 design of the stormwater beneath the parking lots. So
8 that's been done.

9 MS. NETTER: Let me refer to Ms. Morelli
10 here.

11 So with respect to stormwater that obviously
12 has been singled out, are you concurring?

13 MS. MORELLI: I do agree because BETA did ask
14 for changes from the applicant, and the applicant,
15 Stantec, did provide revised plans on September 9th.
16 We got a copy of those. They're labeled "draft." We
17 really need a complete set of plans that incorporates
18 those September 9th drawings.

19 MS. NETTER: So what you're saying is the
20 September 9th drawings aren't necessarily reflected in
21 some of the other sheets, the plans?

22 MS. MORELLI: Well, everything's been done in
23 a piecemeal fashion, so we really need to see something
24 as of November 2014 that reflects the layout, the

1 stormwater. Everything needs to jive.

2 MR. LEVIN: We can produce a full, complete
3 set of plans by the following Monday.

4 MS. NETTER: By the 8th? But that won't --
5 therein lies the issue, in which case -- well, no. We
6 need a chance to review those plans before the hearing
7 closes because otherwise that will create a problem for
8 everybody. Very difficult to write a decision when
9 there hasn't been a chance to review and clarify the
10 plans. I can tell you that from many years of
11 experience. It doesn't serve anybody well.

12 So the question is -- I don't know how much
13 time -- I think you can review them, you had said,
14 relatively quickly, much quicker than I thought, but we
15 do need some time before the hearings close to review
16 those plans.

17 MR. LEVIN: Listen, that's fine. You know,
18 I've been whipping the horses hard enough. I could
19 have these to you next Monday, but I don't think it's
20 fair to them, so I'm going to let it go another week
21 for them to produce the final stormwater drawings. And
22 if that means us extending this another week --

23 MS. NETTER: Well, that's what we're trying to
24 figure out right now.

1 MR. LEVIN: That's fine. But I would still
2 like to understand what the sequence -- what these
3 meetings are going to look like.

4 MS. NETTER: I'm about to go there because I
5 needed to get that information from you.

6 Do you want to ask your question, or can we
7 finish this, Mr. Hussey?

8 MR. HUSSEY: Well, it may impact --

9 MS. NETTER: Go ahead.

10 MR. HUSSEY: I wanted to review the
11 architectural style of the infill buildings because I'm
12 not quite sure where we're headed. But my -- let me
13 give you the background. Beverly Road here is mostly
14 wood-styled buildings of some sort. It's sort of an
15 eclectic style there. Whereas down in this area it's
16 almost all brick, as I recall. And I've got two
17 different sort of styles. I've got this set, September
18 8th, which is a predominantly brick facade, and then
19 I've got another one that's a mixture of clapboard and
20 brick.

21 MR. LEVIN: There were two types to address
22 the variation that I think Mr. Touloukian had raised,
23 and one is ostensibly brick -- mostly brick, if not
24 all -- and the other was a mixture of the two. And we

1 alternated them appropriately, we thought, amongst
2 those. But it was not done in the manner that you're
3 suggesting that would emphasize wood frame on the west
4 side and brick on the east side.

5 MR. HUSSEY: I think having a mix amongst
6 these buildings is fine, a mix of all brick and some
7 brick and clapboard. But I think, if you could, in
8 these -- there aren't many units here -- you could go
9 back to an all clapboard or just the bottom first floor
10 being brick and the rest clapboard. I think that would
11 be a more appropriate response.

12 MR. LEVIN: I think that that's something that
13 we could do in short order.

14 MR. HUSSEY: Okay. Thank you.

15 MR. LEVIN: And just so I understand exactly
16 what you're saying, that on the west side you would
17 like to dispense with the all-brick building and focus
18 exclusively on the clapboard and brick as was presented
19 at the most recent -- perhaps it's in front of you, I
20 hope.

21 MR. HUSSEY: Yes. That's right. That's
22 correct.

23 MS. NETTER: So with respect to your ability
24 to create a complete plan set, meaning site plans and

1 architectural plans, by when would that occur?

2 MR. LEVIN: By the end of next week.

3 MS. NETTER: So effectively the 6th?

4 MR. LEVIN: Let's call it the following
5 Monday, the 8th.

6 MS. NETTER: And you need a week to review
7 those plans, so --

8 MR. LEVIN: If I may?

9 MS. NETTER: Yeah, of course.

10 MR. LEVIN: Just to -- presumably, the parking
11 discussion will have been completed by Monday --

12 MS. NETTER: Let's go back and see --

13 MR. LEVIN: Depending on -- and obviously we
14 have to see how we feel about that. I guess -- yeah.
15 So it's kind of moot. You know, we'd be interested to
16 hear what you have to say and we will design the plans
17 accordingly.

18 MS. NETTER: I'm thinking through best case
19 scenario that things work themselves out.

20 So back to the board members, let's just
21 assume on December 1st -- this is what I've written
22 out, but maybe that's not how you want to do it -- the
23 fire chief presents, you continue your deliberations
24 with respect to parking, and the thought is that we

1 would also discuss waivers.

2 Now, their waiver list is not a long list.

3 It's certainly important, but it's not long.

4 MR. JESSE GELLER: Have the waivers be the
5 third item for this day?

6 MS. NETTER: Right. To see whether you have
7 enough time to get to that.

8 MR. JESSE GELLER: Exactly.

9 MS. STEINFELD: If the fire chief is not
10 available on the 1st, would his letter suffice?

11 MR. JESSE GELLER: I just think that that
12 letter is going to give rise to a number of questions.

13 MS. STEINFELD: Ideally, it would be great if
14 he could be up there on the 1st, but until tomorrow
15 morning I can't tell you.

16 MR. JESSE GELLER: I don't know the contents
17 of the letter, so I can't say.

18 MR. LEVIN: Perhaps the discussion of waivers
19 on the 8th is more appropriate.

20 MR. JESSE GELLER: Well, that's the question.

21 MR. LEVIN: Well, let me just say, I guess the
22 holidays have something to do with that as well, that
23 Dan is going to have a shortened time frame to be able
24 to review if we submit tomorrow. But that's up to you.

1 MS. NETTER: Well, the question is: What
2 happens if the fire chief is not available on the 1st?
3 Maybe we should have a Plan B scenario, because what
4 you're thinking is that the board will have questions
5 of the chief.

6 MR. JESSE GELLER: That's my guess.

7 MS. NETTER: So, Mr. Bennett, if necessary and
8 if -- not to put you on the spot, which I guess I'm
9 doing, if you receive the waiver request tomorrow, if
10 necessary would you be able to discuss it on the 1st?

11 Given that the substantive evaluation is what
12 you're doing, Mr. Bennett would be just clarifying,
13 highlighting.

14 MR. BENNETT: Depending upon the task, what it
15 is that you would need me to do with that list. But
16 we've reviewed it several times and -- excluding the
17 parking -- and if we're just talking about more or less
18 setbacks and distance to the lease lot lines and from
19 building to building, I think we could probably get
20 that reviewed and looked at.

21 Some of the meetings that we had had, there
22 was an inconsistent application, so they applied it at
23 one spot but not in another. If those issues that we
24 discussed are clarified in the list that comes tomorrow

1 and is pretty straightforward, we should be able to do
2 that.

3 MS. NETTER: And the breakdown of Section 5.09
4 in the zoning bylaw because, as you know, they're
5 looking for a waiver of the whole and maybe breaking
6 that section down will give the board members --

7 MR. BENNETT: So their waiver is a blanket
8 waiver for 5.09, and 5.09 includes a lot of some of the
9 issues that they've discussed tonight, some that may or
10 may not be conditions if the board so wishes to approve
11 the comprehensive permit. So I can break down 5.09 and
12 figure out how to do that, and I'll have planning
13 staff -- we'll try to get it looked at on Wednesday.
14 If it comes in tomorrow, staff can meet Wednesday and
15 we'll see how it goes. We'll have all Monday to review
16 it as well. We'll do our best to keep the process
17 moving.

18 MS. NETTER: Okay. So you'll have a likely or
19 possible review on the 1st but if not, the waiver
20 requests would be reviewed on the 8th.

21 MR. BENNETT: Right.

22 MS. NETTER: The plans would be submitted --
23 I'm sorry. I forgot.

24 MS. STEINFELD: December 8th.

1 MS. NETTER: December 8th. So staff would
2 have a need -- and so probably the 8th there would be a
3 further discussion of conditions so that whatever
4 conditions you might want the applicant or the public's
5 input on -- and then we would need probably an
6 extension to the 15th. Is that -- I don't know what
7 anybody's availability is. I seem to be getting it ad
8 hoc. But I think that's -- do we want to check
9 schedules?

10 MS. STEINFELD: Monday the 15th.

11 Are there any selectmen still here? No.

12 I just don't know if they'll be meeting the
13 15th, but we'll work something out. I assume they
14 won't be meeting that Tuesday, the first night of
15 Hanukkah.

16 MS. NETTER: I think we have to -- are you all
17 available on the 15th?

18 So I guess we will be seeking a waiver -- an
19 extension to that Friday, until the 19th. That would
20 be the scenario. Is that acceptable?

21 MR. LEVIN: We're at the 12th to the 19th,
22 that's fine.

23 MS. STEINFELD: And you'll arrange to get that
24 in writing to us?

1 MR. LEVIN: Yes.

2 MR. JESSE GELLER: Mr. Abner?

3 MR. ABNER: Once the waiver list is submitted,
4 is that final or is that subject to change?

5 MS. NETTER: If there's any changes
6 subsequently to the project, anything can be changed
7 during the course of the hearing until the hearing is
8 closed.

9 MR. ABNER: Which will be ...

10 MS. NETTER: Well, right now we've got an
11 extension until the 19th.

12 MS. STEINFELD: And the final meeting, as of
13 now, will be December 15th -- final hearing.

14 MR. LEVIN: So just for my edification,
15 notwithstanding the upcoming discussion of parking, I'm
16 going to cut my team loose to start producing these
17 drawings based on the adjusted program C.

18 MR. JESSE GELLER: Notwithstanding the parking
19 and the chief's ...

20 MR. LEVIN: And both of those are the site, I
21 believe. I mean, that's narrative. That's not going
22 to show up in the drawings, the construction drawings,
23 so that would have to be narrative.

24 MR. JESSE GELLER: I don't want to

1 characterize -- you know, the chief's going to make
2 recommendations, and I don't want to characterize what
3 it is the content will be until I see them. So I don't
4 want to promise you anything.

5 MR. LEVIN: That's fine. No, I understand. I
6 was just being presumptuous.

7 MR. JESSE GELLER: Okay.

8 MS. STEINFELD: But I will let everyone know
9 as soon as I know, probably tomorrow, if the chief will
10 be available on the 1st.

11 MR. JESSE GELLER: Okay. So the next hearing,
12 next Monday night, which is, believe it or not,
13 December the 1st, 7:00 p.m. Thank you, everyone.

14 (Proceedings suspended at 9:19 p.m.)
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1 I, Kristen C. Krakofsky, Court Reporter and
2 Notary Public in and for the Commonwealth of
3 Massachusetts, certify:

4 That the foregoing proceedings were taken
5 before me at the time and place therein set forth and
6 that the foregoing is a true and correct transcript of
7 my shorthand notes so taken.

8 I further certify that I am not a relative or
9 employee of any attorney of the parties, nor
10 financially interested in the action.

11 I declare under penalty of perjury that the
12 foregoing is true and correct.

13 Dated this 8th day of December, 2014.

14 _____

15 Kristen Krakofsky, Notary Public

16 My commission expires November 3, 2017.

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