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Volume XIII
Pages 1-60

Brookline Zoning Board of Appeals Hearing
1180 Boylston Street
Comprehensive Permit Application
Chestnut Hill Investments, LLC
March 6, 2017, at 7:00 p.m.
Brookline Town Hall
333 Washington Street, 6th Floor
Brookline, Massachusetts 02445

Reporter: Kristen C. Krakofsky

1 APPEARANCES

2 Board Members:

3 Johanna Schneider, Chair

4 Jonathan Book

5 Mark Zuroff

6

7 Town Staff:

8 Alison Steinfeld, Planning Director

9 Maria Morelli, Senior Planner

10

11

12 Applicant:

13 Raj Dhanda, Chestnut Hill Investments, LLC

14 Rachna Balakrishna, Chestnut Hill Investments, LLC

15 Bob Engler, President, SEB, LLC

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18 Members of the Public:

19 Janice Khan

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1 PROCEEDINGS:

2 7:02 p.m.

3 MS. SCHNEIDER: Okay. If everyone could
4 take a seat, it's 7:00, so we're going to start the
5 hearing.

6 Good evening, everyone. We are here on the
7 continued comprehensive permit application for
8 1180 Boylston Street.

9 Maria, did you want to give any updates
10 before we get started about the process?

11 MS. MORELLI: Okay. Just to let the public
12 know, at the last hearing, February 15th, we went
13 over the waivers list, and the ZBA did approve the
14 waivers. It included two recommendations from the
15 building commissioner, Dan Bennett. I have included
16 that. You should have it at the very end of your
17 packet. There are three exhibits at the end, and you
18 will see that waivers list amended with the two
19 additional waivers that Mr. Bennett recommended and
20 the applicant also accepted. So at some point -- it
21 can be this evening or March 20th, which is the date
22 of the deadline to close this public hearing -- at
23 some point you just want to review all of the
24 exhibits.

1 So tonight we do have the -- the board is
2 going to begin discussing the draft decision, which
3 you have before you. It's also been posted online.
4 And, again, the public hearing closes on March 20th,
5 so there is more opportunity for you to absorb what
6 you're reading tonight and comment -- submit comments
7 to the ZBA.

8 MS. SCHNEIDER: Okay. So we have before us
9 a draft decision on the comprehensive permit
10 application. What I'm going to suggest that we do is
11 go page by page, we read the individual numbered
12 paragraphs to ourselves, and I will ask for comments
13 page by page from the board members, and we'll
14 provide those comments into the record.

15 So does anyone have anything on the first
16 page?

17 MR. ZUROFF: Do you want to introduce the
18 board?

19 MS. SCHNEIDER: Just to remind everyone to
20 whom we are not very familiar faces at this point, my
21 name is Johanna Schneider. I'm chairing these
22 proceedings. To my immediate left is Jonathan Book,
23 and to my right is Mark Zuroff.

24 Okay. Does anyone have any comments on the

1 first page?

2 Second page?

3 Third page?

4 Fourth page? Anything?

5 MS. MORELLI: I just want to mention
6 something to you. It is under Findings, and I made
7 an error. It is 20 percent of the units would be
8 available to households earning at or below
9 50 percent of the AMI, and I've changed that
10 throughout.

11 MR. ZUROFF: Okay. I have a question about
12 4. The age restriction, does that apply to all the
13 residents? One resident? Some of the residents?

14 MS. MORELLI: I believe that at least one
15 of the occupants in the unit --

16 MR. ZUROFF: Only one of the occupants?

17 MS. MORELLI: Right. I've actually talked
18 to our housing planner. The state actually oversees
19 how that is administered. It's not really that the
20 town has to put any conditions on that, so -- because
21 I wanted to know if we needed to have conditions for
22 enforcement purposes regarding that, and it's
23 entirely up to the state to manage that process.

24 I know that you want a definitive answer to

1 your question. My understanding is that at least one
2 of the occupants needs to be 55.

3 MS. SCHNEIDER: So you could have a
4 55-year-old with a child -- a school-aged child.

5 MS. MORELLI: Right.

6 MR. ZUROFF: Or grandchildren that are
7 permanent residents.

8 MR. BOOK: Yeah. It's just that the
9 likelihood is --

10 MS. SCHNEIDER: Right.

11 MR. ENGLER: There were towns that tried to
12 make it both adults and were stricken down as
13 illegal. I mean, you can't be that restrictive that
14 both sides have to be 55 and over, so you can have
15 one person.

16 MR. ZUROFF: Right. But it still leaves
17 open the question of having school-aged children that
18 are permanent --

19 MR. ENGLER: Very unlikely, because they
20 don't choose to be there, but it's certainly not
21 illegal to have someone there.

22 MR. ZUROFF: So that's monitored by the
23 state?

24 MS. MORELLI: Yes.

1 MR. ENGLER: Yeah. Well, I guess, they
2 monitor. We know on the affordable side they're
3 monitoring every year. I don't know how they monitor
4 on the market side.

5 MR. ZUROFF: My question is based on the
6 fact that it's represented to be age restricted. So
7 if we're granting a permit based on age restriction
8 because that's presented as being a condition by the
9 developer, who's responsible for that?

10 So you're telling me it's the state. I
11 guess I can accept that.

12 MS. SCHNEIDER: But is there any reason why
13 we could not have our own independent condition
14 requiring compliance with the age restriction? I
15 mean, I do think that the age restriction is a part
16 of, you know, our review of this project, including
17 representations with respect to traffic and trip
18 generation and also the question of burdening the
19 neighborhood school. So I think that having a
20 condition of our own with respect to --

21 MR. ZUROFF: Personally, I'd like to see
22 that. So if we can do it --

23 MR. BOOK: I'm sorry. The restriction
24 would be what?

1 MS. SCHNEIDER: The condition would be
2 that -- and I guess we need to give some thought to
3 whether or not they need to certify to the town on an
4 annual basis that all units are, you know, leased in
5 accordance with the age restriction, that at least
6 one resident be 55 or older.

7 MR. ZUROFF: Is there a court decision or a
8 statute that --

9 MS. BALAKRISHNA: Yes, there is a statute
10 on the 55-and-over housing.

11 MR. ENGLER: I'll ask tomorrow from
12 MassHousing or others, because I just don't know how
13 they monitor the age restriction on all units.
14 Perhaps there's some language you could use that we
15 could borrow, because I don't think we have any
16 objections to annual certification of that fact. But
17 I'll find out.

18 MS. MORELLI: And I will do the same. I'll
19 talk to Dan Bennett and Judi Barrett.

20 MS. SCHNEIDER: Okay.

21 MR. ZUROFF: It is a premise --

22 MS. SCHNEIDER: It's a major premise of our
23 review and our approval of this project, and so I do
24 think that it needs to -- I'm not comfortable just

1 relying on a certification to the state. I would
2 want a certification to the town as well.

3 MS. MORELLI: Okay.

4 MS. SCHNEIDER: It doesn't seem like the
5 applicant is adverse to that.

6 MR. ZUROFF: Maria, when we see these
7 grayed-out areas, is that filled in by you?

8 MS. MORELLI: Yes, that will be. So that's
9 just a note to me that I have a question for the
10 preservation planners. I just wanted to put in the
11 date of the demolition review so that we can cover
12 ourselves there.

13 MS. SCHNEIDER: I had a comment on No. 15,
14 the very last line where it talks about Fuss &
15 O'Neill confirming that the peer reviewers were aware
16 of the change in scope and that the change is not a
17 factor in its review.

18 Do we mean it did not impact its review?

19 MS. MORELLI: Right. So what happened was
20 that because the original project -- the technical
21 report -- not the original project, but the
22 geotechnical report dated April 2015 was based on two
23 levels of underground parking. That's since changed.
24 The original project introduced just one level, so,

1 of course, those are better conditions. You're not
2 digging as deep.

3 MS. SCHNEIDER: So when you say that it's
4 not a factor in their review, do you mean that it
5 does not change the outcome of their review, or do
6 you mean that it was not something that was
7 considered?

8 MS. MORELLI: No, it doesn't mean that it
9 wasn't considered, and I realize that's ambiguous.

10 MS. SCHNEIDER: So if we can do just a word
11 change, that it did not impact its conclusions or
12 something like that.

13 MS. MORELLI: Okay.

14 MR. ZUROFF: As a clarification, I
15 understand that the developer is responsible for the
16 disturbance of the soil, and therefore he's
17 responsible for future remediation.

18 Who actually monitors that? This question
19 came up in another 40B. Who is responsible for
20 monitoring whether there is a hazardous waste
21 released or something disturbed that is
22 environmentally not sound?

23 MS. MORELLI: This is after construction?

24 MR. ZUROFF: During the construction.

1 MS. MORELLI: During construction? I
2 believe that it is the state's oversight regarding
3 that, but why don't we just -- I mean, we don't
4 have -- like, for instance, one of the questions I
5 have when there is being -- there's an excavation and
6 there's going to be, you know, stockpiling, I'd ask
7 DPW if they will be having an inspection or hiring a
8 third party to conduct an inspection to make sure
9 that that's removed. So there are environmental
10 controls for the waterproofing -- the installation of
11 the waterproofing and the ventilation, so all of
12 those things have to be really reviewed by a licensed
13 site professional that the town, very likely, would
14 be hiring a third party to oversee that.

15 MR. ZUROFF: And the developer is
16 responsible for the cost of that?

17 MS. MORELLI: Yes.

18 So I will also verify with Peter Ditto
19 regarding after construction, what the state's
20 involvement is regarding remediation.

21 MS. SCHNEIDER: And I assume the other
22 things to consider, right -- I mean, it's already --
23 it's got an RTN. It's already a disposal site under
24 the MCP, so presumably some -- whatever subsurface

1 they do, they're going to need to have their own LSP
2 on-site to be monitoring.

3 MR. ZUROFF: As a practical matter, the
4 state is not going to have somebody monitoring all
5 the time.

6 MS. SCHNEIDER: Right.

7 MR. ZUROFF: And I'm not attributing
8 anything devious to the developer, but every day
9 you're going to be carting off waste that you're
10 excavating. Who knows whether that's contaminated or
11 not unless somebody's actually looking at it?

12 MS. SCHNEIDER: That's true.

13 MS. BALAKRISHNA: On No. 10, the second
14 sentence says, "All structures have been demolished."
15 At this point, there's still one structure remaining
16 on the site. I mean, by the time we -- it will be
17 demolished. But almost all structures have been
18 demolished.

19 MS. MORELLI: I'll just talk to
20 preservation and fix that.

21 MR. BOOK: 17, it's minor, but maybe change
22 the word "address" to "discuss."

23 MS. SCHNEIDER: Agreed.

24 MS. KHAN: And should it be February 2017

1 not '16?

2 MR. BOOK: Yes.

3 MS. SCHNEIDER: Very minor, but in
4 paragraph 21 I think we're missing the word "the" in
5 the third line between "at" and "request," toward the
6 end of the third line.

7 MS. MORELLI: Yes.

8 MS. BALAKRISHNA: Also on 21, the
9 stormwater consultants have agreed with Peter Ditto
10 that the tank would be either 6,300 gallons or 839
11 cubic feet, not 6,300 cubic feet.

12 MS. MORELLI: I wondered about that.

13 MS. BALAKRISHNA: So that's another
14 correction.

15 MR. ZUROFF: I have a question on 25.
16 There was a warrant article presented. Do we have
17 any idea what happened?

18 MS. MORELLI: No. It's actually going to
19 be submitted this week to town meeting, so -- what
20 was your question? I'm sorry.

21 MR. ZUROFF: Well, I mean --

22 MS. SCHNEIDER: What's it going to say?

23 MR. ZUROFF: Yeah.

24 MS. MORELLI: It's asking for approval to

1 enter into an agreement of -- an easement agreement.

2 MR. ZUROFF: We're all assuming that the
3 town is going to grant that.

4 MS. MORELLI: So this is -- we're not
5 assuming. It's certainly up to town meeting.

6 MS. SCHNEIDER: I mean, it's a condition,
7 right, that it does get approved?

8 MS. MORELLI: Yeah. So the plan B was
9 to -- you know, if town meeting doesn't grant an
10 easement, plan B would be a license agreement. The
11 easement, obviously, is not revokable, and that's
12 preferred.

13 MR. BOOK: Just for clarification, town
14 meeting has to grant or accept an easement?

15 MS. MORELLI: They have to -- it's to
16 approve -- so we can't just sign an agreement -- an
17 easement agreement, because we will be acquiring
18 property, so they just have to approve the process.
19 We're not submitting the actual easement agreement.
20 It's really the concept of entering into --

21 MR. BOOK: No. My question is: For the
22 Town of Brookline to accept an easement from the
23 applicant, that requires town meeting approval?

24 MS. MORELLI: Yes.

1 MR. BOOK: The board of selectmen don't
2 have the authority to do that?

3 MS. MORELLI: Correct.

4 MR. BOOK: Oh, I didn't know that.

5 MS. STEINFELD: That's statutory, state
6 law.

7 MR. BOOK: The town can't accept --

8 MS. STEINFELD: Or give. No town may.

9 MR. BOOK: I mean, I knew the give. I
10 didn't know the accept part as well. Okay. I
11 learned something. Thank you.

12 MR. ZUROFF: People came to me and said,
13 I'd like to give my property to the town. The town
14 doesn't have to accept it, and they can't.

15 MR. BOOK: Yeah, I knew that. I just
16 thought it was within the purview of the board of
17 selectmen to make that decision. I didn't know it
18 had to go to town meeting.

19 MS. KHAN: I think "Pappasturgeon" is
20 spelled incorrectly.

21 MS. MORELLI: Yes. There's a "E" instead
22 of a "U".

23 MR. ZUROFF: And just to clarify the tree
24 issue. So has the tree warden, the arborist,

1 accepted the fact that there's going to be a loading
2 zone and the tree will be removed?

3 MS. MORELLI: So the process is that
4 Mr. Brady does interpret Chapter 87 very narrowly, so
5 if the tree is in good health, it stays. So the
6 recourse for the applicant is to appeal to the board
7 of selectmen who can look at it more broadly and look
8 at public benefits. So that is another process.
9 It's a separate hearing.

10 MR. ZUROFF: Again, the town has to vote on
11 that.

12 MS. MORELLI: In that case, it would be the
13 board of selectmen, not the town meeting.

14 MS. SCHNEIDER: And that's captured, I
15 think, in one of the conditions later. Condition
16 No. 9 talks about that.

17 MR. ZUROFF: Okay. I didn't get that far.

18 MR. DHANDA: The tree identified here is
19 Bradford Pear, which is not very uncommonly
20 available. And if there was an issue, could we not
21 simply say we'll replace it with the same species of
22 tree of certain caliber so that we don't have this --

23 MS. SCHNEIDER: I think the problem is that
24 it's not our jurisdiction to make this decision.

1 This is something under state law that's a separate
2 procedure that we don't get to kind of take control
3 over, even as part of 40B. So while that sounds
4 like, you know, a potentially reasonable suggestion,
5 that's not something that this board can authorize.

6 Anybody else on 6?

7 MR. BOOK: So 29, I was a little -- and
8 maybe it's just the wording. I thought the
9 statements made would be "food surface" -- I mean,
10 something more than "food prep." Like, I didn't
11 think there was going to be a coffee shop. A
12 Starbucks isn't going in there. I'm not necessarily
13 sure that Starbucks is food preparation or requires
14 cooking or venting.

15 MR. ZUROFF: Yeah. That came to my mind
16 too. I think the intent was to have parameters that
17 prevent any kind of commercial food preparation, so
18 wouldn't it be better just to say there will be no
19 commercial food preparation?

20 MS. MORELLI: We're still in the Findings,
21 and I'm just trying to accurately relay what the
22 applicant stated, but we do have a condition. And
23 Dr. Maloney was very precise. He even put in a
24 parenthetical. He said that not even tea or coffee

1 or packaged foods could be served. So we can look at
2 that condition and just see if that meets your
3 satisfaction.

4 MR. ZUROFF: Okay.

5 MS. MORELLI: But that's how I handled it.

6 MR. ZUROFF: Okay. Thank you.

7 MS. SCHNEIDER: In paragraph 31, I would
8 just request a wording change in the second
9 sentence -- second line, rather. "Provided" maybe
10 gets changed to "stating."

11 MS. MORELLI: Okay.

12 MS. SCHNEIDER: And then I did have a
13 comment under the "Decision" section. I wondered if
14 it was appropriate to also -- and I know it's in the
15 conditions below, but also to provide the number of
16 parking spaces that we're permitting here.

17 MR. ZUROFF: Why do we have 420 Harvard
18 Street on here?

19 MS. MORELLI: So I actually deleted that on
20 my copy. I apologize for not taking that out.

21 MS. SCHNEIDER: Maria, on No. 3, is this
22 the same issue that came up previously with the
23 percentages?

24 MS. MORELLI: Yes. So it should be

1 20 percent and 50 percent of the AMI.

2 MR. ENGLER: Could I add something to that
3 sentence? Because I've seen this before. It says
4 it's published by HUD, but it doesn't give a date.
5 Some people have said, well, you've got it permitted,
6 and the rents in that permit were X.

7 It should say "from time to time," because
8 annually, HUD changes these, and you just kind of
9 keep up with it. You don't go back to the first
10 year.

11 MR. ZUROFF: You might even go further and
12 say HUD or whoever happens to be in charge of
13 housing --

14 MS. SCHNEIDER: Well, once it gets
15 abolished, yeah. Who's going to publish that?

16 MR. ENGLER: HUD or the medical facility
17 that has taken over for HUD.

18 MR. ZUROFF: It could be a completely new
19 department.

20 MR. BOOK: So Condition No. 2, is that
21 starting to --

22 MS. MORELLI: That's one of them. And then
23 I believe under the rubbish, which would be under
24 Condition 15, there's also -- this is Subsection K,

1 "The project's" -- that's on page 11. "The project's
2 commercial space shall not involve or include" --
3 "shall not involve preparation or service, including
4 not selling coffee, tea, or packaged foods."

5 MR. ZUROFF: Shouldn't we combine those so
6 that it's clearer and everything is together?

7 MS. MORELLI: Sure.

8 MR. BOOK: So interesting -- so I agree
9 with Mark, but I wonder, is 15 the place for it?
10 This is dealing with a health permit. I wonder if we
11 just want a use restriction.

12 MS. SCHNEIDER: So I think the solution is
13 to move K up to No. 2. Because, I mean, I remember
14 we did get a memo from Dr. Maloney. These were the
15 conditions under which he was willing to accept their
16 rubbish removal plan. And I do know that part of
17 that was a limit on the types of generators. But I
18 agree. I think it is more appropriately the use
19 limitations, so put that all together in No. 2.

20 And I'm assuming that No. 2 -- because it
21 shall not be permitted on the site, but extend to
22 individual units as well. Not that I'm terribly
23 concerned that professional kitchens are going in.

24 MR. ZUROFF: Well, this is for the

1 commercial space.

2 MS. SCHNEIDER: But it doesn't say that;
3 right?

4 MR. ZUROFF: But maybe it should.

5 MS. MORELLI: Was that what your point was?

6 MS. SCHNEIDER: My question is: Do we need
7 to limit it to commercial? I mean, again, I have a
8 hard time contemplating that --

9 MR. ZUROFF: I don't think anyone's going
10 to rip out a residential kitchen and put in a
11 commercial kitchen.

12 MS. SCHNEIDER: They are rentals anyway.
13 Yeah, so let's limit it to the commercial space.

14 MR. ENGLER: Could I add a comment on No. 7
15 there? Not to be nitpicky, but the comment above it
16 in 6 says that the assistant director will be
17 reviewing things for consistency with the plans
18 listed, blah, blah, blah.

19 And I think at the bottom of 7, the same
20 thing should hold true, that the assistant director
21 of regulatory planning should review and approve for
22 consistency with the plans above, so it doesn't look
23 like a totally new, start-from-scratch approval as
24 opposed to the fact that the plans have been filed.

1 The final plans should be consistent with the
2 conceptual plans.

3 MS. MORELLI: Right. Except you don't
4 really have a detailed lighting plan or details for
5 fences --

6 MR. ENGLER: Lighting is a separate issue.

7 MS. MORELLI: Right. But it's still --
8 there are still some zoning issues that the assistant
9 director -- like, for instance, the height of any
10 poles can't be more than 15 feet.

11 So it's okay to say, say Mr. Engler, if the
12 plans were provided, but they weren't provided, so
13 that's why we have to have "and approval."

14 MR. ZUROFF: And there aren't any plans for
15 snow storage.

16 MS. MORELLI: Right.

17 MS. SCHNEIDER: And I'm not sure about a
18 final landscaping plan either.

19 MS. MORELLI: There was one just submitted.

20 MS. SCHNEIDER: Okay.

21 MR. ENGLER: All right.

22 MR. ZUROFF: We really only have one tree
23 issue; right?

24 MS. MORELLI: One tree.

1 MR. BOOK: Maria, can I ask on page 9, back
2 to -- on paragraph 11 -- so we have in here a
3 permanent easement or a license. And so the
4 permanent easement is pending town meeting approval,
5 but then the license -- or a license that isn't --

6 MS. MORELLI: That's right. It would have
7 to go to town meeting.

8 MR. BOOK: And so why the --

9 MS. MORELLI: So the easement -- even
10 though it's a little more challenging to go through
11 town meeting, it is preferable to the town and to DPW
12 to have something that cannot be revoked by the
13 applicant in the future.

14 The reason why we're putting "or a license"
15 is we don't know what the outcome will be at town
16 meeting, and it's just another mechanism.

17 MR. BOOK: So can I -- so just playing this
18 out, say the town meeting says no for whatever
19 reason. So we have now a license. And then the
20 applicant, somewhere down the road in the future --
21 or future -- not this applicant, but the future owner
22 of this property revokes the license. Does the
23 loading zone go away? Because now we don't have any
24 sidewalk, so it becomes impassable or it becomes

1 incredibly narrow.

2 MS. MORELLI: You know, the loading zone --
3 we don't have a loading zone unless we can have a
4 10-foot-wide continuous path of travel. So, you
5 know, we could take away the loading zone. We
6 haven't really, you know, thought it through. It's
7 not that I haven't addressed the question, but, you
8 know, I think that maybe we can address it further.
9 Maybe one of you might have a suggestion if we were
10 to have a plan B or the worst-case scenario.

11 MS. SCHNEIDER: It could be a condition
12 that it be maintained in perpetuity.

13 MR. ZUROFF: In either form.

14 MS. SCHNEIDER: In whatever form it ends
15 up, it's maintained in perpetuity. And to the extent
16 that it is ever revoked by the applicant, it's a
17 violation of the permit.

18 MS. MORELLI: Right. Okay.

19 MS. BALAKRISHNA: In the current scheme,
20 we've provided for an 8 foot, 7 inch pathway, not 10.

21 MS. MORELLI: Right. So you're not
22 providing 10 feet. The point is that it's a
23 10-foot-wide continuous path. So, for instance, at
24 one point -- and Peter Ditto is actually drawing on

1 the site plan the boundaries of an easement so that
2 you will see it. The point is that you need to give
3 us whatever makes up for -- whatever equals 10 feet.
4 So at one point the sidewalk might be 2 feet and then
5 it might expand to 4 feet, so you need to provide as
6 much of that space so that it's at least 10 feet
7 minimum no matter where the sidewalk narrows.

8 MS. BALAKRISHNA: All right. So as long as
9 the --

10 MS. MORELLI: Right.

11 MS. BALAKRISHNA: The total amount --

12 MS. MORELLI: The sidewalk plus the land
13 that you provide in your property has to be a minimum
14 of 10 feet wide.

15 MS. BALAKRISHNA: Okay.

16 MR. BOOK: So I think probably at the end
17 of 11, if it's --

18 MR. ZUROFF: It should say "in perpetuity."

19 I have a question about the loading zone.
20 When business hours are over, whenever that happens
21 to be, how does the loading zone -- how is it
22 maintained? How are they going to keep people
23 running into Oishii to go get pick up -- how are they
24 going to keep them out of there?

1 MS. MORELLI: It's a very good question.
2 And from the beginning, you know, we have recognized
3 that it is an enforcement issue, and that's pretty
4 much all --

5 MR. ZUROFF: I'm sure Mike doesn't want to
6 be there all night.

7 MS. MORELLI: No. It really is an
8 enforcement issue.

9 MS. BALAKRISHNA: So someone would have to
10 call and lodge a complaint.

11 MS. MORELLI: Yeah. I think what happens
12 is that, you know, if enough people know that it is
13 being watched and enforced and they could get towed
14 and they could get fined -- it's like there are
15 certain stop signs that I will always stop in
16 Brookline even though there hasn't been a police
17 officer watching for it for years. It's just a
18 habit. So, you know, that is the whole point of
19 having really intense enforcement.

20 MR. ZUROFF: Stop signs, though, are not
21 watched. There's a lot of people at that
22 intersection all the time, so -- and if somebody's
23 moving in that day and they up pull up and there's a
24 car there picking up sushi, they're not going to be

1 happy.

2 MS. SCHNEIDER: But that's when they call;
3 right?

4 MS. MORELLI: That's when they'll get
5 towed.

6 MR. ZUROFF: Okay.

7 MS. SCHNEIDER: Maria, can we just go back
8 to the bottom of page 8, and I apologize if I just
9 didn't catch this someplace else. Paragraph 9, we
10 say, "Prior to the commencement of construction," and
11 I just wondered if we're defining "commencement of
12 construction" someplace.

13 MS. MORELLI: Yes, we do. And I actually
14 don't remember where, but we do have it defined.

15 MS. SCHNEIDER: Okay. Just wanted to make
16 sure.

17 MS. MORELLI: I'll look out for it.

18 If you want, Johanna, I can say, "as
19 defined in Condition X."

20 MS. SCHNEIDER: Great, yup.

21 MR. ZUROFF: Another clarification. The
22 60-foot long curbside at the loading zone, is that 60
23 feet calculated to allow room for people to access
24 the vehicle that's parked in the loading zone? Why

1 is it 60 feet?

2 MS. MORELLI: So that's actually -- I'm
3 sorry. I don't have an 11 by 17, but -- it's not
4 really shown here, but the idea is that it's from --
5 you'll see that there are curbs to allow a truck to
6 nose in, and it's actually at the outset of that.
7 That's just marking where the curb begins to change.

8 MR. ZUROFF: So that's calculated by the
9 transportation department?

10 MS. MORELLI: Correct.

11 MR. ZUROFF: And when does the
12 determination of the distance from the stop --

13 MS. MORELLI: It's just a clarification.
14 DPW has it. I just need them to clarify.

15 MR. ZUROFF: So it's already there, but
16 we --

17 MS. MORELLI: Yes. It's already been
18 discussed.

19 MS. SCHNEIDER: For 12(I), I wonder if
20 anyone else finds it a little ambiguous: "with all
21 costs for performance thereunder borne by the
22 applicant." Are we just talking about installation
23 costs?

24 MS. MORELLI: The installation of the sign,

1 yes.

2 MS. SCHNEIDER: Yeah, so I might suggest,
3 "with all costs for installation borne by the
4 applicant." I'm just concerned it could be read as,
5 like, a monitoring or enforcement obligation.

6 MS. STEINFELD: Fabrication and
7 installation.

8 MR. ZUROFF: Is there any maintenance
9 involved?

10 MS. MORELLI: Not with the signage.

11 MR. ZUROFF: Okay.

12 MS. MORELLI: That wasn't specified by DPW,
13 but if you want me to ask, I will.

14 MR. ZUROFF: 20 years from now --

15 MR. BOOK: Kids steal signs.

16 MS. SCHNEIDER: I know I did when I was in
17 high school.

18 MR. ENGLER: I have an issue with B.

19 MS. SCHNEIDER: B what?

20 MR. ENGLER: 14.

21 MS. SCHNEIDER: Oh, we're still on 12.

22 MR. ENGLER: Okay. I'll keep that in mind.

23 MR. BOOK: The town does not -- when it
24 plows Hammond, it doesn't plow the loading zone?

1 MS. MORELLI: You know, because it jogs
2 into the sidewalk, it's not going to be plowed with
3 any care. And the point is, I think, when you see --
4 like, if you have, like, a driveway on a major
5 thoroughfare, you'll sometimes find plows will put,
6 like, a wall and then you are responsible for
7 cleaning that, taking that wall down. And that's
8 what we're afraid will happen.

9 MR. ZUROFF: And they don't know where
10 driveways are.

11 MS. MORELLI: Right. So we just want to
12 make sure that no truck is going to hang out in the
13 travel lane.

14 MR. ZUROFF: Is there a waiver to indicate
15 where the loading zone actually starts and stops?
16 Maybe --

17 MS. MORELLI: With signs. One
18 indication -- I mean, that's why it will be -- the
19 signs will be installed in consultation with DPW, and
20 that will be at the appropriate place, since it is
21 going to be in a travel lane. So they probably will
22 put it where it begins, but you'll know where -- I
23 mean, you have to be very clear because it's not
24 going to be just in the street. It's actually a jog

1 into the sidewalk, so the design will also be an
2 indicator, along with the signage of the loading
3 zone.

4 MR. ZUROFF: In an ideal world, yes.

5 MS. MORELLI: Okay. So do you feel like
6 there should be more than one sign?

7 MR. ZUROFF: Not necessarily, but it's a
8 thought.

9 MS. MORELLI: I'll discuss it with Peter.

10 MR. BOOK: I assume -- I'm on 14(A) -- the
11 same comment that you made about --

12 MS. SCHNEIDER: Installation as opposed
13 to --

14 MR. BOOK: Fabrication and installation.
15 So we're on B, Mr. Engler.

16 MR. ENGLER: This is the third time an
17 applicant that I've worked with has been asked to put
18 up 100 percent of the cost of something that's going
19 to be beneficial to a much larger group than just the
20 applicant and resident pool. We have no objection
21 paying for some of it. I think the price there is --
22 we've already had one bid -- correct me if I'm
23 wrong -- of \$14,000 for 420 Harvard. So here you're
24 asking for more than 100 percent of what might be the

1 cost.

2 We would be willing to say \$15,000, not 20
3 because, one, we don't think it's going to be that
4 costly; and two, we don't feel it's fair to ask us to
5 assume the responsibility for the whole thing when
6 probably 10 percent of the benefit is to the
7 neighborhood. So that's our --

8 MS. MORELLI: So, Mr. Engler, what I'll do
9 is I'll just return to Peter and just ask why this
10 was a little bit higher. Perhaps there was a reason
11 for that, and --

12 MR. ENGLER: But even if it's higher, there
13 ought to be a proportionate share.

14 MS. MORELLI: Well, I just want to stay
15 that you would be doing more than just installing the
16 audibles. I know there would also be the painting of
17 the crosswalks. So it's just a little bit different.
18 That's just another --

19 MR. ENGLER: Might be. Just pick a number
20 that looks like we're sharing. I don't want to
21 quibble about \$5,000, but on the other hand, we think
22 that's a fairer thing.

23 MR. ZUROFF: I think that the intent is
24 that you will pay the actual costs.

1 MR. ENGLER: That's what it says. That's
2 not what the laws says, that's what you're saying,
3 and that's fine. We know what 40B says. We're
4 responsible for mitigating our increased issues in
5 the neighborhood. That's 100 percent or more of
6 what's going on.

7 MR. ZUROFF: Well, I don't know if we're
8 talking about an increase or a danger to the
9 pedestrians in the neighborhood.

10 MR. ENGLER: Well, we're creating a benefit
11 to --

12 MR. ZUROFF: Who's to quantify how many
13 pedestrians are actually --

14 MR. ENGLER: That's not the issue. The
15 issue is who's benefiting? Every pedestrian in that
16 area, which you well know, is going to benefit by
17 this. Our 55-and-older people, 45 units -- it's a
18 small number of who's going to benefit. And you're
19 saying, well, put it on us. It might be \$15,000 and
20 we might be paying for 100 percent. We're just
21 saying that's a better number than 20. I don't want
22 to belabor it, but...

23 MS. SCHNEIDER: So your objection is to the
24 dollar amount? You want to pay \$15,000?

1 MR. ENGLER: That would be a more
2 comfortable number.

3 MR. DHANDA: Me, not him.

4 MS. MORELLI: I wish Peter were here, and
5 I'm certainly speaking for him. We did get a quote
6 for \$14,000 for 420 Harvard just for the audible
7 signal, not including the crosswalk. And there are
8 people who are in the audience tonight who really
9 have been concerned about having --

10 MR. ENGLER: How much for --

11 MS. MORELLI: I don't have that figure; I
12 don't have that figure.

13 MR. ENGLER: What's 420 paying out of the
14 14?

15 MS. MORELLI: I honestly don't remember.
16 But all I wanted to say was I think we're just trying
17 to do this in -- so there's a little bit of goodwill
18 here. And there's certainly -- this is -- you know,
19 it is a bold project, and it is going to be
20 introducing more pedestrians. And I think that --

21 MR. ENGLER: I agree with all that.

22 MS. MORELLI: This is just really a gesture
23 of goodwill and a benefit for the public at large.

24 MR. ENGLER: I agree with all that.

1 MS. MORELLI: There are a couple of public
2 hearings before the board of selectmen and town
3 meeting. I just think anything that, you know, you
4 can show that you're just doing this in a community
5 spirit would be helpful.

6 Let me just get back to you regarding --
7 just so that you're aware of the itemization of
8 costs.

9 MR. ENGLER: Sure. Carry it over. I mean,
10 it's not up to us anyway. It's up to the board. But
11 we'll see what he says.

12 MR. ZUROFF: By the same token, on E and F,
13 the developer will purchase and install; correct?

14 MS. MORELLI: Yes.

15 MR. ZUROFF: Is there a particular way
16 that's done?

17 MS. MORELLI: You know -- how it's done --

18 MR. ZUROFF: I mean, they don't go to the
19 flea market and buy a stop sign, so I assume --

20 MS. MORELLI: That's why we say, "in
21 consultation with the director," so that they know
22 precisely, you know, what kind of sign to get.

23 MR. ZUROFF: I just want to be clear.

24 MS. MORELLI: And it seems to work. I

1 mean, this is language coming from Mr. Ditto.

2 MR. ZUROFF: If it works, I'm not going to
3 complain about it.

4 MS. MORELLI: You're not complaining.

5 MR. BOOK: I know we talked about not
6 having an audible, but did we not talk about flashing
7 lights?

8 MS. MORELLI: So what happens with -- if
9 you have recognized that we need to have flashing
10 lights for people who might be deaf, then you also
11 have to include the audible, the beeping, for people
12 who might be blind. You cannot have one without the
13 other, and that's an ADA requirement.

14 So the audible -- and we've discussed this
15 with our parking consultant, Walker -- the audible
16 could really be an annoying impact to the residential
17 neighbors closely abutting.

18 MR. BOOK: Sure.

19 MS. MORELLI: So keep in mind that the
20 director of engineering will be reviewing the plans
21 again for sight distance and safety, so there might
22 be -- with the landscaping, for instance, that
23 landscaping plan has to be reviewed by Peter Ditto,
24 and it's in the bylaws.

1 MR. ZUROFF: Just as an aside, we've done
2 this on 40A projects where we've have requirements
3 for audible, and flashing lights never came up as an
4 issue.

5 MR. BOOK: But I feel like we have on 40As.

6 MR. ZUROFF: No. I know we have, private
7 driveways.

8 MR. BOOK: But we've said it has to be --
9 you know, we want flashing lights, but we don't want
10 the noise, you know, in deference to the neighbors.

11 MR. ZUROFF: And no one ever objected to
12 it.

13 MS. SCHNEIDER: Well, now we all know.

14 MR. BOOK: Well, it makes perfect sense. I
15 just --

16 MS. MORELLI: I did bring it up with Todd
17 Kirrane because I had done that on another decision
18 for another case. And I did have just the flashing
19 lights and not the audible, and I think it was
20 420 Harvard. And he said I have to have both. So
21 that was -- I'm just relaying what he told me.

22 MR. ZUROFF: Again, my note on this
23 nonqueuing and nonparking on Boylston Street is
24 enforcement, and it's not enforced now, and

1 technically it's not allowed now.

2 MS. MORELLI: The queuing and the parking,
3 that is?

4 MR. ZUROFF: Right. On that stretch of
5 Boylston Street.

6 MS. MORELLI: Well, let's look at it this
7 way: This is a prominent project. We're not talking
8 about smaller, you know, single-family homes or
9 smaller condos. This is going to be closer to the
10 intersection. There is going to be a 30-foot-wide
11 driveway. And so just because of that, the volume,
12 there is going to be a greater need to ensure that
13 driver visibility is not impeded. So, again, it is
14 enforcement, largely. But anyone in the area who
15 notices something that's really unsafe can call and
16 alert the authorities if there is problem.

17 MS. SCHNEIDER: And it bears noting that
18 this is not a popular project in the neighborhood, so
19 I suspect that neighbors will be actively monitoring
20 the functioning of this and --

21 MR. ZUROFF: You're probably right.

22 MS. SCHNEIDER: -- they will alert the town
23 to any issues.

24 MR. ZUROFF: And I'm sure at some point the

1 police will take greater notice.

2 MS. MORELLI: Well, if the parking plan is
3 working -- and it did undergo a really rigorous
4 review, and they will need -- the reason why we can't
5 say they need to have five valet attendants is that
6 the result is that we don't want any queuing. So to
7 meet that requirement, they will need to hire as many
8 valet attendants as necessary to keep things moving
9 to manage that.

10 MR. ZUROFF: Okay. I guess it's one of
11 those things. We'll have to see how it goes.

12 MS. STEINFELD: May I suggest that you
13 change the syntax of I? Something along the lines
14 that no vehicle shall idle in the driveway for more
15 than X minutes or something? But just -- first of
16 all, you could have an attendant idle a vehicle.

17 MS. SCHNEIDER: Right. That's a good
18 point.

19 MS. STEINFELD: And also, you're imposing
20 the burden on strictly the parking attendants.

21 MS. SCHNEIDER: All right. So no vehicles
22 shall idle --

23 MS. STEINFELD: I don't know if you want to
24 put a time limit on it.

1 MS. SCHNEIDER: I think in the City of
2 Boston it's five minutes, isn't it?

3 MS. KHAN: That's the state law. That's
4 the state idling law, five minutes.

5 MS. SCHNEIDER: No vehicle shall idle in
6 the driveway for longer than five minutes.

7 UNIDENTIFIED AUDIENCE MEMBER: Vehicles
8 will be changed -- exchanged between people leaving
9 and people coming. Every vehicle's still idling five
10 minutes. So what is the point if the same vehicle
11 stays for 50 minutes idling or 10 vehicles idling 5
12 minutes each?

13 MR. ZUROFF: There's no way to control
14 that.

15 UNIDENTIFIED AUDIENCE MEMBER: That's what
16 I'm saying. It's all under my window.

17 MS. KHAN: So maybe don't have a time
18 there. Just say "No vehicles shall idle in the
19 driveway." I mean --

20 UNIDENTIFIED AUDIENCE MEMBER: Maybe it can
21 be regulated some other way.

22 MR. ENGLER: The parking attendant will
23 regulate it -- no idling. It's his job or her job to
24 come out and make sure the cars are turned off.

1 MS. MORELLI: I really feel that that exit
2 lane -- that second exit lane that is abutting the
3 property line where the six-family units are, that, I
4 imagine, will be really just to park cars for people
5 who are going to be coming down to get into their car
6 and leave. So it either won't be long, or they just
7 won't keep them idling.

8 MR. ENGLER: They won't be on.

9 MS. BALAKRISHNA: They won't be on.

10 MS. SCHNEIDER: All right. So we are going
11 to suggest a change to 14(I) where it just says, "No
12 vehicles shall idle in the driveway."

13 MS. MORELLI: Yup. Thank you.

14 MS. BALAKRISHNA: 14(J), the buffer is 5
15 feet, not 6.

16 MS. MORELLI: Okay.

17 MS. SCHNEIDER: On 14(K), I wonder if
18 anybody else feels that perhaps the second sentence,
19 which is on the top of 11 --

20 MR. BOOK: Well, they shouldn't store snow
21 in the public way, period.

22 MS. SCHNEIDER: Period, right.

23 MS. MORELLI: So just put a period there?

24 MS. SCHNEIDER: After "public way," yes.

1 MS. MORELLI: Okay. Got it.

2 MS. STEINFELD: Just a thought. Could we,
3 at this point, insert that the applicant will be
4 responsible for snow removal of the curb cut -- not
5 the curb cut, of the loading area?

6 MS. MORELLI: It's already there.

7 MS. SCHNEIDER: I think it's already there.
8 Yeah, it's 12(K).

9 MS. STEINFELD: Okay.

10 MR. BOOK: So we can probably get rid of
11 15(C). It's duplicative of 15(A).

12 MS. MORELLI: Yeah, I think we can combine
13 that.

14 MR. BOOK: I guess 15(A) would be rubbish
15 and recycling, but then it would be the same.

16 MS. KHAN: Excuse me. On L, are you ending
17 it at, "shall not store snow on the driveway,
18 period"?

19 MR. ZUROFF: No.

20 MS. STEINFELD: This is K. K is where it
21 stops.

22 MS. SCHNEIDER: The driveway is their
23 private property, so we really can't regulate whether
24 or not they are storing snow on their own property.

1 MR. BOOK: But they will not allow the
2 width to go smaller than 30 feet.

3 So, Maria, why is it in F you have
4 "10:00 a.m." highlighted?

5 MS. MORELLI: So there was a -- in one of
6 the notes -- I believe it was Peter Ditto's
7 January 25th letter -- he specified -- he bundled a
8 few comments related to a variety of categories, and
9 he did not want rubbish being picked up during peak
10 hours. So normally we would have between 8:00 a.m.
11 and 11:00 p.m., so I had just flagged that just to --
12 you know, I did not want to contradict the comment
13 that he made about the trucks, you know, because it's
14 going to be traveling on Boylston Street, which we
15 know the conditions on Boylston Street. So I just
16 wanted to ask him if he wanted to specify hours of
17 pickup, just to clear the peak-hour period.

18 MR. BOOK: But -- and I know you addressed
19 this in H below -- we also don't want trash pickup
20 during hours where people are sleeping.

21 MS. MORELLI: That's right. So that's why
22 I said, you know, "shall not enter the site before
23 7:00 a.m." I know it seems like -- so it's like
24 there is this window --

1 MR. BOOK: Yeah. 7:00 a.m. or after. I'm
2 wondering -- really, where I'm heading with this is
3 do we want to say that trash pickup is going to be
4 between the hours of 7:00 and 10:00 a.m.? There's a
5 three-hour window on any given day that that's when
6 trash can be picked up.

7 MS. MORELLI: So the peak hour could be
8 like 7:00 to 9:00, so that's why I want to discuss it
9 with Peter: Do you really mean that we don't want
10 any pickup between 7:00 and 9:00? That is really
11 restrictive. But I better want to understand what he
12 meant by -- that there shouldn't be trash pickup
13 during peak hours, if he wants to qualify that.

14 So I realize we have to clean this up a
15 little bit, and we can do it a little more elegantly
16 than the way I've done it here, so -- just once I get
17 a little more clarification.

18 MR. BOOK: Okay.

19 MS. SCHNEIDER: I think 15(J) has a couple
20 extra words.

21 MS. MORELLI: Yes, they do. I'll just
22 clean that up.

23 MS. SCHNEIDER: And I think 15(K), we
24 talked about taking out an extra...

1 MS. MORELLI: Uh-huh.

2 MR. ZUROFF: Somewhere in this language
3 is -- at what point does the applicant submit final
4 plans which are then approved by the building
5 department and then certification that the actual
6 building is complying with those final plans? Maybe
7 it's in there, but --

8 MS. SCHNEIDER: Is it 20?

9 MS. MORELLI: So they have to submit
10 as-built plans. Is that what you're referring to?

11 MR. ZUROFF: Building permit plans.

12 MS. MORELLI: So before you get a building
13 permit, you have to submit final plans. And then
14 after it's constructed, as-built plans.

15 MR. ZUROFF: Okay. So it's in there?

16 MS. MORELLI: Yes.

17 MR. ZUROFF: I just didn't follow the
18 process. Okay.

19 MS. SCHNEIDER: But 20 is C of O. Mark's
20 question, I think, was this building permit.

21 MR. ZUROFF: The process, not just the --
22 but if it's covered in here, it's fine.

23 MR. ENGLER: Can I ask a question on 21? I
24 want to know if that's the same thing you apply to

1 non-40B developments. I've never seen where you
2 regulate a temporary sign's size, etc. Is that a
3 standard Brookline --

4 MS. MORELLI: Yeah. We have it in a bylaw.

5 MR. ENGLER: Okay.

6 MS. KHAN: In 19, is this also about just
7 construction management? For instance, you know, if
8 it's dry, the soil disturbed can be blowing into the
9 wind. That happened with another construction
10 project in the neighborhood. That was really
11 horrible. They didn't wet down the site.

12 MS. MORELLI: So, Ms. Khan, this is about
13 erosion and -- it's about erosion control. There's
14 another condition that deals --

15 MS. KHAN: Oh, I see, the demolition
16 permit.

17 MS. MORELLI: There's actually -- there's a
18 preconstruction survey, but there's another condition
19 that deals with the construction management plan.

20 MS. SCHNEIDER: And 28, I'm guessing, is
21 being changed from 25 to 50?

22 MS. MORELLI: Yes.

23 MS. SCHNEIDER: And I think somewhere in
24 this Housing section is where we would want to put

1 a -- whatever the appropriate condition is about
2 monitoring compliance with the age restriction.

3 MR. ENGLER: Can I raise an issue on 30?

4 MS. SCHNEIDER: We're not there yet.

5 MR. ENGLER: You're not there yet.

6 MS. SCHNEIDER: Mr. Engler, what's your
7 comment on 30?

8 MR. ENGLER: 30(C) -- which is really an
9 issue between the applicant and the subsidizing
10 agency and not the purview of the zoning board, which
11 we just raise as an introductory comment -- we don't
12 mind saying "comparable interior finishes," but
13 clearly under 40B the affordable units do not have to
14 have the same interior finishes as the market-rate
15 units. They have to be indistinguishable from the
16 outside, but inside, as long as the spec is good, you
17 don't have to give people the same kind of ceramic,
18 tiles, or hardwood floors, or whatever. And that's
19 between us and MassHousing, not -- that's the
20 Amesbury case. It clearly took that away from the
21 zoning board. We're happy if you change it to
22 "comparable interior finishes" as opposed to "the
23 same."

24 MS. SCHNEIDER: That's fine.

1 MS. STEINFELD: We have to run the first
2 sentence of 31 by town counsel.

3 MS. SCHNEIDER: I think our question,
4 though, is whether or not the second sentence and the
5 third sentence are sufficient to curtail any use by
6 an Airbnb-type thing.

7 MR. ENGLER: It doesn't cover Airbnb. That
8 should be a separate sentence, if I understand --

9 MS. SCHNEIDER: Well, I think that's where
10 we're going with this. Is the applicant willing to
11 include in here a no Airbnb use?

12 MS. BALAKRISHNA: Yes.

13 MR. ZUROFF: There probably is some really
14 good language for preventing that.

15 MS. SCHNEIDER: There probably is
16 somewhere.

17 MR. ZUROFF: Which I would like to find.

18 MR. BOOK: So you don't think that Airbnb
19 is picked up in the prohibition against nightly
20 rentals?

21 MS. SCHNEIDER: Well, they can rent it for
22 two weeks. But I think, perhaps, between the lease
23 and occupancy agreements for a term of at least six
24 months and the nightly rentals, it may fall within

1 that. I don't know whether or not Airbnb is an
2 occupancy agreement, and I would need to have
3 somebody review --

4 MR. ZUROFF: They look at it as a license,
5 which is how they get around --

6 MS. SCHNEIDER: But is an occupancy
7 agreement the same thing as a license? Perhaps.

8 MR. ZUROFF: That's why I'm saying there's
9 language that I would like to see --

10 MS. SCHNEIDER: I mean, I'm happy with, "no
11 Airbnb or similar occupancy."

12 MR. BOOK: Forty years from now, someone's
13 going to be looking at this decision and they'll
14 think, what's an Airbnb?

15 MS. SCHNEIDER: Hopefully Google will still
16 be around.

17 MR. ZUROFF: In 36, it says "Nine units in
18 the project shall be, in perpetuity, affordable
19 units."

20 MR. ENGLER: That's the 20 percent.

21 MR. ZUROFF: No. I understand that. But
22 down the road, maybe somebody combines two units or
23 they break units into smaller subdivisions.

24 MR. BOOK: I don't think they're allowed

1 to.

2 MR. ZUROFF: Well, that's my question: Is
3 it allowed and what happens --

4 MS. SCHNEIDER: Well, the project is
5 approved at however many units; right? But to the
6 extent that a future owner were to subdivide those
7 units, it would be a violation of the permit.

8 MR. BOOK: So it's a 45-unit project, not
9 45 broken --

10 MR. ZUROFF: 20 years from now they come
11 and say, you know, we have no market for two-bedroom
12 units.

13 MR. BOOK: So they would have to come to
14 the zoning board and ask for a modification.

15 MR. ZUROFF: Okay. If you're comfortable,
16 I'll let it go.

17 MS. SCHNEIDER: Yeah. I'm not too worried
18 about that.

19 MR. ZUROFF: What does 37 mean?

20 MS. MORELLI: Does that -- 37 have to do
21 with the end of the 30-year --

22 MS. STEINFELD: When the subsidizing agency
23 is out of the picture and our condition is requiring
24 that the units remain in perpetuity, then the

1 planning department or the town is responsible for
2 monitoring it. The state no longer is --

3 MR. ZUROFF: But the applicant probably
4 won't be here.

5 MS. STEINFELD: Someone's going to own it.

6 MR. ENGLER: The owner has to maintain --

7 MS. MORELLI: Do you want to say "owner"
8 instead of "applicant"?

9 MR. ZUROFF: Yeah.

10 MR. ENGLER: Yeah, the owner.

11 MR. ZUROFF: I didn't mean anything in
12 terms of mortality, just --

13 MR. ENGLER: Well, the development
14 consultant, you never know. We don't die. We just
15 fade away.

16 MR. BOOK: So the then owner of the
17 project.

18 MR. ZUROFF: The then owner, yes.

19 MS. SCHNEIDER: On page 15, I think we need
20 to make some changes to No. 43 to reflect the updated
21 information about the size of the water tank.

22 MS. MORELLI: Oh, yes, exactly.

23 MR. ZUROFF: 6,300 square feet is like an
24 Olympic-sized swimming pool.

1 MS. SCHNEIDER: It's enormous.

2 So, Maria, as we get into the environmental
3 and the geotechnical conditions -- I did not have
4 time to go back and check this, but I know that there
5 were some very detailed recommendations for
6 conditions that our peer review -- our LSP peer
7 reviewer made. I just want to make sure that all of
8 those have found their way into this decision.

9 MS. MORELLI: I've put them all in. I'm
10 actually having Peter Ditto review all of those
11 reports against these conditions.

12 MS. SCHNEIDER: Great. Thank you.

13 MR. BOOK: Have we talked about 55? I
14 remember there was a discussion. I don't remember
15 what the resolution is. There will be a --

16 MS. MORELLI: Well, there was in -- in the
17 last report from Fuss & O'Neill, they had recommended
18 that there be a backup generator. There wasn't a
19 commitment expressed on the applicant's part.
20 Because it is a recommendation from the independent
21 peer reviewer, I have reported that here, and that's
22 open for discussion. If the applicant objects to it,
23 they can discuss it with you.

24 MR. ZUROFF: Don't all garages have to have

1 backup systems?

2 MS. MORELLI: For the ventilation --
3 remember, this is really because of the vapor
4 intrusion. That's a special case. That's a health
5 hazard. I'm not aware of what the requirement is
6 regarding backup generators.

7 MS. SCHNEIDER: Well, it seems to make
8 sense. But I think -- on top of that, I think the
9 environmental was -- I think he was pretty clear that
10 that was a strong recommendation.

11 Do we have any concerns from the applicant
12 about going forward with that recommendation from the
13 town's peer review LSP?

14 MS. BALAKRISHNA: We're talking about 55?

15 MS. SCHNEIDER: Yes.

16 MS. BALAKRISHNA: I think that's -- that's
17 fine.

18 MR. BOOK: I mean, the interesting thing is
19 when the power's out, the garage isn't operating.
20 The lifts aren't working, the double-decker --

21 MR. ZUROFF: That's true.

22 MR. BOOK: Nothing's working down there. I
23 mean, I suppose it's still possible for someone to go
24 down and idle their car down there, but that would

1 seem ill-advised.

2 MR. ZUROFF: When the apocalypse comes, you
3 know, we don't know what people would be doing.

4 MR. BOOK: Will there be zombies?

5 MR. ZUROFF: We won't be here.

6 So 58, I addressed that before.

7 MS. MORELLI: Yes. I'm still awaiting
8 a response from Peter Ditto.

9 MR. ZUROFF: Okay.

10 MR. BOOK: I mean, there's going to be a
11 soil remediation plan. And, I mean, maybe -- I don't
12 know. What does that mean, not to stockpile it? I
13 mean, it might be piled up until they throw it into
14 the truck and take it away.

15 MR. ZUROFF: The EPA must regulate --

16 MR. BOOK: No. Exactly. I mean --

17 MR. ZUROFF: But it's a very dense,
18 residential area with an open -- basically an open
19 lot, so --

20 MS. SCHNEIDER: And I will say these
21 provisions, the no stockpiling, are very common. I
22 was working on an agreement today where we included
23 that. The developer agreed to do that. So it's -- I
24 think it's the norm.

1 MR. BOOK: Okay.

2 MS. SCHNEIDER: Maria, I just have a
3 question. 59(Q), there's an EPA question mark flag.

4 MS. MORELLI: So that's because there's
5 remediation going on right now, and I just wanted to
6 verify with DPW if there's anything about that
7 stage -- if there's a milestone that needs to be met
8 or something that needs to be provided to the town
9 before they issue a building permit.

10 MS. SCHNEIDER: But is it DEP or EPA?

11 MS. BALAKRISHNA: It's DEP that's been
12 monitoring.

13 MS. SCHNEIDER: And this hasn't been
14 classified as toxic waste, like, under --

15 MS. BALAKRISHNA: No.

16 MS. SCHNEIDER: So it probably is DEP.

17 MS. STEINFELD: On 59(L), do you want to
18 say, "easement agreement or license agreement"?

19 MS. MORELLI: Yes.

20 MR. BOOK: I'm asking a question -- it just
21 occurred to me, going back -- anywhere in here do we
22 require the applicant to be responsible for snow
23 removal on the public sidewalk around their -- is
24 that already -- we've covered that?

1 MS. MORELLI: We have covered it. It
2 should be, I think, around traffic --

3 MS. STEINFELD: It's also a town bylaw.

4 MR. BOOK: Okay. All right. It just came
5 to mind.

6 MS. KHAN: I have a question. It says
7 there's no blasting involved in this project at all?

8 MS. MORELLI: Correct.

9 MS. KHAN: So there's no need to -- I see
10 that you're asking for photographs of the landscape,
11 but not of the neighbors' homes in case there's any
12 damage.

13 MS. SCHNEIDER: There is a condition about
14 a preconstruction survey of the adjacent properties.

15 MS. KHAN: Yeah, there is in there.

16 MS. MORELLI: Yes.

17 MS. KHAN: I missed it.

18 MR. ZUROFF: Minor clarification: The
19 board doesn't have a clerk.

20 MS. MORELLI: Number 69, okay.

21 MR. ZUROFF: That I know of. We don't have
22 a clerk.

23 MR. BOOK: No. I assumed that our clerk
24 was the town clerk.

1 MR. ZUROFF: We should probably not say
2 "the clerk of the board."

3 MR. BOOK: So let's just say, "This
4 decision shall be filed with the town clerk."

5 MR. ZUROFF: The town clerk.

6 MR. BOOK: Should we say, "upon execution
7 of the board?" It's only the chairperson that signs.

8 MS. SCHNEIDER: Oh, yeah.

9 Okay. Shall we take up the exhibits, since
10 we're all here? Maybe we can go through that
11 quickly.

12 Maria, these waivers are the same as what
13 we covered the last time?

14 MS. MORELLI: Exactly.

15 MS. SCHNEIDER: Okay. So we don't need to
16 go through the waivers again.

17 MR. BOOK: This is the standard
18 regulatory --

19 MS. MORELLI: It is. The conditions, I
20 just -- I didn't update them, because I didn't know
21 if you were going to be really --

22 MS. SCHNEIDER: Okay.

23 MR. ZUROFF: Do we actually have to read
24 this language carefully?

1 MR. BOOK: Well, we've read it before.

2 It's the same language.

3 MR. ZUROFF: So we really don't have to do
4 much.

5 MS. SCHNEIDER: No.

6 MR. BOOK: So we'll close this hearing on
7 the 20th and then the decision -- we have to issue a
8 decision within 40 days?

9 MS. MORELLI: Right. You have 40 days to
10 deliberate. At that point, once you close the
11 hearing, you couldn't take any public testimony
12 unless you just want to clarify any technical
13 matters.

14 MR. BOOK: Okay. Great.

15 MS. SCHNEIDER: So I think we've gotten to
16 the end of our review of the documents. So what do
17 we envision happening on the 20th now?

18 MS. MORELLI: So the next step would be for
19 me to incorporate all of your edits and changes and
20 get back to you regarding those queries that I have
21 for staff members. And then I would give you, within
22 a week, a clean copy, so you have at least a week to
23 review this prior to the next hearing. At that
24 hearing, we would -- you know, you can review and

1 accept all of those changes and decide if you need a
2 meeting to deliberate, or you can also -- you can
3 vote.

4 MS. SCHNEIDER: Okay.

5 MS. MORELLI: Did I miss anything, Alison?

6 MS. STEINFELD: No.

7 MS. SCHNEIDER: Okay. So with that, we are
8 done for tonight, and we will continue this hearing
9 until March 20th at 7:00 p.m. Thank you, everyone.

10 (Proceedings adjourned at 8:19 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 herein set forth and
6 that the foregoing is a true and correct transcript
7 of my shorthand notes so taken.

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

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

13  signed this 6th day of March, 2017.

14 _____

15 Kristen Krakofsky, Notary Public

16 My commission expires November 3, 2017.

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<hr/> <p style="text-align: center;">\$</p> <hr/> <p>\$14,000 31:23 34:6</p> <p>\$15,000 32:2 33:19,24</p> <p>\$5,000 32:21</p> <hr/> <p style="text-align: center;">1</p> <hr/> <p>10 12:13 24:20,22 25:3,6, 14 32:6 40:11</p> <p>10-foot-wide 24:4,23</p> <p>100 31:18,24 33:5,20</p> <p>10:00 43:4 44:4</p> <p>11 20:1 23:2 25:17 28:3 41:19</p> <p>1180 3:8</p> <p>11:00 43:11</p> <p>12 29:21</p> <p>12(I) 28:19</p> <p>12(K) 42:8</p> <p>14 29:20 34:14</p> <p>14(A) 31:10</p> <p>14(I) 41:11</p> <p>14(J) 41:14</p> <p>14(K) 41:17</p> <p>15</p>	<p>9:13 19:24 20:9 22:10 51:19</p> <p>15(A) 42:11,14</p> <p>15(C) 42:11</p> <p>15(J) 44:19</p> <p>15(K) 44:23</p> <p>15th 3:12</p> <p>16 13:1</p> <p>17 12:21 28:3</p> <p>19 46:6</p> <hr/> <p style="text-align: center;">2</p> <hr/> <p>2 19:20 20:13,19,20 25:4</p> <p>20 5:7 19:1 29:14 32:2 33:21 45:8,19 49:20 50:10</p> <p>2015 9:22</p> <p>2017 12:24</p> <p>20th 3:21 4:4 58:7,17 59:9</p> <p>21 13:4,8 45:23</p> <p>25 13:15 46:21</p> <p>25th 43:7</p> <p>28 46:20</p> <p>29 17:7</p>	<hr/> <p style="text-align: center;">3</p> <hr/> <p>3 18:21</p> <p>30 43:2 47:3,7</p> <p>30(C) 47:8</p> <p>30-foot-wide 38:10</p> <p>30-year 50:21</p> <p>31 18:7 48:2</p> <p>36 49:17</p> <p>37 50:19,20</p> <hr/> <p style="text-align: center;">4</p> <hr/> <p>4 5:12 25:5</p> <p>40 58:8,9</p> <p>40A 37:2</p> <p>40as 37:5</p> <p>40B 10:19 17:3 33:3 47:13</p> <p>420 18:17 31:23 34:6,13 37:20</p> <p>43 51:20</p> <p>45 33:17 50:9</p> <p>45-unit 50:8</p> <hr/> <p style="text-align: center;">5</p> <hr/> <p>5 40:11 41:14</p>	<p>50 5:9 19:1 40:11 46:21</p> <p>55 6:2,14 8:6 52:13 53:14</p> <p>55-and-older 33:17</p> <p>55-and-over 8:10</p> <p>55-year-old 6:4</p> <p>58 54:6</p> <p>59(L) 55:17</p> <p>59(Q) 55:3</p> <hr/> <p style="text-align: center;">6</p> <hr/> <p>6 17:6 21:16 41:15</p> <p>6,300 13:10,11 51:23</p> <p>60 27:22 28:1</p> <p>60-foot 27:22</p> <p>69 56:20</p> <hr/> <p style="text-align: center;">7</p> <hr/> <p>7 21:14,19 24:20</p> <p>7:00 3:4 43:23 44:1,4,8,10 59:9</p> <p>7:02 3:2</p> <hr/> <p style="text-align: center;">8</p> <hr/> <p>8 24:20 27:8</p> <p>839 13:10</p>
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