

1
2 **MEETING IS CALLED TO ORDER:**

3
4 MR. LEVITON: Pledge of allegiance.

5
6 **SALUTE TO THE FLAG**

7
8 MR. LEVITON: Pursuant to section five of the Open Public
9 Meetings Act, notice of this meeting of the Manalapan Township Zoning
10 Board of Adjustment was sent and advertised in the Asbury Park Press.
11 A copy of that notice was posted on the bulletin board where public
12 notices are displayed in the municipal building. In addition, a copy
13 of this notice is and has been available to the public and is on file
14 in the office of the municipal clerk. Accordingly, this meeting is
15 deemed in compliance with the Open Public Meetings Act. Good evening
16 public. Board members, thank you for coming. It's very difficult to
17 get a quorum in the summertime and I appreciate everyone's being here.
18 Roll call please.

19
20 **ROLL CALL**

21
22 MS. MOENCH: Mr. Gregowicz?

23
24 MR. GREGOWICZ: Here.

25
26 MS. MOENCH: Mr. Wechsler?

27
28 MR. WECHSLER: Here.

29
30 MS. MOENCH: Mr. Schertz not with us. Mr. Shalika?

31
32 MR. SHALIKAR: Here.

33
34 MS. MOENCH: Mr. Weiss is absent this evening. Mr. Mantagas,
35 absent this evening. Mr. Pochopin?

36
37 MR. POCHOPIN: Here.

38
39 MS. MOENCH: Mr. Harrington, not with us. Ms. Klompus is not
40 with us. Chair Leviton?

41
42 MR. LEVITON: I'm here. Okay, first up is to accept the
43 minutes from June 6th. Will someone make a motion and will someone
44 second it?

45
46 MR. SHALIKAR: I'll make the motion.

47
48 MR. WECHSLER: I'll second.

49

1 MR. LEVITON: Thank you Mr. Shalikar and Mr. Wechsler.

2

3 MS. MOENCH: Mr. Shalikar is not eligible. I don't think you
4 were present on the sixth, right?

5

6 MR. POCHOPIN: I'll make the motion to accept the minutes.

7

8 MS. MOENCH: Alright, Mr. Gregowicz?

9

10 MR. GREGOWICZ: I'll second it.

11

12 MS. MOENCH: Oh, I'm sorry, wait.

13

14 MR. GREGOWICZ: I thought you said he wasn't eligible.

15

16 MS. MOENCH: Who made it?

17

18 MR. SHALIKAR: I did.

19

20 MS. MOENCH: But you're not eligible.

21

22 MR. POCHOPIN: So, I made the motion in place of him.

23

24 MS. MOENCH: Okay got it, sorry.

25

26 **ROLL CALL**

27

28 MS. MOENCH: Mr. Gregowicz?

29

30 MR. GREGOWICZ: Yes.

31

32 MS. MOENCH: Mr. Wechsler?

33

34 MR. WECHSLER: Yes.

35

36 MS. MOENCH: Mr. Pochopin?

37

38 MR. POCHOPIN: Yes.

39

40 MS. MOENCH: Chair Leviton?

41

42 MR. LEVITON: Yes. Next, we need to memorialize number
43 1822EX2, Mr. Marmero, please.

44

45 MR. MARMERO: Sure Mr. Chairman. This was the resolution for
46 500 Madison Capital LLC. The applicant was previously granted a floor
47 area ratio variance along with preliminary and final site plan
48 approval, ancillary bulk variances, and waivers and they appeared

1 before you at the last meeting for an extension of time, specifically
2 a one-year extension and then a conditional second one-year extension
3 if needed.

4
5 MR. LEVITON: Thank you counselor. I need Bob, Mike, or
6 Joshua to make a motion and then one of you other two to second it.

7
8 MR. SHALIKAR: I'll make the motion.

9
10 MR. GREGOWICZ: I'll second it.

11
12 MR. LEVITON: Thank you Josh and Bob.

13
14 **ROLL CALL**

15
16 MS. MOENCH: Mr. Gregowicz?

17
18 MR. GREGOWICZ: Yes.

19
20 MS. MOENCH: Mr. Wechsler?

21
22 MR. WECHSLER: Yes.

23
24 MS. MOENCH: Mr. Shalika?

25
26 MR. SHALIKAR: Yes.

27
28 MS. MOENCH: Mr. Pochopin?

29
30 MR. POCHOPIN: Yes.

31
32 MS. MOENCH: Chair Leviton?

33
34 MR. LEVITON: Yes. Okay, this evening we have Mr. Nick Matera
35 sitting in for Jen Beahm, our planner, and I'll ask our attorney if he
36 would swear in our professionals.

37
38 MR. MARMERO: Sure, if you both would raise your right hand.
39 Do you swear that the testimony that you guys will provide tonight
40 will be the truth, the whole truth, and nothing but the truth?

41
42 MR. MATERA: I do.

43
44 MR. MARMERO: Okay great.

45
46 MR. LEVITON: Thank you professionals. Thank you, Mr.
47 Marmero.

48

1 MR. MARMERO: Sure.

2

3 MR. LEVITON: Okay it's time for only public hearing this
4 evening. It is application 2403, 143 Route 33 LLC, and on behalf of
5 the applicant the distinguished Mr. Licata, and his good friend with
6 hot peppers Mr. Ploskonka.

7

8 MR. PLOSKONKA: How are you doing Mr. Chairman?

9

10 MR. LEVITON: Welcome back gentlemen.

11

12 MR. LICATA: Good evening, Mr. Chairman, thank you, Peter
13 Licata of the law firm Sonnenblick, Mehr, and Licata Freehold on
14 behalf of the applicant.

15

16 MR. LEVITON: Mr. Licata, you're here this evening for an
17 amended site plan and a final site plan.

18

19 MR. LICATA: Effectively yes with a request for relief from a
20 condition of prior approval. Back in 2015, this board granted a floor
21 area ratio variance to expand the existing parking lot and the
22 accompanying site plan approval. At that time, a medical office was
23 proposed to occupy the first floor which it did after the approval. It
24 did, it had the property under lease until about 2023, and that first
25 floor remains as laid out under the floor plan approved by this board.
26 It was a small medical practice of about 2,430 square feet. Where you
27 could be seen without an appointment, and they used the word urgent in
28 their name. That's as far as I have any claim to the word urgent or
29 the concept of urgent care. It was a medical office. You could walk in
30 without an appointment. It has been vacant for some time. The approval
31 that you granted back in 2015 for those, for that relief, said that
32 the second floor could not actively be used. It could only be used for
33 storage purposes for the medical office. The building has been
34 marketed for some time. We have a user who wants to occupy the second
35 floor which is 1,270 square ft. They are a drafting office, a design
36 office. We mistakenly thought at first, they were an architect,
37 they're not a licensed architect per se. They design the metal
38 components that go inside of walls for everything from drywall to
39 structural support. And so, they do design work and it's a good quiet
40 second floor space to do design work. Obviously, there wouldn't be any
41 manufacturing or fabrication there. And with that overview, I would
42 call Mr. Ploskonka to give us some more detail.

43

44 MR. MARMERO: I'll get you sworn in Mr. Ploskonka, if you'll
45 raise your right hand. Do you swear the testimony that you'll provide
46 tonight will be the truth, the whole truth and nothing but the truth?

47

1 MR. PLOSKONKA: I do. John Ploskonka, P-L-O-S-k-O-N-K-A
2 professional engineer, Manalapan, New Jersey.

3
4 MR. MARMERO: And Mr. Chairman, I assume we accept him as an
5 expert?

6
7 MR. LEVITON: We absolutely do, sorry Albert.

8
9 MR. PLOSKONKA: Thank you Mr. Chairman. Those of you that
10 were around - - - this property was a tavern, it was the Millhurst
11 Tavern on the corner of Route 33 --- Lane shows the existing
12 conditions that's there now. The building is there. The parking is
13 there. The striping was there. The landscaping was there. The lighting
14 is there and there's also city water and city sewer for the business.
15 That all occurred in the last eight years --- completely and there's
16 no proposal to change anything on the site or the building. So, we're
17 here only for the permits of trying to have the design for use the
18 second floor, 1,270 square feet and then have a similar medical use on
19 the first floor, thank you. These are similar medical use on the first
20 floor if and when he gets another tenant we don't have to come back
21 and waste the board's time. There's so many, that tenant fits the
22 description of what was there that moved out which was a doctor, a
23 couple of helpers in the doctor's office, and it's all laid out in
24 your previous resolution of approval, but we have. So it's pretty
25 clear what was in that case. At this time, the average tenant, the
26 design person, has usually two people a week that visits at most.

27
28 MR. LICATA: By way of client?

29
30 MR. PLOSKONKA: By way of clients and then he goes out to
31 the different sites to take measurements and is there by himself. He
32 may have a second part-time person, but that's not in the works until
33 maybe in the future. So, he only needs two, three parking spaces.
34 There are twenty parking spaces here that we created in the 2015-17
35 year range when we got rid of the septic system and we're able to add
36 some more spaces so we now have twenty spaces including a handicapped
37 and we believe there's no issue with parking for this use as well as
38 an urgent care type use in the future and we have a traffic engineer
39 who has looked at the situation, Mr. Ray, and will testify.

40
41 MR. LICATA: Thank you John. In terms of your hours of
42 operation for the proposed design tenant? What would that be?

43
44 MR. PLOSKONKA: He's a busy person. He works seven days a
45 week, 9:00 to 5:00.

46
47 MR. LICATA: 9:00 to 5:00 and what kind of deliveries would
48 be associated with this use?

1
2 MR. PLOSKONKA: UPS basically nothing else.

3
4 MR. LICATA: For office?

5
6 MR. PLOSKONKA: Yeah.

7
8 MR. LICATA: And drafting supplies?

9
10 MR. PLOSKONKA: Yeah.

11
12 MR. LICATA: Okay thank you. Mr. Chairman I would make Mr.
13 Ploskonka available for questions.

14
15 MR. LEVITON: Mr. Ploskonka, do you recall when the tavern
16 closed up shop? Because I know I was a patronne there forty years ago,
17 but I don't want to.

18
19 MR. PLOSKONKA: That would be around the late 90s.

20
21 MR. LEVITON: Really?

22
23 MR. PLOSKONKA: Yeah, because we came back before this board.
24 I didn't come back. It was Quest came back, Quest Engineering in 2003
25 and came in for an amendment to the plan to do a few things such as
26 get rid of, add a three hundred square foot to the building, remove
27 the refrigerator box, ---, construct a new septic area, and connect to
28 public water. That happened in 2003 and the board approved that. S,o
29 the tavern, I saw the Olde Silvers so I don't remember this one.

30
31 MR LEVITON: That's okay. Mr. Ploskonka, let me clarify my
32 understanding. This board in 2015 approved the F.A.R. variance for a
33 medical use downstairs and it permitted upstairs for something other
34 than what you're requesting this evening.

35
36 MR. PLOSKONKA: Correct.

37
38 MR. LEVITON: It was permitted to be used as office space
39 for the medical practice, is that correct?

40
41 MR. PLOSKONKA: Storage.

42
43 MR. LEVITON: Storage?

44
45 MR. PLOSKONKA: Yeah.

46
47 MR. LEVITON: So now you have no tenant downstairs. Your
48 client has no tenant downstairs and you want to put in a drafting from

1 upstairs with one principal, maybe two in the future who's on the road
2 a couple days a week, but spends a full work day in that space.

3
4 MR. PLOSKONKA: That's correct.

5
6 MR. LEVITON: And you talked about parking. Do you need a
7 waiver for parking?

8
9 MR. PLOSKONKA: I think we need a variance for parking based
10 on the ordinance in the town and if you recall last time, we did get a
11 variance for the instant care from this board.

12
13 MR. LEVITON: So, we granted you the variance for the
14 parking. Twenty spots?

15
16 MR. RIZZO: Sir it's a design waiver.

17
18 MR. LEVITON: It's a design waiver?

19
20 MR. RIZZO: Yeah, just really quick there's - - - jump in if
21 you'd like, but twenty spaces are existing. There's no change to
22 what's existing. The 2000, sorry, 2015 approval the zoning board
23 required twenty-three parking spaces at that time. Now adding the
24 drafting use on the second floor brings it to twenty-nine total spaces
25 required. So twenty-nine required, twenty exist and remain, that's the
26 application tonight.

27
28 MR. LEVITON: And so, they don't need a variance, they only
29 need a waiver.

30
31 MR. RIZZO: A design waiver correct.

32
33 MR. LEVITON: And Mr. Matera do you or does Ms. Beahm take
34 exception to that?

35
36 MR. MATERA: No, I don't believe so. There is mainly the
37 issue regarding this parking itself so I don't believe we take any
38 issues.

39
40 MR. LEVITON: Okay.

41
42 MR. RIZZO: Mr. Chair I recommend we hear some traffic
43 testimony.

44
45 MR. LEVITON: Yeah Mr. Ray I see you sitting out there and
46 they've indicated that they're going to bring him up and Mr. Rizzo is
47 a good time.

48

1 MR. RIZZO: Do you mind if I ask a few more questions of Mr.
2 Ploskonka?

3
4 MR. LEVITON: Not at all, feel free.

5
6 MR. RIZZO: Thank you. The deliveries you're expecting and I
7 could small box truck where do you expect them to stage? Is it any
8 different than previously anticipated? Is there space for it?

9
10 MR. PLOSKONKA: Basically, it's a UPS truck coming in,
11 dropping something off. There are no box trucks to my knowledge, but
12 the mail and UPS is at so they can just pull in to one of the spots
13 and deliver and get out in a few seconds.

14
15 MR. RIZZO: You expect it to be the back of the building?

16
17 MR. PLOSKONKA: Yes.

18
19 MR. RIZZO: Okay. As part of our previous discussions at the
20 TRC we discussed that there's a dumpster that's just exposed, it's not
21 surrounded. At that point we asked for a masonry trash enclosure. Is
22 that something that you've considered and you're willing to provide?

23
24 MR. PLOSKONKA: We agree.

25
26 MR. RIZZO: They will provide that, okay and then beyond
27 that the enclosure is in front of a parking space. I think it be
28 appropriate if you put some type of signage for employees only so that
29 you don't have a customer of the medical use or something like that.

30
31 MR. PLOSKONKA: Agreed.

32
33 MR. LICATA: We'll stipulate to that condition.

34
35 MR. RIZZO: Mr. Ploskonka I know you're not an architect. I
36 know you didn't prepare the architectural plan that was submitted, but
37 I did take a look at the second-floor plan which I expect won't be
38 changing very much. It looks like there's two individual offices there
39 so that's probably two employees and then the other half of the
40 building or other half of the floor is open space. Have you considered
41 how that space will be used? Is it cubicles? Is it going to be one
42 large conference room? And the purpose for that question is how you
43 see this; this use potentially expanding over the years as it relates
44 to parking.

45
46 MR. PLOSKONKA: I think we'll be limited to those 1,270
47 square feet, but if the board approves this application, then I'm not

1 sure how the designer is going to utilize it, but obviously he could
2 it's not a big space, but he can't expand beyond 1,270.

3
4 MR. RIZZO: Agreed and I think this will probably lead into
5 the traffic testimony, but do you foresee the potential for them to
6 expand beyond the two employees which you're testifying to tonight?

7
8 MR. PLOSKONKA: If he does, he'll have to go someplace else
9 probably.

10
11 MR. RIZZO: I'm sorry?

12
13 MR. PLOSKONKA: Have to go someplace else. If there's not
14 enough room there, he has to go somewhere else, but.

15
16 MR. LICATA: I'll stipulate for the record that the owner
17 has indicated to me that the balance of the second-floor space is to
18 remain open.

19
20 MR. RIZZO: Okay.

21
22 MR. LEVITON: And Mr. Rizzo you've examined the plans, the
23 architectural plans, is it just open and accessible? Is there a wall
24 dividing it off?

25
26 MR. RIZZO: It's shown as an open room. It's about half of
27 the floor. Now that could easily be turned into cubicles. It could put
28 a large table and be a conference room. There are different ways they
29 could utilize the space. I think they have the option to grow into it.
30 I would assume they might want to, but I guess at this time they're
31 saying that they have two employees and again this is kind of leading
32 into the traffic testimony, but what I'm getting at is number of
33 vehicles that would be associated.

34
35 MR. LEVITON: Yeah, I think they testified there's only one
36 current employee.

37
38 MR. LICATA: Yeah, one full-time employee and one part-time
39 as needed.

40
41 MR. LEVITON: Oh.

42
43 MR. LICATA: As anticipated.

44
45 MR. LEVITON: I stand corrected, good for you. Okay,
46 anything else?

47

1 MR. RIZZO: And then lighting and landscaping, it's all
2 existing. Do you think that's satisfactory in its current condition?

3
4 MR. PLOSKONKA: It's all as approved by your office.

5
6 MR. RIZZO: And functional?

7
8 MR. PLOSKONKA: When we did it in 2018 or '19 and if you or
9 Shari Spero want to take a look at it, I'll be happy to do that and
10 upgrade something if you need to.

11
12 MR. RIZZO: Alright thank you and then signage, are you
13 going to be changing any signs?

14
15 MR. PLOSKONKA: There are three signs on the property.
16 They're going to remain exactly as is. No changes may be changing the
17 lettering for the use.

18
19 MR. RIZZO: Advertise this use.

20
21 MR. PLOSKONKA: Yeah, but no other signs.

22
23 MR. RIZZO: Okay, alright thank you Mr. Chair.

24
25 MR. LEVITON: Mr. Matera, anything for Mr. Ploskonka?

26
27 MR. MATERA: I know we just mentioned something about an
28 employee's only sign. I don't know if that's maybe in front of the
29 dumpster.

30
31 MR. RIZZO: Yeah, I recommend it be in front of the dumpster
32 and we can review it on a plan.

33
34 MR. LEVITON: Nick, you have to speak closer.

35
36 MR. MATERA: Sorry about that.

37
38 MR. LEVITON: Okay, turn it on yeah and then close.

39
40 MR. MATERA: Okay. No, I don't believe anything else.

41
42 MR. LEVITON: Okay thank you Mr. Matera. Board members,
43 before we let Mr. Ploskonka go? Anybody have anything for him?

44
45 MR. GREGOWICZ: I have nothing.

46
47 MR. LEVITON: Okay.

48

1 MR. WECHSLER: Same.

2
3 MR. LEVITON: You're good to go.

4
5 MR. PLOSKONKA: Thank you.

6
7 MR. LICATA: Mr. Ray.

8
9 MR. LEVITON: Mr. Marmero, the board recognizes Mr. Ray's
10 credentials if you'll just swear him in, he's good to go.

11
12 MR. MARMERO: You beat me to it. Mr. Ray I'll get you sworn
13 in. Do you swear the testimony you'll provide tonight will be the
14 truth, the whole truth, and nothing but the truth?

15
16 MR. RAY: I do.

17
18 MR. MARMERO: Okay go-ahead sir.

19
20 MR. RAY: John Ray licensed professional engineer with
21 McDonagh & Ray Associates. Here this evening to testify on the
22 adequacy of the parking, the twenty parking spaces that currently
23 exist on the site. I did prepare a report dated April 4, 2024 looking
24 at the adequacy of the parking understanding that two parking spaces
25 would be needed for the upstairs portion of the building as has been
26 testified to base on the user that's going to occupy the second floor
27 and what I wanted to do was take a look at the balance of the parking
28 and see if a medical use or an urgent care center which used to be on
29 the site would generate parking that would still be within the twenty
30 spaces that are existing on the lot. So, what I did was and I'm going
31 to talk about the ground floor first because I want to give the board
32 a comfort level that the parking for the ground floor is adequate, and
33 then you can see what we have in terms of a surplus that can support
34 whatever's on the second floor. I went to the latest edition of the
35 Institute of Transportation Engineers' Parking Generation Manual,
36 that's the sixth edition, and I looked at the peak parking ratios for
37 both an urgent care and for a standalone medical office building and I
38 utilized the 85th percentile peak parking ratio. That's typically what
39 you use for design purposes. It's higher than the average rate that
40 the IT has published. It gives you a level of confidence that there's
41 some factor of safety built into the parking ratios and based on the
42 square footage of the ground floor which is approximately 2,300 square
43 feet as I understand it. If an urgent care were to go back into that
44 space it would generate a need for nine parking spaces leaving eleven
45 spaces for the upstairs portion of the building. If a standalone
46 general medical office user went in there it would require ten parking
47 spaces which again would leave ten parking spaces for the second floor
48 of the building. So, under either scenario it's my opinion that the

1 twenty parking spaces will be more than adequate to support the use
2 that's proposed for the second floor and if the landlord is lucky
3 enough to get another medical user downstairs which the space is all
4 fitted out for, we will have more than enough adequate parking. In
5 fact, I believe we'll have a little bit of a surplus parking under any
6 scenario. That's it.

7

8 MR. LEVITON: Thank you Mr. Ray. Mr. Matera back to you. Do
9 you take exception to Mr. Ray's testimony? Do you concur with his
10 conclusions?

11

12 MR. MATERA: I do concur with his conclusions. I don't see
13 any particular issues as long as the existing building is able to
14 accept the parking for all of its constituents whoever happens to be
15 in there.

16

17 MR. LEVITON: Thank you sir, let's go to the board and see
18 if they have any questions for Mr. Ray.

19

20 MR. GREGOWICZ: No questions.

21

22 MR. POCHOPIN: No questions for me either, thank you.

23

24 MR. WECHSLER: No questions.

25

26 MR. SHALIKAR: No questions.

27

28 MR. LEVITON: Mr. Ray, you are good to go.

29

30 MR. RAY: Thank you sir.

31

32 MR. LEVITON: You're welcome. Thank you, sir. Mr. Licata?

33

34 MR. LICATA: I think my last witness would be Barbara Allen.
35 She's a professional planner.

36

37 MR. LEVITON: Ms. Allen, welcome to you. Our attorney will
38 swear you in. He's going to voir dire you and then we'll accept your
39 credentials.

40

41 MR. MARMERO: Raise your right hand. The testimony you will
42 provide tonight will be the truth, the whole truth, and nothing but
43 the truth?

44

45 MS. ALLEN: Yes, I do.

46

47 MR. MARMERO: Okay and if you could just state your
48 credentials for the record.

1
2 MS. ALLEN: Yes, my name is Barbara Allen. I'm a licensed
3 professional planner and an A.I.C.P. Been with Beacon Planning since
4 2008 and worked my way up to principal. I've been accepted as a
5 professional planner throughout the state of New Jersey.

6
7 MR. LEVITON: The board accepts your credentials Ms. Allen,
8 welcome.

9
10 MS. ALLEN: Thank you.

11
12 MR. LICATA: Thank you Barbara could you explain what you've
13 reviewed in preparation for your testimony?

14
15 MS. ALLEN: Yes.

16
17 MR. LICATA: And the conclusions you drew.

18
19 MS. ALLEN: Yes, I visited the site as well as reviewed the
20 master plan, the reexamination reports, the local ordinances, the
21 review letters, and the prior applications. In this instance, your
22 master plan does speak to promoting commercial uses in appropriate
23 locations and with regard to the municipal land use law I would say
24 that this promotes the reutilization or the efficient reutilization of
25 existing structures. So, in this instance we are just seeking a really
26 from a prior condition of approval wherein. Should I be closer?

27
28 MR. LEVITON: No, you're fine.

29
30 MS. ALLEN: Okay. I don't want to have to come over. We're
31 seeking a relief from a prior condition of approval wherein it stated
32 that the second floor had to be limited to storage only. In this
33 instance seeking to provide a drafting office or a business office
34 which is also a permitted use. As was testified to, the parking is
35 more than sufficient on site. With waivers it has to be kind of
36 reasonable. It doesn't have live to the standard of a C1 bulk variance
37 or any of those standards. So, on this instance I believe that we've
38 provided the testimony required to grant the waiver. There are no
39 substantial impacts associated with it as it can accommodate the
40 parking. Traffic is along a local commercial corridor of the
41 community. It will not generate significant trash, noise, or any
42 additional stormwater. Are there any questions I can answer?

43
44 MR. LEVITON: Board?

45
46 MR. WECHSLER: No questions.

47

1 MR. LEVITON: So, I'll just set the stage. You're seeking an
2 F.A.R. variance, that's a D variance, correct?

3
4 MS. ALLEN: We are not seeking a F.A.R. variance with this
5 application.

6
7 MR. LEVITON: Because you already got one.

8
9 MS. ALLEN: Because we already got one.

10
11 MR. LEVITON: You're seeking a design.

12
13 MS. ALLEN: Waiver.

14
15 MR. LEVITON: A design waiver.

16
17 MS. ALLEN: Yes.

18
19 MR. LICATA: On the parking spaces.

20
21 MS. ALLEN: On the parking spaces.

22
23 MR. LEVITON: On the parking spaces. That's it?

24
25 MR. LICATA: And the release, the relaxation of that
26 condition of not using the second floor for anything other than
27 storage.

28
29 MR. LEVITON: Got you. Mr. Matera? She testified that this
30 is an appropriate reuse of an existing property and do you take
31 exception to that?

32
33 MR. MATERA: I don't. I believe that it was previously
34 approved and used as an urgent care in the past. Using that term, I
35 don't know that urgent care is necessarily defined, but instead using
36 it as a medical office then it shouldn't be an issue in my eyes.

37
38 MR. LEVITON: And if we recall Mr. Ray's testimony, it's
39 nine spaces as an urgent care and ten as a private medical practice.
40 Either way he testified to surplus and you took no exception at the
41 time.

42
43 MR. MATERA: That is correct.

44
45 MR. LEVITON: Okay, board members anything else for Ms.
46 Allen?

47
48 MR. WECHSLER: No.

1
2 MR. LEVITON: You're all good to go ma'am.

3
4 MS. ALLEN: Thank you.

5
6 MR. LEVITON: Thank you for your testimony.

7
8 MR. LICATA: Thank you Mr. Chairman. Other than I suppose
9 opening it up to the public, we would submit based upon the testimony
10 heard. Thank you for your time and attention.

11
12 MR. LEVITON: Then before I go out to the public, I just
13 want to make it clear that on behalf of your applicant you and your
14 team have met with the board's team in TRC meetings prior to tonight's
15 hearing.

16
17 MR. LICATA: Yes I think at least on two occasions we've had
18 video conferences with all your professionals.

19
20 MR. LEVITON: And I mention it because if you are only
21 seeking for the drafting team's use of the top floor you wouldn't need
22 to. Oh you need to have the relief for the redesign, but not for the
23 parking.

24
25 MR. LICATA: I believe.

26
27 MR. MARMERO: They're only really here so because a prior
28 board, this zoning board, granted approval for this project, but in
29 granting that approval they created a condition that said the second
30 floor could only be used for storage. The use they're proposing is a
31 permitted use on the second floor, but because you attached that
32 condition they need to come before you to modify that.

33
34 MR. LEVITON: Correct so that's one reason and the second
35 reason is the parking. Because if there's a potential second applicant
36 that inhabits the downstairs space it may be a potential issue.

37
38 MR. MARMERO: Correct.

39
40 MR. LEVITON: But I want to make clear.

41
42 MR. MARMERO: And then just for the record there was one
43 other potential reason to. So, some of the letters do point out the
44 urgent care use and how that may have needed a D variance, the
45 resolution that granted the prior approval did grant them urgent care
46 use and our ordinance doesn't define urgent care anywhere. So I think
47 what you're seeking to do is just to seek continued approval for the
48 medical use that's consistent with what was previously approved.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

MR. LICATA: Precisely yes.

MR. MARMERO: Alright.

MR. LEVITON: Janice and I actually spoke about it. I was a board member at the time. It's right before you began, but you dealt with the applicant because I remember him and so do you. I'm sorry sir, not you, I'm talking about the doctor who was, yeah. I'm talking about the doctor. So, I brought all this up because it's due to the board's professionals that you're seeking the potential second client downstairs. My board asked you to go ahead and ask for it all, not just the top floor, the bottom floor as well.

MR. LICATA: Exactly because we want to hopefully generate enough comfort so that there's and guidance for the land use officer if a user who's consistent with the intensity and permitted and doesn't trigger additional variances of any kind wants to come in to the first floor that the land use officer would have the authority to evaluate that land use permit and if they felt that the application didn't require additional relief from the board or the planning board by way of new improvements that there would be an ability to issue that approval without further appearance. Given the difficulty of trying to capture a tenant by way of time and other considerations in the negotiation so we did want to establish that especially again because that 2015 resolution said if you're going to do anything else with the second floor you got to come back before the zoning board first. Mr. Marmero how many affirmative votes do they need to get their design waiver?

MR. MARMERO: The design waiver is simply a simple majority. You guys have five here tonight so three.

MR. LEVITON: Okay and Mr. Rizzo can you confirm and Mr. Marmero as well that it was at the behest of our team that they've come and requested this bottom floor as well. I have your left.

MR. BOCCANFUSO: Mr. Chairman if I can jump in on that because I can probably provide a little more background and perspective than either Al or Jordan can because I was there when the very first discussion was had with the applicant's team. I was approached about the possibility of occupying the second floor with an architect or design professional. Look through the resolution and determine that based upon the previous approval of this board that occupancy would not be permitted. At the time of the previous application, I guess the board which you were on was okay with the medical office type use on the first floor, but given the shortage of parking on site relative to ordinance requirements the board was not

1 comfortable allowing the full building to be utilized as medical
2 office. So, for that reason the use of the second floor was restricted
3 to prevent that medical office from growing into it. We looked at the
4 application. I discussed it with the applicant's team and I said
5 putting on my I think Mr. Licata called me a land use officer which
6 I'm just going to have to add to my business card.

7
8 MR. LICATA: Sorry zoning officer I stand corrected.

9
10 MR. BOCCANFUSO: So, I'd like to not be the land use officer
11 as well as all the other hats I wear here, but so be it. In any event
12 putting that hat on I said why don't you guys come in to try to get an
13 approval for something on the first floor because in looking forward I
14 envision some time down the road when they find a prospective tenant,
15 they would submit a zoning permit application and I would be forced to
16 deny it because there would be no approval in place and they'd be
17 right back here before us wasting everybody's time and the applicant's
18 money. They thought it was a good idea. They looked at it. They
19 evaluated the site, and felt that the medical office use could operate
20 in that first floor along with the design professional's use on the
21 second floor and the site could still provide enough parking to
22 function. The circulation would work and so forth. So that's what
23 they've come in with. The one thing I would offer, I know there has
24 been discussion about this being a design waiver, I think it is a
25 variance because it is in a design standard section of our ordinance,
26 but earlier in the zoning regulations it points to the parking
27 requirements needing compliance. So, I don't know if we need to bring
28 back Ms. Allen to talk about it or if Pete you want to address that
29 head on.

30
31 MR. LICATA: I mean we could bring her back as needed. It
32 was my understanding it was a design waiver.

33
34 MR. BOCCANFUSO: I don't think it changes any of the
35 physical or practical conditions at all. I'll leave it to the opinion
36 of the board if they want to hear anything on it.

37
38 MR. LEVITON: So, Mr. Boccanfuso, first before we address
39 that.

40
41 MR. BOCCANFUSO: Yeah.

42
43 MR. LEVITON: The board recognizes your forward thinking and
44 appreciates your efforts as zoning officer and administrator and we
45 thank you and then we're going to defer to our counsel on this matter.

46
47 MR. BOCCANFUSO: Okay and just one more thing that I would
48 like to point out. What would be permitted by this approval if granted

1 is design professional on the second floor and medical on the first.
2 If business office comes in on the first, an accountant for example,
3 that would also be permitted because it's a less intense use. However,
4 the applicant could not come in with a more intense use on the second
5 floor such as another medical office nor could it come in with
6 something that is more intense on the first floor like a say
7 restaurant even if it was permitted in the zone. It would have to be
8 equal to or less than both above and below assuming an approval is
9 granted.

10
11 MR. LEVITON: Mr. Licata you'll make that clear to your
12 client?

13
14 MR. LICATA: Oh yes in fact that is something that became a
15 part of this application at Mr. Boccanfuso's suggestion. Again, such
16 that if we come in with something of equal or lesser intensity, we're
17 not consuming everybody's time and resources to make a reappearance.
18 So again, we do appreciate that suggestion and we do understand the
19 limitations accompanying it.

20
21 MR. LEVITON: Very good.

22
23 MR. BOCCANFUSO: That's all I have Mr. Chairman.

24
25 MR. LEVITON: Board anything else?

26
27 MR. POCHOPIN: Actually yes Mr. Chair I have one question on
28 just clarity on the layout on the second floor for the architectural I
29 think we went down this road once before with the means of egress of
30 the doors. Could Mr. Ploskonka explain the swing of the doors into the
31 stairwells or into the suite?

32
33 MR. LICATA: Do you want to refer back to the floor plans?

34
35 MR. POCHOPIN: Yes.

36
37 MR. LEVITON: Assuming he knows.

38
39 MR. LICATA: Yeah, assuming he knows.

40
41 MR. LEVITON: Dan is it specified on the plan?

42
43 MR. POCHOPIN: It looks as if the door is swinging into the
44 suite on the larger landing stairwell and where the electrical panel
45 stairwell is. It looks like it's swinging into the suite also. Usually
46 on means of egress.

47
48 MR. LICATA: It swings out.

1
2 MR. POCHOPIN: It swings out. So, it's not really a big
3 deal, but now that you're going for a more stringent use from storage
4 to employees, etc. I believe that it should be right for means of
5 egress.

6
7 MR. LICATA: Oh yeah, we would stipulate the complying to
8 building code.

9
10 MR. POCHOPIN: Just adopt a swing door.

11
12 MR. LICATA: Certainly.

13
14 MR. LEVITON: Mr. Ploskonka, you don't need to testify Mr.
15 Ploskonka because your counsel has stipulated to building code
16 compliance. No worries and that's satisfactory to our board member.

17
18 MR. PLOSKONKA: Thank you. What about the second first floor
19 approval?

20
21 MR. LEVITON: You're good sir.

22
23 MR. PLOSKONKA: ---

24
25 MR. LEVITON: You don't have to.

26
27 MR. PLOSKONKA: ---

28
29 MR. LEVITON: We'll talk about it later. It's good stuff.
30 Okay at this time I'm going to just check with our professionals, ask
31 if there's anything else that they want to say or?

32
33 MR. MARMERO: No just looking at the ordinance with Brian.

34
35 MR. LEVITON: You keep doing that.

36
37 MR. LICATA: Oh yeah, he's looking at the ordinance.

38
39 MR. LEVITON: Keep doing that and I'm going to check,
40 anything else gentlemen? Then at this time I'm going to go out to the
41 public and ask if there's anyone in attendance who wants to question
42 any of the expert witnesses that entered testimony onto the record?
43 Seeing none I'll close public and now they're talking about do they
44 need a waiver or do they need variance relief.

45
46 MR. MARMERO: Yeah, and in looking at the ordinance with our
47 professionals here it does reference the parking first in the zoning
48 ordinance and then it does talk about it later in the design standards

1 so I think our opinion is to be safe it would be considered a
2 variance. Doesn't necessarily change the testimony and it certainly
3 doesn't change your voting. It doesn't make it a super majority. So,
4 we think it's neither here nor there whether you want additional
5 testimony from Ms. Allen is up to you guys.

6
7 MR. LEVITON: I don't need it. Gentlemen anybody else?

8
9 MR. MARMERO: She did address the negative criteria and did
10 approach the other criteria so I think you're fine.

11
12 MR. LEVITON: Good stuff. Okay given the paucity of board
13 members sitting on the dais this evening it would behoove us as a
14 courtesy to let Mr. Licata know where we stand just to take a straw
15 poll before we take a vote. We need three affirmative votes. Does
16 anybody have any major concerns?

17
18 MR. GREGOWICZ: I have no concerns.

19
20 MR. WECHSLER: No concerns sir.

21
22 MR. LEVITON: I see a lot of head shaking in the negative,
23 that's terrific. In that case, Mr. Marmero?

24
25 MR. MARMERO: Sure, so you've heard testimony from the
26 applicant tonight and the applicant's attorney has presented the case.
27 What they're here for this evening is essentially to modify a
28 condition that a prior zoning board attached to a prior approval. That
29 prior approval allowed a medical use/urgent care on the first floor of
30 the building, but only permitted storage on the second floor. So, any
31 motion tonight would be to modify that condition to now also allow
32 this drafting/design firm we'll call it to occupy the second floor in
33 conjunction with the first-floor use which it sounds like the
34 applicant is comfortable stating that that medical use on the first
35 floor would be identical in scope to what was previously approved.

36
37 MR. LICATA: Yes, as well as if there was an alternative
38 equal or lesser intensive use.

39
40 MR. MARMERO: Okay so what would be permitted on the first
41 floor would be a medical use that would be identical in scope to what
42 was previously approved in addition to an alternative use that wasn't
43 any more intense than that.

44
45 MR. LICATA: Correct yes.

46
47 MR. BOCCANFUSO: And as long as it was a use permitted in
48 the zone.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48

MR. LICATA: Absolutely, certainly yes.

MR. MARMERO: And then we also heard testimony regarding the necessary parking variance that would be needed. In terms of conditions that were discussed, obviously we just talked about that any use on the first floor would be identical in scope or if it was alternative no more intense than what was there. We also heard testimony that the applicant would agree to a mason restructure around the trash enclosure and then to install employee only parking signs in front of that trash enclosure and I think that's the extent of the conditions that I heard tonight. So, any motion would be attached to those conditions and then a motion to modify the condition that was previously attached and to grant the parking variance.

MR. LEVITON: Did you just ask for two different motions?

MR. MARMERO: Not necessarily no. It could all be rolled into one motion.

MR. LEVITON: Will someone make a motion?

MR. GREGOWICZ: I'll make a motion to approve the application along with any conditions and variances which were raised by the board this evening.

MR. SHALIKAR: I'll second that. That was loud. I'll second that. Why did that happen?

MR. LEVITON: Thank you gentlemen.

ROLL CALL

MS. MOENCH: Mr. Gregowicz?

MR. GREGOWICZ: Yes.

MS. MOENCH: Mr. Wechsler?

MR. WECHSLER: Yes.

MS. MOENCH: Mr. Shalika?

MR. SHALIKAR: Yes.

MS. MOENCH: Mr. Pochopin?

1 MR. POCHOPIN: Yes.

2

3 MS. MOENCH: Chair Leviton?

4

5 MR. LEVITON: Congratulations.

6

7 MR. LICATA: Thank you very much everybody.

8

9 MR. LEVITON: You're welcome. Okay at this time I need to go
10 out to the public and ask if there's anyone here who wants to question
11 the board on non-agenda items. Seeing none I'll close public and let's
12 go to Mr. Marmero. Any litigation news?

13

14 MR. MARMERO: No nothing.

15

16 MR. LEVITON: Nothing?

17

18 MR. MARMERO: And no news is good news as far as I'm
19 concerned.

20

21 MR. LEVITON: Except as it relates to litigation. You're not
22 responsible for. No news is no news.

23

24 MR. MARMERO: Correct.

25

26 MR. LEVITON: Neither good nor bad so nothing. You've heard
27 nothing, okay.

28

29 MR. BOCCANFUSO: Mr. Chairman?

30

31 MR. LEVITON: Yes.

32

33 MR. BOCCANFUSO: Just have the board's attention one quick
34 moment.

35

36 MR. LEVITON: Of course.

37

38 MR. BOCCANFUSO: So as the board may or may not be aware, we
39 only have one meeting in August because the township is going to be
40 doing upgrades in this room. So, we're losing our second meeting. Our
41 only meeting is I think August 1st, is that right?

42

43 MR. LEVITON: It's the first.

44

45 MR. BOCCANFUSO: So, Janice in her valiant efforts to
46 accommodate applicants and really work with them and get them in has
47 really filled up the agenda on August 1st. I think we have three
48 residential applications and one commercial, right?

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47

MS. MOENCH: And Vookum coming back.

MR. BOCCANFUSO: And Vookum coming back. We're hopeful that one will come to a conclusion relatively quickly, but it was obviously a complicated application so we'll see.

MR. WECHSLER: Is it commercial and Vookum?

MR. BOCCANFUSO Vookum is the commercial and then three residential which we don't think the residentials are that complicated, but those are famous last words as the board knows. So, what I'm getting at here is this is a good news, bad news situation. We have one meeting in August only is the good news. That one meeting is pretty full and we may end up having to stay a little bit late that night. I'm hopeful we could get out by 10:00, but we really didn't want to push these applicants into September. So be prepared for a full meeting, maybe a little bit later. Drink an extra cup of coffee or Red Bull if you need to that night. I know that everybody's time is valuable, but given the circumstances we felt it was appropriate to really try to get these folks in and out. So I just wanted to give everybody the heads up.

MS. MOENCH: Because we already have September pretty much booked. So, these residential applications, people wanting to close on their homes and things like that, it's really not fair to them.

MR. LEVITON: That's good. Something else, it occurs to me that I think I don't ever look, but I'm told Manalapan Facebook page has been unfavorable to Manalapan zoning. It could be planning and they don't understand the distinction, but what?

MR. BOCCANFUSO: I'll defer to our in-house Facebook expert, Ms. Moench.

MR. LEVITON: Janice is there?

MS. MOENCH: Ms. Moench isn't on Facebook.

MR. BOCCANFUSO: She has to use a pseudonym in order to go on to avoid personal attacks.

MR. LEVITON: Is there malcontent that's widespread? Am I misinformed?

MS. MOENCH: I don't know.

1 MR. BOCCANFUSO: I haven't. I don't go on the Manalapan
2 Facebook page so I don't know. I just know what I hear. I hear that
3 there is more disdain directed towards the construction department
4 than the zoning department.

5
6 MR. LEVITON: Why?

7
8 MR. BOCCANFUSO: Well.

9
10 MS. MOENCH: Because we rock.

11
12 MR. LEVITON: We do rock.

13
14 MR. BOCCANFUSO: We rock, yes. The construction permit
15 review is a little bit more complicated; I think. So, things have a
16 tendency to go awry there. There are problems, I guess.

17
18 MS. MOENCH: Are you asking more towards the ZCCO issues?

19
20 MR. LEVITON: No, I think what was told to me came on the
21 heels of a conversation that had to do with the new intersection on 33
22 and the housing going up across from Wemrock Brook and the queue it's
23 going to create.

24
25 MS. MOENCH: Right.

26
27 MR. LEVITON: Or add to the impossible one on Main Street
28 with Tennent Avenue.

29
30 MS. MOENCH: That's the D.O.T. not us and I mean everybody
31 wanted those improvements, right? It takes time.

32
33 MR. LEVITON: Bob can you shed any light on that? The D.O.T.
34 and Tennent Road improvements? He can't.

35
36 MR. GREGOWICZ: Tennent Road improvement?

37
38 MR. LEVITON: Yeah.

39
40 MR. GREGOWICZ: You'll probably never see that. That was
41 supposed to start five years ago and now it's back to square one which
42 means they have to design everything again. So, I doubt if we're going
43 to see that.

44
45 MR. LEVITON: And what about anyone and any rumblings that
46 they've heard related to what we do?

47
48 MR. MARMERO: I haven't heard anything.

1
2 MR. LEVITON: Okay good.

3
4 MR. BOCCANFUSO: I know that.

5
6 MR. LEVITON: Okay.

7
8 MR. BOCCANFUSO: What I would say is that one thing that
9 I've become very proud of in my short time as the head of that
10 department is that the folks in that department. You don't always give
11 people good news. It's tough telling people that they can't do
12 something that they want to do or they have to do something that they
13 don't want to do.

14
15 MS. MOENCH: - - - I'm sorry.

16
17 MR. BOCCANFUSO: Our team from what I've seen is very
18 professional, very polite, very considerate not nasty or dismissive in
19 any way. Very understanding of the problems that people face and that
20 goes a long way.

21
22 MS. MOENCH: That's Janice, Ilona, and Nancy.

23
24 MR. BOCCANFUSO: And now Dominick.

25
26 MR. LEVITON: And Dominic is our new enforcement officer.
27 He's the new Suzanne.

28
29 MR. BOCCANFUSO: Right so and I can tell you that while I
30 don't monitor the Facebook page, I have been forwarded a number of
31 emails to that effect about our staff. How it was unfortunate that the
32 homeowner had to do A,B and C but person in the office was great and I
33 have received at least three of those over the past month.

34
35 MR. LEVITON: Then pass along our pride as well and kudos.

36
37 MR. BOCCANFUSO: What's that?

38
39 MR. LEVITON: Pass along to the staff the chair and the
40 board's pride additional to your own. That it was mentioned and that
41 we appreciate it also.

42
43 MR. BOCCANFUSO: Will do.

44
45 MS. MOENCH: I think the only phone call we got with regard
46 to that intersection was a woman who missed a doctor's appointment and
47 she was quite upset about it and she let us know.

48

1 MR. BOCCANFUSO: There was a woman who was upset about
2 missing a doctor's appointment because of was it Tennent and Main or
3 was it on Main and Millhurst or Millhurst and 33?

4
5 MS. MOENCH: It was over there. I think it was that one
6 maybe.

7
8 MR. BOCCANFUSO: It's part of an ongoing.

9
10 MR. LEVITON: But it's been finished now. It's all done so
11 that's all going to be a thing of the past. Okay I'm good. Gentlemen,
12 anything else? Professionals? So, will someone move to adjourn. We can
13 watch the convention.

14
15 MR. WECHSLER: Make a motion.

16
17 MR. LEVITON: Outstanding, thank you Michael. Goodnight
18 everyone.

19
20 *****
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35
36
37
38
39
40
41
42
43
44
45
46
47
48