

In The Matter Of:

BROOKLINE ZONING BOARD OF APPEALS HEARING

APPEALS HEARING - Vol. 15

November 3, 2014

MERRILL CORPORATION

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Volume XV
Pages 1-105

Brookline Zoning Board of Appeals Hearing

Case Number 20130094

40B Application by Chestnut Hill Realty

The Residences of South Brookline

November 3, 2014 at 7:00 p.m.

Office of Town Counsel

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Appearances

Board Members:

Jesse Geller, Chairman

Jonathan Book

Chris Hussey

Mark Zuroff, Associate Member

Avi Liss, Associate Member

Samuel Nagler, Esquire, Krokidas & Bluestein

Edith M. Netter, Esquire,

Edith M. Netter & Associates, P.C.

Joseph Geller, Stantec Consulting

Marc Levin, Chestnut Hill Realty

Steven Schwartz, Esquire, Goulston & Storrs

Theo Kindermans, Stantec Consulting

1 PROCEEDINGS

2 7:06 p.m

3 MR. JESSE GELLER: Good evening,
4 everyone. We're calling the continued hearing for the
5 Residences at Chestnut Hill. Again, for the record, my
6 name is Geller; Hussey, Book, Zuroff, Liss.

7 As you will recall at last week's meeting, the
8 board started its open and honest discussion about the
9 proposed project as well as testimony that has been
10 provided, and I think that we were able to dilute
11 certain critical issues from that. I know Mr. Hussey
12 has diligently been working on recording the list of
13 what he thinks are a fine crystallization of those
14 critical issues, and I'll let him get to it in a
15 moment.

16 I do want to announce a few things. Again,
17 tonight we're going to focus on a continued discussion
18 of the applicant's plan, an alternative conceptual
19 plan. There will be -- I know that many people from
20 the public wished to speak at the last hearing. As
21 many, if not all of you, are aware, we are under very
22 rigid statutory time constraints and we will -- we are
23 certainly going to do our best to give you an
24 opportunity in the future to speak. I can't tell you

1 whether -- the precise date, but we will fit in time to
2 give you an opportunity. I just would caution that,
3 again, we are subject to these very rigid time
4 requirements.

5 I also want to thank those of you who have
6 submitted things in writing. It's particularly
7 helpful. If you do it in that fashion, we have an
8 opportunity to see it, look at it. We do look at it
9 and consider what you do put into writing, and you can
10 certainly continue to submit your comments to --

11 MS. MORELLI: The Planning Department.

12 MR. JESSE GELLER: -- the Planning Department,
13 and they will forward it along to us.

14 I just want to remind everyone that our next
15 hearing is November 12th at 7:00 p.m., and on the 12th,
16 my understanding is that we will have both the fire
17 chief as well as we will have the applicant's blasting
18 consultant who will be able to speak to blasting,
19 response time, and mutual aid.

20 Any other announcements?

21 MR. SCHWARTZ: Just blasting. The blasting
22 guy just speaks about blasting.

23 MR. JESSE GELLER: Right. But there's more
24 that's going on.

1 Okay. So Mr. Hussey?

2 MR. HUSSEY: Thank you, Mr. Chairman. I just
3 wanted to reprise my understanding of the issues that
4 were raised by the board amongst themselves and
5 discussed but I think not fully resolved. And so this
6 is open for amendment and correction.

7 The first one I have is the west infill, the
8 additional units attached to building number 2. There
9 was some question as to the massing of that building in
10 its enlarged state and how they mitigate that somehow.

11 The second item I have is resolving whether
12 Option B or modified Option C or Option C in itself is
13 the preferred final solution by the board. And that
14 involved -- Option B was essentially stepping the
15 apartment building up further to the west and retaining
16 the same number of units and the two level garage or
17 possibly reducing the building to three levels and
18 eliminate the lower garage level.

19 The third issue is the discussion on the
20 parking density, in particular the parking in the
21 building, whether it should be approximately two spaces
22 per unit or 1.5 spaces per unit.

23 And then the final question had to do with
24 resolving the massing and the height -- appearance of

1 the apartment building. We had talked about the facade
2 tower, recessing them in and out, exploring material
3 articulation to break it up into a smaller component or
4 actually breaking up the building itself.

5 So those are the items that, according to my
6 records, were ones that were discussed and are still
7 under consideration by the board.

8 MR. JESSE GELLER: Let me correct you based on
9 my memory with one specific, in particular, and then
10 make a notation just about another.

11 The first is you commented that you believe
12 that the board has had a discussion about Options B
13 versus modified C. I want to take it out of the
14 context of Option B and Option C. The discussion that
15 I believe was going on was with respect to the bigger
16 building -- or biggest building. There was a
17 discussion about whether three floors or four floors or
18 stepped. That was the discussion. Okay?

19 And independent of that was a discussion about
20 massing. I know you have that as a separate agenda.
21 So I don't know that I can characterize that or that
22 the applicant can characterize that as their B or their
23 C, because their B or C is something slightly
24 different.

1 The other thing is, with respect to the
2 parking, I just do want to note that as has correctly
3 been pointed out, I believe, under the bylaw, parking
4 is calculated based on bedrooms, so you're going to
5 a -- and I assume it's intentional -- but your
6 suggestion about calculating based on units is a
7 different methodology. I assume it's intentional.

8 MR. HUSSEY: It is. But the apartment
9 building, as I understand it, has -- doesn't have any
10 three-bedroom units in it. And so I think that the
11 zoning requirement is for two spaces per unit on that
12 basis, that the bedrooms are less than three.

13 MR. JESSE GELLER: Right. Okay.

14 MR. HUSSEY: But I'll accept your correction.

15 Also, I do -- you didn't mention, but I did --
16 reducing the apartment building to three floors,
17 eliminating one floor, that was discussed last week.

18 MR. JESSE GELLER: Yeah, I did mention that.

19 MR. HUSSEY: Okay. Good.

20 MR. JESSE GELLER: I wouldn't leave you out.

21 Mr. Schwartz, I see you standing there.

22 MR. SCHWARTZ: Only because our list of what
23 we thought the -- what we tried based on this consensus
24 is slightly different than the way Mr. Hussey presented

1 it. So what we're going to present tonight I think
2 attempts to address what we heard and tried to take
3 careful notes of what the conclusion was after the last
4 discussion.

5 So just going through them, in an attempt --
6 which was an interesting discussion to watch -- of
7 attempting to broker between the three of you in terms
8 of the issue of the number of stories of the building.
9 It was our impression that a consensus had emerged that
10 a four-story building stepping to a three-story was
11 something that would meet your needs, so that's what
12 we're going to be presenting this evening.

13 There was also -- and that would have the
14 advantage of reducing some parking, reducing some
15 density, and so -- and overall, just the primary
16 purpose of it is the visibility of the building from
17 the Asheville Road elevation.

18 We also, as I think was mentioned, were asked
19 to show the articulation of the building, which I
20 think, Mr. Chairman, is something that you were
21 particularly concerned about, so we have graphics that
22 will get into some more detail there.

23 With respect to the S7 district, we were asked
24 to look at building number 2, in the eight-unit

1 building, and we have some graphics to show as it
2 relates to that. Those issues of design will be
3 presented by Marc in a moment.

4 There were a couple of other issues which were
5 raised -- or requests of potential conditions which
6 were raised by the board at the last hearing. One was
7 that the parking will be restricted for use solely on
8 the 40B lots, and that is a condition I can say is fair
9 that we will accept.

10 The last one that we had was that there would
11 be a restriction on any future development within the
12 40B lots, and that one I can say conceptually we were
13 in total agreement with. We do want to be -- and the
14 devil's in the details here -- careful about making
15 sure that what the intent of the board is, there be no
16 further building or parking area in that area as
17 opposed to minor change in pavement or, you know, if we
18 were to put some kind of other improvement like a play
19 area or something like that, that which would be
20 considered an improvement, that that's not really what
21 the board has in mind, that it really means restricting
22 the parking and the buildings to what we have on the
23 plan or what we will have on the plan.

24 So that was our list. And our goal, in

1 presenting this evening, would be hopefully to achieve
2 a consensus based on what we're going to show you.
3 Obviously that will require -- since these are just
4 concepts and not the formal plan, our goal would be to
5 submit a replacement formal plan prior to the next
6 hearing together with our final list of waivers that
7 would be required for that plan and hopefully on that
8 basis be able to address any remaining issues and
9 concerns as the hearing comes to a close.

10 So I'm happy to turn it over to Marc, but if
11 there's anything in which I said which is -- does not
12 resonate with any of the board members in terms of the
13 way I'm presenting it, I'd be happy to answer those
14 questions as well.

15 MR. HUSSEY: Only that you're right. Among
16 the presumed voting members of the board, there was a
17 consensus not to go to the three floors at the
18 apartment building, but I have not finished making my
19 argument along those lines, so it may come up again.

20 MR. SCHWARTZ: Right. Well, fair enough,
21 Mr. Hussey. All I can say is that, you know, when we
22 got -- the reason that we were -- and I think
23 Ms. Netter was also pushing you a little bit for us to
24 get some sense of consensus -- is because we needed to

1 go back and present you with something, and that's what
2 we now absolutely understand that you're going to --
3 may want to revisit issues. But what we present was
4 based on what we heard as the consensus where the board
5 was coming up.

6 MR. HUSSEY: I understand that. And so I
7 understand that these issues, and especially the
8 three-floor issue, has got to be resolved tonight so
9 you can move ahead and present a finished product that
10 we can base waivers on and other issues. I agree to
11 that.

12 MR. SCHWARTZ: Is it appropriate at this point
13 to turn it over to Marc?

14 MR. JESSE GELLER: Let me just make sure there
15 are no other baseline questions, comments, thoughts.

16 (No audible response)

17 No? Okay.

18 MR. LEVIN: Good evening. As Steve mentioned,
19 we went back to the drawing board again and tried to
20 look at a way -- or really a distance to set back that
21 fourth floor to make it pretty unapparent from the
22 Asheville entrance. And so what you see here is a
23 floor plan that I'll describe. This area here in white
24 is three stories. This is Asheville up here. And the

1 distance that we have set this back is 80 feet to
2 here. Note that this is an egress stair and it isn't
3 going anywhere. And you also see in subsequent slides
4 that that is not visible. In doing this, in setting
5 this back the 80 feet, we relinquished six additional
6 units.

7 So here's a model, obviously with no
8 vegetation, that shows that 80-foot setback, and you
9 can see that the fourth story is barely visible from
10 Asheville Road. This is at the property line. This is
11 Asheville Road at the property line.

12 Next you see what it looks like in winter
13 conditions with no foliage on the trees, but it does
14 include some plantings that we're going to do as part
15 of the program.

16 Here you see it with foliage, the seven-month,
17 the year view from Asheville road.

18 Slightly different angle of the building.
19 Once again, you can see the setback, that 80-foot
20 setback. Obviously, no vegetation here. This is your
21 winter conditions with our plantings.

22 And this is the summer view.

23 Now, you know, in deference to the request to
24 articulate the building in greater fashion and to mix

1 building materials to reinforce that effect and to some
2 extent to try to achieve a view of different sections
3 of building, you'll see the next view is showing what
4 we've done with both materials and to some degree
5 articulation. But I can show you that in a closer up
6 view. But you can see how the building clearly is
7 stepping in many locations.

8 I'd like to just show you -- give you some
9 close-ups. There's just one set, so if you could just
10 pass those around. Now, it should be noted that this
11 elevation cannot be seen by anyone with the exception
12 of the residents at Hancock Village. You have
13 Asheville Road, you know, far off here, so this view,
14 as I think we've mentioned before and shown on the
15 plan, is not visible to anyone but our residents.

16 So here you see how much the building really
17 does articulate, and we started to incorporate some
18 more detail in materials. We have the cultured stone
19 at the base that will relate and, in a way, grow out of
20 the puddingstone. We have brick that mimics most of
21 Hancock Village and many of the abutters' homes. Then
22 we have stucco style cement board panels that mimic
23 limestone. And lastly, you have architectural asphalt
24 shingles.

1 Here's another view. This is actually a view
2 to the west. You can see the entrance to the building,
3 and you can see how the building is articulating, and
4 this repeats itself around the building. We're very
5 pleased with the progress of the building. We think
6 it's becoming a pretty handsome looking facade.

7 The eight-unit building was also discussed.
8 And although we haven't really discovered any way to
9 break it up, I just wanted to show you the winter view
10 with the planting, and once again, the summer view.
11 And I do want to point out that the evergreens that
12 we're planting here are southern exposure with nothing
13 to block the sunlight, so these are going to grow very
14 rapidly. Within a few years, you will barely be able
15 to see the buildings.

16 MR. HUSSEY: Marc, can you indicate on that
17 previous slide -- we can see the edge, the left-hand
18 edge of the building. What we can't quite see is how
19 far into the shrubbery the right-hand edge of the
20 building is. You know what I mean?

21 MR. LEVIN: Yeah. I think you see virtually
22 the entire building. I'm trying to --

23 (Inaudible discussing among the applicants.)

24 MR. LEVIN: Well, we'll see it on the plan. I

1 don't know if that will answer your question.

2 MR. HUSSEY: Well, I think what might answer
3 it is -- that gable that rises out of the gutter line,
4 is that the center of the building, or is that --

5 MR. LEVIN: No. I think that's two-thirds.

6 MR. KINDERMANS: No. Actually, if I may,
7 that's the center of one of the halves. So there is,
8 you know, a quarter -- two quarters in the center and
9 then another quarter. And you see that's --

10 MR. LEVIN: I think we have another gable
11 right here.

12 MR. KINDERMANS: Right. And so there's two
13 dormers to the side of the gable on the left side, so
14 there's also two dormers on the right side of this
15 gable. So this would be the last dormer that you'll
16 see there.

17 MR. HUSSEY: This one?

18 MR. KINDERMANS: Right.

19 MR. HUSSEY: So the end of the building is
20 about here?

21 MR. KINDERMANS: Correct.

22 MR. HUSSEY: Okay. Thank you.

23 MR. LEVIN: In no event does this building
24 violate the 20-foot setback. I just want to point that

1 out.

2 Again, this is the plan that you saw last
3 week. We haven't yet taken this and modified this to
4 take off the fourth floor down here.

5 And here we have a summary of the changes from
6 the comp permit application all the way to this revised
7 Option C, we'll call it. And you can see that the
8 apartment which started out as a four-story building,
9 and it's now a four-story building, has lost 3,500
10 square feet and it's actually lost more square footage
11 than that on the fourth floor but we added the
12 community space on the outside in front of the
13 building.

14 The infill buildings have been reduced by
15 nearly 20,000 gross square feet for a total of 23,000
16 square feet less than the original plan. The total
17 number of units in the apartment building has gone down
18 by six, the total number of bedrooms down by ten. The
19 total number of units in the infill has been reduced by
20 20, and likewise, the total number of bedrooms has
21 dropped by 46. Similarly, the total number of units
22 overall has dropped by 26, and the total number of
23 bedrooms by 56. And again, we've increased the
24 functional usable open space by nearly three acres.

1 There's 12 less parking spaces as well from the
2 original comp permit application.

3 There was some discussion of density that made
4 us do a little calculations that we hadn't done
5 before. On the west lot, you can see it's eight units
6 per acre. E1, which is the -- this here is E1, this is
7 E2, and this is E3. So in E1, it's 14.55; E2, 36 and a
8 half; E3, 7.8; for an average of 19.3 over the project.

9 And then comparing it to some -- we scaled
10 down the group to just the nearby communities, and you
11 can see that our overall of 19.23 is the smallest of
12 them all.

13 MR. HUSSEY: Do you have that previous slide
14 in hard copy?

15 MR. LEVIN: No. But I can get it to you.

16 MR. HUSSEY: I think that would be helpful.
17 Thank you.

18 MR. LEVIN: Sure. And I think that's it.

19 MR. JESSE GELLER: Can you put your density
20 numbers back up?

21 MR. HUSSEY: I had one other question and that
22 is: The total parking now in the apartment building,
23 is that the 333 number?

24 MR. LEVIN: The 333 is the aggregate. The

1 parking in the apartment building is 114.

2 MR. HUSSEY: Okay.

3 MR. JESSE GELLER: Maybe I missed something,
4 but you had raised the question of elimination of
5 parking within that building to eliminate some of the
6 ledge removal. Does this address that particular issue
7 that you raised?

8 MR. HUSSEY: Well, I'm not sure. I'd have to
9 see the plan, the parking plan. But presumably it does
10 reduce some of the ledge removal that's required;
11 right?

12 MR. LEVIN: It would.

13 MR. HUSSEY: But exactly how much depends upon
14 how many spaces are being eliminated on that lower
15 level, whether it's a quarter or a half, you know --

16 MR. LEVIN: It's not quite half of the lower
17 level. And we have started to look at that, and we
18 have to just avoid those egress stairs.

19 MR. HUSSEY: Right.

20 MR. LEVIN: But I think that certainly on
21 either end there's the opportunity to reduce the
22 excavation that would be necessary for those spaces.

23 MR. HUSSEY: Okay.

24 MR. LEVIN: We had 144 spaces originally, and

1 there were a few more on the upper level than the lower
2 level. That's why I say it's not quite half, but it's
3 close.

4 MR. HUSSEY: Okay. Good.

5 MR. JESSE GELLER: On the three-story section
6 of the building, the three stepping into four, the
7 three-story section, what's the height on that?

8 MR. LEVIN: Measured from where?

9 MR. JESSE GELLER: Excellent question. Let's
10 start with if I measured it under 40A.

11 MR. LEVIN: I believe if you measure it
12 under --

13 MR. JESSE GELLER: Marc, could you put back
14 the slide of the view looking from Asheville at the
15 corner?

16 MR. LISS: What would be the height you're
17 submitting?

18 MR. LEVIN: Well, the height that we're
19 submitting for the purpose of evaluating waivers -- and
20 correct me if I'm wrong -- is we do not -- we will not
21 need a waiver for zoning, because you take the height
22 from the lowest point on the lot -- this is lot 2. --
23 and the lowest point, I believe, is right next to
24 Asheville Road, and the way height is calculated, you

1 would not need a waiver. In fact, you would not need a
2 waiver for four stories.

3 Now, we will ask for a waiver because of its
4 proximity to our lot and another criteria kicks in.
5 But if this was -- if we didn't have to artificially
6 create lots, we would not need a waiver for height.

7 MR. JESSE GELLER: Let's take it at its most
8 simple. What is the height of the structure from the
9 ground?

10 MR. LEVIN: The first floor --

11 MR. JESSE GELLER: Start there.

12 MR. LEVIN: Each floor is approximately 10
13 feet floor to floor, so you're looking at 30 feet,
14 nominally, 31, you know, with whatever pediment you may
15 have on top.

16 MR. BOOK: So this view -- we're on
17 Asheville -- are we within the Hancock Village, or are
18 we back at Russett Road? How far back are we?

19 MR. LEVIN: We are right on the property line
20 at Asheville. So as you're driving in the middle of
21 Asheville Road, you are -- and you cross over the
22 property line, that is the view. So it is from right
23 there. If you can hold that steady, it's right there.

24 MR. BOOK: Thank you.

1 MR. HUSSEY: Marc, I just want to clarify
2 something. According to my notes, you had the parking,
3 including the open space parking -- at the apartment
4 building, you had 196, 70 in the lower level, 74 in the
5 upper level of the garage, and 52 in the open space,
6 for a total of 196. And you deleted 30 from the garage
7 and 6 from the surface space. You deleted 36 spaces.

8 MR. LEVIN: That's correct. That would be --

9 MR. HUSSEY: Okay. That's good. So for the
10 total for the apartment building parking -- related
11 parking -- you've got about 160 and you've got 110
12 units now, so we're at about 1.45 spaces per unit, I
13 think.

14 MR. LEVIN: Sounds close.

15 MR. HUSSEY: Close enough for government work
16 anyway.

17 MR. BOOK: You mean within the building?

18 MR. HUSSEY: No. That's the building and the
19 surface parking.

20 Can you put the plan back on, the site plan?
21 Yeah, this -- surface parking plus the garage parking.

22 MR. LEVIN: Correct.

23 MR. JESSE GELLER: Just that surface parking?

24 MR. HUSSEY: Just that surface parking. Not

1 any of this surface parking.

2 MR. JESSE GELLER: The same with the one over
3 there.

4 MR. HUSSEY: I'd have to see a larger plan.
5 That's right, we've got a new building here and here,
6 so some of this parking is servicing that building.

7 MR. BOOK: Chris?

8 MR. HUSSEY: Yes.

9 MR. BOOK: So we have 166 units and 333
10 spaces.

11 MR. HUSSEY: That's total for the whole
12 development.

13 MR. LEVIN: Two to one. It's actually two to
14 one plus one because there's two units in the M5 that
15 have more than two bedrooms right here. That's one
16 extra space.

17 MR. BOOK: The parking ratio is still two.

18 MR. HUSSEY: For the whole building?

19 MR. BOOK: No. For the 40B project.

20 MR. HUSSEY: Yeah. That's the whole project.
21 What I was trying to establish was what the parking
22 ratio was per unit that was attributable just to the
23 apartment building.

24 MR. BOOK: So it's two to one. It's just that

1 some of those spaces are surface spaces and they
2 couldn't accommodate them all within the structures.

3 MR. HUSSEY: No. Some of the spaces that are
4 attributed to this building that would make up the two
5 are over here.

6 MR. LEVIN: Well, not necessarily because
7 there's a surplus of space both here and here, and here
8 in particular as it relates to this.

9 MR. HUSSEY: Okay.

10 MR. BOOK: All I'm just trying to clarify is
11 that, you know -- already been said that the two to
12 one -- the two spaces per unit ratio didn't trouble
13 me. It did trouble you, so I just want to be clear
14 that it's still --

15 MR. HUSSEY: It's still apparently two to one
16 overall, over the whole thing.

17 MR. BOOK: Over the 40B --

18 MR. JESSE GELLER: Over the entire --

19 MR. HUSSEY: Over the entire -- that's fine.
20 I was trying to reduce the parking ratio around the
21 apartment building because that impacts the traffic
22 into the Asheville Road neighborhood.

23 MR. BOOK: Correct.

24 MR. HUSSEY: So by putting them other places,

1 hopefully these parking spaces will exit onto the VFW,
2 but we can't count on that. But certainly these spaces
3 will exit onto Independence Road.

4 I think we got that put to bed.

5 MR. JESSE GELLER: Okay. Do you have any
6 other questions on ...

7 MR. BOOK: Chris, did you have any more --
8 where we left last Monday, did you have any more
9 thoughts about the density, how -- and I know that
10 they've provided some additional density information
11 and it's hard to sort of analyze on the fly but --

12 MR. HUSSEY: Well, I think it's a move in the
13 right direction. I really do. They've reduced the
14 parking by 36, they reduced the total number of units,
15 and so I think that's going in the right direction.
16 I'm going to reflect and see how the rest of the
17 discussion goes, but I think that's a good move, an
18 improvement.

19 MR. JESSE GELLER: Can you talk to -- you
20 know, filter this, what you've seen, into the
21 discussion between both the density as well as the
22 height of the big building.

23 MR. HUSSEY: Well, the height of the big
24 building has clearly been reduced. It's basically a

1 four-story building now. The fourth story is moved
2 back 80 feet from that eastern end.

3 MR. JESSE GELLER: What's your opinion about
4 80 feet?

5 MR. HUSSEY: Well, I think that's about right.

6 MR. JESSE GELLER: Because?

7 MR. HUSSEY: The rule of thumb, I think, of
8 these things is for every two feet of height you should
9 move back at least a foot. And I think they've moved
10 back more than a foot. We've got three stories at the
11 end. I think it's three stories plus the garage a
12 little bit, so that's approximately 40 feet, 10 feet to
13 a floor. And they moved that edge back 80 feet. So
14 you see what I'm saying? The ratio -- the edge of the
15 building, the fourth floor is back two times the height
16 of the east end of the building.

17 MR. JESSE GELLER: And you're taking into
18 account the ledge?

19 MR. HUSSEY: The ledge has nothing to do with
20 it.

21 MR. JESSE GELLER: No. But you're coming up
22 with a coefficient -- I'm just trying to figure out
23 your coefficient. Your coefficient is sort of
24 predicated on height to length; right?

1 MR. HUSSEY: Right.

2 MR. JESSE GELLER: So in your coefficient of
3 height to length, visually you have to account for --
4 you don't start at -- unfortunately, I wish you could
5 start at ground level, but you can't because visually
6 you're actually seeing it from, you know, below that --

7 MR. HUSSEY: I think what you're saying is
8 that when you're on Asheville Road at Russett Road, the
9 bottom of this building, the apartment building is
10 higher than that intersection, so you've already got a
11 certain number of feet before you start seeing the
12 building. But what you're seeing in that slope is
13 trees, you know, and plantings and what have you. So
14 what I'm more worried about is just what's the story on
15 the apparent height of the building.

16 MR. JESSE GELLER: Okay. So it doesn't offend
17 your methodology in terms of --

18 MR. HUSSEY: No. I mean, it's really
19 counterintuitive, but, in fact, the higher the whole
20 building is, the less chance you're going to see that
21 setback anyway, because the whole thing has gone up in
22 the air, and so your site line now is rising and that
23 setback facade, back 80 feet, is now masked by the edge
24 of the building. If the whole building was down at the

1 same level as Asheville Road, you'd be more apt to see
2 the face of that setback part of the building. As you
3 raise it all up -- you know, think about it. If you
4 raise the whole building 80 feet, you would certainly
5 never see the back of that setback facade.

6 MR. JESSE GELLER: And in terms of -- well, we
7 have the photographs in front of us. And the way that
8 they are articulating the structure, do you have any
9 comments, thoughts?

10 MR. HUSSEY: Well, I think this is pretty much
11 what I described to you last week. They're using
12 materials and color and they do have actual
13 articulation to break the building up into a series of
14 what are apparent towers.

15 MR. JESSE GELLER: Now focus that back into
16 your discussion about density and where you were going
17 with it.

18 MR. HUSSEY: Well, I haven't worked out the
19 numbers yet, but the density is certainly going to be
20 less. As was pointed out, this density number on the
21 apartment area, if you just take the M.5 land area,
22 that zone land area, which is what Maria and I did
23 after a long discussion, that's kind of skewing the
24 number a little bit. If you take the density and count

1 the open parking and the surrounding green space around
2 that parking, then you're more apt to get a number
3 that's closer to 35 or 40 dwelling units per acre than
4 the 56 -- 58 or 56 dwelling units per acre I indicated
5 in my chart. So that number on that far side, the
6 density, which I've got down here is 59 -- 56 --

7 MR. JESSE GELLER: 56.59 DU.

8 MR. HUSSEY: -- dwelling units per acre, if you
9 include that part of the -- where the open space
10 parking is, the opening parking area and then the green
11 area right around it, and then you can move that line
12 back and forth, you get it down closer to 35 or 40
13 dwelling units per acre. So that's getting -- you
14 know, it's getting under what the sort of urbanized
15 part of Brookline is. It's getting closer to what the
16 multifamily 40B guideline is for Needham, 24 dwelling
17 units per acre. So again, it's going in the right
18 direction. You know, I'm more satisfied than I was
19 last week.

20 MR. JESSE GELLER: And as the advocate on the
21 three-story structure, do you have any thoughts about
22 that?

23 MR. HUSSEY: Well, I'm reflecting on that.
24 I'd like to get through the rest of this and then see

1 where we're at so you get the point of discussing
2 that. But I'm pleased that they've come further in
3 what they've done.

4 MR. JESSE GELLER: Mr. Book, do you want to
5 comment on those things that were particularly issues
6 for you?

7 MR. BOOK: Yeah. I'm going to start with --
8 yes. I'm going to start, though, with an issue that
9 was -- that you had -- an issue of yours.

10 And just as a comment, I like what they've
11 done with the facade. I actually think it's
12 attractive. You know, we asked them to do something,
13 and I like the way that it looks now, the mix of the
14 materials, the stone coming out of the ground. So I do
15 like that.

16 I am not sure -- I like the fact that the
17 fourth floor is stepping back. I'm not sure if it's
18 stepped back enough, if it should be stepped back
19 further.

20 MR. JESSE GELLER: "Stepped back further," you
21 mean away from Asheville Road?

22 MR. BOOK: Away from Asheville. It's still --
23 one of the questions I had, where were we looking at
24 the building from? We're looking at it from the

1 property line. It's still very visible, and so I'm
2 not --

3 MR. JESSE GELLER: Is your concept that it
4 should be invisible from Asheville Road so that it
5 looks like a three-story building?

6 MR. BOOK: That is my thought. That has been
7 my thought, and that is still my thought. I'm not -- I
8 want to think about it a little bit more and look at
9 it, but my initial --

10 MR. JESSE GELLER: Marc, can you put back the
11 visual from Asheville Road so we can see?

12 MR. LEVIN: This one?

13 MR. JESSE GELLER: There you go.

14 MR. BOOK: And so the piece of it that's still
15 visible, I'm not sure. I'm undecided of whether or
16 not --

17 MR. JESSE GELLER: Well, I guess, here's the
18 question. Is there a technical --

19 MR. HUSSEY: There is a technical problem.
20 There's a technical problem that from each floor,
21 according to the building code, you've got to have two
22 means of egress. So however far they set back, they
23 can't go -- I don't want to make the argument for them,
24 but they can't go back so far that they can't have two

1 stair towers operating and reaching that fourth floor.
2 If they go back much further, they'll have to
3 introduce -- they've got one, two, three, four, I
4 think, stair towers now to cover all the bases. There
5 are limits in terms of the corridor length as well.

6 Anyway, let's hear the argument from the
7 architect on this.

8 MR. JESSE GELLER: You want to hear on that
9 specific issue? Okay.

10 MR. LEVIN: I'm not the architect, but I can
11 tell you that there are three stair towers plus -- I
12 believe there's three.

13 MR. HUSSEY: I'm looking at an old set of
14 plans, actually.

15 MR. LEVIN: I think there's a central --
16 there's four.

17 MR. HUSSEY: What's this?

18 MR. LEVIN: That's the fourth one.

19 MR. HUSSEY: Yeah. I think it is. Okay.

20 MR. JESSE GELLER: So from a technical
21 standpoint, you're saying it's not --

22 MR. HUSSEY: It gets complicated. I mean, the
23 way they resolved it is they've kept that fourth stair
24 tower out in this portion of the building, so you don't

1 see it set back. And back here someplace there's a
2 stair tower. They could push that back some more and
3 then just do the corridor that goes up to the stair
4 tower.

5 MR. JESSE GELLER: Is what bothers you the
6 fact that -- if all you saw was, for instance, the
7 segment of what would be essentially a three-story
8 building, okay, so you follow it and you've got two
9 bays on the end, and from the angle from Asheville Road
10 above it you see the fourth floor that is set back,
11 that would pull further in so essentially that second
12 bay, the furthest back on the three-story structure so
13 it was -- so that the fourth floor was clear of it,
14 would that visually make a difference?

15 MR. HUSSEY: Well, I think that space actually
16 does align with this space. I'll bet it does or pretty
17 close to it.

18 MR. BOOK: So that's behind that --

19 MR. HUSSEY: That's behind that space right
20 there.

21 Now, this -- unfortunately, this is where a
22 physical model would be really useful. It's too late
23 to get into it, but the graphic models like this, they
24 do have a limit when you're making a presentation,

1 where a physical model you can all stand around and
2 walk around and see what's going on.

3 MR. JESSE GELLER: I guess the question
4 becomes whether visually -- if the front looks like its
5 own stand-alone building, whether that is better. I'm
6 just trying to work through your thinking. Why don't
7 you think about that. Let's see if Mr. Zuroff or
8 Mr. Liss have thoughts.

9 MR. ZUROFF: You want my thoughts?

10 MR. JESSE GELLER: I do.

11 MR. ZUROFF: I said this last time, and I'll
12 say it again. My feeling about this entire project is
13 that I would like to see the entire amount of density
14 reduced. And so when Mr. Hussey proposed a three-story
15 building which would not only lower the height of the
16 building but reduce the number of units and reduce the
17 amount of blasting because we're taking out a level of
18 parking, I'm supportive of that kind of proposal.

19 Frankly, in my opinion, the appearance of the
20 building from Asheville with the setback floor is less
21 relevant to me than the density, the number of units,
22 the number of bedrooms in the project.

23 So I think, if you look at this objectively,
24 you're going to have substantial infill of foliage.

1 You're not going to see this building, and in time
2 nobody's even going to notice whether it's three or
3 four stories. I think the impact of this project on
4 this neighborhood is the number of people that are
5 going to be living there. And so I would prefer to see
6 three stories; the fourth story disappear. That's my
7 feeling on it. You're arguing about massing and the
8 appearance of the building, and I think that's less
9 relevant than how many people live there.

10 MR. JESSE GELLER: Okay. Thank you.

11 Mr. Liss?

12 MR. LISS: Given the comments from last week,
13 they addressed the issues that seem to be unanimously
14 agreed to by the sitting members, so I think they did a
15 nice job.

16 Obviously, if I was in favor of a larger
17 building, then this clearly -- I'm in favor of this as
18 well. I do like the changes of the texture, the
19 four-story. I've seen some other units in more
20 suburban areas use that change of color to
21 differentiate the -- kind of hide it. It's a nice
22 project.

23 You know, I can't say I disagree with Mark in
24 that, you know, if you're looking for impact, it's

1 basically -- the number of people have more impact than
2 the size. So, you know, I was never against the large
3 building, but the more people, obviously the more
4 impact. But the question -- I do -- I like this. And
5 I like that they lowered the parking as well.

6 MR. ZUROFF: I might add that the appearance
7 of the building has done a lot to improve this. I like
8 what they've done.

9 MR. JESSE GELLER: Okay.

10 MR. HUSSEY: Do you have the slide of the
11 parking layout, the lower -- the parking level?

12 MR. LEVIN: We have not evolved that. We've
13 started looking at -- studying it to see how -- where
14 those 30 spaces would come from.

15 MR. HUSSEY: Okay. Thanks.

16 MR. JESSE GELLER: Now do you want to go back
17 to your considerations?

18 MR. HUSSEY: Well, I think we've touched on
19 them. Which one in particular are you referring to?

20 MR. JESSE GELLER: Well, I think you have
21 to -- it seems to me that the issue with that
22 parking -- have you resolved yourself with the number
23 of spaces?

24 MR. HUSSEY: I think so, yes.

1 MR. JESSE GELLER: So the natural attrition
2 has resolved your concern over number of spaces?

3 MR. HUSSEY: The number of parking spaces.

4 MR. JESSE GELLER: In sort of the global
5 calculation?

6 MR. HUSSEY: Yes.

7 MR. JESSE GELLER: So the question -- the
8 standing question then becomes the issue that pertains
9 to height of structure and -- with all due respect to
10 Mr. Zuroff -- breaking up of structure, mass. So it
11 seems to me those are -- and we still have the question
12 about the building 2.

13 MR. BOOK: Right. But we do have -- and Mark
14 correctly mentioned -- we still have a question about
15 density. We haven't resolved it.

16 MR. JESSE GELLER: No. I know. You two have
17 started that conversation, but you sort of have kicked
18 the can without resolving it.

19 MR. BOOK: Yes.

20 Building number 2, my opinion hasn't changed
21 from last week. I think that building 2 is too large.
22 If it can't be broken up, then I think it should go
23 back to what it was in the original plan, which is the
24 four-unit building. It's just too big of a building.

1 And even with the evergreens grown in in a number of
2 years, it's just a -- it's too large of a building.
3 I mean what it comes down to, I would not want to own
4 that home, that home, that home, or that home. And I
5 think you'll still see it through the trees. I just
6 don't think it's going to disappear.

7 MR. JESSE GELLER: I'm not sure I agree with
8 you on that one, but I hear what you're saying.

9 Do you have a thought on that, Mr. Hussey?

10 MR. HUSSEY: I don't have a problem with the
11 massing. I think eliminating those -- that new
12 addition essentially -- eliminating those four units
13 solves Jonathan's issue and reduces some of the
14 density.

15 MR. JESSE GELLER: Well, that's sort of where
16 I was going. You know, I'm sort of leading this
17 because I'm sort -- I'm taking your conversation,
18 your -- well, I'll include Mr. Hussey now in the
19 discussion.

20 MR. BOOK: Zuroff.

21 MR. JESSE GELLER: Yeah, that's Zuroff, right.

22 If I sort of combine where the three of you
23 are going, there's a density discussion. You're not
24 being specific about the where and the how. You're

1 being very coy, so I'm sort of asking the question
2 about that building to try and get to the density
3 question because assuming you follow your direction,
4 then that does alleviate some of the density, does it
5 not?

6 MR. BOOK: It does, but that's not what's
7 driving my comments about building number 2.

8 MR. JESSE GELLER: I understand.

9 MR. BOOK: It would have been fine if they
10 broke the building up, if they could have broken the
11 building up.

12 MR. JESSE GELLER: Our understanding is they
13 can't for whatever reason.

14 MR. BOOK: Right. And in terms of the density
15 issue, I come back to -- I don't know if there is an
16 issue. Part of the question is, is this right -- I'm
17 asking it as a question, and I don't know the answer to
18 it. Part of it is looking at other developments both
19 in and out of Brookline in a similar area as well as
20 South Brookline itself.

21 And, you know, I touched on this a little bit
22 last week, but we -- there is a de facto density as
23 prescribed by 40A, and I know that 40A is not
24 necessarily applicable or waiveable. In 40B, in

1 essence, you get -- there's a -- it's reasonable to
2 have a bonus -- to get a bonus for offering --

3 MR. JESSE GELLER: Affordable housing.

4 MR. BOOK: -- affordable housing. And so my
5 question, again -- and the question is: What is the
6 appropriate density and the appropriate bonus, so to
7 speak, for -- in a 40B project in South Brookline, and
8 the other things that we have to look at as intrinsic
9 evidence of coming up with that right number, or what's
10 the appropriate number for this?

11 MR. HUSSEY: Okay. Well, let me take you back
12 to this density chart. The Beverly Road neighborhood
13 is about -- is just under 5, 4.78 dwelling units per
14 acre. This new plan, Option C, raises it in that area
15 alone to 8.3 dwelling units per acre. So that seems to
16 me to be not an unreasonable ...

17 MR. BOOK: So you're just looking at the S7
18 piece of it. Okay. So in the S7, there's not quite a
19 doubling of the density.

20 MR. HUSSEY: Correct.

21 MR. BOOK: All right. And what you were just
22 saying is that it does not seem unreasonable.

23 MR. HUSSEY: No, it doesn't seem
24 unreasonable.

1 MR. BOOK: Okay. And I don't disagree with
2 that.

3 MR. HUSSEY: That's also less than the Needham
4 guidelines. They call for eight to ten dwelling units
5 per acre. So there's a benchmark.

6 MR. BOOK: And that's over the entire --
7 that's the entire S7? Or is it similar for --

8 MR. HUSSEY: Yes.

9 MR. BOOK: Okay. So that's just Beverly to
10 Russett.

11 MR. HUSSEY: No, no. Russett is different.
12 On the Russett Road, the neighborhood is about 6.47
13 dwelling units per acre. And the green belt, east
14 Russett Road, is 8. -- the new proposal is 8.74
15 dwelling units per acre. So that's --

16 MR. BOOK: -- not an unreasonable --

17 MR. HUSSEY: That's not an unreasonable -- by
18 my standards.

19 MR. BOOK: Okay. So then the last piece of it
20 is the apartment building.

21 MR. HUSSEY: Right.

22 MR. JESSE GELLER: So on the apartment
23 building ...

24 MR. BOOK: So the apartment building, where

1 are we looking at? Did you say it's in the 40s?

2 MR. JESSE GELLER: 35.

3 MR. HUSSEY: Roughly 35 if you include the
4 green area where the open parking is. So that's the --
5 what the Park Street density is, get back to the urban
6 solution, getting close to that. The multifamily
7 districts in Needham, they say up to 24 dwelling units
8 per acre. Densities over 24 would be considered
9 individual.

10 MR. BOOK: So let me ask you, is -- I'm
11 sorry. You said it was around 34?

12 MR. HUSSEY: Yeah.

13 MR. BOOK: Okay. And that is an urban
14 solution to a suburban location. And so I guess the
15 question is: Should we have an urban solution -- is an
16 urban solution appropriate in a nonurban area?

17 MR. HUSSEY: Well, I don't think I can answer
18 that. I really don't. You don't want to eliminate the
19 apartment building altogether. That was why I felt
20 that taking off that entire fourth floor was not an
21 unreasonable position to take for the reasons that Mark
22 indicated.

23 MR. BOOK: And do you have a sense of what
24 that would do to the density, where we're bringing the

1 number? I guess what I'm trying to figure out is --
2 just to arbitrarily say, oh, let's just take off a
3 floor, I guess I want to think that there's a --
4 there's some nexus to it.

5 MR. LISS: Well, there's two -- there's a
6 nexus. There's two possibilities of why you're
7 removing it. One is aesthetics, right, which we can
8 consider, and the other one is density, meaning the
9 impact on the traffic and stormwater and everything by
10 more people.

11 MR. BOOK: But the aesthetic, I think, is
12 limited to the -- now I'm sort of conscious of this
13 microphone. No one's every complained about my voice
14 carrying before.

15 Anyway, the aesthetic is only relevant for the
16 first -- I think for the -- that wing. I mean, once
17 you get past that wing, no one sees it unless you're in
18 Hancock Village, and then I don't think that's all that
19 relevant. The aesthetic piece of it, I was concerned
20 about it to the extent that people outside of Hancock
21 Village are looking in and seeing the three- versus a
22 four- versus a five- versus even a six-story building.

23 MR. LISS: Are you satisfied with the four --
24 are you saying if the four did show, they wouldn't see

1 it from the outside?

2 MR. BOOK: Well, right now you can still see
3 it because it's back 80 feet, and that was part of my
4 earlier questioning, is whether or not -- how much
5 further could it go back before it wasn't visible
6 anymore and whether or not that is even doable from an
7 engineering perspective or fire, egress perspective.

8 So the point I'm making is that I think that
9 as we talk about -- as we have this discussion about
10 scaling back the fourth floor or removing it entirely,
11 I think there needs to be a nexus aligned with doing
12 that that. I just don't think it can be an
13 arbitrary --

14 MR. JESSE GELLER: No. I don't think there
15 was ever a proposal in any -- I don't think
16 Mr. Hussey's suggestion of removing the third floor was
17 predicated on just saying, well, why don't you just lop
18 off the third floor. It think it was predicated on the
19 density study that he had participated in, and he was
20 looking at it from that perspective.

21 You'll speak for yourself. You're sitting
22 here.

23 MR. BOOK: So I guess I'm asking the
24 question -- what does it do to the density by -- if

1 that's --

2 MR. HUSSEY: You mean what's the number when
3 you do that?

4 MR. BOOK: Yeah.

5 MR. HUSSEY: Well, it depends on how many
6 units you take off. I think the -- to delete the whole
7 floor, I think it loses something like 29 or 30 units.

8 MR. LEVIN: Each floor is 29, and we've
9 already taken off six, so by removing the rest, it's
10 23.

11 MR. HUSSEY: That's consistent with what I was
12 going to say. So in terms of what that means to this
13 number, so eliminating 6, then 23 more, right?

14 You said it's 29 units per floor?

15 MR. LISS: They've already done 6, so less
16 23.

17 MR. HUSSEY: No, I'm working it the other
18 way. So 29, 3 floors, that's 87 units.

19 And the square footage that we're talking
20 about on the larger scale, 3.56, that gives you a
21 number of 3.56 or 24.44 dwelling units per acre.

22 MR. SCHWARTZ: 3.12.

23 MR. HUSSEY: Oh, 3.12 is the acreage?

24 MR. LEVIN: The acreage of that line.

1 MR. HUSSEY: Okay. 3.12, sounds good. So 87
2 divided by 3.12 is 27 -- 27.88 dwelling units per
3 acre. So that's getting down to the needle.

4 I think we're sort of playing games here.
5 Quite frankly, it's all a little arbitrary at this
6 point, which is what happens. But that's what happens
7 if you -- if you only have three floors, you've got a
8 density number relative to this chart of just under 28
9 dwelling units per acre. And that's sort of --

10 MR. BOOK: That's a suburban solution to a
11 suburban solution.

12 MR. HUSSEY: Yeah. That's more suburban than
13 urban.

14 MR. JESSE GELLER: And this would quality as a
15 suburban environment.

16 MR. HUSSEY: No. I'm not going to put names
17 on it.

18 MR. JESSE GELLER: Okay. I'm trying to finish
19 your thought process.

20 So in any of these calculations that you're
21 running through, were you also -- are you still -- I
22 assume you're still counting for building 2 going back
23 to what it originally was. Because that's an
24 independent issue.

1 MR. BOOK: It is. But if there is a -- I'm
2 not opposed to the idea of if there's a way for them to
3 break it up. I know -- yes. I want to get back to
4 what it used to be. That's the question you're asking,
5 that's what I'm answering.

6 MR. JESSE GELLER: Thank you. So in our
7 efforts to bring clarity and finality to this
8 discussion, the issue then becomes -- we're sort of
9 circling back to this discussion where you very coyly
10 with a smile said, well, I want to revisit the three
11 versus the four at the last hearing. And you now --

12 MR. HUSSEY: Yes.

13 MR. JESSE GELLER: And you need to have that
14 discussion because in the context of your thinking,
15 which is through Mr. Zuroff's issue with density and
16 how it fits back in with your concerns, you're now
17 moving away from what you were saying at the last
18 hearing and you're moving towards a structure that is
19 an all three-story structure because there's no
20 technical way for them to resolve your concern by a
21 stepped building.

22 MR. BOOK: Those are two different issues.
23 Yes, they can't resolve the aesthetic issue, but it
24 sounds --

1 MR. JESSE GELLER: Well, again, technically.

2 MR. BOOK: Technically resolve -- but it
3 appears that the density of a three-story building
4 is --

5 MR. JESSE GELLER: -- independently of a
6 four-story building is not acceptable to you; is that
7 correct?

8 MR. HUSSEY: No, that's not what he's saying.

9 MR. JESSE GELLER: Go ahead, finish.

10 MR. BOOK: The density of a three-story
11 building sounds to be more appropriate for this type of
12 a location.

13 MR. JESSE GELLER: Okay. Mr. Hussey, do you
14 have anything further on that?

15 MR. HUSSEY: No.

16 MR. BOOK: Do you have thoughts?

17 MR. JESSE GELLER: Fleeting at best. I do
18 have thoughts.

19 My concern -- I would agree with you in terms
20 of building 2, that I think that it's gone from where
21 all of these structures -- I was comfortable with the
22 size within the context, and I thought that this was
23 pre-three-options plan, and I thought that they had
24 cleared out space and done a nice job.

1 And then when Option C was presented and two
2 of the buildings were added back -- and I'm
3 deliberately staying away from building 2 for the
4 moment -- I thought those buildings actually were fine
5 within the context of green space and what was out
6 there.

7 I shared your concern about building 2, and I
8 think the comment Mr. Hussey made at the closing of the
9 last hearing was if there's a way for them to notch it,
10 which now apparently seems to be not possible. So I
11 think, at the end of the day, I reach your same
12 conclusion, which is -- the better alternative is just
13 restore it to the single structure where it was.

14 The issue on the big building, my concern from
15 the last hearing was really about the mass of the
16 building, and I think that what they have shown -- or
17 what they've tried to show and what they have shown, I
18 think, is that in particular I'm looking at this shot
19 which shows the building -- the portion of the building
20 that's closest to Asheville Road which translates to --
21 it now is three stories with the fourth floor further
22 back. I think it's a vast improvement. I think it
23 does indicate a breaking up of the structure.

24 The one question that I still ask is -- I sort

1 of look at the three-story piece and then I look at the
2 context and I say, somehow that wants to be its own
3 standing structure, but I don't --

4 MS. NETTER: What do you mean?

5 MR. JESSE GELLER: When you look at this from
6 Asheville Road, when you look at -- can you -- this
7 one, the one looking down from Asheville Road -- that
8 one.

9 So when you sort of look at what is the
10 three-story structure, you almost want to see it as its
11 own building visually.

12 MS. NETTER: Why?

13 MR. LEVIN: If I may, this -- as Mr. Hussey
14 pointed out, you know, you're looking -- what you were
15 pointing at, this is recessed right here. It's
16 recessed 16 feet from this space, so it really does
17 read as a separate building.

18 MR. JESSE GELLER: Yeah. That's where I'm
19 going, so -- and the reason why is because if I take it
20 within the context of the buildings in the S7, it just
21 sort of is a continuation of scale. Okay? Or let me
22 rephrase that. It wants to be a continuation of
23 scale. And then effectively what you've done is, the
24 larger building, so to speak, is really an internal

1 building. It's going on within their campus. So what
2 I wonder is, is there a way to translate that so that
3 it meets that sort of -- that thought process? You
4 follow what I'm saying? In that context, the fourth
5 floor, if set back, and given the -- the screening
6 doesn't offend me.

7 The issue about density, I understand what
8 you're saying. I think there is a natural attrition
9 that has gone on. I think there is a -- there will be
10 a natural attrition from the loss of -- the doubling up
11 of building 2.

12 The question about so what is the right
13 density, there's nothing that tells us what the right
14 density is other than based upon what our best instinct
15 is based on what we see around it and what other
16 information we obtain.

17 MS. NETTER: So your bottom line is -- and I'm
18 not trying to put words in your mouth -- that you can
19 live with this.

20 MR. JESSE GELLER: I'm trying to think it
21 through.

22 MS. NETTER: You're trying to think through
23 that, but you'd like building 2 reduced to four units?

24 MR. JESSE GELLER: Yeah. Because there's no

1 solution to the issue that we can see. They may have
2 one, but it seems to me that there isn't one.

3 MR. ZUROFF: If you reduce building 2 to four
4 units, you're taking four units out of their plan, if
5 you want to leave the fourth floor step back as it is
6 as a compensation for that, I understand why -- what
7 your thinking is.

8 But, again -- and not to sound like a broken
9 record -- every unit you remove from this building
10 increases -- or every living unit that you remove from
11 this project decreases the strain on the systems,
12 decreases the need for stormwater concerns, decreases
13 the need for safety concerns. And that's why I say
14 density is my major concern with this project.

15 So if you feel that the density that's being
16 proposed is perhaps appropriate or near appropriate, I
17 don't think that there is a standard. I think they're
18 choosing a number arbitrarily.

19 MR. JESSE GELLER: Right.

20 MR. ZUROFF: Needham is a different town.
21 It's in a whole different context. But if you're going
22 to take four units out of building 2 and say, well,
23 stay within what you're comfortable with, I want to
24 leave some units the on fourth floor that are stepped

1 back, I understand that thinking. I'm not fighting you
2 on that thinking. I'm just saying that every unit that
3 you remove from this building is less of a strain on
4 the systems.

5 MR. JESSE GELLER: I understand that.

6 Are you looking at that for a technical
7 solution, or are you looking at that to --

8 MR. HUSSEY: No. I think I tend to agree that
9 if we do -- I think my concern of the strain on the
10 systems -- I mean, the traffic people say it's not a
11 big strain, and the drainage people say that's worked
12 out. I'm not sure about that, but I think that the
13 reduction of the parking is almost more important in
14 some ways than the reduction in the number of units.

15 MR. ZUROFF: Well, it certainly is in the
16 construction process.

17 MR. HUSSEY: No. But also on the impact on
18 the neighborhood.

19 MR. ZUROFF: I don't disagree.

20 MR. HUSSEY: In terms of traffic.

21 MR. ZUROFF: Right.

22 MR. LISS: Well, just conversely, by removing
23 the parking, the neighborhood has addressed significant
24 concerns that they will still find parking and that

1 will be addressed on the private lots of Bonad and
2 Asheville and --

3 (Multiple parties speaking.)

4 MR. LISS: I'm saying you expressed that --
5 and it's probably well in the documents -- that if
6 there are people there, there will be cars there, so
7 people will be parking on those streets. I'm saying by
8 removing parking on the sites, people may spill over
9 into the lots on the residences -- not -- I shouldn't
10 say residences -- of the single-family area of South
11 Brookline.

12 MR. HUSSEY: No. There's no overnight
13 parking.

14 MR. LISS: I'm not saying overnight. I'm just
15 saying general parking.

16 MR. ZUROFF: Someone's going to park on
17 Asheville Road to walk to the project?

18 MR. JESSE GELLER: Nobody's going to do that.

19 MR. LISS: Then what was the concern raised
20 originally about parking on the street? There's too
21 many cars.

22 MR. JESSE GELLER: No. I think that's a
23 traffic concern, if it's a flow concern. But peer
24 review seems to --

1 MR. LISS: -- think it is sufficient.

2 MR. JESSE GELLER: Right.

3 MR. HUSSEY: Let me ask one more question of
4 the proponent.

5 Marc, have you decided where the affordable
6 units are going to be?

7 MR. LEVIN: I believe, under the regulations,
8 they have to be evenly distributed in type and location
9 throughout the project.

10 MR. HUSSEY: Okay. So there will be some in
11 the apartment building, but not all of them?

12 MR. LEVIN: More certainly.

13 MR. JESSE GELLER: So where are you in terms
14 of the -- let's work back to this large building.
15 Where are you in terms of number of floors?

16 MR. HUSSEY: I'm still where I was last week,
17 and basically where Mark is. But I think if we
18 eliminate these -- I'm not sure about eliminating a
19 whole floor plus eliminating these four units. That
20 may be pushing the envelope a bit. But my position has
21 been the same as Mark's. I don't think visually all
22 this -- the discussion about the apparent massing of
23 the apartment building is not going to be an issue.

24 I think it's a question of density. I would

1 still vote for removing the third floor.

2 MS. NETTER: Fourth floor.

3 MR. HUSSEY: Fourth floor.

4 MR. JESSE GELLER: I think they were about to
5 keel over.

6 MR. ZUROFF: Take the third out, leave the
7 fourth.

8 MR. JESSE GELLER: Is your comfort level with
9 the fourth floor -- in your discussion about density
10 and if you calculate in the -- if you calculate in
11 building 2 and the fourth floor, are you advocating a
12 total reduction of both? And if building 2 restores to
13 what it originally was --

14 MR. BOOK: Right.

15 MR. JESSE GELLER: Right?

16 MR. BOOK: Yeah.

17 MR. JESSE GELLER: -- and they lose the fourth
18 floor and go to a three-story structure, full-length,
19 is that where you are?

20 MR. BOOK: I'm thinking. You can probably
21 hear the wheels turning.

22 MR. JESSE GELLER: Take your time because we
23 need to give them -- ultimately, we need to tell them
24 this is where we are so that they can do whatever they

1 need to do, take it into account. But we need to give
2 them some clear direction.

3 MR. BOOK: Right.

4 MR. JESSE GELLER: And I'm focusing for the
5 moment on your considerations about density,
6 Mr. Zuroff's considerations about density, and
7 Mr. Hussey's comments.

8 MR. HUSSEY: I've got one more question, I
9 think, and that is, is either one of these
10 eliminations, the elimination of the four units at
11 four, the elimination of the fourth floor, would that
12 require a pro forma discussion, do you think?

13 MR. SCHWARTZ: I think -- if I could rephrase
14 the question?

15 MR. HUSSEY: Certainly.

16 MR. SCHWARTZ: I think what you're asking is,
17 if you told us that we want you to do a three-story
18 building and eliminate the fourth from building 2, will
19 we accept that and submit a revised plan or say that we
20 will not accept it.

21 MS. NETTER: Is that your question? Or did
22 you ask alone if you reduce the -- if you have the
23 building number 2 back to 4 units, will that be
24 uneconomic? This is -- you know what, you can speak

1 for yourself.

2 MR. HUSSEY: Well, I think primarily I'm
3 interested in the elimination of the fourth floor in
4 the apartment building. Will that become an
5 economically --

6 MR. SCHWARTZ: I will attempt to respond to
7 your question, but if I could, just maybe in a bit of a
8 sequitious way. I want to address the issue of density,
9 and then ultimately come back to your question.

10 As I understand the issue of density, it
11 relates to a legitimate 40B concern, namely, in this
12 case, is there a traffic issue accommodating the
13 density that we proposed? Is there a stormwater or
14 other engineering, health, or safety issue addressing
15 the density that we've proposed? And is there an
16 overall design issue within the parameters of what the
17 40B review for design is that can be addressed by
18 reducing the density, which is really, frankly, what
19 we -- that last component because the traffic and the
20 stormwater, we felt, you know, really had been
21 adequately addressed and peer reviewed and finalized.

22 The remaining issue, as we understood it in
23 the recent discussions in this room and in the working
24 sessions, was about addressing design. That's what we

1 had attempted to address first and foremost.

2 The idea for us that's difficult to accept is,
3 well, you know, if you reduce more density, then you'll
4 reduce traffic impacts. That may or may not be true,
5 but we don't think it's really germane to this 40B
6 proposal, again, because we think that we've addressed
7 traffic impacts, frankly, at 196 units, and a peer
8 review has borne that out. That density in the fourth
9 story is very important to us.

10 If you're asking would we be able to eliminate
11 the four units in building 2, which is also important
12 to us as larger units, and submit a revised plan, I
13 think the answer to that question is yes.

14 If you're asking, will we be able to eliminate
15 the fourth floor and that building and submit a revised
16 plan without going through a pro forma review, I'm,
17 frankly, not sure of the answer to that, but my
18 inclination is probably not. We'd have to look at it
19 closer, but probably not.

20 MS. NETTER: I thought you were asking a third
21 question which is --

22 AUDIENCE MEMBER: We can't hear you.

23 MS. NETTER: In your initial question, I
24 believe you were asking a third -- another permutation

1 which is if, in fact, you were to just eliminate the 29
2 units which comprised the fourth floor, would that
3 alone make the project uneconomic? At least that's
4 what I thought you were asking.

5 MR. HUSSEY: Well, I did ask it in sort of a
6 variety of ways, but I think Steve answered my
7 question. They can deal with eliminating the four
8 units on building 2, but eliminating the fourth floor
9 in its entirety is going to give them a problem.

10 MS. NETTER: He didn't say that. He said he
11 wasn't sure --

12 MR. SCHWARTZ: Can I clarify? I will give us
13 a problem.

14 MS. NETTER: Okay. But I understood the
15 second question to be eliminating the fourth floor and
16 four units in building number 2. Was your response to
17 that or the fourth floor alone or were both true?

18 MR. SCHWARTZ: I'm just trying to understand.
19 Are you suggesting that we eliminate the fourth floor
20 but keep the four additional units?

21 MS. NETTER: I not suggesting anything --

22 MR. SCHWARTZ: I just want to understand the
23 question that you're asking.

24 MS. NETTER: May I ask it?

1 MR. HUSSEY: Certainly.

2 MS. NETTER: Because I think it's helpful.

3 MR. HUSSEY: Certainly.

4 MS. NETTER: Three questions, one of which I
5 heard you answer, which is if you eliminated four units
6 from building number 2, you said your client could
7 probably live -- could live with that.

8 The second issue is -- what I understood was
9 discussed -- is eliminating those four units and the 29
10 units. And I think you said probably that wouldn't
11 work.

12 And then the third question, which I'm putting
13 on the table, which I thought Mr. Hussey asked, is if
14 you eliminated 29 units alone --

15 MR. ZUROFF: It's 23.

16 MS. NETTER: 23, excuse me.

17 MR. SCHWARTZ: Probably not.

18 MS. NETTER: Okay. "Probably not," meaning
19 probably it would be economically infeasible?

20 MR. SCHWARTZ: Yeah.

21 MR. JESSE GELLER: Let me just respond to
22 something. I don't think, despite Mr. Zuroff's -- I
23 keep wanting to call you Mr. Hussey for some reason.

24 Despite Mr. Zuroff's comments, I don't think

1 the questioning and the discussion about density is
2 a -- frankly, a traffic or a drainage issue, given peer
3 review. I think it is the third component that you
4 mentioned that is really what is driving the
5 discussion. I'm speaking for you, but I think that's
6 really what's going on.

7 MR. SCHWARTZ: I meant to add one other
8 thing. I'm not really sure I understand -- with all
9 due respect, Mr. Hussey, I'm not really sure I
10 understand this focus on Needham. So I mean, you know,
11 we looked at other communities. I'm not saying Needham
12 is wrong. I'm just -- we're just grappling -- we tried
13 to show some other examples from Newton, from Dedham.
14 There's probably other communities we can come up with
15 that also have single-family neighborhoods in close
16 proximity where the density, frankly, is far higher.

17 The other aspect of density is, I think, in
18 fairness, you know, you're looking at the density in
19 that one lot because, for technical reasons -- which I
20 can get into, which I think Mr. Bennett could speak
21 to -- we had to split up these lots into four lots. We
22 really think that the appropriate measure of overall
23 density is the density of the number of units on the
24 40B parcel taken as a whole, which is about 19 units to

1 the acre.

2 So we -- I guess we understand -- you know, I
3 understand where you're going and, again, you know,
4 this conversation has been very illuminating for us
5 also, but I guess we have a slightly different way of
6 looking at the question of density, and we do think our
7 density is appropriate, in all honesty.

8 MR. HUSSEY: I agree with you about Needham,
9 and as I've said -- qualified -- they're truly
10 different.

11 And the trouble with your density chart
12 relative to other communities is that it still is a
13 question of context, that is you've given us the
14 density for the specific project, but we need to know
15 what the density is around those projects in order to
16 understand whether they're appropriate densities or
17 not.

18 MR. SCHWARTZ: Well, I think it's fair to
19 say -- I don't have that data, but I think it's fair to
20 say with respect to any number of those projects that
21 I'm familiar with, they are -- if not surrounded by,
22 there are single-family neighborhoods in close
23 proximity to them.

24 For example, the Avalon Project on Needham

1 Street, Avalon at Newton Highlands, Needham Street is
2 Needham street but behind the project is a
3 single-family neighborhood in as close proximity as the
4 single-family neighborhood in this neighborhood, just
5 as an example. I happen to be familiar with that.

6 MR. HUSSEY: Yeah. I drove by and looked at
7 that project just recently, as a matter of fact. I
8 think from Route 9, I think you're right. On the other
9 side is single-family, but adjacent to it is the
10 commercial --

11 MR. SCHWARTZ: No. On Needham Street. I'm
12 not talking about Route 9. I'm talking about the one
13 on Needham Street. The one on Needham Street -- Avalon
14 Newton Highlands is what it's called.

15 MR. JESSE GELLER: Okay. So let's -- I want
16 to filter this back again to the question, three or
17 four stories. So -- and then reintroduce my question
18 which is about sort of what I'm viewing as the head
19 house, the one that's most visual. Does it improve if
20 you simply take away the fourth floor? Does it make a
21 difference? Does it make it look like it fits in
22 better with the rest of the context? Does it meet your
23 needs?

24 MR. BOOK: You call it the "head house," the

1 piece we're looking at to the left?

2 MR. JESSE GELLER: Yes. It's more than that.

3 It's really that corner.

4 MR. BOOK: So the corner has already been
5 brought down. What's behind the trees, that's already
6 been brought down to three stories. The question is,
7 to left of that, that piece of it should be --

8 MR. JESSE GELLER: That's the question.

9 MR. BOOK: And so what I'm struggling with
10 right now is, is it just a matter of that piece of it,
11 not looking at that, or the discussion of just taking
12 it all off? And I think --

13 MR. JESSE GELLER: I think at this point
14 you're saying take it all off. If you're saying remove
15 it because Mr. Hussey is saying there's no way that
16 they can take that back further or eliminate it further
17 or --

18 MR. LISS: You're saying it for different
19 reasons.

20 MR. JESSE GELLER: Yes.

21 MR. LISS: So to help you guys along, that's
22 where either you coordinate or Chris is kind of the
23 deciding vote here.

24 MR. HUSSEY: No, I don't think I am. I don't

1 want to point fingers but -- fairly consistency -- it
2 has two meanings, this meaning and the previous meaning
3 indicating I'd be happy with a three-story building.
4 And as far as the articulation in the apparent mass of
5 it with three or four doesn't bother me for the reasons
6 that Mark enumerated already. I don't think it's going
7 to be an issue.

8 MR. JESSE GELLER: I'm not sure that answers
9 his question, but -- so I guess the question is three
10 or four, and it sort of comes down --

11 MR. BOOK: Is this an all or nothing?

12 MS. NETTER: Why don't you also ask the
13 applicant?

14 MR. JESSE GELLER: Ask them if they can find a
15 way to push that back further.

16 If, again, the question -- you're coming at it
17 from a different perspective. And the question is: Do
18 you want it fully eliminated or do you want to see if
19 they can push it back further?

20 MR. BOOK: So the full elimination is --
21 that's driven by a density issue and I haven't -- I
22 still think we're -- we haven't -- I don't think we've
23 resolved the question of whether or not this density is
24 appropriate for South Brookline. We've been -- we were

1 talking about Needham. Needham is not an
2 appropriate -- because of -- just for a lack of
3 examples or lack of comparisons.

4 MR. JESSE GELLER: So let's back into that.
5 So in the S7 -- and in the S7 assuming that building 2
6 is building 2 that was originally shown.

7 MR. BOOK: Right. I think the density is
8 appropriate.

9 MR. JESSE GELLER: I think the density is
10 appropriate. It translates into a transition zone.

11 MR. BOOK: Yes.

12 MR. JESSE GELLER: And you've got the green
13 space. So I think in that respect it is working from
14 your sort of visual line of density for parking and
15 those issues that you've raised.

16 So the question becomes the larger building,
17 and from your perspective, the question of density;
18 from my perspective the question of what is the -- you
19 know, the massing and how you break it up and how does
20 it appear particularly from Asheville Road and whether
21 that translates into a full reduction of the fourth
22 floor -- not to allow Chris to crow, because he hasn't
23 moved from his position -- or whether there is some
24 technical ability to further reduce the step-up, if you

1 will. The question is the overarching one, which is
2 what is the appropriate density for this building in
3 this site?

4 MR. BOOK: Good question. I don't know the
5 answer. I don't know. Clearly, the three of us are
6 here struggling with this issue.

7 MR. JESSE GELLER: That's exactly the issue.
8 My feeling is, when you see -- again, I'm going to
9 focus on the front building. When you see it as a
10 three-story structure, it certainly translates a heck
11 of a lot better into the rest -- you know, what
12 surrounds it; right?

13 MR. BOOK: Yup.

14 MR. JESSE GELLER: And then as you get to the
15 rest, it sort of transfers over into that much larger
16 building. And the question is that much larger
17 building, and I don't have an answer to that -- or the
18 much larger portion of the same building.

19 MR. BOOK: Right. I don't know.

20 MS. NETTER: I think the reason you're
21 struggling -- I mean, the reality is the applicant
22 brought up the issue of density. And over the years
23 there's been various subsidy programs or various
24 guidelines from the state that have come with

1 appropriate density, but they don't exist now. And so
2 you're struggling because how do you pull out an
3 appropriate density out of whatever?

4 And so you look at, you know, to what extent
5 are you -- so that's -- you know, it's very hard to
6 come up with that. You don't know the appropriate
7 density and what are the appropriate places to look for
8 the appropriate density and all of that.

9 So then the question becomes, do you have
10 traffic concerns, do you have stormwater concerns, do
11 you have -- which you have articulated -- impact on --
12 or the views from Asheville. I mean, that's a clear
13 design concern. You've talked about a very clear
14 design or massing concern, you know, to what extent can
15 the building be articulated further, and I don't know
16 if your concerns have been met or not.

17 But those are the things I would focus on
18 because they're much more concrete. I don't think -- I
19 mean, I think your research is very helpful and very
20 interesting but, you know ...

21 MR. NAGLER: Can I just ask a question?

22 Have we gotten a definitive answer to the
23 question of whether it has to be 23 units or no units
24 on the fourth floor or whether there's some --

1 MR. SCHWARTZ: Definitive, no, but a strong
2 belief that it will not really be viable to do
3 anything -- you know, any further reductions without
4 the full elimination of the fourth floor.

5 And, frankly, we're not really sure to what
6 end. I mean, with all respect, I mean, I think that,
7 you know, Ms. Netter, I think you put it very well. I
8 mean, I heard Mr. Hussey say, you know, three stories,
9 four stories for design review -- to paraphrase -- is
10 okay. So we would like to hear, other than density --
11 I mean, you know, density is, you know -- I'm sure the
12 impacts would be less if we have 20 units in that big
13 building, if we have zero units in that, and I'm sure
14 that many people would be happy with that.

15 I mean, we really need to understand what the
16 design issue is, not just density because it's reducing
17 impact. We need to consider that, in fairness. That's
18 the rule.

19 MS. NETTER: But, you know, I'm going to --
20 I'm not sure if this is going to help you or not, but
21 what the applicant has provided for, whether we call it
22 the greenbelt or the S7, you probably couldn't have
23 come up on your own. But you've presented solutions
24 that they could look at and say, well, maybe not the

1 best for the Town of Brookline or South Brookline in
2 particular, but we can live with it. And it also
3 sounds to me so far --

4 MR. JESSE GELLER: Wait a minute. Let's
5 change the phrasing, "we can live with it."

6 The phrase is, "This is what 40B ..."

7 MS. NETTER: That's absolutely correct.

8 MR. JESSE GELLER: It's not about what we can
9 live with. It's what we feel is the best --

10 MS. NETTER: The least worst.

11 MR. JESSE GELLER: Right. Under 40B. That's
12 really what we're trying to achieve.

13 MS. NETTER: Right.

14 MR. JESSE GELLER: So, again --

15 MR. BOOK: Well, to address a -- I mean,
16 there's a benefit to this. The Town of Brookline does
17 not have enough affordable housing, and this project is
18 going to eliminate some of that deficiency. And that's
19 why we're all here.

20 MR. JESSE GELLER: I was going to say the same
21 thing. What we're trying to do is fulfill our
22 obligations under 40B. No more, no less. That's what
23 we're trying to do.

24 MR. BOOK: Is there an A, B, and C --

1 MR. JESSE GELLER: I was going to say to them,
2 we have Options A, B, and C on Mr. Hussey's questions.

3 MR. BOOK: I don't know what the right density
4 is, so let's take the density question off the table
5 for a minute.

6 From an aesthetic perspective, looking at it
7 from Asheville --

8 MR. JESSE GELLER: And what fits in with the
9 concept.

10 MR. BOOK: Yes. That piece of the center of
11 the building where I see the fourth floor, I'd like to
12 not see the fourth floor. I think that would be --

13 MR. JESSE GELLER: So then let's stop there.
14 Let's ask them, is it there a way that you can do this
15 so we don't see that fourth floor? It's a technical
16 question.

17 MR. HUSSEY: From where? From this particular
18 viewpoint?

19 MR. BOOK: From the intersection of Russett
20 and Asheville, from the property line.

21 MR. HUSSEY: Fifty feet back from that
22 intersection, do you mind if you see it?

23 MR. BOOK: Well, no. The further you move
24 from the intersection, the less visible --

1 MR. HUSSEY: The less apparent --

2 MR. BOOK: So as long as we are outside the
3 boundaries of Hancock Village, can we see that fourth
4 floor?

5 MR. HUSSEY: The answer is yes.

6 MR. BOOK: Well, I know right now we can. I'm
7 asking --

8 MR. HUSSEY: I don't think it's material.

9 MR. JESSE GELLER: Well, but he thinks it's
10 material. He's asking them a question.

11 MR. BOOK: That's part of the impact, I mean,
12 on the neighborhood. There are people more than -- the
13 neighborhood is going to live with this project in some
14 respect.

15 MR. JESSE GELLER: Let them answer the
16 question.

17 MR. SCHWARTZ: I don't want to sound like a
18 broken record. I think we've, frankly, done a
19 really -- hard work. We've done a good job to address
20 these visual impacts. I'm not really sure we can do
21 more. I don't really think we can. So that's sort of
22 where we are.

23 MR. JESSE GELLER: Okay.

24 MS. NETTER: Why don't you say where you are.

1 MR. JESSE GELLER: Okay. Here's where I am,
2 and I apologize for repeating myself.

3 In the S7, I am fine with what I am seeing,
4 assuming the removal of the addition on building 2 so
5 that it's restored to the original scaled building.

6 With respect to the big building, I am pleased
7 with the three-story portion of it, which I think
8 translates reasonably well with the sort of three-story
9 townhouse transitional appearance. I have reservations
10 about the step-up, though I will admit they're not to
11 the degree that you have because, although I don't love
12 that view, I still am focused on the most frontward
13 portion.

14 MR. BOOK: But you see -- you say you're
15 focused on the frontward portion. From where? From
16 outside of --

17 MR. JESSE GELLER: From Asheville.

18 MR. BOOK: Well, right now, I mean, that piece
19 of it is shielded with foliage -- it is going to be
20 shielded. The piece that, unfortunately, they're
21 probably not going to be able to shield because the
22 road is there is the part that's shown with the four
23 stories.

24 And so when you talk about the transition of

1 the three-story and how it transitions from the
2 existing buildings in the Hancock Village, why
3 shouldn't -- wouldn't it be better if that transition
4 carried back more so that it picked up the piece that's
5 still visible? I think what I'm saying -- and maybe --
6 I don't know if it's all that different from what
7 you're saying, is that I just think that that
8 transition just needs to be further back, needs to be a
9 larger transition.

10 MR. JESSE GELLER: Yes. I think that would be
11 better. We've asked them the question, is that
12 feasible, and I think Mr. Schwartz says that --

13 MR. BOOK: That it's not.

14 MR. JESSE GELLER: And I don't think he's
15 answered a technical question. I think he's
16 answered --

17 MR. SCHWARTZ: Well, I mean, we can look at
18 it. I'm not an architect, but I think it will be
19 impossible to retain the fourth floor and not have a
20 view of that portion of the building. It will just --
21 from a visual impact, if you set it back another 10
22 feet or 15 feet, you're still going to see it. And so
23 the question that I come back to is, you know, for
24 what -- for that sliver of view, which is what -- I

1 mean, this density is extremely important to us. We've
2 made huge compromises from 196 units -- 192 units --
3 and we're willing to make further compromises in the
4 S7, but we -- I'm not saying definitively no, but I am
5 really, really not optimistic. You're going to see
6 something there.

7 MS. NETTER: So the portion you're most
8 concerned about is the portion that you -- the area in
9 the middle which really can't be screened by trees.

10 MR. JESSE GELLER: Right.

11 MS. NETTER: And so -- right?

12 MR. BOOK: Yeah. I mean, I think we're
13 about -- this building has essentially three wings or
14 three pieces to it. I think we're talking about the --
15 I think we're looking at the wing that is closest to --

16 MR. JESSE GELLER: I think what Mr. Book is
17 suggesting is that if you take that fourth story and if
18 that fourth story is pushed considerably back -- thank
19 you, Mr. Hussey. I know that's you -- and you go
20 further back to there, you know, or somewhere in there,
21 then you are making even more of the visible portions
22 of this building appear to be three stories and to
23 match with the transitional buildings and the nature of
24 the transitional buildings.

1 MR. BOOK: Yes.

2 MR. JESSE GELLER: So I think that's what he's
3 referring to. Because that's never going to get
4 screened, that right there. And there are two
5 components to it that you've correctly sort of attached
6 to which is one, whether it is economically feasible;
7 and two, there's a technical question. What are you
8 left with in terms of is it buildable, is it an
9 efficient building that functions from a code
10 standpoint? Those are two distinct questions.

11 MR. SCHWARTZ: Is that a question?

12 MR. HUSSEY: I think it is.

13 MR. JESSE GELLER: If you have an answer.

14 MR. SCHWARTZ: We'll look at it.

15 MR. JESSE GELLER: I have to say that although
16 we come at it from different perspectives, the sort of
17 thought about it in my mind -- it seems to me it makes
18 what you've done on that front portion that much better
19 in my mind in terms of responding to what I was
20 commenting on because I'm sort of visualizing it
21 without that.

22 MR. SCHWARTZ: Well, my recollection is a
23 little bit different, but, you know, there's been so
24 much said here that -- and really not to try and put

1 you on the spot and with all respect -- my recollection
2 of your comment last time, Mr. Chairman, was, to
3 paraphrase, you're not as troubled by the four-story
4 nature of the building as you were by the articulation,
5 which we attempted to address.

6 And so we took that and we heard various
7 things, and honestly, where we started was the -- you
8 know, when you guys mushed it all together and came up
9 with the four stepping down to the three, that's where
10 we thought you ended up. And this is, you know, 80
11 feet setback, the three to the four, which is really,
12 as we said, really the viable and logical place to do
13 it. So we'll look at it some more if you insist, but
14 we're really not optimistic.

15 MR. JESSE GELLER: Go ahead, Mr. Hussey.

16 MR. HUSSEY: Could you come forward -- is
17 there anybody here from your staff familiar with the
18 architecture of the building?

19 MR. LEVIN: To what degree?

20 MR. HUSSEY: Well, I want you to come forward
21 and just look at this fifth-floor plan and see what
22 we're talking about. I'm looking at the fifth-floor
23 plan from, I think, the September plan, and it looks
24 like you're back to about here with the number of units

1 you're taking off -- some of the units -- general area,
2 back to about there.

3 Okay so you're saving this tower. So you're
4 about here. You're saving this tower.

5 MR. LEVIN: Yes.

6 MR. HUSSEY: And something like this. Okay.
7 So I think what Jonathan is talking about is getting
8 back to here. You see that elevator, that's going to
9 be tough to remove. That's the tower elevator. I
10 don't know how we can remove that.

11 (Inaudible discussion. Clarification
12 requested by the court reporter.)

13 MR. LEVIN: We would -- I'll ask the architect
14 to review what would happen if we limited these two
15 units.

16 MR. HUSSEY: Right.

17 MR. LEVIN: Because, as of now, I think the
18 stair tower is actually further back. This is an older
19 plan, and you can't see the stair tower in the views
20 that I showed simply because of what you were saying
21 before about the angle from the view, I think. So
22 perhaps by eliminating these two units -- as it's been
23 reconfigured, it's somewhere here.

24 MR. HUSSEY: All right. Let me translate for

1 the stenographer.

2 What Mr. Levin is talking about is
3 eliminating -- the possibility of eliminating two more
4 units on the southeast side of the apartment building
5 on the end facing the Russett Road neighborhood.

6 MR. JESSE GELLER: Can you show us on that? I
7 don't want to send them on a purposeless exercise. I
8 want to answer the concern, which is that middle
9 portion of this here.

10 MR. HUSSEY: In that case, can we see the
11 slide that doesn't have any of the foliage? Yeah,
12 there, that one.

13 MR. LEVIN: It's hard to see, but these are
14 the two units that I'm talking about.

15 MR. HUSSEY: Okay. Now, can we go back to the
16 slide that showed that -- well, that should get you
17 back to about here.

18 MR. LEVIN: That's right.

19 MR. JESSE GELLER: Is that right?

20 MR. HUSSEY: Yes.

21 MR. LEVIN: This takes you to that same spot.

22 MR. BOOK: I would not be -- someone would not
23 be able to see the fourth story.

24 MR. HUSSEY: Right here.

1 MR. LEVIN: You might see the tip of it.

2 MR. HUSSEY: You see a little facade going
3 back here.

4 MR. LEVIN: A couple of feet, approximately.

5 MR. BOOK: Is that tree there now, or is that
6 a tree that you're going to plant?

7 MR. HUSSEY: Which tree are you talking
8 about?

9 MR. BOOK: The tree to the left.

10 MR. KINDERMANS: That will be a new one.

11 MR. HUSSEY: In 10 or 15 years, these trees
12 are going to block out a lot of this.

13 MR. JESSE GELLER: My feeling is that we
14 either have to -- if they're willing to go through the
15 exercise and they understand -- you know, obviously
16 these are, in some ways, moving targets because we see
17 these things and we have responses and they sort of
18 trigger a response. If they're willing to go through
19 the exercise, I think, in fairness, we need to think
20 about whether the ask is just eliminate the floor or
21 whether this is something that we will seriously
22 consider. And this goes to -- in part, to the issues
23 that are driving you, because we're approaching it from
24 different sides.

1 MR. BOOK: We are. So I cannot -- I'm not at
2 a point to say -- to require that they eliminate the
3 floor. I don't -- the reason to eliminate the floor, I
4 think, is driven by a density issue, and I don't
5 know --

6 MR. JESSE GELLER: You need to think about
7 that issue. Okay.

8 So, again, I want to -- in fairness to the
9 applicant -- be very clear about what it is we're
10 saying. We cannot tell you that moving the fourth
11 floor further back will solve the problem. We may look
12 at it and we may, in fact, say to you it didn't solve
13 the problem. We want it gone. I want to be up
14 front --

15 MR. SCHWARTZ: I just want to make sure I
16 understand, though, that the consensus of the voting
17 members of the board, at least -- because I understand
18 that Mr. Zuroff is coming from a different place -- but
19 the consensus of the voting members of the board is
20 that we're really talking about the visual impact from
21 the Asheville Road side. That's what we're attempting
22 to address by further reductions in the fourth floor.

23 MR. JESSE GELLER: That's my sense.

24 MR. BOOK: Yes. Mine as well.

1 MR. SCHWARTZ: And just to be very, very clear
2 about it, and not a question of density per se, it's a
3 question of the visual impact from the Asheville Road
4 side.

5 MR. JESSE GELLER: I'm not sure you can
6 separate those two in Mr. Book's --

7 MR. SCHWARTZ: Well, certainly by
8 eliminating -- the only way you can do this is by
9 eliminating more units, so there will be a reduction in
10 density. But the goal is not to reduce density. The
11 goal is to ameliorate what you see as an issue --
12 continuing issue.

13 MS. NETTER: Well, my understanding is that
14 the board members have not been able to come up with
15 what they consider to be -- and, again, if I don't use
16 the right word, then correct me -- an acceptable
17 density under 40B for this project. And so they're
18 going to look to that aspect of density that they can
19 actually see, which is the view from Asheville Road.
20 That's the best, I think, that we can --

21 MR. BOOK: -- to do at this point.

22 MR. JESSE GELLER: That's sort of the
23 information we have and can use.

24 MR. HUSSEY: Let me make sure that I

1 understand this, that in any event, the board -- the
2 majority of the board is going to mandate that the
3 addition to building 2 be eliminated; is that right?

4 MR. JESSE GELLER: Correct, yes. And I think
5 they understand that.

6 MR. HUSSEY: In any event -- do you understand
7 that, Steve?

8 MR. SCHWARTZ: We understand that's the
9 board's position.

10 MR. HUSSEY: Okay.

11 MR. JESSE GELLER: Okay. Is there any further
12 comment? No?

13 So you understand sort of where we're coming
14 from, and my understanding is for the next hearing --
15 is that what you're proposing, for the next hearing
16 you'll present some further iteration to respond to
17 these comments? The next hearing is November 12th. I
18 assume we can fit in what we need to fit in.

19 MS. NETTER: No. We need to get an
20 extension.

21 MR. JESSE GELLER: No. I'm talking about the
22 12th. Obviously we need an extension, but for the 12th
23 we're fitting this into what we have to do on the 12th
24 because we have some other things --

1 MS. NETTER: That's a question for town staff.

2 MR. JESSE GELLER: Town staff?

3 MS. STEINFELD: We can accommodate that on the
4 12th.

5 MR. JESSE GELLER: Perfect.

6 MS. STEINFELD: But the deadline, as you know,
7 is the 14th.

8 MR. JESSE GELLER: Yes. That's the next
9 issue.

10 So as you know, in our time frame we now have
11 a deadline of November 14th, which obviously we will
12 not have wrapped up, and I'm sure we are all sad about
13 that. We will not have wrapped up this matter by then,
14 so I think that an extension -- so we sort of need to
15 work through calendar and extensions and obviously we
16 want to give you a reasonable opportunity to do
17 whatever you need to do to achieve ...

18 MS. NETTER: So can you get back to the board
19 with your response by the 12th?

20 MR. SCHWARTZ: Yes.

21 MS. STEINFELD: In terms of calendar, we
22 cannot meet the week of November 17th because of Town
23 Meeting; we can't meet the week of November 24th.

24 MS. NETTER: Because of the holiday?

1 MS. STEINFELD: Because of the Thanksgiving
2 holiday. So presumably, subsequent to the
3 November 12th hearing, the next time we could meet is
4 during the week of December 1st.

5 MR. HUSSEY: What about the Monday before
6 Thanksgiving? Can't we meet on the Monday before
7 Thanksgiving?

8 MS. STEINFELD: That makes it really tough.

9 MR. HUSSEY: In what way?

10 MS. STEINFELD: Because a lot of people are
11 out. A lot of people take that week off. We haven't
12 even poled everyone yet.

13 MR. HUSSEY: All right.

14 MR. BOOK: I'm sorry. I'm just going to
15 pursue that. Who's going to be out, people in the town
16 staff?

17 MS. STEINFELD: Between the staff and ZBA,
18 right.

19 MR. HUSSEY: Are any members of the ZBA going
20 to be out that week?

21 MR. BOOK: I'm available.

22 MR. HUSSEY: I'm available.

23 MR. JESSE GELLER: December the 1st?

24 MR. HUSSEY: No. The Monday before

1 Thanksgiving.

2 MS. NETTER: The 24th, they're talking about.

3 MR. JESSE GELLER: Yeah, I'm around.

4 MR. HUSSEY: You're around and I'm around.
5 Gentlemen?

6 MR. LISS: I'm game.

7 MR. HUSSEY: All right.

8 MS. NETTER: Is the issue that staff is not
9 around to assist?

10 MS. STEINFELD: It could be, but we'll work it
11 out. So if you want to -- if we could schedule
12 November 24th, that could be our next meeting after the
13 12th.

14 MS. NETTER: Can you check out maybe both
15 days? Are you available, or is that getting too close
16 to the holiday, the 24th and the 25th?

17 MS. STEINFELD: The 25th is a Board of
18 Selectmen meeting. We can't. So it's either
19 November 24th or the week of December 1st.

20 MR. HUSSEY: It may be both by the time we get
21 done.

22 MS. STEINFELD: Yeah.

23 MR. JESSE GELLER: So what's your
24 recommendation?

1 MS. STEINFELD: We have an extension, at least
2 three weeks.

3 MR. SCHWARTZ: May I ask, could we just run
4 through -- on the assumption that we come up with a
5 plan on the 12th that is acceptable to the board and
6 then we submit that plan together with the final list
7 of waivers prior to the November 24th meeting -- what
8 the board thinks remains to be covered at that point,
9 other than going through the waivers, so just so we
10 understand what the proposed schedule is of the
11 meeting?

12 MR. HUSSEY: I think the only other technical
13 issue we have is the blasting.

14 MR. SCHWARTZ: The blasting -- I believe that
15 we're still keeping the blasting for next week.

16 MS. STEINFELD: Definitely, the 12th.

17 MR. HUSSEY: Good. I just wanted to clarify.
18 Thank you.

19 MS. STEINFELD: So the 24th is waivers?

20 MR. JESSE GELLER: Waivers.

21 MS. STEINFELD: And conditions, discussion of
22 other conditions before the close of the public
23 hearing.

24 MR. SCHWARTZ: My preference, at this point,

1 frankly, is to -- if you think that there's going to
2 need to be one more hearing after the 24th, let's set
3 that date and we'll extend through that time.

4 MS. STEINFELD: Close the hearing on December
5 5th --

6 MR. SCHWARTZ: We'd rather do that at this
7 point.

8 MS. NETTER: Did you say December 5th is the
9 date?

10 MS. STEINFELD: No, no. The date to close the
11 hearing. We'll have another meeting during the week of
12 December the 1st.

13 MR. JESSE GELLER: Why are you using
14 December 5th?

15 MR. SCHWARTZ: What's the date after 24th?

16 MS. STEINFELD: December 1st, the week of
17 December 1st.

18 MR. SCHWARTZ: That's fine.

19 MS. STEINFELD: But we can work that out.

20 MR. SCHWARTZ: Yeah.

21 MS. STEINFELD: So that's a three-week
22 extension, right, to December 5th?

23 MS. NETTER: So the board is requesting an
24 extension, as of this point, to December 5th.

1 MR. SCHWARTZ: That's fine.

2 MS. NETTER: Will there be enough time -- by
3 when would you submit your waiver request?

4 MR. SCHWARTZ: The waiver request will
5 accompany the plan. So assuming on the 12th we reach a
6 plan that the board likes, then what we'll do is we'll
7 finalize the waiver request. It will not take very
8 long for us to do that. And we can even potentially
9 submit it before, but certainly with the formal
10 submission of the revised plan. So it would be
11 sometime before the 24th. The exact -- how long it
12 will take to do that plan revision, I'm not sure
13 exactly when that would be.

14 MS. NETTER: I was going to say when --
15 because the earlier you can present that, obviously,
16 the better because it can be -- people can have a
17 chance to think about it ahead of time.

18 But then, Mr. Bennett, does that give you
19 sufficient time to review the request for waivers
20 and ...

21 MR. BENNETT: This will be prior to the 24th?
22 Can we do waivers on the 24th?

23 MS. STEINFELD: At a public hearing on the
24 24th.

1 MR. BENNETT: And when will the waivers be
2 submitted?

3 MR. SCHWARTZ: As soon as possible after the
4 12th. We think the list of waivers -- as opposed to
5 the formal submission, we could probably get the list
6 of waivers in within two or three days after the 12th.

7 MS. NETTER: But you would have that no later
8 than the 15th? The 15th is a Saturday.

9 MR. SCHWARTZ: We'll get it in by that
10 Friday.

11 MS. NETTER: By the 14th, so --

12 MR. SCHWARTZ: Again, that's on the assumption
13 that the board reaches a consensus that we can live
14 with this plan.

15 MS. NETTER: I think it's very tight, but ...

16 MR. SCHWARTZ: I will say, again, without
17 putting Mr. Bennett on the spot, we have had, you know,
18 a very productive session with the building staff with
19 respect to the technical aspect of the waivers, so I'm
20 hopeful that that should give them -- again, without
21 putting him on the spot -- should give them enough time
22 to review it.

23 MR. JESSE GELLER: I guess, sort of, I harken
24 back to something you said, which is, you know, let's

1 get a realistic sense of what an extension would be.

2 And Edie commented that that's really tight. I hear
3 what you're saying, but I wonder whether, you know --

4 MS. NETTER: Let me just ask, the Town Meeting
5 is --

6 MR. JESSE GELLER: I just want to give them a
7 realistic date.

8 MS. NETTER: I know. That's what I'm worried
9 about too.

10 MS. STEINFELD: The week of November 17th.

11 MS. NETTER: Nobody's going to have the time
12 to -- everybody wants to wrap this up, Mr. Hussey. I
13 know that. So my concern --

14 MR. SCHWARTZ: Can I just clarify? I'm just
15 not really sure I understand what the issue is with the
16 review of the waivers. I assume the board is going to
17 want us to present the waivers. On a technical basis,
18 you're asking the staff to agree that that is a
19 required waiver, not to weigh in on the appropriateness
20 or not of the waiver?

21 MR. JESSE GELLER: Correct.

22 MR. SCHWARTZ: I think that we've actually
23 nailed down almost every issue on that technical
24 aspect. There's still one issue in terms of, you know,

1 exact calculation of the height, I think, that may
2 still be outstanding, but there's pretty much agreement
3 on everything else. So I'm not really sure what --
4 it's really a question, in my mind, of how much time
5 the board needs if it wants -- you know, the board
6 members want to review those, that request of waivers,
7 rather than a technical issue.

8 MS. NETTER: Why don't we go to the 5th and
9 then see what you come back with on the 12th.

10 MR. JESSE GELLER: You know, and honestly, I
11 was trying to deal with the comment that was made at
12 the last hearing. I think it was the last hearing in
13 which you commented that what you really want is a
14 realistic date. So in fairness, I wanted to give you a
15 realistic date given the sense of what needs to be
16 accomplished. I don't know that the 5th is it. I'm
17 happy to go to the 5th, but don't be surprised if we --

18 MR. SCHWARTZ: I would just like to hear --
19 you know, tie it to hearing dates, right, so -- and the
20 purpose of those hearings. So rather than just grant,
21 you know, a longer extension to understand, you know,
22 the thinking of the board is, you know, we're really
23 going to need, you know, one more day -- I mean, I
24 think the board has a role we're all familiar with,

1 which is the time that -- to fulfill a task, you know,
2 expands given the time that's allotted to it. So
3 that's really what our concern is.

4 MR. JESSE GELLER: I think that, given the
5 waiver requests, it's going to take the board itself a
6 while to run through them. We may have questions.
7 Maybe I'm wrong, but I've sort of seen this process now
8 for a year and, you know, everything seems to take
9 longer than one anticipates. And that's my
10 expectation. So I'm happy with turning to you on the
11 1st and saying to you, look, we actually need another
12 hearing to talk about this.

13 MR. SCHWARTZ: Let me answer your question
14 with another question. If we need another hearing
15 beyond the 1st, what date would that be?

16 MS. STEINFELD: We're going to schedule a
17 meeting for the week of December 1st, and if we needed
18 another meeting, we could make it for the week of
19 December 8th, so that would bring you to the 12th.

20 MR. JESSE GELLER: I assume everybody's -- the
21 week of December 8th? I know you don't like to look at
22 your calendars.

23 MR. SCHWARTZ: I'll say this: We hope we
24 don't need it. But if we find ourselves in that

1 situation where we do, I can assure you that one more
2 week will not result in our pulling the plug on this
3 baby.

4 MR. NAGLER: Meanwhile, can you send us the
5 customary letter?

6 MR. SCHWARTZ: Yes, I will do that.

7 MR. JESSE GELLER: So just a reminder to
8 everybody, our hearing will be continued until --
9 Mr. Chiumentti?

10 MR. CHIUMENTTI: When would you expect there
11 would be time for public comment?

12 MR. JESSE GELLER: Okay. Let's play it sort
13 of back --

14 MS. NETTER: That is why, by the way, we were
15 trying to make sure there's adequate time for -- we
16 were --

17 MR. JESSE GELLER: Can you sort of play that
18 back through the calendar?

19 MS. STEINFELD: Well, on November 12th, as of
20 now, we're hearing the revised plan from the fire chief
21 regarding public safety issues and their consultants.
22 We could put in public testimony there, or our next
23 meeting --

24 MR. JESSE GELLER: Will we have time in that

1 hearing, do you think? It seems to me we will.

2 MS. STEINFELD: I would think so. I mean,
3 that's where I tentatively scheduled it for. The
4 subsequent meeting is November 24th that we're going to
5 be discussing waivers.

6 MR. JESSE GELLER: My sneaking suspicion is
7 that we're going to have lots of questions and that's
8 probably -- I just -- I don't want to take a risk that
9 we get so involved in that that we roll over on time.
10 I'd rather make sure that they have an opportunity --

11 MS. STEINFELD: On the 12th?

12 MR. JESSE GELLER: Yes. I think that's going
13 to make the most sense.

14 So to answer your question, November 12th.

15 MR. ABNER: And that will be before the
16 waivers are submitted?

17 MR. JESSE GELLER: Yes.

18 MR. ABNER: So we will have no chance to
19 comment on the waivers?

20 MR. SCHWARTZ: From our perspective, I think
21 we'd rather have the public comments sooner rather than
22 later. Honestly, I think that's what the public wants,
23 and I think that we want it too because to the extent
24 that anything the public says requires us -- you know,

1 strikes a cord with you or requires us to respond to,
2 you know, we'd rather do that before we formally revise
3 our plan.

4 You know, for us to formally revise this plan
5 is a significant issue for us, and --

6 MS. NETTER: I guess I need to ask, at what
7 juncture -- when you asked the board, how do you see
8 the various hearings, I'll turn it around to you, which
9 is at what juncture will you revise your plan so you
10 have a full plan set?

11 MR. SCHWARTZ: We're going to revise the plan,
12 as we've been clear, when we have a sense -- basically
13 a strong sense from the board that they will vote to
14 approve that plan, that there won't be any other
15 material changes to the site plan, to the buildings,
16 the number of buildings. You know, basically that the
17 board is ready to vote approval of that plan. That's
18 when we're going to be ready to submit a revised plan.

19 MS. NETTER: So to play that out, one scenario
20 is: On the 12th, you come back with something, the
21 board says, given the confines -- constraints of
22 Chapter 40B, they'll give you a green light. So how
23 much time would you need?

24 MR. SCHWARTZ: About a week. Again, assuming

1 that -- you know, I think our understanding of that is
2 it's not the entire plan set. It's really just a
3 smaller set. But it's about a week that we would
4 need.

5 MS. NETTER: Okay.

6 Ms. Morelli, have you been having -- I don't
7 know when they're saying, "not the entire plan set,"
8 which seems logical to me, but has that been discussed
9 as to what they would be making revisions to, so we
10 have a clear idea to make sure -- I'm nodding my head
11 yes, and ...

12 MS. MORELLI: What is the question? Do you
13 want to know how much time the Planning Department
14 requires for them --

15 MS. NETTER: No. I want to know --

16 MR. LEVIN: We would be prepared to submit new
17 floor plans, elevations, section, and site plan.

18 MS. NETTER: Okay. That's all I need to
19 know. Thank you.

20 MS. KOOSHER: I have a question -- well, two.
21 Since last week and this week, there have been no
22 public comments and, you know, it seems like it's fluid
23 in terms of futures ones. I know a lot of us have made
24 a list of comments from not only the board -- and I

1 thank Mr. Zuroff and Mr. Book for their comments
2 tonight, along with the rest of you -- but also in
3 terms of response of what we've heard from Chestnut
4 Hill Realty. And while I'm sure Mr. Schwartz would
5 like the public to comment as early as possible, that
6 plays to them but not to us. And so how does that
7 figure into your equation, if I might ask?

8 MR. JESSE GELLER: Well, I think -- the one
9 thing I want to be sure is that we do give you an
10 opportunity to provide us with your comments.

11 The concern that I have is the more that we
12 force it toward the back end of the schedule, the
13 greater the risk that because we're pressed for time
14 under the statutory requirement, that we curtail your
15 ability to talk. So I'm concerned about pushing it out
16 further.

17 Now, I understand that that means that there
18 are some limiting factors there, but I do want to make
19 sure that you -- you know, there's obviously been a
20 couple of hearings where you haven't had an opportunity
21 to speak, and I want to make sure we get some
22 comments. I also would point out to you -- and as I
23 said, and I think I opened up this hearing with this --
24 you know, you should be submitting comments in writing

1 to the extent that you think of things in the interim.

2 We welcome that, certainly.

3 So, I mean, it's a balancing. I don't have
4 the perfect solution for you. The risk you run is that
5 if I delay public comments to the back end of this
6 process, you may not get to speak. So my opinion is
7 November 12th because I know we can get time, and we
8 have an extension at that point, so I'm pretty sure we
9 can get what we need to get done within the required
10 time frame and it will give you an opportunity to
11 speak.

12 MS. KOOCHEER: And my one other question is --

13 (Inaudible. Clarification requested by the
14 court reporter.)

15 MS. KOOCHEER: What I just heard is that
16 Chestnut Hill Realty people expect that when they come
17 back and then they come back or whatever, that they'll
18 be, you know, ready to say yes to what the plan is.
19 And my question is, as a lay person, does that need to
20 happen? Do they need to agree and say, gee, that's
21 great. I haven't heard, you know, about when
22 conditions will be discussed and, you know, how strong
23 they will be and how much time you would have to talk
24 amongst yourselves, the voting members, about that.

1 MS. NETTER: So the first question -- and if I
2 wasn't clear, I apologize. I was just giving one
3 scenario. There's many different scenarios that can
4 happen on the 12th, because I hadn't asked, how long
5 does it take them to revise their plan. That was the
6 only thing I was trying to get to right now.

7 With respect to conditions, by the way, some
8 of the conditions are actually -- even though the exact
9 language is not there, but some of the very significant
10 conditions are, in effect, being discussed right now.

11 Additionally, there is -- once the hearing is
12 closed -- and I don't know how much conversation we'll
13 have before the hearing is closed -- but once the
14 hearing is closed, there is a 40-day deliberation
15 process for the board where it has as many meetings as
16 necessary to deliberate and all of those are public.

17 MS. KOOSHER: May I just ask, for those 40
18 days, that's when, you know, we sit and we -- I sit on
19 another commission -- so that's when you all discuss
20 all of this, right, and we're just sitting here and
21 listening?

22 MS. NETTER: Correct.

23 MS. KOOSHER: Okay. Thank you.

24 MS. NETTER: As so to emphasize, you

1 understand there's time constraints that the board is
2 operating under, and hopefully you also understand that
3 the board welcomes and is trying to take as much
4 testimony as it can while at the same time doing its
5 additional due diligence. So to the extent that people
6 are also willing to write their comments, that would be
7 very, very -- submit their testimony in writing -- very
8 helpful.

9 MR. CHIUMENTI: If I could just clarify, you
10 don't begin your deliberations having already
11 represented to Chestnut Hill Realty that you're going
12 to approve their project?

13 MR. JESSE GELLER: I'm not sure I understand
14 your question.

15 MR. CHIUMENTI: Well, Mr. Schwartz seems to be
16 suggesting that he'll be finished telling you what his
17 project is when you've assured him you're going to
18 approve it.

19 I presume when you begin your 40 days of
20 deliberation, you haven't already told him you're going
21 to approve it, you're going to actually be meaningfully
22 deliberating what exactly it is you're going to approve
23 or condition.

24 MS. NETTER: They're asking, through these

1 discussions right now, is there a passive assumption
2 that if they can provide something that -- I'm going to
3 again say -- you can live with under the constraints of
4 40B as a beginning for the deliberative process --

5 Do you want to say something?

6 MR. HUSSEY: Well, I had a question, but go
7 ahead.

8 MS. NETTER: Okay -- are you, in effect,
9 saying that once the hearing is closed and if we can
10 come up with a set of conditions that will mitigate the
11 adverse impacts of the project to the extent possible,
12 are you working -- I'm not being clear, am I?

13 MR. HUSSEY: I think the question is: When
14 the public hearings are closed, will we have a
15 definitive plan that we've agreed to and voted on, and
16 so what we're going to be deliberating during the 40
17 days is constraints and waivers, perhaps.

18 MS. NETTER: You all have voted on a project
19 before -- at least my recommendation will be that
20 you're not voting on a project before the hearing is
21 closed. You don't vote on a project until, in fact,
22 you've done all of your deliberations after the hearing
23 is closed and see whether there's a full set of
24 conditions that you can -- that will make the project

1 work from your point of view.

2 MS. KOOSHER: That's my understanding of what
3 Mr. Schwartz just said.

4 MR. HUSSEY: So what we'll be doing, then, is
5 giving Mr. Schwartz and the neighbors a consensus about
6 what we think is going to be an acceptable plan before
7 the public hearing is closed, but not the formal vote.

8 MS. NETTER: Correct.

9 MR. SCHWARTZ: Let me just be crystal clear
10 because I don't want there to be any misunderstanding.
11 The plan before the board is not -- none of the plans
12 are concepts that you've seen. And in the past, when
13 this last happened when we submitted that plan, what we
14 were asked is to withdraw the first formal plan and to
15 submit the plan that you have before you. And unless
16 we have the -- close to a certainty that that plan --
17 I'm not talking about conditions now. I'm talking
18 about the fact that this board is going to approve that
19 site plan -- we're not going to be in a position to
20 submit and to revise our formal plan. That is our
21 position, it has been, and will continue to be.

22 MS. KOOSHER: I don't understand how a
23 developer can put that onus on you before the 40 days
24 begins.

1 MS. NETTER: The intention is not to do a
2 vote.

3 MR. SCHWARTZ: We'll have to consider what
4 that means. You may have to condition the current
5 plan, then.

6 MR. JESSE GELLER: Okay. So the next hearing
7 is November 12th. I look forward to seeing everyone.
8 I want to thank everyone for their interest. And
9 please submit comments, and please come on the 12th
10 ready to speak. Thank you.

11 (Proceedings suspended at 9:34 p.m.)

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1 I, Kristen C. Krakofsky, Court Reporter and
2 Notary Public in and for the Commonwealth of
3 Massachusetts, certify:

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

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

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

13 Dated this 13th day of November, 2014.

14 _____

15 Kristen Krakofsky, Notary Public

16 My commission expires November 3, 2017.

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